

## No-Change Rules

[Ohio Revised Code Section 119.032](#) requires the Board to review each rule in its series at least every five years and consider whether it is still appropriate to its purpose, requires updating, or should be replaced or rescinded. In particular, the Board is charged to determine:

- (1) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted;
- (2) Whether the rule needs amendment or rescission to give more flexibility at the local level;
- (3) Whether the rule needs amendment or rescission to eliminate unnecessary paperwork, or whether the rule incorporates a text or other material by reference and, if so, whether the text or other material incorporated by reference is deposited or displayed as required by section [121.74](#) of the Revised Code and whether the incorporation by reference meets the standards stated in sections [121.72](#), [121.75](#), and [121.76](#) of the Revised Code;
- (4) Whether the rule duplicates, overlaps with, or conflicts with other rules;
- (5) Whether the rule has an adverse impact on businesses, reviewing the rule as if it were a draft rule being reviewed under sections [107.52](#) and [107.53](#) of the Revised Code, and whether any such adverse impact has been eliminated or reduced.

The Rules listed and detailed in this Package (package # 96557, designated “no change rules 2012”) are being proposed to continue without amendment, replacement or elimination. They are for the most part administrative guidelines governing how the Board conducts its business. There are no unnecessary paperwork requirements and no unreasonable adverse impacts on business: a license application (4779-6-01) requires documentation that the candidate meets basic statutory standards; and the series includes a rule designed to provide a “diversion” option for licensees who miss their Continuing Education requirements, with allowance to keep the license status unaffected while addressing the deficiency through a measured administrative process. The 4779-11 series are rules specifically to provide a “rules of procedure” structure for any administrative hearings that may be held.

AS A STAKEHOLDER, YOUR OPINION MATTERS. Please review the rules listed here, or any one or more rules of interest to you, and if you have a different perspective, let us know. For your convenience, the last page of this document has a sample Stakeholder Response Form you could copy or extract to identify the rule with which you may be concerned, the deficiency you have identified, and any remedy or alternative language you might suggest.

Thank you for your willingness to be involved in the governance of your profession.

**THE STATE BOARD OF ORTHOTICS, PROSTHETICS AND PEDORTHICS**  
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**4779-1-01 Public hearings on adoption, amendment, or rescission of rules: methods of public notice.**

(A) Whenever the state board of orthotics, prosthetics and pedorthics takes an action to propose the adoption, amendment or rescission of any rule, it shall provide at least thirty days' notice to the public prior to the date set for the formal public hearing required by section 119.03 of the Revised Code. The notice shall include the following information:

- (1) Whether the board intends to adopt, amend, or rescind the rule;
- (2) A brief statement regarding the general content of the rule language and, where appropriate, noting if significant changes are proposed;
- (3) A statement of the reason or purpose for adopting, amending, or rescinding the rule; and
- (4) The date, time, and place of the public hearing regarding the proposed action

(B) Notice to the public shall be made by

- (1) Publication in the Register of Ohio, in accordance with the rules governing the Register;
- (2) Publication on the state board of orthotics, prosthetics, and pedorthics' website;
- (3) Notification by email to licensees of the board, applicants for licensure, and any stakeholders or interested parties who have notified the board of their interest in being informed of proposed changes to its regulatory language and/or parties who have subscribed to any listserv offered by the board;
- (4) Maintaining one or more paper copies of the notice and the full text of the rules proposals in the board office.
- (5) Upon request, the board shall also promptly send a copy of any notice provided for in paragraph (A) of this rule by regular mail or electronic mail to any person not appearing on its mailing list. The board may assess a reasonable fee, not to exceed the cost of copying and mailing, for notices sent to persons in accordance with this rule.

(C) Prior to the effective date of a rule, amendment, or rescission, the board shall make a reasonable effort to inform those affected by the rule, amendment, or rescission. The method of notification may include posting the full text of the rule as adopted or amended on the board's web site, publishing the rules in any newsletter published by the board, and/or sending by regular mail or electronic mail a notice of the action to all persons whose name appears on the mailing list maintained by the board pursuant to paragraph (A) of this rule, or to any person or such person's attorney who provided evidence, oral testimony, and/or a written statement which were made part of the record of the public hearing held pursuant to section 119.03 of the Revised Code. The board may assess a reasonable fee, not to exceed the cost of copying and mailing, for notices sent by regular U.S. mail to persons in accordance with this rule.

