

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

**September 17, 2008**

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 1910 on the 19<sup>th</sup> floor of the Riffe Center, Columbus, Ohio.

**2:05 I. Call to Order:** The meeting scheduled for 2:00 p.m. was called to order at 2:05 p.m.

**Roll Call:**

Present Board Members: David DeLuccia, LPO; Manuel Garcia, LPO; Howard H. Harcha, Esq.; Douglas VanAtta, LPO; Elsa Fritts, LPED (joined at 2:25 p.m.)

Members Absent: Rosalind Batley, M.D.  
(1 seat currently vacant)

Staff: Mark Levy, Board Director  
Harvey Sukienik, Assistant Attorney General  
Pat Cullen, Office Clerk

**II. Amend/adopt agenda:** Harcha/Garcia moved the agenda as presented and updated for approval. No discussion. Vote was unanimous.

**III. Approval of minutes:** **Approval of July 16 minutes -**  
Harcha/DeLuccia moved approval. No discussion. Vote was unanimous.

**2:10 IV. Executive Session** Session was convened by unanimous roll call vote (DeLuccia, Garcia, Harcha, VanAtta) at 2:20 p.m. to consider matters regarding personnel, licensee complaints/discipline, and issues requiring attorney-client privilege on concensus and to request Director Levy and AAG Harvey Sukienik remain in attendance.

**2:25** Elsa Fritts joined the Executive Session

**4:25** The Board emerged from Executive Session at 4:25 p.m. by unanimous roll call vote (DeLuccia, Fritts, Garcia, Harcha, VanAtta). The Board took a short break and re-convened at 4:40 p.m. (*Director's note upon drafting minutes: no Item V on the agenda*)

**4:40 VI. Settlements / Charges / Dispositions**

Mr. Levy presented the following complaint file summaries recommended for resolution:

**1. Prosthetic Care/Multiple Practitioners** – fitting problems, material choices:  
This file presented a challenging scenario for review due to the involvement of two corporate O&P provider entities and three different lead prosthetic practitioners at three different offices over a two-year period of time.

Recommended to close the file regarding Practitioner B who provided “interim” service to the consumer upon direct referral from the consumer’s physician with no fault found.

Regarding Practitioner A, recommended to find a failure to maintain minimum standards regarding proper record keeping and file documentation. The review also addressed a concern regarding materials choice in device design based on patient presentation and functional activity level rating when viewed through expert professional opinion. The Board did not find that material choice as related here was below a recognized minimum standard of care, and thus made no finding in that regard. Recommended to close the file with no formal action indicated based on licensee’s representations of remedial action to address the record-keeping standards. Harcha/Fritts so moved. Vote was unanimous.

**2. Referral from the Athletic Trainers Board: Orthotist M.**

Complaint originally filed with OT-PT-AT Board suggested licensed orthotist exceeded appropriate role and represented self or allowed self to be represented as a “trainer” or “athletic trainer” in a public school sports setting. Investigation did not substantiate the allegation. Recommended to close the file with no fault found. Harcha/Garcia so moved. Vote was unanimous.

**3. Access to Healthcare Records: Satellite office; Unlicensed Practice**

Complainant stated an inability to obtain a full set of records that reflected the full scope of services received. Investigation determined services initially provided by unlicensed orthotist whose application for license in Ohio had been formally denied in 2005 (*In Re: Robert M. Old, Application for License in Orthotics*). The unlicensed practitioner was separated from the practice early in the service-delivery process, and records maintained by licensed personnel subsequently involved with the consumer appeared appropriate and complete. No violation of law/rule was found regarding activity of any licensed personnel. Cease & Desist notice sent to unlicensed practitioner, now out-of-state. Management responded appropriately to concerns regarding hiring protocols and record-keeping requirements. Recommended to close the file with no formal action indicated. Harcha/Fritts so moved. Vote was unanimous.

**4. Application for Licensure in Pedorthics – withdrawn.**

File was opened based on internal concerns developed after license application review revealed discrepant and/or contradictory information. Colateral information indicated pedorthic services were being offered and/or supplied by applicant while application still pending, resulting in the issuance of a Cease & Desist notice. Applicant requested to withdraw application and stated would not seek licensure in Ohio. No evidence of any continuing violation of law/rule; recommended to close the file with no formal action indicated. Harcha/Fritts so moved. Vote was unanimous.

4:50 **VII. Director’s Report:** Mark Levy

**A. Rules Review/Promulgation:** Mr. Levy reported that there have been no written comments received on actions proposed, although one telephone contact regarding the Ethical Principles language was acknowledged.

