

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

**December 11, 2013**

This Regular Meeting of the State Board of Orthotics, Prosthetics and Pedorthics (OPP) was held on the above date in the West B&C conference 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 2:02 p.m. New Board Member Tamara Daulton, LPED, was welcomed to the group.

**Roll Call:**

<b><u>Members present:</u></b>	Animesh Bhatia, DPM (arrived 3:02 pm) Tamara Daulton, LPED Jason Macedonia, LPO – Board Secretary Bill Neu, LPO – Board President Robert Reed, consumer Brian Weaver, LPO
<b><u>Members absent:</u></b>	Edwin Niehaus, LP
<b><u>Staff present:</u></b>	Mark B. Levy, Board Director Meloney Buehl, Office Assistant Cheryl Hawkinson, Assistant Attorney General (left at 5:00 p.m.)
<b><u>Guests:</u></b>	Levi Tkach, Attorney at Law (left at approx. 3:30???)

**II. Agenda – Amend/Approve (2:04 p.m.):** The agenda distributed was updated from the tentative version initially circulated. Mr. Levy briefly reviewed the changes/updates. After brief discussion and request for questions or additions, motion to approve agenda by Macedonia/Reed, no further discussion, approved by unanimous vote. It was noted that depending on flow and time, Item 4 on the Administrative Docket and Item C under Old Business might be taken out of order due to Ms. Hawkinson’s need to leave the meeting by 5:00 p.m.

**III. Review/Approve Minutes of September 11, 2013, meeting (2:05 p.m.):** Minutes having previously been circulated, it was moved/seconded by Weaver/Reed to approve without amendment or correction. No further discussion, vote was unanimous in favor.

**IV. Executive Session [ORC § 121.22(G)] (2:10 p.m.):** It was moved/seconded by Weaver/Macedonia to enter Executive Session pursuant to ORC Section 121.22 (G), to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official; to consider the investigation of charges or complaints against licensees; and to consider matters required to be kept confidential by federal law or regulations or state statutes. Roll Call vote was taken with Daulton, Macedonia, Neu, Reed and Weaver affirming the motion, requesting staff and AG representative to remain, guests to leave the room. Staff and AAG were excused at 2:25 pm. At about 2:30 p.m., the Board came out of Executive Session.

**V. Ethics Review (2:30 p.m.):**

- A. *Statewide training opportunities:* It was explained that the Board by policy has chosen to include at least a brief review of issues, options and responsibility for ethical conduct and compliance at each meeting. Members were directed to the Ohio Ethics Commission (OEC) website to review a list of “live” training sessions developed in compliance with the Governor’s Executive Order, and were referred to and encouraged to engage with two available Webinar sources as self-study options:
1. *OEC Trainings:* <http://www.ethics.ohio.gov/education/executiveordertraining.shtml>
  2. *OEC Webinars:* <http://www.ethics.ohio.gov/education/webinars.shtml>
  3. *Auditor of State – Fiduciary Responsibility Webinar:*  
<http://www.auditor.state.oh.us/conferences/FiduciaryTrainingWebinar112812.pdf>

Members were asked to report any such engagement or attendance to the Board office for training tracking and reporting purposes.

- B. *Open Meetings and Public Records:* The Board reviewed an electronic slide presentation developed by the Office of Attorney General Mike Dewine, highlighting some frequently asked questions about these topics, including (a) what constitutes a public meeting; (b) requirements that all decision-making actions occur in public session; (c) topics appropriate for discussion/review in Executive Session; (d) what constitutes a public record and (e) agency responsibility to respond in a timely manner to public record requests.

**VI. Settlements / Charges / Dispositions / Complaints (2:50 p.m.):**

- A. *Complaint statuses and tracking:* Ms. Buehl was asked to review the status and tracking metrics related to the statistics backing up the charts and graphs presented for the Board’s review. Information is presented as tracked by fiscal year, and it was noted that if the Board were to move forward with cases recommended for closure that 100% of cases opened in FY14 to-date will have been resolved. Cases from FY12 and FY13 remain open, although they are being worked in a consistent fashion and monitored closely. Relevant charts and graphs are appended to these minutes and incorporated by reference.