Replaces: 4779-1-01

Effective: 11/01/2008

R.C. 119.032 review dates: 01/01/2012

Promulgated Under: 119.03

Statutory Authority: 119.03 ; 4779.08

Rule Amplifies: 119.03

Prior Effective Dates: 6/29/01 (Emer.), 09/23/02

**4779-1-02 Notice of board meetings.**

(A) Any person, organization, or representative of news media may ascertain the time and place of all regularly scheduled meetings of the board, and the time, place, and purpose of all special meetings of the board by any one of the following methods:

- (1) Calling the board office during normal business hours (no collect calls will be accepted under any circumstance);
- (2) Contacting the board with a written request for such notification and with a supply of six stamped self-addressed business size envelopes;
- (3) Accessing the information posted on the board's website at <http://opp.ohio.gov>.

(B) The board shall maintain a list of all persons, organizations, and representatives of news media who have requested, in writing, notice of all meetings of the board. The board shall, no later than five days prior to each regular meeting, send by regular mail or electronic mail an agenda of the meeting to those persons. The board may assess a reasonable fee, not to exceed copying and mailing, for notices sent to persons in accordance with this rule.

(C) Notice of special meetings shall be as follows:

(1) If the special meeting is not of an emergency nature, the board shall notify all media representative on the list mandated in paragraph (B) of this rule by doing at least one of the following:

(a) Sending written notice, which must be sent by regular mail or electronic mail, no later than four calendar days prior to the day of the special meeting;

(b) Notifying representatives by telephone no later than twenty-four hours prior to the special meeting. Telephone notice shall be complete if a message has been left for the representative, or if, after reasonable effort, the board has been unable to provide telephone notice;

(2) In the event the special meeting is of an emergency nature, the board shall notify all media representatives on the list of the meeting by providing either the notice described in this rule or notifying the clerk of the State House press room. The notice shall be given as soon as possible, but need not be given twenty-four hours prior to the meeting.

(3) In giving the notice of special meetings as required by this rule, the board may rely on assistance provided by any member or employee of the board.

Effective: 11/01/2008

R.C. [119.032](#) review dates: 01/02/2012

Promulgated Under: [119.03](#)

Statutory Authority: [119.03](#) ; 4779.08

Rule Amplifies: [119.03](#) ; Chapter 4779

Prior Effective Dates: 08/09/02; 04/09/07

**4779-5-05 Criminal records check requirements.**

(A) All applicants for initial licensure in orthotics, prosthetics, orthotics and prosthetics, or pedorthics, shall submit to a criminal records check completed by the bureau of criminal identification and investigation (BCII) in accordance with sections 4779.091 and 4776.02 of the Revised Code. The results of the criminal records check shall be received by the board prior to the issuance of a license to practice in orthotics, prosthetics, orthotics and prosthetics, or pedorthics.

(B) An applicant requesting a criminal records check shall provide the bureau of criminal identification and investigation with the applicant's name and address and with the name and address for the (Ohio) state board of orthotics, prosthetics, and pedorthics, and with the board's BCII agency code. The applicant will comply with any procedures or requirements as specified by BCII.

(C) In the request, the applicant shall ask the superintendent of the bureau of criminal identification and investigation to obtain from the federal bureau of investigation any information it has pertaining to the applicant.

(D) The state board of orthotics, prosthetics, and pedorthics will only accept the results of a criminal records check that is submitted to the board directly by the bureau of criminal identification and investigation.

(E) The state board of orthotics, prosthetics, and pedorthics shall maintain information regarding criminal record check requirements on its official website.

