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## PODIATRIC MEDICAL BOARD OF CALIFORNIA

December 6, 2019

**SUBJECT: EXECUTIVE MANAGEMENT**

VE 1

**ACTION: Podiatric Medical Board of California's 2019  
Fee Study Approval**

**DISCUSSION:**

Discussion and Action on the 2019 Podiatric Medical Board of California's Fee Study Results

**ATTACHMENTS:**

A. PMBC's 2019 Sunset Review Report

Prepared by: Brian Naslund

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Brian Naslund  
Executive Officer



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**PODIATRIC MEDICAL BOARD OF CALIFORNIA**  
**December 6, 2019**

**SUBJECT: EXECUTIVE MANAGEMENT**

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**ACTION: Podiatric Medical Board of California's 2020  
Sunset Review Report Approval**

**DISCUSSION:**

Discussion and Action on the 2020 Podiatric Medical Board of California's Sunset Review Report

**ATTACHMENTS:**

A. PMBC's 2019 Sunset Review Report

Prepared by: Brian Naslund

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Brian Naslund  
Executive Officer

# SUNSET REVIEW REPORT

**PODIATRIC**  
**MEDICAL BOARD**  
**OF CALIFORNIA**



DECEMBER 1, 2019

“BOARDS ARE ESTABLISHED TO PROTECT THE PEOPLE OF CALIFORNIA”

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STATE OF CALIFORNIA

GAVIN NEWSOM, GOVERNOR

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PODIATRIC MEDICAL BOARD OF CALIFORNIA

JUDITH MANZI, DPM, PRESIDENT

BRIAN NASLUND, EXECUTIVE OFFICER

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# PODIATRIC MEDICAL BOARD OF CALIFORNIA

## BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT

## REGULATORY PROGRAM

### December 1, 2019

#### Section 1 –

#### Background and Description of the Board and Regulated Profession

**Provide a short explanation of the history and function of the board.<sup>1</sup> Describe the occupations/profession that are licensed and/or regulated by the board (Practice Acts vs. Title Acts).**

#### The History of the Podiatric Medical Board of California

The Podiatric Medical Board of California (PMBC or Board) is a licensing board under the Department of Consumer Affairs (DCA) responsible for licensing, regulation, and discipline of the practice of podiatric medicine in California. Many of the same statutes applicable to the Medical Board of California (MBC) also apply to PMBC. For ease of reference, each of the following Business and Professions Code<sup>2</sup> (BPC) provisions apply to PMBC: sections 2041, 2069 through 2071, 2080 through 2099.6<sup>3</sup>, 2220 through 2329<sup>4</sup>, 2330, 2335, 2336, 2402, 2403, 2406 through 2410, 2412, 2415, 2416, 2424, 2427, 2428, 2439, 2460 through 2499.8<sup>5</sup>, and 2525.2. PMBC's regulations are set forth in Article 1 of Division 13.9 of Title 16 of the California Code of Regulations<sup>6</sup> (CCR), 1399.650 through 1399.732.

The Medical Board of California has been directly involved in the evolution of podiatric regulation in California since 1926 when the license was titled "Doctor of Surgical Chiropody." In 1957, the Legislature authorized the creation of the Chiropody Examining Committee under the jurisdiction of the Medical Board, which was composed of five licensed podiatrists and one member of the public. The Committee was responsible for receiving and approving applications; preparing and conducting examinations; and recommending persons for licensure. In 1983, the educational advancements in podiatry assumed that those graduating from a recognized podiatric medical school were prepared and experienced to perform surgery below the ankle. In 1986, the Committee's name was changed to the California Board of Podiatric Medicine.

In 1998, the Legislature amended BPC 2462, which resulted in a change in PMBC's composition from five licensees and one public member to four licensees and three public members, and continues to

<sup>1</sup> The term "board" in this document refers to a board, bureau, commission, committee, department, division, program, or agency, as applicable. Please change the term "board" throughout this document to appropriately refer to the entity being reviewed.

<sup>2</sup> All Code sections refer to Business and Professions Code, unless otherwise indicated.

<sup>3</sup> Article 4 of Chapter 5 of Division 2 of the BPC.

<sup>4</sup> Article 12 of Chapter 5 of Division 2 of the BPC.

<sup>5</sup> Article 22 of Chapter 5 of Division 2 of the BPC is PMBC's "Practice Act," which governs the licensing, regulation, and discipline of the practice of podiatric medicine in California.

<sup>6</sup> All CCR sections refer to title 16, unless otherwise indicated.

reflect the current composition of PMBC. Each member serves four-year terms with a maximum of two consecutive terms. The Governor appoints four professional members<sup>7</sup> and one public member, while the Senate Rules Committee and the Speaker of the Assembly each appoint one public member, for a total of seven members.

In 2017, pursuant to Senate Bill 798 (SB 798) (2017-2018, Hill), PMBC was removed from within the jurisdiction of MBC and PMBC was created as a separate entity. Section 2460(c) prohibits construing amendments made pursuant to SB 798 to change any rights or privileges held by podiatrists prior to enactment of the bill. Effective July 1, 2019, pursuant to Assembly Bill 2457 (AB 2457) (2017-2018, Irwin), the Board's name was changed from the California Board of Podiatric Medicine (BPM) to the Podiatric Medical Board of California (PMBC) to achieve consistency with the other two medical boards in California – the Medical Board of California and the Osteopathic Medical Board of California (OMBC).

PMBC continues to work closely with MBC and is bound by a shared services agreement whereby MBC performs specified duties related to the licensing and enforcement of DPMs. This includes processing fictitious name permits, complaint intake and initial review, and various tasks related to finalizing disciplinary actions.

### **The Function of the Podiatric Medical Board of California**

PMBC is responsible for the licensing, regulation, and discipline of the practice of podiatric medicine in California. (BPC 2460.) Public protection is PMBC's highest priority in exercising these functions. (BPC 2460.1.) As stated in PMBC's most recent Strategic Plan (2019-2022), PMBC's mission is to protect and educate consumers of California through licensing, enforcement, and regulation of doctors of podiatric medicine. PMBC's vision is that all California licensed podiatric medical doctors will provide safe and competent foot and ankle care. PMBC's stated values are consumer protection, effectiveness, fairness, professionalism, service, and transparency.

PMBC's licensing, regulatory and disciplinary enforcement functions advance public protection through the following:

- Requiring candidates for licensure to possess a Certificate of Podiatric Medical Education, consisting of a minimum of 4,000 hours of academic instruction from a Board-approved school (BPC 2483);
- Requiring applicants to pass Parts I, II, and III of the national board examinations for assessing a candidate's knowledge, competency, and skills (BPC 2486 and 2488);
- Requiring a Podiatric Resident's License for all participants of California-based podiatric graduate medical education residency programs (BPC 2475);
- Requiring applicants to complete two years of graduate medical education residency for licensure as a doctor of podiatric medicine rather than one year as is standard for physicians and surgeons (BPC 2484);
- Annual review of California-based podiatric graduate medical education residency programs (BPC 2475.3);
- Requiring primary source verification of all licensing credentials before issuing certificates to practice podiatric medicine (BPC 2486 and 2488);

<sup>7</sup> The term "professional members" is defined in Section 2463, and at its core means licensees of the Board.

- Requiring licensed DPMs to complete 50 hours of approved continuing medical education every two years for license renewal (16 CCR 1399.669); and
- Requiring licensed DPMs to demonstrate compliance with PMBC's continuing competency requirements (BPC 2496).

## **Profession Licensed and Regulated**

PMBC currently licenses approximately 2,000 podiatric practitioners statewide. PMBC issues three types of certificates related to podiatric medicine: doctor of podiatric medicine (DPM), limited/resident certificate, and a fictitious name permit.

The scope of practice for DPMs is defined in BPC 2472. Section 2472(b) states that, “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.” This means that DPMs are licensed to diagnose and treat conditions affecting the foot, ankle and related structures including the tendons that insert into the foot and to diagnose and provide medical treatment of the muscles and tendons of the leg through all nonsurgical means and modalities.

Section 2472 authorizes DPMs to do the following:

- Perform surgical treatment of the ankle and tendons at the level of the ankle, in certain locations, such as a licensed general acute care hospital;
- 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; and
- Perform a partial amputation of the foot no further proximal than the Chopart's joint.

In addition, in 2017, SB 798 expanded DPMs' scope of practice to allow those with training or experience in wound care to treat ulcers below the tibial tubercle. (BPC 2472(f)).

As indicated above, DPMs perform surgeries within their scope of practice. They routinely perform basic and complex reconstructive surgeries of the ankle and tendons at the level of the ankle; repair fractures and treat injuries; perform amputations and may assist medical doctors (MDs) and doctors of osteopathic medicine (DOs) in any type of surgery upon the human body, including non-podiatric surgical specialties outside the usual scope of practice authorized by BPC 2472. DPMs are also highly specialized in such areas as sports medicine, biomechanics, and the care and management of the diabetic foot and lower limb.

DPMs are specially trained to treat foot conditions that can be caused by diabetes, such as neuropathy, infections, and ulcers. Diabetes is on the rise in California.<sup>8</sup> In situations where patients receive comprehensive foot care treatment, the amputation rates may be reduced. DPM's specialized skills in limb salvage are likely to be in high demand in the future.

[https://pmbc.ca.gov/forms\\_pubs/newsletter\\_2016\\_fall\\_winter.pdf](https://pmbc.ca.gov/forms_pubs/newsletter_2016_fall_winter.pdf)

<sup>8</sup> See *Footnotes*, the PMBC's newsletter from Fall/Winter 2016, pgs. 3-4, “Doctors of Podiatric Medicine – Helping Fight Diabetes.”

**1. Describe the make-up and functions of each of the board's committees (cf., Section 12, Attachment B).**

The PMBC has the following five standing committees: (1) Executive Management, (2) Enforcement, (3) Licensing, (4) Legislative, and (5) Public Education/Outreach. The committees are composed of two board members and are advisory in nature. The committees serve as a means to address succession planning by assigning new members to committees chaired by more senior members who are able to share their knowledge and expertise about PMBC. They research, discuss policy, and report information during public board meetings. The make-up and function of each of PMBC's committees is as follows:

**Executive Management Committee**

The Executive Management Committee is made up of the Board's president and vice-president. As determined by the Board president, the committee may also include the next ranking member of the Board or another member appointed by the Board president for a total of three members. Where the committee is comprised of three or more members all notice requirements of the Open Meeting Act shall be followed. The Committee also provides guidance to administrative staff for the budgeting and organizational components of the Board and is responsible for directing the fulfillment of recommendations made by the Board's other committees.

**Enforcement Committee**

The Enforcement Committee is responsible for the initial development and review of Board-adopted policies, positions and disciplinary guidelines. Although the Enforcement Committee does not review individual enforcement cases, it is responsible for policy development of the enforcement program, pursuant to the provisions of the Administrative Procedure Act (APA), for consideration by the Board.

**Licensing Committee**

The Licensing Committee is responsible for the initial review and development of regulations regarding educational and professional ethics course requirements for initial licensure and continuing education programs. The committee monitors various education criteria and requirements for licensure, taking into consideration new developments in technology, podiatric medicine and current activity in the health care industry.

**Legislative Committee**

The Legislative Committee is responsible for monitoring and making recommendations to the Board on legislation impacting the Board's mandate. This committee may also recommend pursuit of specific legislation to advance the mandate of the Board or propose amendments or revisions to existing statutes for advancing the same.

**Public Education/Outreach Committee**

The Public Education/Outreach Committee is responsible for the development of consumer outreach projects, including the Board's newsletter, website, e-government initiatives and outside organization presentations on public positions of the Board. The members of this committee may act as goodwill ambassadors and represent the Board at the invitation of outside organizations and programs. In all instances, members must only present positions of the Board and members do not express or opine on matters unless explicitly discussed and decided upon by the Board.

**Table 1a. Attendance****2016 Board Meeting Attendance**

Meeting Dates	03/04/2016	06/03/2016	06/20/2016	09/09/2016	09/23/2016	12/02/2016
Cadenas, Maria	--	--	--	--	--	--
Cha, John	Present	Present	Present	Present	Present	Present
Dixon, Kristina	Absent	Present	Absent	Present	Present	Absent
Elliot, Darlene	Present	Present	Present	Absent	Present	Absent
Mansdorf, Neil	Present	Present	Present	Present	Absent	Present
Masaniai, Melodi	Present	Present	Present	--	--	--
Manzi, Judith	Present	Present	Present	Absent	Absent	Present
McAloon, Carolyn	--	--	--	--	--	--
Zapf, Michael	Present	Present	Present	Present	Present	Present

**2017 Board Meeting Attendance**

Meeting Dates	03/03/17	06/02/17	09/08/17	12/01/17
Cadenas, Maria	--	--	--	Present
Cha, John	--	--	--	--
Dixon, Kristina	Present	Present	Present	Absent
Elliot, Darlene	Present	Present	Present	Absent
Mansdorf, Neil	Present	Present	Absent	Present
Masaniai, Melodi	--	--	--	--
Manzi, Judith	Present	Absent	Present	Present
McAloon, Carolyn	--	--	--	--
Zapf, Michael	Present	Present	Present	Present

**2018 Board Meeting Attendance**

Meeting Dates	03/02/18	05/14/18	06/01/18	08/10/18	09/07/18	12/07/18
Cadenas, Maria	Present	Absent	Present	Absent	Present	Absent
Cha, John	--	--	--	--	--	--
Dixon, Kristina	Present	Present	Present	Absent	Present	Present
Elliot, Darlene	Present	Present	Present	Present	Present	Present
Mansdorf, Neil	Present	Present	Present	Present	Present	Present
Masaniai, Melodi	--	--	--	--	--	--
Manzi, Judith	Present	Present	Present	Present	Present	Present
McAloon, Carolyn	--	--	--	--	--	--
Zapf, Michael	Present	Present	Present	Present	Present	Present

**2019 Board Meeting Attendance**

Meeting Dates	03/01/19	06/07/19	09/13/19	
Cadenas, Maria	Present	Present	Present	
Cha, John	--	--	--	
Dixon, Kristina	Present	--	--	
Elliot, Darlene	Present	Present	Present	
Mansdorf, Neil	Present	Present	Present	
Masaniai, Melodi	--	--	--	
Manzi, Judith	Present	Present	Present	
McAloon, Carolyn	Present	Present	Present	
Zapf, Michael	Present	Present	Present	

2016-2019 Board Meeting Locations		
Year	Date	Location
2016	03/04/2016	6001 Bristol Parkway, Suite 100, Culver City, CA 90230
	06/03/2016	2005 Evergreen Street, Board Hearing Room, Sacramento, CA 95815
	06/20/2016	2005 Evergreen Street, Board Hearing Room, Sacramento, CA 95815
	09/09/2016	2005 Evergreen Street, Board Hearing Room, Sacramento, CA 95815
	09/23/2016	2005 Evergreen Street, Board Hearing Room, Sacramento, CA 95815
	12/02/2016	2005 Evergreen Street, Board Hearing Room, Sacramento, CA 95815
2017	03/03/2017	Western University of Health Sciences – College of Graduate Nursing 309 E. Second Street, 2 <sup>nd</sup> Floor, NSC Conference Room, Pomona, CA 91766
	06/02/2017	2005 Evergreen Street, Board Hearing Room, Sacramento, CA 95815
	09/08/2017	2005 Evergreen Street, Board Hearing Room, Sacramento, CA 95815
	12/01/2017	2005 Evergreen Street, Board Hearing Room, Sacramento, CA 95815
2018	03/02/2018	Western University of Health Sciences – College of Graduate Nursing Nursing Sciences Center, 309 E. Second Street, 2 <sup>nd</sup> Floor, Conference Room Pomona, CA 91766
	05/14/2018	Teleconference Board Meeting
	06/01/2018	2005 Evergreen Street, Board Hearing Room, Sacramento, CA 95815
	08/10/2018	Teleconference Board Meeting
	09/07/2018	Kaiser Permanente Medical Center 710 Lawrence Expressway, Room 298, Santa Clara, CA 95051
	12/07/2018	2005 Evergreen Street, Board Hearing Room, Sacramento, CA 95815
2019	03/01/2019	2005 Evergreen Street, Board Hearing Room, Sacramento, CA 95815
	06/07/2019	University of California Riverside – School of Medicine Education Building 900 University Avenue, 2 <sup>nd</sup> Floor, Dean's Conference Room, Riverside, CA 92521
	9/13/2019	2005 Evergreen Street, Board Hearing Room, Sacramento, CA 95815

**Table 1b. Board/Committee Member Roster**

Member Name	Status	Date Appointed	Date Term Expires	Date Grace Period Expires	Appointing Authority	Type (Public or Professional)
<b>Cadenas, Maria</b>	Current Member	10/09/17	06/01/18	06/01/19	Governor	Public
		06/22/18	06/01/22	06/01/23	Governor	Public
<b>Cha, John</b>	Former Member	12/21/12	06/01/16	06/01/17	Governor	Professional
<b>Dixon, Kristina</b>	Former Member	02/08/10	06/01/10	06/01/11	Speaker	Public
		11/15/10	06/01/14	06/01/15	Speaker	Public
		12/19/14	06/01/18	06/01/19	Speaker	Public
<b>Elliot, Darlene</b>	Current Member	01/27/16	06/01/19	06/01/20	Senate	Public
		09/10/19	06/01/23	06/01/24	Senate	Public
<b>Mansdorf, Neil</b>	Current Member	02/18/10	06/01/12	06/01/13	Governor	Professional
		01/08/13	06/01/16	06/01/17	Governor	Professional
		05/31/17	06/01/20	06/01/21	Governor	Professional
<b>Masaniai, Melodi</b>	Resigned 8/19/16	07/02/14	06/01/18	06/01/19	Governor	Public
<b>Manzi, Judith</b>	Current Member	08/28/14	06/01/18	06/01/19	Governor	Professional
		06/22/18	06/01/22	06/01/23	Governor	Professional
<b>McAloon, Carolyn</b>	Current Member	12/07/18	06/01/20	06/01/21	Governor	Professional
<b>Zapf, Michael</b>	Current Member	01/10/13	06/30/13	06/30/14	Governor	Professional
		07/23/14	06/01/17	06/01/18	Governor	Professional
		10/09/17	06/01/21	06/01/22	Governor	Professional

**2. In the past four years, was the board unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?**

PMBC has been able to hold all of its scheduled meetings within this review cycle.

**3. Describe any major changes to the board since the last Sunset Review, including, but not limited to:**

- Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)

Effective January 1, 2018, pursuant to SB 798, PMBC was removed from within the jurisdiction of MBC and PMBC was created as a separate entity within DCA. This change had little functional impact on PMBC but may have had a significant impact on how stakeholders and third-parties view PMBC. The certificates issued to doctors of podiatric medicine (DPMs) prior to PMBC's separation from MBC included the name and signature of the President of MBC. Since the separation, PMBC's licensees receive certifications with the signature of PMBC's President. Since PMBC's separation from MBC in January 2018, the shared services agreement between MBC and PMBC is virtually unchanged. Additionally, effective January 1, 2017, Senate Bill 1478 (SB 1478) (2015-2016) added a secretary position to PMBC's officers.

Brian Naslund began as Executive Officer with PMBC on October 26, 2016. Since that time, two staff positions have been upgraded: the Licensing Coordinator was promoted in place from a Staff Services Analyst (SSA) position to an Associate Governmental Program Analyst (AGPA) position; and the

administrative clerical position has been changed from a Program Technician (PT) to an Office Technician (OT). Promoting from within retains knowledgeable staff and aids in office efficiencies.

In 2018, PMBC updated its Strategic Plan (2019-2022) and continues to monitor specific goals outlined in the plan. Participation by board members and staff, as well as the responses from a stakeholder survey assured that the public and stakeholders were considered in planning PMBC's future activities.

- **All legislation sponsored by PMBC and impacting PMBC since the last review.**

#### **Legislative Cycle 2015-16**

- AB 2193, Salas. California Board of Podiatric Medicine: Physician Assistant Board: extension: Approved by Governor and filed with Secretary of State, September 22, 2016. Existing law provided for the California Board of Podiatric Medicine to be repealed on January 1, 2017. This bill extended the operation of the Board until January 1, 2021.
- SB 1478, Committee on Business, Professions and Economic Development. Healing Arts: Approved by Governor and filed with the Secretary of State on September 22, 2016. Existing law required the Board to elect a president and vice president. PMBC sponsored legislation to add a secretary position. The law became effective January 1, 2017.

#### **Legislative Cycle 2017-18**

- AB 1153, Low, Podiatry: Approved by Governor and filed with the Secretary of State on October 14, 2017. Effective January 1, 2018. This bill authorized a doctor of podiatric medicine with training or experience in wound care to treat ulcers resulting from local and systemic etiologies on the leg no further proximal than the tibial tubercle. This bill was sponsored by the California Podiatric Medical Association (CPMA) and was not considered controversial.
- AB 2138, Chiu: Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction: Approved by the Governor and filed with the Secretary of State on September 30, 2018. The provisions in AB 2138 become operative on July 1, 2020. This bill authorizes a board within the Department of Consumer Affairs to deny, revoke, or suspend a license on the grounds that the applicant or licensee has been subject to formal discipline, as defined, or convicted of a crime substantially related to the profession regulated only if the applicant or licensee has been convicted of such crime within the preceding seven years, or if the applicant is presently incarcerated for a substantially related crime or for which the applicant was released from incarceration within the preceding 7 years. Exceptions include serious felonies that are substantially related to the qualifications, functions, or duties of the business or profession. A board is prohibited from denying a license based on the conviction of a crime or on the acts underlying a conviction, as defined, for a crime if the conviction has been dismissed or expunged, if the person provided evidence of rehabilitation, was granted clemency or a pardon, or if an arrest resulted in disposition other than a conviction.
- AB 2457, Irwin: Podiatry: Podiatric Medical Board of California: Approved by the Governor and Chaptered by Secretary of State on July 16, 2018 and was effective July 1, 2019. This bill changed the name of the California Board of Podiatric Medicine to the Podiatric Medical Board

of California. It also changed the name of the Board of Podiatric Medicine Fund to the Podiatric Medical Board Fund.

- SB 547, Hill, Professions and Vocations: Weights and Measures: Approved by Governor and filed with the Secretary of State on October 2, 2017 and was effective January 1, 2018. This bill provided for increases to the unscheduled fees for PMBC. There was a need for proposed regulations to implement the fee increases for unscheduled fees.
- SB 798, Hill, Healing Arts; Boards: Approved by Governor and filed with the Secretary of State on October 13, 2017 and was effective on January 1, 2018. This bill removed the Board from the jurisdiction of the MBC and the PMBC was created as a separate entity under DCA. It discontinued the ankle certification requirement for licensees. This bill also required the Board to disclose to an inquiring member of the public and to post on the PMBC's internet website specified information concerning licensees including revocations, suspensions, probations, and limitations on practice.
- SB 1480, Hill: Professions and vocations: Approved by the Governor and filed with the Secretary of State on September 19, 2018 and was effective on January 1, 2019. This bill reduced the number of times boards are required to meet from three times to two times per year. All revenue received by the Board is required to be deposited into the PMBC Fund (previously the BPM Fund), which is available to the Board upon appropriation by the Legislature. This bill revised the fee provisions by deleting the oral examination fee and increasing various unscheduled fees. The biennial license renewal fee was increased by \$200 to \$1,100 until December 31, 2020.
- SB 1448, Hill: Healing Arts Licensees: Probation Status: Disclosure. Approved by the Governor and filed with the Secretary of State on September 19, 2018 and was effective on July 1, 2019. This bill mandates PMBC to require a licensee to provide a separate disclosure to a patient or guardian or surrogate before the patient's first visit if the licensee is on probation pursuant to a probationary order made on and after January 1, 2019. It also requires that the Board provide specified information relating to licensees on probation on the Board's website. (Note: PMBC requests that PBMC's licensees be added to disclosure exception for MDs and DOs as outlined in this bill).

### Legislative Cycle 2019-20

- AB 678, Flora, Medi-Cal: podiatric services: Approved by the Governor and filed with the Secretary of State on October 2, 2019 and is effective on January 1, 2020. This bill repeals earlier provisions that required prior authorization for doctors of podiatric medicine to receive payments from Medi-Cal. The bill prohibits the requirement of prior authorization for podiatric services provided by a doctor of podiatric medicine if a physician and surgeon rendering the same services would not be required to provide prior authorization. The bill clarifies that a doctor of podiatric medicine acting within their scope of practice and providing specified services is subject to the same Medi-Cal billing and services policies as required for a physician and surgeon.
- SB 425, Hill, Health care practitioners: licensee's file: probationary physician's and surgeon's certificate: unprofessional conduct: Approved by the Governor and filed with the Secretary of

State on October 12, 2019 and is effective on January 1, 2020. This bill deletes the requirement that the summary of the contents of a licensee's Central File, as described in BPC section 800, which is used to protect an information source, be comprehensive. This bill requires any health care facility, as defined, or other entity that makes any arrangement under which a healing arts licensee is allowed to practice or provide care for patients, to report under specified circumstances any allegation of sexual abuse or sexual misconduct, as defined, made against a healing arts licensee by a patient, to the relevant state licensing agency within 15 days of receiving the written allegation, and requires the agency to investigate and keep the report confidential. A willful failure to file the report by a health care facility or other entity punishable by a fine not to exceed \$100,000 per violation and any other failure to make that report punishable by a fine not to exceed \$50,000 per violation, as specified. The bill also prohibits a person, including an employee or individual contracted or subcontracted to provide health care services, a health care facility, or other entity from incurring civil or criminal liability as a result of making a report.

- **All regulation changes approved by the board the last Sunset Review. Include the status of each regulatory change approved by the board.**

### **Regulatory Changes**

- 16 California Code of Regulations ("CCR"), Division 13.9, Secs.1399.730, 1399.731, and 1399.732. This regulatory matter was submitted to adopt rules governing the conduct of oral argument following nonadoption of a proposed decision. These regulations became effective on October 1, 2017.
- 16 CCR, Division 13.9, Secs. 1399.659, 1399.659.1, and 1399.659.2. Probation and Reinstatement of Suspended or Revoked Certificates, Substantial Relationship Criteria, and Criteria for Rehabilitation. This regulatory proposal impacts applicants to PMBC that have a criminal history. The regulation was approved by the Board to comply with the provisions of AB 2138. The regulatory package is in process and was submitted to the Office of Administrative Law (OAL) on November 8, 2019.

### **Regulatory Changes with No Substantive Effect (Section 100)**

- 16 CCR, Division 13.9, Secs. 1399.671, 1399.673, and 1399.676. Approval of Continuing Education Courses. The change updated a citation to a CCR provision that was renumbered in a previous rulemaking regarding continuing education courses. The correction informed the public and stakeholders on details of the approval of continuing medical education courses. The regulatory amendments became effective on September 3, 2015.
- 16 CCR, Division 13.9, Section 1399.696(c)(61). Citation and Fines. The amendment changed a cross-reference from BPC section 2225(d) to BPC 2225(e). The change was necessary to make the regulation consistent with the renumbering of BPC 2225 and became effective on September 1, 2016.
- 16 CCR, Division 13.9, Section 1399.672. Continuing Education for Acupuncture Practice. The change updated a citation to a CCR provision related to acupuncture that was renumbered in

a previous rulemaking and was therefore inapplicable. The regulatory amendment became effective on February 23, 2017.

- 16 CCR, Division 13.9, Sections 1399.651, 1399.653, 1399.663, 1399.657, 1399.679, 1399.681, 1399.700, 1399.703, and 1399.720. Title change. The Board submitted changes to reflect the change in the Board's name in its regulations pursuant to AB 2457 (Stats 2018, c. 102), effective July 1, 2019, ("California Board of Podiatric Medicine" to "Podiatric Medical Board of California.") The regulatory amendments became effective on August 28, 2019.

**4. Describe any major studies conducted by the board (cf. Section 12, Attachment C).**

In May of 2019, PMBC conducted a fee study with Jeff Mikles, Project Management Professional (PMP), of Monetary Resource Group to evaluate the current and future fund condition of PMBC, to assure PMBC maintains a solvent fund. The Final Report was issued on November 1, 2019.

**5. List the status of all national associations to which the board belongs.**

The Federation of Podiatric Medical Boards (FPMB) is the only national organization to which PMBC holds a membership.

- **Does the board's membership include voting privileges?**

Yes, at the Annual Meeting; however, state travel restrictions prevent PMBC from attending the out-of-state meeting.

- **List committees, workshops, working groups, task forces, etc., on which board participates.**

None

- **How many meetings did board representative(s) attend? When and where?**

None

- **If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?**

PMBC is not directly involved in the development, scoring, analysis, and administration of the national examinations; however, PMBC is compliant with BPC 139. National Board of Podiatric Medical Examiners (NBPME) conducts two separate practice analysis studies, one for Parts I and II, and a second for Part III. The studies are completed at five-year intervals. Podiatric physicians are surveyed on the knowledge and skills necessary for practice. That information is used to develop the content to be tested and the percentage of questions in each content area. Practice analysis studies were most recently conducted in 2015 for Part III and in 2016 for Parts I and II. Please see examination credibility information from APMLE website: <https://www.apmle.com/about-the-exam/exam-credibility/>

## Section 2 – Performance Measures and Customer Satisfaction Surveys

**6. Provide each quarterly and annual performance measure report for the board as published on the DCA website.**

Quarterly and annual performance measure reports as published on the DCA website for PMBC are provided for review as requested and may be found under Section 12.

**7. Provide results for each question in the board's customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.**

The following questions are currently in PMBC's customer satisfaction survey:

- *How well did we explain the complaint process to you?*
- *How clearly was the outcome of your complaint explained to you?*
- *How well did we meet the time frame provided to you?*
- *How courteous and helpful was staff?*
- *Overall, how well did we handle your complaint?*

*Available responses are: Very Poor, Poor, Good, Very Good.*

*The Y or N questions are:*

- *If we were unable to assist you, were alternatives provided to you?*
- *Did you verify the provider's license prior to service?*

*Thank you for taking the time to complete this survey. Your opinion matters to us and will help us improve our enforcement processes. Please add any comments you wish to provide:*

*Comment box.*

At this time, PMBC does not have any customer surveys. In contacting DCA and MBC, PMBC has learned that letters that were being sent when closing a case did not include the link to the customer satisfaction survey. This has now been corrected and we expect that by the next review there will be data to report.

## Section 3 – Fiscal and Staff

### Fiscal Issues

**8. Is the board's fund continuously appropriated? If yes, please cite the statute outlining this continuous appropriation.**

No. PMBC has a set appropriation each year.

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

As of October 11, 2019, PMBC has 3.8 months in reserve. Expenditures are currently exceeding revenues, which is causing a structural imbalance of the fund. This imbalance is can be corrected by addressing the concerns as outlined in the PMBC fee study (attached). There is no statutory reserve level; however, the minimal goal of 12-months in reserve is desired to maintain a prudent fund condition.

**10. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the board.**

PMBC anticipates a deficit to occur in Fiscal Year 2020-21. The fee study conducted in 2019 indicates that the temporary \$200 renewal fee increase described in BPC 2499.5(c) should be made permanent, an additional \$218 per licensee renewal is needed to stabilize the PMBC's fund and to prevent insolvency.

<b>Table 2. Fund Condition</b>						
(Dollars in Thousands)	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
Adjusted Beginning Balance	\$1,009,001	\$993,000	\$976,000	\$776,000	\$460,000	\$198,000
Revenues and Transfers	989,000	947,000	982,000	1,095,000	1,173,000	982,000
<b>Total Revenue</b>	<b>\$1,998,001</b>	<b>\$1,940,000</b>	<b>\$1,958,000</b>	<b>\$1,871,000</b>	<b>\$1,633,000</b>	<b>\$1,180,000</b>
Budget Authority						
Expenditures	\$1,003,000	\$964,000	\$1,182,000	\$1,411,000	\$1,435,000	\$1,497,910
Loans to General Fund	0	0	0	0	0	0
Accrued Interest, Loans to General Fund	0	0	0	0	0	0
Loans Repaid from General Fund	0	0	0	0	0	0
<b>Fund Balance</b>	<b>\$995,001</b>	<b>\$976,000</b>	<b>\$776,000</b>	<b>\$460,000</b>	<b>\$198,000</b>	<b>(\$317,910)</b>
<b>Months in Reserve</b>	<b>12.4</b>	<b>9.9</b>	<b>6.6</b>	<b>3.8</b>	<b>1.6</b>	<b>-2.5</b>

**11. Describe the history of general fund loans. When were the loans made? When have payments been made to the board? Has interest been paid? What is the remaining balance?**

There have been no loans to the PMBC.

12. Describe the amounts and percentages of expenditures by program component. Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the board in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.

<b>Table 3. Expenditures by Program Component</b>								(list dollars in thousands)
	FY 2015/16		FY 2016/17		FY 2017/18**		FY 2018/19**	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	75	301	67	306	82	419	87	487
Examination	0	0	0	0	0	0	0	0
Licensing	75	37	67	28	82	28	87	27
Administration *	315	109	288	82	340	84	372	83
DCA Pro Rata	N/A	136	N/A	149	N/A	134	N/A	189
Diversion (if applicable)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>TOTALS</b>	<b>\$ 465</b>	<b>\$ 583</b>	<b>\$ 422</b>	<b>\$565</b>	<b>\$ 504</b>	<b>\$665</b>	<b>\$ 546</b>	<b>\$786</b>

\*Administration includes costs for executive staff, board, administrative support, and fiscal services.  
\*\*Projected

13. Describe the amount the board has contributed to the BreEZe program. What are the anticipated BreEZe costs the board has received from DCA?

PMBC expended the following amounts for BreEZe costs: FY 15/16 \$28,922; FY 16/17 \$27,134; FY 17/18 \$27,000; and FY 18/19 \$23,000. PMBC has not received the anticipated costs from DCA for FY 19/20; however, the annual costs are anticipated to be approximately \$25,000 annually.

14. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citation) for each fee charged by the board.

Certificates to practice podiatric medicine are renewed on a two-year (biennial) cycle. (BPC 2499.5(c) & (d)). Since the last Sunset Review PMBC requested and received authority to increase its scheduled fees, which were temporarily increased by \$200 per licensee for one renewal cycle. (BPC 2499.5.) Please see the attached fee study which indicates that the temporary fee increase needs to be made permanent, and an additional \$218 for each renewal is needed to maintain PMBC's prudent reserve.

Additionally, numerous unscheduled fees set forth in BPC 2499.5 were increased as of January 1, 2019 pursuant to SB 1480 (2017-18). (See Budget Issue #1 for details of unscheduled fee increases.) The fees listed in Table 4 include those authorized by BPC 2499.5, fees for the issuance of fictitious name permits (BPC 2443), and a penalty fee (BPC 2424):

**Table 4. Fee Schedule and Revenue** (list revenue dollars in thousands)

Fee	Current Fee Amount	Statutory Limit	FY 2015/16 Revenue	FY 2016/17 Revenue	FY 2017/18 Revenue	FY 2018/19 Revenue	% of Total Revenue
Resident's License (j) <sup>9</sup>	100	100	2,831	2,460	2,580	4,869	0.3%
Duplicate License (f)	100	100	870	1,600	1,000	1,480	0.1%
Letter of Good Standing (i)	100	100	1,260	1,050	840	2,600	0.1%
CME Course Approval (k)	100	100	0	100	0	0	0.0%
Citation Fee (BPC 125.9)	VAR	500	0	900	2,250	2,050	0.1%
Application Fee (a)	100	100	1,840	1,880	2,140	10,040	0.4%
Fictitious Name Permit (BPC 2443)	50	50	1,100	1,100	1,700	2,100	0.1%
Initial License (b)	800	800	64,800	68,809	80,780	90,400	7.1%
Fictitious Name Renewal (BPC 2443)	40	40	5,160	4,960	6,440	6,000	0.5%
Biennial Renewal (c)(d)	1,100	900	877,774	822,758	859,788	918,124	81.1%
DPM Delinquent Fee (e)	150	150	2,550	750	1,650	1,788	0.2%
Fictitious Name Permit – Delinquent Renewal Fee (BPC 2443)	20	20	100	80	480	250	0.0%
Penalty Fee (BPC 2424(b)(2))	450	450	4,500	1,800	1,800	3,150	0.3%

Licensees also pay a CURES (Controlled Substance Utilization Review and Evaluation System) fee at the time of renewal of \$12. (BPC 208.) Pursuant to BPC 208, all PMBC licensees are assessed \$6 ANNUALLY, which is collected at the time of renewal to cover the operation and maintenance of CURES.

#### 15. Describe Budget Change Proposals (BCPs) submitted by the board in the past four fiscal years.

There have been no BCPs.

**Table 5. Budget Change Proposals (BCPs)**

BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Requested	\$ Approved	\$ Requested	\$ Approved
-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-

<sup>9</sup> All references in Table 4 are to BPC 2499.5, unless otherwise indicated.

**16. Describe any board staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.**

PMBC hired Brian Naslund as the Executive Officer on October 26, 2016. Since that time, two PMBC positions have been upgraded: the Licensing Coordinator position was changed from a Staff Services Analyst (SSA) to an Associate Governmental Program Analyst (AGPA) and the administrative clerical position was changed from a Program Technician (PT) to an Office Technician (OT). The positions were upgraded to fulfill the workload demand of the appropriate classification. The PMBC has 5.2 Personnel Years (PYs).

**17. Describe the board's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment D1).**

Currently, all staff is compliant with all State of California mandated training and development requirements, including sexual harassment training, IT security training, ethics, and defensive driving training. Staff have been taking both technical and career development courses from SOLID and Cal-HR. One employee attended the DCA's first future leadership development program in FY 2017-18. The amounts spent on staff training and development have been nominal as most training has been provided by DCA and are covered by pro rata costs.

## Section 4 – Licensing Program

**18. What are the board's performance targets/expectations for its licensing<sup>10</sup> program? Is the board meeting those expectations? If not, what is the board doing to improve performance?**

PMBC satisfies the performance measures as required. PMBC's performance measure is to issue certificates to practice podiatric medicine within 45 days of having received the application fees. PMBC issues licenses upon receipt of all required documents and fees which takes one to two weeks. However, under certain circumstances, the lack of primary source documentation from the applicant, educational institutions, or credentialing organizations delays the process. The Licensing Coordinator provides guidance to applicants and correspondence throughout the application process.

**19. Describe any increase or decrease in the board's average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done by the board to address them? What are the performance barriers and what improvement plans are in place? What has the board done and what is the board going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?**

Processing times have remained consistent throughout the years with a slight decrease in the average time to process applications since the PMBC's last Sunset Review. (See Tables 7a and 7b). This is likely due to PMBC's increased communication with applicants regarding application deficiencies. There has not been a backlog of pending applications and there has not been a growth rate that would exceed completed applications.

Any applications that are pending are either awaiting primary source documentation from the applicant, educational institutions, or credentialing organizations. PMBC's performance in processing applications, except where delays are caused by the applicant or third-parties, has consistently been within DCA's stated measures.

**20. How many licenses or registrations does the board issue each year? How many renewals does the board issue each year?**

PMBC issued 117 licenses in FY 16/17; 147 licenses in FY 17/18; and 149 licenses in FY 18/19. These figures include a combined total for both permanent DPM licenses and Resident licenses. PMBC issued 1,023 renewals in FY 16/17; 1,098 renewals in FY 17/18; and 1,018 renewals in FY 18/19. (See Tables 7a and 7b.)

**21. How many licenses or registrations has the board denied over the past four years based on criminal history that is determined to be substantially related to the qualifications, functions, or duties of the profession, pursuant to BPC § 480? Please provide a breakdown of each instance of denial and the acts the board determined were substantially related.**

<sup>10</sup> The term "license" in this document includes a license certificate or registration.

An individual applied for licensure and the Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) reports indicated that the individual suffered a DUI conviction approximately one year prior to the application date. The individual also had an additional pending DUI charge from approximately three months prior to the application date. PMBC denied their application for licensure and the applicant appealed. The applicant did not pursue the appeal.

<b>Table 6. Licensee Population</b>						
			FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
Doctor of Podiatric Medicine	Active		2,191	2,184	2,204	2,246
	Delinquent		229	226	202	198
	Retired		142	187	179	186
	Out of State		75	78	206	205
	Out of Country		2	3	2	3
Resident	Active		119	118	123	123
	Delinquent		0	0	0	0
	Retired		0	0	0	0
	Out of State		0	0	0	0
	Out of Country		0	0	0	0
Fictitious Name Permit	Active		301	303	326	348
	Delinquent		164	167	156	141
	Retired		0	0	0	0
	Out of State		0	0	0	0
	Out of Country		0	0	0	0

<b>Table 7a. Licensing Data by Type</b>											
Application Type		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
FY 2016/17	Permanent	100	75	75	75	25	25	0	0	57	-
	Resident	43	42	42	42	1	1	0	0	50	-
	Renewed	1023				n/a					
FY 2017/18	Permanent	109	100	100	100	9	9	0	0	47	-
	Resident	46	47	47	47	1	1	0	0	43	-
	Renewed	1098				n/a					
FY 2018/19	Permanent	126	104	104	104	22	22	0	0	104	-
	Resident	50	45	45	45	5	5	0	0	45	-
	Renewed	1018				n/a					

**Table 7b. Total Licensing Data**

	FY 2016/17	FY 2017/18	FY 2018/19
<b>Initial Licensing Data:</b>			
Initial License Applications Received – Permanent	100	109	126
Initial License Applications Approved – Permanent	75	100	104
Initial License Applications Closed – Permanent	75	100	104
Initial License Applications Received – Resident	43	46	50
Initial License Applications Approved – Resident	42	47	45
Initial License Application Closed – Resident	42	47	45
<i>Total Initial License Issued – Permanent and Resident</i>	<i>117</i>	<i>147</i>	<i>149</i>
<b>Initial License Pending Application Data:</b>			
Pending Applications (total at close of FY)	26	9	27
Pending Applications (outside of board control)*	26	9	27
Pending Applications (within the board control)*	0	0	0
<b>Initial License Cycle Time Data (WEIGHTED AVERAGE):</b>			
Average Days to Application Approval (All - Complete/Incomplete)	53	45	74
Average Days to Application Approval (incomplete applications)*	53	45	74
Average Days to Application Approval (complete applications)*	n/a	n/a	n/a
<b>License Renewal Data:</b>			
License Renewed – Permanent	1023	1098	1018
Note: The values in Table 7b are the aggregates of values contained in Table 7a.			

