

# **BOARD OF PODIATRIC MEDICINE RESPONSES TO BACKGROUND PAPER**

**(Oversight Hearing, March 12, 2012, Senate Committee on  
Business, Professions and Economic Development)**

## **IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS FOR BPM OF PODIATRIC MEDICINE**

### **CURRENT SUNSET REVIEW ISSUES**

The following are issues pertaining to the BPM, or those which have been raised by the BPM, and other areas of concern for the Committee to consider along with background information concerning the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. The BPM and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

#### **LICENSING, EXAMINATION AND PRACTICE ISSUES**

**ISSUE # 1:** Should the reference to ankle certification after January 1, 1984 be removed from the Code, thereby confirming a single scope of licensure for doctors of podiatric medicine?

**Background:** Article 22 (Podiatric Medicine) of the Medical Practice Act essentially provides for a two-tier license system, depending on whether a DPM was ankle certified “on or after January 1, 1984,” the date that legislation took effect (Chapter 305, Statutes of 1983) to clarify that a podiatrist may treat the ankle as part of the licensed scope of practice.

Joint Committee staff discussed in 1997 whether this two-tiered system could be eliminated, upon receipt of BPM’s first Sunset Review report. The BPM staff commented then it was probably premature. In 1998, SB 1981 (Greene, Chapter 736, Statutes of 1998) repealed the requirement that licensed podiatrists obtain a certificate from BPM in order to perform ankle surgery, and instead, simply authorized a DPM certified by the BPM after January 1, 1984 to perform ankle surgery.

Now, a decade and a half later, and approaching three decades since 1984, the BPM states in its Report that it would support a single scope of practice for DPMs. The useful life of the 1984 two-tier licensing has run its course, according to the BPM.

More than 80-percent of the BPM’s licensees are “ankle licensed” and this percentage continues to increase. According to the BPM, it is a small number of older licensees who do not perform ankle surgery, amputations or surgical assisting to MD and DO surgeons that the “ankle license” now allows.

Doctors licensed prior to 1984 were able under the law to become ankle licensed if certified by the American Board of Podiatric Surgery (ABPS) or by passing a sophisticated, rigorous oral ankle examination administered by the BPM. The BPM has discontinued that examination because there is no longer any demand to take the examination.

Following enactment of AB 932 (Koretz, Chapter 88, Statutes of 2004), there was renewed interest in taking the examination because that bill in practice disenfranchised some non-ankle-licensed doctors who had previously performed digital amputations as part of their practices to preserve diabetic limb and life. Those doctors were provided opportunities to take this “Section 2499.5(k) exam,” and most who did so passed the examination:

<b>Examination Date</b>	<b>Candidate Number</b>	<b>Pass Rate</b>
12/11/2004	52	75%
10/1/2005	13	73%
2/3/2007*	7	57%
2/18/2010	2	100%

According to the BPM, a single-scope licensure would simplify the statute and its administration without harm to the public.

**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.*

**BPM Response:**

- BPM concurs with amending BPC Section 2472 to strike the reference to January 1, 1984.
- 82% of BPM’s licensees are now “ankle licensed,” and this percent will continue increasing.

**ISSUE # 2: Should the provision prohibiting a DPM from conducting an admitting history and physical examination of a patient in an acute care hospital be repealed?**

**Background:** BPC Section 2472(f) provides that “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.” In 2010, a California Attorney General Opinion No. 09-0504, regarding the effect of these provisions regarding the ability of a doctor of podiatric medicine to perform an admitting history and physical (H&P) at an acute care hospital found 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.”

In stating this opinion, the AG points out that the prohibition of Section 2472 is for performing a H&P “where doing so would violate the regulations governing the Medicare program” and was placed in the statute in response to a former federal rule, which imposed restrictions on federal reimbursements of

podiatric services under Medicare. The federal restriction was superseded by 42 C.F.R. Section 410.25 to provide that “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 physician’s services when performed by a doctor of medicine or osteopathy.”

Therefore, the BPM points out, Medicare regulations no longer restrict DPM history and physical examinations, thereby making Section 2472(f) obsolete. The BPM states that the provision is confusing to the public and should be deleted from the Code.

Committee staff agrees with the BPM that the Code should be clarified by removing this obsolete provision from the law.

**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.*

**BPM Response:**

- BPM concurs that Section 2472 should be amended to sunset paragraph (f), which is obsolete language concerning history & physical exams that has no regulatory effect.

**ISSUE # 3: Should the four-year limit on postgraduate training be eliminated for graduates of podiatric medicine with a residence license.**

**Background:** The law provides that a graduate of an approved school of podiatric medicine may apply for and obtain a resident’s license from the BPM, authorizing them to practice podiatric medicine, as specified. A resident’s license may be renewed annually for up to four years.

The BPM is proposing that the four-year limitation of the resident’s license be deleted, thus ending the four-year cap on DPM postgraduate training. According to the BPM, few individuals may participate in residency and fellowship training for more than four years, but the limit on education is unnecessary. The BPM argues that this limitation is the only known statutory cap on education anywhere in this country for any profession or group. Ultimately, the BPM believes that the four-year cap will interfere with advanced training of some leading practitioners. The BPM states that it is a principle of medical education that there is no such thing as too much education and training.

Committee staff believes that the BPM’s recommendation to eliminate the four-year cap may have merit; however, it is unclear from the BPM’s Report whether this recommendation would instead authorize a person to simply practice as a resident and not progress into full licensure as a doctor of podiatric medicine. The BPM should provide more information to the Committee on this issue.

**Staff Recommendation:** *The BPM should provide more information regarding the proposal to amend BPC Section 2475 to remove the four-year cap on DPM postgraduate resident’s license.*

### **BPM Response:**

- BPM recommends sunseting the 4-year cap on postgraduate training in BPC Section 2475.
- The question posed is whether a person could not “simply practice as a resident and not progress to full licensure as a DPM.”
- This is an important point, and is provided for already in the existing language of the law in BPC Section 2475(a).
- BPC Section 2475(a) states, “If the graduate fails to receive a license to practice podiatric medicine under this chapter within three years from the commencement of the postgraduate training, all privileges and exemptions under this section shall automatically cease.”

