

FLORIDA | Board of Orthotists & Prosthetists

General Board Meeting
Sanibel Harbour Resort
17260 Harbour Pointe Drive
Ft. Myers, FL 33908

August 2, 2017



Brett Saunders, PO, FAAOP

Chair

Wayne Rosen, CPO, CPED, FAAOP

Vice-Chair

Anthony Spivey, DBA

Executive Director

The Florida Board of Orthotists and Prosthetists held a meeting on Wednesday, August 2, 2017, commencing at 9:00 a.m., or shortly thereafter. This meeting was held at Sanibel Harbour Marriott Resort and Spa, 17260 Harbour Pointe Drive, Ft. Myers, Florida 33908, to which all persons are invited to attend. Participants in this public meeting were made aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the board's website.

AGENDA

I. CALL TO ORDER (Roll Call):

Roll was called by Gail Curry.

BOARD MEMBERS PRESENT:

Brett Saunders, Vice Chair, CPO, FAAOP

Paul C. Weott, CPO

Lance A. Benson

BOARD MEMBER EXCUSED:

Wayne Rosen, CPO, CPED, FAAOP

BOARD STAFF PRESENT:

Anthony B. Spivey, DBA, Executive Director

Gail Curry, CPM, Program Operations Administrator

BOARD COUNSEL:

Robert Milne, Assistant Attorney General

Office of Attorney General

Audio/Visual:

Vanguard Audio Visual

Court Reporter:

Lee County Reporting Service D/B/A Martina Reporting

239-334-6545

II. APPROVAL OF MINUTES:

a. April 26, 2017

Action: Motion to approve the minutes from the April 26, 2017 meeting was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

III. DECLARATORY STATEMENT:

a. **Kim Wonsick**

Present w/o counsel

Discussion: Mr. Milne brought up 2 items that the Board needs to discuss. The first item is under section 125.25, F.S., the applicant must say with particularity the statute or rule that the declaratory statement is being asked and the topic in which the declaratory statement is resting and the rule or statute section the board in its discretion and interrupting its practice act can give a statement on. This declaratory statement merely refers to the chapter at large. It doesn't address a rule or section number. Therefore, this is facially deficient and is an invalid request for declaratory statement. The second question is outside the board's practice act and the board doesn't have the jurisdiction to define the question that is directly related to Nursing. Mr. Milne's recommendation is to have an order to deny this declaratory statement. A new declaratory statement would need to be filed with the correct reference to the statutes and/or rules. The order will give Ms. Wonsick the details to file the proper declaratory statement.

Action: Motion to deny the petition for declaratory statement was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

IV. BOARD APPLICATIONS:

a. **Lisa Litchford**

Present w/o counsel

Discussion: Ms. Litchford applied as an Orthotic Fitter Assistant and withdrew the application. She applied for an Orthotic Fitter license. Ms. Litchford did not qualify for the Orthotic Fitter License and was given the opportunity to withdraw and apply again as an Orthotic Fitter Assistant. She does hold a license as an Occupational Therapist in Florida. There was some question if she was working in Florida. She has only been working out of state. She has been working for 14 years in her field. She still needs to take the mandatory course for Laws & Rules. The Board office will hold everything pending her requirements for the criminal history and her mandatory course completions. Ms. Litchford is amending her application and waives her 90-day requirement on her application. This will be placed on the next agenda if she has met all the requirements. She is encouraged to attend.

Action: Motion to amend the application and hold it until next meeting pending receipt of the information from board counsel and Ms. Litchford's submission of the mandatory courses was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

V. RATIFICATION:

a. Licensure –

i. Orthotists/Prosthetists 330-332

Action: Motion to accept Orthotists/Prosthetists licenses 330-332 was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

ii. Prosthetists 117

Action: Motion to accept Prosthetists license 117 was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

iii. Orthotists 289-298

Action: Motion to accept Orthotists licenses 289-298 was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

iv. Orthotic Fitter 264-266

Action: Motion to accept Orthotic Fitter licenses 264-266 was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

v. Orthotic Fitter Assistant 348

Action: Motion to accept Orthotic Fitter Assistant license 348 was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

vi. Pedorthists 239

Action: Motion to accept Pedorthists license 239 was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

vii. Orthotic Resident 168-175

Action: Motion to accept Orthotic Resident license 168- 175 was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

viii. Prosthetic Resident 111-118

Action: Motion to accept Prosthetic Resident licenses 111-118 was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

b. Continuing Education

i. CE Providers and Courses Approved by CE Committee Chair

ii. CE Providers and Course Approved by Board Staff

Action: Motion to approve all CE Providers and Courses was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

VI. PROSECUTION REPORT:

a. Prosecutors Report

Dr. Spivey gave the report. Report is in the agenda for board review. There are 2 cases over 1 year old.

