



OPP Board Decision and Action Agenda
Meeting: March 3, 2015 [published 03.25.2015]

State Board Of Orthotics, Prosthetics, & Pedorthics

Executive Budget Recommends Continued Funding at Current Levels
Revenues Lag
Fee Increases Recommended in Rule Language

[House Bill 64](#) is the omnibus executive budget bill to fund most state of Ohio agency operations. As introduced, the Governor’s budget accepts the Board’s request for increases in appropriations to cover increased costs of operations.

Funding Recommendation for 2016 and 2017

- Funding for fiscal year 2016 is \$176.9 thousand (or a 10.6% increase from fiscal year 2015). Funding for fiscal year 2017 is \$186.4 thousand (or a 5.4% increase from fiscal year 2016).

The Executive Recommendation will fund the following objectives:

- Support the operations of the board and staff as currently constituted to allow continuation of present activities common to allied health care regulatory boards.
- Provide for the improvement and expansion of online licensing application and renewal processes.
- Ensure a timely response to complaints of unlicensed practice and practice below standards.
- Further develop and refine regulatory language to more efficiently and effectively provide professional standards consistent with or exceeding nationally recognized minimum standards.
- Continue work in cooperation with other regulatory boards and commissions to further implement best practices and find opportunities to consolidate shared fiscal and administrative functions.

However, as the [Legislative Service Commission’s analysis](#) makes clear, revenues are not keeping pace with expenses.

Table 2. Revenues and Expenditures							
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015 (estimate)	FY 2016* (estimate)	FY 2017* (estimate)
Revenue	\$110,797	\$110,585	\$111,165	\$108,930	\$112,500	\$105,284	\$104,043
Expenditures	\$106,187	\$124,329	\$141,932	\$146,284	\$159,982	\$176,950	\$186,438
Net of Rev. & Exp.	\$4,610	-\$13,744	-\$30,767	-\$37,354	-\$47,482	-\$71,666	-\$82,395

*Revenue estimates for FY 2016-FY 2017 do not include proposed fee changes or additional licensees.

There has been an overall decrease, not growth, in licensing numbers over the past budget cycles:

Table 3. Active Licenses*			
License Type	FY 2013	FY 2014	% Change
Orthotist	86	82	-4.7%
Prosthetist	75	66	-12.0%
Pedorthist	114	110	-3.5%
Orthotist-Prosthetist	109	119	9.2%
Temporary	16	13	-18.8%
TOTAL	400	390	-2.5%

*Data shown is as of June 30 in each year.

Table 4. Licenses Issued in FY 2014			
License Type	Initial	Renewal	Total
Orthotist	2	80	82
Prosthetist	2	64	66
Pedorthist	5	105	110
Orthotist-Prosthetist	4	115	119
Temporary	6	7	13
TOTAL	19	371	390

The agency goal is to conform with operational budgeting philosophy – the dedicated “4K9” rotary fund for occupational licensing should show a balance between revenues and expenses to maintain an appropriate standing of the agency in the fund.

Pathways to Achieving Balance

1. **Increase fees for current licensees** – fees have remained steady for 14 years. Projection Estimate A shows an increase of \$100 in renewal fees in FY2016 (renewal due 01/31/2016).

Fee Increase Estimate A. Revenues and Expenditures (fee increase FY2016 only)							
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015 (estimate)	FY 2016 (estimate)	FY 2017 (estimate-A)
Revenue	\$110,797	\$110,585	\$111,165	\$108,930	\$112,500	\$151,500	\$153,000
Expenditures	\$106,187	\$124,329	\$141,932	\$146,284	\$159,982	\$176,950	\$186,428
Net of Rev. & Exp.	\$4,610	-\$13,744	-\$30,767	-\$37,354	-\$47,482	-\$25,450	-\$33,428

With no other change in structure or scope of licensing authority, to regain balance at current funding and operational levels, another increase of \$100 would be required for renewal fees in FY2017 (renewal due 01/31/2017).

Fee Increase Estimate B. Revenues and Expenditures (fee increases FY16 and FY17)							
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015 (estimate)	FY 2016 (estimate)	FY 2017 (estimate-B)
Revenue	\$110,797	\$110,585	\$111,165	\$108,930	\$112,500	\$151,500	\$190,500
Expenditures	\$106,187	\$124,329	\$141,932	\$146,284	\$159,982	\$176,950	\$186,428
Net of Rev. & Exp.	\$4,610	-\$13,744	-\$30,767	-\$37,354	-\$47,482	-\$25,450	\$4072

2. Increase Scope of Licensing Authority

The Board’s budget proposal sought authority to provide for, and the Board continues to seek legislative support for, licensing or registration of

- Orthotic Fitters
- Therapeutic Shoe Fitters
- O&P Assistants

With that increase in licensing scope, projections indicate the agency could avoid the second fee increase in FY2017.