**Table 7b. Total Licensing Data**

	FY 2016/17	FY 2017/18	FY 2018/19
<b>Initial Licensing Data:</b>			
Initial License Applications Received – Permanent	100	109	126
Initial License Applications Approved – Permanent	75	100	104
Initial License Applications Closed – Permanent	75	100	104
Initial License Applications Received – Resident	43	46	50
Initial License Applications Approved – Resident	42	47	45
Initial License Application Closed – Resident	42	47	45
<i>Total Initial License Issued – Permanent and Resident</i>	<i>117</i>	<i>147</i>	<i>149</i>
<b>Initial License Pending Application Data:</b>			
Pending Applications (total at close of FY)	26	9	27
Pending Applications (outside of board control)*	26	9	27
Pending Applications (within the board control)*	0	0	0
<b>Initial License Cycle Time Data (WEIGHTED AVERAGE):</b>			
Average Days to Application Approval (All - Complete/Incomplete)	53	45	74
Average Days to Application Approval (incomplete applications)*	53	45	74
Average Days to Application Approval (complete applications)*	n/a	n/a	n/a
<b>License Renewal Data:</b>			
License Renewed – Permanent	1023	1098	1018
Note: The values in Table 7b are the aggregates of values contained in Table 7a.			

## 22. How does the board verify information provided by the applicant?

PMBC requires applicant information to be supplied directly from original sources per BPC 2483, 2486, and 2488. This requirement ensures qualification and credential authenticity and accuracy.

a. **What process does the board use to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant? Has the board denied any licenses over the last four years based on the applicant's failure to disclose information on the application, including failure to self-disclose criminal history? If so, how many times and for what types of crimes (please be specific)?**

PMBC requires that a criminal record clearance be obtained through both the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI).

Applicants must arrange to have the national disciplinary databank report be sent directly from the Federation of Podiatric Medical Boards (FPMB) to PMBC. The report discloses information regarding any existing malpractice suits filed or other adverse action taken against the applicant by a licensing entity in another state. Applicants currently or previously licensed in another state or states are required to have each respective state licensing agency submit a license verification containing current status and any existing disciplinary actions or investigations directly to PMBC

In the past four fiscal years, PMBC has denied zero (0) applicants for failure to disclose information or criminal history information on the application.

**b. Does the board fingerprint all applicants?**

Yes. All applicants for licensure including those applying for a resident's license are fingerprinted pursuant to BPC section 144.

**c. Have all current licensees been fingerprinted? If not, explain.**

Yes. All current and existing licensees have been fingerprinted.

**d. Is there a national databank relating to disciplinary actions? Does the board check the national databank prior to issuing a license? Renewing a license?**

Yes. The Federation of Podiatric Medical Boards (FPMB) is a national organization that maintains a database of disciplinary information regarding doctors of podiatric medicine in the United States, among other things. The FPMB receives disciplinary information from member licensing boards. The PMBC submits disciplinary actions regarding its licensees to the FPMB within 30 days of the disciplinary action effective date.

As part of the application for licensure with PMBC, the applicant must arrange to have the national disciplinary databank report regarding the applicant sent directly to PMBC for review by PMBC prior to issuance of a license. PMBC reviews these reports for information regarding existing malpractice suits filed or adverse actions taken against the applicant by a licensing entity in another state in determining the applicant's qualification for licensure in California.

In regard to renewals, licensees are required to disclose any criminal convictions suffered in any state and disciplinary action taken by any government agency or other disciplinary body on their biennial renewal form signed under penalty of perjury.

**e. Does the board require primary source documentation?**

Yes. PMBC requires complete primary source verification for all applicant documentation. (BPC 2484, 2486 and 2488.)

**23. Describe the board's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.**

PMBC's credentialing provision, BPC 2488, requires out-of-state applicants to have:

- graduated from an approved school or college of podiatric medicine accredited by the Council on Podiatric Medical Education (CPME);
- passed either Part III of the examination administered by the National Board of Podiatric Medical Examiners or an examination recognized as equivalent by the board within the last 10 years; and
- satisfactorily completed one year of post-graduate medical education as opposed to two

Out-of-country applicants must have satisfactorily completed at least two years of postgraduate podiatric medical and podiatric surgical training in a general acute care hospital approved by the Council on Podiatric Medical Education (CPME). (BPC 2484.) Currently, all schools approved by the CPME are in the United States; therefore, there is no process for out-of-country applicants to obtain licensure.

**24. Describe the board's process, if any, for considering military education, training, and experience for purposes of licensing or credentialing requirements, including college credit equivalency.**

BPC 2483 describes the PMBC's medical curriculum requirements and requires PMBC to adopt standards by regulation for determining equivalent training. Section 1399.666 of PMBC's regulations provides that equivalent training is that obtained through educational programs that meet the criteria and guidelines established by the Council on Podiatric Medical Education (CPME) and accredited by CPME, as long as the training meets the requirements in the Code and the PMBC's regulations.

PMBC is not currently aware of any existing military medical schools that offer a podiatric medical curriculum or equivalent medical training leading to a doctor of podiatric medicine (DPM) degree. However, if a military educational program meets PMBC's requirements, that education would be considered. This is also true of post-graduate podiatric medical education training, which necessarily includes military podiatric residencies such as those offered by the Department of Veteran's Affairs. The residencies offered by the Department of Veteran's Affairs are CPME-accredited.

**a. Does the board identify or track applicants who are veterans? If not, when does the board expect to be compliant with BPC § 114.5?**

Yes. PMBC inquires in every application if the applicant is serving in or has previously served in the military. All information is contained within the BreEZe system and is trackable.

**b. How many applicants offered military education, training or experience towards meeting licensing or credentialing requirements, and how many applicants had such education, training or experience accepted by the board?**

To date, PMBC has not had any applicants offer military training or experience to meet licensing or credentialing requirements for a certificate to practice podiatric medicine in California. However, if one considers post-graduate medical education obtained in a U.S. Department of Veterans Affairs podiatric medical residency program as a classification of military related education, PMBC has had a total of 39 applicants offer such education for meeting licensure requirements, all of which were accepted. An annual summary for the last four fiscal years is provided in the table immediately below.

PMBC Table 7c. Department of Veteran Affairs Medical Residents

Academic FY year	Residents offering VA residencies for licensure
15/16	11
16/17	10
17/18	9
18/19	9

**c. What regulatory changes has the board made to bring it into conformance with BPC § 35?**

PMBC has reviewed BPC 35 and has not identified any equivalent military experience that meets the requirements for licensure. Therefore, no rules or regulations are being proposed at this time.

**d. How many licensees has the board waived fees or requirements for pursuant to BPC § 114.3, and what has the impact been on board revenues?**

PMBC has waived fees for 8 licensees who are active duty members of the armed forces or national guard. This has not had a significant impact on PMBC's revenues.

**e. How many applications has the board expedited pursuant to BPC § 115.5?**

Since the last review, PMBC has expedited one application relating to an active duty applicant who met the requirements of BPC 115.5.

**25. Does the board send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.**

Yes. PMBC uses the BreEZe system, which is configured to electronically send No Longer Interested notifications to DOJ for licensees with canceled, surrendered, revoked, or deceased status. There is no backlog to report or address.

## Examinations

**Table 8. Examination Data**

**California Examination (include multiple language) if any:**

License Type		N/A	N/A	N/A
Exam Title		PMBC Oral Clinical	PMBC Oral Clinical	PMBC Oral Clinical
FY 2015/16	# of 1 <sup>st</sup> Time Candidates			
	Pass %			
FY 2016/17	# of 1 <sup>st</sup> Time Candidates			
	Pass %			
FY 2017/18	# of 1 <sup>st</sup> Time Candidates			
	Pass %			
FY 2018/19	# of 1 <sup>st</sup> time Candidates			
	Pass %			
Date of Last OA				
Name of OA Developer				
Target OA Date				

**National Examination (include multiple language) if any:**

License Type		Resident	Resident	DPM
Exam Title		Part I	Part II	Part III
FY 2015/16	# of 1 <sup>st</sup> Time Candidates			69
	Pass %			88%
FY 2016/17	# of 1 <sup>st</sup> Time Candidates			56
	Pass %			90%
FY 2017/18	# of 1 <sup>st</sup> Time Candidates			51
	Pass %			85%
FY 2018/19	# of 1 <sup>st</sup> time Candidates			47
	Pass %			100%
Date of Last OA		2016		2015
Name of OA Developer		NBPME		
Target OA Date		2021		2020

**26. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required? Are examinations offered in a language other than English?**

With the passage of Senate Bill 1955 (SB 1955, Figueroa) in 2002, American Podiatric Medical Licensing Examination (APMLE) Part III replaced the California specific examination as a means for determining entry level competence of knowledge and clinical skills evaluating, diagnosing, and treating patients consistent with sound medical practice and consumer protection. PMBC's oral clinical examination that had previously been used was therefore discontinued and is no longer required for state licensure as recommended by the Joint Committee in 2002.

The examinations required for licensure include Parts I, II and III of the APMLE, which is a national examination administered by the National Board of Podiatric Medical Examiners (NBPME), (BPC 2486(b)). In the alternative, an applicant may instead pass a written examination that is recognized by the PMBC to be the equivalent in content to the AMPLE. (BPC 2486(b), 2492(b)).

Applicants must sit for and pass APMLE Parts I and II while attending podiatric medical school in order to qualify for a Resident's License and participate in California based post-graduate medical training (BPC 2475.1). The NBPME has added an additional component to the Part II exam, the Part II Clinical Skills Patient Encounter (Part II CSPE). This exam assesses proficiency in podiatric clinical tasks needed to enter residency. Only those persons in the class of 2015, excluding the class of 2016, and continuing with the class of 2017, are required to pass both the Part II written and the Part II CSPE.

During post-graduate residency training an applicant must also sit and pass APMLE Part III, which is the clinical competence component of National Board examination, in order to satisfy the requirements for full licensure to practice podiatric medicine in California. Currently, the NBPME does not offer examinations in a language other than English.

**27. What are pass rates for first time vs. retakes in the past 4 fiscal years? (Refer to Table 8: Examination Data) Are pass rates collected for examinations offered in a language other than English?**

Referring to the data reflected in Table 8 above, first time examinee passage rates range from a low of 85% in FY 17/18 to a high of 100% in FY 18/19 for an average pass rate of 91% during the past four fiscal years. While not indicated in the accompanying table, FY 16/17 had six examinees retake the exam, with a 66% passage rate; FY 17/18 had nine examinees retake the exam, with a 55% passage rate; and FY 18/19 had five examinees retake the exam, with a 100% passage rate. As the examination is only offered in English, no other pass rates are collected.

**28. Is the board using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?**

PMBC does not administer its own examinations; however, the Parts I, II and III of the national examination administered by the NBPME are computer-based written tests with the exception of Part II Clinical Skills Patient Encounter (CSPE). Part II CSPE assesses proficiency in podiatric clinical tasks needed to enter residency. Candidates are expected to perform a focused physical and comprehensive examination including podiatric and general medicine physical exam maneuvers appropriate for each patient presentation. Podiatric and general medical knowledge, verbal and written communication, and interpersonal skills are assessed.

Beginning with the Class of 2015, the APMLE consists of four components: Part I, Part II written, Part II CSPE and Part III. The Part I and Part II written exams are designed to assess whether a candidate possesses the knowledge required to practice as a minimally competent entry-level podiatric physician.

Part I is taken upon completion of the second year of podiatric medical school. It focuses on basic sciences. Part II is taken near the completion of the candidates final fourth year of study and covers general medicine. Part III is the licensing exam designed to determine whether a candidate's knowledge and clinical skills are adequate for safe unsupervised practice.

Test center locations for each examination are located nationwide near the nine schools of podiatric medicine. Exam takers may register online and check for exam center locations near them. Testing for Parts I and III are offered twice a year and Part II written is offered three times a year. Testing for Part II CSPE is offered in multiple sessions throughout the year.

**29. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.**

There are no existing statutes that are believed to hinder the efficient and effective processing of applications at this time.

**School approvals**

**30. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the board work with BPPE in the school approval process?**

PMBC approves schools of podiatric medicine. (BPC 2470, 2475, 2476, 2483, 2486 and 2488; 16 CCR 1399.662.) Colleges of podiatric medicine that are accredited by the national Council on Podiatric Medical Education (CPME) may be approved by the board; however, the board may disapprove any such college if it does not meet the requirements of BPC 2483 or any other BPC requirement, and any regulations adopted by the board, (16 CCR 1399.662(b)).

BPPE does not approve medical or podiatric medical schools or colleges. Therefore, BPPE does not have a role in the podiatric school approval process.

**31. How many schools are approved by the board? How often are approved schools reviewed? Can the board remove its approval of a school?**

There are nine CPME-accredited and board-approved podiatric medical schools and colleges in the United States. These schools are reviewed by CPME every eight years, or sooner, depending on the success of the institution in demonstrating continuing compliance with their educational program standards. CPME may institute focused evaluations and/or place accredited educational institutions on probationary status in order to address specific concerns.

Pursuant to PMBC's regulation, section 1399.662(b), the board may disapprove any school notwithstanding CPME accreditation if the board determines that the school does not meet statutory or regulatory requirements in the board's practice act or the BPC.

**32. What are the board's legal requirements regarding approval of international schools?**

Pursuant to sections 1399.662 and 1399.666 of PMBC's regulations, podiatric medical schools and colleges are required to be accredited by CPME. There are currently no CPME-accredited teaching institutions located in other countries.

**Continuing Education/Competency Requirements****33. Describe the board's continuing education/competency requirements, if any. Describe any changes made by the board since the last review.**

PMBC's continuing education (CE) and competency programs requirements are found in BPC 2496 and section 1399.669 of the board's regulations. Continuing education requirements are as follows:

- Completion of 50 hours of approved continuing medical education (CME) every two years, including a minimum of 12 hours in subjects relating to the lower extremity muscular skeletal system.
- In addition to completing 50 hours of approved CME, licensees must also satisfy one of the following eight continuing competence pathways:
  - 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) Grant or renewal of current staff privileges within the past 5 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 5 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.

Licensees are required to submit proof of compliance with these requirements every two years as a condition of license renewal. Any licensees who cannot comply with the CE requirements are

ineligible for their next license renewal unless they apply and obtain a waiver from PMBC under CCR section 1399.678.

There have been no changes since the last Sunset Review.

**a. How does the board verify CE or other competency requirements? Has the Board worked with the Department to receive primary source verification of CE completion through the Department's cloud?**

PMBC verifies CE and mandated continuing competency requirements by licensee self-reporting through submission of a signed declaration of compliance to PMBC under penalty of perjury during each two-year renewal period for every licensee. PMBC has not worked with DCA to receive primary source verification of CEs through the cloud.

**b. Does the board conduct CE audits of licensees? Describe the board's policy on CE audits.**

Yes. Per 16 CCR sections 1399.669 and 1399.676, PMBC may audit a random sample of its licensees having reported compliance with the CE and continuing competency requirements, once each year. Licensees selected for audit are required to submit evidence satisfactory to PMBC of their compliance. Those selected for audit shall not be audited more than once every two years.

**c. What are consequences for failing a CE audit?**

Any doctor of podiatric medicine found out of compliance with PMBC's mandated CE and continuing competency requirements will be ineligible for renewal of his or her license to practice podiatric medicine, unless PMBC, in its discretion, grants a permanent or temporary waiver of the requirements under 16 CCR 1399.678. Any licensee granted a temporary waiver may not be granted another temporary waiver at the next license renewal. Non-compliant licensees granted a waiver will be required to satisfy the identified deficiencies in addition to demonstrating compliance with the hours required for the next renewal period. Those failing to demonstrate compliance prior to the next biennial renewal will not be permitted to practice until such time as all required hours of CE are met in addition to one of the continuing competency pathways.

**d. How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure?**

PMBC has conducted four CE audits in the past four fiscal years. Out of 234 licensees randomly selected for CE audit in the past four fiscal years, six have failed for a less than three percent failure rate. In addition to the failures, 18 of the licensees selected for audit were granted a CE waiver, six had retired, one was deceased, one license had been revoked and five licensees chose not to renew their license.

**e. What is the board's course approval policy?**

PMBC's policy on CE course approval is contained in CCR sections 1399.670 and 1399.671. Only scientific courses directly related to patient care under the following categories are approved:

- Courses approved by the California Podiatric Medical Association or the American Podiatric Medical Association and their affiliates.

- Courses certified for Category 1 credit by the American Medical Association, the California Medical Association, or their affiliates.
- Courses certified for Category 1 credit by the American Osteopathic Association or the California Osteopathic Association, or their affiliates.
- Courses offered by approved colleges or schools of podiatric medicine, medicine and osteopathic medicine.
- Courses approved by a government agency.
- Completion of a podiatric residency program or clinical fellowship in a hospital approved by the board under section 1399.667 are credited for 50 hours of approved CE.
- Courses approved by the board pursuant to the requirements set forth in CCR section 1399.671, described in more detail below.

**f. Who approves CE providers? Who approves CE courses? If the board approves them, what is the board application review process?**

In addition to PMBC, the following institutions are recognized by PMBC as authorized CE course provider approvers, (CCR sections 1399.670 and 1399.671).

- The California Podiatric Medical Association
- The American Podiatric Medical Association
- The American Medical Association; or affiliates
- The California Medical Association; or affiliates
- The American Osteopathic Association; or affiliates
- The California Osteopathic Association; or affiliates
- Approved Colleges or Schools of Podiatric Medicine
- Approved Medical Schools or Colleges
- Approved Colleges or Schools of Osteopathic Medicine
- Government agencies
- Podiatric residency programs or clinical fellowships

PMBC also approves CE providers under the application review process outlined in Podiatric Medicine Regulation 1399.671. The review process requires only those individuals, organizations or institutions not recognized by PMBC as approved course providers to submit documents and other evidence, including but not limited to, catalogues, course descriptions, curricula plans and bulletins to the board for verification of compliance with board mandated course requirement criteria.

Courses are approved on an hour-for-hour basis and the criteria for course approval are:

- A faculty appointment in a public university, state college or private post-secondary educational institution approved by section 94310 of the California Education Code. The appointment may be in disciplines other than medicine but directly related to the practice of podiatric medicine or medicine. Resumes of all faculty members must be kept on file.
- A clearly stated rationale of necessity for the course and how the need was determined.
- A clear statement of the course content and how it satisfies the identified need for the course.
- A clearly articulated list of educational objectives that may be realistically achieved within the framework of the course.
- Description of the planned methods of teaching instruction for course delivery (lecture, seminar, etc.).
- The course organizer must maintain a record of attendance for each participant.

PMBC regulation section 1399.671 provides guidance for approval of additional programs. If an application for CE course approval is received, then PMBC reviews and votes on approval at one of its quarterly meetings.

**g. How many applications for CE providers and CE courses were received? How many were approved?**

Since the last Sunset Review, PMBC has not received any applications for approval of CE providers or CE courses.

**h. Does the board audit CE providers? If so, describe the board's policy and process.**

While PMBC does not actively audit CE providers, it is PMBC's policy under CCR section 1399.674 to withdraw the approval of any individual, organization, institution or other CE provider for failure to comply with PMBC course criteria requirements. Any provider whose approval is withdrawn by the board may appeal the withdrawal to the board, PMBC in its discretion, may consider the appeal with or without a hearing.

**i. Describe the board's effort, if any, to review its CE policy for purpose of moving toward performance based assessments of the licensee's continuing competence.**

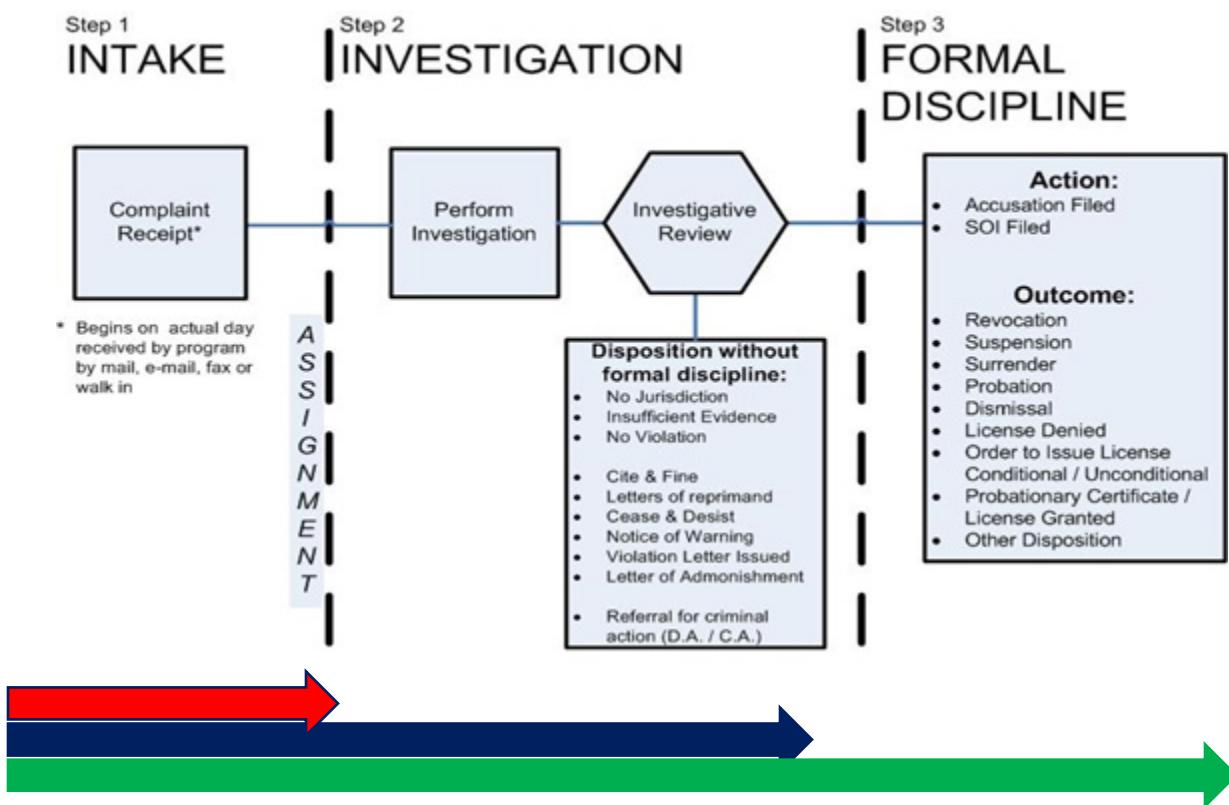
Pursuant to BPC 2496 [SB 1981: Chapter 736, Statutes of 1998], PMBC began implementing performance based assessments of competency beyond continuing education alone. All California licensed DPMs must demonstrate satisfaction of one of the eight available statutory pathways as more fully described in question 33 above in order to renew their certificate to practice podiatric medicine.

## Section 5 – Enforcement Program

### 34. What are the board's performance targets/expectations for its enforcement program? Is the board meeting those expectations? If not, what is the board doing to improve performance?

BPC 2319(a) requires the Board to set a performance target not to exceed six months for the completion of an investigation from the receipt of a complaint. Complex medical or fraud issues or complex business or financial arrangements should take no more than one year to investigate. (BPC 2319(b)).

In an effort to demonstrate efficient and effective use of limited resources, DCA and its stakeholders set out to develop and implement an easy to understand and transparent system of performance targets and expectations for all boards including PMBC on or about FY 09/10. Specific areas of performance measurement included:



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

The following performance targets have been established. The target metrics for PMBC are as follows:

- 10 days for Measure 2
- 125 days for Measure 3

- 540 days for Measure 4

BreEZe reporting configurations for the last three fiscal years yield the following performance figures:

- PMBC achieves an average 8-day cycle for Measure 2
- PMBC achieves an average 161-day cycle for Measure 3
- PMBC achieves an average 1,080-day cycle for Measure 4

PMBC staff is currently participating in meetings held by the DCA to re-assess whether current performance expectations are realistic and achievable. As a result, intake Measure 2 was changed from 9 to 10 days. Efforts are ongoing to assess Intake Measures 3 and 4.

**35. Explain trends in enforcement data and the board's efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the board done and what is the board going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?**

PMBC's enforcement statistics for the last three fiscal years generated through BreEZe reporting configurations amount to an average of 158 complaints per year. While complaint volume has gone up in recent years, possibly due to the ease and ability to file complaints online, PMBC currently receives approximately 40% fewer complaints than in 1999 when the continuing competency program was established.

As indicated in Table 9a below, the greatest source of complaints are received from the public with approximately 67% of total complaints fielded from consumers. Only one complaint was closed without the need for further investigation in FY 16/17.

Case aging data (Table 10), shows that PMBC has closed 74% of all investigations in 180 days or less in the last four fiscal years. This is comparable to the 71% of cases closed in this timeframe as reported in 2015. This period also saw 19% of cases closed between 181 days and two years with the remaining 6% of cases taking longer than two years to complete. These lengthier cases are primarily field investigations often sent to the Attorney General's Office for disciplinary action.

Based on complaint intake averages, approximately 8 actions are initiated per year by the Attorney General which equates to 5.3% of the total complaint volume received. Of cases resulting in disciplinary action, PMBC enforcement statistics reflect an average 1,080-day cycle for case completion.

Of cases referred to the Attorney General in the last four fiscal years, 40% closed in two years or less, 39% closed between two and four years, and the remaining 21% of cases took over four years to close.

The overall average discipline completion time of 1,080 days shows cases are taking an average of 283 days longer to complete since reported in the 2015 Sunset Review. We believe this is primarily due to significant understaffing during this time period within the Division of Investigation (DOI), causing delays in field investigation case times. The overall investigation closure time was not

significantly impacted due to much higher numbers of cases closing at the desk investigation phase and a much quicker closure time average for those cases.

It is PMBC's understanding that the Division of Investigation (DOI) has employed measures to increase staffing, including securing a pay differential to help retain staff and strong recruitment efforts. PMBC anticipates that an increase in case closures and shorter field investigation times will occur in the near future. However, recruitment efforts are still under way and in locations such as the Bay Area and Los Angeles, it is significantly more difficult to recruit due to the increased cost of living expenses. There is also a training period to be expected for new staff before they are able to efficiently investigate matters. Also, received complaints and investigations have increased by 27% since the last review period resulting in higher workloads. Due to PMBC's small size and limited budget, we must rely primarily on the much larger MBC (who handles our intake and desk investigations) and the DOI (who handles our field investigations) to address workload and staffing concerns.

**Table 9a. Enforcement Statistics**

	FY 2016/17	FY 2017/18	FY 2018/19
<b>COMPLAINT</b>			
Intake			
Received	160	150	164
Closed	1	0	0
Referred to INV	159	144	166
Average Time to Close	7	7	10
Pending (close of FY)	0	6	6
Source of Complaint			
Public	101	99	118
Licensee/Professional Groups	3	8	2
Governmental Agencies	11	8	10
Other	45	35	32
Conviction / Arrest			
CONV Received	5	11	7
CONV Closed	5	8	7
Average Time to Close	7	10	8
CONV Pending (close of FY)	0	3	0
<b>LICENSE DENIAL</b>			
License Applications Denied	1	0	0
SOIs Filed	1	0	0
SOIs Withdrawn	0	0	0
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI	29	0	0
<b>ACCUSATION</b>			
Accusations Filed	9	9	7
Accusations Withdrawn	0	0	0
Accusations Dismissed	0	0	0
Accusations Declined	0	0	0
Average Days Accusations	615	832	756
Pending (close of FY)	2	6	4
<b>DISCIPLINE</b>			
Disciplinary Actions			
Proposed/Default Decisions	1	2	2
Stipulations	5	9	4

Average Days to Complete	911	810	1,519
AG Cases Initiated	11	11	11
AG Cases Pending (close of FY)	11	9	16
<b>Disciplinary Outcomes</b>			
Revocation	1	2	0
Voluntary Surrender	1	3	3
Suspension	0	0	0
Probation with Suspension <sup>1</sup>	0	0	0
Probation <sup>2</sup>	5	3	1
Probationary License Issued	0	0	0
Other	1	1	2
<b>PROBATION</b>			
New Probationers	3	2	2
Probations Successfully Completed	2	2	2
Probationers (close of FY)	14	11	14
Petitions to Revoke Probation	2	0	2
Probations Revoked	0	3	1
Probations Modified	3	1	0
Probations Extended	0	1	0
Probationers Subject to Drug Testing	0	0	0
Drug Tests Ordered	0	0	0
Positive Drug Tests	0	0	0
Petition for Reinstatement Granted	0	0	0
<b>DIVERSION (Repealed July 2009)</b>	n/a	n/a	n/a
New Participants	n/a	n/a	n/a
Successful Completions	n/a	n/a	n/a
Participants (close of FY)	n/a	n/a	n/a
Terminations	n/a	n/a	n/a
Terminations for Public Threat	n/a	n/a	n/a
Drug Tests Ordered	n/a	n/a	n/a
Positive Drug Tests	n/a	n/a	n/a

**Table 9b. Enforcement Statistics (continued)**

	FY 2016/17	FY 2017/18	FY 2018/19
<b>INVESTIGATION</b>			
All Investigations			
First Assigned	164	152	176
Closed	173	156	159
Average days to close	143	178	163
Pending (close of FY)	71	64	81
Desk Investigations			
Closed	172	150	162
Average days to close	80	50	78
Pending (close of FY)	28	28	43
Non-Sworn Investigation			
Closed	7	19	18
Average days to close	138	331	374
Pending (close of FY)	13	16	0
Sworn Investigation			
Closed	30	20	22
Average days to close	347	551	353
Pending (close of FY)	23	16	26
<b>COMPLIANCE ACTION</b>			
ISO & TRO Issued	0	0	0
PC 23 Orders Requested	0	0	0
Other Suspension Orders	0	0	0
Public Letter of Reprimand	0	1	1
Cease & Desist/Warning	0	0	0
Referred for Diversion	0	0	0
Compel Examination	0	0	0
<b>CITATION AND FINE</b>			
Citations Issued	3	7	3
Average Days to Complete	377	297	15
Amount of Fines Assessed	3,800	6,100	4,500
Reduced, Withdrawn, Dismissed	2,800	3,000	2,750
Amount Collected	900	2,250	2,050
<b>CRIMINAL ACTION</b>			
Referred for Criminal Prosecution	0	0	0

**Table 10. Enforcement Aging**

	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19	Cases Closed	Average %
<b>Attorney General Cases (Average %)</b>						
Closed Within:						
0 - 1 Year	2	0	2	0	4	12%
1 - 2 Years	2	3	3	1	9	28%
2 - 3 Years	0	2	4	0	6	18%
3 - 4 Years	2	2	1	2	7	21%
Over 4 Years	0	3	1	3	7	21%
Total Attorney General Cases Closed	6	10	11	6	33	100%
<b>Investigations (Average %)</b>						
Closed Within:						
90 Days	48	92	98	79	317	49%
91 - 180 Days	45	47	21	47	160	25%
181 - 1 Year	46	14	12	12	84	13%
1 - 2 Years	17	13	9	14	53	8%
2 - 3 Years	1	7	16	6	30	5%
Over 3 Years	0	0	0	1	1	<1%
Total Investigation Cases Closed	157	173	156	159	645	100%

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

The total number of cases closed with the Attorney General in the last four fiscal years represents a 36% increase in the total number of cases closed since the last review. The last four years saw 33 case closures as opposed to 21 cases closed as reported in the 2015 Sunset Review. However, 31 cases were closed during the prior reporting period in the 2011 Sunset Report.

**37. How are cases prioritized? What is the board's complaint prioritization policy? Is it different from DCA's *Complaint Prioritization Guidelines for Health Care Agencies* (August 31, 2009)? If so, explain why.**

In order to ensure that matters against doctors of podiatric medicine representing the greatest threat of harm to the public are identified and handled expeditiously, the Legislature has explicitly provided the prioritization schedule for all medical complaints (BPC 2220.05).

PMBC utilizes the larger MBC for complaint intake, desk investigation and disciplinary action processing by way of an annual Shared Services contract. This has proven to be the most efficient and cost-effective process for regulating PMBC's licensee population of approximately 2,000 doctors of podiatric medicine. PMBC medical cases are prioritized identically to MBC cases and managed through its Central Complaint Unit (CCU) in the same manner. Accordingly, cases involving gross negligence, incompetence and repeated negligent acts involving death or serious bodily injury are identified as holding the highest priority as mandated by statute (BPC 2220.05). Cases involving drug and alcohol use, sexual misconduct with patients, repeated acts of excessive prescribing with

or without examination and excessive furnishing or administering of controlled substances by doctors of podiatric medicine are also defined as priorities.

**38. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the board actions taken against a licensee. Are there problems with the board receiving the required reports? If so, what could be done to correct the problems?**

Yes. There are mandatory reporting requirements statutorily imposed on several entities to alert PMBC to possible disciplinary matters for action and investigation. As with complaint prioritization protocols discussed immediately above, mandatory disclosure reports are received and handled through the MBC CCU. Codified in Article 11 of Chapter 1 of Division 2 of the BPC (commencing with BPC section 800), the mandatory reporting requirements are fully applicable to California DPMs and include, but are not limited to, the following:

**Section 801.01 of the BPC**

Requires settlement agreements exceeding \$30,000 and arbitration awards or civil judgments of any amount to be reported within 30 days after service of the arbitration award or the date of entry of civil judgment, by the insurer, licensee (if the licensee does not have professional liability insurance), employer, or self-insured public agency acting as the insurer to a licensee. There are no problems with receiving the report known to exist and those received are within required timeframes.

**Section 802.1 of the BPC**

Requires a licensee to report criminal charges within 30 days of an indictment or information for a felony or a conviction of any felony or misdemeanor, including a plea of guilty or no contest. There are no problems with receiving the report known to exist. Reporting compliance is confirmed through independent verification received separately from Department of Justice subsequent arrest notifications.

**Section 802.5 of the BPC**

Requires a coroner to submit a report to PMBC when receiving information based on findings indicating that a patient death may be related to gross negligence or incompetence of a licensee. The initial report shall include the name of the decedent, date and place of death, attending physicians or podiatrists, and all other relevant information available. The initial report shall be followed, within 90 days, by copies of the coroner's report, autopsy protocol, and all other relevant information.

**Sections 803 of the BPC**

Requires a clerk of the court that renders a criminal judgment or finding of liability for a licensee in an amount in excess of \$30,000 that was based on negligence, errors and/or omission in practice, or rendering unauthorized professional services resulting in death or personal injury to report to the board within 10 days.

**Section 803.5 of the BPC**

Requires a prosecuting agency and the clerk of the court to immediately notify the board of any filings against a licensee that charge a felony; the notice shall identify the licensee and describe the crimes charged and the facts alleged. This section also requires the clerk of the court in which a licensee is convicted of a crime, to transmit a certified copy of the record of conviction to the board within 48-hours after the conviction.

**Section 805 of the BPC**

Requires a Chief of Staff, Chief Executive Officer, Medical Director or Administrator of a health care facility or clinic to report a denial or revocation of a licensee's health facility privileges within 15 days of effective date of action taken.

**Section 805.01 of the BPC**

Requires a Chief of Staff, Chief Executive Officer, Medical Director or Administrator of a health care facility or clinic to report any decision or recommendation for disciplinary action against a licensee within 15 days.

**Section 2240 of the BPC**

Requires a licensee who performs a medical procedure or any person acting under physician supervision or orders that results in a patient death in an outpatient surgery setting, or where a scheduled medical procedure outside of a general acute care hospital, that results in the transfer to a hospital or emergency center for medical treatment for a period exceeding 24-hours, to report to the board within 15 days.

Collectively, all mandatory reports are received directly by the Medical Board Central Complaint Unit.

**a. What is the dollar threshold for settlement reports received by the board?**

An insurer must report any settlement or arbitration award over \$30,000 to PMBC, (BPC 801(a)). An insurer, licensee, or a state or local governmental agency self-insuring a licensee must report arbitration awards of any amount and civil judgments of any amount to PMBC, (BPC 801.01(a)).

**b. What is the average dollar amount of settlements reported to the board?**

The average amount of malpractice settlements for Fiscal Years 15/16 through 18/19 is \$260,640.

**39. Describe settlements the board, and Office of the Attorney General on behalf of the board, enter into with licensees.**

The following actions may be taken as part of a Stipulated Decision or Settlement, formally negotiated and settled prior to hearing:

- Revocation: The right to practice is ended due to disciplinary action. The license is invalidated, voided, annulled, or rescinded.
- Surrender: To resolve a disciplinary action, the licensee has given up their license – subject to acceptance by the Board.
- Suspension from practice: The licensee is prohibited from practicing for a specific period of time.
- Revocation, stayed, and placed on probation with terms and conditions: "Stayed" means the revocation is postponed, subject to compliance with the specified terms and conditions. Professional practice may continue so long as the licensee complies with specified probationary terms and conditions. Some probations may also include a period of suspension. Violation of any term of probation may result in the revocation that was stayed

- Probationary license: A conditional license issued to an applicant with probationary terms and conditions. This is done when cause exists to deny the license application, but limitations can be put in place to protect the public, while still granting a license.
- Public Letter of Reprimand: An additional form of discipline detailing the improper conduct engaged in by the licensee and included in the licensee's file, including on the board's website. The reprimand may include educational and clinical training requirements.

**a. What is the number of cases, pre-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?**

No cases settled prior to the filing of an accusation, and no cases went to hearing that did not have an accusation filed.

**b. What is the number of cases, post-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?**

- 23 cases were resolved via stipulated settlement agreement post-accusation, but prior to hearing.
- 7 cases resulted in a hearing.
- 2 cases resulted in Default Decisions due to no response from Respondents.
- 1 Statement of Issues case was withdrawn prior to any potential disciplinary action.

**c. What is the overall percentage of cases for the past four years that have been settled rather than resulted in a hearing?**

Of PMBC's 30 disciplinary cases that either settled or went to hearing, 77% were able to reach a settlement agreement prior to hearing.

**40. Does the board operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the board's policy on statute of limitations?**

Yes. The applicable statutes of limitation are at BPC 2230.5.

With certain exceptions, accusations against a licensee must be filed within seven (7) years after occurrence of the act or omission serving as the basis for disciplinary action or within three (3) years after discovery of the act or omission by the board, whichever occurs first. Procurement of a license by fraud or misrepresentation and intentional concealment of unprofessional conduct based on incompetence, gross or repeated negligence are not subject to the statute of limitations. Actions involving sexual misconduct must be filed within ten (10) years after the occurrence of the act or omission or within three (3) years after discovery of the act by the board, whichever occurs first. If any act or omission involves a minor, the statute of limitations period is tolled until the minor reaches the age of majority. Further, the statute of limitations is tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate if unavailable to the board due to an ongoing criminal investigation.

To date, PMBC has not lost the right to pursue an accusation against a licensee due to statute of limitation issues.

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

Of the complaints received over the past 4 fiscal years, 23 were designated as unlicensed practice. Of the 23 cases, 16 were closed as no violation, insufficient evidence, no jurisdiction or redundant complaints already being addressed. Two citations were issued, one to a resident who did not obtain all credentials for a license but was participating in a residency program. The other was issued for use of fluoroscopy equipment without the required permit. Compliance was obtained in both instances. Two of these complaints are currently under field investigation. The final three complaints were closed without discipline after compliance was obtained for advertising discrepancies and finalizing a Fictitious Name Permit application.

**Cite and Fine**

**42. Discuss the extent to which the board has used its cite and fine authority. Discuss any changes from last review and describe the last time regulations were updated and any changes that were made. Has the board increased its maximum fines to the \$5,000 statutory limit?**

PMBC's citation and fine authority is set forth in BPC 125.9 and in CCR 1399.696 and 1399.697 of PMBC's Podiatric Medicine Regulations. This authority has historically been employed both as an educational and compliance measure. While recognized as an effective tool for demonstrating PMBC's willingness and ability to enforce the law, the system for issuance of citations has not traditionally been utilized to the extent of needless penalization of licensees for technical statutory violations such as address change oversights.

PMBC issued 14 citations during fiscal years 15/16, 16/17, 17/18, and 18/19 for various minor violations of the law. Compliance was easily obtained in the majority of those cases resulting in reduced fine amounts or the withdrawal of the citation.

Since the last review one Section 100 change was made. CCR 1399.696(c)(61) was amended in 2016 to update a reference of BPC section 2225(d) to BPC 2225(e) to make the regulation consistent with the renumbering of BPC 2225 pursuant to Senate Bill (SB) 670 (Stats 2013, ch. 399, sec 1).

PMBC increased its maximum fines to the \$5,000 statutory limit in 2008.

**43. How is cite and fine used? What types of violations are the basis for citation and fine?**

PMBC's citation and fine authority is generally directed toward addressing conduct or omissions identified in the course of investigations that do not necessarily support formal disciplinary action. Some of the most common violations are unprofessional conduct, failure to maintain adequate and accurate medical records, and practice under a false or fictitious name without a fictitious name permit. PMBC also uses citation and fine authority as an effective tool for gaining compliance with some probationary terms, including when a probationer is behind in cost recovery or probation

monitoring costs. Through the citation and fine process, it is expected that compliance may be achieved for minor violations without resorting to more costly administrative actions.

**44. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals of a citation or fine in the last 4 fiscal years?**

In the last 4 fiscal years PMBC has held a total of 9 informal office conferences, none of which resulted in an appeal. PMBC does not employ the Disciplinary Review Committee mechanism for resolution of administrative citations.

**45. What are the 5 most common violations for which citations are issued?**

A total of 14 citations were issued over the last four fiscal years. The most common violations are:

Number of Citations	Violation
3	B&P 2234 – Unprofessional Conduct
2	B&P 2266 – Failure to maintain medical records
2	B&P 2285 – Practice under false or fictitious name w/o Fictitious Name Permit
2	CCR 1399.696(e) – Violation of condition or term of probation
A tie between 5 different violations	5 Miscellaneous violations

**46. What is average fine pre- and post- appeal?**

The average fine amount for all citations issued prior to appeal is \$1,046. PMBC has not had any citations that resulted in an appeal. However, following the informal conference process, the average fine amount for all citations is reduced to \$194.00.

**47. Describe the board's use of Franchise Tax Board intercepts to collect outstanding fines.**

PMBC has not needed to employ Franchise Tax Board (FTB) intercepts to collect citation fines.

