

**MINUTES – REGULAR BOARD MEETING
STATE BOARD OF ORTHOTICS, PROSTHETICS AND PEDORTHICS**

June 10, 2009

This regular meeting of the State Board of Orthotics, Prosthetics and Pedorthics (OPP) was held on the above date at 77 South High Street in Room 1914 on the 19th floor of the Riffe Center, Columbus, Ohio.

I. Call to Order: The meeting scheduled for 2:00 p.m. was called to order at 2:10 p.m. Mr. Levy apologized for the lack of signage at the elevator lobby directing members or the public to the exact meeting room location.

Roll Call: Members present: Rosalind Batley, M.D. (arrived @ 2:30 p.m. during Executive Session); David DeLuccia, LPO; Elsa Fritts, LPED; Edwin Niehaus, LP; Bill Neu, LPO; Robert Reed, consumer.

II. Agenda – Amend/Approve: Moved/seconded by Neu/Reed, no discussion, vote was unanimous.

III. Review/Approve Minutes of 03/11/2009 meeting: Minutes having previously been circulated, moved/seconded by Neu/Fritts. No discussion, vote was unanimous.

IV. Welcome new Assistant Attorney General Sally Ann Steuk (2:15 p.m.)

The Board office had been informed in early April that Mr. Sukienik had been assigned to a different set of responsibilities in the Health and Human Services Section of the Office of the Attorney General of Ohio, and that Ms. Steuk would be assuming representation for the Board. She has most recently represented the Pharmacy Board (19 years), and prior to that was an attorney in the Office of the Disciplinary Counsel, Ohio Supreme Court.

V. Executive Session: (2:20 p.m.) Session was convened by unanimous roll call vote (DeLuccia, Fritts, Neu, Niehaus, Reed) to consider matters regarding personnel, licensee complaints/discipline, and issues requiring attorney-client privilege and to request Director Levy and AAG Steuk remain in attendance. Dr. Batley arrived at 2:30 p.m. Mr. Levy was excused from the session at 3:35 p.m. Members emerged from Executive Session by unanimous roll call vote (Batley, DeLuccia, Fritts, Neu, Niehaus, Reed) at 3:45 p.m.

VI. Settlement, Charges, Dispositions (3:45 p.m.)

1. Robert D. Hoskins, LP.207

Having reviewed the matter in Executive Session, it was moved/seconded (Fritts/Reed) that the Board accept a Preliminary Consent Agreement as signed by Mr. Hoskins and recommended by Mr. Levy and Ms. Steuk. The Agreement addresses a self-report of impairment by abuse of alcohol, which had resulted in DUI charges, jail time, probation, and outpatient treatment. The Agreement calls for a system of practice restrictions, supervision, and

monitoring, and recognizes a corporate intervention and employee compliance program instituted at the licensee's workplace as providing an appropriate monitoring and reporting mechanism. The Agreement further notes that Mr. Hoskins has accepted a referral for evaluation to be reported to the Board, and anticipates a Final Consent Agreement will be entered into at a subsequent meeting of the Board. Passed unanimously.

2. In re: Michael P. Marmer, file # 07-OPP-SS-01

Having reviewed the matter in Executive Session, it was moved/seconded (Fritts/Reed) that the Board delay any action regarding Mr. Marmer's status, pending the outcome of a meeting scheduled for Monday, June 15, 2009, at the Office of the Attorney General of Ohio between Mr. Marmer, his attorney, AAG Steuk and Mr. Levy. After brief discussion, the motion was tabled until the Board meeting scheduled for September 9, 2009.

VII. Director's Report (4:00 p.m.)

A. Fiscal – Revenue and Expense

Revenue booked 7/1/2008 – 05/31/2009: \$106,962.00

Expenses: through 03/31/2009:

	<u>Payroll</u>	<u>\$ 62,707.50</u>
	<u>FY08 Encumbered</u>	<u>FY09 Allotment</u>
Operations:	\$10,031.58	\$12,082.22
	<u>Operations total:</u>	<u>\$ 22,113.80</u>

B. Budget - Legislative Activity: Budget bill and language review – Bill language updates and process review provided in advance of meeting. Final language still elusive, but appearances indicate Senate version and numbers will be utilized for most of the regulatory board sector, targeting an annual budget for OPP at \$105,000, down from the Governor's original recommendation of \$116,260 and the House downgrade of \$106,500.

- Spending Control Initiative: Planning report produced in accordance with governor's directive showing indicating how budget numbers may be drawn within new projection planning.

C. Other activities:

1. Association Spring Meeting – presented an update to the Ohio Orthotics and Prosthetics Association Spring Meeting, held May 1, 2009 in Columbus. Covered state budgetary processes, the position of OPP Board and other licensing/regulatory boards, distributed copies of agency budget testimony, and presented a brief overview of the work engaged in as cooperation with ODJFS/Ohio Medicaid office toward better “refining and defining” orthotic devices and codes toward limiting reimbursement to appropriately-licensed persons and allowing licensees more efficient reimbursement pathways by linking device code accounting with licensure.

2. Discussed continuing participation in this group of regulatory board and commission directors and other management staff sharing information on best practices and developing

strategies for appropriate compliance with various governmental directives which often are more tailored/targeted to much larger state of Ohio agency operations. The effort is a cooperative one toward efficient and accountable conduct within the fiscal sub-group centered around the DAS Central Service Agency as well as benefitting from the experience and expertise of some of the larger healthcare-oriented licensing entities.

3. General discussion regarding agency work toward compliance with various executive level directives, including information security, Equal Opportunity Division MBE/EDGE policies and procedures, and budgetary accounting and reporting protocols.

