

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

NOVEMBER 17, 2004

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 ~~Steve LaForge~~ Manuel Garcia* called the meeting to order at 6:25 p.m.

Roll Call:

Present Board Members: Manuel Garcia; Steve LaForge; James Powers, MD; Kathleen Simmons; Doug Van Atta

Members Absent: Jack Reser; Mark Horwitz

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

II. Amendments to agenda

Mr. Levy requested that the Agenda be amended by the designation of the item under Roman Numeral V as V-A (Deliberation/decision re Goldman hearings), and the addition of V-B as "ORC 4779.16 Applications Withdrawn". Those changes were moved/seconded by Simmons/LaForge, approved unanimously.

III. Approval of minutes of September 22, 2004

After a call for amendments, it was moved/seconded (Powers/LaForge) that the minutes of the September meeting be approved. Passed unanimously.

IV. Executive Session was convened by unanimous roll call vote at 6:32 p.m., to consider matters regarding personnel (if any), licensee discipline/complaints, and issues requiring privileged attorney-client communications. The Board emerged from Executive Session at 7:25 p.m. by the same method.

V. A. Deliberation/decision regarding Goldman hearings held this date: Mr. Garcia asked the members if there was any objection to considering these matters fully in public session. Hearing no objection, he proceeded to call for consideration, discussion and deliberation on each matter.

Mr. Garcia called for consideration of the Matter of **James W. Call**, File No. 04-OPP-A 01; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Prosthetics. It was so moved by Dr. Powers, second by Mr. Van Atta. Called for discussion; hearing none, called for vote. Aye: LaForge, Powers, Simmons, Van Atta. Motion carried

Mr. Garcia called for consideration of the Matter of **Ian C. Davis**, File No. 04-OPP-A 02; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Prosthetics and Pedorthics. It was so moved by Mr. Van Atta, second by Ms. Simmons. Called for discussion; hearing none, called for vote. Aye: LaForge, Powers, Simmons, Van Atta. Motion carried.

Mr. Garcia called for consideration of the Matter of **Brandon G. Miller**, File No. 04-OPP-A 04; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Pedorthics. It was so moved by Mr. LaForge, second by Mr. Van Atta. Called for discussion; Ms. Simmons noted she would abstain from the vote due to a prior business relationship. Called for vote. Aye: Garcia, LaForge, Powers, Van Atta; abstained: Simmons. Motion carried.

Mr. Garcia called for consideration of the Matter of **David C. Reynolds**, File No. 04-OPP-A 06; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Prosthetics. It was so moved by Ms. Simmons, second by Mr. LaForge. Called for discussion; hearing none, called for vote. Aye: LaForge, Powers, Simmons, Van Atta. Motion carried.

Mr. Garcia called for consideration of the Matter of **Douglas B. Richardson**, File No. 04-OPP-A 07; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Orthotics and Prosthetics. It was so moved by Mr. LaForge, second by Dr. Powers. Called for discussion; hearing none, called for vote. Aye: LaForge, Powers, Simmons, Van Atta. Motion carried.

Mr. Garcia called for consideration of the Matter of **Jerome E. Skahan**, File No. 04-OPP-A 08; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Pedorthics. It was so moved by Dr. Powers, second by Mr. Van Atta. Called for discussion; hearing none, called for vote. Aye: LaForge, Powers, Simmons, Van Atta. Motion carried.

Mr. Garcia called for consideration of the Matter of **Mark G. Vukov**, File No. 04-OPP-A 09; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Pedorthics. It was so moved by Mr. Van Atta, second by Ms. Simmons. Called for discussion; hearing none, called for vote. Aye: LaForge, Powers, Simmons, Van Atta. Motion carried.

Mr. Garcia called for consideration of the Matter of **Thomas P. Ward**, File No. 04-OPP-A 10; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Prosthetics and Pedorthics. It was so moved by Ms. Simmons, second by Mr. LaForge. Called for discussion; hearing none, called for vote. Aye: LaForge, Powers, Simmons, Van Atta. Motion carried.

