Exhibit

A

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE

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June 29, 2010

The Honorable Anthony J. Portantino
Assemblymember, 44th District
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0044

RE: Indexed Letter Opinion No. 09-0504

Dear Assemblymember Portantino:

You have asked the Attorney General to provide you with a legal opinion on the following questions:

1. Does Business and Professions Code section 2472 grant podiatrists the right to perform an admitting history and physical in an acute care hospital?

2. If so, is the history and physical limited solely to their defined scope of practice?

Because your questions address an issue that we believe is unlikely to have broad application, our office has determined that this letter opinion, rather than a formal published opinion, would provide the best vehicle for response. This opinion will not be disseminated in the same manner as our published opinions, and is not citable in the same manner as our published opinions. It is provided to you in consideration of our duties and authority under Government Code section 12519. It is not provided in the context of a confidential attorney-client relationship and does not constitute confidential legal advice.

The scope of practice of podiatric medicine is prescribed in Business and Professions Code section 2472:

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

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

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

(A) Perform surgical treatment of the ankle and tendons at the level of the ankle pursuant to subdivision (e).

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

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

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

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

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

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

(3) An ambulatory surgical center that is certified to participate in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical center.

> (4) A freestanding physical plant housing outpatient services of a licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1). For purposes of this section, a "freestanding physical plant" means any building that is not physically attached to a building where inpatient services are provided.
>
> (5) An outpatient setting accredited pursuant to subdivision (g) of Section 1248.1 of the Health and Safety Code.
>
> *(f) A doctor of podiatric medicine shall not perform an admitting history and physical examination of a patient in an acute care hospital where doing so would violate the regulations governing the Medicare program.*
>
> (g) A doctor of podiatric medicine licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.[1]

Although subdivision (f) prohibits a podiatrist from performing an admitting history and physical ("H&P") "where doing so would violate the regulations governing the Medicare program," the provision is not actually a substantive restriction of a podiatrist's scope of practice. The language of this subdivision was placed in the statute in response to a former federal rule, which imposed restrictions upon federal reimbursement for podiatric services performed pursuant to the Medicare program. That rule has since been superseded. Current federal regulations at 42 C.F.R. § 410.25 provide: "Medicare Part B pays for the services of a doctor of podiatric medicine, acting within the scope of his or her license, if the services would be covered as physicians' services when performed by a doctor of medicine or osteopathy."[2]

We believe that a licensed podiatrist may perform an admitting H&P in an acute care hospital. This is so because, unlike a medical professional's legally authorized scope of practice, which is prescribed by statute, an H&P is not a statutorily regulated matter. It is, instead, a matter within a practitioner's standard of care, which can be broadly defined as "that degree of

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[1] Emphasis added.

[2] We are not aware of any federal statute or regulation that prohibits a podiatrist from performing an H&P. Even if federal law continued to refuse reimbusement for the services provided by a podiatrist when taking an H&P, we doubt that providing such services in the absence of reimbursement would "violate the regulations governing the Medicare program" within the meaning of section 2472.

learning and skill ordinarily possessed by [practictioners] of good standing practicing in the same or a similar locality and under similar circumstances."[3] Whether a provider has met the applicable standard on a given occasion depends upon the nature of the discipline involved and the circumstances unique to that occasion. In a medical malpractice action, for example, "The standard of care against which the acts of a medical practitioner are to be measured is a matter peculiarly within the knowledge of experts."[4] Failure to meet the standard by one who owes a duty of care exposes the actor to liability for negligence.

Section 2472 introduces an element of confusion by imposing an anomalous contingent restriction on an aspect of a podiatrist's professional *standard of care* in a statute that in all other respects confines itself to the *scope of a podiatrist's practice*. Confusing matters further, the restriction does not address itself to the propriety of a particular medical procedure, or to a podiatrist's competence to perform it, but concerns itself solely with the presence or absence of limiting language in federal Medicare reimbursement regulations.

Notwithstanding the confusing language of section 2472(f), however, the legal issue presented by your question is a straightforward one: that is, whether a podiatrist may legally perform an admitting H&P in an acute care hospital.[5] The answer is that California law does not restrict a podiatrist from performing an admitting H&P, except where that procedure is prohibited under federal law—which, as we have noted, is not the case. This answer, however, appears to beg a second question, that is, whether an admitting H&P is within the standard of care of podiatry.

Although issues regarding the applicable standard of care are ultimnately questions of fact requiring expert testimony, we are informed that taking an H&P is unquestionably within that standard for podiatrists. "A complete history and physical exam is the cornerstone of good patient care."[6] Further, "[m]any of the problems encountered by podiatrists could be avoided by an adequate examination."[7] Obtaining a patient's medical history and conducting a physical examination is essential to meeting the applicable standard of professional care. In the normal course of practice a podiatrist should obtain a detailed medical history, which should include any systemic diseases, such as heart, kidney, high blood pressure, broken bones, numbness, cramps, anemia, varicose veins, cancer, epilepsy, liver, and vascular problems. It should also include any medications the patient is on or has been on, as well as those medications to which the patient is allergic or sensitive. The history should, among other things, address the duration and onset of the current symptomatology, the patient's family history and any physicians the patient is

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[3] *Pedesky v. Bleiberg,* 251 Cal. App. 2d 119, 122 (1967).

