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

**MINUTES - DRAFT
GENERAL BUSINESS MEETING**

**Rosen Shingle Creek
9939 Universal Boulevard
Orlando, Florida**

Friday, October 25, 2013

15 These proceedings are being recorded and an audio file of the meeting will be posted to
16 the board's website.

17
18 **General Board Business started: 9:00 a.m.**

19
20 **CALL TO ORDER:**

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

23
24 **MEMBERS PRESENT:**

25 Ronald Gingras, Chair
26 Steven Mersch, Vice-Chair
27 Tommy Chmielewski
28 Erik Nilssen, M.D.

29
30 **STAFF PRESENT:**

31 Bill Miller, Board Executive Director
32 Sharon Guilford, Program Operations Administrator

33
34 **BOARD COUNSEL:**

35 Lynette Norr, Assistant Attorney General
36 Office of Attorney General

37
38 **PROSECUTING ATTORNEY:**

39 David Perry, Prosecuting Attorney
40 Department of Health

41
42 **COURT REPORTER:**

43 American Court Reporting
44 (407) 896-1813

45
46 **APPROVAL OF MINUTES:**

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**September 6, 2013 – Telephone Conference Call
July 26, 2013 – Telephone Conference Call**

Mr. Mersch moved to approve the minutes as presented. The motion was seconded and carried 4/0.

**General Business ended: 9:05 a.m.
Disciplinary Actions started: 9:05 a.m.**

FINAL ORDER ACTIONS:

Motion for Final Order Based Upon a Voluntary Relinquishment of License:

**Mark M. Blaker, PED – Case Number 2013-08382
PCP: Waived**

Mr. Blaker was neither present nor represented by counsel.

Mr. Perry informed the board that the respondent had violated:
• Sections 468.811(f)(j) and 456.072(1)(k)(q)(dd), F.S.

Mr. Perry stated that the respondent requested the board to accept the voluntary relinquishment of her license.

Mr. Gingras moved to accept the scrivener’s error replacing orthotics to pedorthics. The motion was seconded and carried 4/0.

Mr. Gingras moved to approve. The motion was seconded and carried 4/0.

Motions for Final Order by Settlement Agreement:

**Charles S. Mata, ORT – Case Number 2011-11649
PCP: Fredrick/Mersch**

Mr. Mata was present, sworn and was represented by Mr. Michael Chesser, Esq.

Mr. Perry informed the board that the respondent had violated:
• Section 456.072(1)(o), F.S.

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

- appearance
- letter of concern
- administrative fine of \$250.00
- administrative costs of \$4,000.00

- 1 • completion of six (6) continuing education hours, with three (3) hours in the area
2 of risk management (two (2) of which must be in laws and rules); and three (3)
3 hours in ethics and boundaries
4

5 Mr. Gingras stated that he had a conversation with Mr. Mata regarding his application for
6 licensure but did not address the cases being presented.
7

8 Mr. Chesser addressed the board on behalf of his client. Mr. Mata also addressed the
9 board.
10

11 Discussion ensued.
12

13 **Mr. Chmielewski moved to accept the settlement agreement. The motion was**
14 **seconded and carried 2/1 with Mr. Gingras opposed.**
15

16 **Charles S. Mata, ORT – Case Number 2012-09316**
17 **PCP: Fredrick/Mersch**
18

19 Mr. Mata was present, sworn and was represented by Mr. Michael Chesser, Esq.
20

21 Mr. Perry informed the board that the respondent had violated:

- 22 • Section 460.413(1)(v), F.S.
23

24 Mr. Perry advised the board that the settlement agreement contained the following
25 provisions:

- 26 • appearance
27 • letter of concern
28 • administrative fine of \$250.00
29 • administrative costs of \$2,000.00
30 • completion of six (6) continuing education hours, with three hours in the area of
31 risk management (two of which must be in laws and rules); and three hours in
32 ethics and boundaries
33

34 Discussion ensued.
35

36 **Mr. Chmielewski moved to reject the settlement agreement. The motion was**
37 **seconded and carried 3/0.**
38

39 **Mr. Chmielewski moved to accept the mitigating factors as provided by the**
40 **prosecutor. The motion was seconded and carried 3/0.**
41

42 **Mr. Gingras moved to enter a counter agreement requiring payment of an**
43 **administrative fine of \$1,000.00; administrative costs of \$2,000.00; six (6) months**
44 **probation with indirect supervision by a board approved monitor; the monitor shall**
45 **review 100% of the prosthetic records and submit reports to the Compliance Officer**

1 **after (3) months and then six (6) months as defined in the final order. The motion**
2 **was seconded and carried 3/0.**

3
4 Mr. Chesser addressed the board on behalf of his client. Mr. Mata also addressed the
5 board.

