

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

June 12, 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, 31st 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 2:15 p.m. New Board Member Brian Weaver, LPO, was welcomed to the group.

Roll Call:

Members present: Animesh Bhatia, DPM;¹
Jason Macedonia, LPO – Board Secretary
Bill Neu, LPO – Board President
Edwin Niehaus, LP;
Robert Reed, consumer;
Brian Weaver, LPO;
Pedorthist seat - Vacant

Members absent: none

Staff present: Mark B. Levy, Board Director
Meloney Buehl, Office Assistant
Cheryl Hawkinson, Assistant Attorney General

Guests: Mark Miller, LPO, joined after Executive Session

II. Agenda – Amend/Approve: The agenda as distributed was briefly reviewed. Mr. Levy noted changes/updates from the prior version posted. After brief discussion and request for questions or additions, motion to approve agenda by Niehaus/Macedonia, no further discussion, approved by unanimous vote.

III. Review/Approve Minutes of March 6, 2013, meeting: Minutes having previously been circulated, it was moved/seconded by Niehaus/Reed to approve without amendment or correction. No further discussion, vote was unanimous in favor.

IV. Executive Session: At 2:20 p.m., roll call vote was taken 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. Macedonia, Neu, Niehaus, Reed and Weaver so voted, requesting staff and AG representative to remain. Dr. Bahtia arrived at 2:25 p.m. Unanimous roll call vote including Bhatia to come out of Executive Session occurred at 3:15 p.m.

A short break was taken.

¹ Dr. Bhatia was not present for initial roll call, but did arrive early in Executive Session.

V. 3:40 p.m. Settlements / Charges / Dispositions / Complaints

A. Notice of Opportunity for Hearing – file #13 C 34

A Motion was requested to approve the Notice based on LPED-TEMP applicant’s failure to meet statutory requirements and failure to respond to Notices of Incomplete Requirements. So moved by Niehaus, second by Reed. Vote in favor was unanimous. After the vote, the identity of the subject of the notice was reported to be Michael P. Marmar.

B. Consent Agreement Status: 2008 agreement

A Motion was requested to approve subject Farah Ghazala’s withdrawal of the license application which had formed the basis for the referenced Consent Agreement, making the Consent Agreement moot and not subject to enforcement action. So moved by Neu, second by Bhatia. Vote was unanimous in favor.

C. 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. Complaint/case volume is up; days to file closure is down; matters are being kept current. Relevant charts and graphs are appended to these minutes and incorporated by reference.

The following complaints by tracking number were presented for the Board’s consideration to approve for closure as indicated:

<u>File #</u>	<u>File Subject</u>	<u>Issue addressed</u>	<u>Resolution recommendation</u>
<u>10 C 00-1</u>	Pharmacy	TSF dispensation	in compliance/ educative
<u>10 C 00-2</u>	Pharmacy DME	TSF dispensation	in compliance/ educative
<u>13 C 16</u>	Consumer complaint	hospital-based services	no fault/educative
<u>13 C 24</u>	DME	single device marketing	educative/no jurisdiction
<u>13 C 25</u>	DME/pharmacy	DTS dispensation	educative / in compliance
<u>13 C 26</u>	CMS Supplier Directory	Managed care provider	no basis / in compliance
<u>13 C 27</u>	DME/pharmacy	CMS Supplier Directory	educative / in compliance
<u>13 C 28</u>	CMS Supplier Directory	credential review	in compliance
<u>13 C 31</u>	DME request exemption	NSC enrollment issue	educative / in compliance

Motion to approve file closure recommendations as indicated on the list by Niehaus/Bhatia, no discussion, vote was unanimous in favor.

VI. – Consent Agenda: Director’s Report

A. Fiscal – Revenue and Expense

Spreadsheet data as presented to the Board is appended.

