

FLORIDA BOARD OF ORTHOTISTS AND PROSTHETISTS GENERAL BOARD MEETING

MEETING MINUTES

November 16, 2022, 9:00 A.M. EST



**Brett Saunders, CPO, FAAOP, Chair
Anne Dubois, CPO, LPO, Vice- Chair
Ashleigh K. Irving, Executive Director**



Please note that the meeting minutes reflect the actual order that agenda items were discussed during the meeting and may differ from the agenda outline.

I. CALL TO ORDER

The meeting was called to order on November 16, 2022, at 9:03 AM ET by Brett Saunders, CPO, FAAOP, Chair.

A. Opening Remarks

Opening Remarks were read by Mr. Saunders.

B. Roll Call

Roll call was conducted by Ms. Irving.

MEMBERS PRESENT:

Brett Saunders, CPO, FAAOP, Chair
Anne DuBois, CPO, LPO, Vice-Chair
Michael Wright, CPO, LPO
Lance A. Benson

BOARD STAFF:

Ashleigh Irving, Executive Director
Eric Pottschmidt, Program Operations
Administrator

BOARD COUNSEL:

Kara H. Aikens Assistant, Attorney General
Counsel
Donna McNulty, Special Counsel

DEPARTMENT OF HEALTH COUNSEL:

Cynthia NashEarly, Assistant General Counsel

COURT REPORTER:

For The Record - 850-222-5491

II. REVIEW AND APPROVAL OF MINUTES – August 5, 2022

Motion: by Ms. Dubois to approve the meeting minutes.
Second: by Mr. Wright.
Vote: passed unanimously.

III. DISCIPLINE

A. Settlement Agreement – Tyler G. Wells, POR., Case Number 2021-16482

(TS 00:03:22 Minutes) Tyler G. Wells was present and had legal representation present (David Muniz). Mr. Wright was recused due to participation in the Probable Cause Panel.



Ms. NashEarly presented the case before the Board with the following allegation:

Count I—Violation of Section 456.072(1)(x), Florida Statutes (2021), for failing to report to the Board in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

On or about November 8, 2021, in the County Court for Palm Beach County, Florida, Mr. Wells was found guilty of one count of domestic battery. Mr. Wells did not report this guilty finding to the Board in writing within 30 days.

The Department recommended the following penalties:

- Issuance of a letter of concern against Respondent's license
- \$250.00 fine to be paid within one (1) year from the date of the filing of the Final Order
- Respondent shall complete four (4) hours of continuing education in the area of Laws and Rules within one (1) year from the date of the filing of the Final Order
- Costs in the amount of \$968.32 to be paid within one (1) year from the date of the filing of the Final Order

(TS 00:05:20 Minutes) Respondent's counsel, Mr. Muniz, provided a statement before the Board.

After discussion, the Board took the following action:

Motion: by Ms. Dubois to accept the proposed Settlement Agreement.
Second: by Mr. Saunders.
Vote: passed unanimously.

B. Determination of Waiver – Jay John Rhodes, ORF, Case Number 2021-12938

(TS 00:07:25 Minutes) Jay John Rhodes was not present and did not have legal representation present. Mr. Wright was recused due to participation in the Probable Cause Panel.

Ms. NashEarly presented the case before the Board with the following allegation:

Count I—Violation of Section 456.072(1)(x), Florida Statutes (2016), for failing to report to the Board in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

On or about May 2, 2016, Mr. Rhodes pled nolo contendere to one count of Giving False Information or Reports to Police. Mr. Rhodes did not report his nolo contendere plea to the board in writing within 30 days. Ms. NashEarly noted that Mr. Rhodes was served by a publication in Lee County for four consecutive weeks beginning on June 15, 2022, after unsuccessful attempts of service via certified mail and personal service, and that the Department has not received a timely submitted election of rights or other response of pleading from Respondent.

(TS 00:08:52 Minutes) The Department presented the following motions for the Board's consideration and requested a vote on the following:

To accept the investigative report into evidence; to find that the Respondent was properly served and waived their right to a formal hearing, and to adopt the findings of fact and conclusions of law as set forth in the administrative complaint.



Motion: by Ms. Dubois to accept the motions as presented.
Second: by Mr. Saunders.
Vote: passed unanimously.

(TS 00:12:23 Minutes) The Department presented the following motions for the Board's consideration and requested a vote on the following:

To find that this constitutes a violation of the practice act.

The Department recommended the following penalties:

- Issuance of a letter of concern against Respondent's license
- \$250.00 fine to be paid within one (1) year from the date of the filing of the Final Order
- Respondent shall complete four (4) hours of continuing education in the area of Laws and Rules
- Costs by a separate motion

Motion: by Mr. Saunders to accept the motions as presented.
Second: by Ms. Dubois.
Vote: passed unanimously.

The Department requests costs in the amount of \$966.49 to be paid by Respondent within one (1) year from the date of filing of the Final Order.

After discussion, the Board took the following action:

Motion: by Mr. Saunders to accept the Department's recommendation.
Second: by Ms. Dubois.
Vote: passed unanimously.