Mr. Garcia called for consideration of the Matter of **Diane L. Yanke**, File No. 04-OPP-A 11; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Prosthetics and Pedorthics. It was so moved by Mr. LaForge, second by Dr. Powers. Called for discussion; hearing none, called for vote. Aye: LaForge, Powers, Simmons, Van Atta. Motion carried.

Mr. Garcia called for consideration of the Matter of **Olga D. Yanke**, File No. 04-OPP-A 13; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Orthotics and Prosthetics. It was so moved by Dr. Powers, second by Mr. Van Atta. Called for discussion; hearing none, called for vote. Aye: LaForge, Powers, Simmons, Van Atta. Motion carried.

Mr. Garcia called for consideration of the Matter of **Olga J. Yanke**, File No. 04-OPP-A 14; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Orthotics and Prosthetics. It was so moved by Mr. Van Atta, second by

Ms. Simmons. Called for discussion; hearing none, called for vote. Aye: LaForge, Powers, Simmons, Van Atta. Motion carried.

Mr. Garcia called for consideration of the Matter of **Manuel C. Garcia**, File No. 04-OPP-A 15, and noted that he would abstain from discussion/vote due to family relationship and his recusal during the hearing; based on the evidence introduced, and especially the lack certification as required by §4779.16, Ms. Simmons Moved to Deny Licensure in Orthotics. Second by Mr. LaForge. Called for discussion; hearing none, called for vote. Aye: LaForge, Powers, Simmons, Van Atta; abstained: Manuel R. Garcia. Motion carried.

Mr. Levy was directed to prepare and issue Adjudication Orders in reflecting the Board's action in these matters as soon as is practical considering other Board business.

V. B. Approve closing withdrawn §4779.16 applications -

Mr. Levy reported that the following former applicants for licensure under §4779.16 had made direct contact with the Board and asked that their applications be withdrawn for the reasons stated:

Joseph M. Yanke, Jr.	Prosthetics	Recognized not certified = not eligible
Judy Moseley	Pedorthics	Retired
William Kondik	Pedorthics	Licensed LPO, already within scope

Mr. Garcia requested a Motion that the noted application files be considered closed as the applications were withdrawn by the applicants. Moved by Van Atta, seconded by Simmons. Discussion indicated AAG Chieffo was in agreement with the action. Vote was unanimous.

VI. Director's Report -- Mark Levy

A. Legislative update: no report

B. Budget update:

1. Documentation of the Board's standing in the state's Central Accounting System was distributed, showing end-of-FY04 expenditures within budget parameters, and year-to-date FY05 expenses running within allocation expectations.

C. Complaints/Enforcement: File statuses and tracking.

A spreadsheet was distributed and reviewed showing the group of §4779.16 applicants by case number and their pending statuses. About 30 files were addressed in the processes undertaken by the Board at the September 22, 2004, meeting, and the hearings held today. About a dozen require some further review, and will be reported to the Board after further consultation with AAG Chieffo. Complaint statuses will be reported at the next meeting.

VI. Report on Pending License Applications: The following candidates for licensure were approved by unanimous vote except as noted:

<u>License Type</u>	<u>Candidate</u>	<u>Moved/Seconded</u>	<u>Abstained</u>
Prosthetist-Orthotist	Royce Heck	Van Atta/Simmons	

VII. Old Business:

A. Continuing Education -- A packet containing information included in the renewal mailing as well as office forms developed for processing OPPCE information was distributed and discussed. Mr. Levy noted that the renewal mailing was issued nearly a month earlier than has been the case for the last two cycles, at least in part to address concerns that some licensees may not have focused on the difference in the reporting cycle and requirements between their original credentialing organization(s) and OPPCE as defined in Ohio law and rules. It was suggested that some licensees may find that they are lacking in sufficient OPPCE units. It was reported that the Ohio O&P Association had considered presenting additional CE opportunities before the end of the year, but decided there was not sufficient time to present a quality program. Discussion suggested that there are sufficient manufacturer trainings, and on-line or correspondence offerings from the credentialing bodies, that any licensee who needs to supplement their current accumulated units should be able to do so in a timely manner. There was further discussion as to whether the Board would consider announcing a policy for treatment of renewals where sufficient CE is neither attested to nor reported. After discussion weighing the administrative benefits of a "road map" versus the Board's interest in encouraging licensees to be proactive in maintaining their professional standing, no motion was made in this regard. The consensus of the Board was that any licensee with OPPCE issues to address should be subject to the Board's general compliance/enforcement process and considered on a case by case basis.