1. FY13 Performance data – Revenue and Expense

FY13 Revenue YTD, 11 months (end of May): \$106,655.00

FY13 Expense YTD, 11 months (end of May): \$122,806.84

1.1 FY13 Budget shortfall Q4: In spite of close consultation with relevant administrative and oversight agencies in putting together the Controlling Board request reported at the September 12, 2012 meeting, we once again found that payroll projections provided by system tools and human review had been inadequate to our circumstances. To address, we held onto bills received for Q4, Director gave up paid parking pass, and office assistant hours were cut by about a third.

2. FY13 Activity YTD and Projections: Overall FY13 Revenue is expected to be similar but slightly less than the total revenue for FY12. FY13 Expenses are expected to reach 100% of appropriation with \$900 set aside for FY13 expenses to be paid in FY14.

3. FY14-15 Budget pending– current recommendation

FY14 Original allocation of \$135,677 increased to \$151,417 (+\$15,740)

FY15 Original allocation of \$140,846 increased to \$159,982 (+\$19,136)

B. Legislative Report

1. Legislative Docket / Tracking – appended as presented. Dr. Bhatia expressed interest in SB100, a Medicaid “Prompt Pay” proposal. Director advised that items listed on the report may include items that are not necessarily appropriate for formal Board input, advocacy or opposition, but if touching on allied healthcare related issues or matters affecting agencies across state government, they are tagged to track status. Director was requested to provide information advising how an individual could track matters of personal interest, and stated that he would follow-up in the next few days with such information.

2. Practice Act Review – no written report. Director advised regarding his work seeking alliances across appropriate stakeholder communities. Proposals to include allowances for DPM supervision in training/experience requirements for Pedorthic and/or Therapeutic Shoe Fitter pathways is reported to be supported by OPMA. Defining experiential elements that would recognize military occupational credentialing and experience is being pursued.

C. Administrative Docket

1. ODJFS – Rule Revisions and statuses

a. 5101:3-10-05 – Reimbursement for Covered Services – DMEPOS generally

This rule addressing Medicaid reimbursement for all DMEPOS sector providers and suppliers was up for public hearing, and based on established policy and with consultation with Board leadership, we offered the following limiting language for consideration to balance against an allowance for third party delivery of a device:

“Except for an individual case where a consumer has not responded to a supplier’s notification that a customized device is ready for final fit and delivery after at least two documented attempts to establish an appointment for that purpose, providers or suppliers may not utilize a shipping service nor utilize mail order delivery for any custom fabricated orthotic or prosthetic device or any prefabricated orthotic or prosthetic device requiring custom fitting as specified by Section 4779.01 of the Revised Code and rules promulgated thereunder, nor for the delivery of orthopedic shoes or therapeutic shoes for persons with diabetes.”

b. 5101:3-10-31 – Therapeutic Footwear / Diabetes with CMN

Draft language for revision of this rule covering Medicaid reimbursement for the referenced service had been provided for Board review previously. Medicaid staff advises it is not progressing to clearance, hearing and filing at the present time.

c. 5101:3-10-12 -- Orthopedic shoes and foot orthoses

Current rule language is not presently up for review, but according to 5-year review requirements should be within the next year or so. Questions had been raised after the last meeting as to whether some of the restrictive language that may have been developed in order to limit utilization may be cost-benefit counterproductive, as some less-invasive preventive measures can treat or resolve conditions that might otherwise develop into more serious and expensive-to-treat diagnoses and interventions. Members were asked to review the language and offer evidence-based information to support any changes suggested.

2. New eLicense Database setup activity – brief verbal report – staff has been very busy scrutinizing the details of agency setup under a newly procured but long in process licensing database platform to replace the current eLicense system. Projected Go Live date is 12/1/2013 which, for better or worse, coincides with our renewal roll-out schedule.

3. Minimum Data Set – Workforce and Healthcare Planning -- there is a top-level proposal being circulated to assist in the capture of data elements seen as important for appropriate planning across workforce and healthcare settings. Implementation may require licensed professionals in medical and allied healthcare fields to complete a questionnaire-type survey as a condition of license renewal. A sample data set has been circulated for comment. The Board provided policy papers and the draft protocol to association stakeholders and has not received any feedback in this regard.