IV. PROSECUTOR'S REPORT

<u>Case Status</u>	<u>Report</u> Date 4/19/2022	<u>Report</u> Date 6/30/2022	<u>Report</u> Date 6/30/22
Total cases open/active in Prosecution Services:	3	2	2
Cases in Emergency Action Unit:	0	0	0
Cases under legal review:	0	0	0
Cases awaiting supplemental investigation/expert opinion:	0	0	0
Cases with PCP recommendation:	2	0	0
Cases where probable cause has been found:	1	2	0
Cases where DOAH has been requested:	0	1	0
Cases pending before DOAH:	0	0	0
Cases on Board meeting agendas:	0	1	2
Cases on appeal:	0	0	0
Cases older than one year: *	1	1	0

* Does not include cases already agendaed for final action by the Board.



(TS 00:14:40 Minutes) Ms. NashEarly presented the Prosecutor's Report for review. Being that there were no open cases, there was no motion needed for the Board to authorize the continued prosecution of the year and older cases.

V. APPLICATION REVIEWS

A. Christopher Hicks, POR

(TS 00:15:32 Minutes) Christopher Hicks was present and did not have legal representation present. Mr. Hicks was before the Board for review of past discipline against his Alabama license as well as for review of his ABC certification in prosthetics.

Mr. Saunders stated that Mr. Hicks' education consisted of a bachelor's degree with some certificate courses which the Board has determined is equivalent to the statutory requirements, and that his experiential experience also meets the equivalency requirement.

Mr. Saunders noted that in the agenda materials he found a letter from the American Board reporting Mr. Hicks's examination results for orthotics, but that he did not see an examination report on prosthetics from the American Board, and that this was the only issue Mr. Saunders found with Mr. Hicks's application. Mr. Saunders noted that his concern was that Mr. Hicks did not successfully complete the State-approved exam in prosthetics or the Board's determined equivalency, the ABC examination.

Ms. Dubois noted that she did not see a certificate in orthotics and prosthetics included in the agenda materials, to which Mr. Hicks responded that he holds a certificate in orthotics from both ABC as well as a certification in orthotics from a Commission on Accreditation of Allied Health Education Programs (CAAHEP)-accredited institution (Century College).

(TS 00:21:20 Minutes) Mr. Saunders stated that Mr. Hicks would qualify for an orthotist license, but that he would not qualify for a prosthetist-orthotist license currently based on the provided information. Mr. Saunders explained that Mr. Hicks had the option to verbally amend the application to orthotist so that the Board may proceed with processing the application for orthotist licensure. Additional discussion then took place between Mr. Saunders and Mr. Hicks regarding Mr. Hicks's education and experience.

(TS 00:26:00 Minutes) Mr. Saunders stated that Mr. Hicks could choose to leave the application as-is, but that the application would be denied as incomplete. Mr. Hicks then verbally requested to have the application amended. Ms. Aikens stated that if Mr. Hicks was electing to amend the application, the Board was able to vote on that matter during the present meeting, and then Mr. Hicks would be able to complete the application form for an orthotist license.

Ms. Irving stated that herself and Mr. Pottschmidt would work with Mr. Hicks regarding submitting the appropriate application type for orthotist licensure. Ms. Irving added that it would be a cleaner process for Mr. Hicks to withdraw the current application to submit the new application form for orthotist licensure with the application fee from the current application being applied to the new application. Ms. Irving and Mr. Pottschmidt confirmed that the new application for orthotist licensure could be administratively approved by Board staff as it has been verified that he meets the requirements.



(TS 00:30:00 Minutes) Mr. Pottschmidt noted that the other matter that needed to be discussed by the Board was Mr. Hicks’s disciplinary history. Mr. Hicks also confirmed that he wished to proceed with withdrawing the current application to submit a new application for orthotist licensure.

(TS 00:32:00 Minutes) Mr. Hicks provided a statement before the Board regarding his disciplinary history. Mr. Pottschmidt confirmed to Mr. Saunders that Mr. Hicks’s disciplinary history was not disqualifying for licensure. Ms. Dubois noted that based on the provided materials, the initial incident occurred in 2012, but that the consent order was dated 2015, and inquired if this was the same incident or if these were two separate occurrences of using telemedicine for supervision of unlicensed individuals and violating the practice act. Mr. Hicks responded that these were both in reference to the same incident, but with two different judgments on file for the one incident.

After discussion, the Board took the following action:

Motion: by Ms. Dubois that upon reviewing discipline history, the Board would like to move forward with Mr. Hicks’ application for orthotist licensure.

Second: by Mr. Wright.

Vote: passed unanimously.

Motion: by Mr. Saunders to allow Mr. Hicks to withdraw his application for prosthetist-orthotist licensure, and to resubmit as an application for orthotist licensure with the application fee from the prosthetist-orthotist application being applied.

Second: by Ms. Dubois.

Vote: passed unanimously.

VI. REPORTS

A. Chair’s Report – Brett Saunders

Nothing to report.

B. Vice-Chair’s Report – Anne Dubois

Nothing to report.

C. Executive Director’s Report – Ashleigh Irving

i. Board Chair/Vice Chair Long-Range Planning Meeting

(TS 00:38:10 Minutes) Ms. Irving stated that the Board Chair/Vice Chair Long-Range Planning Meeting would be held on January 13th, 2023, in Tallahassee, