

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

MAY 21, 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: President Mark Horwitz called the meeting to order at 2:00 p.m.

Roll Call:

Present Board Members: Manuel Garcia, LPO; Howard H. Harcha, Esq.; Mark Horwitz, LPO; Doug Van Atta, LPO

Members Absent: None (3 seats currently vacant)

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

Guests: Richard and Mary Mittica joined the meeting after Executive Session concluded, and left after the conclusion of business under item V. (A.) below.

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

III. Approval of minutes: **Approval of March 2007 minutes --** Mr. Levy reviewed the highlights of the March meeting; members indicated they had received and reviewed the minutes draft prior to the meeting. One correction was noted: the motion to move into executive session was made by Harcha/Garcia, strike "Simmons". Harcha/Van Atta moved approval as amended, vote was unanimous.

IV. Executive Session: Session was convened by unanimous roll call vote at 2:10 p.m., to consider matters regarding applicant/licensee discipline/complaints, personnel, and issues requiring privileged attorney-client communications on the Motion of Garcia/Harcha, and to request Director Levy and AAG Cantrell remain in attendance. The Board emerged from Executive Session at 3:20 p.m. by unanimous roll call vote.

V. Settlements / Charges / Dispositions

A. The Board took up the matter of *In re: Mittica*, file 07-OPP-L-07. For the record, Mr. Levy explained that a hearing was held on March 20, 2007, before hearing officer Sharon Murphy, R.N., J.D., to consider the subject of the Notice of Opportunity for Hearing styled as Whether to Issue or Refuse to Issue a License in Pedorthics in the State of Ohio. Mr. Mittica had reported a prior federal felony conviction on his license application. Mr. Mittica had been represented by counsel, and the Board members had been provided with and reviewed the hearing officer's Report and Recommendation, the transcript, and the hearing documents/evidence.

Upon consideration, the Board found that the Report and Recommendation of Hearing Officer Sharon Murphy, RN, JD, was well taken. Pursuant to Motion by Howard H. Harcha, Jr., seconded by Manuel Garcia and passed unanimously, adopted the findings of fact and conclusions of law in the Report and Recommendation, and entered the following order:

It is hereby ORDERED that:

RICHARD A. MITTICA be issued a License as a ***Pedorthist*** pursuant to ***ORC § 4779.13.***

VI. **Director's Report:**

Mark Levy

A. **Rules Review/Promulgation**

1. Mr. Levy reported that, pursuant to action of the Board at the March meeting, the packet of Rules changes pending were "final filed," with an effective date of April 9, 2007, as follows:

4779-1-02	Notice of Board Meetings
4779-2-01	Board Organization
4779-3-01	Definition of Terms
4779-5-02	Admission to the exam (Rescind and Adopt)
4779-9-01	General OPPCE requirements ...

2. Other language: Report deferred

B. **Legislative update:**

1. HB 119 – Biennial Budget. The bill as pending contains appropriations for FY08-FY09 at the 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 been progressing through the committee hearing process.

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."

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. This is the latest version of legislation that has been 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 (applicants are required to list their education and training, but no minimal standards for education and training are specified; applicants are required to state their fields/modality of practice, but no standards of care are set forth). The bill lists several "findings" of the state of Ohio regarding the benefits of alternative health care, and offers as a policy statement: "Ohio has failed to openly acknowledge the existence of health care therapies and methods that fall outside the conventional realm of health care. As a result, the providers of these services, who are not licensed by the state as health care professionals, cannot openly offer their services for fear of fines, penalties, or the restriction of their practice based on charges that such providers are in violation of Ohio's professional licensing laws, notwithstanding that the delivery of health care services by such providers has not been shown to pose a recognizable and imminent risk of significant and discernable harm to the public's health, safety, or welfare." Motion by Van Atta / Harcha that the Board join 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. Carried unanimously.