Pursuant to BPC 125.9(b)(5), the board may add fine amounts owed to the fee for licensure renewal if fines remain uncollected. PMBC is additionally authorized to pursue formal disciplinary action for failure to remit fine payments within 30 days of assessment in cases where a citation is not contested

## **Cost Recovery and Restitution**

### **48. Describe the board's efforts to obtain cost recovery. Discuss any changes from the last review.**

PMBC has statutory authority for the recovery of costs in administrative disciplinary cases under BPC 2497.5. Cost recovery is included as a standard condition in PMBC's "Manual of Disciplinary Guidelines and Model Disciplinary Orders." The recovery of actual and reasonable costs is sought through stipulated settlement agreements by PMBC staff and the Attorney General. There have been no changes to this process since the last review.

### **49. How many and how much is ordered by the board for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.**

PMBC has ordered a total of \$203,904.10 in total cost recovery stemming from 15 disciplinary cases involving final board Decisions and Orders or Stipulated Agreements in the last four fiscal years. Of this amount, PMBC has collected \$101,873 during the same period reflecting a 50% recovery rate.

PMBC generally does not collect outstanding cost recovery on licenses surrendered or revoked while on probation. If the licensee petitions to reinstate their license in the future, those costs are expected prior to their license being reinstated.

Two cases went to hearing where the Administrative Law Judge (ALJ) did not order cost recovery. Those Proposed Decisions were adopted by PMBC. PMBC has since been diligent through communication with the Attorney General's Office (AGO) to ensure future proposed decisions from ALJs include cost recovery.

PMBC has had a small number of licensees owing cost recovery die prior to full collection of costs. We may also be unable to collect costs from licensees who return to their country of origin or move out of the country.

### **50. Are there cases for which the board does not seek cost recovery? Why?**

Cost recovery is usually not ordered/collected from cases involving revocation or surrender, unless the individual wants to one day return to practice through the Petition to Reinstate process. Any unpaid costs of the disciplinary case that caused the revocation or surrender of a license are required to be paid prior to returning to active status as written into the Order.

### **51. Describe the board's use of Franchise Tax Board intercepts to collect cost recovery.**

PMBC rarely has need to employ Franchise Tax Board (FTB) intercepts. Since the last Sunset Review, there have been no referrals by PMBC to the FTB. Regarding cases that have been referred in the past, two remain uncollected to date.

**52. Describe the board's efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Describe the situation in which the board may seek restitution from the licensee to a harmed consumer.**

Restitution is incorporated as a component of probation in administrative disciplinary proceedings against licensees involving economic exploitation or in cases of Medi-Cal or insurance fraud. An ALJ can order restitution for the amount that was fraudulently obtained. Failure to pay the ordered restitution is a violation of probation. Since the last review, restitution in the amount of \$1,064.05 has been ordered and collected in full.

<b>Table 11. Cost Recovery</b>				
	(list dollars in thousands)			
	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
Total Enforcement Expenditures	405	404	530	612
Potential Cases for Recovery *	6	8	10	6
Cases Recovery Ordered	3	5	6	2
Amount of Cost Recovery Ordered	31,398.60	65,530.50	65,530.50	37,579.00
Amount Collected	12,834.34	48,586.17	25,458.11	14,994.00

\* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the license practice act.

<b>Table 12. Restitution</b>				
	(list dollars in thousands)			
	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
Amount Ordered	0	1,064.05	0	0
Amount Collected	0	0	0	1,064.05

## Section 6 – Public Information Policies

**53. How does the board use the internet to keep the public informed of board activities? Does the board post board meeting materials online? When are they posted? How long do they remain on the board's website? When are draft meeting minutes posted online? When does the board post final meeting minutes? How long do meeting minutes remain available online?**

PMBC strives to utilize this effective tool to inform the public of all relative activities. PMBC's meeting agendas are posted on the PMBC website at least 10 days prior to the board meeting date. PMBC also links the board meeting materials to the agenda prior to the meeting, including the draft minutes from the previous meeting, usually 5-7 days prior to the meeting. The agendas are archived on the PMBC website from 2003 and they remain posted indefinitely. Final meeting minutes are posted once approved and remain available online indefinitely.

**54. Does the board webcast its meetings? What is the board's plan to webcast future board and committee meetings? How long to webcast meetings remain available online?**

All of PMBC's meetings have been webcast and are available online indefinitely. PMBC plans on webcasting all its future meetings.

**55. Does the board establish an annual meeting calendar, and post it on the board's web site?**

Yes, the PMBC establishes an annual meeting calendar and publishes it on its website.

**56. Is the board's complaint disclosure policy consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the board post accusations and disciplinary actions consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions* (May 21, 2010)?**

PMBC's complaint disclosure policy, CCR 1399.704, is consistent with DCA's policy. PMBC posts all accusations filed and disciplinary actions taken on our website in a manner consistent with DCA's May 21, 2010 policy.

**57. What information does the board provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?**

PMBC provides the name, license type, primary status, school name, graduation year, and the address of record for each of its licensees. It also provides public records of disciplinary actions, felony convictions, malpractice judgments and settlements, probationary hospital disciplinary actions, administrative citations issued, administrative actions taken by other state or federal government, and arbitration awards.

**58. What methods are used by the board to provide consumer outreach and education?**

PMBC provides outreach to licensees, stakeholders, and members of the public through its website, newsletter, and social media. Current relevant information is provided on the website that includes notices to licensees, changes in laws or regulations, and public announcements. Staff has met with DCA's graphic design department to update printed pamphlets that are in English and Spanish, with plans to translate information into additional languages. These materials will be posted online once completed based on resources and funding.

Staff attends a regional podiatric professional meeting annually, where PMBC's licensees and stakeholders are present. At this annual meeting, PMBC provides educational training to PMBC's consultants, distributes fact sheets and brochures, and answers questions at this annual professional meeting. PMBC has received positive feedback regarding these outreach efforts.

## Section 7 – Online Practice Issues

59. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the board regulate online practice? Does the board have any plans to regulate internet business practices or believe there is a need to do so?

Although PMBC has received inquiries from licensees regarding this issue, PMBC has not received any complaints. PMBC has no plans to address this issue through regulations at this time. DPMs are authorized to perform such medical treatment pursuant to BPC 2290.5 and PMBC is prepared to respond should any issues arise in the future.

## Section 8 – Workforce Development and Job Creation

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

PMBC has historically worked closely with the podiatric medical community to build strong relationships and gain knowledge of professional trends. Included in this effort is conducting board meetings at podiatric medical schools, inviting podiatric medical students to submit articles to the PMBC Newsletter to share their experiences as podiatric medical students, and assisting future and recent podiatric medical students at annual professional meetings by answering their questions and concerns.

As stated in the attached Fee Study, the Bureau of Labor Statistics projects an increase in positions for podiatric physicians by 2022 (Attachment B, PMBC Fee Study, Introduction; The Future of Podiatric Medicine). PMBC expects California to enjoy at least the same increase as the national trends indicate. Many assurances have been received from professional board members, educators, and administrators at the podiatric medical schools, that applicant numbers are trending upward and that the future for podiatric practitioners looks bright.

PMBC remains available to respond to any comments or requests that would increase the public's knowledge of podiatric medical care and assist those who may have an interest in becoming a podiatric medical doctor in California.

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

PMBC works with deans, faculty and administrators to assure that California's requirements for licensure as a doctor of podiatric medicine are easily accessible and understood by applicants. The website provides an abundance of detailed information available to all applicants and school administrators that regularly interact with PMBC's licensing program.

Since the last review, PMBC implemented a plan to hold board meetings on campus at the two podiatric medical schools in California. As a result, outreach between PMBC and the current podiatric student body in California has been strengthened. Please see the attached copy of PMBC's newsletter, "Footnotes," which includes students' writings regarding their educational experiences and challenges. See:

[https://pmbc.ca.gov/forms\\_pubs/newsletter\\_2017\\_fall\\_winter.pdf](https://pmbc.ca.gov/forms_pubs/newsletter_2017_fall_winter.pdf);  
[https://pmbc.ca.gov/forms\\_pubs/newsletter\\_2018\\_spring\\_summer.pdf](https://pmbc.ca.gov/forms_pubs/newsletter_2018_spring_summer.pdf)

There are 19 podiatric residency programs in California. Staff is in regular contact with the directors of these programs so that applicants are aware of the current licensing requirements and processes. PMBC is currently active and committed to streamlining the application process and being available to answer questions with a 24 to 48-hour response time.

**62. Describe any barriers to licensure and/or employment the board believes exist.**

The one matter that has been discussed relates to the number of podiatric medical residency programs in California. Should additional residency programs become available in California to podiatric medical school graduates, PMBC expects to see an increase in applicants.

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

- a. Workforce shortages – Please refer to the Fee Study attached: Introduction; The Future of Podiatric Medicine.
- b. Successful training programs – PMBC is aware that the podiatric medical schools in California are active and assertive in all workforce development activities which has resulting in recruiting well prepared applicants to the podiatric medical school whereby successful graduation rates are achieved. PMBC has communicated to the school administrators strong interest and support in their efforts of all workforce development activities.

## Section 9 – Current Issues

### 64. What is the status of the board's implementation of the Uniform Standards for Substance Abusing Licensees?

PMBC has attempted to achieve compliance with SB 1441 on multiple occasions and is currently expecting to submit regulations to DCA and the Office of Administrative Law in 2020.

### 65. What is the status of the board's implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?

CPEI was initiated to reduce case times from 3 years to 12-18 months. DCA informed PMBC of CPEI performance measures. Due to a variety factors outside PMBC's control there has not been improved case times. Due to the size and budget of PMBC, there are no plans for PMBC to establish regulations regarding CPEI. PMBC relies on DCA for implementation of CPEI.

### 66. Describe how the board is participating in development of BreEZe and any other secondary IT issues affecting the board.

#### a. Is the board utilizing BreEZe? What Release was the board included in? What is the status of the board's change requests?

PMBC is using BreEZe for all licensing and most enforcement activities. PMBC was part of Release 1. The majority of BreEZe technical issues have been resolved since implementation. Change requests to BreEZe may take several months to complete once submitted due to the IT review and testing processes. PMBC assigns a priority to each change requested so that the highest priority changes are completed first. The status of change requests is not impacting PMBC's ability to complete all necessary functions.

#### b. If the board is not utilizing BreEZe, what is the board's plan for future IT needs? What discussions has the board had with DCA about IT needs and options? What is the board's understanding of Release 3 boards? Is the board currently using a bridge or workaround system?

PMBC uses BreEZe for all licensing and most enforcement activities and is committed to using this system as robustly as possible. PMBC has had discussions with DCA in utilizing their cloud server more often in the future.

## Section 10 – Board Action and Response to Prior Sunset Issues

**Include the following:**

1. **Background information concerning the issue as it pertains to the board.**
2. **Short discussion of recommendations made by the Committees during prior Sunset Review.**
3. **What action the board took in response to the recommendation or findings made under prior Sunset Review.**
4. **Any recommendations the board has for dealing with the issue, if appropriate.**

### **BUDGET ISSUES**

**Issue #1: Should the PMBC's statutory service fees be increased to match the cost of providing the services?**

Staff Recommendation: The PMBC should discuss its fund projections, and whether the current fee structure will generate sufficient revenues to cover its costs. The PMBC should demonstrate the level of need for the proposed fee increase by completing the Committee's "Fee Bill Worksheet."

PMBC Comments: PMBC had an increase in unscheduled fees (BPC 2499.5) and a temporary biennial increase to sustain PMBC since the last Sunset Review. There is also a fee study attached to this report which discusses at length the fund projections and data indicates that the current fee structure is inadequate for PMBC to remain solvent in the future.

### **LICENSING ISSUES**

**Issue #2: Should the reference to ankle certification after January 1, 1984 be removed from the Practice Act, thereby confirming a single scope of licensure for doctors of podiatric medicine?**

Staff Recommendation: The BPM should amend BPC § 2472(d)(l) to remove reference to "ankle certification by the PMBC on and after January 1, 1984."

PMBC Comments: SB 798 (Hill, 2017-2018) eliminated the ankle certification requirement from section 2472 of the BPC.

**Issue #3: Should the limitation on post-graduate medical education be eliminated for doctors of podiatric medicine?**

Staff Recommendation: PMBC should discuss the frequency with which DPMs might utilize post-graduate training programs and consider increasing or removing the limit.

PMBC Comments: PMBC supported the extension of post-graduate medical education in the past, however, it is not currently an issue.

**Issue #4: Should the PMBC begin to issue its own licenses and perform other functions currently performed by the MBC?**

Staff Recommendation: PMBC should update the Committees on the outcome of the discussion that took place, at the March 4, 2016 PMBC meeting, regarding the separation from the MBC.

PMBC Comments: Pursuant to SB 798 (Hill, 2017-2018), PMBC performs all of its own licensing functions. The only exception is that MBC still performs the duties relating to PMBC's fictitious name permits and these licensing duties are specified in the shared services agreement between PMBC and MBC.

**Issue #5: What is the status of the PMBC's research into military experience?**

Staff Recommendation: The PMBC should update the Committees on its progress with this issue.

PMBC Comments: All available data from BreEZe has been accessed regarding our licensees with military experience. We are also aware of the obligations to military spouses and are prepared to comply.

**Issue #6: Is the PMBC concerned about the current workforce trends?**

Staff Recommendation: The PMBC should update the Committees on the possible effects of the workforce shortage.

PMBC Comments: In the past, PMBC was concerned about the number of licensees retiring and the number of individuals applying for licensure. PMBC has found that this is not a concern at this time. Data and information from podiatric medical schools as well as national statistics published by the U.S. Bureau of Labor Statistics indicate that the workforce trend in podiatry will increase 8% from 2018 to 2028.

## **TECHNOLOGY ISSUES**

### **Issue #7: Is the PMBC concerned about ongoing costs for BReEZe implementation?**

Staff Recommendation: The PMBC should update the Committee about the costs of implementing this system? Is the cost of BreEZe consistent with what the PMBC was told the project would cost?

PMBC Comments: PMBC is not concerned with BreEZe costs at this time. PMBC has been working with BreEZe and the system seems to have improved greatly over the last few years. Although it is a significant cost, it is a DCA prorata cost.

### **Issue #8: Should the PMBC utilize Social Media?**

Staff Recommendation: The PMBC should advise the Committees on whether it has considered the use of social media to promote outreach to licensees and the public.

PMBC Comments: Yes, PMBC uses Facebook and Twitter to make announcements and apprise the public of its activities. Additionally, we have a list of individuals who have signed up through our website to receive updates and announcements directly from PMBC.

PMBC has recognized that this is a fundamental component of its mission and that it will continue to use these services to disseminate information to the public.

### **Issue #9: What are the impediments that impact the PMBC's ability to webcast its meetings?**

Staff Recommendation: The PMBC should advise the Committees on how often it is prevented from webcasting its committee meetings and discuss possible solutions.

PMBC Comments: Since the last review, PMBC has not attempted to webcast its committee meetings. Each committee is composed of two members, are merely advisory, and are not subject to the Bagley-Keene Act. All Board Meetings have been webcast and are available online.

## **EDITS TO THE PRACTICE ACT**

### **Issue #10: Are there technical changes to the Practice Act that may improve the PMBC's operations?**

Staff Recommendation: The PMBC should submit their proposal for any technical changes to its Practice Act to the Senate BP&ED Committee for possible inclusion in one of its annual committee omnibus bills.

PMBC Comments: Since the last review, PMBC has accessed the omnibus bill option in making many changes to its practice act. PMBC requests the following technical changes:

- BPC 2499.5: Delete “wall” from subdivision (f); delete the duplicate renewal receipt from subdivision (g); and delete the endorsement fee in subdivision (h).
- The board’s name was changed from “California Board of Podiatric Medicine” to “Podiatric Medical Board of California” effective July 1, 2019 pursuant to Assembly Bill (AB) 2457 (Irwin, 2017-2018). Although there have been multiple references in the BPC that have used the new name, it has not been universally adopted. A sweep of the BPC as well as other code sections outside the BPC may be necessary for the name change to be fully implemented.

## Section 11 – New Issues

This is the opportunity for the board to inform the Committees of solutions to issues identified by the board and by the Committees. Provide a short discussion of each of the outstanding issues, and the board's recommendation for action that could be taken by the board, by DCA or by the Legislature to resolve these issues (i.e., policy direction, budget changes, legislative changes) for each of the following:

### **1. Issues that were raised under prior Sunset Review that have not been addressed.**

PMBC has addressed the issues that were indicated in the last Sunset Review.

### **2. New issues that are identified by the board in this report.**

- a. SB 1448 was expected to address DPMs in the same exempt section as MDs and DOs regarding disclosure. PMBC requests that this matter be addressed and amended as appropriate to include DPM's in the disclosure exemption. PMBC is requesting that BPC 2228.5 track the language in BPC 2228.1.
- b. PMBC's Fund Condition must be addressed. (Please see the attached Fee Study.) PMBC is requesting that the \$200 temporary biennial renewal fee in BPC 2499.5(c) be made permanent and that an additional \$218 be added to the biennial renewal fee. The Fee Study also recommends a \$47 increase to the initial licensing fee.
- c. PMBC requests the following changes to BPC 2499.5: delete "wall" from subdivision (f); delete the duplicate renewal receipt from subdivision (g); and delete the endorsement fee in subdivision (h). (See Issue #10 above, "Edits to the Practice Act").
- d. The board's name was changed from "California Board of Podiatric Medicine" to "Podiatric Medical Board of California" effective July 1, 2019 pursuant to Assembly Bill (AB) 2457 (Irwin, 2017-2018). Although there have been multiple references in the BPC that have used the new name, it has not been universally adopted. A sweep of the BPC as well as other code sections outside the BPC may be necessary for the name change to be fully implemented. (See Issue #10 above., "Edits to the Practice Act.")

### **3. New issues not previously discussed in this report.**

PMBC is interested in being included in any task force or other formal attempt by the State of California to address the diabetic epidemic and to lend the expertise of our stakeholders for all limb salvage efforts.

### **4. New issues raised by the Committees.**

No new issues have been raised by the Committees.

## Section 12 – Attachments

**Please provide the following attachments:**

**A. PMBC's administrative manual.**

PMBC's Administrative Manual accompanies this report.

**B. Current organizational chart showing relationship of committees to the board and membership of each committee.**

Please see Section 1, Question 1 (Sunset Report pg. 4).

**C. Major studies, if any.**

PMBC conducted a Fee Study prepared by Jeff Mikles, PMP (ret), Monetary Resource Group (MRG). The Fee Study is also referenced in Section 1, Question 4 (Sunset Report pg. 11).

**D. Year-end organization charts for the last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.)**

These are provided with this report and are also referenced in Section 3, Question 15 (Sunset Report pg. 15).

**E. Performance Measures and Customer Satisfaction Surveys.**

These are provided with this report and are also referenced in Section 2, Question 6 (Sunset Report pg. 12).

**F. PMBC's Strategic Plan**

PMBC's Strategic Plan accompanies this report.



## SUNSET REVIEW REPORT 2019

### ATTACHMENTS

- **ATTACHMENT A**  
PMBC'S ADMINISTRATIVE MANUAL
- **ATTACHMENT B**  
PMBC'S ORGANIZATIONAL CHART SHOWING THE RELATIONSHIP OF COMMITTEES TO THE BOARD AND MEMBERSHIP OF EACH COMMITTEE.
- **ATTACHMENT C**  
MAJOR STUDIES – FEE STUDY CONDUCTED BY JEFF MIKLES, PMP AND MRG.
- **ATTACHMENT D**  
YEAR-END ORGANIZATIONAL CHARTS FOR THE LAST FOUR FISCAL YEARS.
- **ATTACHMENT E**  
PERFORMANCE MEASURES AND CUSTOMER SATISFACTION SURVEYS.
- **ATTACHMENT F**  
PMBC'S STRATEGIC PLAN.

Podiatric Medical Board of California  
Board Administrative Manual

Approved by:  
Podiatric Medical Board of California  
on September 13, 2019

## PODIATRIC MEDICAL BOARD OF CALIFORNIA

### HALLMARKS OF BOARD MEMBER COMMITMENT AND RESPONSIBILITY

This document serves to remind members of the solemn duties and responsibilities which all members of the Podiatric Medical Board of California willingly undertake in selfless sacrifice to their fellow citizens and residents of the State of California in the conduct of the people's business;

We recognize the important responsibility we undertake in serving as a member of the Podiatric Medical Board of California and esteem to carry out in a trustworthy and diligent manner all the duties and obligations inherent in our responsibilities as Board Members in service of the people's business.

#### ***Board Member Role***

The role as a member of the Podiatric Medical Board of California is to contribute to the development of the Board's mission and vision, and to participate in governing the implementation of the mission and realization of the vision.

The role as a member is to fulfill the functions of the office of Board Member as recorded in the

#### ***Board Member Duties***

The duties of a member of the Podiatric Medical Board of California are to carry out the following responsibilities with integrity, high moral and ethical conduct, and strong commitment.

1. To establish as a high priority my attendance at all meetings of the Board, and of committees and task forces to which I have been appointed.
2. To come prepared to contribute to the discussion of issues and business to be addressed at scheduled Board and Committee meetings, having read the agenda and all background support material provided to me in advance of each meeting.
3. To represent the Podiatric Medical Board of California in a positive and professional manner at all times and in all places.
4. To refrain from moving out of the domain of governance into the domain of management.

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

5. To understand the Podiatric Medical Board of California's funding sources and eligible uses, funding and budgeting cycles, and financial and performance reporting systems.
6. To avoid conflicts of interest between my position as a Board Member and my personal and professional interests. When a conflict of interest presents itself, I will abide by the provisions of Podiatric Medical Board of California's laws.
7. To maintain strict confidentiality of all business discussed in closed session, disclosing to others only information which is public.
8. To support in a positive manner all actions taken by the Board even when I am in a minority position on such actions.
9. To agree to serve on those Committees and/or Task Forces to which I am appointed to ensure fiduciary stability of the Corporation, to assure program quality, and to participate in the accomplishment of all goals and objectives of the strategic plan.
10. To attend and participate in the Board's strategic planning and strategic governance skills training workshops. If I am a new Member of the Board, I agree to attend all orientation sessions for new Board Members.

### **10 Principles for Highly Effective Board Members**

1. Protection of the public shall be the highest priority for DCA board members in exercising the board's 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.
2. We are responsible for developing and setting policy and procedures as a State licensing and law enforcement agency.
3. Consumers expect that licensees will be qualified to perform at an entry level of competence. They expect a fair method of settling disputes that may arise between a licensed practitioner or business and a consumer.
4. A person who wishes to earn a living in an occupation should not be kept out unreasonably. That person should have easy access to all information about entering the profession, including testing and having licensure information transferred to or from another state.
5. Board actions often affect competition within an industry. Public authority should enhance competition whenever possible, and avoid favoring one industry segment over others. Licensees have a right to expect good administrative practices and the elimination of unnecessary and burdensome requirements.

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

6. We have a responsibility to other board members to listen to them and to consider their views and contributions, to help determine good policy and helpful procedures, to contribute to fair determination of problems, and to help the board operate most effectively and efficiently.
7. An effective board member:
  - is able to work with a group to make decisions
  - understands and follows democratic processes
  - is willing to devote time and effort to the work of the board
  - works to find alternative solutions to problems whenever necessary
  - has good communication skills
  - recognizes that the goal of the board is the service and protection of the public
  - is aware that authority is granted by the law to the board as a whole, not to any member individually, and can only be used by vote of the majority of board members
  - avoids becoming involved in the daily functions of staff
  - delays making judgments until adequate evidence is in and has been fully discussed
8. Public members are not expected to be, indeed are not supposed to be, technically expert or experienced in the licensed occupation. They provide a unique public perspective on licensing and enforcement.
9. An effective board member does not disclose details of board activity unless and until they become part of the public record. The investigation procedure, which includes informal hearings or conferences, may not be part of the public record. Any disclosure of such information should be made only after consultation with legal counsel.
10. Effective board members remember that they are seen as representatives of the board and the Department when they appear at industry or professional gatherings and must not appear to speak for the board or the Department unless specifically authorized by the board or the Department to do so.

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## Chapter 1. Introduction

The California Legislature has established 25 California Department of Consumer Affairs (DCA) regulatory boards and other additional programs and committees to protect public health and safety through licensing and oversight of various professions.

Collectively, board members are the leaders of the state's licensing agencies. Board members make important decisions on agency policies in addition to disciplinary actions to be taken against professionals who violate state consumer protection laws. In an effort to protect the public, members also approve regulations and help guide licensing, enforcement, public education and consumer protection activities.

Some board members are licensed professionals themselves, while many others are public members. The governor appoints many board members, but the Legislature makes appointments as well.

Each health care licensing board is created through legislative passage of an enabling statute signed by the Governor. This statute often not only sets forth the agency's mission but also the boundaries of permissible practice for licensees. California law is explicit in its licensing and regulatory mandates that the primary overriding responsibility for all health care boards is to protect the public; not protection of an industry or a profession.

Boards are solemnly charged with preventing harm to patients and ascribed with regulating the profession they are charged with overseeing in order to protect Californians from unqualified, impaired, dishonest or otherwise incompetent providers. These objectives are achieved through the joint efforts of board staff—who execute board directives—and the politically appointed members of the board—who make policy—through execution of various functions including:

- Establishment and enforcement of licensure requirements;
- Promulgation of regulations interpreting scope of practice laws by which licensees are expected to follow and abide;
- Investigation of possible violations of quality and community standards of care in addition to other statutory or regulatory requirements;
- Disciplinary and enforcement decisions to revoke, suspend or restrict a license found to have violated the medical practice act or other laws; and
- Activities intended to educate and protect the public through information sharing, public outreach and engagement.

## Overview

The Podiatric Medical Board of California (the Board or PMBC) has historical roots that can be traced back to as early as 1957 with state licensure of Doctors of Podiatric Medicine (DPMs) being separately handled by a legislatively created podiatric examining committee under the auspices of the California Board of Medical Examiners. To this day, functioning semi-autonomously as one of 36 regulatory entities under the aegis of the Department of Consumer Affairs, the Board continues to inter-dependently carry out its primary mission of public protection through its close association with the Medical Board of California.

The Board is composed of seven members serving four-year terms with no more than a maximum of two consecutive terms permitted. The Board is overseen by a majority of professional members. Five appointments are made by the Governor who appoints four professional and one public member. The Senate Rules Committee and the Assembly Speaker each appoint one of the two remaining public members of the body, respectively.

Existing solely to serve to the public, the Board's mission is accomplished through exclusive reliance on fees set by state statute and collected from licensees and applicants. As public servants attending to the people's business and serving Californians as non-salaried guardians of the public health, welfare and safety, members are remunerated \$100 per day for each day actually spent in the discharge of official duties and are reimbursed for travel and other expenses necessarily incurred in the performance of official duties.

The Board is under the organizational umbrella of the Department of Consumer Affairs (Department) which is part of the Executive Branch of California State Government, and ensures that the public's health, safety, and welfare are protected while ensuring fair trade within the marketplace.

The Board Administrative Manual has been created to provide a solid reference framework for carrying out the public protection mission of the Board by fostering enhanced knowledge, stability and continuity within the body. As a ready reference of applicable law, regulations, Department of Consumer Affairs and Board policies, the manual will assist to guide the actions of members of the Board toward greater policy-making efficiency and effectiveness.

### **Board Mission & Vision (Board Strategic Plan adopted March 6, 2015)**

It is the mission of the Podiatric Medical Board of California to protect and educate consumers of California through enforcement of the Medical Practice Act as it pertains to Doctors of Podiatric Medicine. It is the Board's vision that all licensed California Doctors of Podiatric Medicine will provide safe and competent foot and ankle care for the benefit of the citizens and residents of the State.

## **Executive Office and Staff**

The Board appoints the executive officer (EO) to serve as its executive, administrative and operational officer, as well as its official custodian of records. By regulation, the Board delegates to the EO to act on its behalf in all enforcement issues and to investigate and

evaluate all applicants recommended for licensure prior to the issuance of a license. Other staff members are civil service employees who operate under the direction of the EO.

The Board's executive office is located at 2005 Evergreen Street, Suite 1300, Sacramento, California 95815. Telephone: (916) 263-2647, fax: (916) 263-2651. The Board's web address is: <http://www.pmbc.ca.gov/>

### **Executive Officer (Board Policy adopted Dec. 6, 1991)**

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. The Executive Officer's specific contributions include the following:

- Lead staff planning to achieve Board goals and ensure that implementation adheres to Board policies, and is effective, prudent, ethical, and timely.
- 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.
- Annually evaluate the agency's performance.
- Manage allocated funds to ensure that there is adequate funding to achieve the Board's policies.
- 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.
- See that there is adequate, effective staffing. Motivate staff. Develop training, professional development, and career ladder opportunities. Build teamwork. Delegate responsibilities without abdicating accountability.
- Develop an office climate and organizational culture that attracts and keeps quality people.
- Provide for management succession.
- Develop annual goals and objectives and other appropriate staff policies.
- Serve as the agency's chief spokesperson and see that the Board is properly presented to its various publics.

## Board General Rules of Conduct

Collectively, 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 its public protection responsibilities, guards against the taking of undue risks, determines priorities and generally directs organizational activity. While the Board delegates administrative responsibilities to its executive officer as head of the agency, the body remains involved through oversight and policy-making. As a judicial body, the Board serves as a jury and members must be careful to avoid conduct which threatens to jeopardize the impartial and independent role as a neutral arbiter of fact in civil administrative matters involving disciplinary proceedings against a license.

Ultimately members are accountable for the actions of the agency and are expected to fulfill their responsibilities in a manner that is both honorable and above reproach. Accordingly, Board members shall:

- Serve to uphold the principle that the Board's primary mission is to protect the public.
- Act fairly, objectively and remain impartial and unbiased in their role of protecting the public.
- Not use their positions on the Board for personal, familial or financial gain.
- Treat all applicants and licensees fairly and impartially.
- Maintain the confidentiality of Board documents and information.
- Avoid ex parte communications with licensees, attorneys and staff regarding disciplinary actions.
- Recognize the equal role and responsibilities of all members both public lay members and professional members alike.
- Commit the time to properly prepare for Board responsibilities.

## Board Values (Board Strategic Plan adopted March 6, 2015)

In performing the people's business to serve Californians as servants protecting the public health welfare and safety, the members of the body are guided by the adopted values of the Board:

- Consumer Protection
- Transparency
- Professionalism

- Fairness
- Effectiveness
- Service

**Board Members** (Board policy adopted Dec. 6, 1991)

While the Board is responsible for good governance of the agency it is ultimately individual board members that are accountable for all agency actions in the end.

A Board member's specific contributions include the following:

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

## Chapter 2. Board Meeting Procedures

### Purpose

Public agencies exist to conduct the “people’s business.” All board meetings are conducted in public under the provisions of the public meetings law, officially called the Bagley-Keene Open Meeting Act. Public agencies such as the Board have two duties under the Bagley-Keene Open Meeting Act:

- To give adequate notice of the meetings to be held; and
- to conduct its meetings in open session except where a closed session is specifically authorized.

**Frequency of Meetings** (Calif. Business and Professions Code §§ 101.7, 2467 and Board Policy) For the purposes of transacting business, the Board may convene from time to time as it deems necessary but is required by statute to hold at least two meetings per year with a minimum of one meeting in Northern California, and one in Southern California per calendar year. The Board may seek an exemption from the Director of the Department of Consumer Affairs upon a showing of good cause that it is unable to meet at least two times in a calendar year.

- Through consensus vote the Board has established a policy for itself and each of its standing Committees to convene quarterly.
- Board Meetings shall be generally held on the first Friday in the third month of each quarter.
- Committee meetings shall convene on a Wednesday at least three weeks preceding the regularly scheduled meeting of the Board.
- The President may call a meeting of the Board or of any duly appointed committee including their specified time and place.
- Special meetings may be held by the Board as permitted by law and may also be called by the Director of the Department of Consumer Affairs as required.

### Member Attendance at Board Meetings

Board members shall attend each meeting of the Board. If a member is unable to attend then he or she must contact the Board President and the Executive Officer to advise of the inability to attend the meeting for a specific reason.

### Public Attendance at Board Meetings (Government Code § 11120 et seq.)

As mentioned above, meetings of the Board are subject to all provision of the Bagley-Keene Open Meeting Act. The Open Meeting Act governs the meetings of all state regulatory boards and the meetings of the individual committees of those boards. The

specifies the notice and agenda requirements in addition to prohibiting discussion or action by members on matters not included in the agenda.

If the agenda contains matters which are appropriate for closed session, the agenda shall so state and cite the particular statutory section and subdivision providing authority for meeting in closed session.

#### **Quorum (California Business and Professions Code § 2467)**

Four members of the Board constitute a quorum for the purposes of transacting business. The concurrence of a majority of those members present and voting at a meeting is necessary to constitute an act, resolution, decision or measure of the Board.

#### **Agenda Items**

Each Board member is encouraged to submit items for a Board meeting agenda to the Executive Officer at least 20 days prior to the meeting. Committee members are also encouraged to submit items for a Committee meeting agenda related to the jurisdiction of their respective committees at least 20 days in advance of the meeting. Suggestions for agenda items may also be raised at board and committee meetings during the agenda item designated for that purpose.

#### **Notice of Meetings (Government Code § 11120 et seq.)**

In accordance with the Bagley-Keene Open Meeting Act, meeting notices—including agendas for Board and/or Committee Meetings—shall be sent to persons on the Board's mailing list at least 10 calendar days in advance. The notice shall include a staff person's name, work address and telephone contact for providing further information if needed prior to the meeting.

#### **Notice of Meetings Posted on Internet (Government Code § 11125 et seq.)**

Notice shall be given and also made available on the internet at least 10 days in advance of the meeting and shall include a staff person's name, work address and telephone contact for providing further information if needed prior to the meeting.

#### **Board Packets**

Board and Committee materials will be published in the most cost effective and environmentally conscious manner achievable and distributed to members in either electronic or hard copy format according to individual member preference 10 days before a scheduled meeting.

**Record of Meetings** (Government Code § 11123)

The minutes of Board meetings are a summary, not a transcript, of each Board meeting. They shall be prepared by Board staff and submitted for review and approval to the Board at the next regularly scheduled Board meeting. The minutes shall contain a record of how each member voted on item of business. When approved, the minutes shall serve as the official record of the meeting and shall be posted on the Internet.

**Audio/Video Recording**

Meetings may be audio and/or video recorded and/or broadcast live via the Internet as Board and DCA resources allow. Recordings may be disposed of upon an affirmative vote of the Board after the corresponding minutes of the meeting have been approved. Broadcasts of meetings may be available in perpetuity.

**Meeting Rules**

The Board will use Robert's Rules of Order as a guide to conduct meetings of the Board and Committees to the extent that they do not conflict with state law such as the Bagley-Keene Open Meetings Act, other statutory provisions or advisory opinions of the Attorney General.

**Public Comment**

Due to the important need of preserving neutrality and maintaining the fairness of the Board when performing its adjudicative functions, neither the Board nor any board member shall receive any information or communication from a member of the public regarding matters that are currently under or subject to investigation or that involve a pending civil administrative action or criminal proceeding.

1. If, during a Board meeting, a person attempts to provide the Board or member with information regarding matters that are currently under or subject to investigation or civil administrative action or criminal proceeding or on a matter subject to review by the Board, the person shall be advised that neither the Board nor its members individually may properly consider or hear such information and the person shall be instructed to refrain from making such comments. The Board or a board member may ask or direct staff to speak with the person directly outside the confines of the meeting room.
2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or that involve a pending civil administrative action or criminal proceeding, the Board will address the matter as follows:

- a. Where the allegation involves errors of procedure or protocol, the Board may designate either its Executive Officer or staff member to review whether the proper procedure or protocol was followed and to report back to the Board.
  - b. Where the allegation involves significant staff misconduct, the Board may designate one of its members to review the allegation and to report back to the Board.
3. Should a person wishing to provide information regarding matters that are currently under or subject to investigation or civil administrative action or criminal proceeding become disruptive at the Board meeting, the Board in its discretion may deny the person the right to address the Board and have the person removed.

## **Chapter 3. Travel and Salary Policies and Procedures**

### **Travel Approval**

Board members shall have the Board President approval for all travel except regularly scheduled Board and Committee meetings to which the Board member is assigned.

### **Travel Arrangements**

Board members should coordinate with the Board's program support assistant for assistance with travel and lodging accommodations when necessary.

### **Out of State Travel**

When approved, out-state-travel for Board members will be reimbursed for actual lodging expenses, supported by vouchers and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the state of California is controlled and must be approved by the Governor's Office.

### **Travel Claims**

Rules governing reimbursement of travel expenses for Board members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. The Executive Officer's program support staff maintains these forms and completes them as needed. It is advisable for Board members to submit their travel expense forms immediately after returning from a trip and not later than two weeks following the trip.

For expenses to be reimbursed, Board members shall follow procedures contained in DCA Departmental Memoranda, which are periodically disseminated by the Director and provided to Board members.

### **Salary Per Diem (Business & Professions Code §§ 103, 2016 & 2469)**

While all members of the Board are expected to contribute to the functions of the Board and the work of each member is absolutely vital for advancing consumer protection for the benefit of all Californians, board members are not employees of the board or of the State of California. Board service is essentially public sector volunteerism and therefore no member receives salary or benefits for services rendered.

Notwithstanding, compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board members is provided as regulated by California Business and Professions Code section 103. Members desiring automatic deposits of all net reimbursements into a member designated financial institution may elect to participate in the Department's Direct Deposit Program.

Members may apply by completing the appropriate enrollment form and submitting the completed and signed document to the Board's program support assistant.

Section 103 provides in pertinent part for the payment of Board member salary per diem ***"for each day actually spent in the discharge of official duties,"*** and provides that Board members ***"shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties,"*** and ***"shall be subject to the availability of money."***

Accordingly, the following general policy guidelines shall be followed in the payment of salary per diem or reimbursement for travel.

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board members except for attendance at official Board or Committee meetings, unless a substantial official service is performed by the Board member.
2. The term "day actually spent in the discharge of official duties" shall mean:
  - a. Such time as is expended from the commencement of a Board meeting to the conclusion of the meeting; or
  - b. A cumulative of 8 hours of actual time spent performing Board-specific work authorized by the Board President including:
    - i. Preparation time for Board and Committee meetings;
    - ii. Review of materials and disciplinary matters such as mail votes as issued by Board staff; and
    - iii. Training
3. Where it is necessary for a Board member to leave early from a meeting or in situations where a member arrives to a meeting late, the Board President shall determine if the member has provided a substantial service during the meeting and if so shall authorize payment of salary per diem and reimbursement for travel expenses. Committee service shall also be reimbursed equally as attendance of an official meeting of the Board.
4. Substantial service at a meeting of the Board shall mean that amount of time provided in the fulfillment of obligations, responsibilities, duties and requirements of attendance or participation such that any identified deficiency did not materially shortchange the objective, purpose or process that it would be unreasonable to deny remuneration for service rendered in spite of all the formal requirements of service not being met.

5. Attendance at gatherings, events, hearings, conferences or meetings other than official Board or Committee meetings in which a substantial official service is performed shall be approved in advance by the Board President according to availability of funds. The Executive Officer shall be notified of the event and approval shall be obtained from the Board President on the appropriate form and prior to the Board member's attendance.
6. Board members may be compensated for actual time spent performing Board-specific work authorized by the Board President subject to the availability of funds. This work includes preparation time for Board or Committee meetings. Board members cannot claim salary per diem for time spent traveling to and from Board or Committee meetings.
7. For the purposes of recording actual time spent performing official Board-specific work authorized by the Board President that is not considered attendance at an official meeting of the Board, members shall complete forms provided for accounting the actual amount of time spent performing official duties in 15 minute increments on a form authorized to account for time. Said time includes:
  - a. Review of materials and disciplinary matters such as mail votes as issued by Board staff.
  - b. Board work that is authorized and assigned by the Board President.
  - c. Preparation time for Board and Committee meetings; and
  - d. Training.
8. As required by Business & Professions Code section 103, if a member is a public officer or employee, the member may not receive per diem salary on any day when he or she also receives compensation from his or her regular public employment.

## Chapter 4. Selection of Officers and Committees

### Officers of the Board

The Board shall elect from its members a President and Vice-President to hold office at the pleasure of the Board for a two year term or until their successors are duly elected and qualified. The President and Vice-President shall serve as members of the Executive Committee.

#### **President** (Board Policy adopted Dec. 6, 1991) (Business & Professions Code § 2467)

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 regulatory enforcement agency. She/he optimizes the Board's relationship with its executive officer and the public. The Board President's specific contributions include the following:

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

The President may call meetings of the Board and any duly appointed Committee at a specified time and place.

## **Vice-President**

The Vice-President of the Board is responsible for familiarity with the responsibilities of the President and shall be ready to preside when called upon. The Vice-President works in cooperation with the President to assist and/or to preside at meetings when the President is absent or if the office becomes vacant. The Vice-President shall also perform other such duties as may be called to fulfill from time to time at the request and discretion of the President.

## **Nomination of Officers**

The Board President may appoint a Nominations Committee prior to the last meeting of the calendar year if desired to be composed of not more than two members and may consider appointing both a public and a professional member of the Board to the Committee. The two-member Nominations Committee is not subject to the Open Meetings Act and will be charged with recommending a slate of officers for the following year. The Committee's recommendation will be based on the qualifications, recommendations and interest expressed by Board members. A Nominations Committee member is not precluded from running for an officer position. If more than one Board member expresses interest in an officer position, the Nominations Committee will make a recommendation to the Board and others may be included on the ballot for a runoff if desired. The results of the Nominations Committee's findings and recommendations will be forwarded to the Board.

Notwithstanding the Nominations Committee's recommendations, Board members may be nominated from the floor at the meeting of the Board.

## **Election of Officers**

The Board shall elect the officers at any full Board meeting for the following calendar year. Officers shall serve a term of one year, beginning January 1. All officers may be elected on one motion or ballot as a slate of officers unless more than one Board member is running per office. An officer may be re-elected and serve for more than one term.

## **Officer Vacancies**

If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the President becomes vacant, the Vice-President shall assume the office of the President. Elected officer shall then serve the remainder of the term.

