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FLORIDA | Board of Orthotists & Prosthetists

MINUTES

January 29, 2016

Teleconference

Department of Health

4042 Bald Cypress Way

Tallahassee, FL 32399-3257



Tommy Chmielewski, LPO

Chair

Addam C. Griner, CPO

Vice-Chair

Anthony Spivey, DBA

Executive Director

1 **General Board Business started: 9:09 a.m.**

- 2
3 I. The meeting was called to order by Mr. Chmielewski, Chair. Those present for all or part of the meeting included the
4 following:

5
6 **MEMBERS PRESENT:**

7 Tommy Chmielewski, LPO, Chair
8 Addam C. Griner, CPO, Vice Chair
9 Brett Saunders, CPO, FAAOP
10 Ruphlal R. Gooljar, CPO, MA
11 George H. Meyer, Jr.

12 **STAFF PRESENT:**

13 Anthony B. Spivey, DBA, Executive Director
14 Joseph Lesho, Program Operations Administrator
15 Michele Jackson, Regulatory Supervisor/Consultant
16 Kellee Crowson, Regulatory Specialist II
17 Frank Grunewald, Regulatory Specialist II
18 Towanda Burnett, Compliance Officer
19 Melinda Simmons, Senior Health Budget Analyst
20 Tamara Garland, Senior Health Budget Analyst

21 **BOARD COUNSEL:**

22 Robert Milne, Assistant Attorney General
23 Rachel Clark, Assistant Attorney General
24 Office of Attorney General

25 **PROSECUTION COUNSEL:**

26 Christopher Dierlam, Esq.

27 **COURT REPORTER:**

28 For The Record
29 Contact: Kay Fitchner
30 (850) 222-5491

31 *Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda outline.*
32 *AUDIO from this meeting can be found online: <http://floridasorthotistsprosthetists.gov/meeting-information/>*

33 **Section VIII started at 9:09 a.m.**

34 **VIII. EXECUTIVE DIRECTOR'S REPORT:**

35 **a. Letter from FAOP Regarding Reduction of Renewal Fees**

36 **b. Fee Scenarios (See Attachment A)**

37
38 Mike Wright, LPO, CPO, President of FAOP, presented a proposal to reduce the board's licensure renewal fees
39 from \$500 to \$250.

40
41 Ms. Simmons told the board that she would not recommend reducing the fee to \$250 because that would put the
42 board into a downward trend. She explained that the board's Unlicensed Activity (ULA) balance was in the negative
43 and that the \$5 per applicant ULA fee was not significant enough make an impact, so the board would need to
44 maintain a positive Licensed Activity fund to balance it out. She recommended that the board revisit the issue at a
45 later date, and also suggested that the board spread the fee reduction out over the renewal fees and the initial
46 licensure and application fees, as opposed to just the renewal fees.

47
48 The board then discussed Attachment A in the agenda, which gave a 5-year projection of the board's Licensed
49 Activity balance based on 5 different combinations of fee reductions. After discussion regarding the various fee
50 scenarios, the board decided to open the fee rules for development, and requested additional data from Ms. Simmons
51 for review at a future meeting.

52
53 **Board Action:** Motion to open Rule 64B14-2.0015 and 64B14-2.002, F.A.C. for development was made by Mr.
54 Chmielewski. Seconded by Mr. Griner.
55 Vote: 5 yeas / 0 opposed; motion carried
56
57
58

1 **Section VIII concluded at 9:50 a.m.**

2 **Section II started at 9:51 a.m.**

3
4 **II. APPROVAL OF MINUTES:**

5
6 **a. October 9, 2015 – Teleconference**

7
8 The board reviewed the minutes of the October 9, 2015 Full Board meeting.

9
10 Mr. Chmielewski ask questions about the North Carolina Board of Dental Examiners v. FTC anti-trust case, which
11 was discussed at the October 9, 2015 meeting.

12
13 Ms. Clark and Mr. Milne explained that a presentation containing a lot more information will be presented at the
14 board's next meeting.