6
7 Mr. Perry accepted the counter agreement on behalf of the Department.

8
9 **Mr. Gingras moved to delegate to the Disciplinary Committee Chair to review the**
10 **respondent's monitor for approval. The motion was seconded and carried 3/0.**

11
12 **Dr. Nilssen moved to require the respondent to submit the monitor for review**
13 **within 30 days. The motion was seconded and carried 3/0.**

14
15 **PROSECUTION REPORT:**

16
17 Mr. Perry provided an overview of the prosecution report.

18
19 **Mr. Gingras moved to accept the prosecution report and continue putting special**
20 **emphasis on prosecuting the older cases (one year and over). The motion was**
21 **seconded and carried 4/0.**

22
23 **Disciplinary Compliance – Mr. Gingras**

24
25 **Walter A. Ramos – Case Number 11-10039 – CE Extension**

26
27 Mr. Ramos was present, sworn and addressed the board.

28
29 **Mr. Gingras moved to approve and accept the continuing education presented by**
30 **Mr. Ramos. The motion was seconded and carried 4/0.**

31
32 **Disciplinary Actions ended: 11:13 a.m.**

33 **Applications started: 11:13 a.m.**

34
35 **PETITIONS FOR VARIANCE/WAIVER:**

36
37 **Peter J. Ferris – Orthotist Applicant – Rule 64B14-4.100, F.A.C. –**
38 **Requirements for Prosthetic or Orthotic Residency or Internship and**
39 **64B14-4.003, F.A.C. – Documentation of Eligibility for Licensure**

40
41 Mr. Ferris was neither present nor represented by counsel.

42
43 Mr. Gingras provided an overview of Mr. Ferris' request.

44
45 Discussion ensued.

1 **Mr. Mersch moved to approve the Petition for Variance/Waiver of Rule 64B14-**
2 **4.100 and 4.003, F.A.C. The motion was seconded and carried 4/0.**

3
4
5 **Mr. Gingras moved to approve the application on the agenda. The motion was**
6 **seconded and carried 4/0.**

7
8 **Mr. Gingras moved to approve the applicant for licensure. The motion was**
9 **seconded and carried 4/0.**

10
11 **Fili-Mele Rodriguez – Prosthetist-Orthotist Applicant –**
12 **Rule 64B14-4.003, F.A.C. – Documentation of Eligibility for Licensure**

13
14 Ms. Rodriguez was neither present nor represented by counsel.

15
16 Mr. Gingras provided an overview of Ms. Rodriguez’s request.

17
18 Discussion ensued.

19
20 **Mr. Gingras moved to approve the Petition for Variance/Waiver of Rule 64B14-**
21 **4.003, F.A.C. The motion was seconded and carried 4/0.**

22
23 **Mr. Gingras moved to approve the application on the agenda. The motion was**
24 **seconded and carried 4/0.**

25
26 **Mr. Gingras moved to approve the applicant for licensure. The motion was**
27 **seconded and carried 4/0.**

28
29 **APPLICANTS PRESENTED FOR BOARD REVIEW:**

30
31 **Charles s. Mata – Prosthetist-Orthotist**

32
33 Mr. Mata was present, previously sworn, and was represented by Mr. Michael Chesser,
34 Esq.

35
36 Mr. Gingras provided an overview of the application. The Verification of Clinical
37 Experience Form submitted by Mr. Mata and signed by his supervisor, Phil Bickert, PRO
38 143, indicated that he has been performing prosthetics at Creative O&P Services, LLC, in
39 Crestview, FL without a license. The board staff determined that Mr. Mata may be in
40 violation of Chapter 468.808, F.S.

41
42 Discussion ensued.

43
44 **Mr. Gingras moved to conditionally approve Mr. Mata for licensure as a**
45 **Prosthetist-Orthotist upon submitting the monitor to the department as indicated in**
46 **case 2011-11649 and 2012-09316. The motion was seconded and carried 4/0.**

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Linda C. Ward – Orthotic Fitter Assistant

Ms. Ward was present, sworn and addressed the board.