3. Other options?

- **Advanced Pedorthist** – provide a structure and opportunity for LPEDs to gain and demonstrate competence in providing AFO services in line with the allowances contained in the Scope of Practice statements of the American Board for Certification in Orthotics Prosthetics and Pedorthics and the Board of Certification International.

- **Certified Fitter – mastectomy (ABC: CFm; BOC: CMF)** - The American Association of Breast Care Professionals, a trade association representing the interests of post-mastectomy fitters and their patients, has expressed an interest for inclusion in any licensing update.

Board Issues Statement on Correct Coding of MyoPro Assistive Device

At its March meeting, the Board approved a statement to be sent to the Joint DME MAC / PDAC regarding its determination that the custom fabricated orthotic device incorporating FES (functional electronic stimulation) technology should be dispensed and reimbursed as Durable Medical Equipment under its capped rental protocol. According to the Board’s statement:

“It is clear from a review of the literature that the MyoPro is a custom fabricated item requiring fitting by first obtaining a positive model of the patient, and that it performs as an assistive device which supports, corrects, and alleviates neuromuscular or musculoskeletal dysfunction, disease, injury or deformity.

“In addition to the misclassification, we would express concern about the safety of patients who would likely be fitted by unqualified personnel. Practitioner members of this Board and licensees within our constituency frequently report problems encountered where patients are provided high reimbursement devices from out of state DME businesses who demonstrate no accountable continuing care responsibility and who do not employ qualified providers in this state in spite of Facility Accreditation protocols and Quality Standards provisions.

“... [W]e urge your proper classification of the MyoPro as a custom fabricated myoelectric orthosis belonging in the L code brace category. If the standards for this type of bracing are reduced to less qualified providers, patients will certainly be at risk of obtaining ill-fitting devices that can cause injury.

“The State Board of Orthotics, Prosthetics, and Pedorthics in Ohio is asking that you reconsider the classification of a custom fabricated myoelectric orthosis from the DME capped rental to the L3999 brace subset. This will appropriately align with the current standards for licensure in Ohio and protect patients from likely harm.”

New Rules Review Package Moving Forward – Tell Us What You Think

WHAT WE'RE DOING AND WHY

1. Rule Review in compliance with the **Periodic Review of Rules Act** (requires review of rules at least **every five years**).
2. Proposed elimination (**rescission**) of a set of [Rules of Procedure for Administrative Hearings](#), which may be out of date and which the Board may not have the authority to impose.
3. Continuation on a “**No Change**” basis of a set of rules governing the Board’s treatment and handling of [Confidential Personal Information](#), required by [RC 1347.15](#).
4. Amendment of the [Fee Schedule rule](#) to allow the Board to adjust fees upwards within a certain range defined by a top end cap.
5. Amendment of [OPPCE Requirements and Reporting rule](#) to remove a reference to “automatic” suspension of license for failure to comply with requirements. The Practice Act does not empower the Board to issue a “summary suspension” except in cases where a clear, immediate threat to the public is present (such as with an impaired professional).

To read the exact language of the rule proposals and the documentation supporting, please click to the “[Rules Pending Review](#)” tab on the website. Use the Stakeholder Response Form there to provide feedback or input to the Board on these issues.

At the December meeting, the Board amended the proposed new fee rule language to clarify that a “fine for violation of any provision of RC Chapter 4779 shall not exceed five hundred dollars per violation.”

The pre-publication comment period ended in November 2014. On March 23, 2015, the [Office of the Common Sense Initiative](#) approved the rule package and the associated Business Impact Statement (BIA) to move forward.

Represent!

Terms of service on the Board are for three years and an initial term is subject to re-appointment at the discretion of the Governor. Appointment authority is vested in the Governor, and the Governor’s office is interested in the active involvement of stakeholders and professional associations in forwarding candidates for consideration. Active, informed and committed-to-service licensees are encouraged to consider the leadership opportunity. Contact the office for further information, or just see and submit the application (we appreciate being notified of your submission, but that’s not a requirement):

<http://www.governor.ohio.gov/Portals/0/Boards%20and%20Commissions%20Application.pdf>

The Consumer seat and one O&P Practitioner seat have “timed out” as of December 6, 2014. **Jason Macedonia, LPO**, was appointed to a second term (ending 12/6/2017). We are aware of applicants for the Consumer position, but the process is still open to those who may be interested and willing. ***We are unaware of an applicant for the open practitioner seat*** (should be filled by either an orthotist or a prosthetist-orthotist).