Mr. Levy advised the Board it could accept the Rules Package as is; modify any proposed language in the package as long as the modification does not exceed the scope of the pending proposal; and/or withdraw any rule proposal from consideration, whether for future re-filing or not. The Board would need to set an effective date no sooner than 10 days after the Board's action approving. There was brief discussion regarding the highlights of the rules proposals and the process followed, including the role and jurisdiction of JCARR (Joint Committee on Agency Rule Review). **A Motion that the Rules package be approved as presented, with an effective date of November 1, 2008, was made by Harcha/Garcia. Vote was unanimous.**

**B. Fiscal**

1. Mr. Levy reported that the Biennial Audit is completed, awaiting finalization of management letter.
2. Mr. Levy discussed the July-August expenses and revenue report.
3. The Information Technology Investment Plan was clarified by Mr. Levy, during which time, he clarified IT designations and explained DAS Services.
4. Mr. Levy distributed the financial report and explained budget handouts on Projected Expenses. He then answered a question about the re-revised Budget for the Fiscal Year, explaining the 4K90 fund and how funds may be withdrawn from it if the State requires.

**C. Other Activities**

1. Mr. Levy reported that the state has required each agency to name an EEO officer; he has been so designated and is undergoing training in this regard in compliance with governor's directive. Working with the Equal Opportunity Division to clarify responsibilities in contracting and other fiscal processes.
2. Mr. Levy reported on attendance at an Internet for Investigators workshop, authorized by the President. Some useful information was gleaned but the workshop was not as helpful as hoped.

5:20 **VIII. Report On Pending License applications and Licenses Issued**

After noting corrections to the written report submitted (most applications for Temporary license should also properly be noted as including Approval for Exam), there was a Recommendation to Approve for Licensure upon completion of documentation including assurance of criminal record check reports in file, with license cards then to be issued. Motion/second by Fritts/Garcia, with DeLuccia abstaining from Anderson and Henson. Approved by unanimous vote.

**Orthotics – Temporary -- Approved for Exam**

ANDERSON, Jennifer L.  
THIELE, Lance R.  
CHOUDHARY, Vikram  
TARANTINO, Damon Aron

## **Prosthetics**

DIXON, Jr., Paul T.  
CHOUDHARY, Vikram

## **Prosthetics – Temporary -- Approved for Exam**

HANSEN, Michael E.  
STRAUB, Tiffany D.  
MARTIN, Nancy A. (for eight months supervision only/exam waived)

## **Pedorthics**

PRIVETT, Jason L. TEMPORARY – pending receipt of supervision statement  
SCHEIBMEIR, Robert W. (by reciprocity – Arkansas)

## 5:35 **IX. Old Business**

### **A. Board Member Search; succession planning –**

Mr. Levy stated that there are 2 known candidates being considered by the Governor's office for the single vacancy still existing on the Board. By the end of the year, the Board will lose three current members, so there is some concern. Board leadership and staff have been seeking appropriate candidates for consideration.

### **B. Testing Contract with the American Board for Certification In Orthotics, Prosthetics and Pedorthics.**

This matter is pending return of the proposed agreement from ABC, and hopefully will be prepared for consideration at the next Board Meeting.

### **C. Facility Accreditation Survey – update information**

Mr. Levy reported that the office has established an effective channel of communication with all of the "deemed status" organizations conducting facility accreditation surveys in Ohio, and believes at this point that Ohio licensing standards for the professions regulated by this Board are being closely followed in accreditation reports. Follow-up work and a more detailed review of some reports is ongoing. A written report is targeted for the next Board Meeting.

## 5:50 **X. New Business**

### **A. Ohio Medicaid request for advice regarding DynaSplint**

Ohio Medicaid has asked for Board input on the classification of devices in the DynaSplint line, whether they meet the standards of an Orthotic device. The Board considered information gathered by email from a number of Ohio licensed practitioners and active Association (OOPA) members. An open discussion followed. Characteristics

important for consideration are whether the device can be modified for use by successive consumers, or whether a device, once customized, fitted and dispensed, can only be used by that consumer. It was noted that one of the Boards' correspondents advised regarding another device called Ultraflex, described as similar to the DynaSplint brand, with some questions as to whether Medicare or Medicaid cover either device or the extent of coverage. Consensus opinion was to ask Mr. Levy to get further information from ODJFS, and to consider seeking further input from the practitioner community.

**B. Meeting dates reminder:** December 10, 2008

**C. Set dates for 2009?** No dates set for 2009, noting three board seats are up for "rotation" as of 12/6/2008.

6:10 pm **XI. Adjournment**

Garcia/Fritts moved adjournment, by unanimous consent.

**2:50 pm, December 3, 2008**

The Board re-convened its September 2008 meeting by unanimous consent of members present. Order of business was Annual Election of Officers. On motion of Van Atta/Garcia, David DeLuccia was nominated for President and Elsa Fritts was nominated for Secretary, moved as a slate. Discussion indicated the nominees would accept their nominations, no other discussion was noted. The matter moved to unanimous vote, and the annual meeting was again adjourned at about 2:55 p.m.

Respectfully submitted,

*Mark B. Levy*

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Mark B. Levy  
Board Director

*David M. DeLuccia*

David M. DeLuccia  
President

12/03/2008  
Date