## **Committees & Committee Appointments**

The Board President assigns individual Board members to committees or task forces to research issues, develop preliminary policy plans, and to provide the foundation information necessary to discuss issues during the public meetings of the full Board. Committees are generally composed of two Board Members each. The Board has five

standing Committees and they include: 1) the Executive Management Committee; 2) the Enforcement Committee; 3) the Licensing Committee; 4) the Legislative Committee; and 5) the Public Education/Outreach Committee. These committees also serve as a means to address succession planning as new members are often assigned to serve on committees that are chaired by more senior members who are able to share their knowledge and expertise. All committees shall be advisory in nature

As previously discussed under Board meeting procedures, meetings of the Board are subject to all provisions of the Bagley-Keene Open Meeting Act. In keeping with the Board's value of transparency, it is the policy of the Board to also apply all notice requirements of the Open Meeting Act to its two member committees and advisory bodies. Where a committee is comprised of three or more members however all notice requirements of the Open Meeting Act must be followed.

### **Executive Management Committee**

Members of the Executive Committee include the Board's president and vice-president. As determined by the Board president, the committee may also include the ranking member of the Board or another member appointed by the Board president for a total of three members. Where the committee is comprised of three or more members all notice requirements of the Open Meeting Act shall be followed. The Committee also provides guidance to administrative staff for the budgeting and organizational components of the Board and is responsible for directing the fulfillment of recommendations made by legislative oversight committees.

### **Enforcement Committee**

Members of the Enforcement Committee are responsible for the development and review of Board-adopted policies, positions and disciplinary guidelines. Although members of the Enforcement Committee do not review individual enforcement cases they are responsible for policy development of the enforcement program, pursuant to the provisions of the Administrative Procedure Act (APA).

### **Licensing Committee**

Members of the Licensing Committee are responsible for the review and development of regulations regarding educational and professional ethics course requirements for initial licensure and continuing education programs. Essentially, they monitor various

criteria and requirements for licensure, taking into consideration new developments in technology, podiatric medicine and current activity in the health care industry.

### **Legislative Committee**

Members of the Legislative Committee are responsible for monitoring and making recommendations to the Board with respect to legislation impacting the Board's mandate. They may also recommend pursuit of specific legislation to advance the mandate of the Board or propose amendments or revisions to existing statutes for advancing same.

### **Public Education/Outreach Committee**

Members of the Public Education/Outreach Committee are responsible for the development of consumer outreach projects, including the Board's newsletter, web site, e-government initiatives and outside organization presentations on public positions of the Board. These members may act as good will ambassadors and represent the Board at the invitation of outside organizations and programs. In all instances, members must only present positions of the Board and members do not express or opine on matters unless explicitly discussed and decided upon by the Board.

### **Attendance at Committee Meetings**

If a Board member wishes to attend a committee meeting of which he or she is not a member, the Board member shall obtain permission to attend from the Board President and shall notify the Committee Chair and staff. Board members who are not members of the Committee that is meeting cannot vote during the Committee meeting. If there is a quorum of the Board at a Committee Meeting, the Board members who are not members of the Committee must sit in the audience and cannot participate in Committee deliberations. Two consecutive absences or three absences within a 12-month period is cause for a discussion with the Board President regarding a Committee member's future obligations in serving on a Committee.

### **Participation at Committee Meetings**

When a majority of the members of the Board are in attendance before a meeting of a standing Committee, members of the Board who are not members of the standing Committee may attend only as observers. Board members who are not members of a committee where a majority of the members of the Board are present, cannot ask questions, speak or sit at the dais with the members of the Committee at the meeting.

## Chapter 5. Board Administration and Staff

### Board Administration

Board members should be concerned primarily with the formulation of decisions enacting and affecting Board policies rather than decisions concerning the means or methods for carrying out a specific course of action. For members of the Podiatric Medical Board of California this specifically translates into policies geared toward maintaining and advancing protection of the public relating to the practice of podiatric medicine. No other interest ranks higher in priority and any matter inconsistent with protection of the public is strictly subordinate. Board members therefore are to advance policies to safeguard the public health, welfare and safety of Californians and not the agendas of any special interest group, personal or private agenda. To assist members in this important endeavor there are a number of critical principles that may be referenced as guideposts for carrying out their duties effectively:

- Members are responsible for developing and setting policy and procedures as a State regulatory enforcement agency.
- Consumers expect that licensees will be qualified to perform at an entry level of competence. They expect a fair method of settling disputes that may arise between a licensed practitioner or business and a consumer.
- Persons wishing to earn a living in an occupation should not be kept out unreasonably. They should have easy access to all information about entering the profession, including testing and/or transferring a license to or from another state.
- Board actions often affect competition within an industry. Public authority should enhance competition whenever possible, and avoid favoring one industry segment over others. Licensees have a right to expect good administrative practices and the elimination of unnecessary and burdensome requirements.
- Members have a responsibility to other board members to listen to them and to consider their views and contributions, to help determine good policy and helpful procedures, to contribute to fair determination of problems, and to help the board operate most effectively and efficiently.
- An effective board member:
  - is able to work with a group to make decisions
  - understands and follows democratic processes
  - is willing to devote time and effort to the work of the board
  - works to find alternative solutions to problems whenever necessary
  - able to communicate effectively
  - recognizes that the goal of the board is the service and protection of the public

- is aware that authority is granted by the law to the board as a whole, not to any member individually, and can only be used by vote of the majority of board members
- avoids becoming involved in the daily functions of staff
- delays making judgments until adequate evidence is in and has been fully discussed
- doesn't let personal feelings toward others affect decisions
- Public members are not expected to be, indeed are not supposed to be, technically expert or experienced in the licensed occupation. They provide a unique public perspective on licensing and enforcement.
- An effective board member does not disclose details of board activity unless and until they become part of the public record. The investigation procedure, which includes informal hearings or conferences, may not be part of the public record. Any disclosure of such information should be made only after consultation with legal counsel.
- Effective board members remember that they are seen as representatives of the board and the Department when they appear at industry or professional gatherings and must not appear to speak for the board or the Department unless specifically authorized by the board or the Department to do so.

## **Board Budget**

The Board's mission is accomplished without reliance on taxpayer monies from the State's General Fund. Funding for the Board is driven primarily through license, renewal and service fees collected from licensees and applicants. The Legislature establishes the limits of what may be charged for licenses and services and the board may then set specifics through regulation.

Board budget reports shall be presented to the Executive Committee and to the Board at quarterly meetings and shall contain that information determined necessary for the effective oversight and monitoring. The Executive Officer or the Executive Officer's designee will attend and testify at legislative budget hearings and shall communicate all budget issues to the Administration and Legislature as required.

## **Strategic Planning**

The Board shall have overall responsibility for the Board's Strategic Planning Process and shall adopt a Strategic Plan quadrennially. Update reports regarding progress on Board strategic goals and objectives will be made quarterly and may be heard in Executive Committee. The President will serve as the Board's strategic planning liaison with staff and may assist with monitoring and reporting of the strategic plan to the Board. The Board will conduct a quadrennial strategic planning session and may utilize a facilitator to conduct the planning process. The Board in its discretion may revise and amend the

adopted strategic plan if necessary at any time during the four year period from adoption.

### **Legislation**

Recognizing that time constraints can often preclude Board action, the Board may delegate to the Executive Officer and/or the Chair of the Legislative Committee, through adoption of a Program Consensus Document or Policy Compendium that explicitly provides the issue areas that may be addressed or the authority to take action on legislation that would otherwise impact previously established Board policy or affect the Board's mandate to protect the health, welfare and safety of the public. Prior to taking a position on legislation or issues as specifically enumerated in a Policy Compendium, the Executive Officer will consult with the Board President. The Board shall be notified of such action as soon as is practicably possible.

### **Communication, Other Organizations & Individuals**

All communication relating to any Board action or policy to any individual or organization, including but not limited to private medical associations, shall only be made by the President of the Board, his or her designee or the Executive Officer. The Board in its discretion may grant specific authority to any member from time to time as may be necessary in order to speak on behalf of the Board on Board business or other issues. Such authority granted by a vote of the full Board, shall be cautiously exercised and care taken to discuss only those final public positions taken by the Board as a body and shall not be the subject of personal member opinion or position. Any Board member who is contacted by any association should immediately inform the Board President or Executive Officer of the contact and said contact shall be reported at the next regularly scheduled meeting of the Board. All correspondence shall be issued on standard Board letterhead and will be created and disseminated by the Executive office.

### **Public or News Media Inquiries**

All technical, licensing or disciplinary inquiries to a PMBC Board or Committee member from applicants, licensees or members of the public should be referred to the Executive office. Contact of a Board or Committee member by a member of the news media should be referred to the Executive Officer and/or the Chief of Public Affairs or Deputy Director of Communications for DCA.

### **Stationary**

- Business Cards**

Business cards will be provided to each Board member with the Board's name, address, telephone and fax number and website. A Board member's business

address, telephone and fax number and e-mail may be listed on the card at the member's request.

- **Letterhead**

Only correspondent that is transmitted directly by the PMBC office may be printed or written on PMBC letterhead stationery. Any correspondence from a Board or Committee member requiring the use of PMBC stationery or the PMBC logo should be transmitted to the PMBC office for finalization and distribution.

**Executive Officer Evaluation (DCA Policy)**

Board members shall evaluate the performance of the Executive Office on an annual basis.

**Board Staff (DCA Reference Manual)**

Employees of the Board with the exception of the Executive Officer are civil service employees. Their employment, pay, benefits, advancement, discipline, termination and conditions of employment are governed by the civil service laws, regulations and collective bargaining labor agreements. Because of this complexity, it is appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Executive Officer. Board members shall not intervene or become involved in specific day-to-day personnel transactions or matters.

## Chapter 6. Other Policies and Procedures

### **Board Member Orientation** (California Business and Professions Code § 453)

As discussed above, the work of the Board is vital to the continued health, well-being, safety and protection of the public. All members of the Board are expected to contribute to the consensus decision-making process of the body to help advance the Board's mission of public protection.

To ensure that Board Members are well-equipped with the knowledge and information necessary to carry out the responsibilities, obligations and functions of membership, each member shall attend and complete a training and orientation program offered by the Department of Consumer Affairs within one year of appointment and again after each successive reappointment.

Additionally, the new appointee will be required to attend a Meet & Greet with the Board President and Executive Officer for a personal introduction and overview of the Board mission, operations, and member duties and responsibilities.

### **Board Member Oath of Office** (California Constitution & Business and Professions Code § 105)

State law requires members of boards in the Department of Consumer Affairs to take an oath of office as provided in the California Constitution and the Government Code. Any member not rendering an oath prior to service on a Board or committee will not be authorized to perform any official function.

The oath shall read in pertinent part:

"I, \_\_\_\_\_, do solemnly swear (*or affirm*) that I will support and defend the Constitution of United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter...."

Unless otherwise provided, the oath may be taken before any officer authorized to administer oaths including the Board's Executive Officer. The oath, certified by the officer administering the oath, must then be filed with the Secretary of State. Board members should contact the board's Executive Officer to arrange taking the oath of office.

**Board Member Ethics Training (AB 2179)**

As a result of passage of AB 2179 (1998 Chapter 364), state appointees and employees in exempt positions are required to receive an ethics orientation within the first six months of their appointment and every two years thereafter. The training includes important information on activities or actions that are inappropriate or illegal. For example, generally public officials—like members of consumer protection board—cannot take part in decisions that directly affect their own economic interests. Members are prohibited from misusing public funds, accepting free travel and accepting honoraria. In addition, there are limits on gifts that may be accepted.

To comply with the ethics training directive, Board or Committee members may take the interactive course provided by the Office of the Attorney General which can be found at:

<http://oag.ca.gov/ethics>

Once the training course is completed, a copy of the certificate of completion is to be sent to:

*Department of Consumer Affairs  
SOLID Training Solutions  
1747 N. Market Blvd, Ste. 270  
Sacramento, CA 95834*

**Board Member Disciplinary Actions**

A member may be censured by the Board if it is determined that the member has acted in an inappropriate manner. In accordance with the Bagley-Keene Open Meetings Act, the censure shall be conducted in open session.

**Removal of Board Members (Business and Professions Code §§ 106 & 106.5)**

The Governor has the power to remove from office at any time any member of any board appointed by him or her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct. The Governor also may remove from office a Board member who directly or indirectly discloses examination questions to an applicant for examination for licensure.

**Resignation of Board Members**

In the event that it becomes necessary for a Board member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules or Speaker of the Assembly) with the effective date of the resignation as soon as is practicable after it is known that a member be unable to fulfill his or her responsibilities to the Board in the conduct of the people's business. A copy of this letter shall also be sent to the Director of the DCA, the

Board President and the Executive Officer.

**Conflicts of Interest** (Government Code § 87100 and Business and Professions Code § 2465)

No Board member may make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which he or she know or has reason to know that he or she has a financial interest. Any Board member who has a financial interest shall disqualify him or herself from making or attempting to use his or her official position to influence the decision. Any Board member who feel he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or Legal Counsel for the Board. At no time may a member of the Board either directly or indirectly own any interest in any college, school or other institution engaged in podiatric medical instruction, nor shall any member of the Board acquire any said interest while serving as a member of the Board.

**Incompatible Activities** (DCA Policy)

The following is a summary of the employment, activities or enterprises that may result in or create the appearance of being inconsistent, incompatible or in conflict with the duties of state officers:

- Using the prestige or influence of a state office or employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- Using state time, facilities, equipment or supplies for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- Using confidential information acquired by virtue of state employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- Receiving or accepting money or any other consideration from anyone other than the state for the performance of an act which the officer or employee would be required or expected to render in the regular course or hours of his or her state employment or as a part of his or her duties as a state officer or employee.
- Performance of an act other than in his or her capacity as a state officer or employee knowing that such an act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement by such officer or employee of the agency by which he or she is employed. Notwithstanding, this would not preclude a

“professional” member of PMBC from performing normal function of her or her medical practice profession.

- Receiving or accepting directly or indirectly any gift, including money, any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is seeking to do business of any kind with the state or whose activities are regulated or controlled in any way by the state, under circumstances from which it reasonably could be inferred that the gift was intended to influence him or her in his or her official duties or was intended as a reward for any official action on his or her part.

The aforementioned limitations do not attempt to specify every possible limitation on employee or state officer activity that might be determined and prescribed under the authority of section 19990 of the Government Code. DCA’s Incompatible Work Activities Policy Procedures handbook is included in Appendix A.

### **Contact with Applicants**

Board members shall not intervene on behalf of any applicant for licensure for any reason. All contacts or inquiries shall be forwarded to the Executive Officer or Board staff.

### **Gifts from Applicants**

Gifts of any kind to Board members or staff from license applicants shall not be permitted.

### **Requests for Records Access**

No Board member may access the file or a licensee or applicant without the Executive Officer’s knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the PMBC’s offices.

### **Ex Parte Communications (Government Code § 11430.10 et seq.)**

The Government Code contains provisions prohibiting ex parte communications. An “ex parte” communication is a communication to the decision-maker made by one party to an enforcement action without the participation by the other party. While there are specific exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10 of the Government Code, which states:

“While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication.”

Board members are prohibited from ex parte communications with Board enforcement staff while a proceeding is pending. This included communications with the Executive Officer regarding proposed decisions.

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board members.

If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, he or she should reseal the documents and send them to the Enforcement Coordinator or to the Executive Officer.

If a Board member receives a telephone call from an applicant or licensee against who, an action is pending, he or she should immediately tell the person that discussion about the matter is not permitted; that the member will be required to recuse him or herself from any participation in the matter; and continued discussion is of no benefit to the applicant or licensee. The Board member should end the conversation in a firm and cordial manner.

If a Board member believes that he or she has received an unlawful ex parte communication, he or she should contact the Board's assigned legal counsel.

#### **Sexual Harassment Prevention Training (Government Code § 12950.1)**

Board members are required to undergo sexual harassment prevention training and education once every two years. Staff will coordinate the training with the Department of Consumer Affairs.

#### **Defensive Driver Training (Government Code § 11290, 16378 & 16379)**

Pursuant to state law, the State Administrative Manual requires that all State employees who frequently drive a vehicle on official State business successfully complete the DGS approved Defensive Driver Training (DDT) course at least once every four years. The Department of General Services (DGS), Office of Risk and Insurance Management (ORIM) requires all state departments to submit an Annual State Agency Defensive Driver Training Report for tracking and reporting purposes. Accordingly, Board members will complete the required driver training quadrennially. Staff will coordinate the training with the Department of General Services.

**Statement of Economic Interests – Form 700 (Government Code §§ 81000-91014)**

The Political Reform Act requires most state government officials and employees to publicly disclose their personal assets and income. They also must disqualify themselves from participating in decisions that may affect their personal economic interests. The Fair Political Practices Commission (FPPC) is the state agency responsible for issuing Form 700, Statement of Economic Interests and for interpreting the law's provisions.

Board members shall comply with filing requirements annually as required by statute and regulation. Staff will coordinate with DCA for distribution of required forms to members annually.

## Chapter 7. Parliamentary Practice and Procedure

As previously indicated in Chapter 2, the Board uses Robert's Rules of Order as a guide for the conduct of its Board and Committee meetings to the extent that they do not conflict with state law such as the Bagley-Keene Open Meetings Act, other statutory provisions or advisory opinions of the Attorney General.

Rules of parliamentary practice are based on the regard for the rights of participating members or groups within the organization's total membership. This right to be heard is premised on the underlying value that each individual has the right to express his or her opinion to the extent that it can be tolerated in the interests of the whole.

The following chapter is an extremely brief summary of parliamentary practice and procedure and is designed to be a compact overview of reference for the conduct of the Board's deliberative assembly which should enable the body to both establish and empower effective leadership and retain that degree of control over Board business as it chooses to reserve to itself. Members are encouraged toward further individual study in the subject in addition to learning from each other for the benefit of the membership as a whole as it has been said by Gen. Robert himself that "[i]t is difficult to find another branch of knowledge where a small amount of study produces such great results in increased efficiency [...]"

### Calling a Meeting

When the meeting date and start time has arrived, the President will open the meeting. After beginning the meeting, it is determined whether a quorum is present by a calling of the roll.

If a quorum is determined not to be present, the President may wait until there is a quorum or if there is no prospect for a quorum to develop after a reasonable time period, the President may call the meeting to order and announce the lack of a quorum. Thereafter, the President may fix the time to adjourn, adjourn, recess or take measures to obtain a quorum. In a committee where a quorum has not been met, the Committee Chair may—in addition to the motions just discussed—may forward the business of the Committee to the full Board without recommendation.

The call to order may be followed by opening ceremonies or patriotic exercises. As a state Board mandated with protection of the health, welfare and safety of Californians, it would be wholly appropriate for the Board of Podiatric Medicine to take a moment to briefly reflect on valued precepts of consumer protection and the mission, vision, and values of the Board before the introduction of business.

## **Following the Call to Order**

A Board or Committee may follow the order of business set in the agenda, or it may follow any particular order of business in the agenda at the discretion of the President or Chair presiding over the meeting. However, if agendas contain published estimations of time for the handling of business, then matters should be handled in the order indicated on the agenda in order to allow the public the opportunity to engage in the matter within the planned and estimated time frames.

Generally speaking, however, the following order has traditionally been regarded as the usual order of business: 1) Reading and approval of Minutes; 2) Reports of Officers and Committees; 3) Reports of Special Committees; 4) Special Orders or matters assigned special priority; 5) Unfinished Business; and finally 6) New Business. It is also important to note that the Board or Committee cannot discuss or take action on an item of business not on the agenda, except to decide whether to place the matter on the agenda of a future meeting.

## **Introduction of Business**

Business is brought before the deliberative body through the motions of its individual members. A motion is a formal proposal in a meeting that the body undertake a specified action. The proposed action may be substantive in nature, may express a particular viewpoint, direct the Executive Officer to action or performance, or the like. A motion's most basic form is the main or principal motion which brings business before the body. It should be noted that a motion is for action and is not a suggestion for when carried or approved, presuming it is a valid motion and not null and void, it will be implemented.

Generally, four steps are required to bring a motion before the Board or Committee. First, a member must obtain the floor. That is, the member must be recognized by the President or Chair (presiding officer) as having the right to be heard. The presiding officer must then recognize any member seeking the floor. Second, the member makes the motion. Third, another member must second the motion. Finally, the presiding officer places the motion before the Board or Committee for deliberation. This is termed "stating the question." The action of stating the question by the presiding officer is critical so that all members are clear on exactly what is and what is not under discussion.

After the presiding officer has stated the question, the motion is pending and is on the floor open for debate. Motions or resolutions that are long or technically complex should be prepared in advance of the meeting and should be put in writing before it is

offered. This is ideally done by providing a copy of the motion to the presiding officer for placement on the agenda sufficiently in advance of the meeting in order for staff to appropriately prepare in addition to ensuring compliance with Open Meeting Act notice requirements.

It is the responsibility of the presiding officer to ensure that the motion is put in suitable form that preserves its substance to the satisfaction of its maker before the question is stated.

### **Modification of Motions**

Until the presiding officer states the question, the maker of the motion has the right to modify his or her motion as he or she pleases or may withdraw the matter entirely. Accordingly, all principal motions may be modified. Similarly, all principal motions may also be divided so long as the component parts are not interdependent.

For example: A motion to hire a speedy yellow taxi can be divided into a motion to hire a taxi and a motion to choose the color. A motion to hire a slow limousine instead of a speedy taxi must be in the form of an amendment to the “taxi” motion.

Once on the floor and open for debate, however, the maker of the motion cannot modify the motion until prior to disposition of the motion by the deliberative body. For example, the motion to hire a speedy yellow taxi must be voted on and presuming a failure to carry, before a motion to hire a speedy red taxi can be moved; seconded; stated; and voted on.

### **Basic Motion Classifications**

Apart from the Main or Principal motion briefly discussed above that is used to bring business before the Board on all subjects under its jurisdiction, there are various other secondary motions which may be introduced to dispatch the business of the Board.

Secondary motions may be viewed as sustaining devices used to preserve two underlying principles of parliamentary law:

- Only one question is to be considered before the body at a time; and
- Once a motion is stated before the body, it must either be adopted, rejected, or disposed of in some fashion before other business may be introduced

Accordingly, secondary motions are procedural in nature and applied to main or principal motions for purposes of disposition. They also help clarify their order of precedence. Descriptions of secondary motion are provided below for convenient reference.

#### 1) Subsidiary Motions

- 2) Incidental Motions
- 3) Privileged Motions

### Subsidiary Motions

Subsidiary motions are applied to main or principal motions for the purpose of treating or disposing of them. Types of subsidiary motions include:

- 1) Postpone (Indefinitely)
- 2) Postpone (to Certain Time)
- 3) Amend
- 4) Refer to Committee
- 5) Limit or Extend Limits of Debate
- 6) Previous Question
- 7) Lay on the Table

### Incidental Motions

Incidental motions are motions that are said to arise out of the main motion being debated and are related to the matter in such a way that they must be decided before further business may proceed. They are often un-debatable. Types of incidental motions include:

- 1) Point of Order
- 2) Appeal
- 3) Objection to Consideration of the Question
- 4) Division of a Question
- 5) Withdrawal of Motion
- 6) Reading of Papers

### Privileged Motions

Finally, unlike the above two classification discussed above, privileged motions are unrelated to pending business but rather deal with especially important matters that must be dealt with immediately without debate. Types of privileged motions include:

- 1) Call for Orders of the Day
- 2) Question of Privilege
- 3) Motion to Recess Motion
- 4) to Adjourn
- 5) Motion to Fix the Time to Adjourn

### **Order of Precedence**

The order of precedence among motions has evolved over years of parliamentary practice and procedure but is directly related to the motion classifications briefly reviewed above.

the 7 subsidiary and 5 privileged motions possesses a rank and position of order which all motions below must yield and those above take precedence. Incidental motions, on the other hand, do not rank and cannot be assigned a position as they each have a relationship which can only be defined in relation to the rules governing individual motions. When in order, they take precedence over main motions and any other pending motions. A basic ordinal summary is provided purely as a guideline and listed below for convenient reference. Members are however encouraged toward further individual study in the subject.

### Privileged Motions

#### *Setting Adjournment Time*

- Takes precedent over all other motions
- Not subject to debate when another motion is on the floor
- Debatable when presented as a principal motion with no other motion on the floor

#### *Motion to Adjourn*

- Takes precedent over all other motions except motion to set adjournment time
- Cannot be made when another member has the floor
- Can be made after a vote has been taken but before results announced
- Not subject to debate

#### *Question of Privilege*

- Takes precedent over all other motions except motion to adjourn and motion to set adjournment time
- Generally pertain to immediate member needs such as open/close windows, water, etc.
- Not to be confused with Privileged Motions as a whole

#### *Orders of the Day*

- Takes precedent over all other motions except the above listed motions
- Moved for reminding the body of the business which was scheduled to be discussed when meetings get off track or “out-of-order” motions or discussion has intervened
- Can be overridden by a majority vote in situations where pending motion before the body is felt to take precedence over orders

### Incidental Motions

#### *Motion to Appeal*

- Takes precedent over the motion to which it refers
- Raises question concerning a point of order within a motion

- Decided by the presiding officer without debate
- Can only be made at the time of decision by presiding officer

*Objection to Question Consideration*

- Can only be made when a matter is first introduced
- Cannot be debated or amended
- Commonly used to curtail unproductive or irrelevant discussion
- Cannot be used to close debate of relevant issues

*Reading Papers*

- Single use motion used for the reading of relevant papers requested for informational purposes
- Cannot be used as a delaying technique

*Withdrawal of Motion*

- Granted without debate if moved by maker of motion unless debate is called for

**Subsidiary Motions**

*Motion to Table*

- Takes precedent all other subsidiary motions
- Does not supersede Incidental or Privileged Motions
- Temporary postponement of further action on a pending motion

*Move to the Previous Question*

- Ends debate and calls for a vote on pending matter
- Cannot be amended
- Can be applied to Questions of Privilege or other Debatable Motions
- If approved, then the main motion in addition to subsidiary motions and amendments are voted on in reverse order of proposal

*Move to Postpone (to Certain Time)*

- Takes precedent over Motion to Postpone (Indefinitely), Motion to Refer to Committee, and Amendments but yields to all others
- Postpones all aspects of motions and debate until the specified time
- If several motions are postponed and their time for discussion has passed, then all motions are considered in the order postponed

*Motion to Refer to Committee*

- Takes precedent over Amendments and Motion to Postpone (Indefinitely) but yields to all motions above.

*Amendments*

- Takes precedent only over the motion to be amended
- May include various forms including:
  - To add certain words
  - To strike certain words
  - To strike certain words and insert other words
  - To substitute one resolution for another that is pending
  - To divide the question into two or more parts for separate votes
  - To Fill in the Blanks – (Member A says 5 days while Member B says 6 days) These are treated as separate amendments that are voted on independently

*Indefinite Postponement*

- Applies to Principal Motions or Questions of Privilege
- Used to remove from consideration a motion which may not have sufficient votes to kill

**Committees**

Traditional parliamentary law defines a committee as a body of one or more persons elected or appointed by the main assembly in order to consider, investigate or take action on a specific subject. Standing committees are created to perform a continuing function and to give a task more detailed attention than would be ordinarily possible by the larger assembly. Standing committees also exist perpetually during the existence of the main deliberative body.

Generally speaking a committee entity does not have delegated authority to act independently of the body and functions solely to thoroughly vet and explore a specific project or topic with the intent of submitting a fully informed finding and recommendation to the larger body. In some instances, a standing committee may be granted delegated authority to act independently based on specific instruction given by the body.

In either case, the committee system is a matter of efficiency where the great majority of preliminary work and preparation on a specific task or subject is accomplished. This is especially true for boards where a large volume of business must be completed where it is advisable to have all issues routed to committee before final action is taken on the matter by the Board. Alternately, it also serves as a mechanism to engage membership according to their respective specialties or interests.

The Podiatric Medical Board of California has five standing committees and each is constituted by name. As mentioned in Chapter 4, they are: 1) Executive Management; 2) Enforcement; 3) Licensing; 4) Legislative; and 5) Public Education/Outreach. Each committee, with the exception of Executive Management, is advisory in nature.

### **Presentation & Reception of Committee Reports/Recommendations**

A report or recommendation of a committee is the official statement formally adopted by and submitted to the Board in the name of the committee advising the larger body of its decision on an issue or the information obtained.

Immediately, after receiving a committee recommendation/report, the Board will consider the action that is appropriate to be taken. A motion to adopt, accept or agree to a report (all terms interchangeable) accepts the report as presented. Reports/recommendations that contain strictly factual detail or that are placed on the consent calendar in the interest of time and efficiency and that contain relatively non-controversial matters are unproblematic. Conversely, members of the body may wish to discuss recommendations

In most circumstances, recommendations of committee are presented by a member of the committee by making an appropriate motion to implement the recommendation of the committee at the conclusion of his/her presentation on the matter. A second to the motion is not required in these circumstances as the motion is made on behalf of the committee. If for any reason, the recommendation is presented by a member who is not a member of the committee then the motion must be seconded.

Once the report or recommendation is received and the question to adopt, accept or agree has been stated by the presiding officer, the matter is open for debate and amendment and subject to any subsidiary motions that may be applied to it.

### **Debates & Decorum**

After a motion has been made on an item of business, the floor is opened for debate. The member making the motion has the right of speaking first unless the motion is from a committee, then the committee chair is considered the maker of the motion. Each speaker must be recognized by the presiding officer and is given a time to present his or her views. If desired members may agree to set a time limits for the presentation of views if thought necessary. The maker of the motion calls for closure of debate only after all who wish to have been heard have spoken. Of course, a motion for the Previous Question closes the discussion. It is important to remember that it is the issues that are debated and not individual personalities. Further, improper or inappropriate language is never used.

## Chapter 8. Board Functions and Responsibilities

### Licensing Function

The broad scope of podiatric licensure requirements has been established by the Legislature. These statutory requirements are codified under Article 22 of the Medical Practice Act or what may be specifically termed as the Podiatric Medical Practice Act. As discussed above, the board may adopt additional detailed requirements for licensure under its regulatory authority. These licensing requirements are generally reflected in areas of education, experience and examination. The Podiatric Medical Board of California accomplishes its function objectives through the setting of standards and requirements in each area have included:

- Requiring candidates for licensure to possess two years of pre-professional postsecondary education and study in subjects of chemistry, biology or other biological science and physics or mathematics.
- Requiring candidates for licensure to possess a Certificate of Podiatric Medical Education, representing a minimum of 4,000 hours of academic instruction from a Board-approved school.
- Requiring applicants to pass Parts I, II, and III of the national board exam for assessing a candidate's knowledge, competency, and skills.
- Requiring applicants to complete two years of graduate medical education residency for licensure as a podiatric physician rather than just merely one year as is standard for other physicians.
- Performing an annual review of California-based podiatric graduate medical education residency programs.
- Requiring licensed Doctors of Podiatric Medicine (DPMs) to complete 50 hours of approved continuing medical education every two years.
- Requiring DPMs to demonstrate compliance with Board-mandated continuing competency requirements; the only health regulatory board in the country to implement such a program over and above continuing education alone.

These requirements are based on sound policy rationales designed to ensure that licensed podiatric physicians and surgeons are competent in their profession before they offer medical services to the public in order to prevent irreparable harm that may often occur if not qualified.

### **Enforcement & Quasi-Judicial Function**

In addition to issuing licensure recommendations to prospective California podiatric doctors and surgeons, the Board is also charged with enforcement of the Medical Practice Act and taking disciplinary action against licensees in appropriate cases in order to prevent future harm to the public.

The Podiatric Medical Board of California administratively relies on the larger Medical Board of California for enforcement services, including those from Central Complaints and Discipline Coordination Units. The Board uses the Attorney General's office for prosecution, uses independent Administrative Law Judges (ALJs) from the Office of Administrative Hearings (OAH), and follows the Administrative Procedure Act (APA) like all other state regulatory boards to ensure that an accused licensee is afforded notice and an opportunity to be heard or what is termed "due process."

The enforcement process involves several steps including many stages where board members are prohibited from participating. The accompanying diagram in Appendix A maps out the individual steps in the disciplinary process.

Administrative discipline results from the Board's review of complaints submitted by patients, providers, facilities, insurers, and other law enforcement agencies.

Approximately 150 complaints a year are received in Central Complaints. If a quality-of-care case is assigned to an investigator, it is reviewed by one of the Board's medical consultants, and then, if they recommend, to one of PMBC's approved experts.

If the investigator, after a review, recommends a case be referred to the Attorney General, the board's enforcement coordinator in consultation with the Executive Officer authorizes the transmittal. A Deputy Attorney General (DAG) then reviews the case and, if appropriate, prepares an Accusation. The Accusation is the formal written complaint against the accused licensee. Once signed by the Board's Executive Officer, the licensee is notified of the filing of the document, the Accusation becomes a public document, and a hearing is then scheduled before an Administrative Law Judge (ALJ).

Frequently, the Board and doctor settle out of court by entering into a Stipulated Agreement. If the case goes to hearing, the ALJ takes the testimony and prepares a proposed decision based on the official record of evidence. Both stipulated agreements and proposed decisions go to the board members for mail ballot vote.

## **Board Review and Adoption**

Board members should review the ALJ's proposed decision thoroughly to determine whether to adopt it as a final decision of the Board. This is the first point in the multi-stage disciplinary process in which board members take an active and involved role in the agency's enforcement function. This stage of the disciplinary process can be time-consuming, but it is crucial to ensuring a fair and objective decision for both licensee and protection of the public alike.

## **Consideration Factors for Adoption or Non-Adoption of Proposed ALJ Decisions**

Most decisions involving proposed disciplinary orders are both significant and complex. In addition, underlying the decision evaluation is no less than the paramount interest sought to be achieved which is protection of the public. In order to assist members to objectively and fairly decide whether or not to adopt a proposed ALJ decision, a number of helpful factors to consider follow below.

### **CONSIDER ADOPTION OF PROPOSED ALJ DECISION WHERE:**

- 1) The summary of the evidence supports the findings of fact and the findings support the conclusions of law.
- 2) The law and standards of practice are interpreted correctly.
- 3) In those cases in which witness credibility is crucial to the decision (such as in sexual misconduct cases), the findings of fact include a determination based substantially on a witness' credibility, and the determination identifies specific evidence of the observed demeanor, manner, or attitude of the witness that supports the credibility determination.
- 4) The penalty fits within the disciplinary guidelines or any deviation from those guidelines has been adequately explained.
- 5) If probation is granted, the terms and conditions of probation provide the necessary public protection and are supported by the facts of the case.

### **CONSIDER NON-ADOPTION OF PROPOSED ALJ DECISION WHERE:**

- 1) The proposed decision reflects the ALJ clearly abused his/her discretion in that the action is not supported by the evidence.
- 2) The ALJ made an error in applying the relevant standard of practice for the issues in controversy at the hearing.
- 3) Witness credibility is crucial to the decision (such as in sexual misconduct cases), the findings of fact include a determination based substantially on a witness' credibility, but the determination does not identify specific evidence of the observed demeanor, manner, or attitude of the witness that supports the credibility determination.
- 4) The ALJ made an error in interpreting the licensing law and/or regulations.

5) The ALJ made correct conclusions of law and properly applied the standards of practice but the penalty is substantially more or less than is appropriate to protect the public.

### **Helpful Suggestions for Review and Discussion after Non-Adoption**

When the factual or legal findings of the ALJ are called into question and the members of the Board determine to non-adopt the proposed ALJ decision, staff will then begin preparations for obtaining the complete administrative record including the transcript of testimony and all documentary evidence presented in the case. Although this function may be time-consuming, it is essential that Board members review all materials in order to ensure that a licensee is provided due process and that the objectives of consumer protection are met.

The role of each board member in the enforcement process is crucial to fulfilling the Board's mandate of public protection. During enforcement proceedings—where members serve as judges with final Board decision-making power—board members must always remain cognizant that their decision must be based solely on the evidence admitted by the ALJ and must not and cannot be based on personal experience or knowledge, hearsay or ex parte or off the record communications.

The following suggestions are offered to assist members reviewing a case record in an efficient and effective manner.

**READ THE FULL ADMINISTRATIVE RECORD – In the following order:**

#### **THE ACCUSATION**

Review the written notes of the code sections charged and brief description of what they cover. (B&P Section 2234(b) - gross negligence; B&P Section 2242 - prescribing w/o medical exam.)

Review the facts that are alleged to prove the code violations. The burden to prove the violations by “clear and convincing evidence to a reasonable certainty” is on the Board.

#### **THE PROPOSED DECISION**

If “gross negligence,” “repeated negligent acts,” or “substantially-related” conduct is alleged, expert testimony is necessary to prove the violations. It is important to focus on the three particular areas below.

##### **1. Factual Findings**

- Did the ALJ find the facts were proven by clear & convincing evidence? If not, why not?
- Was sufficient evidence introduced to prove the facts?
- Did the witnesses' testimony prove the facts?
- Did the ALJ find some witnesses more credible than others? If so, why?

- To which expert's testimony did the ALJ give the most weight?
- Was any evidence of mitigation introduced by the respondent?

**Close attention to the ALJ's factual findings should be paid as board members will need to evaluate them when the transcript is reviewed.**

2. Legal Conclusions (determination of issues)

- Do the facts proven constitute a violation of the code section?

3. Order

- Does the Order contain the appropriate penalty given the violations found?
- Is the Order consistent with the Disciplinary Guidelines and, if not, is there a basis in the record for deviating from the guidelines?

**THE TRANSCRIPT**

Frequent notes should be taken – “Is the evidence introduced proving the facts and the violations alleged?”

1. Sufficiency of the Evidence

Has “clear and convincing evidence to a reasonable certainty” been introduced to prove each factual allegation? You must be able to identify clear and convincing evidence in the record to support a finding.

2. Lay Witnesses

- Does the witness testimony prove the facts? (It is important to keep the ALJ's credibility findings in mind when evaluating testimony.)
- If not, what evidence supports your conclusion as to who is more credible?

3. Expert Witnesses

- Which expert's testimony was given the most weight by the ALJ? Why?
- If you do not agree, what evidence in the record supports your conclusion?

**PREPARATION BEFORE THE ORAL ARGUMENT HEARING**

WRITTEN ARGUMENTS

The DAG's argument will contend the facts are clearly proven and constitute a violation of the law. The burden of proof is on the Board. Has that burden (clear and convincing evidence) been met?

The Respondent's argument will likely focus on the weaknesses of the Board's case and the strength of the respondent's case. It will force members to answer hard questions including whether:

- 1) the facts were proven;
- 2) the law was violated; and
- 3) the penalty is appropriate.

#### ADDITIONAL REVIEW OF THE PROPOSED DECISION

You should now have a complete picture of the case. Make notes on the proposed decision where you agree and disagree with the ALJ as to the factual findings, the legal conclusion, and the proposed penalty.

If you disagree, note the specific evidence in the record that supports your conclusion. *You should also note the volume and page number of the transcript.* You must cite "clear and convincing evidence to a reasonable certainty" to make a finding.

#### ORAL ARGUMENT

The oral arguments made by respondent's attorney and DAG typically highlight points made in the written argument. Board members may ask questions to clarify matters that may be confusing.

***Questions that seek information that is not part of the existing record may not be asked, and an answer that results in new information may not be considered.***

#### SUMMARY AND CONCLUSION

During your review, keep in mind the code sections alleged to have been violated and the facts alleged to have occurred. If you keep this as your focus, your evaluation of all the elements of the case should make your decision much easier. This will also help your decision withstand judicial scrutiny.

#### **Court Review of Board Decision**

It may not be unusual for a licensee to challenge a final decision of the board on a disciplinary decision on appeal to the courts. There is no additional role for Board members to play on appeal unless a court is to reverse and remand a decision for further proceedings in accord with the decision of the tribunal. Additionally, members are generally not asked to appear in proceedings before a court regarding board decisions.

#### **Office of Administrative Hearing Processes and Procedures**

For additional information and guidance with Administrative Hearings, OAH training materials are provided in the Appendix of the Board Administrative Manual for member reference.

## **Quasi-Legislative Function**

Under sections 101.6, 2460 and 2460.1 of the Business and Professions Code (B&P), the Podiatric Medical Board of California has been charged by the Legislature with the responsibility for regulating the profession of podiatric medicine within the State of California. Additionally, the Board has been delegated the authority by the Legislature under section 2470 B&P to adopt, amend or repeal any regulations necessary to enable the board to execute the laws related to the practice of podiatric medicine.

A regulation is defined in Government Code section 11342.600:

"Regulation means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure."

This exclusive charge for the regulation of podiatric medicine is considered the Board's quasi-legislative function. However, not every statute requires the adoption of an implementing regulation. In this regard, it is useful to think about three types of statutory provisions:

- 1) Self-executing;
- 2) Wholly enabling; and
- 3) Susceptible to interpretation.

### **Self-Executing Statutes**

A self-executing provision is so specific that no implementing or interpreting regulation is necessary to give it effect.

An example is a statutory provision that provides: "The annual licensing fee is \$900."

### **Wholly Enabling Statutes**

A wholly-enabling statutory provision is one that has no legal effect without the enactment of a regulation.

An example is a statute that provides: "The department may set an annual licensing fee up to \$900." This type of statute cannot be legally enforced without a regulation setting the fee.

### **Statutes Susceptible to Interpretation**

A statutory provision that is susceptible to interpretation, may be enforced without a regulation, but may need a regulation for its efficient enforcement.

An example is a statute that provides: "Surgery is permitted at the level of the ankle." This type of statute would leave open the question as to what the term ankle is defined to mean or include.

This is not to say that the example above is impossible to administer, but only that such a strategy requires that no rule or standard of general application be used that should have been adopted pursuant to the APA. Conceptually, the statute could be enforced on a case-by-case basis, but such an enforcement posture presents significant difficulties, not the least of which includes the untenable inability to provide accurate and concise guidance to members of the public and/or licensees interested in strict compliance with the law.

### **Mandatory Rulemaking Procedures of the APA**

Accordingly, section 11346 of the California Government Code (GC) provides that every regulation must be subject to the rulemaking procedures contained in the APA. That compliance with the rulemaking requirements of the APA was not optional was made abundantly clear by the 1978 California Supreme Court case *Armistead v. State Personnel Board*. The court noted that "[t]he manner of [noncompliance] takes many forms, depending on the size of the agency and the type of law being administered, but they can all be briefly described as 'house rules' of the agency." Quoting a 1955 legislative report noted the finding that noncompliance with APA rulemaking requirements was common.