Effective: 11/01/2008

R.C. [119.032](#) review dates: 01/01/2012

Promulgated Under: [119.03](#)

Statutory Authority: 4779.08 ; 4776.03

Rule Amplifies: 4779.091

**4779-6-01 Temporary license application procedure.**

(A) The following requirements apply to all applicants seeking licensure under section 4779.18 of the Revised Code.

(1) An applicant shall submit a completed application on a form prescribed by the board together with an appropriate fee in accordance with rule [4779-12-01](#) of the Administrative Code.

(2) If an application is received which appears to be incomplete, the board shall send the applicant within thirty (30) days a notice of incomplete application by email and/or regular first class mail stating that the application appears to be incomplete and stating the elements or criteria that appear to be missing or insufficient. If an application remains incomplete more than thirty (30) days after the board issues a notice of incomplete application, the board shall send the applicant a notice informing that the application, unless withdrawn, is subject to the board's proposal to deny by issuance of a notice of opportunity for hearing pursuant to section [119.07](#) of the Revised Code.

(3) The application shall contain an attestation that the applicant is at least eighteen years old, of good moral character, and meets the requirements of section 4779.18 of the Revised Code.

(4) An applicant seeking his or her first license issued by the state board of orthotics, prosthetics, and pedorthics shall comply with the criminal record check requirements of section 4779.091 of the Revised Code and rule [4779-5-05](#) of the Administrative Code.

(5) An applicant may withdraw an application by submitting a request in writing. No refund of application fee will be made by the board.

(B) In addition, an application for a temporary license to practice orthotics must document compliance with the following requirements:

(1) A post-secondary educational credential of at least a bachelors of arts degree;

(2) A certificate of completion of a post-graduate certificate program in orthotics, unless the applicant's post-secondary educational credential is a bachelors or masters degree specifically in orthotics and prosthetics;

(3) Completion of a residency program in orthotics consisting of nineteen hundred hours supervised by a practitioner certified in orthotics;

(4) A statement co-signed by the applicant and the current or prospective Ohio-licensed supervisor affirming that both are aware of and will abide by the law and rules governing supervision for a temporary license;

(5) If the applicant does not already hold a license issued by this board, proof of submission of fingerprints for criminal record checks by the Ohio bureau of criminal identification and investigation (BCII) and the federal bureau of investigation (FBI).

(C) In addition, an application for a temporary license to practice prosthetics must document compliance with the following requirements:

(1) A post-secondary educational credential of at least a bachelors of arts degree;

(2) A certificate of completion of a post-graduate certificate program in prosthetics, unless the applicant's post-secondary educational credential is a bachelors or masters degree specifically in orthotics and prosthetics;

(3) Completion of a residency program in prosthetics consisting of nineteen hundred hours supervised by a practitioner certified in prosthetics;

(4) A statement co-signed by the applicant and the current or prospective Ohio-licensed supervisor affirming that both are aware of and will abide by the law and rules governing supervision for a temporary license;

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(5) If the applicant does not already hold a license issued by this board, proof of submission of fingerprints for criminal record checks by the Ohio bureau of criminal identification and investigation (BCII) and the federal bureau of investigation (FBI).

(D) In addition, an application for a temporary license to practice orthotics and prosthetics must document compliance with the following requirements:

(1) A post-secondary educational credential of at least a bachelors of arts degree;

(2) A certificate of completion of post-graduate certificate programs in prosthetics and orthotics, unless the applicant's post-secondary educational credential is a bachelors or masters degree specifically in orthotics and prosthetics;

(3) Completion of a residency program in prosthetics and orthotics, consisting of nineteen hundred hours supervised by a practitioner certified in prosthetics, and nineteen hundred hours supervised by a practitioner certified in orthotics;

(4) A statement co-signed by the applicant and the current or prospective Ohio-licensed supervisor affirming that both are aware of and will abide by the law and rules governing supervision for a temporary license;

(5) If the applicant does not already hold a license issued by this board, proof of submission of fingerprints for criminal record checks by the Ohio bureau of criminal identification and investigation (BCII) and the federal bureau of investigation (FBI).

