

**MINUTES  
STATE BOARD OF ORTHOTICS, PROSTHETICS AND PEDORTHICS**

**February 22, 2012**

This Regular Meeting of the State Board of Orthotics, Prosthetics and Pedorthics (OPP) was held on the above date at 77 South High Street in the Board Room, 31<sup>st</sup> floor of the Riffe Center, 77 South High Street, Columbus, Ohio.

**I. Call to Order:** The meeting scheduled for 2:00 p.m. was **called to order at 2:10 p.m.** It is noted that oaths of office were administered to re-appointed members Neu and Reed prior to the call to order.

**Roll Call:**

<b><u>Members present:</u></b>	Rosalind Batley, M.D.; David DeLuccia, LPO; Elsa Fritts, LPED (arr. 2:30 pm); Edwin Niehaus, LP; Bill Neu, LPO; Robert Reed, consumer
<b><u>Members absent:</u></b>	Jason Macedonia, LPO – appointed 02/21/12
<b><u>Staff present:</u></b>	Mark B. Levy, Board Director Sally Ann Steuk, Assistant Attorney General (left 3:00 p.m.)

**II. Agenda – Amend/Approve:** The Executive Session was removed from the agenda at the request of AAG Sally Ann Steuk, who indicated a need to review Ohio’s Open Meetings law with the Board during her presentation on Ethics Reminders in light of a recent court case.

**III. Review/Approve Minutes of December 7, 2011, meeting:** Minutes having previously been circulated, moved/seconded by Niehaus/Reed without amendment or correction. No further discussion, vote was unanimous.

**IV. Executive Session** -- deferred

**V. Settlements / Charges / Dispositions / Complaints**

None reported

**VI. Ethics Review and Reminders (2:15 p.m.)**

Distributed in advance of the meeting, printed and reviewed at the meeting, the Board discussed:

1. OEC Financial Disclosure reporting – reviewed the basic reporting requirements, elements of Ethics Law that require reporting. Polled present Board Members regarding filing status, reminded regarding deadline and penalty for late reporting.
2. Application Processing – how much assistance is too much assistance? Director Levy brought this issue forward to discuss conflicts between policy values put forward in the political sphere, and strict interpretation of laws and rules governing agency jurisdiction. Government employees and managers often receive feedback, formally and informally, indicating they should run more “user-friendly” operations and “cut the red tape.” The Board and Board staff often are required to address issues regarding applications for licensure which may contain errors or omissions. To what extent may staff assist an applicant in submitting an approvable application? The Office of the Inspector General of Ohio recently issued a report of investigation, circulated to



1. Docket/tracking – deferred
  2. Agent and Employer legislative ethics reports filed (distributed)
- D. Correspondence Review – deferred
- E. Office Assistant – Accept resignation of Priscilla Stark. Moved/seconded by Niehaus/Fritts, approved unanimously.

## **VIII.**

### **A. Report on Pending License Applications and Licenses Issued ( 3:10 p.m.)**

A total of 6 license issuance actions were recommended for Board approval, including 1 in Orthotics, 3 in Prosthetics (2 Temporary), 0 in Orthotics-Prosthetics, and 4 in Pedorthics (1 Temporary). License upgrades reported were 3 in Orthotics and 1 in Prosthetics (completed supervision and/or exam). **Motion to approve** offered by Mr. Neu, seconded by Robert Reed, **approved unanimously**, noting an abstention by Ms. Fritts as regards Justin Glass due to a possible business-related conflict of interest. Final License Applications report attached.

B. Designate non-renewed licenses as lapsed. The Board annually designates non-renewed licenses as lapsed pursuant to ORC Section 4779.19 and OAC Rule 4779-8-01. Motion by Reed/Neu to approve the list of lapsed and inactive/non-renewed licenses as indicated on the attached report. Passed unanimously.

## **IX. Old Business (3:15 p.m.)**

A. Board continuity – appointments pending. Three appointments were finalized by the Governor the day before the meeting (02/21/2012): re-appointment of Mr. Neu, LPO Practitioner and Mr. Reed, Consumer to 3-year terms ending 12/06/14; and a new appointment of Jason Macedonia, LPO Practitioner, to a 3-year term ending 12/06/2014. Three more seats will be up for new appointments, as the incumbents are in their second 3-year terms, not subject to re-appointment: David DeLuccia, LPO Practitioner (LO, LP, or LPO eligible); Elsa Fritts, LPED Practitioner (LPED eligible); and Rosalind Batley, MD (MD, DO, or DPM eligible).

B. Application content and review. No report available

C. The remaining 2012 Board Meeting dates: June 13, September 12, December 12 were presented for further consideration. It was suggested the Board may wish to consider moving June back to May given the rescheduling of the March meeting to February. No discussion in favor; no motion made, no action taken.

## **X. New Business (3:20 pm)**

### **A. CMS OTS/OTC orthotics listing proposed – comment?**

Mr. Levy presented information regarding a federal initiative to classify certain HCPCS-coded orthotic devices as Off-the-Shelf (OTS) or Over-the-Counter (OTC) devices, which are devices under federal regulatory language that are considered to be subject to “minimal self-adjustment” by the consumer, and not requiring fitting/adjusting/modifying by properly trained/certified consumer care providers. Feedback received from Ohio licensees was noted and reviewed,

and it was noted that this matter falls within the realm of Ohio's efforts to appropriately define those orthotic devices that are considered to require custom fitting. It was the **consensus of the Board to authorize and direct** Mr. Levy in close consultation with Mr. DeLuccia to prepare and submit a formal comment to CMS emphasizing how Ohio has sought to align language with prescriptive text from the DMEPOS Quality Standards and the difference in device ratings between CMS' proposal and recognized expert opinion.

B. Practice Act review – consider credentialing standards changes, additions

Mr. Levy presented information regarding a need to initiate a legislative effort to update the Practice Act, given an uptick in national credentialing requirements. Entrance language in the Ohio statute will become irrelevant and virtually inoperable for the Orthotic and Prosthetic professions within 2-3 years. In addition, a number of "housekeeping" items have been on the profession's interest agenda for a number of years (OPPCE requirements for LPOs; inactive license status). Finally, the Board should consider closing the credentialing gap in the professional licensing scheme, address licensing of fitters and assistants. **Mr. Levy requested and the Board by consensus authorized and directed him to prepare a draft of a proposed practice act revision.**

**XI. Adjournment (4:00 p.m.)** -- With no more business raised for discussion, Robert Reed moved the meeting be adjourned, seconded by Elsa Fritts, approved by unanimous consent.

Respectfully submitted,

Mark B. Levy

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Mark B. Levy  
Board Director

*David M. DeLuccia*

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David M. DeLuccia  
President

06/13/2012

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Date