

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

SEPTEMBER 20, 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 6:55 p.m., following the conclusion of scheduled hearings.

Roll Call:

Present Board Members: Manuel Garcia; Mark Horwitz; Jack Reser; Kathleen Clark Simmons

Members Absent: Howard Harcha; James Powers, MD; Doug Van Atta

Staff: Mark Levy, Board Director; Dominic Chieffo, Assistant Attorney General (until 7:45 pm)

Guests: (none)

II. Amendments to agenda: Reser/Garcia moved approval; no discussion; vote was unanimous.

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

IV. Executive Session Session was convened by unanimous roll call vote at 7:00 p.m., to consider matters regarding applicant/licensee discipline/complaints, personnel, and issues requiring privileged attorney-client communications on the Motion of Simmons/Garcia, and to request Director Levy and AAG Chieffo remain in attendance. The Board emerged from Executive Session at 7:35 p.m. by the same method.

V. A. Action on hearings held this date:

Goldman Hearings

Mr. Horwitz called for consideration of the Matter of **Dwayne W. Popham**, File No. 06-OPP-L 04; based on the evidence introduced, and especially the lack of an appropriate post-secondary degree – Associates or Bachelors -- asked for a Motion to Deny Licensure in Prosthetics. It was so moved by Mr. Reser, second by Mr. Garcia. Called for discussion; hearing none, called for vote. Aye: Garcia, Reser, Simmons, with Horwitz voting "aye" as well to constitute a full quorum. Motion carried.

Mr. Horwitz called for consideration of the Matter of **Thomas N. Teklinsky**, File No. 06-OPP-L 03; based on the evidence introduced, and especially the lack of an appropriate post-secondary degree – Associates or Bachelors -- 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, Reser, Simmons, with Horwitz voting "aye" as well to constitute a full quorum. Motion carried.

Mr. Horwitz called for consideration of the Matter of **Scott P. Hendron**, File No. 07-OPP-L 01; based on the evidence introduced, and specifically the lack of documentation of at least eight (8) months of supervised experience under an Ohio-licensed practitioner, asked for a Motion to Deny Licensure in Pedorthics. It was so moved by Ms. Simmons, second by Mr. Reser. Called for discussion; hearing none, called for vote. Aye: Garcia, Reser, Simmons, with Horwitz voting "aye" as well to constitute a full quorum. Motion carried.

In re: The Eligibility of Robert M. Leach To Be Approved for Licensure In Orthotics – File No. 06 OPP L 01

Upon consideration of the evidence submitted and testimony taken, Motion was made by Mr. Reser, seconded by Mr. Garcia, to FIND that Mr. Leach's application for licensure in Prosthetics did not demonstrate compliance with the requirements of ORC § 4779.11, and to DENY a license, and entered the following Order into the record of the Board's proceedings.

It is hereby ORDERED that:

The application of ROBERT M. LEACH to be issued a License in Prosthetics pursuant to ORC § 4779.11 is hereby DENIED.

B. Settlements/charges:

No settlements were presented to the Board for consideration.

Motion (Garcia/Simmons) to accept the withdrawal of application of Janelle Kratzer for licensure in Pedorthics and to withdraw the associated Notice of Opportunity for Hearing in **File No. 07-OPP-L-01** was approved unanimously.

Motion (Garcia/Reser) to issue a Notice of Opportunity for Hearing regarding the application presented as **File No. 07-OPP-L-03** for a Temporary License in Pedorthics was approved unanimously; after the vote, candidate ID revealed as Richard A. Mittica of North Canton.

VI. Director's Report:

A. Legislative Update – no activity

B. Fiscal -- FY06 Budget: Presented for review the report on fiscal and licensing activity reported to the Legislative Service Commission for inclusion in the Annual Report on Boards and Commissions

FY07 Budget: Total appropriation is \$106,035. First quarter (July-Sept) figures will be distributed subsequent to this meeting.

FY08 - FY09: OBM approved OPP's appeal of its budget cap limitation at FY07 levels, allowing the Board to submit a budget request for FY2008 of \$111,000, and for FY2009 of \$116,500. OBM's budgeting schedule requires agencies to submit budget request details by October 2, 2006. Budget request is being formulated under the oversight of President Horwitz, but not ready for presentation to the Board at this time; the request follows the parameters laid out in the appeal letter to OBM Director Keen dated 7/28/2006, circulated previously to members and distributed for this meeting. Mr. Horwitz requested a Motion to approve submission of budget language within those parameters. Moved by Simmons/Garcia, approved unanimously.

C. Complaints/Enforcement -- report deferred

D. Meetings Attended

Joint Group of Regulatory Boards
ODJFS/Medicaid Policy – Orthotic Coding review

E. Gubernatorial Transition Summary – On direction of the Office of the Governor, state agencies have been working to an agency-specific Transition Manual to be available to the incoming administration as something of a brief book on agency mission, goals and operations. The OPP manual will be one of a compendium of Board and Commission manuals being assembled through the office of the Central Services Agency (CSA) of the Department of Administrative Services. A template was provided to agencies to formulate their information in a standardized manner; members were invited to contribute to the process; and the Director's recommended entry information was distributed for review. Approved by consensus.