(E) In addition, an application for a temporary license to practice pedorthics must document compliance with the following requirements:

(1) A high school diploma or a certificate of high school equivalence;

(2) A statement co-signed by the applicant and the current or prospective Ohio-licensed supervisor affirming that both are aware of and will abide by the law and rules governing supervision for a temporary license;

(3) Completion of the training, education, and/or experience requirements necessary to sit for the certification in pedorthics ("C.Ped.") examination conducted by the American board for certification in orthotics, prosthetics, and pedorthics (ABC);

(4) If the applicant does not already hold a license issued by this board, proof of submission of fingerprints for criminal record checks by the Ohio bureau of criminal identification and investigation (BCII) and the federal bureau of investigation (FBI).

(F) When the board approves a temporary license to practice orthotics, prosthetics, or prosthetics-orthotics, the board shall notify the American board for certification in orthotics, prosthetics, and pedorthics that the applicant is approved for exam in the specific profession. When the board receives a report of passing scores on the exam, the board shall issue the applicant a full license.

(G) When the board approves a temporary license to practice pedorthics, the board shall notify the American board for certification in orthotics, prosthetics, and pedorthics that the applicant is approved for exam in pedorthics if the applicant has not already received certification in pedorthics. When the board receives a report of passing scores on the exam and the successful completion of eight months of practice under the supervision of a licensee of this board, the board shall issue the applicant a full license.

Replaces: 4779-6-01

Effective: 11/01/2008

R.C. [119.032](#) review dates: 01/01/2012

Promulgated Under: [119.03](#)

Statutory Authority: 4779.08

Rule Amplifies: 4779.18

Prior Effective Dates: 08/09/02

**4779-9-03 OPPCE accrual deficiency and remediation.**

In the case of a licensee who determines that the licensee cannot truthfully attest to having completed the OPPCE accrual as required by section 4779.20 of the Revised Code at the time the licensee is completing an annual license renewal application, or in the case of a licensee who for the first time has failed to document appropriate OPPCE accrual for a renewal period in which the licensee has mistakenly certified appropriate OPPCE accrual, such licensee may correct the non-compliance through the following protocol:

(A) Notify the board office of the problem in writing by mail, email or fax.

(B) If the OPPCE deficiency is recognized prior to the license expiration date, the licensee may make up the deficiency by the license expiration date. In such a case, the licensee shall certify to the board the number of OPPCE units accrued during the appropriate three-year period, and the amount accrued during the month of January in the renewal year. In such a case, the OPPCE units accrued during January of the renewal year shall not be allowed to count toward the OPPCE accrual required for the accrual period that began on the first of January of that month.

(C) If the OPPCE deficiency is recognized or discovered when the option allowed by paragraph (B) of this rule is not available, or is discovered pursuant to an OPPCE audit, and is the first such occurrence of such a deficiency in that individual's license history, the following protocol may be employed:

(1) Sign off on an OPPCE remediation agreement worksheet form as provided by the board office;

(2) In the case of a licensed orthotist or licensed prosthetist, the licensee will make up the deficiency and accrue an additional fifteen OPPCE units as an augmented requirement by a date certain no later than six months from the date of the discovery of the deficiency, and pay the OPPCE late certification fee as provided for in rule [4779-12-01](#) of the Administrative Code.

(3) In the case of a licensed pedorthist, the licensee will make up the deficiency and accrue an additional eleven OPPCE units as an augmented requirement by a date certain no later than six months from the date of the discovery of the deficiency, and pay the OPPCE late certification fee as provided for in rule [4779-12-01](#) of the Administrative Code.

(4) In the case of a licensed prosthetist-orthotist, or an individual who holds licenses in both orthotics and prosthetics, the licensee will make up the deficiency and accrue an additional twenty OPPCE units as an augmented requirement by a date certain no later than six months from the date of the discovery of the deficiency, and pay the OPPCE late certification fee as provided for in rule [4779-12-01](#) of the Administrative Code.

