MINUTES
STATE BOARD OF ORTHOTICS, PROSTHETICS AND PEDORTHICS
APRIL 19, 2016 BOARD MEETING

This Regular Meeting of the State Board of Orthotics, Prosthetics and Pedorthics (OPP) was held on the above date in the Executive Board Room, 31st floor of the Riffe Center, 77 South High Street, Columbus, Ohio.

REGULAR BOARD MEETING

I. Call to Order: The meeting scheduled for 10:00 a.m. was called to order at 10:05 a.m.

Roll Call:

Members present:	Jason Macedonia, LPO
	Brian Weaver, LPO – Board President
	Tammy Daulton, LPED – Board Secretary
	Jeff Hagman, LP
Members absent:	None
	Three (3) seats vacant pending appointments
Staff present:	Mark B. Levy, Board Director
	Shelley Bango, Office Assistant
	Steve Kochheiser, Assistant Attorney General
Guests:	Dianne Farabi, Ohio O&P Association, arrived 10:30 a.m.

II. Agenda – Amend/Approve: Mr. Levy pointed out updates made to the agenda as distributed today. Agenda approved by unanimous consent on motion of Daulton/Hagman.

III. Review/Approve Minutes of January 19, 2016 meeting: Minutes having previously been circulated, it was moved/seconded by Macedonia/Hagman to approve without amendment or correction. No further discussion, vote was unanimous in favor.

IV. Executive Session [ORC § 121.22(G)] -- (10:10 A.M.) The regular meeting having been convened, it was moved/seconded by Macedonia/Daulton to enter Executive Session pursuant to ORC Section 121.22 (G), to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official; to consider the investigation of charges or complaints against licensees; and to consider matters required to be kept confidential by federal law or regulations or state statutes. Roll Call vote was taken with Daulton, Hagman, Macedonia, and Weaver affirming the motion. Executive Session ended and the public meeting reconvened.

V. 10:15 a.m. Settlements / Charges / Dispositions / Complaints

AAG Steve Kochheiser reported that he will be deploying for National Guard duty and training for up to four months beginning in May, and will work to transition his case load to other members of the Health and Human Services section.

VI. 10:20 a.m. Licensing Report/ratification

A. It was moved/seconded by Daulton/Weaver to ratify approval of licenses issued since the last meeting as listed in the report. Mr. Hagman abstained as to applicant Huebner. Mr. Macedonia abstained as to applicants Burgers and Dinneen. Vote was unanimous otherwise.

Name	Credential	City	State	ZIP code	Expiration Date	First Issue Date
Burgers, Lynne R.	LPO 327-1	Mayfield Heights	OH	44124	1/31/2017	3/29/2016
Compton, Victor	LPED 244-1	Milford	OH	45150	1/31/2017	3/16/2016
D'Amore, Kayla Louise	LP 318-1	Dayton	OH	45415	1/31/2017	2/12/2016
Dinneen, Molly Nicole	LO 329-1	London	OH	43140	1/31/2017	1/21/2016
Fikes, Michelle L.	LP 334-1	Tipp City	OH	45371	1/31/2017	3/8/2016
Huebner, Christine Marta	LP 335-TEMP	Lakewood	OH	44107	3/10/2017	3/10/2016
Kanavel, Angela Sue	LPO 330-TEMP	Dundee	MI	48131	3/15/2017	3/16/2016
Rivera, Shandy Lynn	LP 333-TEMP	Pittsburgh	PA	15207	2/4/2017	2/4/2016
Soltes, William P.	LPED 239-1	West Carrollton	OH	45449	1/31/2017	3/16/2016

VII. 10:25 am Administrative Docket

1. Mr. Levy reported on his brief presentation at the O&P Association Spring meeting. The presentation focused on how stakeholders can learn about and influence regulatory developments in the Ohio General Assembly and in the rule making process. The information was printed to PDF format and made available to the Association for general distribution.

2. New eLicense Database setup activity – **OPP GO LIVE JUNE/JULY 2016.** A brief status report was provided; OPP is now on a release schedule requiring intensive time commitments to assure the platform is configured optimally for OPP Board licensee and agency utilization. Time commitment should intensify over the next two months. Since the process involves updating a number of documents and communications, the Director indicated he is also utilizing the opportunity to update the Board's "masthead" display to bring it in line with current state of Ohio styling.

VIII. 10:30 am – Rule Review Agenda -- 5-Year Rule Review – M. Levy

1. Review pending packages, stakeholder comments, pre-public hearing review
   - **4779-2-03 – Board Records**
   - **4779-3-01 – Definitions**
   - **4779-3-02 – Device-Related and Scope of Practice Definitions**
   - **4779-5-01 – The Examinations**
   - **4779-5-02 – Admission to Exam**
   - **4779-5-03 – License Application Procedure**
   - **4779-7-01 – License Documents**
   - **4779-10-01 – Ethical and Professional Conduct**

The Board was presented with the rules in the currently pending package, scheduled for public hearing 05/03/2016 in accordance with the filing and notice. The Board reviewed and considered the discussion and

feedback documents, and Mr. Levy pointed out the significant changes in the package, especially the Device-related and Scope of Practice Definitions, and the allowance for the BOC Pedorthist exam to serve as an entrance exam for the LPED credential. After some general discussion, there was no motion to revise any element of the package. Mr. Levy advised that assuming no action from JCARR as regards the package, it would proceed to final filing on or after 06/04/2016 with an effective date of 07/01/2016.