[4] *Alef v. Alta Bates Hosp.,* 5 Cal. App. 4th 208, 215 (1992).

[5] Health & Safety Code section 1316 prohibits health facilities from discriminating against or denying staff privileges to podiatrists acting within the scope of their licensure.

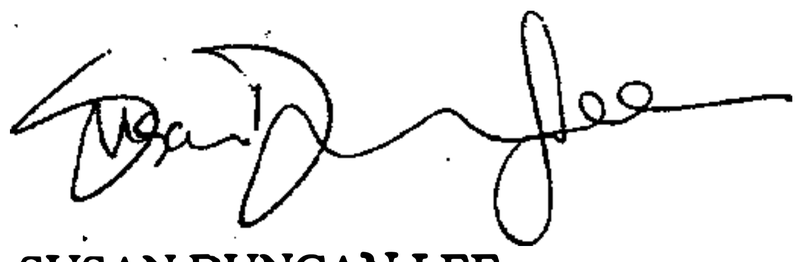
[6] *Medical Malpractice: Guide to Medical Issues* § 40.100 (Matthew Bender & Co., Inc., 2010).

[7] Louisell & Williams, *Medical Malpractice* § 17C.12 (Matthew Bender & Co., Inc., 2010).

currently seeing. Depending upon what is revealed by the patient's history, the podiatrist may also need to contact other medical professionals who have provided treatment. The physical examination should include laboratory values, among other factors, that bear on the patient's condition as suggested by the history.[8]

In performing an H&P, podiatrists are guided both by their statutory scope of practice and the standards of professionalism to which they are required to adhere. We conclude that, not only is a podiatrist not precluded from performing an admitting H&P by Business and Professions Code section 2472, but failing to do so may fall below the standard of care expected of podiatrists generally.

Sincerely,



SUSAN DUNCAN LEE
Supervising Deputy Attorney General
TAYLOR S. CAREY
Deputy Attorney General
Opinions Unit

TC:sg

10580858.docx

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[8] *Id.* at § 17C.17.

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Medical Board of California
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KAREN L. WRUBEL, D.P.M., *President* RAYMOND K. CHENG, A.I.A. KRISTINA M. DIXON, M.B.A. JAMES R. LA ROSE, D.P.M., *Vice President*
ALEIDA GERENA-RIOS, M.B.A. JAMES J. LONGOBARDI, D.P.M. NEIL B. MANSDORF, D.P.M.

California Board of Podiatric Medicine
Public Board Meeting Minutes
Los Angeles, California
February 18, 2010

A public meeting of the California Board of Podiatric Medicine (BPM) was held February 18, 2010 in the Ayres Hotel--LAX, 14400 Hindry Avenue, Hawthorne, CA.

Due notice had been sent to all known interested parties.

1. Call to order/Member roll call

President Wrubel called the meeting to order at 9:06 AM.

A quorum was established with the following Members present:

Karen L. Wrubel, DPM
Raymond K. Cheng, AIA
Kristina M. Dixon, MBA
Aleida Gerena-Rios, MBA
James R. La Rose, DPM
James J. Longobardi, DPM
Neil B. Mansdorf, DPM

2. Uncommon Leadership Recognized

Dr. Wrubel noted this would be the final Board Meeting for Dr. LaRose, as the grace year following his second term expires June 1. The Board and staff commended Dr. LaRose for more than a decade of service and leadership to BPM and the People of California.

3. DCA Director's Report

Dr. Wrubel welcomed Gil DeLuna, who spoke to the Board representing the Department of Consumer Affairs Executive Office.

Mr. DeLuna thanked the Board for webcasting its meeting and posting scanned copies of its agenda book exhibits online, increasing public access and transparency. He updated BPM on

SB 1441 of 2008 (substance abuse) and SB 139 of 2007 (health workforce data), and addressed SB 1111 (Negrete McLeod) , the DCA-sponsored Consumer Health Protection Enforcement Act. Dr. LaRose moved and Dr. Longobardi seconded a motion to endorse SB 1111. The motion carried unanimously 6-0 (Ms. Dixon arrived late due to traffic). Mr. DeLuna asked that the Board send a letter to Senator Negrete McLeod noting the Board's endorsement.

4. Vice President's report

Ms.Gerena-Rios moved and Dr. LaRose seconded a motion approving the October 16 minutes, which passed 6-0.

5. Swearing in of New Members

Mr. DeLuna swore in Ms. Dixon and Drs. Longobardi and Mansdorf.