"[Underground regulations] consist of rules of the agency, denominated variously as 'policies,' 'interpretations,' 'instructions,' 'guides,' 'standards,' or the like, and are contained in internal organs of the agency such as manuals, memoranda, bulletins, or are directed to the public in the form of circulars or bulletins." [First Report of the Senate Interim Committee on Administrative Regulations (1955) as cited in *Armistead*, p. 205.]

Plainly stated, if a state agency issues, enforces, interprets or attempts to enforce a statute without following the APA when it is required to, the rule is called an "underground regulation." State agencies are prohibited from enforcing underground regulations under section 11340.5 of the Government Code.

### **Underground Regulations & Three Step Analysis**

In order to determine whether a particular Board policy, procedure or interpretation of law should be adopted pursuant to the APA, it is necessary to first ascertain whether the particular policy or procedure is already set out in an applicable statute or duly adopted regulation.

The adoption of a policy or procedure as a "regulation" pursuant to the APA is not required if the specific policy or procedure is found contained in an applicable statute or duly adopted regulation. Conversely, if it is determined that the policy or procedure (i.e., rule) is not set out in an applicable statute or duly adopted regulation, then the following three-step analysis must be used to determine whether the policy or procedure must be adopted as a regulation pursuant to the requirements and procedures of the APA:

### **Step One**

Is the policy or procedure either:

- a rule or standard of general application, *or*
- a modification or supplement to such a rule?

### **Step Two**

Has the policy or procedure been adopted by the agency to either:

- implement, interpret, or make specific the law?

If the policy or procedure answers the first two steps above affirmatively, then it is a "regulation" as defined in the APA and must be adopted as a regulation pursuant to the APA unless it falls within an express statutory exemption from the requirements of the APA. Generally, all "regulations" issued by state agencies are required to be adopted pursuant to the APA, unless *expressly* exempted by statute. (Government Code section 11346.)

### **Step Three**

Has the policy or procedure been:

- expressly exempted by statute from the requirement that it be adopted as a "regulation" pursuant to the APA?

If the policy or procedure does not fall within an express statutory exemption, then it is subject to the rulemaking requirements of the APA.

## **The Rulemaking Process**

Every board or commission in the executive branch of state government must follow the rulemaking procedures codified in the Administrative Procedures Act ("APA") found in California Government Code section 11340 et seq. and adopted regulations propounded by the Office of Administrative Law (OAL). This is generally the case unless expressly exempted from these requirements by statute. The APA requirements are specifically created to provide the public with a meaningful opportunity to participate in the adoption of rules that have the force of law by California state agencies in addition to ensuring the creation of an adequate record for the public, OAL and judicial review.

Generally, there are two types of rulemaking procedures that a state agency can pursue: **regular** or **emergency**. The regular rulemaking process requires that a state agency meet certain public hearing and notice requirements. The emergency rulemaking process has different requirements, which generally include a brief public notice period, a finding of emergency, a brief public comment period, review by OAL and an OAL decision. In addition, some agencies have requirements related to regular or emergency rulemakings that are unique to that particular agency. (Please also see either OAL's Regular Rulemaking Checklist or Emergency Rulemaking Checklist.)

For the regular rulemaking process, once a state agency decides to conduct a regular rulemaking action, it develops the documents required to conduct a formal APA rulemaking proceeding. Some agencies involve the public during this stage, while others do not. Government Code section 11346.45 requires an agency to engage in pre-notice public discussions (also called "workshopping") if the proposal is large or complex. The agency develops four documents during the preliminary activity stage which are needed to initiate the formal rulemaking process: (1) the proposed text; (2) the Initial Statement of Reasons; (3) the STD Form 399 Economic and Fiscal Impact Statement; and (4) the Notice of Proposed Regulatory Action (notice).

To initiate a rulemaking action, proposed language or amendments are presented to the board for approval and for authority to commence the rulemaking process. The staff then issues a notice by having it published in the California Regulatory Notice Register, by mailing the notice to those persons who have filed a request for notice of regulatory action, and by posting the notice, text, and Initial Statement of Reasons on the agency's website. See Government Code section 11346.5. Once the notice is published in the California Regulatory Notice Register, the APA rulemaking process is officially started and the agency has one year within which to complete the rulemaking and submit the rulemaking file to OAL.

The APA requires at a minimum a 45-day opportunity to comment to the agency in writing on the proposed regulation. The notice specifies where the comments must be directed and the date this opportunity to comment in writing on the proposal closes. Under the APA, an agency has an option as to whether it will hold a public hearing on a proposed rulemaking action. However, if an agency does not schedule a public hearing, any interested person can submit a written request for one to be held. The written request for a hearing must be submitted at least 15 days prior to the close of the written public comment period, and the agency must give notice of and hold a public hearing. See Government Code section 11346.8.

After the initial public comment period, a rulemaking agency may decide to change its initial

proposal either in response to public comments received or on its own initiative. The agency must then decide whether a change is (1) nonsubstantial; (2) substantial and sufficiently related; or (3) substantial and not sufficiently related. See Government Code section 11346.8(c). A rulemaking agency must make each substantial, sufficiently related change to its initial proposal available for public comment for at least 15 days before adopting such a change. Thus, before a rulemaking agency adopts such a change, it must mail a notice of opportunity to comment on proposed modifications along with a copy of the text of the new proposed changes to each person who has submitted written comments on the proposal, testified at the public hearing, or asked to receive a notice of proposed modifications. The agency must also post the notice on its website. No public hearing is required. The public may comment on the proposed modifications in writing.

The agency must then consider comments received during the 15-day comment period which are specifically directed to the proposed modifications. An agency may conduct more than one 15-day opportunity to comment on modifications.

A rulemaking agency must summarize and respond on the record to timely comments that are directed at the proposal or at the procedures followed by the agency during the regulatory action. With each comment, the agency must either (1) explain how it has amended the proposal to accommodate the comment, or (2) explain the reasons for making no change to the proposal. The summary and response to comments is included as part of the rulemaking file in a document called a Final Statement of Reasons. See Government Code section 11346.9.

A rulemaking agency must transmit a rulemaking action to OAL for review within one year from the date that the notice was published in the California Regulatory Notice Register.

OAL then has 30 working days to conduct its review. OAL must review the rulemaking record to determine whether it demonstrates that the rulemaking agency satisfied the procedural requirements of the APA and to review the proposed regulations for compliance with the six legal standards set forth in the APA: Authority, Reference, Consistency, Clarity, Nonduplication and Necessity. OAL may not substitute its judgment for that of the rulemaking agency with regard to the substantive content of the regulations. See Government Code section 11349.1.

## **Outreach Function**

Another important function of the Board that cannot be overlooked is the responsibility to conduct outreach and education to the general public through the development of consumer outreach projects. These frontline efforts seek to bring the mission of the Podiatric Medical Board of California directly to consumers that not only inform of the existence of the agency, its jurisdiction and authority but also how to access its critical services.

This function is accomplished through a variety of programs including the Board's newsletter, web site, pamphlets brochures and publications, e-government initiatives and outside organization presentations on public positions of the Board. Members of the public outreach committee may be charged to act as good will ambassadors and represent the Board at the invitation of outside organizations and programs for personal speaking engagements.

In all instances regardless of venue, forum or methodology employed to connect with the people of the State, the basic underlying drive is designed to promote PMBC's mission and mandate to consumers while sharing its reputation as an advocate of consumer protection that will educate and empower toward a safer, fairer and competitive marketplace.

## Abbreviations and Acronyms Glossary

**Abuse of Discretion** – Of the three main standards of review in California jurisprudence, the abuse of discretion standard is the most deferential to an arbiter's decision. While many Courts have provided varying definition of the standard, thus making it difficult to define, the California Supreme Court has sometimes described it as "whether the trial court exceeded the bounds of reason." See *Shamblin v. Brittain*, 44 Cal.3d 474, 478 (1988). Other courts have offered similar definitions; as one appellate court phrased it, an abuse of discretion occurs only when "it can fairly be said that no judge would reasonably make the same order under the same circumstances." *In re Marriage of Lopez*, 38 Cal.App.3d 93, 114 (1974).

**ALJ Administrative Law Judge** - A judge from OAH who presides over license denial and discipline cases (the trier of fact) and makes a Proposed Decision to the board that includes findings of fact, conclusions of law, and a recommended penalty.

**APA Administrative Procedure Act** - The law that sets out the procedure for license denial and license discipline, to meet constitutional requirements for due process of law.

**Bagley-Keene** - Name of the law that requires public meetings and Open Meeting Act distribution of meeting notices and agendas.

**Conflict of Interest Laws** - Refers to a number of laws which relate to a person's personal interest which conflicts with the public interest.

**DAG- Deputy Attorney General** - An attorney from the Office of the Attorney General who prosecutes license denial and discipline cases.

**Gross negligence** - An extreme departure from the standard of practice.

**Hearsay** – A statement that is made out of court that is offered in court as evidence to prove the truth of the matter asserted.

**Incompetence** - Lack of knowledge or skills in discharging professional duties.

**Negligence** - A departure from the standard of practice.

**OAH-Office of Administrative Hearings** - The state agency that provides neutral (unaffiliated with either party) judges to preside over administrative cases.

**OAL-Office of Administrative Law** - The state agency that reviews regulation changes for compliance with the process and standards set out in law and either approves or disapproves those regulation changes.

**Petition for Writ Of Mandate** - The name for the type of appeal filed in Superior Court that a licensee files when the licensee wishes to challenge a license disciplinary decision.

**Pro Rata Share** - Usually, a board's share of costs for certain services, usually determined by a proportional, mathematical formula.

**Regulation** - A standard that implements, interprets or makes specific a statute enacted by a state agency. It is enforceable the same way as a statute.

**Stipulation** - A form of plea bargaining in which a disciplinary case is settled by negotiated agreement prior to a hearing.

**Statute** - A law passed by the Legislature.

**TRO-Temporary Restraining Order** - An order issued by a Superior Court judge to immediately halt practice.

## **Appendix A**

Oath of Office

Board Member Activity Log

Direct Deposit Authorization

OAH Training Materials for New Board Member Orientation

Podiatric Medical Board of California Organizational Chart

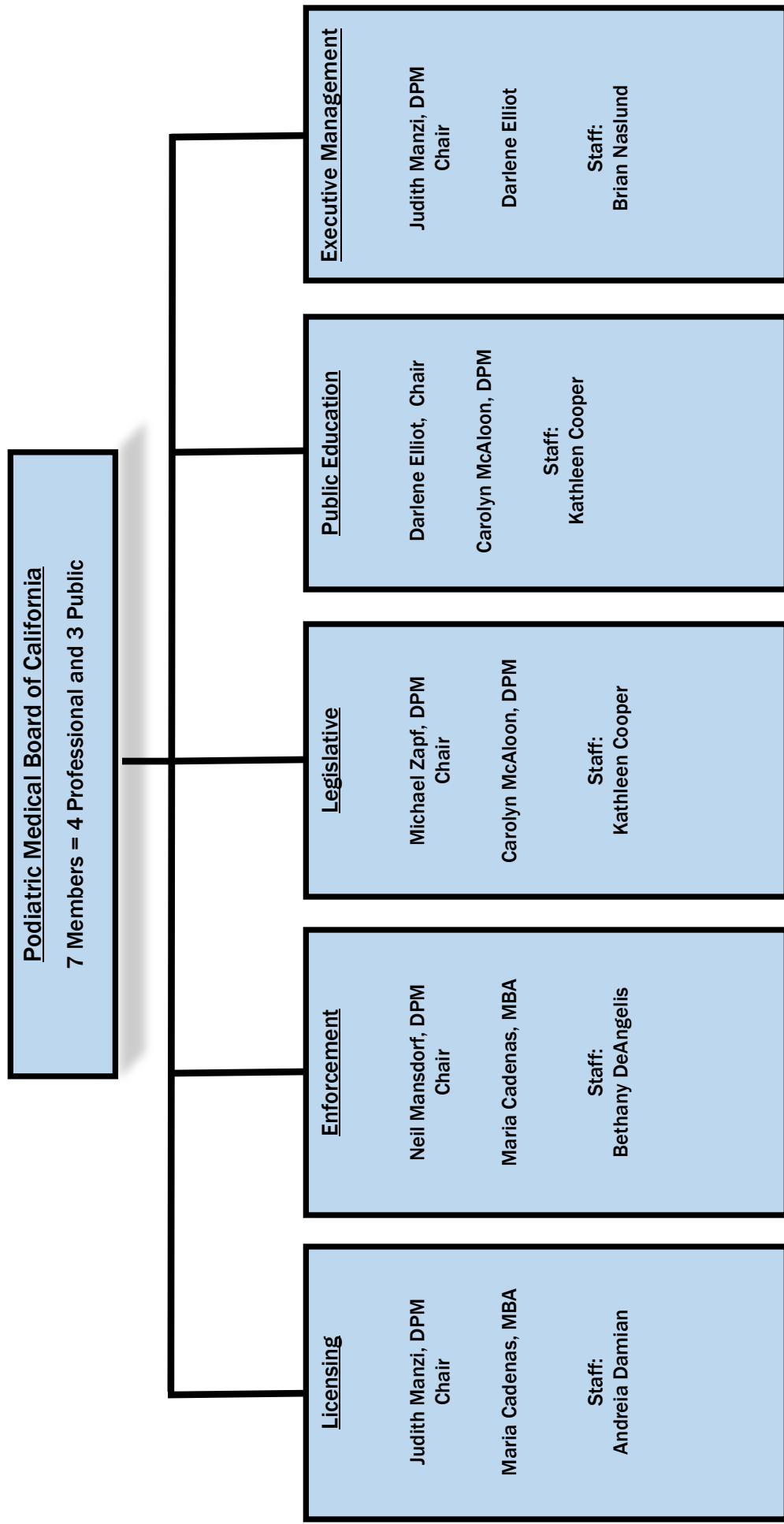
State of California Organizational Chart

Legislation Life Cycle

Regulation Process

Enforcement Process Overview

## CURRENT FY 2019 - 2020 COMMITTEES



Final Report



# Podiatric Medical Board of California

## Fee Audit

November 1, 2019

Submitted By:

**Monetary Resources Group**  
Jeff Mikles, PMP (ret), Principal

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## Executive Summary

The mission of the Podiatric Medical Board of California (PMBC or Board) is to protect and educate consumers of California through licensing, enforcement and regulation of Doctors of Podiatric Medicine. The Board is one of 40 regulatory entities functioning semi-autonomously under the guidance of the California Department of Consumer Affairs.

A specific function of the Board is to review/set fees levied on applicants for initial and renewal licensure, and permits, as well as any modifications thereof. The licensure and permit fees are intended to be sufficient to cover the cost of the Board's regulatory services.

In May 2019, the Board engaged Monetary Resources Group (MRG) to review and analyze the Board's fee structure to:

- Analyze Board licensing and enforcement performance, and revenue and expense trends, including the effects of recent fee increases.
- Analyze the Board's fee structure to determine if fee levels are properly aligned and sufficient for the recovery of the actual cost of conducting its program.
- Project revenues and associated costs for the next five years to determine if the fee structure is sufficient and sustainable to maintain an acceptable reserve for economic uncertainties.
- Establish a justifiable cost basis to assess services the Board provides when a separate fee is not provided for an unscheduled service.
- Prepare a written report of the findings and recommendations.

## Summary of Findings and Recommendations

Based on the review, MRG found the following:

- Effective July 1, 2020, the Board officially changed its name from the Board of Podiatric Medicine to the Podiatric Medical Board of California.
- The Board adopted a new strategic plan covering Fiscal Years 2019-22.
- Over the four fiscal-year period reviewed, licensing applications received, issued and renewed have been increasing for permanent DPMs and have been stable for resident licenses.
- Over the four fiscal-year period reviewed, consumer complaints opened and referred to investigation have been increasing. The average number of days to complete an investigation is 166, but the average number of days for the Attorney General to discipline a licensee has almost doubled to 1,519.

- Effective January 1, 2019, the PMBC temporarily raised the Biennial License Renewal fee to \$1,100 for two years only through December 31, 2020. This fee was last increased to \$900 in 2004.
- Expense trends: At 41.1%, Personnel Services expenses (salaries, wages and benefits) are the Board's single largest recurring expense, followed by External Enforcement expenses (35.4%), DCA Departmental Services (15.5%), and General Office expenses (8.2%). Approximately 50% of the Board's expenses are beyond its control.
- Board Fund 0295 reserve balance is declining: The DCA Budget Office and MRG projections show the fund reserve balance is declining rapidly. The Board's DCA Budget Analyst indicated most Boards have a fund balance reserve of 12 months and some as high as 24 months. The Analyst agrees 12 months would be a good goal for PMBC. MRG used a conservative approach to project two funding scenarios for the Board's consideration.

As a result, MRG recommends the following:

1. When appropriate, the new Office Technician should assume more of the administrative clerical tasks not currently being performed by the AGPA Licensing and Enforcement Coordinators.
2. All the Board staff use Microsoft Excel for various tracking tasks. PMBC management should consider providing staff with additional training in Microsoft Excel and Access to improve spreadsheet effectiveness and efficiency, and to build databases to replace some of the spreadsheet logs.
3. Over time, PMBC should strive for at least a 12-month fund balance to ensure a sufficient operating reserve over and above costs it can and cannot control, and increase fees accordingly as needed to maintain this reserve.
4. After balancing the Board's regulatory and financial needs with licensee acceptance and satisfaction, MRG recommends:
  - a) At a minimum, the Board should adopt Scenario 1 to make the \$200 temporary renewal fee permanent to provide near-term solvency for the Board. Only renewal licensees pay the additional \$42 fee for a total biennial fee of \$1,142; and
  - b) Given the current and prospective national economic and political environments, the Board should give special consideration to also adopting Scenario 2 which makes the \$200 temporary renewal fee permanent **and** increases fees to raise \$300,000 each fiscal year to stabilize the fund balance longer term. All licensees would pay \$1,318. For initial licensees, this represents a \$269 increase from \$1,049 and for renewal licensees a \$218 increase from \$1,100.

5. When appropriate, PMBC should charge for unscheduled services based on a fully absorbed cost rate of \$127 per hour. Services should be charged accordingly based on the actual time PMBC consumes to provide the service.

## Introduction

The mission of the Podiatric Medical Board of California (PMBC or Board) is to protect and educate consumers of California through licensing, enforcement and regulation of Doctors of Podiatric Medicine. The Board is one of 40 regulatory entities functioning semi-autonomously under the guidance of the California Department of Consumer Affairs (DCA).

### Background

The following presents background information on the future of the podiatric medicine industry; Board history, composition and governance structure; strategic plan goals; licensing requirements; Board functions and staffing.

#### The Future of Podiatric Medicine

The future is bright for podiatric medicine practitioners according to the American Association of Colleges of Podiatric Medicine (AACPM) and the US Department Labor Statistic's *Occupational Outlook Handbook*. There are many reasons to pursue a career as a podiatric physician. It is a medical/surgical career that is both challenging and rewarding. With the aging population and the global diabetes epidemic sweeping through the United States there will be an increased demand for high quality podiatric physicians in the future. The Bureau of Labor Statistics projects a 6% increase in podiatric physician positions from 2018 to 2028.

Table 1 shows the states with the highest employment level for Podiatrist, hourly mean and annual wages. California is at the lower end of this comparison.

**Table 1**  
**States with the Greatest Employment Opportunities for Podiatrist**

State	Employment	Employment per thousand jobs	Hourly mean wage	Annual mean wage
New York	1,140	0.12	\$75.46	\$156,960
Florida	860	0.10	\$65.47	\$136,170
California	780	0.05	\$58.05	\$120,750
Pennsylvania	600	0.10	\$65.76	\$136,780
Illinois	570	0.09	\$86.67	\$180,270

Source: US Dept of Labor Bureau of Labor Statistics, May 2018<sup>1</sup>

Nationwide, there are only the following nine AACPM-accredited podiatric medicine programs. California is the only state with more than one school. The state locations are indicated in parentheses:

<sup>1</sup> <https://www.bls.gov/ooh/healthcare/podiatrists.htm>

- California School of Podiatric Medicine at Samuel Merritt University (CSPM) (CA)
- Western University College of Podiatric Medicine (WUCPM) (CA)
- Arizona School of Podiatric Medicine (AZPOD) (AZ)
- Barry University School of Podiatric Medicine (BUSPM) (FL)
- Des Moines University – College of Podiatric Medicine and Surgery (DMU-CPMS) (IA)
- New York College of Podiatric Medicine (NYCPM) (NY)
- Kent State University College of Podiatric Medicine (KSUCPM) (OH)
- Dr. William M. Scholl College of Podiatric Medicine at Rosalind Franklin University (SCPM) (IL)
- Temple University School of Podiatric Medicine (TUSPM) (PA)

Table 2 displays the number of applicants, enrollment and graduates by school and gender for the 2017-18 school year. The table indicates there were more male enrollees and graduates. The two California schools had approximately 18.4% of applicants and 14% of the graduates for this school year. Although not shown in this table, the AACPM data also indicate that underrepresented minority student populations are on the rise.

**Table 2**  
**Applicants, Enrollment and Graduates by School and Gender for 2017-18**

College	Applicants	Enrollment		Graduates	
		Females	Males	Females	Males
CSPM (CA)	281	75	102	20	22
WUCPM (CA)	293	51	96	14	20
AZPOD (AZ)	320	29	82	9	17
BUSPM (FL)	343	94	120	15	28
DMU-CPMS (IA)	363	69	135	16	32
NYCPM (NY)	358	148	208	31	54
KSUCPM (OH)	425	166	264	36	69
SCPM (IL)	354	130	213	22	52
TUSPM (PA)	383	150	221	39	51
<b>Totals</b>	<b>3,120</b>	<b>912</b>	<b>1,441</b>	<b>202</b>	<b>345</b>

Source: AACPM, 2017-18<sup>2</sup>

### **Board History, Composition and Governance Structure**

Beginning in 1957, the state licensure of Doctors of Podiatric Medicine (DPMs) was handled by a Chiropody Examining Committee working under the auspices of the California Board of

<sup>2</sup><https://www.aacpm.org/statistics-2/>

Medical Examiners. In the mid-1960's, the name was changed to Podiatry Examining Committee. In 1986, the organization was formally named the Board of Podiatric Medicine.

Recent legislation, including approval of Business & Professions Code (BPC) section 2472 and AB 2457 (Irwin), increased the industry's scope of practice and prestige. Effective January 1, 2018, BPC 2472 broadened the practice so that doctors of podiatric medicine (DPMs) with proper training are allowed to provide medical treatments or wound care for patients suffering from diabetes complications and other lower limb diseases. With approval of AB 2457 in July 2018, the Board achieved recognition as the third medical board in California. The name change was effective July 1, 2019.

Other important legislation included passage of SB 1480 resulting in BPC section 2499.5, which increased a number of fees effective January 1, 2019, including the biannual renewal fee to \$1,100 until December 31, 2020. On January 1, 2021, the fee reverts to \$900.

The Board is composed of seven members serving four-year terms with no more than a maximum of two consecutive terms. The Governor appoints four professional members and one public member. The Senate Rules Committee and the Assembly Speaker each appoint one public member. Board members are not allowed to own or acquire an interest in an institution engaged in podiatric medical instruction. Since June 1, 2019, the Board has had one vacancy.

The five standing Board committees are:

- **Executive Committee:** The Executive Committee is made up of the Board's president and vice-president (elected annually). As determined by the Board president, the committee may also include the next ranking member of the Board or another member appointed by the Board president for a total of three members. When the committee is comprised of three or more members, all notice requirements of the Open Meeting Act shall be followed. The Committee also provides guidance to administrative staff for the budgeting and organizational components of the Board and is responsible for directing the fulfillment of recommendations made by the Board's other committees.
- **Enforcement Committee:** The Enforcement Committee is responsible for the initial development and review of Board-adopted policies, positions and disciplinary guidelines. Although this committee does not review individual enforcement cases, it is responsible for policy development of the enforcement program, pursuant to the provisions of the Administrative Procedure Act (APA), for consideration by the Board.
- **Licensing Committee:** The Licensing Committee is responsible for the initial review and development of regulations regarding educational and professional ethics course requirements for initial licensure and continuing education programs. The committee

monitors various education criteria and requirements for licensure, taking into consideration new developments in technology, podiatric medicine and current activity in the health care industry.

- **Legislative Committee:** The Legislative Committee is responsible for monitoring and making recommendations to the Board on legislation impacting the Board's mandate. This committee may also recommend pursuit of specific legislation to advance the mandate or propose amendments or revisions to existing statutes for advancing the same.
- **Public Education/Outreach Committee:** The Public Education/Outreach Committee is responsible for the development of consumer outreach projects, including the Board's newsletter, website, e-government initiatives and outside organization presentations on public positions of the Board. The members of this committee may act as goodwill ambassadors and represent the Board at the invitation of outside organizations and programs. In all instances, members must only present positions of the Board and members and shall not express or opine on matters unless explicitly discussed and decided upon by the Board.

These committees meet only at publicly scheduled and noticed meetings and are subject to the Bagley-Keene Open Meetings Act.

The Board appoints an exempt Executive Officer (EO) to carry out the Board's mission and serves at its pleasure. The Board is funded entirely through license application, examination and biennial renewal fees, and receives no revenue from the State's General Fund.

### **Board Strategic Plan**

In 2019, the Board prepared and approved strategic plan covering fiscal years 2019 – 2022. The plan identifies recent accomplishments, including but not limited to, recognition as the third California medical board, increasing the scope of practice for DPMs, technological advancements to work more effectively and efficiently, and increase outreach to the medical community and stakeholders through multiple communication channels. The plan also reaffirms the Board's mission, vision and values of consumer protection, effectiveness, fairness, professionalism, service and transparency. Finally, the plan enumerates the Board's strategic goals concerning Enforcement, Licensing, Legislation/Regulations, Administration, Outreach and lists specific activities/tactics to achieve the goals.

### **Licensing Requirements**

Candidates for licensure must meet the following requirements:

- Graduation from a Board-approved podiatric medical school and possession of a Certificate for Podiatric Medical Education representing a minimum of 4,000 hours of academic instruction.
- Satisfactory completion of two years of postgraduate medical and surgical training.
- Passage of Parts I, II and III of the national board exam for assessing candidate knowledge, competency and skills.
- Satisfactory completion of 50 hours of approved continuing medical education every two years.

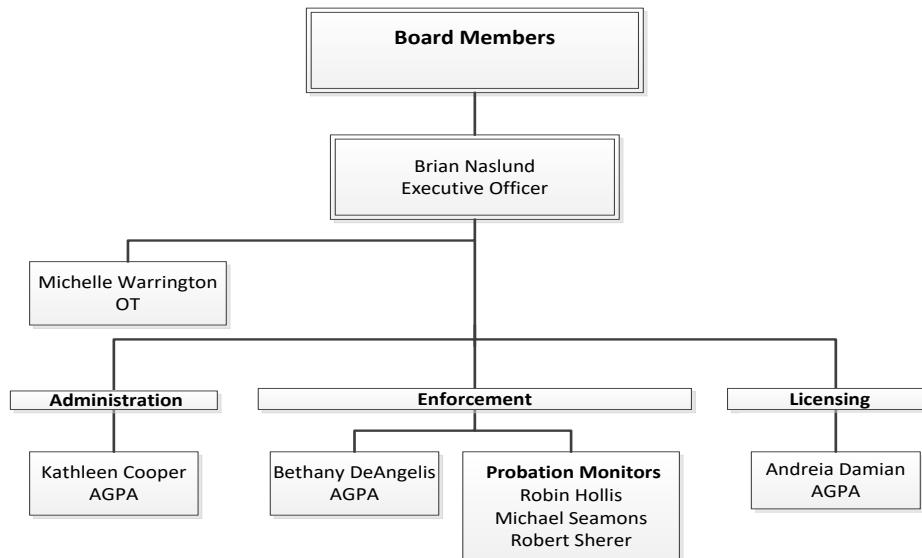
### **Board Functions and Staffing**

The Board is authorized for 5.2 full-time positions and is currently staffed with the following five (5.0) positions displayed in Figure 1. The Board's exempt Executive Officer directs four civil service staff within the following functions:

- Executive Office: one Office Technician (OT) (vacant)
- Administration: one Associate Governmental Program Analyst (AGPA)
- Enforcement: one AGPA Enforcement Coordinator oversees three temporary Probation Monitors (note: temporary positions are not funded as full-time positions)
- Licensing: one AGPA Licensing Coordinator

The organization chart shows the Board staff and functions as of July 31, 2019.

**Figure 1**  
**Board of Podiatric Medicine**



## Scope, Objectives and Methodology

The scope of this engagement focused on a review of the Board's fee structure and staff workload that addressed the following project objectives:

- Analyze Board licensing and enforcement performance, revenue and expense trends, including the effects of recent fee increases. This includes analyzing statistics for licensing new applicants, renewals, and retirees; complaints; investigations; disciplinary referrals; citations and fines; cost recovery; etc. This also includes analyzing expenses under and not under the Board's control.
- Analyze the Board's fee structure to determine if fee levels are properly aligned and sufficient for the recovery of the actual cost of conducting its program.
- Project revenues and associated costs for the next five fiscal years to determine if the fee structure is sufficient and sustainable to maintain an acceptable reserve for economic uncertainties. This includes defining an acceptable fund reserve in months. If the fee structure or reserve is insufficient, the study recommends fee revisions and a minimum reserve requirement based on conservative fiscal projections.
- Develop a justifiable cost basis to assess services the Board provides when a specific fee is not provided. This is based on assessing employee activity and workload data to determine an hourly cost for performing various Board activities and unscheduled services.
- Prepare a written report of the findings and recommendations.

The MRG methodology included:

- Conducted an on-site kickoff meeting;
- Conducted off-site document reviews of pertinent legislation, the Board strategic plan, fee schedule, online forms, multi-year Board financial information covering revenues and expenditures for four fiscal years FYs 2015-16 through 2018-19, the organization chart and current staff duty statements.
- Reviewed DCA policies, procedures, methodology, and rationale.
- Through staff interviews and information requests, confirmed the completeness and accuracy of Board staff duty statements, including assigned work not being completed, forms, business processes and systems used.
- Analyzed revenues and expenditures for four fiscal years FYs 2015-16 through 2018-19 for various trends and anomalies to provide the basis for projecting future revenues, expenses and fees required to recover operating expenses and a sustainable fund balance.

- Prepared draft and final reports with recommendations for improvement.

### **Constraints and Data Qualifications**

MRG relied on information received from the Board and DCA Budget Office, and reviews of unaudited information.

### **Acknowledgment**

MRG wishes to thank all participants at the Board and the DCA Budget Office for their invaluable and timely contributions.

## Study Results

The following presents the study findings and recommendations, including a discussion of licensee characteristics, staff tasks and workload by function, analysis of revenue and expenses, Board fund balance, and fee projections to cover estimated expenses.

### Licensee Characteristics

An analysis of licensee characteristics drawn from the BreEZe licensing and enforcement system at the end of the 2018-19 fiscal year (Table 3, page 19) shows there are currently 2,519 active licensees, including 2,246 (88.3%) permanent Doctors of Podiatric Medicine (DPM), 122 (5.1%) with resident status, and 151 (6.6%) retiree fee-exempt licensees. The Board issues a resident license to applicants during their residency training before a permanent license is issued. Permanent and resident licenses are issued to in and out-of-state applicants.

DPMs can acquire a retiree fee-exempt license by submitting a Retired Application form. This enables DPMs to retain their license number and continue to receive biennial renewal notices but does not require them to pay licensing fees or comply with Continuing Medical Education (CME) requirements. If retired DPMs decide to begin practicing again, they must submit an Application to Restore License to Full Active Status, pay the current renewal fee, and provide documentation of 50 CME hours within two years before reactivation.

Active Board licensees are from 42 states including California. Licensees are both male and female, but many declined to state gender on their application. The oldest active licensee is 102 years old and the youngest is 28. There are 576 licensees age 65 or older.

### Staff Tasks and Workload

As the organization chart displays, Board staff tasks and workload is broken down into four areas: Executive, Administrative, Licensing, and Enforcement. The following work distribution charts display and discuss the work being performed and not getting completed by each staff member in these respective areas.

Board management claims all critical and essential function tasks are being performed in a timely manner and that only non-essential housekeeping tasks (e.g., filing, updating procedures, etc.) are pending. In addition, there are special projects such as the forthcoming Sunset Report and this fee audit that reduce the amount of time available to address the non-essential tasks.

## Executive Officer Tasks and Workload

Work distribution chart (WDC) 1 shows the Executive Officer (EO) spends an equal amount of time on Licensing and Enforcement matters (30%), legislation and regulations (30%), and the balance on administrative and managerial tasks (40%).

With the Sunset Review Report due at the end of 2019, the EO anticipates needing about three extra hours per month extra to prepare the report but indicated he would have sufficient time in his schedule to complete the work. The EO is also monitoring the AB 2138 regulatory package that is currently under review. These regulations pertain to professional licensing for individuals with prior criminal convictions. The EO's primary budget concern is the announced 30% rate increase for Attorney General staff time charged to the Board over which it has no control. He plans to mitigate this concern by requesting in the Sunset Review Report to have the temporary bi-annual fee increase of \$200 permanently placed into statute. Based on the financial analysis performed in this fee study, MRG agrees with this action.

### WDC 1 Executive Officer

Critical duties are bolded			
Frequency: D = daily, W = weekly, M = monthly, Q = quarterly, A = annually, AS = as needed			
Brian Naslund - Executive Officer			
Reports to: Board of Directors	# Auth Suprv	0	
Duties	Freq	% Time	
<b>Licensing and Enforcement:</b> Directs license application processing and directs Board's Continuing Competence Program. Has oversight over enforcement, complaints, investigation and disciplinary actions. Ensures citation and fine program complies with Board mandates and regulations.	D	30.0%	
<b>Legislation and Regulations:</b> Identifies the need for new legislation or to modify existing statutes or regulations. Drafts language to effect the necessary changes. Oversees the legislative and rulemaking process. Prepares author statements and spreadsheets. Testifies and advocates for consumer protection. Obtains legislative authors as needed.	D	30.0%	
<b>Administrative and Managerial:</b> Recruits, trains, evaluates and manages staff. Develops Board budget. Oversees policy and procedure compliance, Board and Committee meetings. Ensures compliance with applicable California and Federal laws. Serves as Board spokesperson and interfaces with legislative and professional groups.	D	40.0%	
<b>Total Time %</b>			<b>100.0%</b>
<b>Work Not Getting Done</b>		<b>Hrs/Mo Needed</b>	
Sunset Review Report ( have not received report package yet)		3 hrs/Mo	

## Administrative Staff Tasks and Workload

Administrative staff include the AGPA Administrative Analyst and the Office Technician. Work distribution chart (WDC) 2 shows the AGPA Administrative Analyst spends most of her time performing essential tasks concerning budget/fiscal control, administration, legislation and regulations, and minimal time for public relations.

### AGPA Administrative Analyst

The AGPA reports there is no assigned work that is not getting completed in a timely manner. She tracks but does not enter financial information into the FI\$Cal system. The DCA Budgets Office performs all the accounting in the system and sends the Board electronic updates. The AGPA been involved with implementing the Board's title change per AB 2457 and the submission of Section 100, no substantive regulatory changes to the Office of Administrative Law. She is also monitoring the review and final approval of proposed regulations for AB 2138 regarding licensing for individuals with prior criminal convictions. In addition, the AGPA oversees the "Footnotes" newsletter with Spring/Summer and Fall/Winter editions.

### WDC 2 AGPA Administrative Analyst

Critical duties are bolded		
Frequency: D = daily, W = weekly, M = monthly, Q = quarterly, A = annually, AS = as needed		
Kathleen Cooper - Administrative Analyst AGPA		
Reports to: B. Naslund, EO	# Auth Suprv	0
Duties	Freq	% Time
<b>Budget/Fiscal Control:</b> Prepares and presents annual agency statistics, various status reports, schedules, budget change proposals, deficiency requests, and major purchase justifications. Oversees and controls Board revenues and expenditures. Authorizes and tracks invoice payments and maintains revenue accounting and cashiering system. Identifies budget deficiencies and cash flow problems. Attends budget hearings.	D	25.0%
<b>Administration:</b> Lead staff on administrative matters and oversees OT duties. Develops and coordinates major services contracts. Responds to DCA and other agency surveys. Directs office automation and other projects. Serves as training coordinator and safety officer. Assists EO with recruitment and personnel changes, attends EO quarterly meetings in absence of EO.	D	25.0%
<b>Legislation:</b> Researches draft recommendations to amendments and language changes for EO approval. Responds to legislative or departmental inquiries, monitors legislation on Board operations. Attends legislative hearings in absence of EO. Interprets board policies and promotes Board-supported legislation.	D	20.0%
<b>Regulations:</b> Drafts proposed regulatory language for EO review and Board approval. Prepares regulatory notices and rulemaking packages. Consults with DCA legal on regulatory hearings, provides information on proposed regulatory changes to consumers and associations.	D	20.0%
<b>Public Relations:</b> Maintains Board's web site. Manages telephone information system. Plans and manages publication production. Staffs the consumer advocacy committee.	D	10.0%
<b>Total Time %</b>	<b>100.0%</b>	
<b>Work Not Getting Done</b>	<b>Hrs/Mo Needed</b>	

## Office Technician

Work distribution chart (WDC) 3 shows the Office Technician who started July 31, 2019 spends most of her time supporting the licensing and enforcement programs (e.g., phone and office reception, processing/cashiering incoming application checks, etc.) and performing key office and personnel support tasks. This includes, but is not limited to, entering data into the BreEZe licensing and enforcement system, the Listserv group email system, NetFile and the Quarterly Business Interactive Reporting Tool for pulling cashiering reports from the BreEZe system.

Until recently, the position was vacant so there is no assigned work reported that is not being completed in a timely manner. Over time, the new OT will be expected to absorb and perform many of the routine clerical, but not necessarily the analytical, tasks currently performed by the Licensing and Enforcement AGPAs.

### WDC 3 Office Technician

**Critical duties are bolded**

**Frequency:** D = daily, W = weekly, M = monthly, Q = quarterly, A = annually, AS = as needed

Michelle Warrington - Office Technician (OT)			
Reports to: B. Naslund, EO	# Auth Suprv	0	
Duties	Freq	%	Time
<b>Licensing Program Support:</b> Assists the Licensing Coordinator with checking license applications and renewals, advising applicants and licensees of deficiencies, and assembling packets. Responds to verbal and written requests for information relating to the Board, licensing, etc. Maintains cashiering system and processes licensing and unscheduled fees. Assists with and maintains and tracks office files and licensing files. Assists Licensing Coordinator in the preparation of licensing certifications for other state agencies, hospitals, HMOs, out-of-state licensing agencies and licensees. Updates the BreEZe computer system.	D	40.0%	
<b>Enforcement Program Support:</b> Responds to verbal and written requests from the general public and state agencies for information relating to filing complaints, enforcement actions, and disciplinary actions taken. Monitors enforcement cost recovery via the cashiering systems. Processes payments and responds to invoice payment issues. Processes consultant and expert contracts, maintains payment database and files, and creates task orders. Prepares enforcement certifications for review by Enforcement Coordinator. Creates and copies files as needed. Maintain office files and enforcement tracking system and files.	D	20.0%	
<b>Office Equipment &amp; File Management/Copying:</b> Liaison with OIS and contracted office equipment vendors. Establishes and maintains various office management systems. Monitors retention schedule to transfer files to State Retention Center. Coordinates with DCA and DGX on equipment disposal. Prepares purchasing documents for review. Processes and tracks inventory and maintains Cal-Card account. Maintains, orders and stocks office supplies. Organizes and maintains supply room. Photocopies and distributes documents as necessary.	D	25.0%	
<b>Reception:</b> Answers main telephone line, responds to voice mail messages, assists callers or transfers calls. Acts as receptionist at public counter.	AS	5.0%	

<b>Email, Email and Online Services:</b> Opens and distributes mail. Works with staff support to assemble materials for shipping. Maintains updated mailing lists. Delivers documents as necessary. Processes mass mailings. Responds to email inquiries received in the PMBC email box. Maintains social media accounts as directed.	AS	5.0%
<b>Personnel/Staff Support:</b> Prepares payroll documents and travel claims for staff, Board members, consultants, experts for EO review. Processes Board ID cards and personnel transactions, monitors attendance and training balances. Arranges travel and hotel reservations for staff, Board members, and consultants/experts. Serves as liaison with meeting location staff.	AS	5.0%
<b>Total Time %</b>		100.0%
<b>Work Not Getting Done</b>		<b>Hrs/Mo Needed</b>

### Licensing Staff Tasks and Workload

Work distribution chart (WDC) 4 shows the AGPA Licensing Coordinator spends most of her time performing essential tasks concerning licensing and BreEZe production maintenance support, in addition to conducting the continuing competence and continuing education program, performing statistical analysis, research and reporting, and providing administrative support to Board members.

The AGPA reports that assigned work that is not getting completed would require about 13 hours per month to complete. These include administrative tasks such as updating fact sheets, system development and maintenance testing, filing, CME waiver follow-ups, reception duties and attending DCA meetings. For a significant portion of the administrative work, the new OT will be expected to absorb and perform much of this workload.