Current Board Members and their terms are:

<u>President</u>	<u>Secretary</u>
<u>Brian M. Weaver, LPO</u>	<u>Tamara A. Daulton, LPED</u>
<u>Grove City, Ohio</u>	<u>Batavia, Ohio</u>
<u>(first term)</u>	<u>(first term)</u>
<u>Term Ends: 12/06/2015</u>	<u>Term Ends: 12/06/2015</u>
<u>Animesh S. Bhatia, DPM</u>	<u>Jeffrey Hagman, LP</u>
<u>New Albany, Ohio</u>	<u>Warrensville Heights, Ohio</u>
<u>(first term)</u>	<u>(first term)</u>
<u>Term Ends: 12/06/2015</u>	<u>Term Ends: 12/06/2016</u>
<u>Jason Macedonia, LPO</u>	<u>VACANT (Practitioner LO or LPO)</u>
<u>Columbus, Ohio</u>	
<u>(second term)</u>	<u>(first term)</u>
<u>Term Ends: 12/06/2017</u>	<u>Term Ends: 12/06/2017</u>
<u>VACANT (consumer)</u>	* Members serve for up to 60 days past the term expiration date when no new appointment has been made.
<u>(first term)</u>	
<u>Term Ends: 12/06/2017</u>	

OPPCE Non-Compliance leads to formal action

For only the second time in the nine (9) OPPCE reporting and auditing cycles the Board has administered since its startup in 2001 (a single action was taken in 2013), Notices of Opportunity for Hearing were issued to three licensees for compliance-related concerns related to the 2014 license renewal and audit. “We have sought diligently to avoid formal CE enforcement through administrative efforts and innovative strategies such as the OPPCE Remediation protocol,” said Board Director Mark Levy. “However, when administrative diversion becomes unavailable, formal enforcement is a necessary fact of professional licensing life.”

The following formal actions were taken or reported at the March 2015 meeting:

- 15 C 03 – Pamela S. Walker, LPED -- The Board accepted a Consent Agreement in which the licensee accepted a **Reprimand**, agreed to pay a **late fee**, and agreed to make up an OPPCE deficiency with an “augmentation” requirement in line with the OPPCE Remediation rule.

AVOID CE COMPLIANCE PROBLEMS BY INCORPORATING CE LEARNING INTO YOUR ANNUAL PRACTICE PROTOCOLS

Although national credentialing bodies in O&P allow certified individuals to gain mandatory Continuing Education over a 5-year time span, the state of Ohio accounting runs on a 3-year cycle. To stay compliant with both state and national credentialing partners, ***the State Board of Orthotics Prosthetics and Pedorthics urges its licensees to think of CE as an annual requirement:***

- ✓ 25 units per year for an LPO or dual-licensed LO/LP
- ✓ 15 units per year for an LO or LP
- ✓ 11 units per year for an LPED

Pedorthist Training for AFO competence

Should Pedorthists be able to provide Ankle-Foot-Orthotics in Ohio?

Current [statutory language](#) (RC 4779.01 (F)) states that a pedorthic device is “a custom fabricated or fitted ... foot orthosis ***for use from the apex of the medial malleolus and below.***”

The Board has further clarified the definition in the rules. [OAC Agency Rule 4779-3-02](#) provides at Division (F): "For use from the apex of the medial malleolus and below" as used in division (G) of section [4779.01](#) of the Revised Code means that the pedorthic device does not physically extend proximal to the apex of the medial malleolus, meaning ***not extending higher than the middle of the ankle bone.***

Ohio O&P leadership has suggested the current educational protocols for pedorthists do not include adequate learning and training in the biomechanics behind or application of AFO devices. It has been noted however that both ABC and BOC scopes of practice make some allowance for

pedorthists to fit certain AFO devices in certain circumstances. Board Member Tammy Daulton agreed to form and head a workgroup of other CPED and orthotic professionals in and out of Ohio and return to the Board with information and/or recommendations regarding education and testing standards that may form a basis for a further initiative in this regard. To provide information or get involved, [send an email](#) or contact the Board office.

Human Trafficking Awareness – Ohio Steps Up

Persons interested in tapping into the resources of the campaign and engaging in professional education to recognize signs of victimization and learn how to effectively report suspected cases may wish to bookmark the page established by the Ohio Department of Public Safety at this link:

<http://www.publicsafety.ohio.gov/ht/index.html#>

For a two-sheet summary of Human Trafficking Educational and Training Opportunities, click to: <http://www.publicsafety.ohio.gov/ht/links/Human%20Trafficking%20Resources.pdf>



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