2. (10:40 a.m.) Consider new rule changes. The question to the Board is whether to go ahead with a new package and the contents. Mr. Levy presented four (4) rules with changes for consideration

4779-5-03 – License application procedure – Mr. Levy noted this rule is being amended in the package already pending, and the language in this proposal is updated incorporating those changes as if already codified. The main emphasis here is the language in Division D, regarding the Orthotics and Prosthetics credential. Mr. Levy proposed the changes in section D-2 and D-3 for the Board to consider whether policy for implementing statutory requirements through rule language has been too permissive as regards the LPO credential.

Discussion focused on trends nationally in O&P education, NCOPE requirements, and a general review of language in the rule. Questions were raised about the reference to a BA degree as a license qualification, and there emerged a consensus that the language should reference only a "bachelors degree," striking the "of arts" reference where it may exist. One member suggested that if the Board is looking at national trends and standards for guidance on this question, perhaps it should as well with the issue of Pedorthist scope of practice and the "ankle and below" limitation.

Mr. Levy asked for a motion to approve moving forward with changes to the rule language as follows: amending references to "a bachelor of arts degree" to "a bachelors degree;" accepting the proposed changes to A-4 (online process) and A-5 (second issuance of a Temporary license); accepting the proposed changes to B-5, C-5, D-5, and E-4 (online attestation); accepting the proposed change to D-4 (strike "supervisor," insert "supervision"), and to make the same change to B-4 and C-4; and to accept the proposed change to E-3 (Pedorthist exam in accordance with NCOPE standards). **Weaver/Macedonia so moved, there was no further discussion, vote was unanimous.**

After considering separately the question of restricting issuance of the LPO credential, **Weaver moved, Hagman seconded, not to consider any further changes to the rule 4779-5-03 at this time. No further discussion, vote was unanimous.**

4779-6-01 – Temporary License Application procedure -- Referencing the prior discussion and the sense of the Board's consensus opinion, he asked for a motion to adopt the same changes striking "of arts" from "bachelors of arts degree," and adopting other proposed changes with the exception of those in D-2 and D-3. **Moved by Weaver and Hagman, approved unanimously.**

4779-8-01 – Renewal of License – Mr. Levy noted the following changes of significance: new language in (A) makes it an affirmative duty subject to formal discipline to keep the board informed of any change in contact information; (B) late fees are established in fee rule and are not required to be fifty percent of the renewal fee; (D) non-renewed licenses will have status changed to "inactive" immediately upon expiration; (E) an action for unlicensed practice may be initiated against a licensee found to engage in practice more than 30 days past license expiration; (F) license reinstatement requires documentation of appropriate continuing education activity. **Macedonia/Daulton moved approval of the changes as proposed, no further discussion, vote was unanimous.**

Chairperson Weaver called for a break; the meeting paused from 11:30 am – 11:45 am

(11:45 am) 4779-12-01 – Fees -- Mr. Levy reminded the Board that last year's change to the fee rule set limits on fees, but not the exact fees. In accordance with rule language, the Board may change fees within the limits defined, as long as the proposed changes are posted to the website at least 60 days in advance of the Board's consideration of the new fee schedule. The changes in this proposed amended rule would provide that the cost for a license upgrade from Temporary, or the cost of consolidating LO and LP to LPO, will not exceed the cost for renewal of the same license type; and that the renewal fee for an LPO license will not exceed one thousand dollars. The change would be necessary for the Board to be in a position to consider a new fee arrangement where the cost for the dual-profession credential could be double that of a single-profession ticket. Discussion foreshadowed a strong reluctance to adopt such a change to the current schedule, but consensus emerged that the change should be made to provide the Board the flexibility to proceed should it be deemed necessary. With no further discussion, **Daulton moved, Weaver seconded, vote was unanimous** to approve the proposed changes as presented.

IX. 12:20 pm – Financial Reporting

Fiscal activity through the end of November 2016 was reviewed, written report as provided is appended to these minutes. The following items were noted:

A. FY16 -- $186,360 -- Budget appropriation (Original $176,950 + $9410 contract and parity adjust)

1. Performance YTD – within projected parameters. Mr. Levy referred the Board to and reviewed the Budget report narrative distributed. The document shows performance FY14-15, experience and projections for FY16, and projections for FY17 and upcoming budgeting biennium FY18-19. We are projecting FY16 performance under appropriation of about $18K, and FY17 expenses well within the adjusted appropriation of $199,182.

