

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

SEPTEMBER 11, 2007

This regular meeting of the State Board of Orthotics, Prosthetics and Pedorthics (BOPP) was held on the above date at 77 South High Street in Room 1924 in the Riffe Center, Columbus, Ohio.

I. Call to Order: The meeting was called to order at 2:15 p.m. New members David DeLuccia, LPO, and Elsa Fritts, LPED, were introduced and welcomed to the group.

Roll Call:

Present Board Members: David DeLuccia, LPO; Elsa Fritts, LPED; Manuel Garcia, LPO; Howard H. Harcha, Esq.; Mark Horwitz, LPO (arrived 3:15 p.m.); Doug Van Atta, LPO

Members Absent: None (1 seat currently vacant)

Staff: Mark Levy, Board Director
Jesse Cantrell, Assistant Attorney General

Guests: none

II. Amend/adopt agenda: Harcha/Garcia moved approval; no discussion; vote was unanimous.

III. Approval of minutes: **Approval of May 2007 minutes** -- Members indicated they had received and reviewed the minutes draft prior to the meeting. There was no discussion. Van Atta/Garcia moved approval, vote was unanimous.

IV. Executive Session: Session was convened by unanimous roll call vote (DeLuccia, Fritts, Garcia, Harcha, Van Atta) at 2:25 p.m., to consider matters regarding applicant/licensee discipline/complaints, personnel, and issues requiring privileged attorney-client communications on the Motion of Harcha/Garcia, and to request Director Levy and AAG Cantrell remain in attendance. The Board emerged from Executive Session at 4:40 p.m. by unanimous roll call vote (DeLuccia, Fritts, Garcia, Harcha, Horwitz, Van Atta).

V. Settlements / Charges / Dispositions

A. The Board took up the matter of a proposed Consent Agreement with Kimberly Reed. Harcha/Fritts moved based on the terms and facts as represented in the document that the Board approve the agreement and authorize the Board President to enter into it on behalf of the Board. Passed unanimously.

B. The Board was presented with a Notice of Opportunity for Hearing for a file identified as 08-OPP-L-01, Whether to Issue or Refuse to Issue a License in Prosthetics. Van Atta/Fritts moved the Board authorize the NOH to issue, vote was unanimous. Subject of the notice was identified after the vote as Eric Watt.

VI. **Director's Report:**

Mark Levy

A. **Rules Review/Promulgation**

1. OPP rules: no report

2. Other language:

(a) ODJFS Rule 5101:3-10-20 – Covered O&P Services. The Board supported an amendment in this rule about a year ago; the amendment clarified that a provider needed to be licensed appropriately in accordance with Chapter 4779 of the Ohio Revised Code in order to be reimbursed for O&P services; however, the rule carries with it an appendix that itemizes O&P items subject to reimbursement, including a series of compression hose, gradient sleeves and gloves, and a gauntlet. At the March 2007 meeting, the Board authorized the Director to request ODJFS/Medicaid policy staff remove these items from the inventory of covered O&P services, determining that they fit the exception of ORC §4779.01 (D) as “other prefabricated soft goods requiring minimal fitting”. The draft language was distributed for review. Discussion indicated the Board remains in support of this change, but no further action was taken or requested.

(b) “Orthotics” in Ohio Administrative Code. Director distributed to the Board a compilation of OAC rules currently effective that reference or mention the search term “orthotic” and “orthoses.” Requested that the members review the language and prepare to address whether and how the Board may wish to suggest any changes to seek conformity with the requirements of ORC Chapter 4779 to the agencies responsible for the language.

B. **Legislative update:**

1. HB 119 – Biennial Budget. The final bill retained appropriations for FY08-FY09 at virtually the same levels requested in the Board’s submissions to OBM: \$227,560 for the biennium. We offered testimony in support on March 27, 2007, in the House and on May 2, 2007, in the Senate.

FY08 (July 2007 – June 2008):	\$111,300	(\$300 over request)
FY09 (July 2008 – June 2009):	\$116,260	(\$240 under request)

2. HB 104 – Criminal Record Check for Licensing. The Board has been on record in favor of a provision under law to require applicants for professional licensing in Ohio to submit to a criminal records check; this legislation is the result of an initiative from the Boards and Commissions Management Group to address the issue comprehensively and cooperatively. Rep. Anthony Core (R-Rushsylvania) is the primary sponsor. The bill has passed the House and is pending in the Senate Judiciary-Criminal Justice Committee; no hearings have been scheduled on the Senate side.

3. HB 98, SB 99 – Benefits for Diabetes Care. These similar bills would require health insurance plans operating in Ohio “to provide benefits for equipment, supplies, and medication for the diagnosis, treatment, and management of diabetes and for diabetes self-management education.” HB 98 is pending in the House Health Committee; SB 99 in the Senate Insurance Commerce and Labor Committee. No hearings as yet.

4. HB 130 / HB 171 – Two bills are pending that, if enacted as introduced, modify the grounds for disciplinary/issuance actions against licensees or applicants with criminal histories. The Boards and Commissions Management Group and constituent agencies’ legislative liaisons are tracking these matters closely; HB 130 appears most likely to move through the legislative process, as it is a bill backed by the Ohio Department of Rehabilitation and Correction to address “post-release control” and community corrections alternatives. Assigned to the House Criminal Justice Committee.