Mr. Levy presented a list of complaint files recommended to close as resolved without formal action indicated. Motion by Macedonia/Reed to close the files. The following matters were approved to close by unanimous vote.

- 11 C 02 – DME – unlicensed practice – educative; in compliance
- 13 C 32 – DME – unlicensed practice – educative; in compliance
- 14 C 03 – DME – unlicensed practice – educative; in compliance
- 14 C 04 – DME – unlicensed practice – educative; in compliance
- 14 C 07 – DME – unlicensed practice – educative; in compliance
- 14 C 08 – DME – unlicensed practice – educative; in compliance
- 14 C 09 – DME – unlicensed practice – educative; in compliance
- 14 C 10 – DME – unlicensed practice – educative; in compliance

**VII. Consent Agenda: Director's Report (2:55 p.m.)**

- A. *Fiscal – Revenue and Expense*: Ms. Buehl was asked to review the status and tracking metrics related to the statistics backing up the charts and graphs presented for the Board's review. Relevant charts and graphs are appended to these minutes and incorporated by reference.
1. *FY14 Activity YTD and Projections*
  2. *MBE/EDGE Projections and Participation*
- B. *Renewal processing*: Ms. Buehl was asked to review the status of the 2014 license renewal process which began in mid-November 2013. It was reported that notices were mailed to approximately 360 licensees and that as of the end of November, approximately 50 have renewed via the online renewal system. Mr. Neu raised some questions about the script used for CE-reporters which were addressed to the Board's satisfaction. Ms. Buehl also noted that this is slated to be the final renewal using the current eLicense platform and that the process and scripts are likely to change in the future.
- C. *Legislative Report*
1. *Legislative Docket / Tracking*
    - a. *HB 326 – "to exempt diabetic shoe fitters from licensure"*

Mr. Levy reported the bill has been introduced, but no hearings have been held as yet. It has a significant array of co-sponsors. Lead sponsor: Kristina Roegner (R-Hudson), House District 37, Stark County. Asked what he knew of the motivation of the sponsor, Mr. Levy advised that to the best of his knowledge it is being pursued at the request of a constituent with interests/involvement in the DME supply sector.
  2. *Practice Act Review – status and open issues*

Mr. Levy reported he is working to wrap up drafting and seek introduction of legislation to revamp Chapter 4779, the Orthotics Prosthetics and Pedorthics Practice Act. He asked for Board input on the following:

    - Proposing to classify orthotic devices into three classes, roughly in line with federal designations but reserving to the Board the authority to specify prefabricated devices that require custom fitting (class two) from those that do not require licensed dispensation (class three off-the-shelf). Current language avoids reference to HCPCS codes, and instead focuses on the terminology used in device and service descriptions.
    - Draft language seeks to differentiate licensed practice by qualified, educated and trained clinically-oriented professionals from retail sale dispensation by emphasizing services are provided on a face-to-face basis with the consumer, and that services are provided pursuant to a prescription. Discussion addressed a concern that licensees not be restricted to prescription-required services – that licensees may provide services without a prescription as long as they are careful not to provide diagnostic information or suggest that in doing so they are addressing a medical condition.
    - Scope of practice: Pedorthics. Proposed language would read, in part, as follows: "**Pedorthics device**" means a custom fabricated or custom fitted therapeutic shoe, shoe modification for therapeutic purposes, prosthetic filler of the forefoot, or foot orthosis ~~for use from the apex of the medial malleolus and below~~ for controlling or treating a

condition of the human foot or the human ankle and foot that is provided pursuant to a prescription.