**WDC 4**  
**AGPA Licensing Program Coordinator**

<b>Andreia Damian - Licensing Program Coordinator AGPA</b>		
<b>Reports to: B. Naslund, EO</b>	<b># Auth Suprv</b>	<b>0</b>
<b>Duties</b>	<b>Freq</b>	<b>% Time</b>
<b>Licensing Program:</b> Manages the Licensing Program. Responds to written, oral and phone inquiries from applicants, medical professionals, and agencies to clarify licensing requirements and processes. Provides analysis and recommendations on all licensing issues through reports and correspondence. Issues licenses after independent review and verifications of materials received. Analyzes licensing issues and makes recommendations to the Board. Consults with the EO on policy analysis and formulations. Researches state laws and regulations. Drafts and recommends program modifications or amendments to laws and regulations and written reports to improve licensing procedures to EO and Board consideration. Presents policy improvement recommendations at public Board meetings.	<b>D</b>	<b>65.0%</b>
<b>Analysis, Research and Reporting:</b> Develops and updates licensing desk procedures, manuals, forms and publications. Consults with Board administrative staff for regulatory hearings. Provides staff support to Board members as needed. Evaluates applications with criminal conviction history and makes recommendations before licensure. Consults with DCA legal as needed. Works with APMLE staff on licensing administration and scoring for California applicants, and assists in the exam appeal process.	<b>AS</b>	<b>20.0%</b>
<b>Continuing Competence and Continuing Education Program:</b> evaluates renewal forms for compliance with Continuing Competence requirements and guides DPMs toward appropriate pathways. Conducts random sample CME audits and recommends on cases of noncompliance. Grants or denies CME waivers after review and analysis, monitors CME waiver compliance. Evaluates and approves CME providers based on regulatory criteria.	<b>D</b>	<b>15.0%</b>
<b>Total Time %</b>		<b>100.0%</b>
<b>Work Not Getting Done</b>	<b>Hrs/Mo Needed</b>	
Fact sheet updates with new name/logo	6 hrs/mo	
SIR development/maintenance testing	2 hrs/mo	
Filing	2 hrs/mo	
Attending DCA specialty meetings	3 hrs/mo	
<b>Total Hours/Mo</b>		<b>13 hrs/mo</b>

### **Licensing Activity**

Table 3 displays the applications received, initial licenses issued, licenses renewed and total licenses for FY's 2015-16 through 2018-19 for the license categories of Doctor of Podiatric Medicine (DPM), fee-exempt license, and resident status license. The table reveals DPM licenses comprise 88.3% of all active licenses with a four-year average of 90 initial licenses per year. The total number of initial permanent DPM and resident status licenses has averaged 136 per year. Over the four fiscal-year period reviewed, licensing applications received, issued and renewed have been increasing for permanent DPMs and have been stable for resident licenses. The initial license is good for up to two years (renewals due on the last day of the birth month)

and renewal licenses are good for two years (biennial). The biennial renewal licensing practice is typical for most DCA Boards, Bureaus and Commissions.

**Table 3**  
**Board of Podiatric Medicine Licensing Activity**

<b>License Type</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>Avg</b>	<b>% Total</b>	<b>% Apps</b>	<b>% Issue</b>	<b>% Renew</b>
<b>Permanent DPM</b>									
Apps Received	99	102	109	126	109		<b>62.2%</b>		
Issued	80	75	100	104	90			<b>57.9%</b>	
Renewed	1,051	1,023	1,098	1,018	1,048				<b>86.3%</b>
<b>Active Licenses*</b>	<b>2,191</b>	<b>2,184</b>	<b>2,204</b>	<b>2,246</b>	<b>2,206</b>	<b>88.3%</b>			
<b>Retiree Fee-Exempt</b>									
Apps Received	21	14	18	25	20		<b>11.1%</b>		
Issued	21	14	18	25	20			<b>12.6%</b>	
Renewed	84	96	94	74	87				<b>7.2%</b>
<b>Active Licenses</b>	<b>142</b>	<b>187</b>	<b>179</b>	<b>151</b>	<b>165</b>	<b>6.6%</b>			
<b>Resident Status</b>									
Apps Received	48	43	46	50	47		<b>26.7%</b>		
Issued	50	42	46	45	46			<b>29.5%</b>	
Renewed	80	76	80	82	80				<b>6.5%</b>
<b>Active Licenses</b>	<b>117</b>	<b>156</b>	<b>119</b>	<b>122</b>	<b>129</b>	<b>5.1%</b>			
<b>Total Active Licenses</b>	<b>2,450</b>	<b>2,527</b>	<b>2,502</b>	<b>2,519</b>	<b>2,500</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

\*Also includes a nominal number of disabled and military licenses at a reduced fee.

Source: PMBC

### **Initial Licensing**

The Licensing Coordinator reports that approximately 90% of all initial permanent DPM and resident status license application are completed online. The remaining applications are received on paper. Both of these online application types take about 20 minutes per application to review. Paper applications take about 15 minutes per application to review. About 97% of both the online and paper applications typically are initially deficient because the Board has not yet received required documents from medical schools and examining agencies referenced in the application. As a result, the Licensing Coordinator follows-up by phone, email or mail. The average cycle time for completing an initial online or paper permanent DPM application from receipt to issuance is 50 days, 5 days more than the PMBC target (45). Timeliness depends on how long it takes the licensee to submit all the necessary documents. The same is true for the average cycle time for completing an initial online or paper resident status license application. From receipt to issuance is 62 days, 17 days more than the PMBC target (45). However, the submission process is largely under the applicant's control.

All initial retiree fee-exempt applications are received on paper as there is no online application process. On average, the Board receives about 15 requests per year from retired DPMs for

exemption from renewal fees. It takes about five minutes to review each application and they rarely require any staff follow-up with the licensee. The average cycle time for completing a paper application from receipt to issuance is up to 14 days, depending on staff workload.

There is no backlog for any application type.

### **Renewal Licensing**

The renewal of permanent DPM licenses differs from the initial application processes. For FY 2018-19, there were 1,018 permanent DPM license renewals: 435 (42.7%) were paper processed by DCA Accounting, 326 (32%) were done online, and 257 (25.3%) were paper processed by the Board. Two to three months before license expiration, the BreEZe system generates renewal coupons which are mailed to licensees. DCA Accounting receives the return envelope, mechanically processes the coupons, and forwards them to the Board for filing. Any renewals that can't be processed for incorrect or no fee, lack of documents, etc. are sent to the Board for further research. It takes about ten minutes to review an application. If the Board receives a paper renewal with a check, the OT processes the check and sends it to DCA Accounting for deposit, which can take three to five business days to process.

For renewals, the BreEZe licensing and enforcement system automatically generates deficiency letters. The Licensing Coordinator estimates receiving about 10 calls a day that may relate to a renewal application. Each call takes about ten minutes to research. The average cycle time for completing an online or paper application from receipt to issuance is up to seven days, depending on renewal application errors or omissions, credit card processing, address changes, etc. In the future, the Board expects more renewals to be done online, thereby reducing the number of paper applications received and manually processed.

Resident licensees do not initiate the license renewal process each year. Instead, the Licensing Coordinator extends the expiration date for all second and third-year residents after the Board receives approval applications from all the California residency programs, and the Board meets and approves all the California programs at the June meeting.

Retired licensees follow the same renewal process previously described except they do not have to pay any fees. They can either renew online, by returning the renewal coupon to DCA Accounting, or use the generic renewal form found on the Board's website. Since retirees do not have to wait for fees to clear, the renewal can be completed as long as all the renewal form questions are answered correctly. Retiree applications can be put on hold for an address change, no answer on a conviction question, and/or the CMC/CC box and/or waiver box are left blank. An address change takes about seven minutes to change in BreEZe. Staff generate and mail letters to the licensees to gather essential information. The Board receives about 10 calls per day and spend about 10 minutes per issue researched. If there are no deficiencies, the

application is immediately approved. The average cycle time for completing an application from receipt to issuance is up to 7 to 14 days, depending on deficiency correction.

Licensing bottlenecks and/or delays are typically caused by events beyond the Board's control. These include, but are not limited to, documents lost in the mail, regulatory agency backlogs in processing license verifications, and timing issues with DCA Accounting.

### Effects of Retirees

Table 4 shows that over the last five years there have been 83 retirees for an average of 16.6 per year. The average and most common age of these retirees was 65. The current licensing database shows a total of 223 licensees between the ages of 60-64. Based on the current age distribution of these licensees, and assuming a retirement age of 65, the average number of retirees per year could potentially increase substantially (double or triple) over the next five years. Fortunately for the Board, Table 3 above shows the number of initial DPM and resident licensees have averaged 136 over the past four fiscal years, which significantly exceeds the number of retirees and offsets any potential revenue loss.

**Table 4**  
**Board of Podiatric Medicine Retirement Activity**

	2015	2016	2017	2018	2019	Avg
<b>Retirees</b>	18	14	17	23	11	<b>16.6</b>
<b>Average Age</b>	65	65	66	70	63	<b>65.6</b>
<b>Licensee Ages</b>	<b>60</b>	<b>61</b>	<b>62</b>	<b>63</b>	<b>64</b>	
<b># of Licensees</b>	36	41	52	43	51	<b>44.6</b>

Source: PMBC

### Enforcement Staff Tasks and Workload

Work distribution chart (WDC) 5 shows the AGPA Enforcement Coordinator spends most of her time performing essential tasks concerning disciplinary case review, enforcement consultation and coordination, and managing the probation program.

The Medical Board of California Central Complaint Unit (MBC-CCU) does the intake of all complaints for the Board through a shared services agreement. Complaints are received online and on paper. The MBC-CCU does the initial investigation by sending the complaint and related records to expert consultants to review and decide based on the required standard of care. If the consultants recommend further investigation is required for potential discipline, the complaint is referred to the DCA Division of Investigation Health Quality Investigation Unit (DOI-HQIU) to conduct a field investigation. Once MBC-CCU completes its review, the Enforcement Coordinator spends about five to ten minutes reviewing each complaint to determine if she agrees with the suggested course of action. She reports agreeing with MBC-CCU more than

90% of the time. When she does not agree, the Enforcement Coordinator confers with the Executive Officer, prepares and sends a recommendation back to MBC-CCU with a preferred course of action.

The Enforcement Coordinator oversees the complaint, investigation and discipline process, citation and fine program, expert/consultant program, and probation program; conducts research; prepares reports, policies and procedures; and attends Enforcement committee and Board meetings. As part of the investigation oversight process, the Enforcement Coordinator periodically follows-up with DOI-HQIU on any ongoing field investigations. The AGPA reports the DOI-HQIU took an average of 490 days in FY 18-19 to close an investigation and render a decision. This is less than 531 for FY 17-18 but significantly longer than 385 and 333 days, for FYs 16-17 and 15-16, respectively. The Enforcement Coordinator reports there has been a significant shortage of DOI investigators over the past two years. DOI has filled many of the vacancies but are still playing catchup. For FY 18-19 it took an average of 15 days to issue a citation and/or fine from receipt of a complaint to issuance. Internally-initiated citations can be issued in as little as one day, but when a citation is recommended as a result of a field investigation, it may take a year or more to issue the citation from the complaint receipt date.

The Enforcement Coordinator further reports that assigned work that is not getting completed would require about 25 hours per month to complete. These include administrative tasks such as updating internal documents and spreadsheets, BreEZe/SIR system development and maintenance testing, filing, and attending DCA meetings. Like the Licensing Coordinator, the new OT will be expected to absorb and perform or assist with a substantial amount of the Enforcement administrative workload, with the exception of analytical tasks. The OT will put more focus on this work after the Sunset Review is completed.

**WDC 5**  
**AGPA Enforcement Coordinator**

<b>Critical duties are bolded</b>		
<b>Frequency: D = daily, W = weekly, M = monthly, Q = quarterly, A = annually, AS = as needed</b>		
<b>Bethany DeAngelis - Enforcement Program Coordinator AGPA</b>		
Reports to: B. Naslund, EO	# Auth Suprv	0
Duties	Freq	% Time
<b>Enforcement Consultation, Coordination, Complain and Disciplinary Case Review:</b> Coordinates all case activities between the Board, DCA, and OAG. Provides guidance to DOI investigators to ensure cases are handled correctly and efficiently. Reviews case activity reports and MBC complaint referrals. Advises MBC analyst on legal issues and Board policy. Tracks cases and advises OAG staff on investigative history. Reviews final investigative reports to determine whether to close cases or take other actions. Reviews licensing applications with disciplinary or criminal conviction history. Obtains additional information as necessary. Schedules and attends meetings with senior staff and legal counsel. Manages the Expert/Consultant program including recruiting, training, assigning cases, obtaining and reviewing evaluations, invoices and tracks all program violations. Performs required duties to negotiate and settle disciplinary cases, including citations and fines, and makes recommendations to the Board and EO to resolve disciplinary case matters. Maintains office enforcement files and tracking system for all process phases.	D	40.0%
<b>Enforcement Research, Correspondence and System Development:</b> Summarizes admin actions prepares quarterly reports on enforcement data. Reports disciplinary actions to national data banks and prepares reports for DCA and other agencies. Oversees BreEZe enhancements and analyzes impact of system changes. Develops and coordinates Expert/Consultant training workshops to contractors, maintains and revises enforcement manuals as needed. Contributes to biannual Board newsletter. Recommends new policies, procedures and amendments to statutory and regulatory language.	Q	25.0%
<b>Probation Program:</b> Manages daily operations of the Board's probation program. Monitors case status and reviews quarterly reports. Develops annual invoices and payment agreements. Advises the Board and DAGs on probation terms/conditions; advises OAG on probation cases and serves as SME to Probation Monitors on investigations with recommendations for disciplinary actions and fines. Initiates new probation case files, entering information into BreEZe, assigning Practice Monitors, and preparing case file packages to the assigned Probation Monitor.	D	20.0%
<b>Meetings and Hearings:</b> Attends and represents the Board and testifies at admin hearings, DCA groups and other job related meeting. Attends Board and Committee meetings to obtain policy decisions and provide information on enforcement program issues; attends administrative hearings and enforcement user meetings. Conducts annual Expert/Consultant trainings.	AS	10.0%
<b>Citation and Fine Program:</b> Receives and analyzes complaints, processes and issues citation packages, arranges informal conferences, conducts citation interviews, ensures deadline compliance, oversees appeal process, prepares recommendation reports, updates public disclosure and maintains files.	AS	5.0%
<b>Total Time %</b>		
<b>100.0%</b>		
<b>Work Not Getting Done</b>		
Review and follow up on investigations in process	4 hrs/mo	
Follow-up and track expert/consultant program better/get evaluations etc	3 hrs/mo	
Reviewing and submitting new SIRS for BreEZe program changes/updates	2 hrs/mo	
Update enforcement work manuals, write procedures	6 hrs/mo	
Review probation program reports and updating files/BreEZe	3 hrs/mo	
Attend DCA specialty meetings	4 hrs/mo	
File maintenance/purging	3 hrs/mo	
<b>Total Hrs/Mo.</b>	<b>25 hrs/mo.</b>	

### Enforcement Activity

Table 5 shows the consumer complaints received, closed without investigation, referred to investigation and pending for FY's 2015-16 through 2018-19. The table indicates the total number of complaints received, online complaints received, and complaints referred for investigation have been increasing over the four fiscal-year period. The three phases of

enforcement cases are: 1) complaints received directly from the public online or on paper; 2) complaints that move through the field investigation process; and 3) formal discipline cases initiated by PMBC as a result of an investigation recommendation. These tasks account for up to 65% of the Enforcement Coordinator's available time.

The Enforcement Coordinator reports PMBC receives minimal complaints directly from the public, but when it does, her role is generally limited to up to 30 minutes a day.

**Table 5**  
**PMBC Consumer Complaint Intake Activity**

<b>Consumer Complaints</b>	<b>FY 15-16</b>	<b>FY 16-17</b>	<b>FY 17-18</b>	<b>FY 18-19</b>	<b>Trend</b>
Total Received	133	165	161	172	Up
Received Online	40	63	64	79	Up
Received on Paper	93	102	97	93	Down
Closed without investigation	0	1	0	0	Stable
Referred for investigation	130	129	144	176	Up
Pending	0	0	6	6	Up

Source: PMBC

Table 6 displays the investigation activity for FY's 2015-16 through 2018-19. The trend is up for opened investigations, and stable for closed, pending investigations and average days to complete.

**Table 6**  
**PMBC Investigations Activity**

<b>Investigations</b>	<b>FY 15-16</b>	<b>FY 16-17</b>	<b>FY 17-18</b>	<b>FY 18-19</b>	<b>Trend</b>
Opened	140	164	152	176	Up
Closed	152	173	156	159	Stable
Pending	121	71	64	81	Stable
Average Days to Complete	179	143	178	163	Stable

Source: PMBC

Table 7 shows the citations issued, with fines, withdrawn, dismissed, average days to issue, and annual cost for FY's 2015-16 through 2018-19. The table indicates low, stable activity over the last four fiscal years, the average days to issue a citation have been reduced significantly since FY 2015-16, but DOI-HQIU costs were stable then doubled in FY 2018-19. The lower numbers in FYs 15-16 and 18-19 are attributable to internally initiated citations that were not referred to a DOI-HQIU field investigation, unlike FYs 16-17 and 17-18. The length and cost of DOI-HQIU investigations are beyond the Board's control.

**Table 7**  
**PMBC Citations and Fines**

<b>Citations and Fines</b>	<b>FY 15-16</b>	<b>FY 16-17</b>	<b>FY 17-18</b>	<b>FY 18-19</b>	<b>Trend</b>
Issued	1	3	7	3	Stable
Issued with a fine	1	3	7	3	Stable
Withdrawn	1	1	2	0	Stable
Dismissed	0	0	0	0	Stable
Average Days to Issue	1	377	297	15	Down
DOI-HQIU Cost	\$45,458	\$58,944	\$49,993	\$94,500	Up

Source: PMBC

Also beyond the Board's control are the length and cost of Department of Justice Office of the Attorney General (DOJ-OAG) disciplinary actions. Table 8 displays Attorney General activity and costs on behalf of the Board for FY's 2015-16 through 2018-19. The number of cases opened and closed has been low and stable but pending cases, average days to discipline, and annual costs are substantially increasing. In addition, in late June 2019 the DOJ-OAG advised the Board of a planned rate increase of 30% effective July 1, 2019. This increase is taken into consideration in the expense analysis discussed later in this report.

**Table 8**  
**PMBC Attorney General Disciplinary Actions**

<b>Disciplinary Cases</b>	<b>FY 15-16</b>	<b>FY 16-17</b>	<b>FY 17-18</b>	<b>FY 18-19</b>	<b>Trend</b>
Opened	7	11	11	11	Stable
Closed	6	10	10	9	Stable
Pending	10	11	9	16	Up
Average Days to Discipline	655	911	810	1,519	Up
DOJ-AG Cost	\$170,235	\$170,465	\$257,951	\$136,876	Up

Source: PMBC

## Recommendations

1. When appropriate, the new Office Technician should assume more of the administrative clerical tasks not currently being performed by the AGPA Licensing and Enforcement Coordinators.
2. All the Board staff use Microsoft Excel for various tracking tasks. PMBC management should consider providing staff with additional training in Microsoft Excel and Access to improve spreadsheet effectiveness and efficiency, and to build databases to replace some of the spreadsheet logs.

## Revenue Analysis

Table 9 shows the Board's current fee schedule and statutory limits. All fees except the current permanent DPM biennial renewal fee are at their statutory limit. Effective January 1, 2019, the PMBC temporarily raised the Biennial License Renewal fee to \$1,100 for two years through December 31, 2020 only. This fee was last increased to \$900 in 2004. Permanent DPM renewal fees and statutory limits will change back to \$900 on January 1, 2021 unless other actions are approved before that date.

**Table 9**  
**PMBC Fee Schedule as of January 1, 2019**

<b>Fee Type</b>	<b>Fee</b>	<b>Statutory Limit</b>
<b>Initial Application: DPM Permanent License</b>		
Application Fee	\$100	\$100
Initial License	\$800	\$800
Fingerprint Fee	\$49	\$49
Wall and Duplicate Certificate	\$100	\$100
<b>Initial Application: DPM Resident License</b>		
Application Fee	\$100	\$100
Limited/Resident's License	\$100	\$100
Fingerprint Fee	\$49	\$49
<b>DPM Renewal</b>		
Biennial Renewal until Dec. 31, 2020	\$1,100	\$900
Biennial Renewal on and after Jan. 1, 2021	\$900	\$900
CURES renewal fee*	\$12	\$12
Delinquent Fee (after 30 days)	\$150	\$150
Delinquent Fee (after 90 days until Dec. 31, 2020)	\$550	50% of renewal fee
Delinquent Fee (after 90 days after Jan. 1, 2021)	\$450	50% of renewal fee
Letter of Good Standing or for Loan Deferment	\$100	\$100
Continuing Medical Education Program Approval	\$250	\$250
<b>Fictitious Name Permit</b>		
Initial Application	\$50	\$50
Name Renewal	\$40	\$40
Delinquent Fee	\$20	\$20
<b>Citation Fee</b>	Various	\$5,000

\* Controlled Substance Utilization Review and Evaluation System<sup>3</sup>

Table 10 shows the Board's revenue sources and income for the last four fiscal years in decreasing order. The 22 revenue sources, 3 adjustments, and 2 unscheduled cost recovery line items have averaged over \$1 million per year for the review period. Renewal and initial

<sup>3</sup> CURES 2.0 is an upgraded DCA system for monitoring prescription drugs that went live on July 1, 2015. DCA retains this income, not the Board.

license fees have consistently been the largest revenue sources at 81.1% and 7.1%, respectively. The four-year trends for these revenue sources are increasing, and especially for Biennial Renewal fees (5.5% increase over half a fiscal year) as a result of the January 1, 2019 fee increases. Without the \$200 fee increase, the Board's income would have experienced minimal growth. With the fee increase, Biennial Renewal fees are projected to increase 33% over a full fiscal year.

**Table 10**  
**PMBC Revenue Sources and Income**  
**FY's 2015-16 through 2018-19**

DESCRIPTION	2015-16	2016-17	2017-18	2018-19	4 Year Avg	% Total
Biennial Renewal - Podiatrist	\$877,774.00	\$822,758.17	\$859,788.00	\$918,124.00	\$869,611.04	81.1%
Initial License - Podiatry	64,800.00	68,809.00	80,780.00	90,400.00	76,197.25	7.1%
Unscheduled Reimb. – Invest. Cost Recovery	42,053.23	79,076.48	70,383.68	54,455.85	61,492.31	5.7%
Suspended Revenue	14,164.91	21,551.80	1,812.00	15,430.44	13,239.79	1.2%
National Board Certificate - Podiatry	8,523.00	8,769.00	10,198.00	11,569.00	9,764.75	0.9%
Income from Surplus Money Investment	4,829.41	8,241.81	8,423.63	12,418.62	8,478.37	0.8%
Renewal Fictitious Name - Podiatric Corp.	5,160.00	4,960.00	6,440.00	6,000.00	5,640.00	0.5%
Fingerprint Reports	4,410.00	4,557.00	5,096.00	5,978.00	5,010.25	0.5%
Application Fee - Podiatry	1,840.00	1,880.00	2,140.00	10,040.00	3,975.00	0.4%
CURES Biennial Contribution	12,733.88	0.00	900.00	0.00	3,408.47	0.3%
Limited License Fee - Podiatry	2,831.00	2,460.00	2,580.00	4,869.00	3,185.00	0.3%
Penalty Fee - Podiatrist - Various	4,500.00	1,800.00	1,800.00	3,150.00	2,812.50	0.3%
Scheduled Reimbursement	1,880.00	1,880.00	2,115.00	1,322.00	1,799.25	0.2%
Delinquency Renewal Fee - Podcorp.	2,550.00	750.00	1,650.00	1,788.00	1,684.50	0.2%
Fictitious Name Permit - Podiatry Corp.	1,100.00	1,100.00	1,700.00	2,100.00	1,500.00	0.1%
Letter of Good Standing	1,260.00	1,050.00	840.00	2,600.00	1,437.50	0.1%
Citation Fee - Podiatry - Various	0.00	900.00	2,250.00	2,050.00	1,300.00	0.1%
Duplicate License/Certificate	870.00	1,600.00	1,000.00	1,480.00	1,237.50	0.1%
FTB Collection Investigative Cost Recovery	0.00	211.55	1,077.00	0.00	322.14	0.0%
Delinquency Renewal - Fict. Name - Podiatry	100.00	80.00	480.00	250.00	227.50	0.0%
Revenue Cancelled Warrants	12.00	0.00	64.00	464.50	135.13	0.0%
Misc. Service to Public - General	239.10	0.00	0.00	15.00	63.53	0.0%
Dishonored Check Fee - Various	50.00	75.00	75.00	125.00	81.25	0.0%
CME Course Approval	0.00	100.00	0.00	0.00	25.00	0.0%
Over/Short Fees	4.00	9.00	9.00	6.00	7.00	0.0%
Refunds	0.00	0.00	(69.00)	(200.00)	(67.25)	0.0%
Prior Year Revenue Adjustment	(1,814.78)	(191.00)	(150.00)	(912.00)	(766.95)	-0.1%
<b>TOTALS</b>	<b>\$1,049,869.75</b>	<b>\$1,032,427.81</b>	<b>\$1,061,382.31</b>	<b>\$1,143,523.41</b>	<b>\$1,071,800.82</b>	<b>100.0%</b>

Source: PMBC

It should be noted the Board does not retain the income for fingerprint reports (4-year average of \$5,020), which is cost reimbursement, nor the contribution for the DCA-owned CURES system (4-year average of \$3,408). Moreover, scheduled and unscheduled cost recovery reimbursement, which has averaged about \$1,800 and \$61,500 for four years, respectively, is used to offset overall expenses.

## Expense Analysis

Table 11 summarizes and Figure 2 graphically displays the Board's expenses for FYs 2015-16 through 2018-19 by PMBC's six major budget categories: Personnel Services; Operating Expenses & Equipment including General Office Expenses, DCA Departmental Expenses, Interagency Services, External Enforcement Expenses, Equipment; and Reimbursements as Expense Offsets.

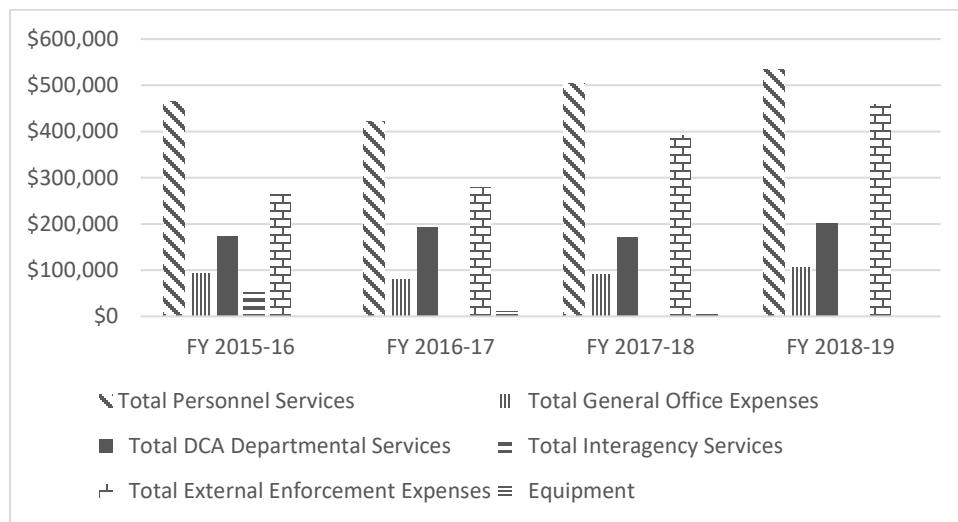
**Table 11**  
**PMBC Expense Summary**  
**FY's 2015-16 through 2018-19**

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	% Total
<b>Total Personnel Services</b>	<b>\$465,534</b>	<b>\$422,807</b>	<b>\$503,998</b>	<b>\$533,444</b>	<b>41.1%</b>
Total General Office Expenses	\$93,440	\$80,470	\$91,564	\$106,504	8.2%
Total DCA Departmental Services	\$172,440	\$193,800	\$172,349	\$201,667	15.5%
Total Interagency Services	\$52,130	\$752	\$1,699	\$602	0.0%
Total External Enforcement Expenses	\$264,640	\$278,169	\$392,104	\$459,162	35.4%
Equipment	387	10,817	6,934	0	0.0%
<b>Total Operating Expenses &amp; Equipment</b>	<b>\$583,037</b>	<b>\$564,008</b>	<b>\$664,650</b>	<b>\$767,934</b>	<b>59.2%</b>
<b>Total Expenditures</b>	<b>\$1,048,571</b>	<b>\$986,815</b>	<b>\$1,168,648</b>	<b>\$1,301,378</b>	<b>100.3%</b>
<b>Total Reimbursements as Offsets</b>	<b>(48,343)</b>	<b>(85,725)</b>	<b>(78,672)</b>	<b>(4,000)</b>	<b>-0.3%</b>
<b>Net Expenditures</b>	<b>\$1,000,228</b>	<b>\$901,090</b>	<b>\$1,089,976</b>	<b>\$1,297,378</b>	<b>100.0%</b>

Source: PMBC FI\$Cal reports

Table 11 and Figure 2 show that Personnel Services (41.1%) are the Board's largest expense, followed closely by external Enforcement (35.4%) expenses, then DCA Departmental Services (15.5%) expenses. Total Operating Expenses & Equipment expenses, which include a myriad of other services significantly exceed total Personnel expenses. As a result, the Board only has control over 49.3% of its budget.

**Figure 2**  
**PMBC Expense Trends and Analysis**  
**FY's 2015-16 through 2018-19**



The following presents more detailed analyses of each major budget category.

### **Personnel Services Expenses**

Table 12 details and summarize Board Personnel Services expenses. At 41.1% of total expenses, Personnel Services is the largest expense under the Board's control. Most of the cost (95.2%) is due to staff salaries & wages, Executive Officer compensation and staff benefits. Temporary help and Board members also receive minor compensation. There has been no overtime charged for the last three fiscal years. Personnel expenses are expected to increase each fiscal year in compliance with collective bargaining agreement terms and conditions: 2.5% in FY 2020, 2.0% in FY 2021 and 2.5% in FY 2022. In addition, health benefits will also increase \$15,600 per fiscal year beginning July 1, 2020. The expense projections factor in a 3% increase each fiscal year which covers the planned contractual and health benefit increases.

**Table 12**  
**PMBC Personnel Services Expense Summary**  
**FY's 2015-16 through 2018-19**

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19		
Personnel Services	Actual Expenditures (FM 13)	Actual Expenditures (FM 13)	Actual Expenditures (PRELIM 12)	Year End Projections	4 Year Average	% Subtotal
Salary & Wages (Staff)	\$206,520	\$185,304	\$215,519	\$236,790	\$211,033	43.8%
Temp Help Reg (907) (999)	13,438	13,890	25,483	10,568	15,845	3.3%
Statutory Exempt (EO)	88,969	86,953	96,266	98,040	92,557	19.2%
Board & Comm Members	8,000	5,100	6,700	6,600	6,600	1.4%
Overtime	731	0	0	0	183	0.0%
Staff Benefits	147,876	131,560	160,030	181,446	155,228	32.2%
<b>Total Personnel Services</b>	<b>\$465,534</b>	<b>\$422,807</b>	<b>\$503,998</b>	<b>\$533,444</b>	<b>\$481,446</b>	<b>100.0%</b>

Source: PMBC FI\$Cal reports

### General Office Expenses

Table 13 shows that except for FY 2018-19, General Office expenses have been relatively stable over the last four fiscal years. The large increase in the last fiscal year was due to contracting for professional services. Over the four fiscal-year period, Facility Operations and external contracting averaged 62.4% of these subtotal expenses. The expense projections factor in a 3% increase each fiscal year over the four-year average cost.

**Table 13**  
**PMBC General Office Expense Summary**  
**FY's 2015-16 through 2018-19**

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19		
General Office Expenses	Actual Expenditures (FM 13)	Actual Expenditures (FM 13)	Actual Expenditures (PRELIM 12)	Year End Projections	4 Year Average	% Subtotal
Fingerprint Reports	\$5,323	\$5,003	\$5,047	\$4,706	\$5,020	5.4%
General Expense	6,758	7,473	5,981	6,680	6,723	7.2%
Printing	9,656	2,935	4,013	3,452	5,014	5.4%
Communication	5,450	4,193	3,957	4,045	4,411	4.7%
Postage	4,409	4,608	7,740	5,586	5,586	6.0%
Insurance	0	5	1,534	1,976	879	0.9%
Travel in State	10,152	7,313	3,441	6,900	6,952	7.5%
Training	0	1,592	0	0	398	0.4%
Facilities Operations	45,894	46,009	46,581	47,454	46,485	50.0%
C & P Services - Interdepartmental	20	0	0	24	11	0.0%
C & P Services - External	5,778	1,339	13,270	25,681	11,517	12.4%
<b>Total General Office Expenses</b>	<b>\$93,440</b>	<b>\$80,470</b>	<b>\$91,564</b>	<b>\$106,504</b>	<b>\$92,994</b>	<b>100.0%</b>

Source: PMBC FI\$Cal reports

## DCA Departmental Expenses

Table 14 summarizes the Board's DCA Departmental Expenses for FYs 2015-16 through 2018-19. DCA services are allocated and/or charged on a pro rata basis to cover the cost of DCA operations. OIS (Office of Information Services) and Administration Pro Rata comprise 75.2% of these average expenses for the four fiscal-year period reviewed. Shared Services with the Medical Board of California (MBC) for complaint handling/investigative services comprise 20.1% of these average expenses. These expenses have generally remained stable, but both pro rata expense items increased by more than 30% from FY 2017-18 to FY 2018-19. The expense projections factor in a 3% increase each fiscal year over the four-year average cost.

**Table 14**  
**PMBC DCA Departmental Expense Summary**  
**FY's 2015-16 through 2018-19**

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19		
DCA Departmental Services	Actual Expenditures (FM 13)	Actual Expenditures (FM 13)	Actual Expenditures (PRELIM 12)	Year End Projections	4 Year Average	% Subtotal
OIS Pro Rata	\$66,551	\$74,214	\$65,785	\$88,917	\$73,867	39.9%
Administration Pro Rata	63,933	64,748	57,394	75,167	65,310	35.3%
Shared Services (MBC)	35,990	44,640	39,570	28,417	37,154	20.1%
DOI Pro Rata	1,966	1,840	2,191	1,833	1,958	1.1%
Communications Division Pro Rata	4,000	7,704	6,829	3,667	5,550	3.0%
Division of Policy and Program Review	0	654	580	3,667	1,225	0.7%
<b>Total DCA Departmental Services</b>	<b>\$172,440</b>	<b>\$193,800</b>	<b>\$172,349</b>	<b>\$201,667</b>	<b>\$185,064</b>	<b>100.0%</b>

Source: PMBC Fi\$Cal reports

## Interagency Service Expenses

Table 15 shows Interagency Services expenses have declined significantly from FY 2015-16 to FY 2018-19 and are not a material concern for the Board. However, the expense projections continue to factor in a 3% increase each fiscal year over the four-year average cost.

**Table 15**  
**PMBC Interagency Expense Summary**  
**FY's 2015-16 through 2018-19**

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19		
Interagency Services	Actual Expenditures (FM 13)	Actual Expenditures (FM 13)	Actual Expenditures (PRELIM 12)	Year End Projections	4 Year Average	% Subtotal
Consolidated Data Center	\$2	\$0	\$1,699	\$567	\$567	4.1%
Information Technology	3,505	752	0	35	1,073	7.8%
C&P Services - Expert Examiners	0	0	0	0	0	0.0%
Central Admin Svc-Pro Rata	48,623	0	0	0	12,156	88.1%
<b>Total Interagency Services</b>	<b>\$52,130</b>	<b>\$752</b>	<b>\$1,699</b>	<b>\$602</b>	<b>\$13,796</b>	<b>100.0%</b>

Source: PMBC Fi\$Cal reports

### External Enforcement Expenses

Table 16 summarizes the Board's expenses for External Enforcement activities for FYs 2015-16 through 2018-19. At 35.4% of the Board's total budget, these external expenses have a significant overall effect which are beyond the Board's control. Of particular concern are the services provided by the Attorney General and DOI-Investigation. On an average basis, these two entities account for 82.1% of total enforcement expenses. Moreover, in June 2019 the Attorney General announced a 30% rate increase effective July 1, 2019. The expense projections factor in a 3% increase each fiscal year over the four-year average cost.

**Table 16**  
**PMBC External Enforcement Expense Summary**  
**FY's 2015-16 through 2018-19**

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19		
External Enforcement	Actual Expenditures (FM 13)	Actual Expenditures (FM 13)	Actual Expenditures (PRELIM 12)	Year End Projections	4 Year Average	% Subtotal
Attorney General	\$170,325	\$170,465	\$257,951	\$203,087	\$200,457	57.5%
Office Admin. Hearings	14,538	9,902	36,060	15,393	18,973	5.4%
Court Reporters	754	1,007	1,500	1,659	1,230	0.4%
Evidence/Witness Fees	33,565	37,851	46,600	50,023	42,010	12.1%
DOI - Investigation	45,458	58,944	49,993	189,000	85,849	24.6%
<b>Total External Enforcement Expenses</b>	<b>\$264,640</b>	<b>\$278,169</b>	<b>\$392,104</b>	<b>\$459,162</b>	<b>\$348,519</b>	<b>100.0%</b>

Source: PMBC Fi\$Cal reports

### Reimbursement as Expense Offsets

Table 17 shows scheduled and unscheduled (due to investigative cost recovery) reimbursements have averaged about \$54,000 over the last four fiscal years but fell off significantly during FY 2018-19. The reimbursements are treated as expense offsets in determining net budgetary expenditures. The projections budget reimbursements at the four-year average.

**Table 17**  
**PMBC Scheduled and Unscheduled Reimbursement Summary**  
**FY's 2015-16 through 2018-19**

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19		
Reimbursement Offsets	Actual Expenditures (FM 13)	Actual Expenditures (FM 13)	Actual Expenditures (PRELIM 12)	Year End Projections	4 Year Average	% Subtotal
Scheduled Reimbursement -Other	(6,290)	(6,437)	(7,211)	(4,000)	(5,985)	11.0%
Unscheduled due to Investigative Cost Recovery	(42,053)	(79,288)	(71,461)	0	(48,201)	89.0%
<b>Reimbursement Offsets</b>	<b>(48,343)</b>	<b>(85,725)</b>	<b>(78,672)</b>	<b>(4,000)</b>	<b>(54,185)</b>	<b>100.0%</b>

Source: PMBC Fi\$Cal reports

## Board Fund Balance

The following summarizes Board fund 0295 balances for FY's 2015-16 through 2018-19. Table 18 represents the DCA budget appropriation base and shows that over the four fiscal-year period expenditures exceeded revenues every year ranging from \$14,000 to \$326,000. The DCA Budgets Office factors in worse case scenarios and assumes the full appropriation will be spent each fiscal year. This is a wise assumption because the Board has control over less than 50% of its budget. Consequently, the fund balance to cover economic uncertainties decreased substantially from 12.4 months in FY 2015-16 to only 3.8 months reserve in FY 2018-19.<sup>4</sup>

The Board's DCA Budget Analyst indicated most Boards have a fund balance reserve of 12 months and some as high as 24 months. The Analyst agrees 12 months would be a good goal for PMBC. As a result, the Board needs significantly more revenue to maintain a sufficient economic reserve for up to 12 months.

**Table 18**  
**Fund 0295 Podiatric Medical Board of California**  
**Fund Balance Summary for FY's 2015-16 through 2018-19**

	Actual 2015-16	Actual 2016-17	PY 2017-18	PY 2018-19
<b>Beginning Fund Balance</b> Prior Year Adjustment	\$994,001 15,000	\$995,000 (2,000)	\$976,000 0	\$776,000 0
<b>Adjusted Beginning Balance</b>	<b>\$1,009,001</b>	<b>\$993,000</b>	<b>\$976,000</b>	<b>\$776,000</b>
<b>Current Year Resources</b>				
Total Revenues	\$989,000	\$947,000	\$982,000	\$1,085,000
Total Operating Transfers	0	0	0	0
<b>Total Resources</b>	<b>\$1,998,001</b>	<b>\$1,940,000</b>	<b>\$1,958,000</b>	<b>\$1,861,000</b>
<b>Net Expenditures</b>	<b>\$1,003,000</b>	<b>\$964,000</b>	<b>\$1,182,000</b>	<b>\$1,411,000</b>
<b>Ending Fund Balance</b>	<b>\$995,001</b>	<b>\$976,000</b>	<b>\$776,000</b>	<b>\$450,000</b>
<b>Months in Reserve</b>	<b>12.4</b>	<b>9.9</b>	<b>6.6</b>	<b>3.8</b>

Source: DCA Budget Office

Table 19 shows the fund balance based on actual historical revenues and actual/estimated expenditures and tells a different story than Table 18. In all four fiscal years, actual revenues exceeded the budgeted revenues displayed in Table 18 ranging from about \$44,000 to \$81,000 a fiscal year, and actual expenses were lower each fiscal year ranging from about \$3,000 to \$95,000. This represents a swing in values ranging from \$47,000 to \$176,000, depending on the fiscal year.

In FY 2015-16 and 2016-17, revenues exceeded net expenditures resulting in larger ending fund balances that were carried over into subsequent fiscal years. As a result, the actual fund

<sup>4</sup> The reserve value is calculated by dividing the beginning fund balance by total expenditures and multiplying the quotient by 12.

balance was greater than 12 months for three fiscal years, then declined significantly in FY 2018-19 due to substantially higher expenses, signaling the need for additional revenue. Since the table includes some estimated expenses, it will be revised once final expenses are received.

**Table 19**  
**Fund 0295 Podiatric Medical Board of California**  
**Fund Balance Summary based on Actuals & Estimates for FY's 2015-16 through 2018-19**

	Actual 2015-16	Actual 2016-17	Prelim 2017-18	Act & Est 2018-19
<b>Beginning Fund Balance</b>	\$994,001	\$1,041,499	\$1,166,280	\$1,131,690
Prior Year Adjustment	15,000	(2,000)	0	0
<b>Adjusted Beginning Balance</b>	<b>\$1,009,001</b>	<b>\$1,039,499</b>	<b>\$1,166,280</b>	<b>\$1,131,690</b>
<b>Current Year Resources</b>				
Total Revenues	\$1,032,726	\$1,027,871	\$1,055,386	\$1,137,545
Total Operating Transfers	0	0	0	0
<b>Total Resources</b>	<b>\$2,041,727</b>	<b>\$2,067,370</b>	<b>\$2,221,666</b>	<b>\$2,269,235</b>
<b>Total Expenditures</b>	<b>\$1,000,228</b>	<b>\$901,090</b>	<b>\$1,089,976</b>	<b>\$1,411,000</b>
<b>Ending Fund Balance</b>	<b>\$1,041,499</b>	<b>\$1,166,280</b>	<b>\$1,131,690</b>	<b>\$858,235</b>
<b>Months in Reserve</b>	<b>13.9</b>	<b>12.8</b>	<b>9.6</b>	<b>3.8</b>

Source: DCA Accounting

## Fee Projections

The study goal is to determine if fees are properly aligned and sufficient to recover the actual cost of the PMBC programs while seeking to attain an adequate fund balance reserve. While it may be ideal to have a 12-month fund balance reserve, the following fund projection scenarios indicate license fees must be increased which negatively impacts licensees. Consequently, the Board needs to seek a balance between having a sufficient fund reserve and maintaining licensee satisfaction.