6. Proposed Notice to Consumers Regulation

The Board at 10:52 AM began a public hearing on proposed amendments to the California Code of Regulations: adding Article 13, Section 1399.730 to Division 13.9 of Title 16, to provide for licensees to provide Notices to Consumers regarding DPM licensing.

The Board had received written comments from the California Orthopaedic Association, the Medical Board of California, the Center for Public Interest Law and Consumers Union.

At the hearing, Mr. Gil DeLuna, representing the Department of Consumer Affairs' Executive Office, thanked BPM for moving forward with this initiative, commenting it was another example of high standards with consumers' interests at heart.

Mr. Andrew Miazga, the student liaison from the Center for Public Interest Law, University of San Diego, said CPIL also supported the proposed regulation. He referenced CPIL's written comments and voiced two suggestions. First he noted that CPIL recommended amending the proposed Notice to Consumers somehow to the effect that Doctors of Podiatric Medicine are licensed by the Medical Board and regulated by BPM. He also urged that BPM consider a requirement that the Notice to Consumers be posted in additional languages when a significant portion of the patients do not speak English.

Legal Counsel Gary Duke adjourned the regulation hearing at 10:58 AM, there being no further public comment, and recommended that the Board replace the two references to "the board" in paragraphs (a) and (b)(2) of the proposed language to "the California Board of Podiatric Medicine." He noted that Section 2461 of the B&P Code and Section 1399.653 of BPM's regulations define "board" as the California Board of Podiatric Medicine. Dr. LaRose moved and Dr. Longobardi seconded that amendment to the proposed language and the motion carried 7-0.

Dr. LaRose then moved that BPM adopt the proposed language as amended and authorize staff to forward it on to the Department of Consumer Affairs for approval upon determination that the Office of Administrative Law has approved the Notice to Consumers regulation previously adopted by the Medical Board as the Medical Board adopted it. Mr. Cheng seconded and this motion also passed 7-0.

Staff commented BPM could pursue additional recommendations from the Center for Public Interest Law and Consumers Union, for example, guidelines for Notices in additional languages, with those organizations and the Medical Board once the current regulatory proposals of the two boards are approved by the Office of Administrative Law and Secretary of State.

7. Adjournment

Upon completing its agenda and acting on all action items, the Board adjourned at 11:05 AM.

Submitted to the Board for approval July 26, 2010.

APPROVED:

.....
President
Board of Podiatric Medicine

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STRATEGIC PLAN

2008-10

Adopted June 6, 2008

OUR MISSION

The mission of the Board of Podiatric Medicine is to ensure protection of consumers under the laws of California through the setting and enforcement of contemporary standards and the provision of accurate and timely information that promotes sound consumer decision-making.

OUR VISION

The Board's public policy leadership will enhance continuing competence standards, informed consumer choice, and open access to high-quality foot and ankle care.

OUR VALUES

BPM values . . .

- representing the public
- responsiveness to consumers and licensees
- public access to information, assistance and service
- integrity and competence in serving the public
- collaboration with other organizations
- proactive approaches that prevent patient harm

"Boards are established to protect the people of California."
Section 101.6, B&P Code

GOALS AND OBJECTIVES

GOAL 1. *Maintain excellence of service within current resources.*

Objectives:

1.1 Continue operations without backlogs.

Major activities:

- Manage licensing and enforcement programs to stay current daily without additional staff
- Support licensing and enforcement coordinators as chief program officers of Board
- Keep focused on core functions of licensing and enforcement

1.2 Maintain the issuance of licenses the same day all requirements met.

Major activities:

- Maintain close communication with applicants
- Pursue housekeeping amendments to Regulations for clarity
- Sponsor primary source verification legislation and enforce it

1.3 Keep expediting investigation of consumer complaints and prosecution of open cases.

Major activities:

- Support Enforcement Coordinator
- Achieve Staff Manager promotion recognizing breadth of responsibility
- Continue monitoring enforcement matrix reports on case processing timeframes

1.4 Maintain quality probation monitoring.

Major activities:

- Continue retired annuitant program
- Assess alternatives for cost and effectiveness
- Insure Board's final orders are effectively enforced

1.5 Maintain national leadership in Continuing Competence program.

Major activities:

- As the only doctor-licensing program in the nation implementing this long-recommended reform in the organized medicine literature, do it well
- Support the Licensing Coordinator, recognizing her critical core contributions
- Monitor the longitudinal decline in consumer complaints and respond appropriately to opportunities to serve as ambassadors for preventing patient harm rather than responding to it once harm has been done

1.6 Continue licensure of all residents and annual review and approval of schools and graduate medical education programs.

Major activities:

- Maintain the Residency License requirement ever minimizing the occasional incidents of unlicensed residency practice that disserve all involved
- Seek sunsetting of the four-year cap on graduate medical training
- Consider whether school and residency approvals should be nationalized now or in the future, or if California's program should be maintained

GOAL 2. *Maintain credibility and respect of BPM's integrity.*

Objectives:

2.1 Continue the public-service ethic so many have contributed to over succeeding decades, realizing BPM as an institution is of great importance to patients and the profession.

