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FLORIDA | Board of Orthotists & Prosthetists

MEETING MINUTES

March 20, 2015

Teleconference

Department of Health

4042 Bald Cypress Way

Tallahassee, FL 32399-3257



Tommy Chmielewski, LPO
Chair

Addam C. Griner, CPO
Vice-Chair

Adrienne Rodgers, BSN, JD
Interim Executive Director

1 **General Board Business started: 9:08 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 George H. Meyer, Jr.

11
12 **STAFF PRESENT:**

13 Joseph Lesho, Program Operations Administrator
14 Michele Jackson, Regulatory Supervisor/Consultant
15 Samantha Thompson, Regulatory Specialist II
16 Kellee Crowson, Regulatory Specialist II
17 Edith Rogers, Administrative Assistant II

18
19 **EXCUSED:**

20 Ruphlal R. Gooljar, CPO, MA

21 **Board Action:** Motion to excuse Mr. Gooljar's absence was made by Mr. Saunders. Seconded by Mr. Chmielewski.

22 Vote: 4 ayes / 0 opposed; motion carried

23 David Cheong, M.D. was also present, but was advised by Ms. Clark that he was not eligible to participate in votes for this
24 meeting.

25
26 **BOARD COUNSEL:**

27 Rachel Clark, Assistant Attorney General
28 Office of Attorney General

29 David Flynn, Assistant Attorney General
30 Office of Attorney General

31
32 **PROSECUTION COUNSEL:**

33 Christopher R. Dierlam, Assistant General Counsel
34 Department of Health, Office of the General Counsel

35
36 **COURT REPORTER:**

37 Court Reporter: For the Record Reporting
38 Phone: (850) 222-5491
39 Contact: Kay Fitchner

40
41 **OTHERS PRESENT THAT SPOKE ON RECORD:**

42 Jim Barr, Florida Association of Orthotists & Prosthetists
43 Ashley Kalifeh, Capital City Consultants
44 Claudia Zacarias, Board of Certification/Accreditation

45 *Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda outline.*

46 *AUDIO from this meeting can be found online: <http://floridasorthotistsprosthetists.gov/meeting-information/>*

47 **Section II started at 9:12 a.m.**

48 **II. APPROVAL OF PREVIOUS MEETING'S MINUTES OF THE BOARD OF ORTHOTISTS & PROSTHETISTS:**

49 Minutes of the January 30, 2015 General Business Meeting were reviewed.

50 Mr. Griner noted that he was not present for the January 30, 2015 meeting, and asked if his legislative items were discussed.
51 Mr. Saunders stated that the board was informed that they are unable to take a position on pending legislation.

52 **Board Action:** Motion to accept the minutes was made by Mr. Chmielewski. Seconded by Mr. Saunders.

53 Vote: 4 ayes / 0 opposed; motion carried

54
55 **Section II concluded at 9:15 a.m.**

56
57 **Section III started at 9:15 a.m.**

1 **III. APPLICANTS PRESENTED FOR BOARD REVIEW:**

2
3 a. **Russell De Palma – Prosthetist:**

4 Mr. De Palma was present and was not represented by counsel. Also present on behalf of Mr. De Palma was his
5 supervisor, Mark Selleck.

6
7 Mr. De Palma submitted an application for prosthetist licensure on December 19, 2014. His Verification of Clinical
8 Experience (VOCE) indicates that he was employed by South Beach Orthotics and Prosthetics from November 1, 2011
9 through December 25, 2011, and was signed by his supervisor, Mark Selleck. Based on these dates, it appears that Mr.
10 De Palma was practicing without a license; however, Mr. De Palma and Mr. Selleck each submitted signed affidavits
11 stating that the dates listed on the VOCE were listed erroneously. Mr. De Palma also submitted a corrected VOCE
12 indicating that his employment began on December 1, 2014, which was signed by Mr. Selleck. Due to this discrepancy,
13 Mr. De Palma’s application was referred to the full board by the credentials committee.

14
15 **Discussion:**

16 Mr. Chmielewski asked if anyone from board staff was available to speak about why this application was placed on the
17 agenda. Ms. Edith Rogers explained that any time there is a discrepancy with an application, board staff will
18 automatically refer it to the full board. Mr. Chmielewski then asked if the application was complete, to which Ms.
19 Rogers stated yes.

20
21 Mr. Chmielewski then asked about the criminal history documents that were included with the agenda information
22 because Mr. De Palma indicated on his application that he had no criminal history. Ms. Clark explained that the charges
23 were dismissed, therefore Mr. De Palma was not obligated to report them.