### **ISSUE # 4: Should the law be amended to clarify that a medical license is needed to diagnose and prescribe corrective shoes and appliances for medical conditions?**

**Background:** The BPM has proposed that BPC Section 2477 be amended to clarify that a medical license is required in order to diagnose and prescribe corrective shoes or appliances (called orthotics) for the foot.

Orthotics typically refers to custom-made shoe inserts prescribed by a licensed doctor of podiatric medicine, an osteopathic doctor, or a medical doctor after a medical examination and diagnosis. Orthotics are designed to accommodate or correct an abnormal or irregular walking pattern, and ultimately make standing, walking, and running more comfortable and efficient by altering the angles at which the foot strikes the ground. Orthotics placed inside of an individual’s shoes can absorb shock, improve balance, and take pressure off sore spots.

The BPM has recommended amending the law to clarify that anyone may offer special shoes and inserts without a license to aid comfort and athletic performance, but that a medical license is needed to diagnose and prescribe for medical conditions. The BPM’s recommended amendment is as follows:

2477. Nothing in this chapter prohibits the manufacture, the recommendation, or the sale of either corrective shoes or appliances for the human feet **to enhance comfort and performance, or, following diagnosis and prescription by a licensed practitioner in any case involving medical conditions.**

From the materials supplied by the BPM, the necessity of this proposed change is unclear. Committee staff recommends that the BPM document the necessity for this change and further explain the reasons behind its proposal.

**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.*

### **BPM Response:**

- Under current law, only licensed practitioners may diagnose and prescribe for medical conditions, i.e., practice medicine.

- The proposed amendment to BPC Section 2477 would not prevent unlicensed persons from providing inserts or shoes for comfort or athletic performance, but underscore this is not authorizing unlicensed practice of medicine.

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**ISSUE # 5: Should the law be amended to no longer require applicants to obtain a specific score on the licensing examination?**

**Background:** Following the BPM's 2001-2002 sunset review, BPC §2484 was amended to reflect the two-year residency requirement by AB 932 (Koretz, Chapter 88, Statutes of 2004). That bill, sponsored by the California Podiatric Medical Association, additionally amended BPC § 2493 to correspond to the changes made in § 2484 by requiring "a passing score one standard error of measurement higher than the national passing scale score" on the American Podiatric Medical Licensing Examination (APMLE) Part III, the national examination administered by the National Board of Podiatric Medicine Examiners (NBPME).

This technical language was added by AB 932 pursuant to Association negotiations with input from the BPM, the National Board of Podiatric Medical Examiners, and the Department's Office of Examination Resources (OER), which raised concern about such technical language being included in the statute.

According to the BPM, NBPME utilizes a national passing scale score of 75, after converting actual raw scores on individual exams to scaled scores allowing comparison with the scores of applicants taking previous administrations of the exam. The scale passing score corresponds to a level of achievement judged by NBPME to represent entry-level competence.

Nationally, passing rates on Part III have ranged between 80-90 percent. During its history from November 1984 to May 2002, the BPM's oral clinical licensing examination had a 76 percent pass rate (1,269 of 1,667).

In the BPM's experience, the California score, one standard error of measurement higher than the national scale passing score, raises the passing score from 75 one or two points, e.g., to 77, and slightly lowers the overall pass rate percentage. Numerically, this means that for each bi-annual Part III exam, one or two California candidates might achieve the national scale passing score of 75, but fall just below California's one standard error of measurement higher, and must retake the examination.

The BPM's requirement by law for a higher score than the national passing score confuses and disappoints applicants, and delays or blocks their entering practice, sometimes losing job offers in the process. In the judgment of the BPM's professional staff it has a marginal if any effect on the quality of licensees and patient care.

In June 2011, the Executive Director of the NBPME informed the BPM that it was revising the Part III examination to reflect the level of competence expected following one year of graduate medical education (residency training), an upgrade from the previous competency level reflecting graduation from podiatric medical school.

In August 2011, NBPME reported to the BPM: “The June 2011 examination and all subsequent forms will include a board-adopted passing score that reflects entry-level competence by a podiatric physician with one year of post-graduate training.” The Fall 2011 NBPME Reports (Vol. 21 No.1) states: “The culmination of an effort begun in 2008, with an updated practice analysis survey followed by revised test specifications was the administration of a revised Part III examination in June 2011. The examination is now directed toward the competencies expected of a candidate with at least one year post graduate training.”

With this step, the BPM recommends amending BPC Section 2493 to delete paragraph (b) as follows:

2493. (a) An applicant for a certificate to practice podiatric medicine shall pass an examination in the subjects required by Section 2483 in order to ensure a minimum of entry-level competence.

~~—(b) The board shall require a passing score on the National Board of Podiatric Medical Examiners Part III examination that is consistent with the postgraduate training requirement in Section 2484. The board, as of July 1, 2005, shall require a passing score one standard error of measurement higher than the national passing scale score until such time as the National Board of Podiatric Medical Examiners recommends a higher passing score consistent with Section 2484. In consultation with the Office of Professional Examination Services of the Department of Consumer Affairs, the board shall ensure that the part III examination adequately evaluates the full scope of practice established by Section 2472, including amputation and other foot and ankle surgical procedures, pursuant to Section 139.~~

Committee staff concurs with the BPM’s recommendation, and notes the BPM’s citation that DCA’s *Examination Validation Policy* developed under BPC §139, requires a licensing examination testing for “entry-level competence.”

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

**BPM Response:**

- BPM concurs that BPC Section 2493(b) is now obsolete and should be sunsetted.
- Given the National Board’s upgrade of the National licensing exam, BPM can now accept the National scores without requiring “one standard of error of measurement higher.”

## **ENFORCEMENT ISSUES**

**ISSUE # 6:** Should BPC Section 2335 be amended to remove the two-vote requirement for a disciplinary decision to be discussed by the BPM as a whole?