5. HB 148 – Alternative Health Care. The latest version of legislation pending for the past several sessions of the General Assembly, ostensibly to promote “choice” in healthcare and alternatives. This version would require the Ohio Department of Commerce to register persons claiming to be alternative health care practitioners, but provides few standards. The Board joins with other health care regulatory boards and related associations in opposition to the measure as a threat to public health and safety, and unfair to other regulated professions for the lack of standards and accountability it would impose on the community. Assigned to the House Commerce and Labor Committee; no hearings.

C. **Fiscal**

While fiscal data is unremarkable as regards revenue and expenses – both tracking within budgetary parameters and expectations – fiscal processing has been extraordinarily challenging during the first quarter of FY08 due to the rollout/implementation of the OAKS Financials package; the legacy CAS (Central Accounting System) database program was fully retired with this changeover. Report formatting and generation remain problematic, although various agencies and entities are working on fixes and sharing solutions as system familiarity is gained.

D. Reports filed:

a. Legislative Inspector General (3 times per year, Employer and Agent filings). Most recent filing: May – August 2007, September reporting.

b. Governor regarding Board Attendance. The Governor’s office requested Boards submit attendance records of members, and reminded agencies that Ohio law requires that members attend at least three-fifths (60%) of meetings held. While the OPP Practice Act provides for a less strict attendance policy (50%), this Board’s report showed current members all with a better-than-80% attendance rate.

c. Information Technology Security. The aftermath of the reported theft of a data backup tape containing sensitive personal information about thousands of state of Ohio employees, taxpayers, and vendors has been, among other things, a series of policy initiatives and directives requiring agencies to review security issues related to IT technology, certify that no sensitive data is being stored inappropriately on portable back-up devices, and meet certain security standards and reporting deadlines. We are engaged in a process with a subcommittee of the Boards and Commissions Management Group to make the policies developed for implementation in large, multi-sited state agencies useful, applicable and understandable for smaller, stand-alone single-sited agencies with less-highly developed IT infrastructure.

d. Legislative Service Commission Annual Report information. The Legislative Service Commission publishes an annual report on Boards and Commissions. We reported:

FY07 Revenue: \$110,022.
 FY07 Expense: \$102,795. (does not include ~ \$3000 encumbered FY07 for FY08)

<u>Type of License</u>	<u>Number of Licensees</u>	
	FY 2006	FY 2007
Prosthetist-Orthotist (LPO)	107	110
Orthotist (LO)	100	97
Prosthetist (LP)	71	68
Pedorthist (LPED)	101	116
Orthotist-Temporary (LO-Temp)	1	1
Pedorthist-Temporary (LPED-Temp)	12	13

VII. Report on pending license applications:

A. Recommendations to Approve for Licensure: The following candidates for licensure were approved by unanimous vote. Motion/second by Van Atta/Garcia. * indicates abstention by DeLuccia.

<u>License Type</u>	<u>Candidate</u>	<u>Conditions, if any</u>
Prosthetics-Orthotics	DELAHANTY, Timothy C.	
Orthotics	SAWER, Andrew B. SHAFER, Timothy J. BEST, Aaron R.	Completion of documentation Approved for Exam ONLY
Orthotics - TEMP	SEAVER, Tyler J. EGLI, Laura S. HANSEN, Michael E.* ZILLICH, Evan P.*	plus Approved for Exam plus Approved for Exam plus Approved for Exam plus Approved for Exam
Prosthetics - TEMP	RUSSELL, Rebecca M.	plus Approved for Exam
Pedorthics	HUFFMAN, Ken L.	

VIII. Old Business

- A. **Website information** – license look-up: options for status and actions – deferred
- B. **Board member search: succession planning** – We are still seeking to recruit an MD, DO, or DPM for the “doctor seat,” and it was noted that Mark Horwitz’ second term of service ends this year; members were asked to forward contact information for any candidates they may want to recommend.
- C. **Third Party Credentialing** -- Mr. Levy gave a brief overview of the process and documentation available from the Board’s efforts to inform other healthcare partners about the advent of licensing in these fields and the implications for appropriate service delivery and reimbursement policies. A written report is pending. Motion to table by Harcha, unanimous.

IX. New Business

- A. **Officer elections – President and Secretary** – Doug Van Atta’s name was put forth in nomination for the office of President by Garcia/DeLuccia; no other nominations were made; vote was unanimous. Howard Harcha was nominated to continue as Board Secretary by DeLuccia/Fritts; no other nominations were made; vote was unanimous.
- B. **Schedule meeting dates/hearings:** after brief discussion, members agreed to hold the next meetings on **Tuesday, December 4, 2007, at 2:00 p.m.** and **Tuesday, February 12, 2008.**
- X. **Adjournment:** There was consensus that the meeting adjourn at 6:00 p.m.

Respectfully Submitted,

Approved:

/s/ Mark B. Levy

/s/ Douglas B. Van Atta

12/04/2007

Mark B. Levy
Board Director

Douglas B. Van Atta
President

Date