- Discussion concerned the elimination of the medial malleolus as the “line of demarcation” for pedorthic practice. It is proposed for elimination in order to clarify that pedorthic practice includes fitting for utilization of AFOs (ankle-foot orthoses) under current education, training and experiential protocols. Concern was expressed that the language should conform at least to ABC Scope of Practice limitations, which are more clearly articulated than BOC’s general references to “lower extremities” and “below the knee pedorthic modalities.”
- Scope of practice: Prosthetics including Pedorthics: Mr. Levy noted that the Ohio definition and scope of practice statement for prosthetics seems somewhat unique in that it broadly includes pedorthic practice, not necessarily limited to that which may be required to fit a partial foot prosthesis. Members questioned whether education and training is adequate to support the inclusion.
- Scope of Practice: Prosthetics including neuroprosthetics: A constituent licensee has raised the question as to whether the Board would support inclusion of a specific reference to neuroprosthetics in the scope of practice statement and by definition. Two proposals were offered for the Board’s consideration as follows:
  - “A neuroprosthetic device is an external medical device that electrically stimulates nerve and muscle to effect or improve physiological function or movement-oriented function or to assist in management of acute and chronic pain. It does not include devices implanted into the body by a physician, but a prosthetic practitioner may assist a physician in providing neuroprosthetic services.”
  - OR more simply: “A neuroprosthetic device as referenced in this Chapter is an external medical device that electrically stimulates nerve and muscle to effect or improve physiological function or movement-oriented function or to assist in management of chronic pain.”
- Discussion focused on the nature of the devices that may fall within the practice statement, and whether such work is more appropriately considered in the scope of prosthetics, which is generally understood as **replacing** a missing limb, body part, appendage or extremity, as opposed to orthotics, which may be a closer fit where no limb loss may be at issue. Members indicated they would confer with colleagues and report back at the next meeting.
- Therapeutic shoe fitting is proposed as a new license type. It was noted that proposed language would require practice under OPP licensed supervision or “under the supervision of a podiatrist licensed under chapter 4731 of the Revised Code.” Concern was raised by language that indicated this limited scope of pedorthic practice could include dispensation of custom molded inserts. Known scope of practice statements restrict therapeutic shoe fitting to “non-custom” depth shoes and “multi-density

inserts,” which are dispensed/reimbursed under a single code bundle: A5500-A5512. Consensus was to reflect the limitation in the regulatory language.

- Facility registration requirements for DME providers of Class Three Orthotic Devices, exempting facilities that employ one or more OPP Board licensees, but not exempting facilities registered under the Home Medical Equipment licensing provisions.
- To address military education and training recognition initiatives, include the following language to requirements for Orthotic Fitter and O&P Assistant licensing:

(D) AN ACTIVE MILITARY SERVICE MEMBER OR VETERAN MAY SUBMIT ANY DOCUMENTATION, EVIDENCE, STATEMENT OR ENDORSEMENT THAT MAY BE AVAILABLE OR PRODUCED FOR THE BOARD’S CONSIDERATION TO DEMONSTRATE SUBSTANTIAL EQUIVALENCE OF EDUCATION AND EXPERIENCE WHILE SERVING IN THE ARMED FORCES TO MEET THE REQUIREMENTS OF THIS SECTION.

- a. *Potential Post-Mastectomy Fitter Licensing by OPP Board:* Mr. Levy also reported on an exploratory outreach made with the national office of the American Association of Breast Care Professionals as regards their members’ possible interest in seeking licensure in Ohio. Director of AABCP was very supportive of the idea and provided a fact sheet and a “talking points” memo. Questions and discussion centered on whether such services are considered medically necessary as regards physical as well as mental health concerns, noting that current language exempts such services from licensure and labels them as “cosmetic” in nature. Discussion noted a concern as to whether such licensing fits within a framework that generally addresses “musculoskeletal” dysfunction, disease, injury, or deformity. Mr. Levy suggested that if these professionals are seeking recognition through licensure in Ohio, this Board would be the appropriate “home,” and that as a profession, it is considered an independent scope of practice and so could stand alone in terms of scope of practice and definitions, and not necessarily in a manner that must conform to baseline O&P fundamentals. The Board took no position but indicated an interest in further information and discussion.

D. *Administrative Docket*

1. *ODJFS – Rule Revisions and statuses:* no report
2. *New eLicense Database setup activity:* following up on prior progress reports, Mr. Levy advised the Board regarding an updated timetable and status for the implementation of a new eLicense system to be rolled out as an enterprise-wide (all state of Ohio entities requiring use of such a licensing/renewal/enforcement tracking system) platform configured for individual agency utilization. “Go Live” projections have been re-set from December 2013 to September 2014 (last report) and now December 2014; Planning and training activities have been and will be demanding an extraordinary investment of staff time.
3. *Workforce Plan:* has been updated and submitted for 2013, copies were made available and distributed, members were asked to review and recommend items for consideration going forward.
4. *Update: Exec Order 2013-05K:* Streamlining the Occupational Licensing Process for Veterans. Staff has been working on compliance with the EO together with compliance with HB 98

addressing the same general policy push. Further report references item in New Business: Rule Promulgation in compliance with HB 98.