Effective: 11/01/2008

R.C. [119.032](#) review dates: 01/01/2012

Promulgated Under: [119.03](#)

Statutory Authority: 4779.08

Rule Amplifies: 4779.20

**4779-10-02 Proper use of credentials.**

(A) A licensee shall not misrepresent any professional qualifications or credentials or provide any information that is false, deceptive or misleading in connection with his/her own application for employment or work as an orthotics, prosthetics, or pedorthics practitioner.

(B) A licensee shall not delegate the use of his/her name or signature on documentation for services unless he/she actually provided these services and has given permission to another individual for such documentation, or unless he/she appropriately supervised those services.

(C) A licensee shall not use any title, initials or acronym indicating ownership or possession of an advanced educational credential or degree unless such educational credential or degree was earned through the auspices of an institution recognized by an appropriate national or regional accrediting agency.

Effective: 11/01/2008

R.C. [119.032](#) review dates: 01/02/2012

Promulgated Under: [119.03](#)

Statutory Authority: 4779.08

Rule Amplifies: 4779.09, 4779.28

Prior Effective Dates: 8/9/02

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**4779-11-02 Hearing representation and appearances.**

(A) Respondents may be self represented or may be represented by an attorney admitted to the practice of law in Ohio.

(B) When respondent is represented by an attorney, the attorney shall file a written notice of appearance with the board. The attorney who has filed a notice of appearance with the board shall be considered by the board as the representative of record unless and until a written notice of withdrawal is filed with the board.

(C) Respondent or respondent's representative of record may present respondent's position, arguments, or contentions in writing rather than appearing in person at any hearing, provided the board has not subpoenaed respondent to appear at the hearing, and provided respondent has timely requested a hearing.

(D) Respondent is not required to appear in person at any hearing provided the board has not subpoenaed the respondent to appear at the hearing.

Eff 1-23-03

Rule promulgated under: RC [119.03](#)

Rule authorized by: RC 4779.08

Rule amplifies: RC 4779.28, [119.06](#), [119.09](#)

R.C. [119.032](#) review dates: 01/23/2008

**4779-11-03 Hearing continuance.**

(A) The board may initially continue a hearing upon its own motion in order to more efficiently and effectively conduct its business, unless the circumstances establish that a continuance would not be in the interest of public safety.

(B) Upon written or oral motion of respondent or respondent's representative of record, the hearing examiner assigned to the proceeding may continue the hearing.

(C) A motion for continuance shall be filed not later than fourteen calendar days prior to the scheduled date of the hearing.

(D) A hearing shall not be continued upon motion by respondent or respondent's representative of record unless a showing of reasonable cause and proper diligence is presented. Before granting a continuance, consideration shall be given to harm to the public which may result from a delay in the proceedings.

(E) In no event will a motion for continuance filed by respondent or respondent's representative of record less than five calendar days prior to the scheduled date of the hearing be granted, unless it is demonstrated that an extraordinary situation exists which could not have been anticipated and which would justify the granting of a continuance.

(F) If a continuance is granted, the board or the hearing examiner assigned to the proceeding shall immediately establish a new hearing date unless circumstances prohibit.

(G) When a hearing has been continued, the board shall make a reasonable attempt to notify all of the witnesses subpoenaed for a hearing.

Eff 1-23-03

Rule promulgated under: RC [119.03](#)

Rule authorized by: RC 4779.08

Rule amplifies: RC [119.06](#), [119.09](#), 4779.08, 4779.28

R.C. [119.032](#) review dates: 01/23/2008

## No-Change Rules

**4779-11-04 Motion or request for extension of time and addressing the board regarding a hearing.**

(A) Except as otherwise provided in Chapter 119. of the Revised Code or rules of the board, any motion or request for an extension of time in which to file a motion, brief, or objection, unless made upon the record at the hearing, shall be made in writing and filed with the board. The decision with respect to a request for an extension of time shall be rendered by the board or, if the board is not in session, by the president of the board acting on behalf of the board.

(B) The board shall adhere to all timelines set by the Revised Code or by the hearing examiner. No motion for an extension of time shall be granted by the board unless:

(1) The party filing the motion demonstrates that an extraordinary situation exists which could not have been anticipated and which would justify the granting of a motion for extension of time; and

(2) The respondent or respondent's representative of record can show that no harm to the public will result from the delay in the proceedings. In making a determination about harm to the public, the board may consider whether the respondent holds a current, valid license to practice under R.C. 4779 in Ohio, whether the license has been suspended, or whether the license has been voluntarily surrendered.