Mr. Gingras provided an overview of the application. The Verification of Clinical Experience Form submitted by Ms. Ward and signed by his supervisor, Phil Bickert, PRO 143, indicated that he has been performing prosthetics at Creative O&P Services, LLC, in Crestview, FL without a license. The board staff determined Mr. Mata may be in violation of Chapter 468.808, F.S.

The board discussed the unlicensed activity and the aiding and abetting of unlicensed activity.

Dr. Nilssen moved to approve. The motion was seconded and carried 4/0.

The board staff to file a compliant against Dr. Kelvin D. Gipson, DPM (PO 2195) for possibly aiding and abetting of unlicensed activity. Also the board staff shall file a compliant against Mr. Bryan Dickler, C.Ped, for possibly violating Section 468.813, F.S.

Troy L. Anderson – Orthotic Resident (Extension)

Mr. Anderson was neither present nor represented by counsel.

Mr. Gingras provided an overview of Mr. Anderson’s request.

Discussion ensued.

Mr. Gingras moved to approve. The motion was seconded and carried 4/0.

Victoria E. Mendez – Orthotic Resident (Extension)

Ms. Mendez was present, sworn and addressed the board.

Mr. Gingras provided an overview of Ms. Mendez’s request.

Mr. Gingras moved to approve. The motion was seconded and carried 4/0.

Thane D. Snell – Prosthetic Resident (Extension)

Mr. Snell was present, sworn and addressed the board.

Mr. Gingras provided an overview of Mr. Snell’s request.

Mr. Gingras moved to approve. The motion was seconded and carried 4/0.

1 **Applications ended: 11:59 a.m.**
2 **General Business started: 12:00 p.m.**

3
4 Court reporter was excused at 12:00 p.m.

5
6 **Continuing Education – Mr. Gingras**

7
8 **Approval of Course from St. Petersburg College:**

9
10 Ms. Jillian Gifford, with St. Petersburg College was present and addressed the board.
11 She stated the courses will be available online and in person.

- 12
13
 - **Florida O&P Laws and Rules of the Board**
 - **Medical Error and Omissions with Documentation and Record Keeping for the O&P Profession**
 - **Infection Control/HIV/AIDS for the O&P Profession**

14
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16
17
18 **Mr. Gingras moved to approve the above courses. The motion was seconded and**
19 **carried 4/0.**

20
21 **RATIFICATION OF LICENSURE:**

22
23 **Orthotists/Prosthetists**

24 (Shalyn A Latorre, POR 251 through Eric Jorge Bejarano, POR 255)

25
26 **Mr. Mersch moved to approve. The motion was seconded and carried 4/0.**

27
28 **Orthotists**

29 (Emily Ivy Painter, ORT 240 through Lindsey Irene Duval, ORT 242)

30
31 **Mr. Mersch moved to approve. The motion was seconded and carried 4/0.**

32
33 **Orthotic Fitters**

34 (Tonya Lynn Tittle, OF 240 through Aner Gonzalez, OF 242)

35
36 **Mr. Gingras moved to approve. The motion was seconded and carried 4/0.**

37
38 **Orthotic Fitter Assistants**

39 (David Cekovsky, OFA 309 through Jeffrey William Schiegel, OFA 311)

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

42
43 **Pedorthists**

44 (Ivan Ruiz, PED 218 and Christopher Joseph Leyva, PED 219)

45
46 **Mr. Gingras moved to approve. The motion was seconded and carried 4/0.**

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Orthotic Residents
(Emily R Kane, ORTR 121 through Kyra Sharee Ketnick, ORTR 131)

Mr. Gingras moved to approve. The motion was seconded and carried 4/0.

Prosthetic Residents
(Shanon Imena Hardin, PROR 60 through Francisco Javier Velasquez, PROR 67)

Mr. Gingras moved to approve. The motion was seconded and carried 4/0.

INTRODUCTION OF Penny Ziegler, M.D., PRN Medical Director

Mr. Miller provided an overview of the correspondence. There was no action taken.

CHAIR/VICE-CHAIR REPORT:

Future Agenda Items

No report.

EXECUTIVE DIRECTOR’S REPORT:

Mr. Miller stated a Declaratory Statement has been received that requires the board to hold a telephone conference call. The members recommended November 15th @ 10:00 a.m.

- **Healthy Weight**

Mr. Miller provided an overview of the Department of Health’s “Healthy Weight” initiative and requested a board liaison to serve on the panel.

