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**DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE
BOARD OF ORTHOTISTS & PROSTHETISTS**

**MINUTES
GENERAL BUSINESS MEETING**

**Department of Health
4042 Bald Cypress Way
Tallahassee, FL**

March 30, 2012

15 **CALL TO ORDER:**

16 Mr. Ronald Gingras, Chairman, called the meeting to order at 9:00 a.m. Those present for all or
17 part of the meeting included the following:

18
19 **MEMBERS PRESENT:**

20 Ronald Gingras, Chair
21 Hugh Panton, Vice-Chair
22 Tommy Chmielewski
23 Steven Mersch
24

25 **STAFF PRESENT:**

26 Bruce Deterding, Board Executive Director
27 Sharon Guilford, Program Operations Administrator
28 Jose Montalvan, Regulatory Supervisor
29 Edith Rogers, Regulatory Specialist II
30 Sherra Causey, Regulatory Specialist II
31

32 **BOARD COUNSEL:**

33 David Flynn, Senior Assistant Attorney General
34 Office of Attorney General
35

36 **PROSECUTING ATTORNEY:**

37 Jeff G. Peters, Assistant General Counsel
38

39 Mr. Deterding stated on the record that participants in this public meeting should be aware that
40 these proceedings are being recorded and that an audio file of the meeting will be posted to the
41 board's website.
42

43 **APPROVAL OF MINUTES:**

44
45 **January 23, 2012 – Telephone Conference Call**

46
47 **Mr. Panton moved to approve the minutes as present. The motion was seconded and**
48 **carried 4/0.**
49

50 **October 28, 2011 – Full Board Meeting**

1
2 **Mr. Panton moved to approve the minutes as present. The motion was seconded and**
3 **carried 4/0.**

4
5 **FINAL ORDER ACTIONS:**

6
7 **Motion for Determination of Waiver and For Final Order by Hearing not Involving**
8 **Disputed Issues of Material Facts:**

9
10 Mr. Peters stated that the case against the respondent would be presented as a settlement
11 agreement.

12
13 **Christine Munley, OFA – Case Number 11-05000**
14 **PCP: Fredrick/Mersch**

15
16 Ms. Munley was neither present nor represented by counsel.

17
18 Mr. Peters informed the board that the respondent had violated:

- 19
20
 - Section 468.811(1)(f), F.S.

21 Mr. Peters advised the board that the settlement agreement contained the following provisions:

- 22
 - Administrative Fine of \$800.00
 - Administrative Costs of \$633.31

23
24
25 Discussion ensued.

26
27 **Mr. Gingras moved to accept the settlement agreement. The motion was seconded and**
28 **carried 3/0.**

29
30 **Motion for Final Order Based Upon Settlement Agreement:**

31
32 **Cary F. Frounfelter, POR – Case Number 08-27880**
33 **PCP: Fredrick/Mersch**

34
35 Mr Frounfelter was present and represented by Ms. Elizabeth Perez, Esq.

36
37 Mr. Peters informed the board that the respondent had violated:

- 38
 - Section 468.811(1)(d), F.S.
 - Section 456.072(1)(l), F.S.

39
40
41 Mr. Peters advised the board that the settlement agreement contained the following provisions:

- 42
 - Appearance
 - Letter of Concern
 - Administrative Fine of \$15,000.00, payable within one (1) year from the filing of the
44 Final Order
 - Administrative Costs of \$3,695.09, payable within one (1) year from the filing of the
46 Final Order

- 1 • Completion of a three (3) hour course in ethics, three (3) hours of record-keeping, and a
2 laws and rules course
3 • Probation with a board approved monitor for a period of four (4) years and compliance
4 with all terms of the Final Order
5

6 Discussion ensued.
7

8 **Mr. Panton moved to accept the settlement agreement with the oral amendment to the**
9 **following paragraphs. Paragraph 5: three (3) semester hours of college ethics course;**
10 **paragraph 6(a): to include probation tolled until the respondent re-enters the profession**
11 **and submits a list of names to be considered as monitor; and paragraph 6(c): modifying the**
12 **reporting period to quarterly random audits each year. The motion was seconded and**
13 **carried 3/0.**
14

15 **Prosecution Report**

16
17 Mr. Peters provided an overview of the Prosecution Report.
18

19 Mr. Gingras stated that the prosecution office should have acted more quickly in acting
20 on the previous case.
21

22 **Waiver of Probable Cause**

23
24 Mr. Peters requested the board to consider a fast-tracking of cases which involve three of
25 the less complicated compliance issues being prosecuted.
26

- 27 • Continuing Education insufficiencies
28 • Failure to Pay citations
29 • Violations of Final Orders
30