**Background:** The BPM licenses doctors of podiatric medicine under the authority of the Medical Board of California. The law creates the Health Quality Enforcement Section within the Department of Justice with the primary responsibility of prosecuting proceedings against licensees and applicants within the jurisdiction of MBC and various other boards, including the BPM. Under these provisions,

a panel of administrative law judges, the Medical Quality Hearing Panel (MQHP) within the Office of Administrative Hearings, conducts disciplinary proceedings against a DPM. BPC Section 2335 provides that all proposed decisions of the MQHP are transferred to the executive officer of the BPM, and sent by Board staff to each Board member within 10 days. The BPM staff then polls each member regarding his or her vote on the proposed decision. By majority vote, the BPM may do any of the following: approve the decision, approve the decision with an altered penalty, refer the case back to the administrative law judge in order to take additional evidence, defer final decision pending discussion of the case by Board as a whole, or non-adopt the decision.

The law provides that the votes of two members of the BPM are required to defer a final decision pending discussion of the case by the BPM as a whole. If two or more members vote to defer the final decision until after a discussion of the entire Board, then the BPM must engage in that discussion before 100 calendar days of the date the proposed decision is received by the BPM.

In its Report, the BPM states that the requirement that, “The votes of two members of the panel or board are required to defer a final decision pending discussion of the case by the panel or board as a whole,” effectively prevents the BPM Board Members from discussing a case in closed session as a jury even when one member of the BPM identifies an issue and wishes to have discussion with her or his colleagues prior to voting. The BPM states that there is no such obstacle to jury deliberation in civil or criminal courts, nor was there a problem with too many cases being held by the BPM prior to enactment of the two-votes rule. The BPM has recommended deleting this provision as it relates to the BPM, and believes that doing so, could empower the BPM as a jury in disciplinary matters and make its role more meaningful.

Committee staff believes that the BPM’s proposal may have merit relating to the operations of the BPM, and suggests that the BPM provide more information to the Committee on this issue.

**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.*

**BPM Response:**

- SB 609 of 1995 amended BPC Section 2335(c)(2) to require two votes rather than just one for a Medical Board panel to HOLD a disciplinary decision proposed by an Administrative Law Judge (ALJ), so that the panel can discuss the case as a jury rather than just vote by mail ballot.
- This statute, enacted due to issues at the Medical Board, also applies to BPM because of the construction of the law, but to no other board.
- In BPM’s experience, this works against Board Members being able to discuss a case with their jury colleagues in those instances when one Member sees important questions or issues they were appointed to weigh.
- It is an unusual event (once every few years) for any Member to vote to hold.
- Two Members voting to hold on the same case is something that almost never happens.
- This undercuts the exercise of this voting option, and frustrates Board Members’ efforts to function responsibly and effectively in their central, statutory role as a Jury.

**ISSUE # 7: Should the BPM be given authority to increase costs when the BPM does not adopt a proposed ALJ decision, and finds grounds to increase the assessed costs?**

**Background:** As part of the Medical Board, and utilizing MBC staff for enforcement, the BPM has cost recovery authority through BPC § 2497.5. The BPM’s *Manual of Disciplinary Guidelines and Model Disciplinary Orders* provides that cost recovery is a standard condition for all cases.

According to the BPM, Administrative Law Judges (ALJs) are inconsistent in the amount of cost recovery they propose from one case to another. In stipulated agreements, the BPM’s staff and the Attorney General always seek cost recovery as part of the negotiation.

In its Report, the BPM recommends amending BPC § 2497.5(b) to give the BPM discretion to increase cost recovery in disciplinary cases when it non-adopts a proposed decision from an administrative law judge “and in making its own decision finds grounds for increasing the costs to be assessed.” The BPM indicates that it is unusual to non-adopt an ALJ’s proposed decision and for the BPM to make its own decision. However, the BPM contends that it should not be prohibited from ordering actual and reasonable cost recovery in such cases.

The BPM argues that Section 2497.5 prevents it from increasing the cost recovery proposed by an ALJ “in any event” and also prohibits an ALJ from increasing the cost recovery when the BPM remands cases. There is no apparent rationale for these provisions other than to restrict recovery of costs. This undercuts the role of the BPM Members in making the final decision and ultimately has the effect of inflating licensing fees, according to the BPM.

The BPM recommends amending BPC § 2497.5 as follows:

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not ~~in any event~~ be increased by the board unless the board does not adopt a proposed decision and in making its own decision finds grounds for increasing the costs to be assessed, not to exceed the actual and reasonable costs of the investigation and prosecution of the case. ~~When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.~~

Committee staff concurs with the BPM’s recommendation to authorize the BPM to increase costs assessed to a disciplined licensee when a proposed decision is not adopted by the BPM and the BPM finds grounds for increasing the costs.

**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.*

**BPM Response:**

BPM concurs.

## TECHNOLOGY ISSUES

### **ISSUE # 8: What is the status of BReZE implementation by the BPM?**

**Background:** The BreZE Project will provide DCA boards, bureaus, and committees with a new enterprise-wide enforcement and licensing system. BreZE will replace the existing outdated legacy systems and multiple “work around” systems with an integrated solution based on updated technology.

BreZE will provide all DCA organizations with a solution for all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and data management capabilities. In addition to meeting these core DCA business requirements, BreZE will improve DCA’s service to the public and connect all license types for an individual licensee. BreZE will be web-enabled, allowing licensees to complete applications, renewals, and process payments through the Internet. The public will also be able to file complaints, access complaint status, and check licensee information. The BreZE solution will be maintained at a three-tier State Data Center in alignment with current State IT policy.

BreZE is an important opportunity to improve the BPM operations to include electronic payments and expedite processing. Staff from numerous DCA boards and bureaus have actively participated with the BreZE Project. Due to increased costs in the BreZE Project, last year SB 543 (Steinberg, Chapter 448, Statutes of 2011) was amended to authorize the Department of Finance (DOF) to augment the budgets of BPMs, bureaus and other entities that comprise DCA for expenditure of non-General Fund moneys to pay BreZE project costs within the 2011-2012 Budget Year.