4. VISA/MC Class Action Settlement Opt Out – On advice of the anti-trust section of the Office of the Ohio Attorney General, we submitted an “opt out” letter to preserve state of Ohio interests in a pending resolution/settlement of a nationwide class action concerning “convenience fee” related charges.

D. Ethics Review

1. Statewide training opportunities

a. OEC trainings – schedule distributed

b. Auditor of State – Fiduciary Responsibility - Dr. Bhatia attended a training offered by AOS on point as regards appointed members of state of Ohio Boards and Commissions. He reported that the material was presented well and encouraged others to take advantage in the future. The information is presented in PDF format emulating a power point presentation at:

<http://www.auditor.state.oh.us/conferences/FiduciaryTrainingWebinar112812.pdf>

2. Governor’s Directive and compliance – Executive Order 2011-03K – an FAQ presentation was played out in interactive Q&A format.

3. Sunshine Law – Open Meetings – a handout- excerpt from “the Yellow Book”, a cooperative publication of the Attorney General and Auditor of State, was distributed, and its relevance to Board meetings and actions was reviewed.

VIII. – 4:30 pm Pending License Applications/Licenses Issued: Macedonia / Levy

Report was circulated for consideration: eleven (11) applications reported, two each in Orthotics (Temporary) and Prosthetics-Orthotics (one Temporary), four in Prosthetics (three Temporary) and three in Pedorthics (Temporary). One license was reported as upgraded from Temporary (LPED) as the applicant/licensee reported completion of required supervision. **Approval moved by Weaver, second by Niehaus; passed unanimously with Macedonia abstaining with regard to the approval of applicant N. Pandora.**

B. Board Director Longevity – Planning and Projecting (topic introduction)

Mr. Levy reported that the Board should begin to plan for the eventual, as yet uncertain but certainly likely at least within the next few years, turnover in the Director position. He noted that he has enjoyed his work with the Board since mid-2002, but in about a year's time two factors important to state of Ohio employee retirement planning will come together: 20 years of service to the state of Ohio; 60 years of life on the planet. The importance of planning in this regard has been highlighted both by Workforce Planning initiatives driven at high levels of state of Ohio policy leadership, and by personal circumstances.

Although the Board as it may be constituted when such a change occurs might not have exclusive discretion in personnel choice, leadership may wish to consider whether a professional from the field with a strong interest in addressing the regulatory environment might be available for recruitment; whether the Board and its licensees might be better served by an administrator knowledgeable in state of Ohio policies, directives, protocols, and bureaucratic infrastructure, especially as regards the enterprise-level IT environment; or whether an individual with a specific political skill set might offer opportunities outside of either of those choices.

In response to questions, Mr. Levy stated he would expect to assist to the extent requested in any such future recruitment. He noted there is always a "sub-Director" set of employees among the Board and Commission sector looking for more leadership opportunities, and that the Governor's office occasionally seeks to offer candidates deemed appropriate. In any case, he noted that he is not planning any imminent departure, and his goal is to be able to work a statutory overhaul of the Practice Act through successful passage and implementation before voluntarily passing any baton or other assistive device.

C. As a new order of business, Dr. Bhatia asked to sound out the Board on the concept of opening up the training requirements for Pedorthic track candidates to allow for up to two months of the 8 months/1000 hours experiential requirement. Mr. Levy noted that because of the specific language in the current statute, this is an idea that would need to be addressed in the Practice Act revision and could not be implemented by rule revision. However, general discussion was supportive of the idea, and it was so noted as a matter of Board consensus.

XI. – 5:30 pm Adjournment Motion by Neu/Bhatia passed unanimously without discussion.

Respectfully submitted,

Mark B. Levy
Mark B. Levy
Board Director

William C. Neu, 999
William C. Neu
President

9/11/13
Date