24
25 **Board Action:** Motion to grant prosthetist licensure made by Mr. Chmielewski. Seconded by Mr. Griner.
26 Vote: 4 yeas / 0 opposed; motion carried

27
28 **Section III concluded at 9:30 a.m.**

29 **Section IV started at 9:31 a.m.**

30
31 **IV. RATIFICATION OF LICENSURE:**

32
33 b. **Orthotists:** Motion to ratify issuance of Orthotists license number 260 made by Mr. Chmielewski. Seconded by
34 Mr. Griner.

35 Vote: 4 yeas; motion carried

36
37 c. **Orthotic Fitter Assistant:** Motion to ratify issuance of Orthotic Fitter Assistant license number 326 made by Mr.
38 Chmielewski. Seconded by Mr. Saunders.

39 Vote: 4 yeas; motion carried

40
41 d. **Pedorthists:** Motion to ratify issuance of Pedorthists license numbers 229 through 230 made by Mr. Chmielewski.
42 Seconded by Mr. Saunders.

43 Vote: 4 yeas; motion carried

44
45 e. **Orthotic Resident:** Motion to ratify issuance of Orthotic Resident license numbers 142 through 143 made by Mr.
46 Chmielewski. Seconded by Mr. Saunders.

47 Vote: 4 yeas; motion carried

48
49 f. **Prosthetic Resident:** Motion to ratify issuance of Prosthetic Resident license number 86 made by Mr. Chmielewski.
50 Seconded by Mr. Saunders.

51 Vote: 4 yeas; motion carried

52
53 Mr. Lesho informed Mr. Chmielewski that the board has mistakenly skipped the ratification of the Orthotists/Prosthetists
54 licenses on the agenda.

55
56 a. **Orthotists/Prosthetists:** Motion to ratify issuance of Orthotists/Prosthetists license numbers 290 through 292 made by
57 Mr. Chmielewski. Seconded by Mr. Saunders.

58 Vote: 4 yeas; motion carried

1 **Section IV concluded at 9:35 a.m.**

2 **Section V started at 9:35 a.m.**

3
4 **V. CHAIR/VICE CHAIR REPORT:**

- 5
6 a. Future Agenda Items: Mr. Chmielewski stated that he would like board counsel and board staff to work to amend the
7 board's rules to include the new position of Orthotic Assistant that was created. Mr. Saunders stated that he would like to
8 discuss the rules for supervision at the next meeting, which would address Mr. Chmielewski's issue. The board agreed
9 that the issue would be discussed at the next in-person meeting.

10
11 **Section V concluded at 9:39 a.m.**

12 **Section VI started at 9:39 a.m.**

13
14 **VI. EXECUTIVE DIRECTOR'S REPORT:**

15 Mr. Lesho reported that though Ms. Adrienne Rodgers has been promoted to Bureau Chief, she will still be acting as
16 Executive Director until the position can be permanently filled. He also informed the board that interviews for the position
17 were recently held, and that board staff hopes to have the position filled soon.

18
19 **Section VI concluded at 9:40 a.m.**

20 **Section VII started at 9:40 a.m.**

21 **VII. BOARD COUNSEL'S REPORT**

- 22
23 a. Rules Status – February 2015: Ms. Clark informed the board that all recent rule changes were adopted as of March 3,
24 2015.
25
26 b. Discussion of Rule 64B14-4.001, F.A.C.: Ms. Clark explained that she included a letter from Morris Gallo, LPO
27 expressing his concerns regarding changes to the rule; however, since the rule was already adopted, no further action
28 would be necessary from the board if they did not agree with his concerns. Mr. Chmielewski agreed that no further
29 action was needed.
30

31 **Section VII concluded at 9:43 a.m.**

32 **Section VIII started at 9:43 a.m.**

33
34 **VIII. OLD BUSINESS:**

- 35
36 a. Discussion – Level I Background Check to licensure
37 Ms. Jackson explained to the board that Level I background checks are a state-level screening, which cannot be used to
38 obtain licensure because s. 468.803(2), F.S., requires a national-level screening.

39
40 Mr. Lesho also explained that fingerprints submitted to the department for licensure purposes are stored in a
41 clearinghouse for up to 5 years, and can be used to obtain other types of licensure from the department. He presented
42 proposed changes to Rules 64B14-4.003 and 64B14-4.005, F.A.C., to include language to that effect.

43
44 **Board Action:** Motion to open Rules 64B14-4.003 and 64B14-4.005, F.A.C., for development made by Mr.
45 Chmielewski. Seconded by Mr. Saunders.

46 Vote: 4 yeas / 0 opposed; motion carried

- 47
48 b. Letter to NCOPE
49 Mr. Lesho presented a revised version of the letter to all residency/internship programs that was originally presented at
50 the January 30, 2015 meeting. He explained that though the board had asked for the language in the letter to be softened,
51 the board office felt that the severity of the consequences of failing to abide by the laws and rules should be conveyed as
52 strongly as possible; however, he stated that the board office did change some of the language from legalese to plain
53 language to help with readability. The board agreed that the letter was ready to be sent out as it was presented.
54

55 **Section VIII concluded at 9:53 a.m.**

56 **Section IX started at 9:53 a.m.**

1 **IX. NEW BUSINESS**

2
3 Mr. Saunders requested that the board open Rule 64B14-3.001, F.A.C. for development.