**VIII. Pending License Applications/Licenses Issued (5:10 p.m.):** It was moved/seconded (Macedonia/Weaver) to approve the issuance of licenses as follows:

- **Bethany Halvorson – Temporary Orthotics**– Bachelor of Science Vocational Rehab from University of Wisconsin-Stout, out-of-state residency, passed exams, CRC results in file, Ken Greene, LO supervisor
- **Bradford Hilty – Orthotics** - Bachelor of Science in Education from The University of Akron, Ohio residency, passed exams, CRC pending (contingent upon receipt), Gregory Lalli, LPO and Jeffery Fetherston, LPO & LPED supervisors
- **Jacqueline Lambert – Temporary Prosthetics** – Masters in Exercise Phys from The University of Akron, Active LO license, needs approval to sit, CRC not required due to active LO, Beth Orzell, LPO supervisor
- **Steven Beeley – Temporary Prosthetics-Orthotics** – Masters in O&P from Eastern Michigan, Active LO license, needs approval to sit, CRC not required due to active LO, Jason Macedonia LPO supervisor
- **Thomas Gore – Temporary Prosthetics-Orthotics** – Masters in O&P from Eastern Michigan, Active LO TEMP license, needs approval to sit (LP portion only), CRC not required due to active LO TEMP, Payson Briggs LPO supervisor
- **Anthony Cordell – Pedorthics** – High School diploma from Reynoldsburg H.S., Pre-Cert through Foot Solutions Pedorthic Education Ctr., passed ABC exam, CRC results in file, Christopher Glass, LPED supervisor

No discussion, vote to approve was unanimous with Mr. Macedonia abstaining as regards Mr. Beeley.

**IX. Old Business (5:12 p.m.)**

- A. *Board Continuity:* As indicated on the Agenda, recruiting new leadership is a continuing quest. There is a known candidate pending the Governor’s consideration for the expired term of Mr. Niehaus; and another O&P Practitioner seat as well as the consumer spot will need filled in a year. Members were asked to be active recruiters for the Board.
- B. *Federal OTS Orthotics and Competitive Bid initiative:* Mr. Levy distributed a letter from AOPA to CMS urging reconsideration of a number of HCPCS coded orthotic devices that CMS has designated to be considered off the shelf items apparently in the buildup to bringing Competitive Bid to the OTS Orthotics sector. It was noted that in the parlance of the industry and profession, off the shelf items have traditionally been those that are considered “soft goods.” No formal report or proposal was presented.

- C. *Pedorthic Standard of Care – Diabetic Therapeutic Shoes*: Referencing the prior Board discussion and the documents circulated with stakeholder feedback, this matter was deferred for further consideration at the next meeting.

**X. New Business (5:15 p.m.)**

- A. *Rule promulgation in compliance with HB 98 (moved ahead in discussion to accommodate Ms. Hawkinson’s schedule)*: Mr. Levy reviewed with the Board proposed rule language circulated before the meeting and posted to the website. This rule-writing initiative is compelled by recently-passed House Bill 98, which among other things requires agencies to identify “military programs of training, military primary specialties, and lengths of service [that] are substantially equivalent to or exceed the educational and experience requirements for each license that agency issues.” A brief compliance plan/report was compiled and circulated by Mr. Levy, indicating there currently are no military specialties that meet the “substantial equivalent” test; proposed rule language to comply was presented for initial approval to put into process. Mr. Levy advised the Board would have an opportunity to review again in March, final board action to approve would be targeted for June 2014 meeting. Motion and second by Reed/Weaver to proceed was approved by unanimous vote.
- B. *2014 Board meeting schedule (3/12; 6/11; 9/10; 12/10 proposed)*: This matter was raised for discussion as within the prerogative of the Board. Discussion indicated an interest in moving the meeting earlier in the day, and one member indicated Wednesdays have become difficult due to work scheduling. After discussion, Tuesdays at 12:00 noon were selected for the 2014 schedule. Unanimous approval upon motion/second of Bhatia/Macedonia.  
Approved 2014 dates: 3/11/14; 6/10/14; 9/9/14; 12/9/14.
- C. *Review Summary Review of Licenses Required per NSC Standards*: Mr. Levy reported receiving a request from the National Supplier Clearinghouse to confirm or update information in its state licensure database as regards the practice or orthotics, prosthetics, and pedorthics in Ohio and how the jurisdiction interfaces with NSC standards. In addition to the information available from the NSC, the Board posts a narrative summary of licenses required related to NSC device categories. While the OP&P information has not changed, Mr. Levy noted some text he would recommend to alter or remove so as to clarify the limited extent of the Board’s authority. Proposed updated language was circulated for review. Motion by Weaver/Bhatia to approve the updated statement, passed unanimously.