15
16 **Board Action:** Motion to accept the minutes as written was made by Mr. Chmielewski. Seconded by Mr. Gooljar.
17 Vote: 5 yeas / 0 opposed; motion carried

18
19 **Section II concluded at 9:56 a.m.**

20 **Section III started at 9:56 a.m.**

21
22 **III. COMPLIANCE:**

23
24 **a. Last Appearance Prior to Termination of Probation –**

25
26 **i. Miguel Ugarte – Case Number 2005-70216**

27 Mr. Ugarte was present and was represented by counsel, Allen Grossman, Esq. Dr. Martha Brown from
28 PRN was also present on behalf of Mr. Ugarte.

29
30 Mr. Chmielewski recused himself from the discussion, so Mr. Griner served as chair.

31
32 Mr. Ugarte's Orthotist license was placed on probation by a Final Order in case number 2005-70216. One
33 of the terms of the probation required Mr. Ugarte to appear before the board at the last before meeting
34 before the scheduled termination of probation. Mr. Ugarte came before the board to fulfill that requirement.
35 All other terms of the probation were fulfilled prior to his appearance.

36
37 **Discussion:**

38 Mr. Grossman reiterated the fact that Mr. Ugarte was in compliance with all terms of his Final Order.

39
40 **Board Action:** Motion to terminate probation effective March 18, 2016 was made by Mr. Gooljar.
41 Seconded by Mr. Griner.

42 Vote: 4 yeas / 0 opposed; motion carried

43
44 Mr. Grossman asked if Mr. Ugarte would be required to submit a final probation report. Ms. Burnett
45 confirmed that a final report would be required.

46
47 **Section III concluded at 10:01 a.m.**

48 **Section IV started at 10:01 a.m.**

49
50 **IV. APPLICATIONS FOR BOARD REVIEW:**

51
52 **a. Orthotic Fitter**

53
54 **i. Jared P. Metz**

55 Mr. Metz was presented and was not represented by counsel.

56
57 Mr. Metz submitted an application for licensure as an Orthotic Fitter, which was received by the board
58 office on November 18, 2015. After review by the Credentials Committee, the application was referred to

1 the full board because Mr. Metz was unable to provide a Verification of Clinical Experience (VOCE)
2 Form. Mr. Metz stated that he has seven years of experience in orthotics, but was unable to provide the
3 form because the company for which he worked is no longer in business.
4

5 **Discussion:**

6 The board discussed Mr. Metz's experience and the brief period of time during which Mr. Metz did not
7 practice orthotics.
8

9 Before a motion was made, Mr. Meyer was inadvertently disconnected from the call.
10

11 **Board Action:** Motion to approve the application for licensure was made by Mr. Chmielewski. Seconded
12 by Mr. Saunders.

13 Vote: 4 yeas / 0 opposed; motion carried
14

15 **Section IV concluded at 10:13 a.m.**

16 **Section V started at 10:13 a.m.**
17

18 **V. RATIFICATION:**

19 a. **Licensure –**

20 i. **Orthotists/Prosthetists:**

21 Mr. Griner recused himself from voting on license numbers 306, 308, and 310.
22

23 Before a motion was made, Mr. Meyer rejoined the call.
24

25 **Board Action:** Motion to ratify the issuance of Orthotists/Prosthetists license numbers 305, 307, 309 and
26 311 was made by Mr. Chmielewski. Seconded by Mr. Gooljar.
27

28 Vote: 5 yeas / 0 opposed; motion carried
29

30 **Board Action:** Motion to ratify the issuance of Orthotists/Prosthetists license numbers 306, 308, and 310
31 was made by Mr. Chmielewski. Seconded by Mr. Saunders.
32

33 Vote: 4 yeas / 0 opposed; motion carried
34

35 ii. **Prosthetists:**

36 **Board Action:** Motion to ratify the issuance of Prosthetist license number 169 was made by Mr.
37 Chmielewski. Seconded by Mr. Saunders.
38

39 Vote: 5 yeas / 0 opposed; motion carried
40

41 iii. **Orthotists:**

42 **Board Action:** Motion to ratify the issuance of Orthotists license number 270 was made by Mr.
43 Chmielewski. Seconded by Mr. Griner.
44

45 Vote: 5 yeas / 0 opposed; motion carried
46

47 iv. **Orthotic Fitter:**

48 **Board Action:** Motion to ratify the issuance of Orthotic Fitter license numbers 255 and 256 was made by
49 Mr. Chmielewski. Seconded by Mr. Saunders.
50

51 Vote: 5 yeas / 0 opposed; motion carried
52

53 v. **Orthotic Fitter Assistant:**

54 **Board Action:** Motion to ratify the issuance of Orthotic Fitter Assistant license numbers 331 through 336
55 was made by Mr. Chmielewski. Seconded by Mr. Saunders.
56

57 Vote: 5 yeas / 0 opposed; motion carried
58

1
2 **vi. Pedorthists:**

3
4 No Pedorthist licenses were issued during this period.

