

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

SEPTEMBER 22, 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 31<sup>st</sup> floor in the Riffe Center, Columbus, Ohio.

**I. Call to Order:** President Steve LaForge called the meeting to order at 6:46 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**

The Agenda was amended by the addition of Item C under Old Business as Setting/Raising Cut Score for License Exam; and Item C under New Business as Deliberations on Goldman Hearings. The amended Agenda was approved by consensus.

**III. Approval of minutes of July 14, 2004**

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

**IV. Executive Session** was convened by unanimous roll call vote at 6:51 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 7:03 p.m. by the same method.

**V. Director's Report** -- Mark Levy

A. Legislative update: A Fact Sheet from the Ohio Respiratory Care Board regarding the status and implementation of Sub. H.B. 105 was circulated.

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. A more detailed report was promised for the next meeting.

C. Complaints/Enforcement: file closure recommendations.

The following files were recommended for closure in accordance with the Board's policy on complaint processing:

03 C 01	Allegation of unlicensed practice
03 C 02	Allegation of unlicensed practice
03 C 09	Allegation of unlicensed practice

It was moved/seconded (Garcia/Powers) to close the files; passed unanimously.

**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>
PEDORTHIST	John P. Burley, Jr.	Van Atta/Simmons*	
PEDORTHIST	Elsa Fritts	Van Atta/Simmons*	
PEDORTHIST-TEMP	Etta Ray	Van Atta/Simmons*	
PEDORTHIST-TEMP	Robert Stuart	Van Atta/Simmons*	
PROSTHETIST	Roch Mantini	Van Atta/Simmons*	
ORTHOTIST	Shawn Brown	Van Atta/Simmons*	
ORTHOTIST	George Vaughn	Garcia/Simmons^	Van Atta

\*Moved/seconded voted as a group -- passed unanimously.      ^ unanimous

**Request for Reconsideration pursuant to *Busch v. State Board of OPP***

One applicant - Michael Muratore - submitted a request for his application under ORC §4779.16 to be reconsidered pursuant to the Board's action of 7/14/2004 and the general advisory notice issued. Discussion focused on his original qualifications. Mr. Muratore originally submitted a timely application on or before July 27, 2001; held an Associates Degree from the O&P Tech Program at the Median School, conferred August 1998, and had been practicing since July 1998 at NovaCare/Hanger in Norton, Ohio. He had completed testing for certification in Orthotics by BOC during the latter part of 2001, but did not have proof of certification to submit to the Board in January 2002. The Board had issued a Notice of Opportunity for Hearing; held a hearing at its meeting in May 2002; but had denied licensure even though Mr. Muratore presented documentation of his certification at that time because of the application completion deadline issue. In light of the Board's action at its 7/14/2004 meeting, it was moved and seconded (Garcia/Simmons) to reconsider and grant a license in Orthotics. Passed unanimously.

**VII. Old Business:**

A. Board Member Expense reimbursement procedure. Policy language was circulated previously, to document the office processes involved and provide clear notice to Board Members regarding allowed expenses. The policy language generally reflects the guidelines provided by OBM travel policy (Rule 126-1-02). Adoption of the policy was moved and seconded (Simmons/Powers) and passed unanimously.

B. Continuing Education -- current regulatory language regarding continuing education was provided for review; no new language is being proposed at this time. Discussion centered on concerns that the profession may not be fully informed/prepared for the requirements for the first round of original licensees who will need to certify compliance during the upcoming renewal cycle. Mr. Levy noted that last year's renewal form contained an advance notification and requested/required that licensees review the requirements along with a schedule for compliance, and sign off on their understanding. Discussion concluded that Mr. Levy should make a significant effort to get the renewal package mailed earlier than usual for this cycle, and have an appropriate administrative process in place to provide for auditing and reviewing compliance after the renewal process is completed.

C. Setting/Raising Cut Score for License Exam -- a history of the Board's action in this regard was briefly reviewed. The Board is empowered by ORC §4779.08 to set by rule "the form, scoring and scheduling of licensing examinations," and by OAC Rule 4779-5-01 to require that an "applicant shall attain a scaled score to be determined by the Board." The same rule notes that the Board has adopted the written and written simulation exams for Orthotist and Prosthetist certification as developed/administered by the American Board for Certification in O & P (ABC) as constituting the Ohio license exam. The Board at its August 7, 2002, meeting set the Ohio "cut score" at 85% of ABC's requirements for certification on those examinations, with the expectation that the Board would gradually raise the score until it required 100% of ABC's requirements.

Based on this history, Mr. Levy recommended the following schedule in this regard:

- o Set passing score at 90% of ABC cut-off for exams administered May and November 2005 and May 2006
- o Set passing score at 95% of ABC cut-off for exams administered November 2006 and May and November 2007
- o Set passing score at 100% of ABC cut-off for exams administered beginning year 2008

After brief discussion, it was moved and seconded (Van Atta/Simmons) to adopt the noted schedule to gradually increase the test score requirements. Passed unanimously.

