

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

APRIL 12, 2006

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 Mark Horwitz called the meeting to order at 5:45 p.m. New board member Howard H. Harcha, Jr., Attorney at Law, Portsmouth, was welcomed

Roll Call:

Present Board Members: Manuel Garcia; Mark Horwitz; Howard Harcha; James Powers, MD; Jack Reser; Doug Van Atta

Members Absent: Kathleen Clark Simmons

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

Guests: (none)

II. Amendments to agenda: By consensus, the agenda as presented was approved.

III. Approval of minutes: **Approval of February 2006 minutes** -- Mr. Horwitz called for any changes or questions. Hearing none, called for a Motion to approve. Reser/Garcia so moved, passed unanimously.

IV. Executive Session was convened by unanimous roll call vote at 5:50 p.m., to consider matters regarding licensee discipline/complaints, personnel, and issues requiring privileged attorney-client communications on the Motion of Reser/Van Atta, and to request AAG Chieffo remain in attendance. Mr. Levy was invited into the session at 6:00 p.m. The Board emerged from Executive Session at 6:55 p.m. by the same method.

V. A. Deliberation/decision regarding hearing held 11/7/2005: George Mansell

Motion (Van Atta/Reser) **to table** this matter until the following meeting was unanimous, with two abstentions (Harcha, Powers) of members who did not participate on the hearing panel.

B. Settlements/charges:

Motion (Reser/Van Atta) to accept a Consent Agreement with Jeffrey Luke to resolve three complaints passed unanimously. Mr. Luke admitted to engaging in the unlicensed practice of Orthotics, accepted a **Reprimand** and a **stayed 2-year Suspension** of his license in Prosthetics to be served as a term of **Probation**.

C. Personnel:

Motion (Reser/Garcia) to provide a 3% raise in pay to Director Levy, retroactive to the first full pay period of the calendar year, passed unanimously.

VI. Director's Report:

A. Legislative Update -- deferred to information circulated previously. HB 530, the Budget Correction Bill which when introduced contained board consolidation language to be implemented beginning FY08, was amended before passage to remove the consolidation language contained in the prior budget bill.

B. Budget -- Revenue booked fiscal year-to-date was reported at just over \$105,000. Expenses are below/within budget parameters.

-- **FY07 status.** HB 530, the Budget Correction bill, provides for a one-year budget allotment of \$106,035.

-- **FY08 - FY09** OBM has issued a budgeting schedule, distributed to members at this meeting, that anticipates agencies submitting budget request details by the beginning of October 2006 for the biennium beginning July 2007. Members were asked to consider their interest in assisting with budget preparation and/or oversight of budget formulation and document submission.

C. Complaints/Enforcement

(1) **file closure recommendation: Motion** (Reser/Garcia) **to close complaint file 03C07** regarding a shoe store providing pedorthic services **passed unanimously**, after determination that the business had **achieved minimal compliance** with Ohio requirements by retaining the services of a consulting podiatrist and by contracting with a licensed pedorthist to perform pedorthic evaluation and final fitting and dispensation.

(2) **notification of disciplinary actions:** reported on a request received from the Ohio Department of Jobs and Family Services to provide notification of disciplinary actions taken. The request from ODJFS legal counsel noted that a number of licensing boards post documents detailing disciplinary actions on their websites or linked to the license look-up function. The request led to a discussion of information on the Board's website. Director Levy reported that the current format ties into the license verification function by filling the "formal action" field with a "Contact Board office" message if disciplinary information exists. Director Levy suggested the Board may wish to consider automatic reporting to a defined list of entities, including national credentialing bodies in the professions regulated by the Board, noting that Ohio has received information from these national bodies that has initiated investigative activity and may result in formal action. **Consensus** was to approve sharing information with ODJFS, and that the Director should report back to the Board the options for implementing a more web-based information mechanism and suggested policy language to address reporting in general.

D. Ethics Commission -- Financial Disclosure Reports -- Members were reminded to file their reports with the Ethics Commission if they had not done so already; deadline: 4/17/2006. The Board has paid the filing fees.

VII. Report on Pending License Applications:

A. **Recommendations to Approve for Licensure:** The following candidates for licensure were approved by unanimous vote (M/S: Van Atta/Powers). Ms. Caballero's application was moved/seconded by Horwitz/Powers:

<u>License Type</u>	<u>Candidate</u>	<u>Conditions, if any</u>
Pedorthist - TEMP	SGRO, Anthony	
Prosthetics	HAYS, John A.	
Orthotics	ANDREWS, Kristin	
Prosthetics-Orthotics	CABALLERO, Sheril	

B. **Advice Only:**

Orthotics	BERMAN, Jeremy	Previously Approved for Exam Passed ABC Written & Written Sim Temp License upgraded - LO.253
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VIII. Old Business

A. **Consider C. Ped. stratification plan / impact on licensing issues/standards:** report deferred

B. **Third Party Credentialing** -- Director Levy presented the basic language and format for notification mailings pursuant to Ohio Revised Code § 4779.22, which provides in part that:

(A) The state board of orthotics, prosthetics, and pedorthics shall publish and make available to the public written information regarding ... the following:

*(1) The board's regulatory functions and the provisions of this chapter; ****

(B) The board shall make the information described in division (A) of this section available to all of the following:

*(1) Consumers of orthotic, prosthetic, and pedorthic goods and services; ****

(5) Any other entity that may reasonably require the information.