31 Also, mediation was mentioned for consideration.
32

33 The board is supportive of the fast-tracking proposal by the prosecution.
34

35 **PETITION FOR VARIANCE/WAIVER – Richard A. Drazin – Orthotic Fitter –** 36 **Rule 64B14-4.110, F.A.C. - Requirements for Orthotic Fitter, Orthotic Fitter** 37 **Assistant and Pedorthist Licensure** 38

39 Mr. Drazin was present, sworn but was not represented by counsel.
40

41 Mr. Gingras provided an overview of the Petition for Variance/Waiver of Rule 64B14-
42 4.110, F.A.C. He indicated that Mr. Drazin has requested
43

44 Mr. Drazin addressed the board.
45

46 **Mr. Gingras moved to approve the Petition for Variance/Waiver of Rule 64B14-**
47 **4.110, F.A.C. The motion was seconded and carried 4/0.**

1
2 **Mr. Panton moved to approve the application as presented. The motion was**
3 **seconded and carried 4/0.**

4
5 **APPLICANT PRESENTED FOR BOARD REVIEW:**

6
7 **Mark K. Kuhn – Pedorthist – Required Appearance**

8
9 Mr. Kuhn was present but was not represented by counsel.

10
11 Mr. Gingras provided an overview of the application.

12
13 Mr. Kuhn clarified his work experience for the board.

14
15 Discussion ensued.

16
17 **Mr. Panton moved to approve Mr. Kuhn’s application. The motion was seconded**
18 **and carried 4/0.**

19
20 **Luis A. Capestany – Orthotic Resident**

21
22 Mr. Capestany was present but was not represented by counsel.

23
24 Mr. Gingras provided an overview of the application.

25
26 Discussion ensued.

27
28 Mr. Capestany requested a waiver of the 90-day statutory requirement.

29
30 The board concurred.

31
32 **Roy B. Ghozali – Prosthetist-Orthotist**

33
34 Mr. Ghozali and Dr. Judy Rivenbark (Director, Physicians Resource Network) was
35 present, sworn but was not represented by counsel.

36
37 Mr. Gingras provided an overview of the application.

38
39 Discussion ensued.

40
41 **Mr. Gingras moved to approve the application. The motion was seconded and**
42 **carried 4/0.**

43
44 **Sean B. O’Donell – Prosthetic Resident**

45
46 Mr. O’Donell was neither present nor represented by counsel.

1 Mr. Gingras provided an overview of the application. The applicant requests a second extension
2 of his residency.

3
4 Discussion ensued.

5
6 **Mr. Gingras moved to deny the request for extension. The motion was seconded and**
7 **carried 4/0.**

8
9 **Jason B. Pettit – Prosthetic Resident**

10
11 Mr. Pettit was present, sworn but was not represented by counsel.

12
13 Mr. Gingras provided an overview of the application. The applicant requests an extension of his
14 residency.

15
16 Discussion ensued.

17
18 **Mr. Gingras moved to approve for residency extension. The motion was seconded and**
19 **carried 4/0.**

20
21 **Alicia M. Richardson – Orthotic Fitter**

22
23 Ms. Richardson was present, sworn but was not represented by counsel.

24
25 Mr. Gingras provided an overview of the application.

26
27 Discussion ensued.

28
29 **Mr. Panton moved to approve the application. The motion was seconded and**
30 **carried 4/0.**

31
32 **Ronald A. Dickson – Prosthetist – Appearance Required**

33
34 Mr. Dickson was neither present nor represented by counsel.

35
36 Mr. Gingras provided an overview of the application.

37
38 Discussion ensued.

39
40 **Mr. Gingras moved to issue an order requiring Mr. Dickson's personal appearance**
41 **within the next two board meetings. Failure to appear would result in denial of his**
42 **application. The motion was seconded and carried 4/0.**

43
44 An audience member requested clarification from the board as to the start date of a
45 residency program.

1 The board stated that the rule requires evidence of enrollment into a NCOPE residency
2 program. If the applicant cannot provide this information then they must submit a request
3 to waive the 90-day statutory requirement to act on a completed application.
4

5 **DISCUSSION OF EXTENSION OF RESIDENCY REGISTRATION**

6

7 The board requested Mr. Flynn to file a Notice of Rule Development to identify
8 situations where board staff may be delegated the authority to grant extensions of
9 residency registrations.
10

11 **Mr. Gingras moved to file a Notice of Rule Development related to extensions of**
12 **residency registrations. The motion was seconded and carried 4/0.**
13

14 **RATIFICATION LISTS:**

15 **Orthotists/Prosthetists**

16 (Philippus Albertus Myburgh, POR 222 through Stephen Rinko, POR 226)
17
18

19 **Prosthetists**

20 (Brett Michael Rosen, PRO 135 through Bernard Swierzbinski, PRO 138)