The BPM indicates in its Report that in August 2011, DCA advised the BPM that the BPM budget and fund will be charged assessments of \$4,000 in FY 2011-12 followed in succeeding FYs by \$11,000, \$9,000, \$8,000, \$9,000 and \$9,000 consecutively through FY 2016-17 for BreZE SPR Funding.

The BPM is scheduled to begin using BreZE in the Summer of 2012. It would be helpful to update the Committee about BPM’s current work to implement the BreZE project.

**Staff Recommendation:** *The BPM should update the Committee about the current status of its implementation of BreZE. What have been the challenges to implementing this new system? What are the costs of implementing this system? Is the cost of BreZE consistent with what the BPM was told the project would cost?*

#### **BPM Response:**

- BPM has met multiple times with the BreZE team, and provided all the program data requested.
- BPM is participating in configuration sessions to assess the new system “hands on.”
- Implementation is scheduled for summer or fall 2012 (FY 2013).
- The cost to BPM is \$50,000 through FYs 2012-17.
- This is a \$38,000-increase over the \$12,000 previously budgeted for i-Licensing.
- Beginning in FY 2018, annual maintenance costs will be about \$1,000.

**ISSUE # 9: Are the costly credit card fees associated with the BreEze system justified for the BPM?**

**Background:** The BPM Report states that DCA has advised that it projects deducting another \$15,000 annually for BreEze credit card convenience fees beginning in FY 2012-13. The BPM states that the additional \$15,000 annual assessment is problematic.

The \$15,000 annual charge is based upon an assumption of a two-percent transaction fee on average for each online renewal fee payment. The BPM states, “Whereas this fee for a Registered Nurse, with a \$140 renewal fee, will be \$2.80, the transaction fee for each the BPM renewal will be \$18.00 (two percent of the \$900 renewal fee).”

With fewer than 2,000 licensees, the BPM has less than 1,000 renewals each year. DCA assumes 80 percent will renew online via a credit card, i.e., 833 online renewals annually, times \$900, times two percent. That calculation results in the \$15,000 that DCA projects being charged to the BPM’s budget annually. The BPM argues that the \$15,000 amount stands out as difficult to justify for only 833 renewals.

The BPM has the highest professional renewal fee (\$900) and one of the smallest budgets and funds in DCA (\$960,000 for FY 2011/12). The BPM states that for two decades the BPM has kept its fund in the black by careful, thrifty under-spending of its budget and returning money to its fund for future use. The BPM has kept its fund solvent by cutting expenditures for 20 years, developing a lean operation with minimum staff. Given the small size of the BPM’s budget, and the potential volatility of enforcement costs, this budget flexibility remains instrumental, according to the BPM.

With the BPM a high renewal fee, which has been the case for two decades, there may be little if any support for raising the fee to cover the credit card costs. The BPM does not support raising the renewal fee or cutting licensing or enforcement programs.

The BPM Report states that the BPM unanimously approved initiating having BreEze give the licensee the option of online renewal with credit card payments of both the \$900 renewal fee and the amount DCA charges to cover the average convenience fee (currently 2 percent, or \$18). The current mail-in renewal with check payment will continue to be available for licensees. According to the BPM, this will cover the \$15,000 convenience fee assessment that DCA projects being charged to the BPM’s budget, and help preserve the BPM’s fund balance.

Committee staff recognizes the concerns of the BPM and understands desire to pass the credit card convenience fee on to those licensees renewing their license online. As consumers, licensees are often used to making electronic payments via credit card for online purchases and making other electronic purchase and payments online. No doubt it would be of great benefit to the licensing population and be more efficient for the BPM to be able to make credit card payments for fees online.

Committee staff is concerned whether the BPM has adequate authority to charge a separate convenience fee for renewing a license online by credit card. The BPM should more fully discuss this issue with the Committee.

**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?*

**BPM Response:**

- The DCA Legal Affairs office has confirmed that no additional statutory authority is necessary.
- Government Code Section 6159(g) provides authorization.
- BPM defers to the Department on whether the fees can be reduced.
- BPM's Board voted unanimously September 23 to pass this 2% assessment on to licensees who renew online.
- Following BPM's Sunset Hearing March 12, the Department initiated discussions with BPM that are continuing on this matter.

## **BUDGET ISSUES**

### **ISSUE # 10: Should the fees for services other than for license renewals be increased?**

**Background:** Aside from the BPM's renewal fee, which accounts for more than 90 percent of the BPM's revenue, the fees for other specified services have not been adjusted in two decades. They are at their statutory limits. DCA Budget Office recommended in 2004, when the \$900 renewal fee was made permanent, that the BPM's other fees be adjusted to reflect actual costs of service. This was to stabilize the BPM special fund and relieve pressure on the renewal fee, which has been the highest professional renewal fee in DCA for decades.

The BPM recommends following changes to bring fees more in line with current costs:

- Increase the application fee from \$20 to \$100 (BPC § 2499.5 (a)).
- Delete application and renewal fee discounts for recent graduates (BPC § 2499.5 (c)).
- Add authority to waive the renewal fee for doctors working only as volunteers consistent with MBC statute (Section 2442) (BPC § 2499.5 (d)).
- Increase the duplicate wall certificate fee from \$40 to \$100 (BPC § 2499.5 (f)).
- Increase the duplicate renewal receipt fee from \$40 to \$50, and clarify statute to include the issuance of pocket licenses under this provision so that it is consistent with current practice (BPC § 2499.5 (g)).
- Increase the endorsement fee from \$30 to \$100, and clarify statute to include all of the services that are currently provided under this subsection (BPC § 2499.5 (h), (i)).
- Increase the resident's license fee from \$60 to \$100 (BPC § 2499.5 (j)).
- Sunset authorization and fees for ankle licensure examination for pre-1984 licensees (BPC § 2499.5 (k)).
- Increase the examination appeal fee from \$25 to \$100 (BPC § 2499.5 (l)).
- Increase the continuing education course approval fee from \$100 to \$250 (BPC § 2499.5 (m)).