The following presents pertinent assumptions used to project revenue and expenses for two scenarios covering FYs 2020-21 through 2023-24 displayed in Tables 20 and 21. In addition, this section explains the methodology and results used to compute an hourly rate to cover non-fee schedule tasks/services.

## Projection Assumptions and Results

MRG incorporated the Department of Consumer Affairs' Budget Office projection assumptions and followed the standard financial practice of underestimating revenues and overestimating expenditures in the two tables.

## **Assumptions**

- Initial and renewal licensees are projected to remain stable at the four-year average of 88 and 1,048, respectively. Licensees are expected to retire at age 65.
- Revenue in Table 20 assumes the current \$200 temporary renewal fee is made permanent effective January 1, 2020 and is projected to remain flat (0%) each fiscal year over the projection period. As a result, renewal licensees only pay an additional \$42 for a total of \$1,142 and the fund reserve balance declines to 1.4 months in FY 2023-24.
- Revenue in Table 21 assumes the \$200 temporary renewal fee is made permanent effective January 1, 2020 plus additional revenues of \$300,000 per fiscal year are collected beginning January 1, 2021 to stabilize the fund reserve balance. As a result, all licensees pay \$1,318 (a \$269 increase for initials and a \$218 increase for renewals) and the fund reserve balance declines to 6.4 months through FY 2021-22 then increases to 7.2 months in FY 2023-24.
- For both tables, Personnel Services assumes no increase in staffing levels and a cost increase of 3% per fiscal year in accordance with DCA Budget Office practice. This amount more than covers the projected annual salary increases (2.0% to 2.5%) and employee benefit costs stipulated in the SEIU collective bargaining agreement.
- For both tables, expenses for General Office & Equipment, DCA Departmental Services pro rata, Interagency and External Enforcement are expected to increase 3% per year in accordance with DCA Budget Office practice. In addition, a 30% increase for Attorney General expenses starts in FY 2019-20 and increases in subsequent years per DCA Budget Office practice.
- For both tables, scheduled and unscheduled reimbursement offsets are estimated to be equal to the four-fiscal year average and are projected to remain flat for the projection period. Reimbursements reduce total expenditures on a dollar for dollar basis.

## **Results**

Based on the previous assumptions, Table 20 displays the Board's projected revenues, expenditures and fund balance for the period from FY 2019-20 through FY 2023-24. The table incorporates a permanent \$200 renewal fee and indicates a slowly declining ending fund balance of \$185,535 (1.4 months reserve) at the end of the four-fiscal year projection period. MRG recommends that only renewal licensees pay \$1,142 (\$42 increase). As a result, implementing the Table 20 fee projection would have limited impact on licensees but provides only limited term financial relief for the Board.

**Table 20**  
**PMBC Fund 0295 Balance Projection 1**  
**FY's 2019-2020 through 2023-24**

	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
<b>Beginning Fund Balance</b>	\$953,526	\$898,755	\$785,017	\$629,085	\$429,692
Prior Year Adjustment	0	0	0	0	0
<b>Adjusted Beginning Balance</b>	<b>\$953,526</b>	<b>\$898,755</b>	<b>\$785,017</b>	<b>\$629,085</b>	<b>\$429,692</b>
<b>Current Year Resources</b>					
Total Revenues	\$1,313,571	\$1,313,571	\$1,313,571	\$1,313,571	\$1,313,571
Total Transfers	0	0	0	0	0
<b>Totals, Resources</b>	<b>\$2,267,097</b>	<b>\$2,212,326</b>	<b>\$2,098,588</b>	<b>\$1,942,656</b>	<b>\$1,743,263</b>
<b>Total Expenses</b>	\$1,422,528	\$1,481,494	\$1,523,688	\$1,567,149	\$1,611,913
Less Sched/Unsched. Reimb. Offsets	(54,185)	(54,185)	(54,185)	(54,185)	(54,185)
<b>Net Expenditures</b>	<b>\$1,368,343</b>	<b>\$1,427,309</b>	<b>\$1,469,503</b>	<b>\$1,512,964</b>	<b>\$1,557,728</b>
<b>Ending Fund Balance</b>	<b>\$898,755</b>	<b>\$785,017</b>	<b>\$629,085</b>	<b>\$429,692</b>	<b>\$185,535</b>
<b>Months in Reserve</b>	<b>7.9</b>	<b>6.6</b>	<b>5.1</b>	<b>3.4</b>	<b>1.4</b>

Also based on the previous assumptions, Table 21 displays the Board's projected revenues, expenditures and fund balance for the period from FY 2019-20 through FY 2023-24. The table incorporates a permanent \$200 renewal fee plus an additional \$300,000 fee increase beginning January 1, 2021. The table indicates a slowly declining ending fund balance of 6.4 months through FY 2021-22 then an increasing fund balance of 7.2 months (\$935,535) at the end of the four-fiscal year projection period. MRG recommends that all licensees pay the same fee of \$1,318. This represents a \$269 increase for initial licensees (from \$1,049) to a \$218 increase for renewal licensees (from \$1,100). As a result, implementing the Table 21 fee projection will provide greater financial stability for the Board but will have a greater negative impact on licensees.

**Table 21**  
**PMBC Fund 0295 Balance Projection 2**  
**FY's 2019-2020 through 2023-24**

	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
<b>Beginning Fund Balance</b>	\$953,526	\$898,755	\$785,017	\$779,085	\$879,692
Prior Year Adjustment	0	0	0	0	0
<b>Adjusted Beginning Balance</b>	<b>\$953,526</b>	<b>\$898,755</b>	<b>\$785,017</b>	<b>\$779,085</b>	<b>\$879,692</b>
<b>Current Year Resources</b>					
Total Revenues	\$1,313,571	\$1,313,571	\$1,463,571	\$1,613,571	\$1,613,571
Total Transfers	0	0	0	0	0
<b>Totals, Resources</b>	<b>\$2,267,097</b>	<b>\$2,212,326</b>	<b>\$2,248,588</b>	<b>\$2,392,656</b>	<b>\$2,493,263</b>
<b>Total Expenses</b>	\$1,422,528	\$1,481,494	\$1,523,688	\$1,567,149	\$1,611,913
Less Sched/Unsched. Reimb. Offsets	(54,185)	(54,185)	(54,185)	(54,185)	(54,185)
<b>Net Expenditures</b>	<b>\$1,368,343</b>	<b>\$1,427,309</b>	<b>\$1,469,503</b>	<b>\$1,512,964</b>	<b>\$1,557,728</b>
<b>Ending Fund Balance</b>	<b>\$898,755</b>	<b>\$785,017</b>	<b>\$779,085</b>	<b>\$879,692</b>	<b>\$935,535</b>
<b>Months in Reserve</b>	<b>7.9</b>	<b>6.6</b>	<b>6.4</b>	<b>7.0</b>	<b>7.2</b>

#### **Non-Fee Schedule Hourly Rate**

One of the objectives of this study was to establish a cost basis to assess for services provided by PMBC when a separate fee does not exist. The most convenient and fairest way to charge for unscheduled services is to determine an hourly charge based on full absorption costing that considers all PMBC costs and all staff budgeted hours. By dividing PMBC's 2018-19 net expenditures (\$1,315,709) shown in Table 19 by total staff budgeted hours (5 staff x 2,080 hours/year = 10,400 hours/year), an hourly rate rounded up to approximately \$127 can be derived. Depending on the time it takes to provide a specific non-fee schedule service, a fee could be calculated accordingly. For example, a one-hour task would be charged \$127 or \$64 for a half-hour task.

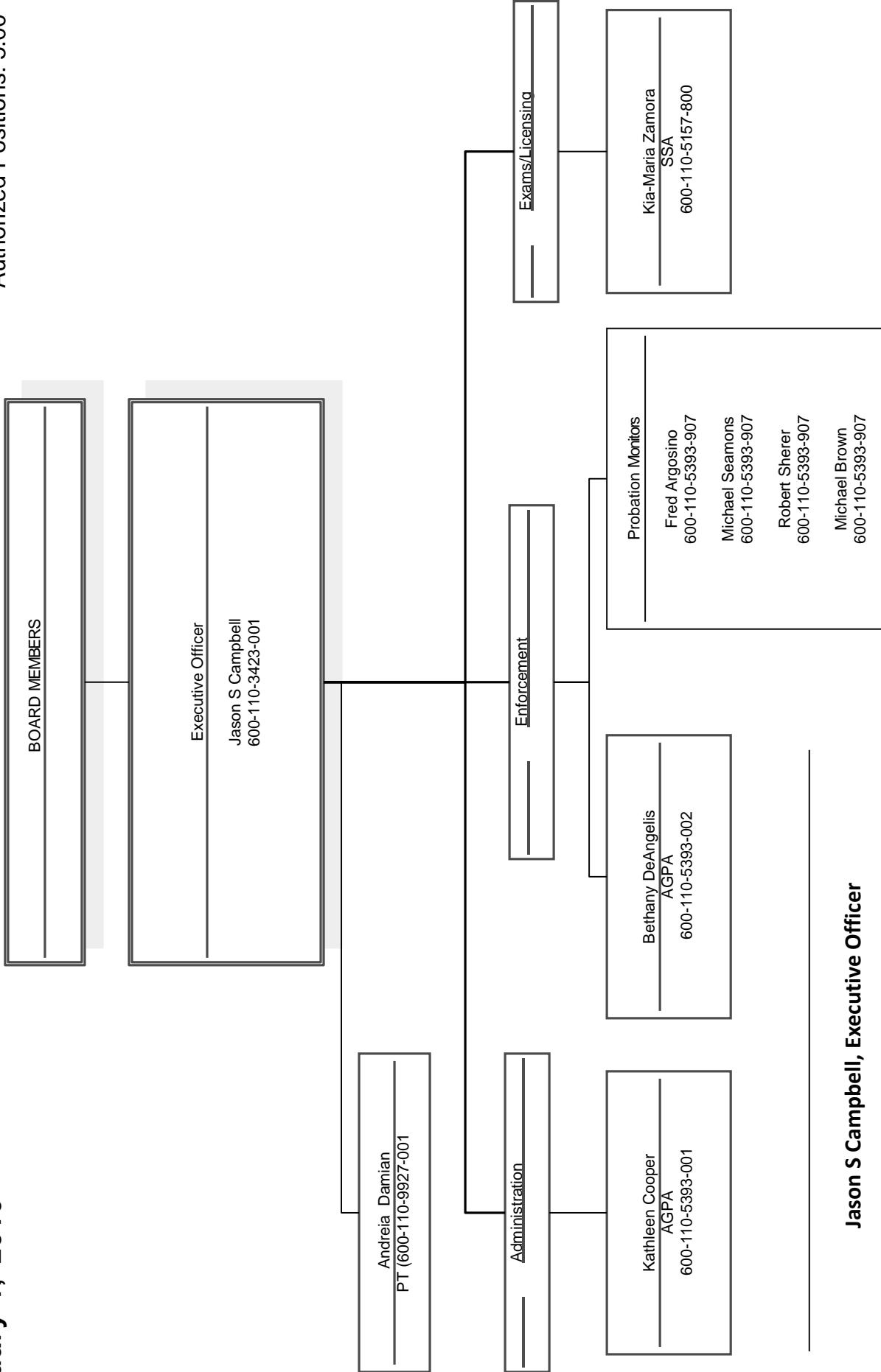
#### **Recommendations**

3. Over time, PMBC should strive for at least a 12-month fund balance to ensure a sufficient operating reserve over and above costs it can and cannot control, and increase fees accordingly as needed to maintain this reserve.
4. After balancing the Board's regulatory and financial needs with licensee acceptance and satisfaction, MRG recommends:
  - a) At a minimum, the Board should adopt Scenario 1 to make the \$200 temporary renewal fee permanent to provide near-term solvency for the Board. Only renewal licensees pay the additional \$42 fee for a total biennial fee of \$1,142; and

- b) Given the current and prospective national economic and political environments, the Board should give special consideration to also adopting Scenario 2 which makes the \$200 temporary renewal fee permanent **and** increases fees to raise \$300,000 each fiscal year to stabilize the fund balance longer term. All licensees would pay \$1,318. For initial licensees, this represents a \$269 increase from \$1,049 and for renewal licensees a \$218 increase from \$1,100.
- 5. When appropriate, PMBC should charge for unscheduled services based on a fully absorbed cost rate of \$127 per hour. Services should be charged accordingly based on the actual time PMBC consumes to provide the service.

**Department of Consumer Affairs  
Board of Podiatric Medicine  
January 1, 2016**

**CURRENT**  
FY 2015-16  
Authorized Positions: 5.00

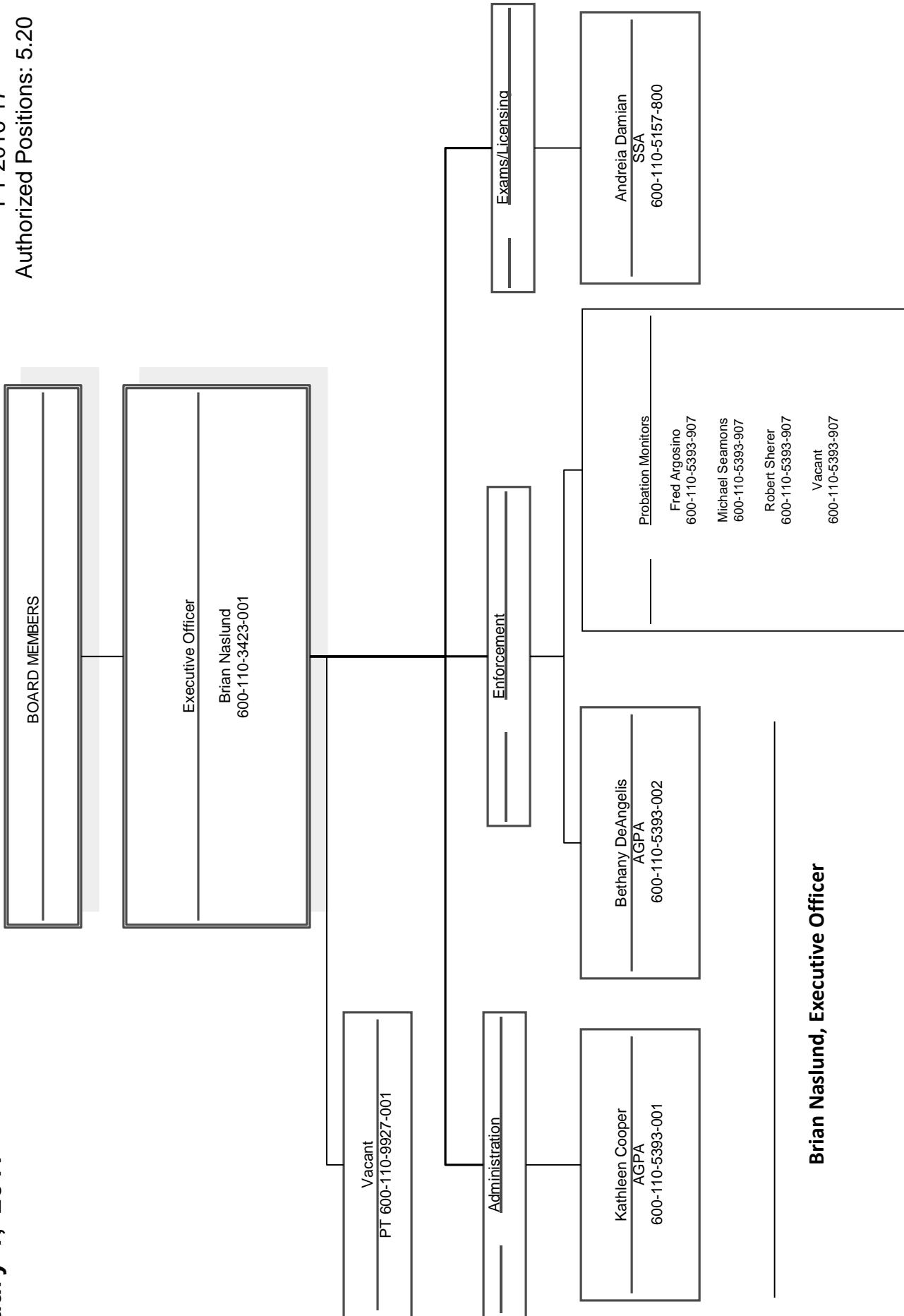


Korey Landry, Personnel Analyst

**ATTACHMENT D**

**Department of Consumer Affairs**  
**Board of Podiatric Medicine**  
**January 1, 2017**

**CURRENT**  
**FY 2016-17**  
**Authorized Positions: 5.20**

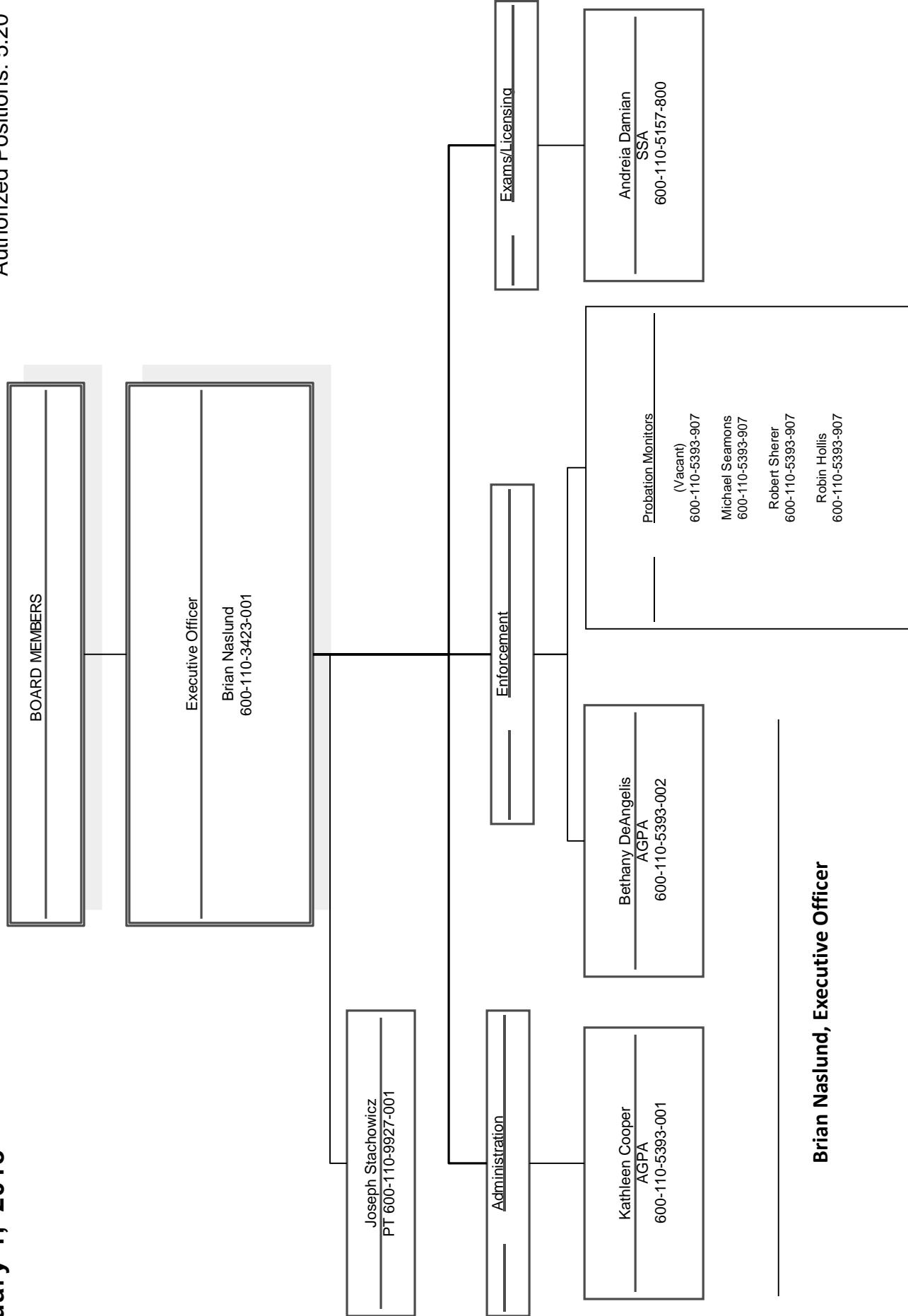


Laura Gutierrez, Personnel Analyst

**ATTACHMENT D**

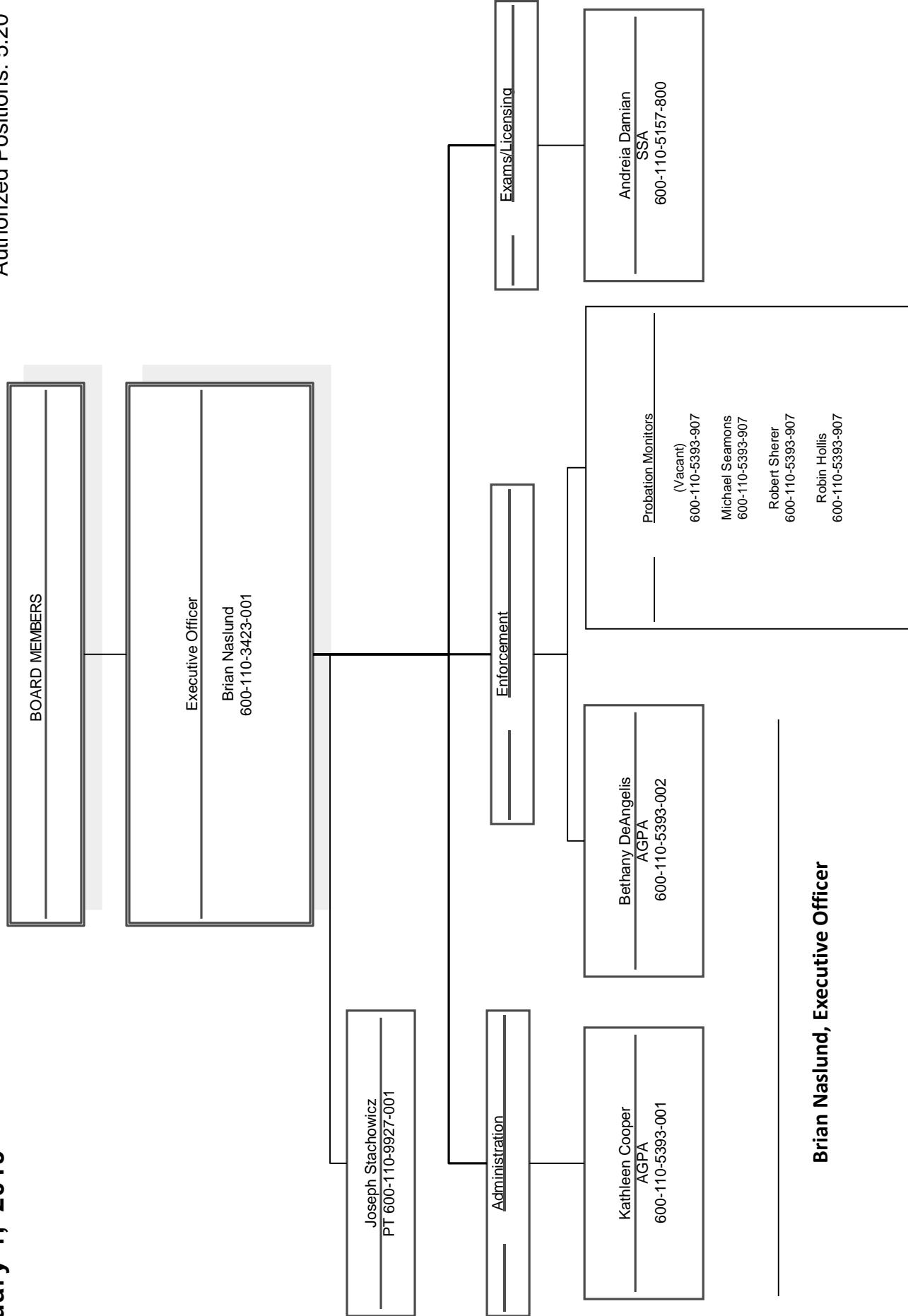
**Department of Consumer Affairs**  
**Board of Podiatric Medicine**  
**January 1, 2018**

**CURRENT**  
 FY 2017-2018  
 Authorized Positions: 5.20



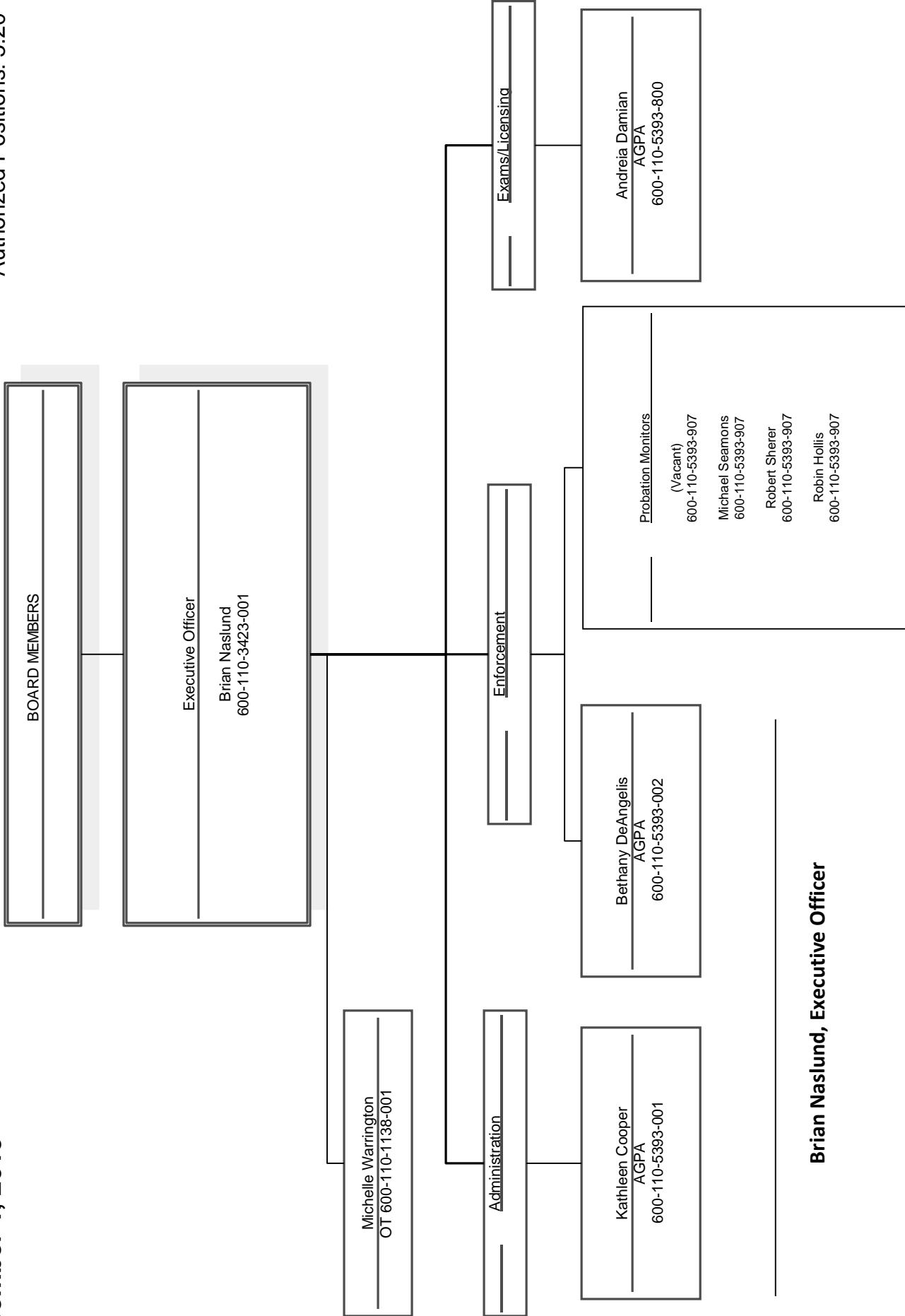
**Department of Consumer Affairs**  
**Board of Podiatric Medicine**  
**January 1, 2019**

**CURRENT**  
 FY 2018-2019  
 Authorized Positions: 5.20



**Department of Consumer Affairs**  
**Pediatric Medical Board of California**  
**December 1, 2019**

**CURRENT**  
 FY 2019-2020  
 Authorized Positions: 5.20



Jagbir Mavi, Personnel Analyst

**Performance Measure 1 (Complaint Volume)** – Total number of complaints and conviction/arrest notices received within the specified period.

Complaints Volume	Conviction/Arrest Volume	Total Volume
36	1	37

**California Board of Podiatric Medicine**  
SFY 2017/01 - Case Volume

Month	Complaints Volume
July	12
August	13
September	11

**Data Source:** California Department of Consumer Affairs, OIS/DOA Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and B.

**Performance Measure 1 (Complaint Volume)** – Total number of complaints and conviction/arrest notices received within the specified period.

Complaints Volume	Conviction/Arrest Volume	Total Volume
36	1	37

**California Board of Podiatric Medicine**  
SFY 2017/01 - Case Volume

Month	Complaints Volume
July	12
August	13
September	11

**Data Source:** California Department of Consumer Affairs, OIS/DOA Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and B.

**Performance Measure 1 (Complaint Volume)** – Total number of complaints and conviction/arrest notices received within the specified period.

Complaints Volume	Conviction/Arrest Volume	Total Volume
37	1	38

**California Board of Podiatric Medicine**  
SFY 2017/02 - Case Volume

Month	Complaints Volume
October	10
November	13
December	14

**Data Source:** California Department of Consumer Affairs, OIS/DOA Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and B.

**Performance Measure 1 (Complaint Volume)** – Total number of complaints and conviction/arrest notices received within the specified period.

Complaints Volume	Conviction/Arrest Volume	Total Volume
36	1	37

**California Board of Podiatric Medicine**  
SFY 2017/02 - Case Volume

Month	Complaints Volume
October	10
November	13
December	14

**Data Source:** California Department of Consumer Affairs, OIS/DOA Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and B.

**Performance Measure 1 (Complaint Volume)** – Total number of complaints and conviction/arrest notices received within the specified period.

Complaints Volume	Conviction/Arrest Volume	Total Volume
36	1	37

**California Board of Podiatric Medicine**  
SFY 2017/03 - Case Volume

Month	Complaints Volume
January	13
February	12
March	16

**Data Source:** California Department of Consumer Affairs, OIS/DOA Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and B.

**Performance Measure 1 (Complaint Volume)** – Total number of complaints and conviction/arrest notices received within the specified period.

Complaints Volume	Conviction/Arrest Volume	Total Volume
36	1	37

**California Board of Podiatric Medicine**  
SFY 2017/03 - Case Volume

Month	Complaints Volume
January	13
February	12
March	16

**Data Source:** California Department of Consumer Affairs, OIS/DOA Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and B.

**Performance Measure 1 (Complaint Volume)** – Total number of complaints and conviction/arrest notices received within the specified period.

Complaints Volume	Conviction/Arrest Volume	Total Volume
36	1	37

**California Board of Podiatric Medicine**  
SFY 2017/04 - Case Volume

Month	Complaints Volume
April	10
May	13
June	14

**Data Source:** California Department of Consumer Affairs, OIS/DOA Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and B.

**Performance Measure 1 (Complaint Volume)** – Total number of complaints and conviction/arrest notices received within the specified period.

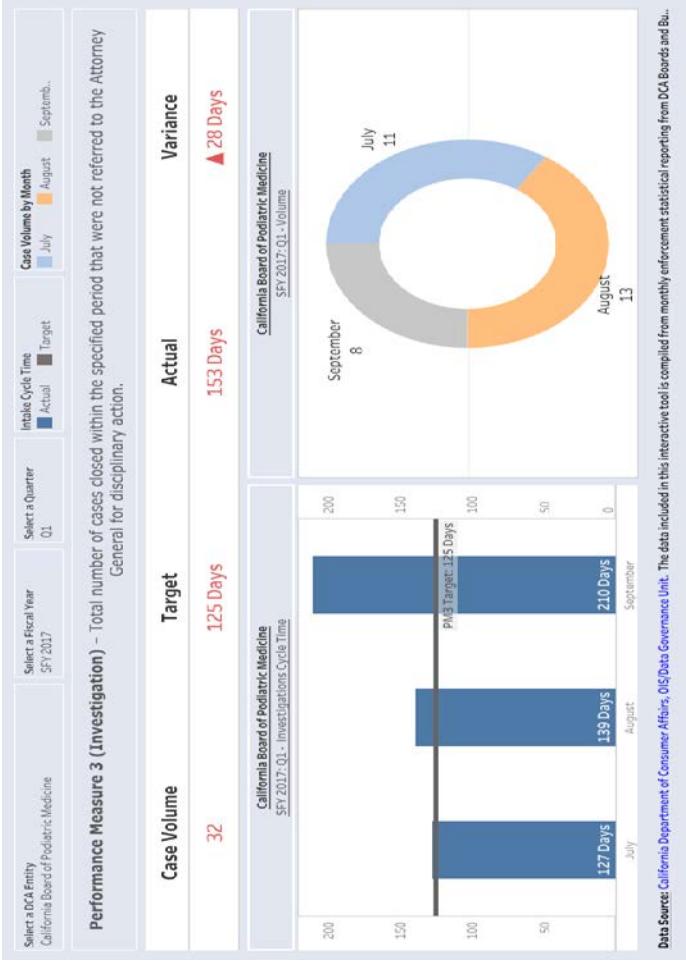
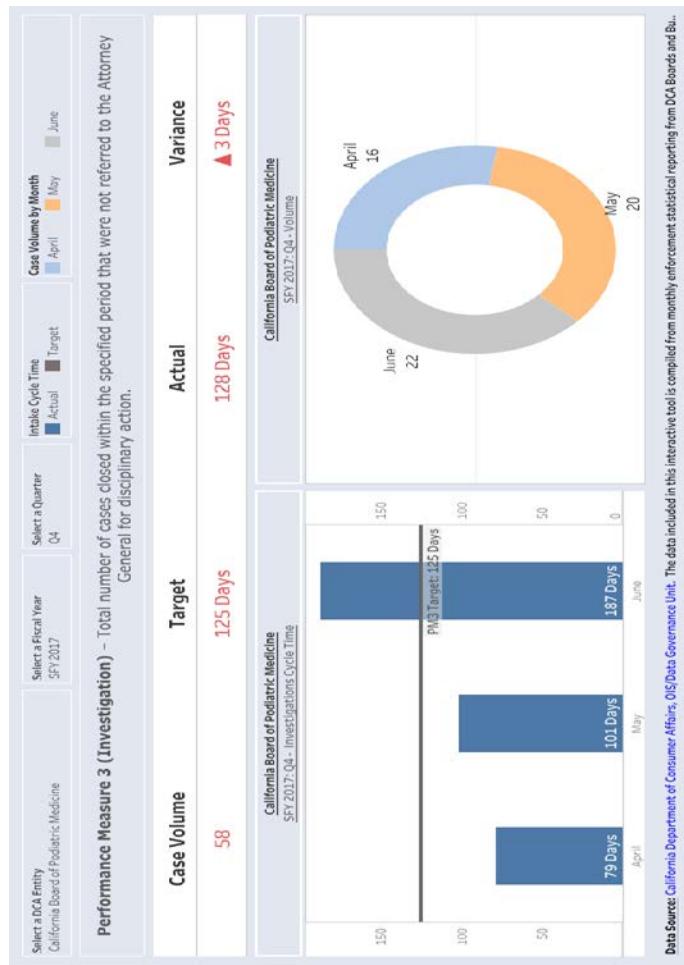
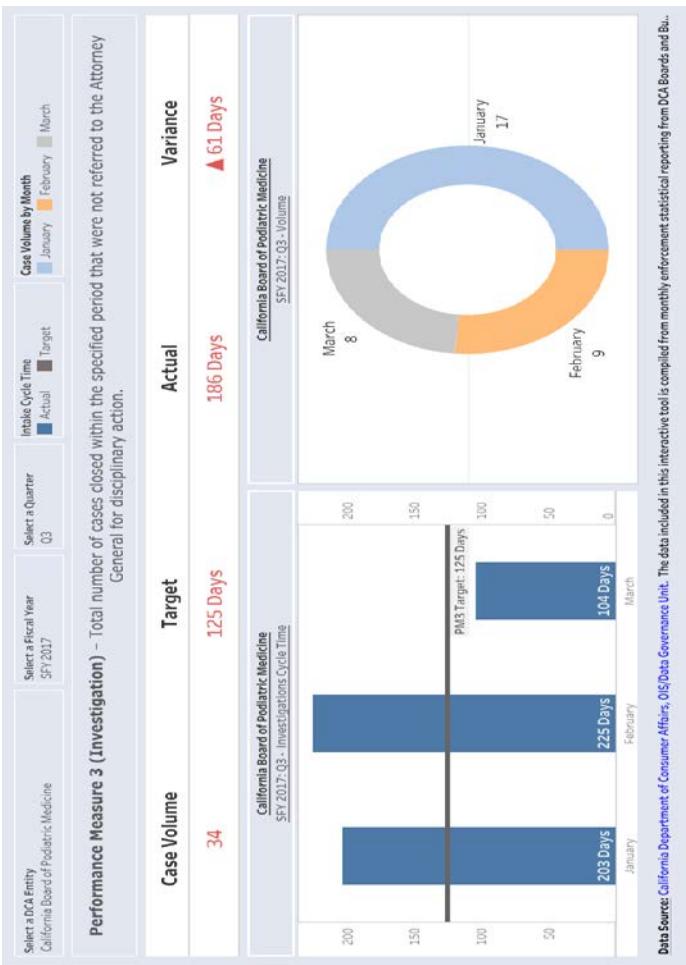
Complaints Volume	Conviction/Arrest Volume	Total Volume
36	1	37

**California Board of Podiatric Medicine**  
SFY 2017/04 - Case Volume

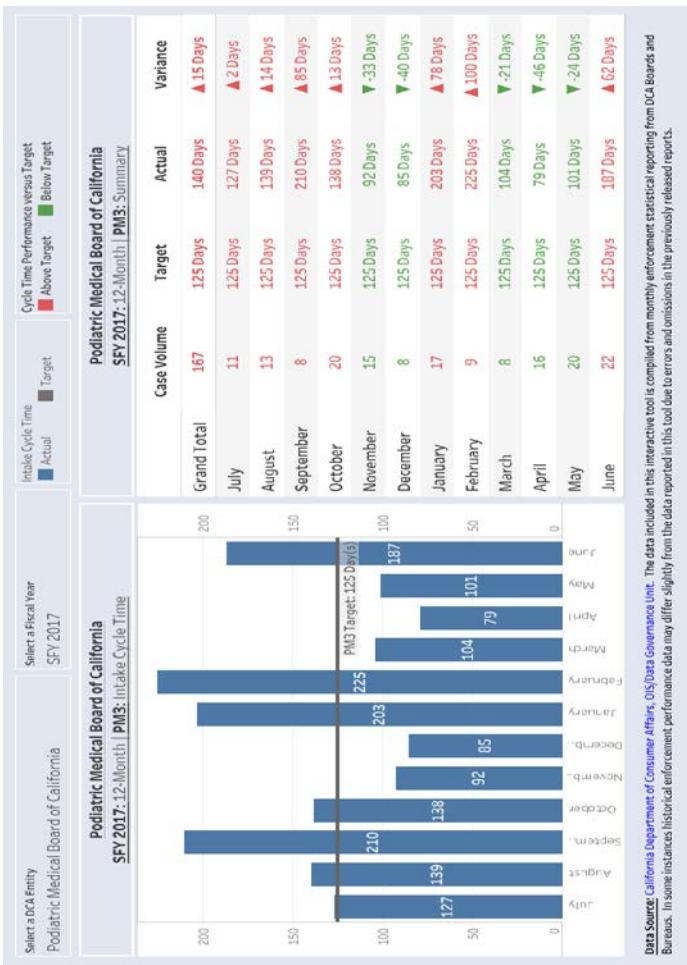
Month	Complaints Volume
April	10
May	13
June	14

**Data Source:** California Department of Consumer Affairs, OIS/DOA Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and B.