Major activities:

- Emphasize the statutory mission
- Support Board development and the Members' importance as a Board
- Promote the goals and objectives of the Board

2.2 Remain open, candid and responsive.

Major activities:

- Maintain unspotted positive press coverage
- Build on confidence from profession to enhance consumer outreach
- Support Departmental programs

2.3 Represent the public

Major activities:

- Maintain BPM culture that licensee and lay Board Members are equal
- Maintain BPM culture that licensee and lay Board Members have same statutory role
- Maintain BPM culture that licensee and lay Board Members all represent the public at large

2.4 Maintain good government values

Major activities:

- Reflect well on California State government
- Focus on the positive aspects and developments
- Take opportunities as they present themselves to advance public policy

GOAL 3. *Work collaboratively with other organizations.*

Objectives:

3.1 Utilize Departmental services and follow its lead.

Major activities:

- Fine tune Applicant Tracking System (ATS)
- Implement i-Licensing in 2009 for online credit card transactions
- Distribute orthotics brochure and Departmental press release
- Pursue Spanish language brochure on diabetic foot care
- Participate in annual DCA Board and Bureau Conferences

3.2 Maintain liaison with California Podiatric Medical Association.

Major activities:

- Maintain good liaison with CPMA Board
- Continue participation at House of Delegates
- Continue exhibiting at Western Podiatric Medical Congress

3.3 Continue involvement with Federation of Podiatric Medical Boards.

Major activities:

- Seek continuation of a California representative on FPMB Board
- Maintain dues and attendance at FPMB Annual Meeting
- Support updates to Model Law as indicated, e.g., equivalent exams

GOAL 4. *Remove barriers to podiatric medical care.*

Objectives:

4.1 Consider sponsoring reciprocity statute (facilitating alternative exams).

Major activities:

- Develop options, pros & cons for Board vote
- Liaison with organized podiatric medicine, Department and Legislature
- Facilitate easier movement of California licensees to other States and reciprocity of qualified out-of-State licensees in California

4.2 Support Legislative consideration of full FPMB *Model Law* scope of practice for benefit of Californians.

Major activities:

- Coordinate with CPMA in five-year follow-up to AB 932 of 2004
- Support efficient delivery of high quality care in all California health facilities
- Work with the profession as it develops its evolution, standards and direction for the future

4.3 Support inclusion in State's publicly-supported health science teaching centers.

Major activities:

- Support Western University initiatives
- Encourage CPMA's participation in coalitions for UC-Merced and UC-Riverside
- Keep focus on obtaining UC-sponsored podiatric medical residency programs

Our Stakeholders -- Their Needs and Wants

BPM's success depends on a clear understanding of our statutory mission and the needs of the public. Our public stakeholders include:

- Consumers, who seek accurate and timely information about providers.

- Licensees, who seek expeditious and accurate services, fair administration of the law, and timely and accurate communication on issues of interest to them.

- Applicants, who seek expeditious and accurate services, fair administration of the application process, and timely and accurate communication on issues of concern.

- Health facilities, which seek clear licensing information.

- Staff, who seek clear direction, recognition by management, and training programs to better serve our stakeholders and grow professionally.

- Other state agencies, which seek accurate and timely information.

- The Legislature, exercising its lawmaking, authorization, budgeting and oversight roles.

Environmental Scan

External environment factors include:

- Fiscal Challenges -- BPM must do the best job possible with the resources available.

- Accountability -- BPM seeks to follow the soundest possible administrative procedures.

- Advancing Technology -- BPM attempts to stay current to the fullest extent practicable.

- Business and the Economy -- As an agency that licenses doctors treating millions of Californians annually, the health care community expects BPM to operate efficiently and partner to protect podiatric medical patients.

- Changing Demographics -- California's population is increasing, aging and growing more diverse every day.

Exhibit

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Medical Board of California
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POSITION DESCRIPTION FOR EXECUTIVE OFFICER

The chief executive officer reports and is accountable to the full Board. He/she accepts responsibility for the success or failure of all Board operations.

Specific Contributions

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

Adopted by the Board of Podiatric Medicine 12/6/91

"Boards are established to protect the people of California."
Section 101.6, B&P Code

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POSITION DESCRIPTION FOR BOARD PRESIDENT

The President is responsible for the effective functioning of the Board, the integrity of Board process, and assuring that the Board fulfills its responsibilities for governance. The President instills vision, values, and strategic thinking in Board policy making. She/he sets an example reflecting the Board's mission as a state licensing and law enforcement agency. She/he optimizes the Board's relationship with its executive officer and the public.

Specific Contributions

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

Adopted by the Board of Podiatric Medicine 12/6/91

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POSTION DESCRIPTION FOR BOARD MEMBERS

As a **Board of Directors**, the Board is responsible for good governance of the agency. Appointed as representatives of the **public**, the Board presses for realization of opportunities for service and fulfillment of its obligations to all constituencies. The Board meets fiduciary responsibility, guards against the taking of undue risks, determines priorities, and generally directs organizational activity. It delegates administration to its executive officer, but remains involved through oversight and policy making. The board members are ultimately accountable for all agency actions.