Given the BPM's close budget management and lean operation, these fees should not require further adjustment for some years. While the renewal fee is the highest professional fee within the Department, DPMs support it to ensure the fiscal and enforcement integrity of a Board dedicated to standards reflecting well on the profession, according to the BPM.

Committee staff agrees that the stability of the BPM's special fund is essential to the long-term regulatory activities of the BPM. However, to this point, the BPM has not sufficiently demonstrated the need for the proposed increases.

**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."*

**BPM Response:**

- BPM's completion of the Committee's Fee Bill Worksheet is attached.
- Increasing the service fees will increase BPM revenue about \$11,000 a year.
- This will not by itself solve BPM's long-term fund projections, but will help keep the fund in the black for a longer period of time.
- BPM's annual revenues have not equaled its budget or actual expenditures since FY 2007.
- For decades, BPM has extended the solvency of its fund by tight fiscal management and staying under budget every year.
- The \$900 renewal fee (the highest in the Department) accounts for more than 90% of BPM's revenue.
- DCA's analysis of the BPM Fund projects a negative balance at the end of FY 2013, but this assumes full spending of budget.
- BPM's analysis projects cost savings and a positive fund balance thru FY 2015.

**CONTINUED REGULATION OF THE PROFESSION BY THE  
CURRENT MEMBERS OF THE BPM**

**ISSUE # 11:** **Should the licensing and regulation of podiatric medicine be continued, and should the profession continue to be regulated by the BPM of Podiatric Medicine under the jurisdiction of the Medical Board of California?**

**Background:** The health, safety and welfare of consumers are protected by a well-regulated medical profession, including podiatric medicine. Podiatric doctors make independent medical judgments with patients including diagnosis, prescription medication, and method of treatment. The BPM continues to be an effective mechanism for licensure and oversight of podiatrists and should be continued. The BPM has shown over the years a strong commitment to improve the BPM's overall efficiency and effectiveness and has worked cooperatively with the Legislature and this Committee to bring about necessary changes. The BPM should be continued under the jurisdiction of the MBC with a four-year

extension of its sunset date so that the Committee may review once again if the issues and recommendations in this Paper and others of the Committee have been addressed.

**Staff Recommendation:** *Recommend that doctors of podiatric medicine continue to be regulated by the current the 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.*

**BPM Response:**

- BPM concurs.

## **TECHNICAL CLEANUP OF PODIATRIC ACT**

### **ISSUE # 12: Technical cleanup of the Podiatric Medicine Act proposed by the BPM.**

**Background:** The BPM has raised several cleanup provisions in its Report which should be made to clarify the law.

The following are technical corrections recommended by the BPM:

2465. No person who directly or indirectly owns any interest in any college, school, or other institution engaged in podiatric medical instruction shall be appointed to the board ~~nor or~~ shall any incumbent member of the board have or acquire any interest, direct or indirect, in any such college, school, or institution.

2484. In addition to any other requirements of this chapter, before a certificate to practice podiatric medicine may be issued, each applicant shall show by evidence satisfactory to the board, submitted directly to the board by the sponsoring institution, that he or she has satisfactorily completed at least two years of postgraduate podiatric medical and podiatric surgical training in a general acute care hospital approved by the Council ~~of~~ on Podiatric Medical Education.

The BPM states that Section 2496 duplicates provisions found in Section 2470 and other provisions of law, and recommends amendments to remove the duplicative wording. Committee staff recommends also amending Section 2470 to more fully cite the Administrative Procedures Act.

2496. In order to ensure the continuing competence of persons licensed to practice podiatric medicine, the board shall adopt and administer regulations ~~in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).~~

2470. The board may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act (**Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code**), regulations necessary to enable the board to carry into effect the provisions of law relating to the practice of podiatric medicine.

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

**BPM Response:**

- BPM concurs.

BOARD'S PROPOSED LEGISLATIVE CHANGES

BUSINESS & PROFESSIONS CODE

DIVISION 2 (HEALING ARTS)

CHAPTER 5 (MEDICINE)

ARTICLE 22

2460. (a) There is created within the jurisdiction of the Medical Board of California the California Board of Podiatric Medicine.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date. The repeal of this section renders the California Board of Podiatric Medicine subject to the review required by Division 1.2 (commencing with Section 473).

2460.1. Protection of the public shall be the highest priority for the California Board of Podiatric Medicine in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

2461. As used in this article:

(a) "Division" means the Division of Licensing of the Medical Board of California.

(b) "Board" means the California Board of Podiatric Medicine.

(c) "Podiatric licensing authority" refers to any officer, board, commission, committee, or department of another state that may issue a license to practice podiatric medicine.

2462. The board shall consist of seven members, three of whom shall be public members. Not more than one member of the board shall be a full-time faculty member of a college or school of podiatric medicine.

The Governor shall appoint the four members qualified as provided in Section 2463 and one public member. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

2463. Each member of the board, except the public members, shall be appointed from persons having all of the following qualifications:

(a) Be a citizen of this state for at least five years next preceding his or her appointment.

(b) Be a graduate of a recognized school or college of podiatric medicine.

(c) Have a valid certificate to practice podiatric medicine in this state.

(d) Have engaged in the practice of podiatric medicine in this state for at least five years next preceding his or her appointment.

2464. The public members shall be appointed from persons having all of the following qualifications:

(a) Be a citizen of this state for at least five years next

preceding his or her appointment.

(b) Shall not be an officer or faculty member of any college, school, or other institution engaged in podiatric medical instruction.

(c) Shall not be a licentiate of the board or of any board under this division or of any board created by an initiative act under this division.

2465. No person who directly or indirectly owns any interest in any college, school, or other institution engaged in podiatric medical instruction shall be appointed to the board **nor** shall any incumbent member of the board have or acquire any interest, direct or indirect, in any such college, school, or institution.

2466. All members of the board shall be appointed for terms of four years. Vacancies shall immediately be filled by the appointing power for the unexpired portion of the terms in which they occur. No person shall serve as a member of the board for more than two consecutive terms.