Prior to adjournment, Mr. Neu asked staff to compile a report on Accomplishments for 2013 and Goals for 2014, to be prepared for the March meeting.

**XI. Adjournment (5:25 p.m.)**: Motion by Daulton/Weaver passed unanimously without discussion.

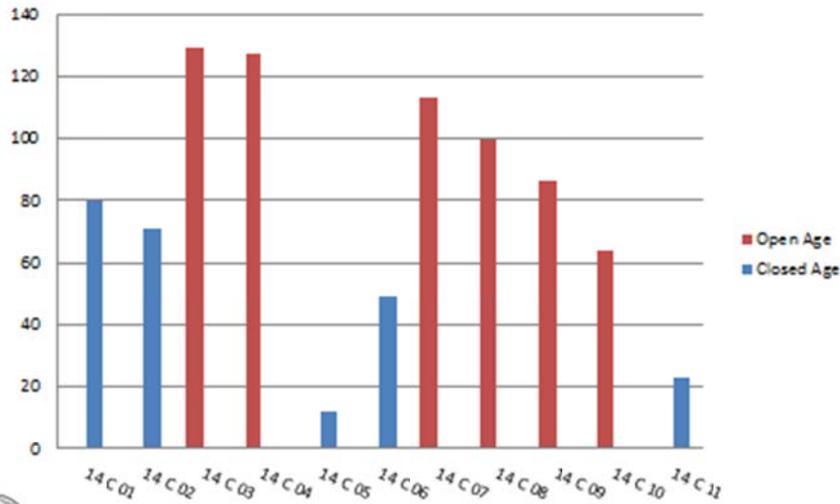
Respectfully submitted,

Mark B. Levy  
Mark B. Levy  
Board Director

William C. Neu, III  
William C. Neu  
President

3/11/2014  
Date

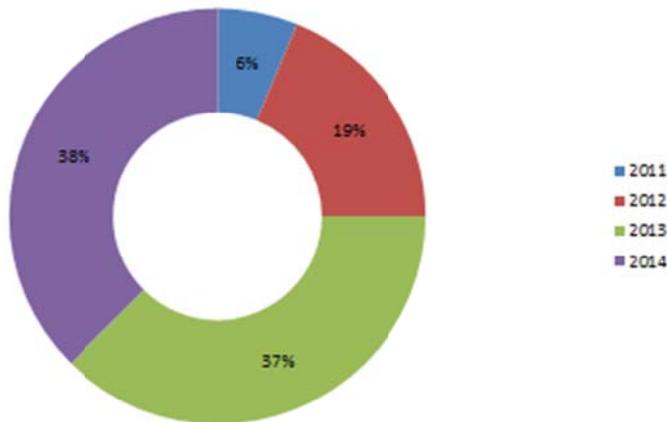
**Board of Orthotics, Prosthetics & Pedorthics**  
**Complaint Statuses and Tracking - FY14 Case Age (Days)**