As a **judicial body**, the Board serves as a jury. The members must be careful to avoid *ex parte* communications with licensees, attorneys, and staff regarding upcoming proposed decisions from administrative law judges that the Board must review based only on the legal record.

Specific Contributions

1. Articulate agency mission, values, and policies.
2. Review and assure executive officer's performance in faithfully managing implementation of Board policies through achievement of staff goals and objectives.
3. Ensure that staff implementation is prudent, ethical, effective, and timely.
4. Assure that management succession is properly being provided.
5. Punctuate ongoing review of executive officer performance with annual evaluation against written Board policies at a noticed public meeting.
6. Ascertain that management effectively administers appropriate staff policies including a code of ethics and conflict of interest statements.
7. Ensure staff compliance with all laws applicable to the Board.
8. Maximize accountability to the public.

Adopted by the Board of Podiatric Medicine 12/6/91

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POLICY DECISION: Promotional Reference to the Board of Podiatric Medicine (BPM) by Expert Witnesses and/or Examination Commissioners

Licensees acting as expert witnesses or examination commissioners shall not reference their affiliation with the BPM in any promotional activity or advertisement.

Method of Adoption: Board Vote

Date of Adoption: February 28, 1986

Revision Date: May 3, 2002

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POLICY DECISION: Minimum Requirements for New Medical Consultants, Experts, and Examiners

1. Hold a current and valid California license to practice podiatric medicine.

2. Have completed at least one year of postgraduate medical education with two years preferred up until 2010, at which time it will be mandatory.

3. Be certified by the American Board of Podiatric Surgery.

4. Have surgical staff privileges in at least one general acute care hospital facility.

5. Must not have been subject to disciplinary action by the BPM, i.e., the filing of an Accusation or Statement of Issues that was not withdrawn or dismissed.

6. Must not be under BPM investigation for a violation of any laws relating to the practice of medicine at the time of appointment or be the subject of such a case pending in the Attorney General's office.

7. Must not have been the subject of a field investigation by the BPM within the last five (5) years that was not closed and deleted from Medical Board records.

8. In the event of a conflict of interest, must recuse themselves from the review or examination.

Method of Adoption: Board Vote
Date of Adoption: June 5, 1987
Revision Date(s): December 7, 1990
January 25, 1994
November 6, 1998
May 5, 2000
November 3, 2000
June 6, 2003

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POLICY DECISION: Delegation of Authority Concerning Stay Orders

The authority to approve or deny a Petition for Stay Order is delegated to the board's executive officer.

Method of Adoption: Board Vote

Date of Adoption: May 5, 1995

Exhibit

E

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Financial Report
Fiscal Year 09/10
(Through 4/30/10)

• Overview

The Board's stable licensee base has continued to produce steady revenues, while expenditures have remained under control.

The Board of Podiatric Medicine's expenditures through 4/30/10 (FY 09/10) have been lower than those of previous years due to imposed spending restrictions and salary reductions. BPM has continued to limit discretionary purchases and contracts to those essential to board operations. The majority of BPM's annual budget expenditures, however, are made up of departmental pro rata and critical enforcement costs. Expenditure trends can be seen on page 2.

• Budget - Fiscal Year 2009/10

Twenty-three percent (23%) of the Board's total expenditures (through 4/30/10) were for Departmental/Central Administrative Services and Facilities Operations, which include: maintenance of licensing and enforcement systems, telecommunications, personnel support, pc support, internet services, building rent and maintenance, and other administrative support services.

Twenty-seven percent (27%) of the Board's total expenditures (through 4/30/10) were for enforcement-related costs associated with services provided by the Office of the Attorney General, the Office of Administrative Hearings, Medical Board Investigations staff, and podiatric medical experts and consultants.