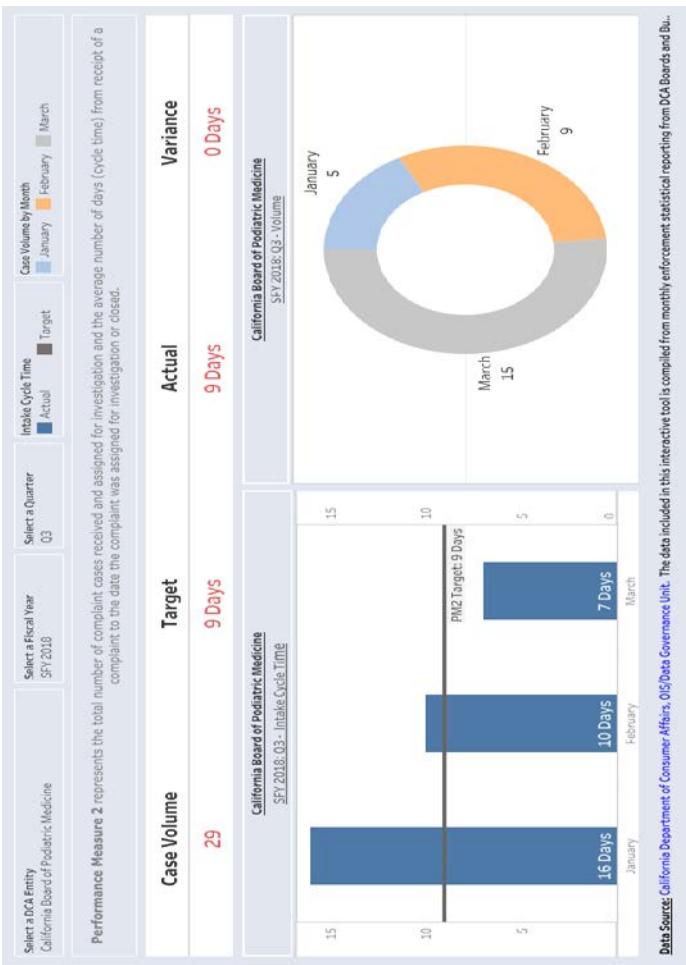


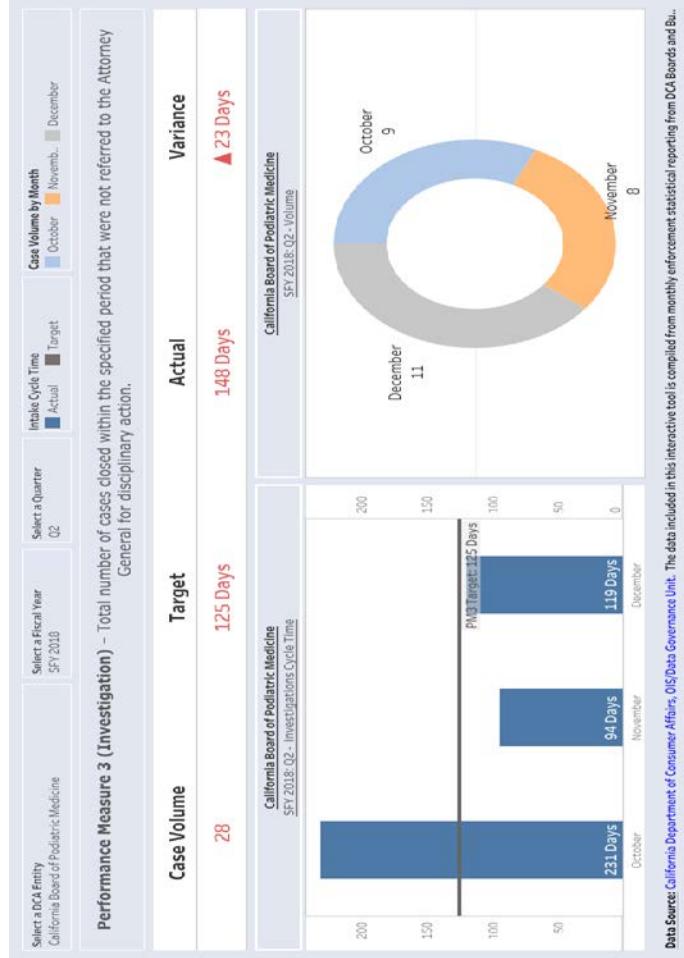
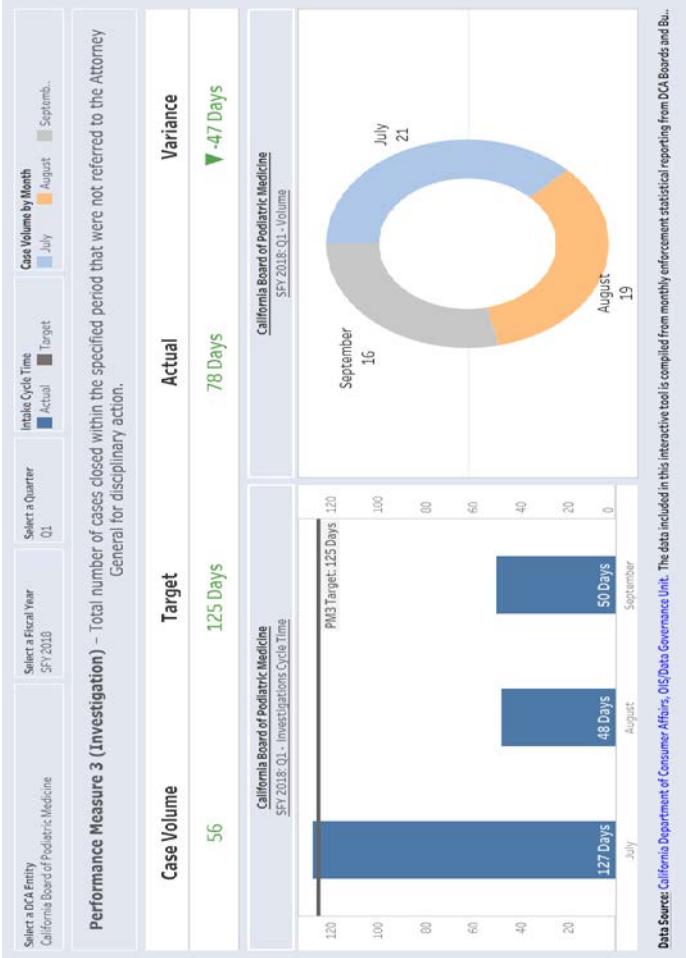
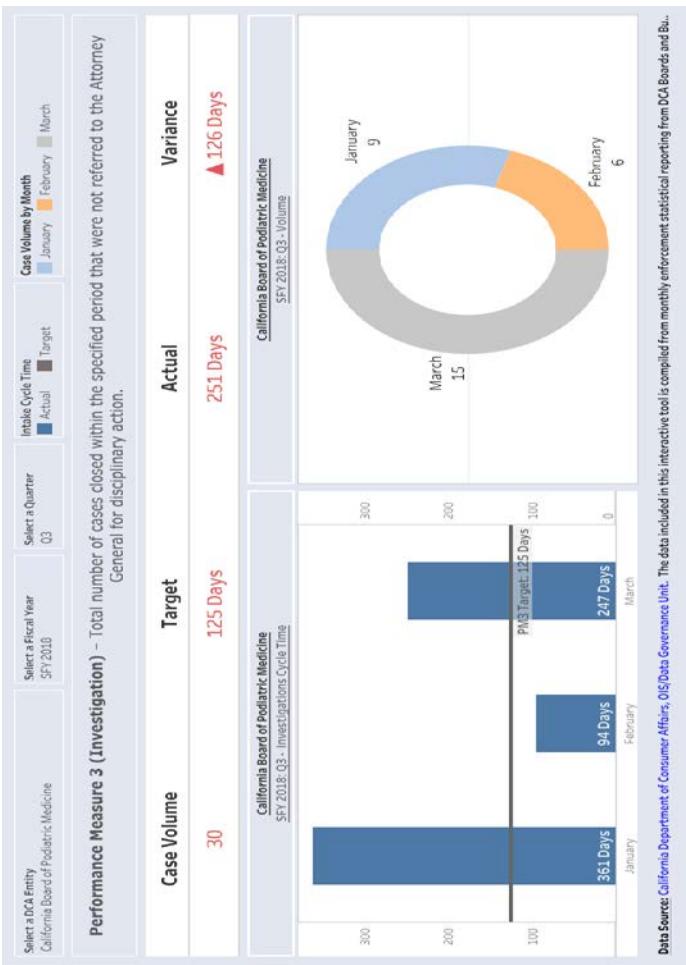


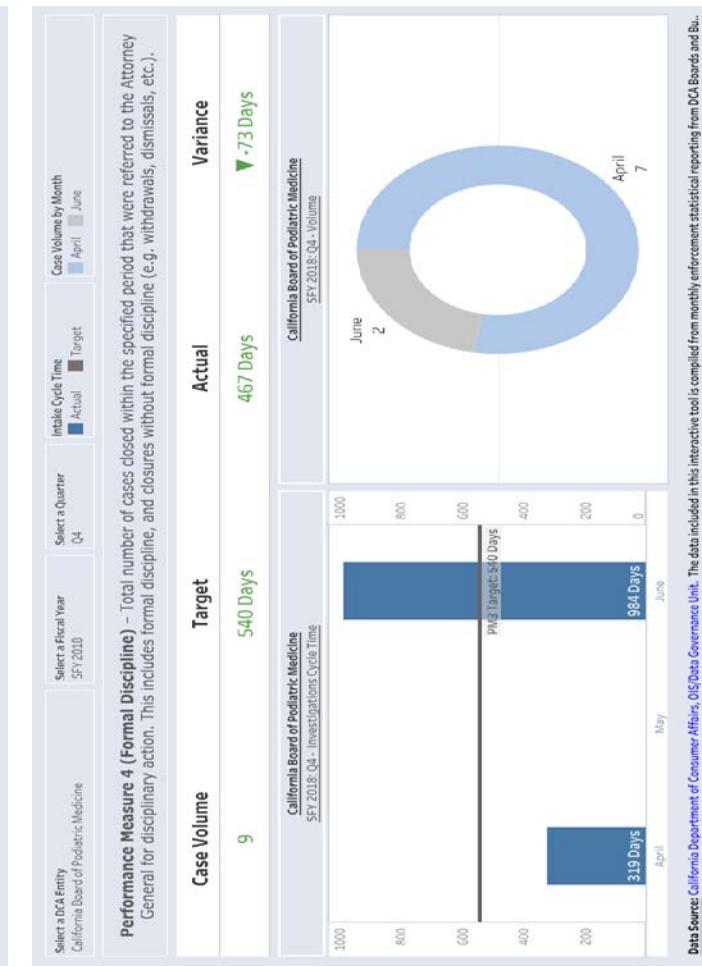
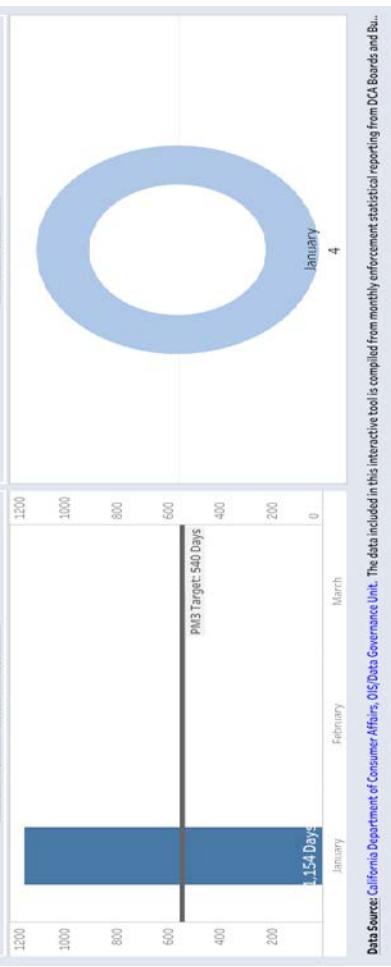


**Data Source:** California Department of Consumer Affairs, OIS Data Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

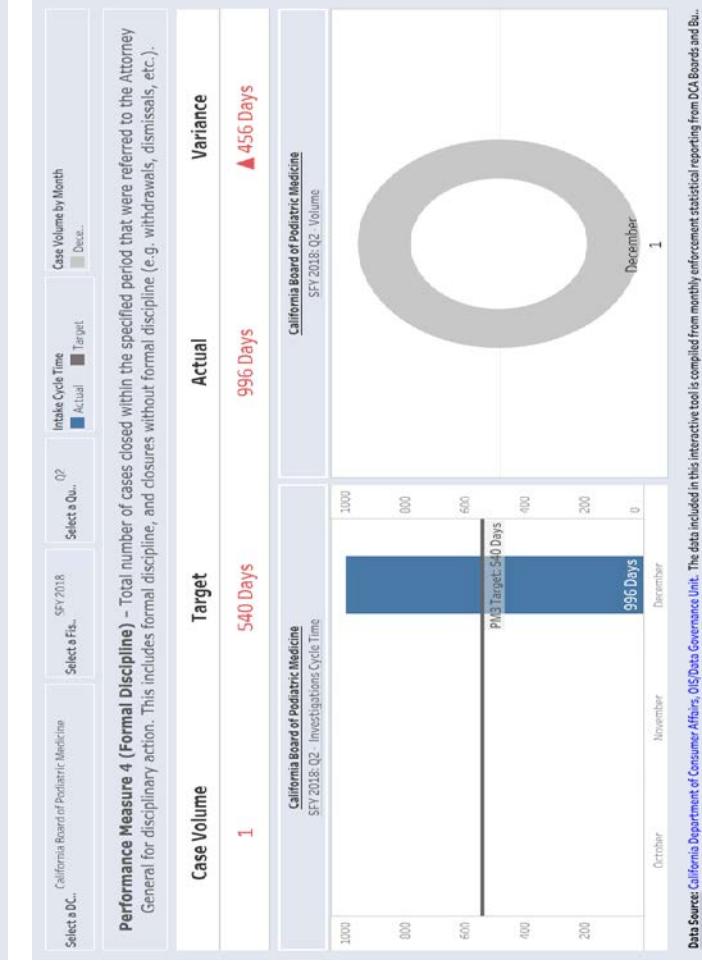
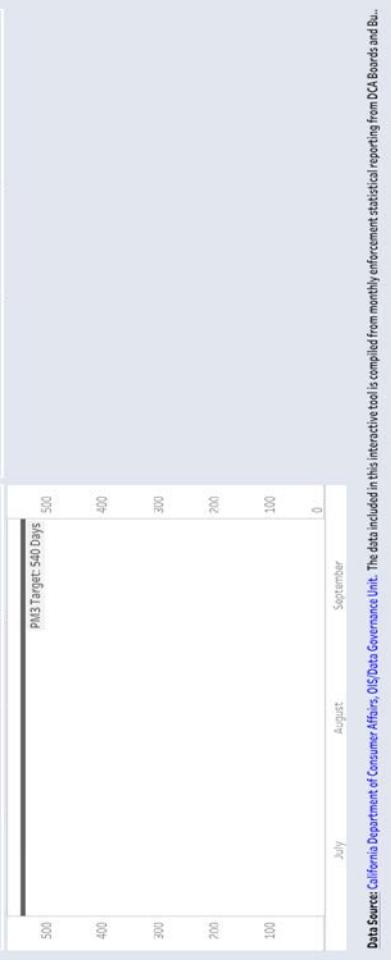




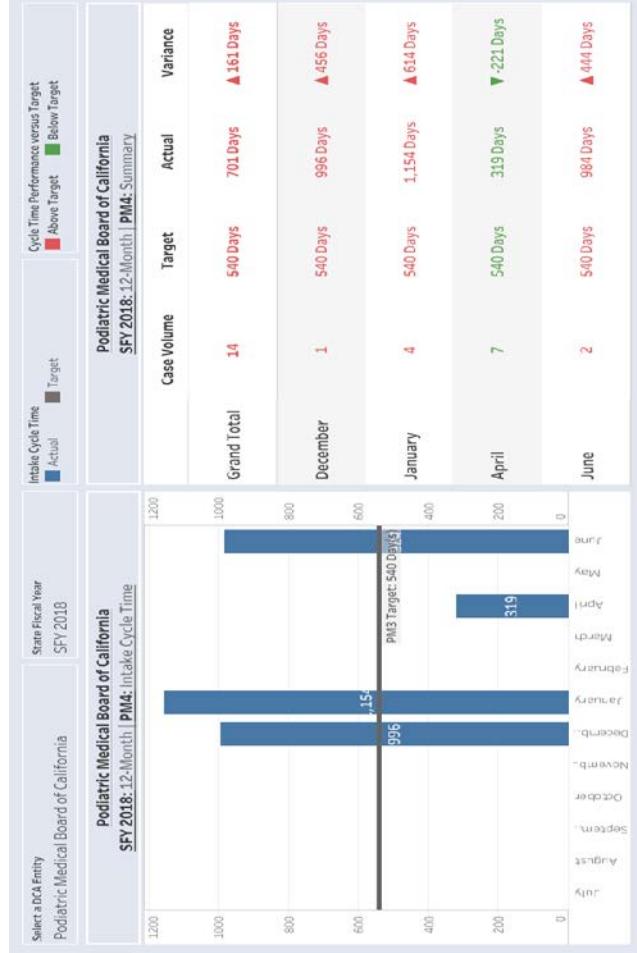
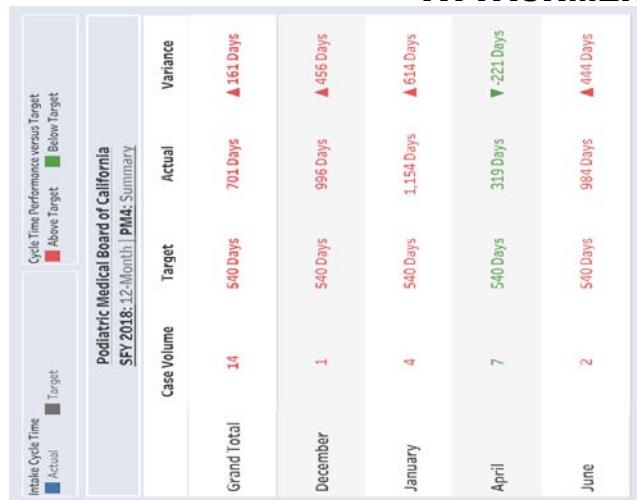




**Data Source:** California Department of Consumer Affairs, OIS Data Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bu..

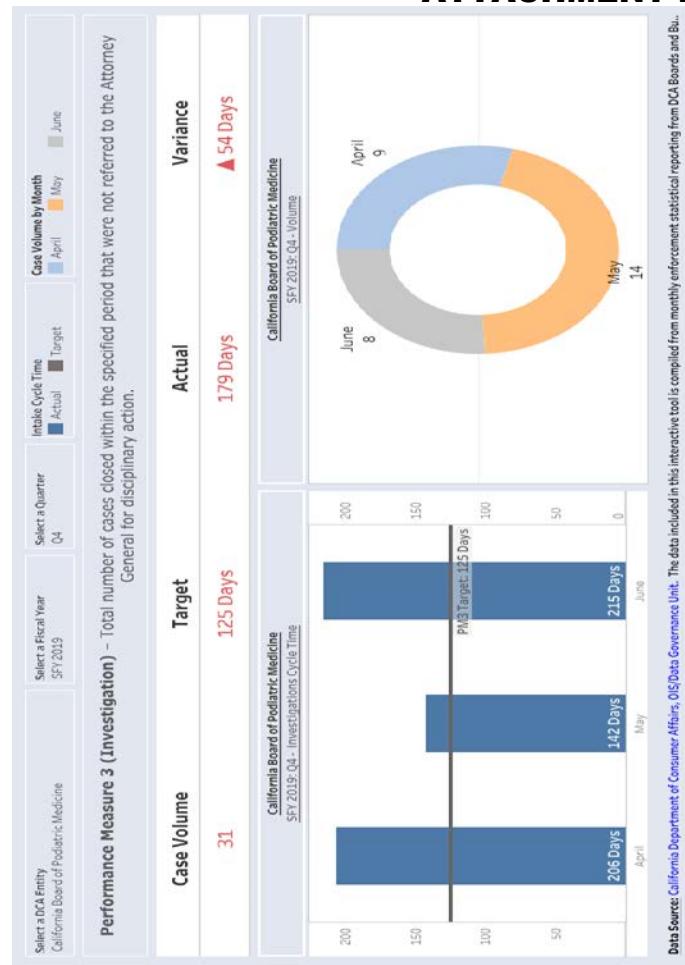
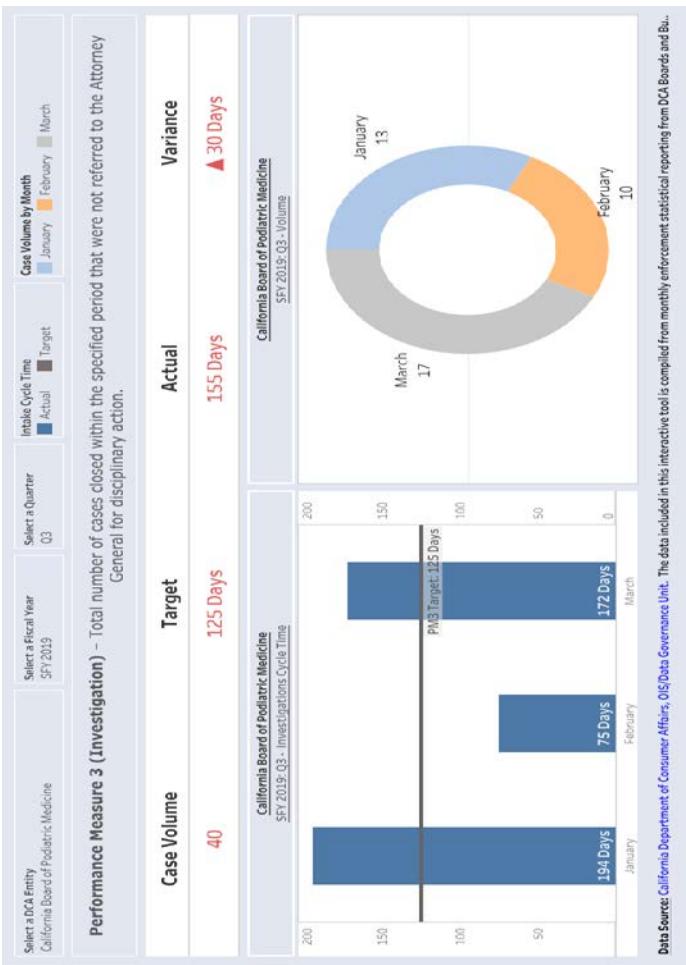


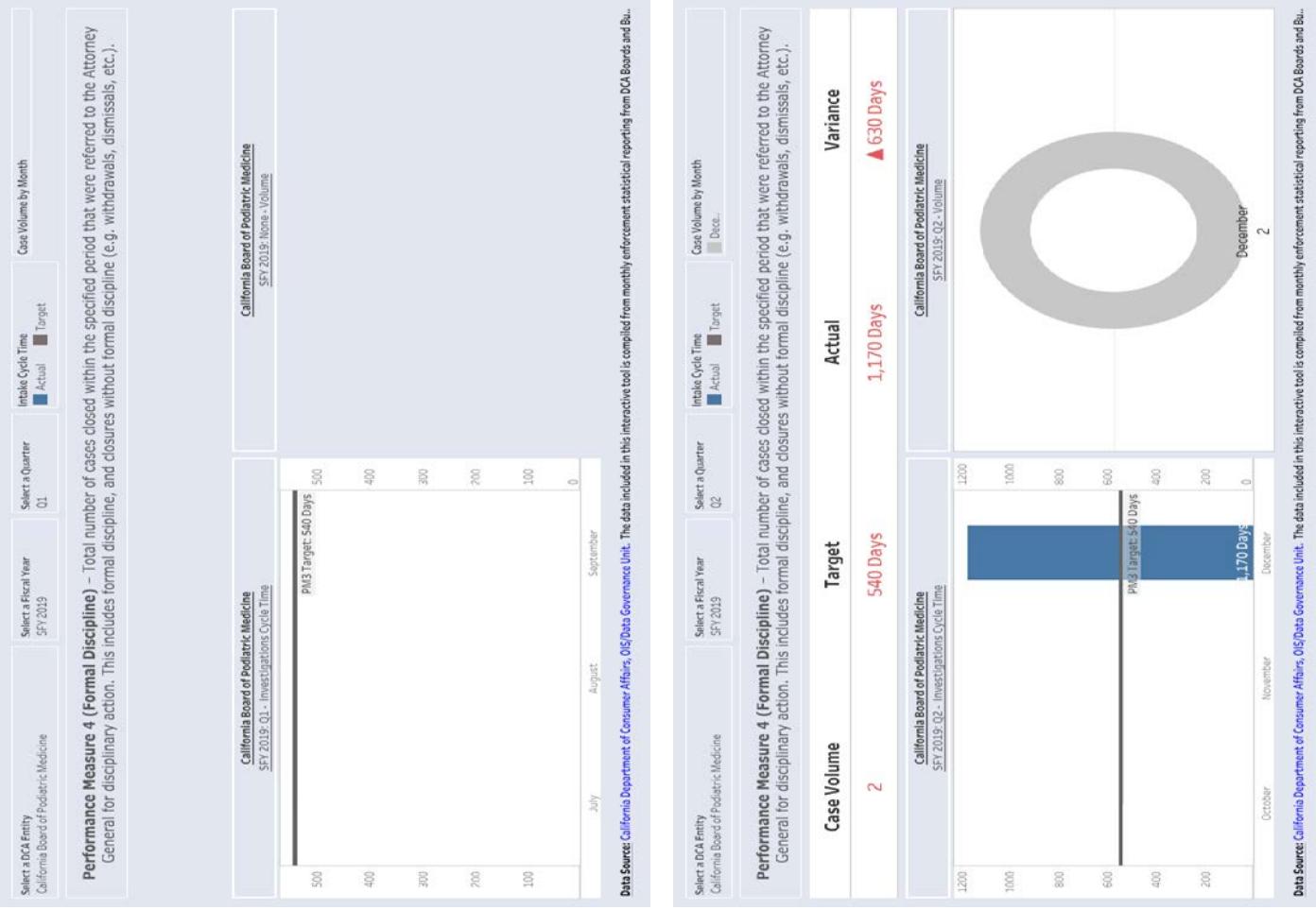
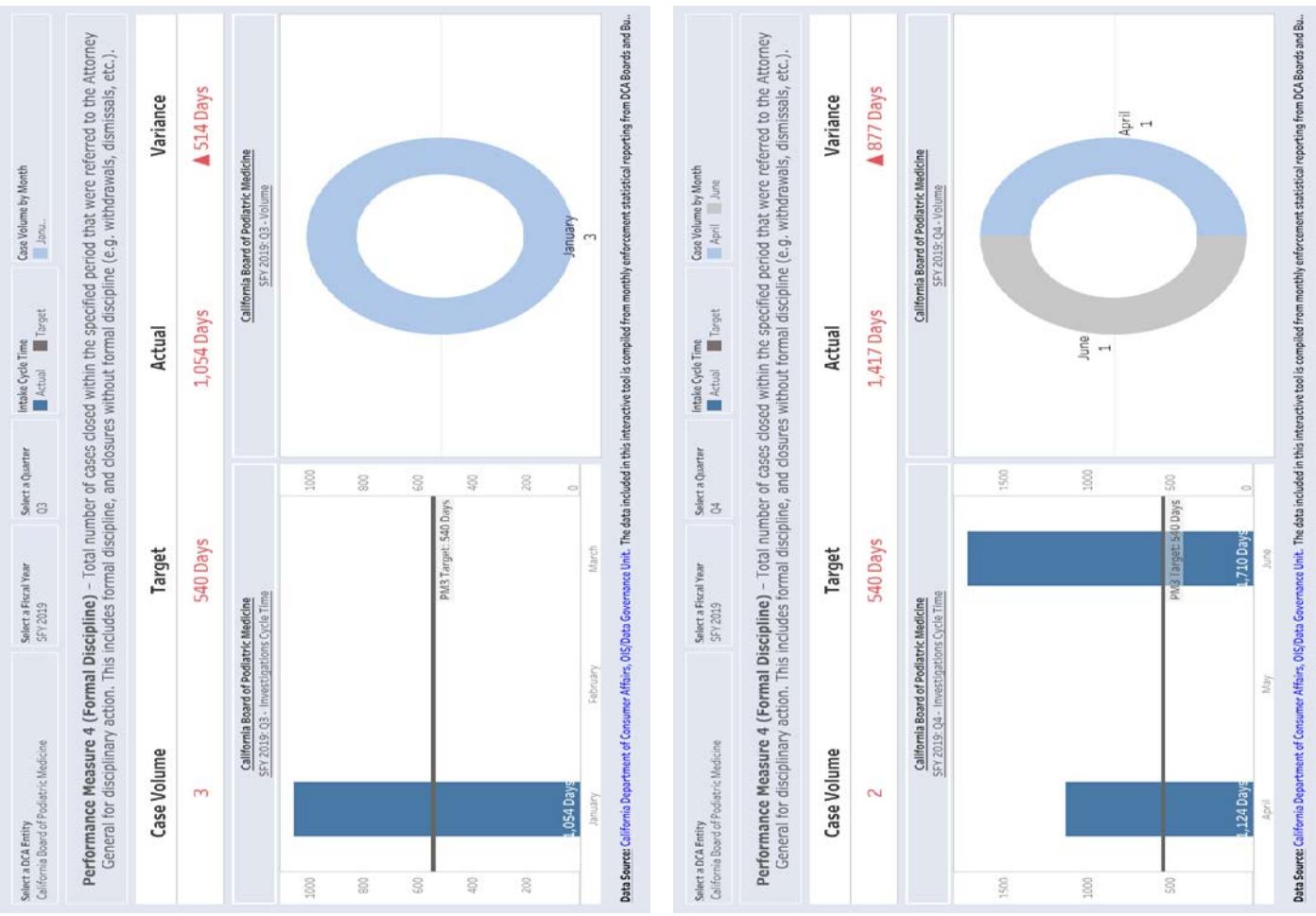
**Data Source:** California Department of Consumer Affairs, OIS Data Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bu..

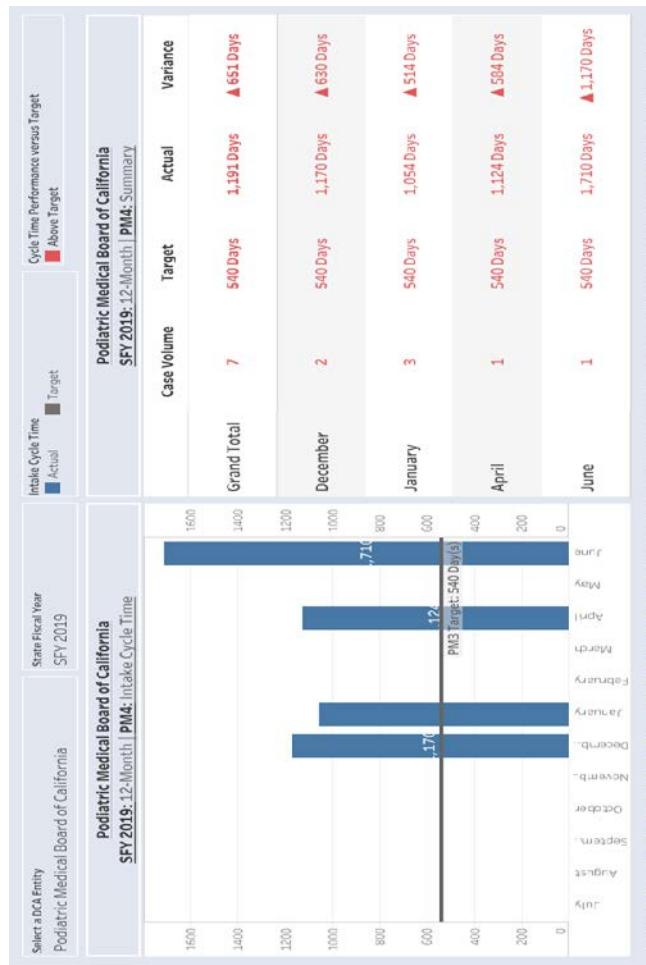
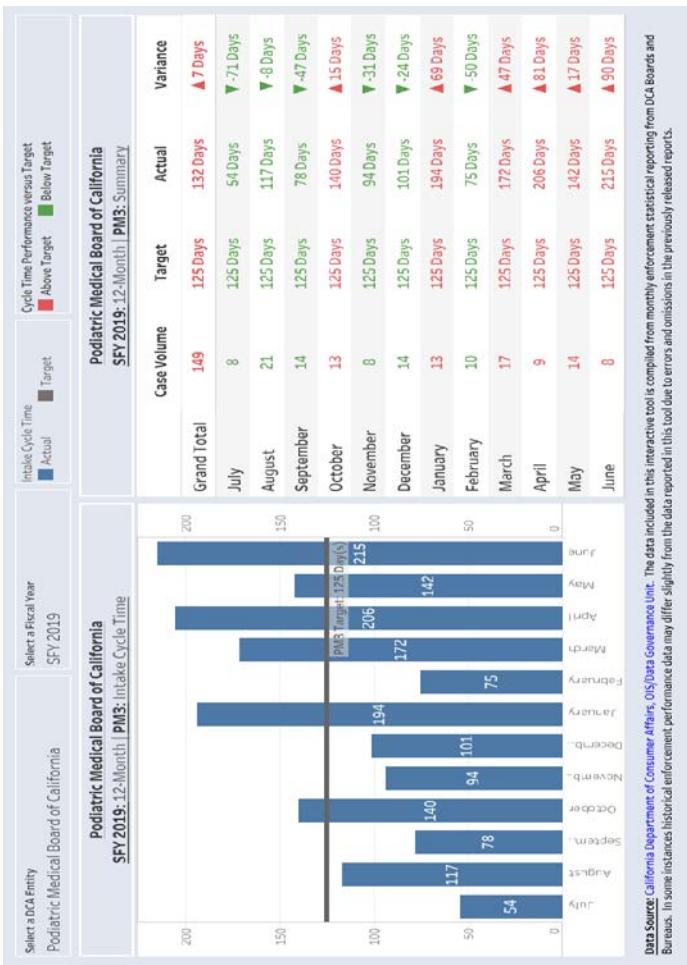












**Data Source:** California Department of Consumer Affairs, OIS Data Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

# Podiatric Medical Board of California

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## Strategic Plan

2019-2022



# Podiatric Medical Board of California

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## Board Members

**Michael Zapf, DPM**, President

**Judith Manzi, DPM**, Vice President

**Darlene Trujillo Elliot**, Secretary

**Maria Cadenas, MBA**

**Kristina Dixon, MBA**

**Neil Mansdorf, DPM**

**Edmund G. Brown, Jr.**, Governor

**Alexis Podesta**, Secretary, Business, Consumer Services and Housing Agency

**Dean R. Grafilo**, Director, Department of Consumer Affairs

**Brian Naslund**, Executive Officer, Podiatric Medical Board of California

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# Message from the Board President

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On behalf of the Podiatric Medical Board of California (Board), I am pleased to present our 2019-2022 Strategic Plan.

Through the process of updating its Strategic Plan, the Board re-evaluated its current mission, values, successes and challenges. The current plan could be viewed as a “road map” for the Board and stakeholders. The Board tried to ensure that the focus remain on established goals while allowing for flexibility in meeting new challenges as they arise.

The Board’s mission is to protect the public through the licensing and regulation of Doctors of Podiatric Medicine in the State of California. The current plan revisits the goals of achieving excellence in implementing current laws and regulations applicable to our licensees, as well as continuing to strengthen our commitment, encouraging increased participation of all stakeholders, and meeting the challenges of the everchanging healthcare environment.

The profession of podiatric medicine continues to evolve and demands that the Board strategically plan for the future. It is through the strategic planning process that the Board has achievable goals that will allow the Board to continually make and monitor improvements in its efforts to meet its sole mission, which is to protect the public.

Sincerely,

Michael Zapf, DPM, President



# About the Podiatric Medical Board of California

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The Podiatric Medical Board of California (Board)—functioning semi-autonomously as one of 36 regulatory entities under the guidance of the Department of Consumer Affairs (DCA)—has historical roots that can be traced back to as early as 1957 when State licensure of Doctors of Podiatric Medicine (DPMs) was separately handled by a legislatively created podiatric examining committee under the auspices of the California Board of Medical Examiners. To this day, the Board continues to independently carry out its primary mission of public protection through its close statutory association with the Medical Board of California.

Headed by a professional majority, the Board is composed of seven members serving four-year terms with no more than a maximum of two consecutive terms permitted. The Governor appoints four professional members and one public member, while the Senate Rules Committee and the Assembly Speaker each appoint one of the two remaining public members of the body. To avoid conflicts of interest during their service to the people of the State, no member of the Board may own or acquire any interest in an institution engaged in podiatric medical instruction.

The Board's important mission for advancing public protection is carried out by its Executive Officer, who is appointed by the Board and serves at its pleasure. Through faithful execution of the laws and regulations governing the practice of podiatric medicine, the Board's Executive Officer diligently carries out the Board's mission and directives in the administration, licensing, and enforcement of a licentiate base consisting of approximately 2,000 DPMs.

Existing solely to serve the public, the Board's mission is accomplished without reliance on taxpayer monies from the State's General Fund. Through careful fiscal and budgetary discipline, the Board operates well within funding levels generated exclusively from fees set by State statute and collected from licensees and applicants.

# Recent Accomplishments

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1. Continued to maintain the highest standards in protecting the public and regulating licensees throughout the state.
2. Achieved recognition as the third medical board in California with a title change from “California Board of Podiatric Medicine” to “Podiatric Medical Board of California.” This change, effective July 1, 2019 provides consistency with the Medical Board of California and the Osteopathic Medical Board of California.
3. Collaborated with various stakeholders to broaden the scope of practice so that doctors of podiatric medicine (DPMs) with proper training are now allowed to provide medical treatments or wound care for patients suffering from the complications of diabetes and other diseases of the lower limb.
4. Achieved many technological advancements that have allowed the Board to work more effectively. These items include laptops, copier, scanner, and phones. This provides many benefits in the ability to create more documents in-house rather than sending them for professional printing, and the ability to network more efficiently.
5. Collaborated with the Strategic Organizational Leadership and Individual Development (SOLID) Unit of the Department of Consumer Affairs to create an online expert witness training tutorial to ensure experts are trained regarding report writing, record review, and providing testimony prior to case assignment.
6. Implemented electronic processing for licensees to make payments to the Board. This includes initial licensure, renewal, and cost recovery. Since this service has been available, licensees have reported that the electronic payment process is much easier and more efficient.
7. Developed relationships with legislators and enhanced involvement of stakeholders in communicating and ultimately pursuing active legislative goals, such as increasing the scope of practice, maintaining an independent medical board, and attending many legislative hearings and meetings relating to legislation directly impacting the Board.
8. Increased outreach to DPMs and all stakeholders through numerous communication channels including the biannual printing of the topical newsletter, Footnotes. Additionally, through attending various legislative and professional events, the Board has made itself available to strengthen cooperation among stakeholders, answer questions, and provide transparency.



# Mission, Vision, and Values

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## Mission

To protect and educate consumers of California through licensing, enforcement, and regulation of Doctors of Podiatric Medicine.

## Vision

All California-licensed podiatric doctors will provide safe and competent foot and ankle care.

## Values

Consumer Protection

Effectiveness

Fairness

Professionalism

Service

Transparency

# Strategic Goals

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## 1. Enforcement

The Podiatric Medical Board of California (Board) protects consumers by preventing violations and effectively enforcing laws, codes, and standards when violations occur.

## 2. Licensing

The Board licenses those practicing podiatric medicine by ensuring that licensing requirements are met. This includes initial application, continuing education, and renewals.

## 3. Legislation/Regulations

The Board participates in legislation, and promulgates regulations, policies, and procedures to meet the challenges of the evolving industry, while protecting consumers.

## 4. Administration

The Board utilizes all available resources to fulfill its mission.

## 5. Outreach

The Board educates, communicates, and interacts with licensees, consumers, and key stakeholders.

## Goal 1: Enforcement

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*The Podiatric Medical Board of California protects consumers by preventing violations and effectively enforcing laws, codes, and standards when violations occur.*

- 1.1 Coordinate with the Department of Consumer Affairs and other licensing and regulatory agencies to evaluate and update performance measured timeframes to accurately reflect realistic processing times for adjudication and enforcement of cases.
- 1.2 Educate licensees concerning potential infractions and ways to mitigate them to reduce violations and improve consumer protection.
- 1.3 Plan and execute the recruitment of consultants and experts to maintain an adequate pool of qualified providers to accomplish the enforcement goal.
- 1.4 Develop an enforcement communication plan for parties involved in the enforcement process to improve communication with stakeholders.

## Goal 2: Licensing

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*The Podiatric Medical Board of California (Board) licenses those practicing podiatric medicine by ensuring that licensing requirements are met. This includes initial application, continuing education and renewals.*

- 2.1 Investigate the role of the Board in enforcing Controlled Substance Utilization Review and Evaluation System (CURES) registration and compliance according to California Department of Justice specifications.
- 2.2 Inform and educate stakeholders about the continuing medical education requirements and processes to improve the quality of podiatric medicine.
- 2.3 Enhance and streamline the online portal to facilitate paperless licensing and communication.
- 2.4 Encourage the increase of doctors of podiatric medicine in the workforce to meet increasing public demand while maintaining California standards.

## Goal 3: Legislation/Regulations

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*The Podiatric Medical Board of California (Board) participates in legislation, and promulgates regulations, policies, and procedures to meet the challenges of the evolving industry, while protecting consumers.*

- 3.1 Collaborate with healing arts associations and boards of California to maintain high quality healthcare.
- 3.2 Educate the Board and staff on the legislative process to better advocate for consumer protection.
- 3.3 Monitor and develop legislation that impacts podiatric medical care to ensure quality healthcare for consumers.

## Goal 4: Administration

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*The Podiatric Medical Board of California (Board) utilizes all available resources to fulfill its mission.*

- 4.1 Utilize guidelines for Board governance to ensure operational continuity.
- 4.2 Assess and streamline operational workflow to increase efficiencies.
- 4.3 Enhance opportunities for Board training and professional development to ensure effective oversight.
- 4.4 Manage budgetary revenue and expenditures to ensure sustainability.

## Goal 5: Outreach

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*The Podiatric Medical Board of California (Board) educates, communicates, and interacts with licensees, consumers, and key stakeholders.*

- 5.1 Collaborate with stakeholders and other regulatory agencies to advocate for and increase awareness of the Board and its mission.
- 5.2 Inform the public about podiatric medicine and the Board's role to increase consumer awareness.
- 5.3 Educate licensees about the shared roles and responsibilities of the Board to increase competency and awareness of the Board's functions.

## Planning Process

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To understand the environment in which the Podiatric Medical Board of California (Board) operates, as well as identify factors that could impact the Board's success in carrying out its regulatory duties, the Department of Consumer Affairs' Strategic Organizational Leadership and Individual Development (SOLID) Unit conducted an environmental scan of the Board's internal and external environments by collecting information through the following methods:

- Online survey sent to the Board's external stakeholders in April 2018. The online survey received 54 responses.
- Online survey sent to Board members in April 2018. The survey received eight responses.
- Online survey sent to the Board's Executive Officer and staff in April 2018. The survey received 8 responses.

The most significant themes and trends identified from the environmental scan were discussed among the Board members, Executive Officer, and staff during a strategic planning session facilitated by SOLID on May 31, 2018. This information guided the Board in the development of its strategic objectives outlined in this 2019–2022 strategic plan.



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*Strategic plan adopted in 2018.*

*This strategic plan is based on stakeholder information and discussions facilitated by SOLID for the Podiatric Medical Board of California in May 2018. Subsequent amendments may have been made after the Board's adoption of this plan.*