5
6 **vii. Orthotic Resident:**

7
8 **Board Action:** Motion to ratify the issuance of Orthotic Resident license numbers 156 through 158 was
9 made by Mr. Chmielewski. Seconded by Mr. Saunders.

10 Vote: 5 yeas / 0 opposed; motion carried

11
12 **viii. Prosthetic Resident:**

13
14 **Board Action:** Motion to ratify the issuance of Prosthetic Resident license numbers 92 through 95 was
15 made by Mr. Chmielewski. Seconded by Mr. Saunders.

16 Vote: 5 yeas / 0 opposed; motion carried

17
18 **Section V concluded at 10:20 a.m.**

19 **Section VI started at 10:20 a.m.**

20
21 **VI. PROSECUTION REPORT:**

22 Mr. Dierlam explained that there was no change since the last report given at the October 2015 board meeting. He told the
23 board that there were 4 open cases; one of which would be closed because it was a duplicate, one was referred to the Probable
24 Cause Panel (PCP), and the other was expected to be referred to PCP shortly. He said to expect a PCP meeting within the
25 next couple of months.

26
27 **Section VI concluded at 10:21 a.m.**

28 **Section VII started at 10:21 a.m.**

29
30 **VII. CHAIR/VICE-CHAIR REPORT:**

- 31
32 **a. Future Agenda Items:** Nothing to report.

33
34 **Section VII concluded at 10:22 a.m.**

35 **Section IX started at 10:22 a.m.**

36
37 **IX. BOARD COUNSEL REPORT:**

- 38
39 **a. Rules Status Report – December 2015**

40 Ms. Clark presented the rules status report found in the agenda.

- 41
42 **b. Rule 64B14-7.003 – Proposed Changes**

43 Ms. Clark explained that she received correspondence from the Joint Administrative Procedures Committee (JAPC)
44 explaining issues they had with the proposed rule amendments. Ms. Clark then presented her proposal to satisfy the
45 concerns of JAPC.

46
47 **Board Action:** Motion to approve the proposed amendments to Rule 64B18-7003, F.A.C. was made by Mr.
48 Chmielewski. Seconded by Mr. Saunders.

49 Vote: 5 yeas / 0 opposed; motion carried

50
51 **Board Action:** Motion to find that the proposed rule amendments will not have an adverse impact on small
52 business; nor be likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in
53 Florida within 1 year; nor be likely to increase regulatory costs, including any transactional costs, in excess of \$ 1
54 million in the aggregate within 5 years after the implementation of the rule was made by Mr. Chmielewski.
55 Seconded by Mr. Saunders.

56 Vote: 5 yeas / 0 opposed; motion carried

- 57
58 **c. FTC Staff Guidance: Active Supervision**

1 Ms. Clark encouraged the board to read the material found in the agenda, but did not want to discuss the issue at this
2 meeting because a more in-depth presentation will be given at a future meeting.
3

4 At the conclusion of Ms. Clark's report, the board recognized that this meeting was Ms. Clark's last as the board
5 counsel, and they thanked her for her service to the board.
6

7 **Section IX concluded at 10:28 a.m.**

8 **Section X started at 10:28 a.m.**

9
10 **X. RENEWAL REPORTS**

11 The board briefly reviewed and discussed the renewal statistics found in the meeting agenda materials.
12

13 **Section X concluded at 10:40 a.m.**

14 **Section XI started at 10:40 a.m.**

15
16 **XI. OLD BUSINESS:**

17 Mr. Chmielewski brought up the issue of defining support personnel, and asked if there was a pending need to address
18 orthotic assistants.
19

20 Ms. Clark explained that the board does not have statutory authority to create a new license type, so there would be no need
21 for further discussion unless there is a change through the legislature.
22

23 Mr. Chmielewski then asked about streamlining the Orthotic Fitter Assistant application to remove the VOCE form, since it
24 is not required for that profession.
25