No motion. ***Report is appended to the minutes.***

2. Authorize equipment spend – Based on a review conducted by DAS/IT services, the agency needs to update its IT infrastructure to current standards especially as regards encryption. The review suggests replacing equipment on an every three-year schedule to keep up with speed, encryption and innovation. Initial estimates indicate two desktop units would cost about $800 each. Mr. Levy requested authorization to spend $2000. Moved/seconded by Weaver/Hagman, no discussion, vote was unanimous.

B & C. FY17, FY 18-19 Budget projections

	Historic			Projections		
Acct	2014	2015	2016	2017	2018	2019
500	$ 121,561	$ 129,043	$ 132,936	$ 152,744	$ 157,121	$ 161,049
510	$ 2,049	$ 1,300	$ 1,316	$ 2,500	$ 3,000	$ 3,000
520	$ 22,470	$ 33,907	$ 30,231	$ 23,500	$ 36,838	$ 29,437
530	$ 204	$ -	$ 3,770	$ 3,000	$ 1,500	$ 1,500
595	$ -	$ 4,200	$ -	$ -	$ -	$ -
Prior Yr POs	$ -					
Total	$ 146,284	$ 166,530	$ 168,253	$ 181,744	$ 197,459	$ 193,986
Growth		113.16%	101.04%	108.02%	108.65%	98.24%

D. Consider fee re-structuring and/or increase FY17

Choices: 1. Static/same fee all license types; 2. Graduated fees based on credential market value assumptions; 3. Review revenue projections based on different configurations

Referencing testimony provided during the FY16-17 Budgeting process that suggested the Board would need to consider an additional fee increase for FY17 if no legislative action was taken to expand licensing/registration authority under Chapter 4779, Mr. Levy asked the Board to consider a further action on fees to bring our balance sheet into alignment with licensing sector expectations. The fee increase enacted for FY16 is resulting in a net increase of revenue of about $35K, projecting revenues to settle for the current fiscal at about $142K. This leaves us shy of an expense to revenue balance of $40K. Four "fee models" had been drafted for consideration, showing current renewal fees at $400 per licensee, and suggesting alternatives including a fee decrease for LPEDS and variations on a construct that would assess a fee based on assumptions regarding relative market value of the credentials. ***Fee Models A-D are attached to the minutes.***

Discussion indicated a strong reluctance to impose a new fee increase so soon after the last one. Mr. Levy reminded that Board that any change in fees would need to be proposed now in order to be considered for the next renewal period. **Chairperson Weaver moved to table the discussion until the December meeting, there was no further discussion, and the motion to table was accepted by unanimous consent.**

X. 12:30 pm -- Legislative Report

A. Tracking report distributed

B. HB213 – 2-year License Renewal – testimony submitted 11.17.2015 was provided previously and distributed for review. We have suggested language for amendment to address OPPCE compliance concerns, and as an opportunity to expand licensing/registration authority. No motion.

C. SB194 – Alternative Healthcare Practitioners – a broad array of trade associations representing licensed allied healthcare interests have formed a coalition to oppose the measure. No recent activity. We are tracking the bill and may offer testimony to limit allowances for alternative health care providers to engage in services "include(ing) but not limited to ... non-invasive instrumentalities" as regards custom fabricated or custom fitted O&P devices.

D. HB276 – Chiropractors Scope of Practice / DME— written testimony submitted 04.13.2016 was provided previously and distributed for review. Ms. Farabi reported on her attempts to make positive contact with the sponsor and the sponsor's indication that although he wanted to move the bill out of House committee as it presently stands, he would work with the Association to amend in the Senate.

XI. 12:40 pm - Old Business

A. Board Continuity

1. Three seats open – pending Governor's action
   a. Consumer Member (term began 12/6/2014)
   b. O&P Practitioner (term began 12/6/2014)
   c. MD/DO/DPM member (term began 12/6/2015) – applicant recruitment required

No new information to report from the Board or Association staff.. Mr. Weaver asked staff to forward contact information for the Governor's office staff responsible for the process.

XII. 12:45 pm New Business

A. Personnel Matters (at discretion of the Board) – No Motion.

B. Late Fee Refund Request – S. Cannon, LPED

Mr. Levy presented a request from the noted licensee for a refund of late fee paid for late renewal. Although licensees have an individual responsibility to keep credentials up to date, and other licensees at her place of employment all renewed timely, it appeared upon review of Board records that an address update may not have carried through the database in the appropriate format and staff could not verify that an individualized notice was necessarily received timely. Appropriation is available to provide the requested refund. **Daulton moved, Weaver seconded, to grant the refund with a note of caution to the licensee regarding professional responsibility.**

XIII. 12:50 pm – Ethics Review

A. Financial Disclosure filings checkup – filings due May 15, 2016.

B. Ohio Ethics Commission e-course: Conflicts of Interest
http://dw.ohio.gov/ethics/education/elearning/2015/ConflictsOfInterest/index.html

The Board viewed the Conflicts of Interest segment of the Ohio Ethics Commission's 6-part E-Course series.

XIV. 1:15 pm Adjournment – **Daulton/Hagman moved, seconded, no discussion, unanimous.**

Respectfully submitted,

Mark B. Levy
Board Director

President

Date

[[signed original on file in Board office]]