#### **VIII. New Business:**

A. Election of Officers: Mr. LaForge called for nominations for the office of Secretary. It was noted that although Mr. Reser was not present this evening, he has indicated he is willing to continue service as Secretary. Dr. Powers nominated Mr. Reser to continue as Secretary, seconded by Ms. Simmons. No other nominations were made. Mr. Reser was elected by unanimous vote. Making it clear that he is not a candidate for a third presidential term, Mr. LaForge called for nominations for the office of President. Mr. Van Atta nominated Manuel R. Garcia, seconded by Ms. Simmons. No other nominations were made. Mr. Garcia was elected by unanimous vote.

B. *Goldman* hearing scheduling. The members were asked to consider whether the next round of hearings should be heard by the full Board, as occurred before today's meeting, or whether the matter should be assigned to a hearing officer to establish a record and provide a report and recommendation to the Board. Discussion focused on the role of the Board, and the Board's core duty to oversee the proper processing of license applications and licensing actions. No motion was made, but consensus was that the Board should continue to hear these matters directly.

C. Deliberation/decision regarding *Goldman* hearings held this date: Mr. LaForge 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. LaForge called for consideration of the Matter of **Jackie S. Ball**, File No. 04-OPP-D 01; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Orthotics. It was so moved by Ms. Simmons, second by Mr. Van Atta. Called for discussion; hearing none, called for vote. Aye: Garcia, LaForge, Simmons, Van Atta; abstained: Powers. Motion carried

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

Mr. LaForge called for consideration of the Matter of **Kenneth P. Brown**, File No. 04-OPP-D 03; 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 Mr. Garcia, second by Ms. Simmons. Called for discussion; hearing none, called for vote. Aye: Garcia, LaForge, Simmons, Van Atta; abstained: Powers. Motion carried.

Mr. LaForge called for consideration of the Matter of **Kevin E. Hawkins**, File No. 04-OPP-D 05; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Orthotics. It was so moved by Ms. Simmons, second by Mr. Van Atta. Called for discussion; hearing none, called for vote. Aye: Garcia, LaForge, Simmons, Van Atta; abstained: Powers. Motion carried.

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

Mr. LaForge called for consideration of the Matter of **Ferencz F. Horvath**, File No. 04-OPP-D 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. It was so moved by Mr. Garcia, second by Ms. Simmons. Called for discussion; hearing none, called for vote. Aye: Garcia, LaForge, Simmons, Van Atta; abstained: Powers. Motion carried.

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

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

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

Mr. LaForge called for consideration of the Matter of **John J. Pacsi**, File No. 04-OPP-D 12; 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 Ms. Simmons, second by Mr. Van Atta. Called for discussion; hearing none, called for vote. Aye: Garcia, LaForge, Simmons, Van Atta; abstained: Powers. Motion carried.

Mr. LaForge called for consideration of the Matter of **Jeremy C. Sharp**, File No. 04-OPP-D 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. It was so moved by Mr. Van Atta, second by Mr. Garcia. Called for discussion; hearing none, called for vote. Aye: Garcia, LaForge, Simmons, Van Atta; abstained: Powers. Motion carried.

Mr. LaForge called for consideration of the Matter of **Robert L. Thomas**, File No. 04-OPP-D 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. It was so moved by Mr. Garcia, second by Ms. Simmons. Called for discussion; hearing none, called for vote. Aye: Garcia, LaForge, Simmons, Van Atta; abstained: Powers. Motion carried.

Mr. LaForge called for consideration of the Matter of **Russell J. Yanke**, File No. 04-OPP-D 15; based on the evidence introduced, and especially the lack certification as required by §4779.16, asked for a Motion to Deny Licensure in Orthotics. It was so moved by Ms. Simmons, second by Mr. Van Atta. Called for discussion; hearing none, called for vote. Aye: Garcia, LaForge, Simmons, Van Atta; abstained: Powers. Motion carried.

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

D. Next Meeting dates: Discussion was raised regarding a next meeting date. It was noted that late November is bad due to Thanksgiving holiday, and December tends to be busy with holidays and other end-of-year issues. General agreement was given for Wednesday, November 17, 2004, with the meeting likely preceded by another round of *Goldman* hearings to begin at 5:00 p.m.

**IX. Adjournment:** The meeting was adjourned by unanimous consent at 8:50 p.m.

Respectfully Submitted,

Approved:

/s/ *Mark B. Levy*

/s/ *Manuel R. Garcia*

*Nov. 17, 2004*

Mark B. Levy  
Board Director

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President

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Date