26 Mr. Milne and Mr. Lesho said they would work together to have a proposed draft for the next meeting.
27

28 **Section XI concluded at 10:56 a.m.**

29 **Section XII started at 10:56 a.m.**

30
31 **XII. NEW BUSINESS:**

32
33 **Section XII concluded at 10:56 a.m.**

34 **Section XIII started at 10:56 a.m.**

35
36 **XIII. COMMITTEE REPORTS**

37
38 **a. Budget – George Meyer:**

39
40 **i. Budget Report:**

41
42 **1. Cash Balance Report for 3 Months Ending September 30, 2015**

43
44 **2. Total Expenditures (Direct and Allocated) for 3 Months Ending September 30, 2015**

45 Mr. Meyer directed the board's attention to the reports in found in the agenda materials.
46

47 **b. Continuing Education – Tommy Chmielewski:** Nothing to report.
48

49 **c. Credentials – Brett Saunders:** Nothing to report.
50

51 **d. Disciplinary Compliance – Tommy Chmielewski:**

52 Mr. Chmielewski had nothing to report, but asked Ms. Burnett if there was anything pending. Ms. Burnett stated that
53 there were three or four cases pending, and that she will follow up for the next meeting.
54

55 **e. Healthy Weight – Ruphlal Gooljar:**

56 Mr. Gooljar explained that the Department of Health has established a course addressing healthy weight, and that the
57 course is free to certain professions. He stated that Orthotists and Prosthetists was not on the list of professions that
58 can take the course for free, but that he is working with the department to see how the profession can be added.

1
2 f. **Legislation – Addam Griner:** Nothing to report.

3
4 g. **Rules – Mr. Saunders:** Nothing to report.

5
6 h. **Probable Cause – George Meyer:**

7
8 i. **Stats:** Mr. Meyer stated that there were no PCP meetings between this meeting and the October 2015
9 meeting.

10
11 i. **Unlicensed Activity – Mr. Gooljar:**

12 Mr. Gooljar told the board that he spoke with Chilo Casas with the department’s Unlicensed Activity Unit, and was
13 informed that no cease and desist orders were issued from during the last quarter (10/1/2015-12/31/2015).

14
15 He also explained that he had contacted FAOP about allowing Mr. Casas to make a ULA presentation at their July
16 meeting. Mr. Wright told the board that FAOP will be reaching out to Mr. Casas.

17
18 **Section XIII concluded at 11:05 a.m.**

19 **Section XIV started at 11:05 a.m.**

20
21 **XIV. 2016 CHAIR/VICE CHAIR ELECTIONS**

22 Mr. Chmielewski told the board that he has retired from practice, and that he will be able to devote more time to the board
23 should the board allow him to serve as chair again.

24
25 Dr. Spivey opened up the discussion for nominations.

26
27 **Board Action:** Motion to elect Mr. Chmielewski as the 2016 board chair was made by Mr. Saunders. Seconded by Mr.
28 Gooljar.

29 Vote: 5 yeas / 0 opposed; motion carried

30
31 Mr. Griner was nominated to serve as vice chair, but he declined and explained that a new position that he accepted will not
32 allow him enough time to devote to the board, so he must resign from the board effective March 2016.

33
34 Mr. Chmielewski then nominated Mr. Saunders for vice chair. Mr. Saunders accepted.

35
36 **Board Action:** Motion to elect Mr. Saunders as the 2016 board vice chair was made by Mr. Chmielewski. Seconded by Mr.
37 Griner.

38 Vote: 5 yeas / 0 opposed; motion carried

39
40 The board thanked Mr. Griner for his service.

41
42 **Section XIV concluded at 11:12 a.m.**

43 **Section XV started at 11:12 a.m.**

44
45 **XV. NEXT MEETING DATE**

46
47 a. **April 22, 2016 – Teleconference**

48
49 **Section XV concluded at 11:13 a.m.**

50 **Section XVI started at 11:13 a.m.**

51
52 **XVI. ADJOURNMENT**

53
54 **Board Action:** Motion to adjourn the meeting was made by Mr. Chmielewski. Seconded by Mr. Saunders.

55 Vote: 5 yeas / 0 opposed; motion carried

56
57 **General Board Business concluded at 11:13 a.m.**

58 **The meeting was adjourned at 11:13 a.m.**