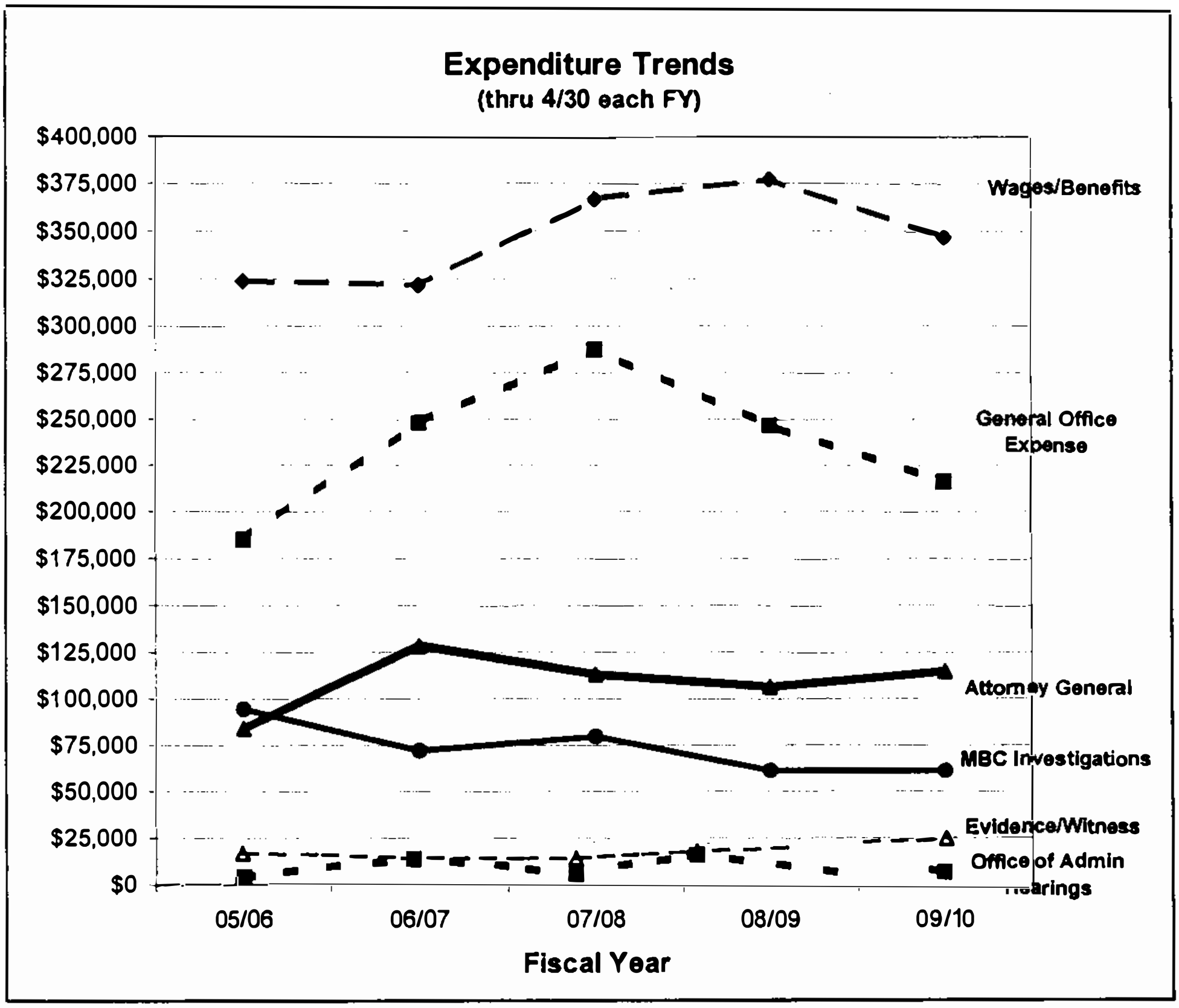
- $ Expenditure Trends (FY 05/06 through FY 09/10) (Chart)
- $ Breakdown of Actual General Office Expenses (FY 05/06 through FY 09/10)
- $ Breakdown of Medical Board Shared Services costs (FY 06/07 through FY 09/10)

• Fund Condition

The enclosed fund conditions show projections using BPM's actual and future planned expenditures and DCA's plan, which assumes full budget expenditure. Note that while BPM's projection provides a more accurate and positive outlook, a potentially declining reserve balance indicates a need to continue monitoring revenues and expenditures.

- $ BPM Fund Condition [**BPM** Projection through 6/30/13]
- $ BPM Fund Condition [**DCA** Projection through 6/30/13]

Submitted by:
Mischa Matsunami
July 26, 2010



	$323,880	$322,047	$367,236	$377,276	$347,158
	$185,136	$248,479	$287,997	$247,100	$216,520
	$84,133	$128,545	$113,191	$106,328	$114,790
	$4,091	$15,059	$7,585	$18,543	$6,914
	$16,965	$15,096	$15,897	$20,389	$25,118
	$94,621	$72,217	$79,724	$61,118	$61,034
	$708,826	**$801,443**	**$871,630**	**$830,754**	**$771,534**

*See the following page for a breakdown of General Office Expenses.