State Board Of Orthotics, Prosthetics, & Pedorthics

\*As of 11/30/13

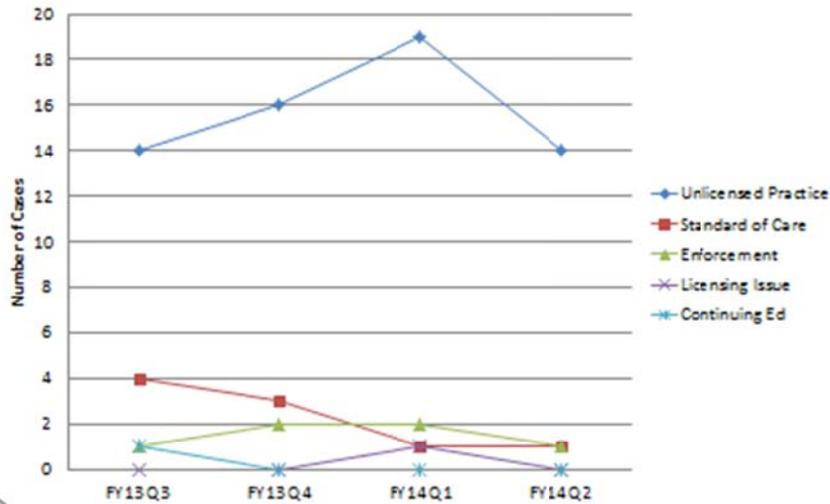
**Board of Orthotics, Prosthetics & Pedorthics**  
**Complaint Statuses and Tracking - Current Open Case Years**



State Board Of Orthotics, Prosthetics, & Pedorthics

\*As of 11/30/13

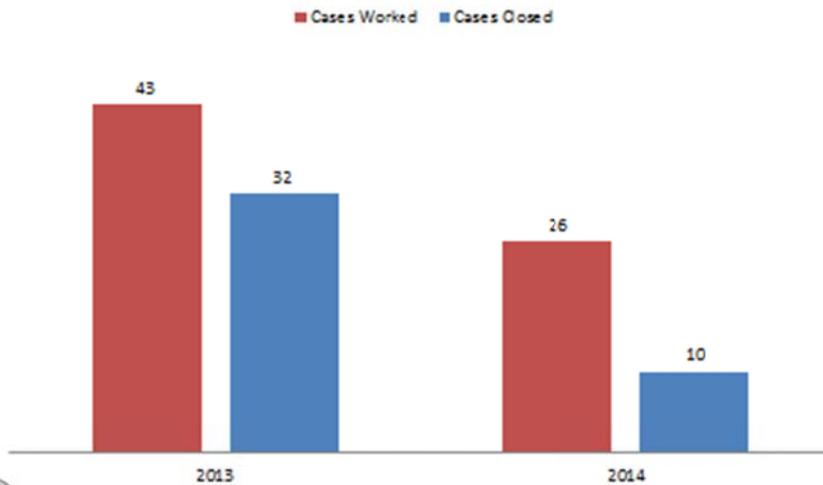
**Board of Orthotics, Prosthetics & Pedorthics**  
**Complaint Statuses and Tracking - Case Type - Rolling Year**



State Board Of Orthotics, Prosthetics, & Pedorthics

\*As of 11/30/13

**Board of Orthotics, Prosthetics & Pedorthics**  
**Complaint Statuses and Tracking - Case Load 2013 v 2014 YTD**

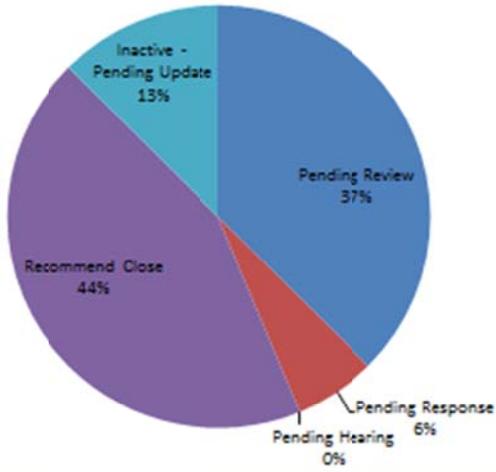


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# Board of Orthotics, Prosthetics & Pedorthics