Target audiences include hospitals, rehab centers and outpatient care facilities, nursing homes, health insuring companies, state agencies. **Motion (Van Atta/Horwitz) to approve with continuing oversight of Board President** was approved unanimously.

C. **Residency Program - Statutory language** -- It was noted that the statutory language regarding residency program requirements requires some modification, as the language indicates that a residency program should incorporate a coursework component. Discussion indicated an appropriate amendment might state that certain coursework should be a prerequisite for admission to a residency program. It was also clarified that although residency programs in O&P are generally those approved by NCOPE, an Ohio license candidate may not be required to register such a residency with NCOPE in order for the residency to be recognized by this Board for licensing purposes.

IX. New Business

A. Board Membership -- call for candidates for 2 terms expiring 12/06/2006: Two current members' terms expire this year: Jack Reser, LPED, and James Powers, MD. Mr. Reser is "term limited" from re-appointment, as this is his second term. Although Dr. Powers is completing his first full term, he initiated service to fill out the remainder of Dr. Lee's term, and may be interested in "passing the baton." Board members were encouraged to consider thinking about and perhaps approaching appropriate candidates in cooperation with the Board office.

B. Licensing and Security:

(1) Criminal Record Checks -- Mr. Levy reported that the working group of regulatory boards has been discussing the processes, language and details involved for incorporating a criminal record check in the license application process. Some boards currently require a record check based on specific regulatory language; some based on less specific language interpreted to allow such a process; some do not require a check although questions regarding criminal history are incorporated in the application. This Board presently falls into the latter category. Our statutory language [ORC §4779.09] requires that a candidate be of "good moral character;" that standard is presently defined in the Rules [OAC Rule 4779-3-01 (C)] as "not having been convicted of a crime of moral turpitude; not having made misstatements or misrepresentation in connection with an application or examination for a qualification certificate; and not having willfully violated any of the sections related to conduct required of qualification certificate holders and set forth in the statutes or rule." Mr. Levy reported further that a comprehensive record check is considered to include both state and national checks, and such services are available generally at a cost to applicants/candidates of \$69.

Board discussion indicated general interest and support for the Board to incorporate a record check component into the licensing process, as a measure furthering protection of the public. Discussion focused on whether we currently have the authority to require such a check, and costs both to applicants and the Board to implement. Mr. Reser questioned further whether the Board could require current licensees to submit to such checks on a random basis or perhaps on a periodic "audit" basis. Mr. Levy was asked to report back further regarding the work being done by the regulatory boards group and how this Board could move toward implementation of such a requirement.

(2) Material Assistance/Non-assistance Declaration -- It was reported that some licensing entities have been informed by the Department of Public Safety/Ohio Homeland Security that licensees may be required to execute a form stating whether they have or have not provided material assistance to any organization currently on a list available at Public Safety's website at <http://www.homelandsecurity.ohio.gov/dma.asp> . Licenses issued by this Board are not included at this time.

C. Designate Lapsed Licenses: The following list of licensees who did not renew their licenses this year and who did not notify the Board of their intent not to renew due to retirement or moving out of state were presented for designation as LAPSED pursuant to ORC §4779.19 and OAC Rule 4779-8-01:

<u>Credential †</u>	<u>Name ▲</u>	<u>Reg Thru Date</u>	<u>City</u>	
LPED.92	Abramis, Larry V	1/31/2006	Fairfield	LAPSED
LPO.2	Alaimo, Jeffrey M.	1/31/2006	Cleveland	LAPSED
LP.4	Benson, John F.	1/31/2006	Cincinnati	LAPSED
LP.17	Coppolino, Frank T.	1/31/2006	Norton	LAPSED
LPED.13	Emmert, Thomas E.	1/31/2006	South Euclid	LAPSED
LO.193	Hanan, Jack J	1/31/2006	Chardon	LAPSED
LO.218	Holliday, Scot A	1/31/2006	Marion	LAPSED
LO.210	Johnson, Bobbi J.	1/31/2006	Hermitage	LAPSED
LP.222	Knip, Ronald A.	1/31/2006	Richmond	LAPSED
LPED.88	Lamendola, Jerome J.	1/31/2006	Westlake	LAPSED
LPED.132	Landers, Terrance N.	1/31/2006	Orrville	LAPSED
LPED.99	Mann, Jarrod M	1/31/2006	Cincinnati	LAPSED
LPO.74	Miller, Mark Richard	1/31/2006	Belpre	LAPSED
LO.200	Reynolds, David C.	1/31/2006	Huntington	LAPSED
LPED.45	Roll, Douglas F.	1/31/2006	Cincinnati	LAPSED
LPED.46	Roll, Peggy E.	1/31/2006	Cincinnati	LAPSED
LPED.85	Springer, Mark D.	1/31/2006	Thornville	LAPSED
LP.128	Trimble, George L.	1/31/2006	Richmond Heights	LAPSED
LO.162	Zinnicker, Stephen E.	1/31/2006	Painesville	LAPSED

Motion (Van Atta/Garcia) to designate as Lapsed passed **unanimously**.

Next Meeting Dates: After a review of calendars, the members reached consensus to hold the next meetings on Wednesday July 12, 2006, and Wednesday, September 20, 2006, both at 5:00 p.m..

X. Adjournment: There was consensus that the meeting adjourn at 8:05 p.m.

Respectfully Submitted,

Approved:

/s/ *Mark B. Levy*

Mark B. Levy
Board Director

/s/ *Mark E. Horwitz*

Mark E. Horwitz
President

07/12/2006

Date