2467. (a) The board may convene from time to time as it deems necessary.

(b) Four members of the board constitute a quorum for the transaction of business at any meeting.

(c) It shall require the affirmative vote of a majority of those members present at a meeting, those members constituting at least a quorum, to pass any motion, resolution, or measure.

(d) The board shall annually elect one of its members to act as president and a member to act as vice president who shall hold their respective positions at the pleasure of the board. The president may call meetings of the board and any duly appointed committee at a specified time and place.

2468. Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

2469. Each member of the board shall receive per diem and expenses as provided in Section 2016.

2470. The board may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act **(Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code)**, regulations necessary to enable the board to carry into effect the provisions of law relating to the practice of podiatric medicine.

2471. Except as provided by Section 159.5, the board may employ, within the limits of the funds received by the board, all personnel necessary to carry out this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(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.~~ [Duplicative--covered by Section 805(a)(2)itself]

2474. Any person who uses in any sign or in any advertisement or otherwise, the word or words "doctor of podiatric medicine," "doctor of podiatry," "podiatric doctor," "D.P.M.," "podiatrist," "foot specialist," or any other term or terms or any letters indicating or implying that he or she is a doctor of podiatric medicine, or that he or she practices podiatric medicine, or holds himself out as practicing podiatric medicine or foot correction as defined in Section 2472, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as provided for in this chapter, is guilty of a misdemeanor.

2475. Unless otherwise provided by law, no postgraduate trainee, intern, resident postdoctoral fellow, or instructor may engage in the practice of podiatric medicine, or receive compensation therefor, or offer to engage in the practice of podiatric medicine unless he or she holds a valid, unrevoked, and unsuspended certificate to practice podiatric medicine issued by the division. However, a graduate of an approved college or school of podiatric medicine upon whom the degree doctor of podiatric medicine has been conferred, who is issued a resident's license, which may be renewed annually ~~for up to four years~~ for this purpose by the division upon recommendation of the board, and who is enrolled in a postgraduate training program approved by the board, may engage in the practice of podiatric medicine whenever and wherever required as a part of that program and may receive compensation for that practice under the following conditions:

(a) A graduate with a resident's license in an approved internship, residency, or fellowship program may participate in training rotations outside the scope of podiatric medicine, under the supervision of a physician and surgeon who holds a medical doctor or doctor of osteopathy degree wherever and whenever required as a part of the training program, and may receive compensation for that practice. If the graduate fails to receive a license to practice podiatric medicine under this chapter within three years from the commencement of the postgraduate training, all privileges and exemptions under this section shall automatically cease.

(b) Hospitals functioning as a part of the teaching program of an approved college or school of podiatric medicine in this state may exchange instructors or resident or assistant resident doctors of podiatric medicine with another approved college or school of podiatric medicine not located in this state, or those hospitals may appoint a graduate of an approved school as such a resident for purposes of postgraduate training. Those instructors and residents may practice and be compensated as provided in this section, but that practice and compensation shall be for a period not to exceed two years.

2475.1. Before a resident's license may be issued, each applicant shall show by evidence satisfactory to the board, submitted directly to the board by the national score reporting institution, that he or she has, within the past 10 years, passed Parts I and II of the examination administered by the National Board of Podiatric Medical Examiners of the United States or has passed a written examination

that is recognized by the board to be the equivalent in content to the examination administered by the National Board of Podiatric Medical Examiners of the United States.

2475.2. As used in this article, "podiatric residency" means a program of supervised postgraduate clinical training, one year or more in duration, approved by the board.

2475.3. (a) The board shall approve podiatric residency programs, as defined in Section 2475.2, in the field of podiatric medicine, for persons who are applicants for or have been issued a certificate to practice podiatric medicine pursuant to this article.

(b) The board may only approve a podiatric residency that it determines meets all of the following requirements:

(1) Reasonably conforms with the Accreditation Council for Graduate Medical Education's Institutional Requirements of the Essentials of Accredited Residencies in Graduate Medical Education: Institutional and Program Requirements.

(2) Is approved by the Council on Podiatric Medical Education.

(3) Complies with the requirements of this state.

2476. Nothing in this chapter shall be construed to prevent a regularly matriculated student undertaking a course of professional instruction in an approved college or school of podiatric medicine from participating in training beyond the scope of podiatric medicine under the supervision of a physician and surgeon who holds a medical doctor or doctor of osteopathy degree whenever and wherever prescribed as part of his or her course of study.

2477. Nothing in this chapter prohibits the manufacture, the recommendation, or the sale of either corrective shoes or appliances for the human feet **to enhance comfort and performance, or, following diagnosis and prescription by a licensed practitioner, in any case involving medical conditions.**

2479. The division shall issue, upon the recommendation of the board, a certificate to practice podiatric medicine to each applicant who meets the requirements of this chapter. Every applicant for a certificate to practice podiatric medicine shall comply with the provisions of Article 4 (commencing with Section 2080) which are not specifically applicable to applicants for a physician's and surgeon's certificate, in addition to the provisions of this article.

2480. The board shall have full authority to investigate and to evaluate each applicant applying for a certificate to practice podiatric medicine and to make a determination of the admission of the applicant to the examination and the issuance of a certificate in accordance with the provisions and requirements of this chapter.

2481. Each applicant who commenced professional instruction in podiatric medicine after September 1, 1959, shall show by an official

transcript or other official evidence submitted directly to the board by the academic institution that he or she has completed two years of preprofessional postsecondary education, or its equivalent, including the subjects of chemistry, biology or other biological science, and physics or mathematics, before completing the resident course of professional instruction.

2483. (a) Each applicant for a certificate to practice podiatric medicine shall show by an official transcript or other official evidence satisfactory to the board that is submitted directly to the board by the academic institution that he or she has successfully completed a medical curriculum extending over a period of at least four academic years, or 32 months of actual instruction, in a college or school of podiatric medicine approved by the board. The total number of hours of all courses shall consist of a minimum of 4,000 hours.

