

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

FEBRUARY 16, 2005

This regular meeting of the State Board of Orthotics, Prosthetics and Pedorthics (BOPP) was held on the above date at 77 South High Street on the 31st floor in the Riffe Center, Columbus, Ohio.

I. Call to Order: President Manuel R. Garcia called the meeting to order at 6:07 p.m.

Roll Call:

Present Board Members: Manuel Garcia; Mark Horwitz; Jack Reser; Kathleen Simmons; Doug Van Atta

Members Absent: Steve LaForge (illness); James Powers, MD (out of state)

Staff: Mark Levy, Board Director
Dominic Chieffo, Assistant Attorney General

II. Amendments to agenda

No amendments offered; approved by consensus.

III. Approval of minutes of November 17, 2004

After a call for amendments, it was moved/seconded (Reser/Van Atta) that the minutes of the November 2004 meeting be approved. Passed unanimously.

IV. Executive Session was convened by unanimous roll call vote at 6:15 p.m., to consider matters regarding personnel, licensee discipline/complaints, and issues requiring privileged attorney-client communications on the Motion of Reser/VanAtta, and to request Director Levy and AAG Chieffo remain in attendance. Mr. Levy was excused from the session for consideration of a compensation. The Board emerged from Executive Session at 7:10 p.m. by the same method.

V. Director's Report

A. Legislative Update - no status update on draft legislation to revise Practice Act. Major legislative issue for monitoring at this time appears to be Executive Recommendation regarding biennial budget.

B. Budget -- Documents reflecting FY05 status were distributed. Board is operating within budget allocations. Members were asked to return reimbursement requests to office to keep this budget line current. Director indicated he would be monitoring expenditures for intermittent clerk and reviewing scheduling for remainder of fiscal year, to assure allocation is kept within annual allowance.

FY06-07 process and recommendations. Report was made on the Governor's proposal to consolidate operations of 27 licensing/regulatory boards under the operations of 3 cabinet level agencies depending on subject matter jurisdiction, with health care related boards intended to move under the Department of Health. Members Simmons and LaForge accompanied Director Levy to a meeting called by the Governor's office to explain the proposal to board directors and chairs or representatives and urge a cooperative process. As set forth by the governor's representatives at that meeting, the goal is to streamline operations and improve efficiency and accountability. In contrast to information that had been distributed to this and other boards as recently as the end of January, Gov. Taft is recommending budgets for FY06 but not FY07, proposing that further legislation will be

introduced during FY06 to address budgetary issues after the mechanics and process of the consolidation proposal are worked out. Concern is shared among many staff and members about autonomy and continuity of operations without a clear plan/methodology to implement the goal. Mr. LaForge has offered assistance to serve as a representative of consumer interests in the process.

C. Complaints/Enforcement -- an appropriately redacted/formatted spreadsheet was distributed showing complaints logged with statuses and process information dating to FY2003 (beginning July 2002). Nine complaints were logged in FY03, six in FY04, and nine to date in FY05. Although most have raised issues of unlicensed practice and have been filed by licensees, some have addressed consumer concerns regarding billing or standard of care issues, and a few highlight confusion or disagreement in the professional community regarding the appropriate scope of practice of an unlicensed supervisee providing services in hospital or residential care facility settings. Mr. Levy noted and acknowledged that a number of files have been pending for an extended period of time, and that the office is seeking aggressively to update statuses and move processes forward.

D. Office Procedures (reconciliation processes; asset inventory) -- Report was made of progress in addressing basic office policy/procedure concerns as noted in last year's audit and improving compliance with various Department of Administrative Services directives. Office forms developed to more effectively track revenue according to application/license type, reconcile revenue booked in the office with that reported by the Centralized Accounting System and recorded in the eLicense database were distributed. Report was made that a full inventory of assets has been developed, and the Director took something of a leadership role in improving compliance with asset tracking and tagging among a few other agencies, in cooperation with the services provided to this and other boards by the Central Services Agency.

E. Renewal Report. About 320 licensees' renewals have been processed during this cycle, representing:

91	Orthotists
63	Prosthetists
104	Prosthetist-Orthotists
61	Pedorthists (plus 35 LPED licenses held by licensees in other disciplines as well).

The major challenge during this renewal cycle was tracking compliance reporting regarding OPPCE. The Director worked closely with member Simmons to implement appropriate procedures to address those few licensees who were unable to report full compliance with requirements. Only three reporting renewers required to report compliance appear to still require remediation as of the date of this meeting, and only one of those appears to be in "danger" of not being able to report compliance before the next Board meeting. The policy issue presented at this time is whether any Board action is required regarding individuals who were not able to report absolute compliance with regulatory requirements, and it is noted that some language suggests some discretion is allowed on the part of the Board in this regard. By discussion and unanimous consent, the Board determined to assess a late renewal fee for any licensee who was unable to report full compliance by the license expiration date of January 31st.