21 With a contingency regarding Brett Michael Rosen, staff to be delegated the
22 determination.
23

24 **Orthotists**

25 (Heidi Lynn Wagner, ORT 211 through Bill Edward Woslum, ORT 213)
26

27 **Orthotic Fitters**

28 (Diane Carol Hatcher, OF 222 through David J Kinzer, OF 228)
29

30 **Orthotic Fitter Assistants**

31 (John George Foote, OFA 282 through David Scott Cooper, OFA 287)
32

33 **Pedorthists**

34 (Gary Steven Ashkin, PED 193 through Victor Manuel Velazco, PED 204)
35

36 **Orthotic Residents**

37 (Anne Louise Dubois, ORTR 91 through Bernard Swierzbinski, ORTR 100)
38

39 **Prosthetic Residents**

40 (Matthew Peter Dipaolo, PROR 21 through Matthew Robert Duncan, PROR 31)
41

42 **Mr. Panton moved to approve the ratification lists. The motion was seconded and**
43 **carried 4/0.**
44

45 **CORRESPONDENCE – NCOPE Residency Programs**

46

1 Mr. Gingras stated that the National Commission on Orthotic and Prosthetic Education
2 (NCOPE) had submitted correspondence related to a previous case where the board
3 required a residency applicant to complete an additional NCOPE Residency Program.
4 NCOPE disagreed with the board's decision in that case and, although they had allowed
5 the applicant to repeat the NCOPE program again, they wanted to inform the board that,
6 in the future, they would not allow persons to retake their national residency.

7
8 The board stated that they understood NCOPE's concerns but that residency applicants
9 would still need to comply with Florida licensure requirements by applying for state
10 residency, in addition to their NCOPE residency.

11 **CHAIR/VICE-CHAIR REPORT:**

12 **Future Agenda Items**

13
14 The board requested a rules discussion about extending the residency time period and
15 reviewing NCOPE standards.

16 **EXECUTIVE DIRECTOR'S REPORT:**

17 **Solicitation to Publish Information about Awards or Commendations given to** 18 **Board Members**

19
20 Mr. Deterding asked board members to provide him with any awards or commendations they
21 have received.

22
23 Mr. Deterding provided an update on the board members' appointment statuses.

24 **BOARD COUNSEL'S REPORT:**

25 **Rules Status Update**

26
27 Mr. Flynn provided an overview of the Rules Status Report. He stated that several rules
28 concerning licensure applications had been questioned in a letter received from JAPC.
29 The letter questioned the board's authority to adopt forms, as opposed to the department's
30 having the authority.

31
32 Mr. Flynn also asked the board to allow him to work with the board chair to identify a list
33 of rules that they expected to review or revise within the coming year.

34 **COMMITTEE REPORTS:**

35 **Budget – Mr. Chmielewski**

- 36 • **Expenditures by Function for Period Ending 12/31/2012**
- 37 • **Cash Balance Report for 3 Months Ending 12/31/2012**

- 1 • **Total Expenditures (Direct and Allocated) by Board for 3 Months Ending**
- 2 **12/31/2012**
- 3 • **Allocations to Boards by Source Organization and Category for 3**
- 4 **Months Ending 12/31/2012**

5
6 A brief report was provided.

7
8 The board asked Ms. Guilford to email a detailed licensure report on the number of licensees in
9 each category to all members of the board.

10
11 **Continuing Education – Mr. Gingras**

12
13 **Course Approval – Hanger Prosthetics & Orthotics**

14
15 Mr. Panton was recused from participation in the discussion of this course and removed
16 himself from the room during the discussion.

17
18 **Mr. Gingras moved to approve the course as presented. The motion was seconded**
19 **and carried 3/0.**

20
21 **Credentials – Mr. Panton**

22
23 No report.

24
25 **Disciplinary Compliance – Mr. Gingras**

26
27 Mr. Gingras provided a brief report. He asked Ms. Guilford to provide a list of board-
28 approved monitors during future agendas.

29
30 **Legislation – Dr. Nilssen**

31
32 No report.

33
34 Mr. Deterding provided an overview of the 2012 Legislative Session.

35
36 **Probable Cause – Mr. Mersch**

37
38 **Stats**

39
40 Mr. Mersch provided a brief report.

41
42 **Rules – Mr. Gingras**

43
44 **Rule 64B14-5.005, F.A.C. – Mandatory Courses**

45
46 Informational only.

1 **Unlicensed Activity – Mr. Gingras**

2

3 No report.

4

5 **NEXT MEETING DATE – July 20th – Ft. Lauderdale**

6

7 **ADJOURNMENT**

8

9 Mr. Panton moved to adjourn the meeting, The motion was seconded and carried 4/0.

10 The meeting was adjourned at 1:25 p.m.