## Complaint Statuses and Tracking - Current Statuses

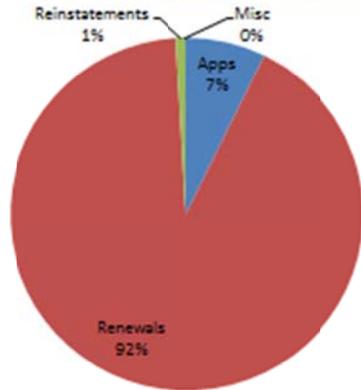


State Board Of Orthotics, Prosthetics, & Pedorthics

\*As of 11/30/13

**Board of Orthotics, Prosthetics & Pedorthics**  
**Fiscal Year 14 – YTD Revenue Figures**

Revenue	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	Grand Total
Revenue Total	\$1,305.00	\$16,000.00			\$17,305.00

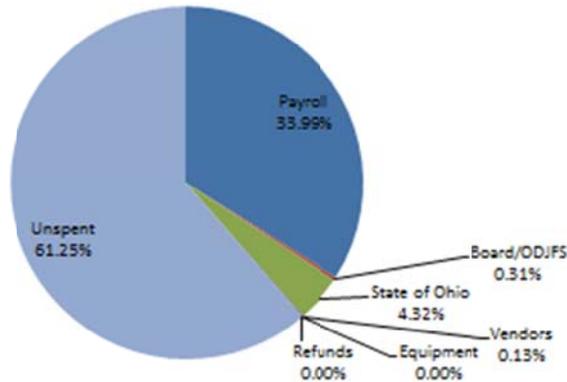


State Board Of Orthotics, Prosthetics, & Pedorthics

\*As of 11/30/13

**Board of Orthotics, Prosthetics & Pedorthics**  
**Fiscal Year 14 – YTD Expense Figures – 38.75% Consumed**

Operational Costs	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	Grand Total
Operational Costs Total	\$38,005.71	\$20,665.46			\$58,671.17



State Board Of Orthotics, Prosthetics, & Pedorthics

\*As of 11/30/13

**Board of Orthotics, Prosthetics & Pedorthics**  
**Fiscal Year 14 – YTD Expenses – Maintenance (520)**

Maintenance (520)	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Grand Total
Office Supplies					
Credit Card Processing Fees	\$38.25				\$38.25
Parking					
Staff Travel					
Printing/Copying (vendor & state)	\$117.30	\$32.04			\$149.34
Telephone (Cincinnati Bell)		5.56			\$5.56
Rent (+space repairs, improvements)					
Central Service Agency	\$990.52	\$702.82			\$1,693.34
Telephone (DAS)	\$337.91	\$55.15			\$393.06
State Purchasing Services					
DAS Centralized Mail Service	\$389.79	\$267.96			\$657.75
DAS IT Services (+programming, bandwidth, email)	\$2,786.41	\$929.39			\$3,715.80
Risk Management					
Ethics	\$80.00				\$80.00
Audit					
Other					
Actual Spent	\$4,740.18	\$1,992.92			\$6,733.10
Allotment	\$5,244.50	\$5,244.50	\$5,244.50	\$5,244.50	\$20,978.00
Amount Remaining	\$504.32	\$3,251.58	\$0.00	\$0.00	\$14,244.90
<b>Total Maintenance</b>	<b>\$4,740.18</b>	<b>\$1,992.92</b>			<b>\$6,733.10</b>
					<b>32.10%</b>



State Board Of Orthotics, Prosthetics, & Pedorthics

\*As of 11/30/13

**Board of Orthotics, Prosthetics & Pedorthics**  
**Fiscal Year 14 – YTD Expense Figures**

- Total FY14 Appropriation Authority: \$151,417.00
- Total FY14 Spend: \$58,671.17 (38.75%)
- November 30 is day 153 of 365 (41.92%), so YTD spend is below target
- Total FY14 Unspent: \$92,745.83
  
- Total FY14 Possible MBE Spend: \$70.50
- Total FY14 Actual MBE Spend \$0.00
  - \$70.50 was FY13 purchase with MBE vendor, but did not go through the FY14 MBE approval process and thus will not receive credit as MBE spend
  - We have received approval for MBE spend totaling \$865 in FY14 through 2 waivers from state-term contracts. Services and/or invoices are pending



State Board Of Orthotics, Prosthetics, & Pedorthics

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