Action: Motion to allow Prosecution Services to continue the prosecution of cases over 1 year old was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

VII. BOARD COUNSEL REPORT:

Robert Milne gave the report as follows:

- a. June 2017 Rules Report**
- b. July 2017 Rules Report**
- c. Rule 64B14-7.003 (2) (j)**

There is some oversight on an outstanding issue raised by JAPC in a letter addressed to former Board Counsel Rachel Clark. Mr. Milne was not given a copy of this letter. The first offense, involving fraud and deceit, was not addressed. The minimum \$10,000 fine has been corrected. There are also some corrections made to the citations in the statute.

Action: Motion to accept the amendments from JAPC's letter dated March 2016 which has been corrected was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

120.695, F.S.

Mr. Milne asked, "Should a violation of this rule or any part of this rule be designated as a minor violation?"

Action: Motion to declare these are not minor violations was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

Mr. Milne asked, "Will the proposed Rule amendment have an adverse impact on the small business or be likely to directly or indirectly increase regulatory cost to any industry including Government in excess of \$200,000 in the aggregate in Florida within 1 year of after the implementation of the rule?"

ACTION: Motion to move that the approved revisions to the rules would not have a regulatory impact of \$200,000 in the aggregate in Florida within 1 year of after the implementation of the rule and it would not be designated a minor violation was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried

Mr. Milne gave news to the Board that there is a Federal Senate Bill, 1649, Restoring Board Immunity Act, potentially state professional boards could see their immunity to anti-trust suits restored should lawmakers act on a recently introduced bill that would encourage boards to do away with overly burdensome professional licensure requirements. This would exempt State Boards from anti-trust liabilities on the condition that they enact professional licensing reforms.

After voting the certificates for 126.95 can be executed by Dr. Spivey to save time. Dr. Spivey has been signing these certificates already.

ACTION: Motion to designate Dr. Spivey to sign the certificates under 126.95, F.S. was made by Mr. Saunders. Second by Mr. Benson.

Vote: 3 yeas / 0 opposed; motion carried.

VIII. CHAIR/VICE CHAIR REPORT:

Mr. Saunders has nothing to report at this time.

IX. EXECUTIVE DIRECTOR'S REPORT:

Dr. Spivey reminded Board members that the Chair/Vice Chair meeting will be held on September 18th in Tallahassee.

X. OLD BUSINESS:

i. 8 Hour Custom Molded Shoe Course

Mr. Rosen was presenting this topic but he is not in attendance today. This will go to the next meeting.

XI. NEW BUSINESS:

Letter from Mr. Merch asking that the Laws and Rules course can be reduced from a two-hour course to a one-hour course. Medical Errors course can be reduced from a two-hour course to a one-hour course. Medical Errors is mandated by Florida Statute and the Board doesn't have an option on this. Laws and Rules course needs to be presented with the full Board. Also, invite Mr. Merch to the meeting. Tabled until the next meeting.

XII. COMMITTEE REPORTS:

Dr. Spivey announced the following committees need a chairperson. He also gave a description of each open committee.

Budget
Continuing Education
Disciplinary Compliance
Healthiest Weight
Unlicensed Activity

These were filled as follows:

Budget – Will be moved to the Executive Director's Report.
Continuing Education - Wayne Rosen
Disciplinary Compliance - Brett Saunders
Healthiest Weight - Lance Benson
Unlicensed Activity - Paul Weott

a. **Budget –**

The budget will be moved to the Executive Director's report.

Dr. Spivey gave the Budget Report.

- b. **Continuing Education – Wayne Rosen**
- c. **Credentials – Brett Saunders**
- d. **Disciplinary Compliance – Brett Saunders**
- e. **Healthiest Weight – Lance Benson**
- f. **Legislation – Wayne Rosen**
- g. **Rules – Brett Saunders**
- h. **Probable Cause – Wayne Rosen**
- i. **Unlicensed Activity – Paul Weott**

XIII. NEXT MEETING DATE:

October 6, 2017 – Telephone Conference Call, unless there is discipline on the agenda.

There was discussion about the July 27, 2018 date being moved to the 25th to be held the day before the FAOP starts. Board agrees with this change.

Mr. Milne announce that 64B14.5.005, F.A.C. is being promulgated and should become effective in October.

Ronald Face, from the FAOP, spoke on the removal of the 64B14.5.005, F.A.C., rule that removes the Medical Errors for initial licensure. This is the rule that moves the requirements from 2 hours to 1 hour of Medical Errors. This would be 1 hour for initial licensure and 1 hour for renewal. HB 543 was passed in session and approved by the governor

A special meeting will be set up to have the applications reviewed and approved and the HB 543 will be addressed.

XIV. ADJOURNMENT:

Meeting was adjourned at 10:14 a.m.