(C) Without leave of the board neither respondent nor any representative of record shall be permitted to address the board at the time of the board's consideration of the hearing examiner's report and recommendation. Any request for such leave shall be filed by motion no less than three business days prior to the date the report and recommendation is to be considered by the board. No such leave shall be granted unless the opposing representative of record has been actually notified of the request and given an opportunity to respond. The board, or if the board is not in session, the board president acting on behalf of the board, shall render a decision as to whether to permit respondent or a representative of record to address the board. If a request to address the board is granted, the opposing representative may also address the board.

(D) If a request to address the board is granted, the parties shall speak no longer than ten minutes each, inclusive of any questions and answers. The time to address the board may be divided, consistent with the approach used for appellate practice, if such division is mutually agreed to by both parties and approved by the board.

Eff 1-23-03

Rule promulgated under: RC 119.03

Rule authorized by: RC 4779.08

Rule amplifies: RC 119.06, 119.09, 4779.08, 4779.28

R.C. 119.032 review dates: 01/23/2008

**4779-11-05 Motions.**

(A) Except as otherwise provided under Chapter 119. of the Revised Code, any motion, unless made upon the record at a hearing or as an oral motion for continuance in accordance with rule [4779-11-03](#) of the Administrative Code, shall be in writing and filed in accordance with this rule.

(B) A written motion shall state with particularity the relief sought and shall be accompanied by a memorandum stating the grounds for the motion and citing the authorities relied upon. Except in the case of a summary suspension pursuant to section 4779.29 of the Revised Code, a motion shall be made no later than fourteen days before the scheduled date of the hearing, unless the board or hearing examiner expressly grants an exception.

(C) A response to a motion may be filed within ten days after service of a motion, or such other time as is fixed by the board or hearing examiner. A moving party may reply to a response only with the permission of the board or hearing examiner.

(D) The board or hearing examiner shall rule on a written motion in writing and shall issue a copy of the ruling to respondent or respondent's representative of record and to the assistant attorney general representing the state. The board or hearing examiner shall include in each written ruling on a motion a short statement setting forth the reason for the ruling.

(E) The ruling in any oral motion made at a hearing shall be included in the record of the hearing.

Eff 1-23-03

Rule promulgated under: RC [119.03](#)

Rule authorized by: RC 4779.08

Rule amplifies: RC [119.06](#), [119.09](#), 4779.08, 4779.28

R.C. [119.032](#) review dates: 01/23/2008

**4779-11-06 Witnesses.**

(A) A witness may be accompanied and advised by legal counsel. Participation by counsel for a witness other than the respondent, shall be limited to the protection of that witness' rights. The legal counsel shall neither examine nor cross-examine any witness.

(B) If a witness refuses to answer a question ruled proper at a hearing or disobeys a subpoena, the board, pursuant to section [119.09](#) of the Revised Code, may institute contempt proceedings or file a motion to compel.

(C) A representative of record may move for a separation of witnesses at the hearing.

Eff 1-23-03

Rule promulgated under: RC [119.03](#)

Rule authorized by: RC 4779.08

Rule amplifies: RC [119.06](#), [119.09](#), 4779.08, 4779.28

R.C. [119.032](#) review dates: 01/23/2008

**4779-11-07 Prior action by the board.**

(A) The board or hearing examiner shall admit evidence of any prior action entered by the state board of orthotics, prosthetics and pedorthics of Ohio against the respondent.

Eff 1-23-03

Rule promulgated under: RC [119.03](#)

Rule authorized by: RC 4779.08

Rule amplifies: RC [119.06](#), [119.09](#), 4779.08, 4779.28

R.C. [119.032](#) review dates: 01/23/2008

**4779-11-08 Subpoena for purpose of hearing.**

(A) Upon written request by respondent or respondent's representative of record, the board shall issue a subpoena for purposes of hearing to compel the attendance and testimony of a witness or production of books, records, or papers.