Mr. Gingras moved to nominate Mr. Chmielewski as the healthy weight liaison. The motion was seconded and carried 4/0.

- **Board Member Appointments - Update**

Mr. Miller provided an update on the board member appointments.

- **Chair and Vice-Chair Nominations**

Mr. Gingras moved to nominate Mr. Chmielewski as chair. The motion was seconded and carried 4/0.

1 **Mr. Gingras moved to nominate Dr. Nilssen as vice-chair. The motion was seconded**
2 **and carried 4/0.**

3
4 **BOARD COUNSEL’S REPORT:**

5
6 **Rulemaking to Address Public Comment Requirements set by Senate Bill 50**

7
8
9 Ms. Norr provided an overview of the language the Board of Medicine had submitted and
10 the board reviewed and acted on the following:

11
12 **64B14-**

13
14 The Board of Orthotists & Prosthetists invites and encourages all members of the public
15 to provide comment on matters or propositions before the Board or a committee of the
16 Board. The opportunity to provide comment shall be subject to the following:

- 17 (1) Members of the public will be given an opportunity to provide comment on subject
18 matters before the Board after an agenda item is introduced at a properly noticed
19 board meeting.
20 (2) Members of the public shall be limited to five (5) minutes to provide comment. This
21 time shall not include time spent by the presenter responding to questions posed by
22 Board members, staff or board counsel. The chair of the Board may extend the time
23 to provide comment if time permits.
24 (3) Members of the public shall notify board staff in writing of his or her interest to be
25 heard on a proposition or matter before the Board. The notification shall identify the
26 person or entity, indicate support, opposition, or neutrality, and identify who will
27 speak on behalf of a group or faction of persons consisting of five (5) or more
28 persons. Any person or entity appearing before the Board may use a pseudonym if he
29 or she does not wish to be identified.

30
31 **Mr. Chmielewski moved to issue a Notice for Rule Development and to adopt the**
32 **above language. The motion was seconded and carried 4/0.**

33
34 **Mr. Chmielewski moved that the proposed rule would not have any adverse impacts**
35 **on small businesses. The motion was seconded and carried 4/0.**

36
37 **Mr. Chmielewski moved that the proposed rule would not be likely to directly or**
38 **indirectly increase regulatory costs to any entity (including government) in excess of**
39 **\$200,000 in the aggregate in Florida within 1 year after the implementation of the**
40 **rule. The motion was seconded and carried 4/0.**

41
42 **Rules Status Report**

43
44 No report.

45
46 **COMMITTEE REPORTS:**

1
2 **Budget – Mr. Chmielewski**

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4 No report.

5
6 **Credentials – Mr. Gingras**

7
8 No report.

9
10 The following committee assignment was made: Mr. Mersch will serve as the
11 Credentials Committee Chair.

12
13 **Disciplinary Compliance – Mr. Gingras**

14
15 The following committee assignment was made: Mr. Mersch will serve as the
16 Disciplinary Compliance Chair.

17
18 **Legislation – Dr. Nilssen**

19
20 No report.

21
22 **Probable Cause – Mr. Mersch**

23
24 **Stats**

25
26 Information only.

27
28 **Rules – Mr. Gingras**

29
30 **Approval of Proposed Rules from Rules Committee Meeting – October 24,**
31 **2013**
32 **64B14-4.0015, F.A.C. – Security and Monitoring Procedures for Licensure**
33 **Examination – Repeal**

34
35 Ms. Norr provided an overview of the Rules Committee and the rules that were approved
36 at the meeting held on Thursday, October 24, 2013.

- 37
38
 - Rule 64B14-5.003, F.A.C.
 - 39 • Rule 64B14-5.004, F.A.C.
 - 40 • Rule 64B14-4.0015, F.A.C.

41
42 **Mr. Chmielewski moved to approve the ratification of the above rules. The motion**
43 **was seconded and carried 4/0.**

44
45 The following committee assignment was made: Mr. Chmielewski will serve as the
46 Rules Committee Chair.

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Unlicensed Activity – Mr. Gingras

No report.

The following committee assignment was made: Dr. Nilssen will serve as the Unlicensed Activity Chair.

NEXT MEETING DATE – February 28th – Ft. Lauderdale/Miami

General Business ended: 12:53 p.m.

ADJOURNMENT:

The meeting was adjourned at 12:53 p.m.