Breakdown of Actual General Office Expenses

Through 4/30 each Fiscal Year Expenses include amount encumbered.	FY 05/06	FY 06/07	FY 07/08	FY 08/09	FY 09/10
Fingerprints	**$1,376**	**$1,936**	**$1,465**	**$1,460**	**$2,059**
General Expense	**$7,387**	**$9,763**	**$12,220**	**$7,444**	**$6,207**
Dues & Memberships	$1,800	$2,200	$2,200	$2,325	$2,325
Misc Office Supplies	$2,489	$2,778	$2,086	$856	$1,877
Gen Expense - Film/Transcription Services	$0	$0	$1,800	$0	$0
Freight & Drayage	$1,159	$747	$2,673	$654	$863
Admin Overhead - Other	$218	$2,743	$1,412	$2,603	$335
Mtg/Conf/Exhibit/Sho 217.00	$782	$0	$1,142	$754	$600
Library Purch/Subscrip	$939	$1,295	$907	$200	$202
Other	$0	$0	$0	$52	$5
Printing/Copier expense [1]	**$3,767**	**$5,533**	**$5,590**	**$5,537**	**$3,858**
Communications	**$4,331**	**$4,621**	**$7,000**	**$9,481**	**$5,656**
Postage	**$2,153**	**$4,353**	**$2,329**	**$2,911**	**$3,077**
Travel: In-State	**$8,133**	**$8,299**	**$11,277**	**$13,928**	**$9,373**
Travel: Out-of-State	**$535**	**$911**	**$1,111**	**$0**	**$0**
Training	**$140**	**$1,070**	**$23**	**$23**	**$0**
Facilities Operations [2]	**$23,872**	**$53,805**	**$30,928**	**$39,173**	**$41,858**
C/P Services - Interdepartmental	**$0**	**$0**	**$0**	**$0**	**$0**
C/P Services - External	**$0**	**$0**	**$0**	**$0**	**$500**
Departmental Services [3]	**$93,245**	**$110,710**	**$164,646**	**$119,144**	**$106,323**
Office of Information Systems (OIS) - Pro Rata	DCA Departmental Service categories changed beginning FY 08/09.			$32,370	$25,290
Indirect Distrb Cost (DCA Administrative Pro Rata)				$40,470	$36,460
Interagency Svcs				$0	$0
Shared Svcs - MBC Only [4]		$50,097	$36,506	$40,694	$37,983
Division of Investigation (DOI) - Pro Rata				$1,630	$1,460
Public Affairs - Pro Rata				$2,010	$3,360
Consumer Education (CCED) Pro Rata				$1,970	$1,770
Consolidated Data Centers	**$3,000**	**$3,000**	**$3,000**	**$3,000**	**$3,000**
Data Processing	**$0**	**$3,812**	**$1,914**	**$410**	**$39**
Central Administrative Services [5]	**$27,462**	**$26,792**	**$35,605**	**$40,868**	**$31,702**
Examinations	**$7,026**	**$5,177**	**$4,051**	**$0**	**$751**
Major Equipment	**$0**	**$0**	**$2,465**	**$0**	**$0**
Minor Equipment	**$2,709**	**$8,697**	**$4,373**	**$3,721**	**$2,118**
SUBTOTAL	**$185,136**	**$248,479**	**$287,997**	**$247,100**	**$216,521**
ADJUSTMENTS	**$0**	**0**	**0**	**0**	**-1**
TOTAL	**$185,136**	**$248,479**	**$287,997**	**$247,100**	**$216,520**

[1] 07/08 - phone system for Evergreen Street location.

[2] 06/07 - $30,000 added for move to Evergreen Street .

[3] 07/08 - $65,000 Added for Applicant Tracking System (ATS).

[4] Costs associated with Licensing, Enforcement and Consumer services provided by the Medical Board.
(see next page for breakdown of MBC svcs)

[5] Charges for support of Personnel Board, Dept. of Finance, State Controller, State Treasurer, Legislature, Governor's Office, etc.

Breakdown of Medical Board Shared Services

Medical Board Shared Services	Description	FY 06/07 Cost	FY 07/08 Cost	FY 08/09 Cost	FY 09/10 Cost
Discipline Coordination Unit (DCU)	Charges are prorated based on the total number of cases tracked during the prior fiscal year in relation to the cost of maintaining staff for the purposes of performing a wide range of duties associated with the coordination of disciplinary actions.	$13,283	$11,551	$15,404	$9,370
Consumer Services: Central Complaint Unit (CCU)	Charges are prorated based on the actual number of complaints received during the prior fiscal year in relation to the cost of maintaining staff for the purposes of performing a wide range of duties associated with the management of complaints.	$33,555	$22,846	$23,187	$26,518
Consumer Information Unit (CIU)	Charges are prorated based on actual verification activity in relation to the cost of maintaining staff support to verify licensure of DPMs for interested parties.	$1,098	$398	$206	$0
Podiatric Fictitious Name Permit Registrations	Charges are based on the actual number of permits processed during the prior fiscal year in relation to the cost of maintaining clerical support to perform duties associated with the issuance and maintenance of FNPs.	$2,161	$1,711	$1,897	$2,095
	TOTAL	**$50,097**	**$36,506**	**$40,694**	**$37,983**

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0295 - Podiatric Medicine
Analysis of Fund Condition
(BPM PROJECTION)

(Dollars in Thousands)