(B) Each subpoena request shall specify the name and address of the individual to be served and the date, time, and place the individual served is to appear. With respect to the production of books, records, or papers, such request shall specify the person who is to produce the documents at hearing and the documents to be produced. The board shall not be responsible for acquiring the address of any individual who respondent or respondents' representative of record requests to be subpoenaed.

(C) Except upon leave of the board or hearing examiner, a subpoena request shall be filed with the board at least thirty days in advance of the requested date of compliance in order to allow sufficient time for preparation and service of the subpoena.

(D) If the number of subpoenas requested by respondent or respondent's representative of record appears to be unreasonable, the board or hearing examiner may require a showing of necessity for the subpoenas, and in the absence of such a showing, the board or hearing examiner may limit the number of subpoenas issued. Absent such limitation, the board shall issue each subpoena requested by respondent or counsel for respondent within ten business days of request.

(E) After a hearing has commenced the board or hearing examiner may order the issuance of a subpoena for purposes of hearing to compel the attendance and testimony of a witness or production of books, records, or papers.

Eff 1-23-03

Rule promulgated under: RC [119.03](#)

Rule authorized by: RC 4779.08

Rule amplifies: RC [119.06](#), [119.09](#), 4779.08, 4779.28

R.C. [119.032](#) review dates: 01/23/2008

**4779-11-09 Ex parte communication.**

(A) No board member or hearing examiner shall initiate or consider ex parte communication or communication on behalf of only one party concerning a pending adjudication. Nothing in this paragraph shall preclude a hearing examiner or board staff member from engaging in ex parte communication regarding a procedural matter or matter affecting the efficient conduct of the hearing with the representatives of record

(B) A hearing examiner or board member shall disclose on the record the source and substance of any ex parte or attempted ex parte communication other than communication regarding a procedural matter or matter affecting the efficient conduct of the hearing permitted in paragraph (A) of this rule. Such disclosure shall be made at the hearing or at a board meeting prior to deliberating on the affected adjudication proceeding

Eff 1-23-03

Rule promulgated under: RC [119.03](#)

Rule authorized by: RC 4779.08

Rule amplifies: RC [119.06](#), [119.09](#), 4779.08, 4779.28

R.C. [119.032](#) review dates: 01/23/2008

**4779-11-10 Settlements.**

(A) Any matter which is the subject of a hearing, a notice of opportunity for hearing, or regarding a board investigation into compliance with Chapter 4779. of the revised Code or agency-level 4779 of the Administrative Code, may be settled at any time prior to initiation or completion of formal action under R.C. Chapter 119. by the board on the matter.

(B) A settlement shall be negotiated on behalf of the board by any board member designated to act as liaison for compliance/enforcement actions of the board. Such board member may provide sufficient instructions and guidance to staff and/or the board's assistant attorney general for such other representatives of the board to conduct negotiations in the board member's stead.

(C) A settlement agreement shall be in writing and shall be submitted for ratification to the board only after it has been subscribed to by respondent and/or respondent's attorney.

(D) A settlement agreement shall not be effective until the agreement is both ratified by the board and signed by respondent and the president of the board.

Eff 1-23-03

Rule promulgated under: RC [119.03](#)

Rule authorized by: RC 4779.08

Rule amplifies: RC [119.06](#), [119.09](#), 4779.08, 4779.28

R.C. [119.032](#) review dates: 01/23/2008

**4779-11-11 Prehearing processes.**

(A) Any representative of record may serve upon the opposing representative of record a written request for a list of both the witnesses and documents intended to be introduced at hearing. Except in the case of summary suspensions, within twelve days of service of the request the opposing representative of record shall supply such a list to the requesting representative. In cases of summary suspensions, the exchange of lists of both witnesses and documents intended to be introduced at hearing shall be completed forthwith, but in no event less than three days prior to the hearing. Failure to comply with this request may result in exclusion from the hearing of such testimony or documents that were the subject of the request upon motion of the representative of record to whom disclosure is refused.