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VI. A. Report on Pending License Applications: The following candidates for licensure were approved by unanimous vote (M/S: Van Atta/Simmons) except as noted:

<u>License Type</u>	<u>Candidate</u>	<u>Conditions, if any</u>	<u>Abstained</u>
Pedorthics	PURTAN, Kim RAY, Etta STUART, Robert		
Pedorthics - TEMP	MACINO, Anthony		
Orthotics	KUNST, Bill		
Orthotics - TEMP	SINREICH, Norman		
Prosthetics	HEIFETZ, Jonathan SINREICH, Norman SWIGGUM, Heather	APPROVAL FOR EXAM ONLY Confirm ABC cert by exam	
Prosthetics-Orthotics	WARD, Anthony	Confirm ABC cert by exam	

B. Proposals to Formally Deny Licensure: Proposed Notices of Opportunity for Hearing were circulated for review by the Board in the following matters:

File No. 05-OPP-L-01 -- for License in Prosthetics	(N. Dimitrov)
File No. 05-OPP-L-02 -- for License in Orthotics	(R. Old)
File No. 05-OPP-L-03 -- for License in Prosthetics	(D. Mantini)
File No. 05-OPP-L-04 -- for License in Orthotics	(F. Ghazala)

All ID information in the notices was removed pending Board action. Notices were approved unanimously on Motion of Van Atta/Reser. Candidates' names were revealed after the vote.

VII. Old Business:

A. Continuing Education -- office processing; board member review. The next step in reviewing OPPCE compliance will be to request documentation from licensees to verify compliance. Kathleen Simmons expressed willingness to continue to work with Mr. Levy as this process goes forward.

B. Continuing Education -- Coursework requiring Board approval. Forms for obtaining information/documentation from licensees seeking Board approval of coursework undertaken that has not been approved by ABC, BOC or BCP were presented and approved by unanimous consent.

C. Investigative Protocols -- Complaint referral. Revised language for this proposal which was first considered at the November 2004 meeting was distributed. The language would amend/amplify current policy and procedure language last amended at the July 2003 meeting. Intent is to capture the enhanced capabilities of other state and federal agencies by initiating a cooperative referral of complaints that clearly fall within another agency's co-jurisdiction for concurrent processing as an early and fairly automatic step in the Board's investigative process. With this clarification that this Board will maintain its interest in these matters and not simply "pass the buck," the Board unanimously approved on Motion of Van Atta/Reser the following policy/procedure language:

1. Refer complaints for concurrent process regarding unlicensed practice in Nursing Homes and Long-Term Care Facilities to Ohio Department of Health, Bureau of Regulatory Compliance, pursuant to the following language from the Ohio Administrative Code:

3701-17-07 Qualifications and health of personnel.

(I) All individuals used by the nursing home who function in a professional capacity shall meet the standards applicable to that profession, including but not limited to, possessing a current Ohio license, registration, or certification, if required by law.

2. Refer complaints for concurrent process regarding unlicensed practice related to the Medicare Diabetic Therapeutic Shoe program to the US Dept of HHS, Office of the Inspector General

3. In the case of out-of-state providers, refer complaints regarding inappropriate advertising of services offered for no fee or as a waiver of co-pay, deductible, or other enticement to utilize the services of the advertising entity in violation of Ohio law to the Ohio Department of Insurance and the US Dept of HHS/OIG. For in-state providers, a cooperative referral for concurrent process to these entities.

VIII. New Business:

A. Ohio Ethics Commission filings due by April 15th -- Members were reminded/informed regarding this requirement. Forms were sent out by OEC. The Board office will assist where requested.

B. Consider late renewal fee waiver requests. Mr. Levy presented requests from three licensees raising various issues/concerns regarding hardship and unfulfilled promise of third parties to process and pay. Discussion centered on the Board's responsibility to treat all licensees fairly and the lack of apparent discretionary language in the code and regulations. No motion was made. It was the sense of the Board to consider non-compliance with regulatory language as an enforcement issue, and Mr. Levy stated he would notify all licensees still requiring a late fee in writing regarding this discussion.

C. Schedule Hearing Dates -- none at this time.

D. Calendars were compared and discussed. Date set tentatively for MONDAY, APRIL 18th, depending upon the availability to be reported by members absent for this meeting.

E. Director Compensation -- this Agenda item added based on Executive Session discussion. It was moved and seconded (Reser/Simmons) to provide a 5% raise retroactive to the beginning of the 3rd quarter of FY05 (January 1, 2005), passed unanimously.

IX. Adjournment: The meeting was adjourned by unanimous consent at 9:00 p.m.

Respectfully Submitted,

Approved:

/s/ Mark B. Levy

/s/ Manuel R. Garcia

18 April 2005

Mark B. Levy
Board Director

President

Date