F. Interagency Activity – ODJFS / Medicaid Policy – covered O&P services

At the request of the Bureau of Health Plan Policy, we offered comments on proposed changes to Ohio Medicaid regulatory language regarding O&P services; primarily, Ohio Administrative Code (OAC) Rule 5101:3-10-20 -- *Covered orthotic and prosthetic services and associated limitations* -- proposing and working through negotiations on language to limit reimbursements so that only appropriately-licensed providers would qualify.

VII. Report on Pending License Applications:

A. Recommendations to Approve for Licensure: The following candidates for licensure were approved by unanimous vote. Motion/second by Powers/Reser.

<u>License Type</u>	<u>Candidate</u>	<u>Conditions, if any</u>
Orthotics - TEMP Orthotics	BRASHEAR, Alicia A. LECURSI, Nicholas A. MACEDONIA, Jason P.	
Prosthetics-Orthotics Prosthetics	WILCH, Jerry M. BROWN, Shawn D. CICEN, Christine	issued as LPO – combined with LO APPROVED FOR EXAM ONLY
Pedorthics	BURKE, David P. SHERO, John E. CURRAN, Michelle S.	

VIII. Old Business

A. Licensing and Security: (1) Criminal record checks – no update
(2) Website information -- status and actions -- deferred

B. Third Party Credentialing -- report deferred to 11/15/2006 meeting

C. Adopt Guidance on Prefabricated Orthotics - Custom Fit vs. Off-the-Shelf – Director requested the Board consider re-visiting this matter at its November meeting. No motion. Consensus of discussion was to review with Board President and proceed accordingly

IX. New Business

A. Authorize Director enter into Personal Services contract for Rules writing: In follow-up to July meeting discussion, Director Levy presented the Board with a comprehensive review of Rules language requiring review, revision, and possible promulgation, requesting authority to contract with an attorney for up to \$5000 in FY07 for this purpose. Motion (Reser/Garcia) **approved** unanimously.

B. Election of Officers: Mr. Horwitz called for nominations for the office of President. After brief discussion, Mark Horwitz' name was put forward for consideration for re-election. No other nominations were made. Mr. Horwitz was elected by unanimous vote. Mr. Horwitz called for nominations for the office of Secretary. After discussion, Ms. Simmons' name was put forward for consideration for re-election. No other nominations were made. Ms. Simmons was elected by unanimous vote.

C. President's Report: Mr. Horwitz provided an oral report on activities engaged in the past few months and considered priority for the Board, including continuation of educational notices to partners in health care and credentialing regarding Ohio licensing standards and requirements in the professions regulated by the Board; increasing Board communications to the regulated professions; continuing activity aimed at reviewing regulatory language and duties of other state of Ohio agencies where they dovetail with this Board's responsibilities; and reviewing OPP regulatory language to

determine available ways in which the Board's mandate can be made to coincide more closely with private credentialing standards.

D. Functional Electrical stimulation to treat foot drop – Mr. Horwitz reported that a device is being marketed to O&P shops that would replace traditional orthotic therapy for foot drop through a method of electrical stimulation of nerve endings; the device does not seem to meet the definition of an orthotic device. Manufacturer is trying to develop/suggest appropriate coding for reimbursement. Presented for information only at this time.

E. Board action to revive effort to amend Practice Act? -- Mr. Levy reviewed some historical information noting that 3 years ago or so, the Board had signed off on some proposed changes to the Practice Act to bring some language and definitions more into conformity with current standards of practice and to eliminate confusing and contradictory language (i.e., the definition of Orthotics states both that a pedorthic device IS and IS NOT included within the scope; the definition of Pedorthics does not align as well as it might with the Board for Certification in Pedorthics language; interest was expressed in creating an "Inactive" license category/allowance; supervision issues could be addressed more competently if the Board was given the authority to define appropriate supervision in various contexts by rule rather than requirements set rigidly in the statute). Discussion centered on the legislative process, the need for an interested constituency to gather appropriate legislative support for such an endeavor, and that the Board likely cannot push such an agenda on its own resources. No motion.

F. Schedule meeting dates/hearings:

November 15, 2006 – date set previously; TIME SET AS 4:00 P.M.

Anticipating the possibility of two new Board Members for the following meeting, no dates were set for meetings in 2007.

X. Adjournment: There was consensus that the meeting adjourn at 8:40 p.m.

Respectfully Submitted,

Approved:

/s/ *Mark B. Levy*

Mark B. Levy
Board Director

/s/ *Mark E. Horwitz*

Mark E. Horwitz
President

12/13/2006

Date