(B) The hearing examiner shall, upon motion of any representative of record, issue an order setting forth:

- (1) A schedule by which the parties shall exchange hearing exhibits;
- (2) A schedule for identifying lay and expert witnesses; and
- (3) A schedule for the exchange of written reports, if any, from expert witnesses.

(C) At any time prior to a hearing, the hearing examiner may direct participation by the representatives of record in a prehearing conference. Such conference may be initiated by the hearing examiner or upon the motion of either representative of record. All representatives of record shall participate in the prehearing conference prepared to discuss the items enumerated in this paragraph. The hearing examiner may issue a procedural order based on information obtained at a prehearing conference. A prehearing conference may be held for any of the following purposes:

- (1) Identification of issues;
- (2) Obtaining stipulations and admissions;
- (3) Agreements limiting the number of witnesses;
- (4) Discussion of documents, exhibits, and witness lists;
- (5) Estimating the time necessary for the hearing; and
- (6) Discussion of any other matter tending to expedite the proceedings.

(D) With or without a written motion from a representative of record, the hearing examiner may convene a status conference with representatives of record to address any matter related to preparation for the hearing or the conduct of the hearing. The hearing examiner may issue such orders related to preparation for the hearing and the conduct of the hearing which in the judgment of the hearing examiner facilitate the just and efficient disposition of the subject of the hearing.

Eff 1-23-03

Rule promulgated under: RC [119.03](#)

Rule authorized by: RC 4779.08

Rule amplifies: RC [119.06](#), [119.09](#), 4779.08, 4779.28

R.C. [119.032](#) review dates: 01/23/2008

**4779-11-12 Reinstatement of suspended license or certificate.**

(A) Any disciplinary action taken by the board pursuant to sections 4779.28, and/or 4779.29, and/or 4779.30, and/or 4779.33 of the Revised Code which results in suspension from practice shall either lapse by its own terms or contain a written statement of the conditions under which the license or certificate may be reinstated.

Eff 1-23-03

Rule promulgated under: RC [119.03](#)

Rule authorized by: RC 4779.08

Rule amplifies: RC [119.06](#), [119.09](#), 4779.08, 4779.28

R.C. [119.032](#) review dates: 01/23/2008

DRAFT

**STAKEHOLDER RESPONSE FORM**

STATE BOARD OF ORTHOTICS, PROSTHETICS, AND PEDORTHICS

RULES PENDING REVIEW

PACKAGE NUMBER # 96557, DESIGNATED "NO CHANGE RULES 2012"

EMAIL TO: [BOPP@OPP.OHIO.GOV](mailto:BOPP@OPP.OHIO.GOV)

FAX TO: 614-387-7347

RULE NUMBER: 4779 - \_\_\_\_ - \_\_\_\_

RULE TITLE: \_\_\_\_\_

GENERAL CONCERN IDENTIFIED: (CHECK BOXES THAT APPLY)

- (1) The rule should be  continued without amendment,  be amended, or  be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted;
- (2)  The rule needs amendment or rescission to give more flexibility at the local level;
- (3)  The rule needs amendment or rescission to eliminate unnecessary paperwork, or  
 the rule incorporates a text or other material by reference and, if so, whether the text or other material incorporated by reference is not deposited or displayed as required or does not meet the standards
- (4)  The rule duplicates, overlaps with, or conflicts with other rules;
- (5)  The rule has an adverse impact on businesses, and any such adverse impact has not been eliminated or reduced.

Narrative explaining or supporting above concerns, or any other concerns: \_\_\_\_\_

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(add additional pages if necessary)

Submitted by:      Name: \_\_\_\_\_      email: \_\_\_\_\_  
                         Address: \_\_\_\_\_  
                         City, St, Zip: \_\_\_\_\_      date: \_\_\_\_\_

**THE STATE BOARD OF ORTHOTICS, PROSTHETICS AND PEDORTHICS**  
77 South High Street, 18<sup>th</sup> floor • Columbus, Ohio 43215 • (614) 466-1157 • Fax (614) 387-7347