Prepared 7/12/10

Month 13

		Actual 2008-09	CY 2009-10	Governor's Budget BY 2010-11	BY+1 2011-12	BY+2 2012-13
BEGINNING BALANCE		$ 1,094	$ 1,022	$ 1,029	$ 992	$ 936
Prior Year Adjustment		$ -	$ -	$ -	$ -	$ -
Adjusted Beginning Balance		$ 1,094	$ 1,022	$ 1,029	$ 992	$ 936
REVENUES AND TRANSFERS						
Revenues:						
125600	Other regulatory fees	$ 6	$ 4	$ 4	$ 4	$ 4
125700	Other regulatory licenses and permits	$ 46	$ 53	$ 53	$ 53	$ 53
125800	Renewal fees	$ 815	$ 832	$ 820	$ 820	$ 820
125900	Delinquent fees	$ 4	$ 2	$ 2	$ 2	$ 2
141200	Sales of documents	$ -	$ -	$ -	$ -	$ -
142500	Miscellaneous services to the public		$ -	$ -	$ -	$ -
150300	Income from surplus money investments	$ 24	$ 6	$ 19	$ 18	$ 17
160400	Sale of fixed assets	$ -	$ -	$ -	$ -	$ -
161000	Escheat of unclaimed checks and warrants	$ -	$ -	$ -	$ -	$ -
161400	Miscellaneous revenues	$ -	$ -	$ -	$ -	$ -
Totals, Revenues		$ 895	$ 897	$ 898	$ 897	$ 896
Transfers from Other Funds						
F00683	Teale Data Center (CS 15.00, Bud Act 2005)	$ -	$ -	$ -	$ -	$ -
Transfers to Other Funds		$ -	$ -	$ -	$ -	$ -
Totals, Revenues and Transfers		$ 895	$ 897	$ 898	$ 897	$ 896
Totals, Resources		$ 1,989	$ 1,919	$ 1,927	$ 1,890	$ 1,832
EXPENDITURES						
Disbursements:						
0640	State Controller (State Operations)	$ 2	$ -	$ -	$ -	$ -
Budget Act of 2007						
1110	Program Expenditures (State Operations) - Galley 3	$ 965	$ 890	$ 935	$ 954	$ 973
Total Disbursements		$ 967	$ 890	$ 935	$ 954	$ 973
FUND BALANCE						
Reserve for economic uncertainties		$ 1,022	$ 1,029	$ 992	$ 936	$ 859
Months in Reserve		13.8	13.2	12.5	11.5	10.4

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED

B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2010-11

0295 - Podiatric Medicine
Analysis of Fund Condition
(DCA PROJECTION)

(Dollars in Thousands)

Prepared 7/12/10

Month 13

		Actual 2008-09	CY 2009-10	Governor's Budget BY 2010-11	BY+1 2011-12	BY+2 2012-13
BEGINNING BALANCE		$ 1,094	$ 1,022	$ 628	$ 202	$ (253)
Prior Year Adjustment		$ -	$ -	$ -	$ -	$ -
Adjusted Beginning Balance		$ 1,094	$ 1,022	$ 628	$ 202	$ (253)
REVENUES AND TRANSFERS						
Revenues:						
125600	Other regulatory fees	$ 6	$ 6	$ 6	$ 6	$ 6
125700	Other regulatory licenses and permits	$ 46	$ 46	$ 46	$ 46	$ 46
125800	Renewal fees	$ 815	$ 815	$ 815	$ 815	$ 815
125900	Delinquent fees	$ 4	$ 4	$ 4	$ 4	$ 4
141200	Sales of documents	$ -	$ -	$ -	$ -	$ -
142500	Miscellaneous services to the public		$ -	$ -	$ -	$ -
150300	Income from surplus money investments	$ 24	$ 10	$ 4	$ -	$ -
160400	Sale of fixed assets	$ -	$ -	$ -	$ -	$ -
161000	Escheat of unclaimed checks and warrants	$ -	$ -	$ -	$ -	$ -
161400	Miscellaneous revenues	$ -	$ -	$ -	$ -	$ -
Totals, Revenues		$ 895	$ 881	$ 875	$ 871	$ 871
Transfers from Other Funds						
F00683	Teale Data Center (CS 15.00, Bud Act 2005)	$ -	$ -	$ -	$ -	$ -
Transfers to Other Funds						
		$ -	$ -	$ -	$ -	$ -
Totals, Revenues and Transfers		$ 895	$ 881	$ 875	$ 871	$ 871
Totals, Resources		$ 1,989	$ 1,903	$ 1,503	$ 1,073	$ 618
EXPENDITURES						
Disbursements:						
0840	State Controller (State Operations)	$ 2	$ -	$ -	$ -	$ -
Budget Act of 2007						
1110	Program Expenditures (State Operations) - Galley 3	$ 965	$ 1,275	$ 1,301	$ 1,327	$ 1,353
Total Disbursements		$ 967	$ 1,275	$ 1,301	$ 1,327	$ 1,353
FUND BALANCE						
Reserve for economic uncertainties		$ 1,022	$ 628	$ 202	$ (253)	$ (735)
Months in Reserve		9.6	5.8	1.8	(2.2)	(6.4)

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED

B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2010-11