C. **Fiscal**

FY07 revenue and expense -- the Board was presented with data showing a plan for ending up the fiscal year utilizing all but a few hundred dollars of the allotted \$106,035 budget, requiring the commitment/encumbering of about \$5000 for FY07 expenses that may not be fully billed or realized by June 30th. The proposed encumbrance includes expense for a new CPU for the office assistant, replacing a machine that is over 5 years old, as well as a new laptop for the Director, also more than 5 years old. Revenue for the year was reported to be running ahead of expenses at just over \$109,000. The Board was also presented with the general allotment planning document submitted to OBM for FY08 funding, setting forth the expected allocation among budget objects for the \$111,300 expected to be appropriate for the upcoming fiscal year. Motion by Garcia/Harcha to approve the allotment and allocation planning passed unanimously.

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.

<u>License Type</u>	<u>Candidate</u>	<u>Conditions, if any</u>
Orthotics	KALIPONI, Robyn M. PARSONS, Sarah R.	
Orthotics - TEMP	TIMMER, JASON R.	Approved for Exam (both upon completion of residency)
Prosthetics	FARLEY, Jeremy C. SANDY, Thomas E.	Approved for Exam Only (upon completion of documentation)
Pedorthics	KILPATRICK, Debra MOORE, Amanda E.	

VIII. **Old Business**

A. **Website information** – license look-up: options for status and actions – deferred

B. **Board member search: succession planning** – Mr. Levy reported a number of contacts with the Governor’s office, but no action on appointments to this Board for the vacant seats is available to report. We are still seeking to recruit an MD, DO, or DPM; members were asked to forward contact information for any candidates they may want to recommend. It was also noted that Mr. Horwitz’ term ends this year; Mr. Horwitz is the last of the “founding” Board members.

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. **Temporary Licenses** – expiration date errors; administrative remedies.

Ohio Revised Code § 4779.18 - Temporary license -provides in part as follows:

*(B) A temporary license issued under this section is **valid for one year and may be renewed once** in accordance with rules adopted by the board under section 4779.08 of the Revised Code.*

Mr. Levy reported that during the renewal cycle just passed, he discovered an administrative error in the manner in which we were handling issuance and renewals of Temporary licenses. They had been issued and renewed in accordance with the general expiration/renewal cycle, but as the statutory language indicates, should have been issued with an expiration date based on date of issuance. Since the “discovery” occurred well into the renewal process, Director conferred with Board president on remedy with goals of (a) not imposing a short-term adverse impact on licensees; (b) pro-actively informing affected licensees of the remedial action and their responsibilities; and (c) correcting the Board’s processes.

Director provided for Board consideration (a) a spreadsheet showing the licenses/licensees holding Temporary license statuses, their renewal histories, and current expiration dates, and (b) the "master" of the form letter used to communicate the action to the affected parties, showing the three different remedial options we pursued based on individual circumstances: (1) those who experienced a second renewal of the license (put on notice no further renewals would be available); (2) those who appeared to be on track to complete their supervision in a timely manner; (3) those whose Temporary license was issued in December 2006, received a corrected license card noting a December 2007 expiration date, and refunds of renewal fee where appropriate.

Director requested approval of remedial actions taken, and/or direction regarding further actions required. After brief discussion, the matter was tabled based on Motion by Harcha, unanimous consent.

B. Schedule meeting dates/hearings: after brief discussion, members agreed to hold the next meetings on **Tuesday, September 11, 2007 at 2:00 p.m.**, and **Tuesday, December 4, 2007, at 2:00 p.m.**

C. Board Secretary: This item was not on the agenda but was reported by Mr. Horwitz having been raised in Executive Session. Mr. Horwitz requested a motion authorizing Mr. Levy's pay be increased by 3%, retroactive to the beginning of the calendar year (third quarter FY07), assuming it can be determined that funds are available within the current allocation. Motion by Garcia/Van Atta, passed unanimously.

X. Adjournment: There was consensus that the meeting adjourn at 5:45 p.m.

Respectfully Submitted,

Approved:

/s/ *Mark B. Levy*
09/11/2007

/s/ *Mark E. Horwitz*

Mark B. Levy
Board Director

Mark E. Horwitz
President

Date