4
5 **Board Action:** Motion to open Rule 64B14-3.001, F.A.C., for development made by Mr. Saunders. Seconded by Mr.
6 Chmielewski.

7 Vote: 4 yeas / 0 opposed; motion carried

8
9 **Section IX concluded at 9:56 a.m.**

10 **Section X started at 9:56 a.m.**

11
12 **X. COMMITTEE REPORTS**

13
14 a. Budget – George Meyer: Nothing to report.

15
16 b. Continuing Education – Tommy Chmielewski

17
18 i. Optional and Mandatory Reporting Cycles

19
20 ii. Optional Reporting Cycle Final Report

21
22 iii. CE Courses for Board Review

23
24 1. Florida Association of Orthotics And Prosthetics (FAOP) –

25
26 a. #20-494272 – Florida O&P Laws and Rules of the Board – Revised March 1, 2015

27 b. #20-494274 – Medical Errors and Omissions with Record Keeping for the O&P
28 Profession – Revised March 1, 2015

29 c. #20-494276 – Infection Control/HIV/AIDS for the O&P Profession – Revised March 1,
30 2015

31
32 After some discussion, this issue was tabled until the May 22, 2015 meeting because it was discovered that
33 a majority of the board members had not received the materials to review these courses.

34
35 c. Credentials – Brett Saunders: Nothing to report.

36
37 d. Disciplinary Compliance – Tommy Chmielewski

38
39 i. CMU Detailed Inventory Report: Nothing to report.

40
41 e. Healthy Weight – Ruphlal Gooljar: Mr. Gooljar was not present, so nothing was reported.

42
43 f. Legislation – Addam Griner: Mr. Griner stated that his only question, regarding his legislative items from the January 30
44 meeting, was already addressed.

45
46 Ms. Kalifeh from Capital City Consultants informed the board that a pending bill which would have allowed physical
47 therapists to perform certain duties within the scope of practice of Orthotists/Prosthetists was amended to remove
48 language that would allow such a change. She then asked for clarification on the outcome of the discussion regarding
49 Rule 64B14-4.001, F.A.C., and Ms. Clark explained that the rule was adopted on March 3, 2015, and that no further
50 action was taken by the board.

51
52 g. Probable Cause – George Meyer

53
54 i. Stats: Mr. Meyer explained that he was unable to participate in the last Probable Cause meeting, and that
55 Mr. Chmielewski filled in on his behalf.

56
57 h. Rules – Mr. Saunders

- 1 i. Suggested Revisions to Disciplinary Guidelines, Rule 64B14-7.003, F.A.C.

2 Mr. Dierlam explained that it is not Prosecution Service's place to make suggestions or influence the board
3 regarding rule changes, and that the memo included in the agenda materials was for review by board
4 counsel.

5
6 Ms. Clark explained that she is in the process of reviewing this rule, and if any changes are needed, she will
7 place it on a future agenda for board discussion.

8
9 Mr. Griner asked Ms. Clark if she had any comments or guidance regarding the outcome of the recent
10 ruling in North Carolina Board of Dental Examiners v. Federal Trade Commission. Ms. Clark stated that
11 she believes that this board will not be affected because the state of Florida has processes in place for a
12 business or individual to challenge a cease and desist order, which was not in place for this particular
13 instance in North Carolina.

- 14
15 i. Unlicensed Activity – Mr. Gooljar

- 16
17 i. Presentation by Chilo Casas – ULA Liaison

18 Sidronio "Chilo" Casas gave a brief presentation about the department's unlicensed activity unit. He
19 explained that the unit has only issued two cease and desist notices for this board from July 1, 2013 through
20 December 31, 2014. He went on to explain that the unit is trying to make reporting ULA as easy as
21 possible, and that they've started a marketing campaign throughout the state of Florida to encourage
22 consumers to report possible cases.

23
24 The board asked Mr. Casas to make another presentation at the next in-person meeting so that interested
25 members of FAOP could observe.

26
27 **Section X concluded at 10:23 a.m.**

28 **Section XI started at 10:23 a.m.**

29
30 **XI. NEXT MEETING DATE:** May 29, 2015 – Teleconference Call

31
32 **XII. ADJOURNMENT**

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

34 Vote: 4 yeas / 0 opposed; motion carried

35
36 **General Board Business concluded at 10:29 a.m.**

37 The meeting was adjourned at 10:29 a.m.