The board, by regulation, shall adopt standards for determining equivalent training authorized by this section.

(b) The curriculum for all applicants shall provide for adequate instruction related to podiatric medicine in the following:

- Alcoholism and other chemical substance detection
- Local anesthesia
- Anatomy, including embryology, histology, and neuroanatomy
- Behavioral science
- Biochemistry
- Biomechanics-foot and ankle
- Child abuse detection
- Dermatology
- Geriatric medicine
- Human sexuality
- Infectious diseases
- Medical ethics
- Neurology
- Orthopedic surgery
- Pathology, microbiology, and immunology
- Pediatrics
- Pharmacology, including materia medica and toxicology
- Physical and laboratory diagnosis
- Physical medicine
- Physiology
- Podiatric medicine
- Podiatric surgery
- Preventive medicine, including nutrition
- Psychiatric problem detection
- Radiology and radiation safety
- Spousal or partner abuse detection
- Therapeutics
- Women's health

2484. In addition to any other requirements of this chapter, before a certificate to practice podiatric medicine may be issued, each applicant shall show by evidence satisfactory to the board, submitted directly to the board by the sponsoring institution, that he or she has satisfactorily completed at least two years of postgraduate podiatric medical and podiatric surgical training in a general acute care hospital approved by the Council ~~of~~ on Podiatric Medical Education.

2486. The Medical Board of California shall issue, upon the

recommendation of the board, a certificate to practice podiatric medicine if the applicant has submitted directly to the board from the credentialing organizations verification that he or she meets all of the following requirements:

(a) The applicant has graduated from an approved school or college of podiatric medicine and meets the requirements of Section 2483.

(b) The applicant, within the past 10 years, has passed parts I, II, and III of the examination administered by the National Board of Podiatric Medical Examiners of the United States or has passed a written examination that is recognized by the board to be the equivalent in content to the examination administered by the National Board of Podiatric Medical Examiners of the United States.

(c) The applicant has satisfactorily completed the postgraduate training required by Section 2484.

(d) The applicant has passed within the past 10 years any oral and practical examination that may be required of all applicants by the board to ascertain clinical competence.

(e) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

(f) The board determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine that the board determines constitutes evidence of a pattern of negligence or incompetence.

(g) A disciplinary databank report regarding the applicant is received by the board from the Federation of Podiatric Medical Boards.

2488. Notwithstanding any other provision of law, the Medical Board of California shall issue, upon the recommendation of the board, a certificate to practice podiatric medicine by credentialing if the applicant has submitted directly to the board from the credentialing organizations verification that he or she is licensed as a doctor of podiatric medicine in any other state and meets all of the following requirements:

(a) The applicant has graduated from an approved school or college of podiatric medicine.

(b) The applicant, within the past 10 years, has passed either part III of the examination administered by the National Board of Podiatric Medical Examiners of the United States or a written examination that is recognized by the board to be the equivalent in content to the examination administered by the National Board of Podiatric Medical Examiners of the United States.

(c) The applicant has satisfactorily completed a postgraduate training program approved by the Council on Podiatric Medical Education.

(d) The applicant, within the past 10 years, has passed any oral and practical examination that may be required of all applicants by the board to ascertain clinical competence.

(e) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

(f) The board determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine that

the board determines constitutes evidence of a pattern of negligence or incompetence.

(g) A disciplinary databank report regarding the applicant is received by the board from the Federation of Podiatric Medical Boards.

2492. (a) The board shall examine every applicant for a certificate to practice podiatric medicine to ensure a minimum of entry-level competence at the time and place designated by the board in its discretion, but at least twice a year.

(b) Unless the applicant meets the requirements of Section 2486, applicants shall be required to have taken and passed the examination administered by the National Board of Podiatric Medical Examiners.

(c) The board may appoint qualified persons to give the whole or any portion of any examination as provided in this article, who shall be designated as examination commissioners. The board may fix the compensation of those persons subject to the provisions of applicable state laws and regulations.

(d) The provisions of Article 9 (commencing with Section 2170) shall apply to examinations administered by the board except where those provisions are in conflict with or inconsistent with the provisions of this article. In respect to applicants under this article any references to the "Division of Licensing" or "division" shall be deemed to apply to the board.

2493. (a) An applicant for a certificate to practice podiatric medicine shall pass an examination in the subjects required by Section 2483 in order to ensure a minimum of entry-level competence.

(b) The board shall require a passing score on the National Board of Podiatric Medical Examiners Part III examination that is consistent with the postgraduate training requirement in Section 2484. The board, as of July 1, 2005, shall require a passing score one standard error of measurement higher than the national passing scale score until such time as the National Board of Podiatric Medical Examiners recommends a higher passing score consistent with Section 2484. In consultation with the Office of Professional Examination Services of the Department of Consumer Affairs, the board shall ensure that the part III examination adequately evaluates the full scope of practice established by Section 2472, including amputation and other foot and ankle surgical procedures, pursuant to Section 139.

2495. Notwithstanding any other provision of this chapter, the board may delegate to officials of the board the authority to approve the admission of applicants to the examination and to approve the issuance of certificates to practice podiatric medicine to applicants who have met the specific requirements therefor in routine cases where applicants clearly meet the requirements of this chapter.

2496. In order to ensure the continuing competence of persons licensed to practice podiatric medicine, the board shall adopt and administer regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code)

requiring continuing education of those licensees. The board shall require those licensees to demonstrate satisfaction of the continuing education requirements and one of the following requirements at each license renewal:

(a) Passage of an examination administered by the board within the past 10 years.

(b) Passage of an examination administered by an approved specialty certifying board within the past 10 years.

(c) Current diplomate, board-eligible, or board-qualified status granted by an approved specialty certifying board within the past 10 years.

(d) Recertification of current status by an approved specialty certifying board within the past 10 years.

(e) Successful completion of an approved residency or fellowship program within the past 10 years.

(f) Granting or renewal of current staff privileges within the past five years by a health care facility that is licensed, certified, accredited, conducted, maintained, operated, or otherwise approved by an agency of the federal or state government or an organization approved by the Medical Board of California.