VIII. Report on Pending License Applications and Licenses Issued: (4.15 pm)

Motion by Fritts/Neu: As documentation seems in order, approval of licenses in current report as presented. Unanimous vote, adopted. Staff noted some applications require additional documentation, no new licenses issued without Criminal Record Check completed.

Prosthetics 4779.11	HAMMOND, Benjamin F.	(issued in advance of meeting)
Pedorthics - Temporary: 4779.18 & 4779.13	BAKER, Robert Q. KLINE, Linda E.	(2 nd issuance) (completing superv'n)
Pedorthics – Full/Direct 4779.13	GRIGGS, Ann E.	

IX: Old Business (4:30 p.m.)

A. Medicaid items review task force – preliminary report

Motion by E. Fritts, second by W. Neu. Discussion reviewed assignment from ODJFS for technical assistance reviewing the O&P Covered Services appendix/inventory as carried in the cited administrative rule, for advice as to items carried no properly in O&P domain, and whether any items should be considered to fall exclusively within those “deliverables” which should only be dispensed by licensed providers who meet the criteria established by the OPP Practice Act, ORC Chapter 4779. Broad participation among licenses was solicited; two board members and three licensees contributed opinions in the process, conducted by email, telephone and mail. Principal reference sources included the current HCPCS and the AOPA Coding Pro Illustrated Guide. It was noted that the report presented is a preliminary report, and further work may need to be conducted to address a range of prefabricated items common within the practice of O&P but may require further review to determine applicability of Ohio statutory and other regulatory provisions. Mr. DeLuccia called for a vote to accept and forward the report; unanimous. Motion carried.

B. Board member search; succession planning

The Board is still down one member, efforts are being coordinated with the Governor's office. Three current members' terms expire the end of this year, but all are subject to re-appointment as they are serving their first term.

C. Testing Contract with the American Board for Certification in Orthotics, Prosthetics, and Pedorthics – BOC correspondence.

No further response from BOC – item deferred.

D. OPP Poll Worker Leave rule.

(4:35 p.m.)

Mr. Levy presented formal policy language consistent with State of Ohio HR policy to allow the Board President in consultation with staff to approve staff/director taking election day as paid administrative leave if engaged in poll worker/election official activities, understanding that certain compensation is also provided by the local Board of Elections for such duties. Motion to approve by R. Reed, second by E. Fritts, approved by consensus.

X. New Business

(4:40 p.m.)

A. Budget bill and language review – Bill language updates and process review provided in advance of meeting. Final language still elusive, but appearances indicate Senate version and numbers will be utilized for most of the regulatory board sector, targeting an annual budget for OPP at \$105,000, down from the Governor's original recommendation of \$116,260 and the House downgrade of \$106,500.

B. A package of information regarding new national scope of practice for pedorthics issued by the American Board for Certification in Orthotics, Prosthetics, and Pedorthics was circulated, including formal ABC documents and some Ohio discussion of the issue, including documents reflecting this Board's prior actions in this regard. It was noted that the Ohio statutory language appears to set a different standard for pedorthic practice in this state which does not allow for practice "above the ankle." It was noted that Ohio law specifies that the practice of pedorthics in Ohio entails (a) the appropriate dispensation of a pedorthic device (evaluation, measurement, modification, fitting, delivery); and (b) that a pedorthic devices is defined as "*a custom fabricated or fitted therapeutic shoe, shoe modification for therapeutic purposes, prosthetic filler of the forefoot, or foot orthosis for use from the apex of the medial malleolus and below. It does not include an arch support, a nontherapeutic accommodative inlay, nontherapeutic accommodative footwear, prefabricated footcare products, or unmodified, over-the-counter shoes. (emphasis added)*"

Board discussion suggested Ohio's licensed orthotists, prosthetists and pedorthists are welcome to provide suggestions as to how the Board might promulgate language in its administrative rule series that would bring greater conformity between national standards and state requirements, but also noted that Ethical Standards of national credentialing partners require certificate holders to conform their practices to state laws and licensing standards.

C. A brief discussion paper had been circulated setting forth some concerns brought to the Board's attention regarding facility accreditation survey results which appear to hold OPP Board licensees to standards that are perceived to be in conflict with the general understanding of the "doctor's office" exception to licensing requirements. The Board had been asked to provide guidance to the profession. Discussion was tabled at the request of AAG Steuk pending her further review of the legal issues presented.

D. A brief discussion was held regarding the "Cost Savings Days" initiative put forward by the Governor and apparently slated to be effectuated in budget language to conform to union contract negotiations that will become effective in the new fiscal year. Board staff will experience an effective reduction in pay of about 3.7% through a pro-rating of pay and establishing a new "benefit" of 10 furlough days to be taken during the course of the fiscal year. Board discussion indicated agreement with a general plan to close office operations, for example, the Friday after Thanksgiving and any day in which a formal holiday occurs two days before or two days after a weekend, dependant upon consultation with the Board president and an understanding the priority matters must still be attended to.

E. Understanding that the Governor's office has issued a directive that no exempt staff classified as Administrative Staff are to be accorded any pay increases until further notice, Ms. Fritts moved and Mr. Reed seconded a motion expressing the Board's interest in providing at 3% pay raise to the Director as of the beginning of the new fiscal year or whenever executive policy may allow for same. Passed unanimously.

XI. Adjournment

5:15 pm

Moved by Fritts, seconded by Neu, passed by unanimous consent.

Respectfully submitted,

Mark B. Levy

Mark B. Levy
Board Director

David M. DeLuccia

David M. DeLuccia
President

09/09/2009

Date