VIII. New Business:

A. Board member attendance -- Members were reminded/informed regarding statutory language governing the requirements of meeting attendance by Board Members, and the possible consequences if attendance rates fall below established threshold levels. Different language appears in the Board's statute and in the General Provisions of the Ohio Revised Code. A chart was distributed illustrating the current members' attendance records compared to the requirements.

B. Board Members Ethics Seminar -- Members were reminded regarding the presentation by the Governor's office of an all-day seminar of presentations by various state of Ohio agencies regarding ethical conduct issues, slated for Tuesday, December 7, 2004, in Columbus. Members who are able to attend and have not yet responded nor attended previously were asked to get their registration information in to the Governor's office and to the OPP Board office as well.

C. Investigative Protocols -- Complaint referral as Standard Procedure -- Mr. Levy raised for the Board's first consideration a proposed amendment to the investigation/complaint processing procedure to allow for the early referral of a complaint that may fall squarely within the jurisdiction of another agency to that other entity, as an enhancement of the Board's own process. Other agencies identified that may be in a position to take a complaint on referral include: Ohio Department of Health, Division of Nursing Home and Long-term Care Facilities, Bureau of Regulatory Compliance (unlicensed practice in skilled nursing facility sites); US Dept. of HHS, Office of Inspector General (unlicensed practice, Medicare Diabetic Therapeutic Shoe program); and Ohio Department of Insurance (advertising waiver or forgiveness of deductibles and co-pays). Discussion indicated concern that the OPP Board not abdicate its responsibility in the complaint and enforcement process, and with the use of the term "refer" as opposed to language that would more clearly indicate the Board would retain its own jurisdiction while partnering with the referenced agencies. Discussion was tabled, and Mr. Levy was asked to re-work the proposal to address the Board's stated concerns.

D. Continuing Education -- policy question: inactive certificant - Pedorthics --

Blair Leber, LPED.23 holds a License in Pedorthics, issued September 2001, which is up for renewal and OPPCE reporting during the current cycle. Mr. Leber has reported and the Board for Certification in Pedorthics has confirmed that his C.Ped. certificate is on "voluntary inactive status," which can be provided to a certificant who represents that he is not actively practicing. That status allows the certification to be maintained at a lower renewal fee and with a waiver of the regular CE requirements, with a stipulation that if the certificate is converted to active status, the C.Ped. would need to gain 32 CEP's within that first year of re-activation. It is noted that **ORC § 4779.20 Renewal of License** -- provides, in part:

(B) Beginning with the fourth renewal and every third renewal thereafter, a license holder must certify to the board one of the following:

*(3) In the case of an individual licensed as a pedorthist, the individual has **completed within the previous three years the continuing education courses required by the board for certification in pedorthics** or an equivalent organization recognized by the board.*

Noting that it appears the statutory language defers explicitly to the requirements of the BCP, it was Moved and Seconded (LaForge/Simmons) that the OPP Board waive the CE reporting requirement for a C.Ped. whose certification has been appropriately placed on voluntary inactive status in accordance with the requirements of the Board for Certification in Pedorthics, provided that any re-activation be reported to the Board with CE reporting then occurring in accordance with the BCP requirements. Passed unanimously.

E. Next Meeting dates: After brief discussion, the Members chose **Wednesday, February 16, 2005**, for the next meeting, although that date could be subject to change based on the availability of the members not in attendance at this meeting.

IX. Adjournment: The meeting was adjourned by unanimous consent at 9:20 p.m.

Respectfully Submitted,

Approved:

/s/ Mark B. Levy

/s/ Manuel R. Garcia

16 February 2005

Mark B. Levy
Board Director

President

Date

***Re-Approved with 1st page correction noted at April 18, 2005 meeting:**

/s/ Mark B. Levy

/s/ Manuel R. Garcia

18 April 2005

Mark B. Levy
Board Director

President

Date