(g) Successful completion within the past five years of an extended course of study approved by the board.

(h) Passage within the past 10 years of Part III of the examination administered by the National Board of Podiatric Medical Examiners.

2497. (a) The board may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

(b) The board may hear all matters, including but not limited to, any contested case or may assign any such matters to an administrative law judge. The proceedings shall be held in accordance with Section 2230. If a contested case is heard by the board itself, the administrative law judge who presided at the hearing shall be present during the board's consideration of the case and shall assist and advise the board.

2497.5. (a) The board may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the board, to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not ~~in any event~~ be increased by the board unless the board does not adopt a proposed decision and in making its own decision finds grounds for increasing the costs to be assessed, not to exceed the actual and reasonable costs of the investigation and prosecution of the case. ~~When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.~~

(c) When the payment directed in the board's order for payment of costs is not made by the licensee, the board may enforce the order for payment by bringing an action in any appropriate court. This

right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

(d) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(e) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one year period for those unpaid costs.

(f) All costs recovered under this section shall be deposited in the Board of Podiatric Medicine Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct.

2498. (a) The board shall have the responsibility for reviewing the quality of podiatric medical practice carried out by persons licensed to practice podiatric medicine.

(b) Each member of the board, or any licensed doctor of podiatric medicine appointed by the board, shall additionally have the authority to inspect, or require reports from, a general or specialized hospital and the podiatric medical staff thereof, with respect to the podiatric medical care, services, or facilities provided therein, and may inspect podiatric medical patient records with respect to the care, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by a member of the board to any person other than a doctor of podiatric medicine and shall be subject to the restrictions against disclosure described in Section 2263.

2499. There is in the State Treasury the Board of Podiatric Medicine Fund. Notwithstanding Section 2445, the division shall report to the Controller at the beginning of each calendar month for the month preceding the amount and source of all revenue received by it on behalf of the board, pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit into the fund. All revenue received by the board and the division from fees authorized to be charged relating to the practice of podiatric medicine shall be deposited in the fund as provided in this section, and shall be used to carry out the provisions of this chapter relating to the regulation of the practice of podiatric medicine.

2499.5. The following fees apply to certificates to practice podiatric medicine. The amount of fees prescribed for doctors of podiatric medicine shall be those set forth in this section unless a lower fee is established by the board in accordance with Section 2499.6. Fees collected pursuant to this section shall be fixed by the board in amounts not to exceed the actual costs of providing the service for which the fee is collected.

(a) Each applicant for a certificate to practice podiatric medicine shall pay an application fee of ~~twenty one hundred~~ twenty one hundred dollars ~~(\$20)~~ (\$100) at the time the application is filed. If the applicant qualifies for a

certificate, he or she shall pay a fee which shall be fixed by the board at an amount not to exceed one hundred dollars (\$100) nor less than five dollars (\$5) for the issuance of the certificate.

(b) The oral examination fee shall be seven hundred dollars (\$700), or the actual cost, whichever is lower, and shall be paid by each applicant. If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the board 30 days prior to the examination date, only the examination fee is returnable to the applicant. The board may charge an examination fee for any subsequent reexamination of the applicant.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required by this section, shall pay an initial license fee. The initial license fee shall be eight hundred dollars (\$800). The initial license shall expire the second year after its issuance on the last day of the month of birth of the licensee. ~~The board may reduce the initial license fee by up to 50 percent of the amount of the fee for any applicant who is enrolled in a postgraduate training program approved by the board or who has completed a postgraduate training program approved by the board within six months prior to the payment of the initial license fee.~~

(d) The biennial renewal fee shall be nine hundred dollars (\$900). ~~Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal. The board may waive this fee for a doctor of podiatric medicine residing in California who certifies to the board that license renewal is for the sole purpose of providing voluntary, unpaid service.~~

(e) The delinquency fee is one hundred fifty dollars (\$150).

(f) The duplicate wall certificate fee is ~~forty one hundred~~ dollars ~~(\$40)~~ \$100.

(g) The ~~fee for a duplicate renewal receipt fee or pocket license~~ is ~~forty fifty~~ dollars ~~(\$40)~~ (\$50).

(h) The endorsement, certification, verification, or letter of good standing fee is ~~thirty one hundred~~ dollars ~~(\$30)~~ (\$100).

(i) The letter of good standing fee or for loan deferment is ~~thirty one hundred~~ dollars ~~(\$30)~~ (\$100).

(j) There shall be a fee of ~~sixty one hundred~~ dollars ~~(\$60)~~ (\$100) for the issuance ~~and renewal~~ of a resident's license under Section 2475.

~~(k) The application fee for ankle certification under Section 2472 for persons licensed prior to January 1, 1984, shall be fifty dollars (\$50). The examination and reexamination fee for this certification shall be seven hundred dollars (\$700).~~

(l) The filing fee to appeal the failure of an oral examination shall be ~~twenty five one hundred~~ dollars ~~(\$25)~~ (\$100).

(m) The fee for approval of a continuing education course or program shall be ~~one two hundred fifty~~ dollars ~~(\$100)~~ (\$250).

2499.6. The fees in this article shall be fixed by the board in accordance with Section 313.1.

2499.8. Any licensee who demonstrates to the satisfaction of the board that he or she is unable to practice podiatric medicine due to a disability may request a waiver of the license renewal fee. The granting of a waiver shall be at the discretion of the board and may be terminated at any time. Waivers shall be based on the inability of a licensee to practice podiatric medicine. A licensee whose renewal

fee has been waived pursuant to this section shall not engage in the practice of podiatric medicine unless and until the licensee pays the current renewal fee and does either of the following:

(a) Establishes to the satisfaction of the board, on a form prescribed by the board and signed under penalty of perjury, that the licensee's disability either no longer exists or does not affect his or her ability to practice podiatric medicine safely.

(b) Signs an agreement on a form prescribed by the board, signed under penalty of perjury, in which the licensee agrees to limit his or her practice in the manner prescribed by the reviewing physician.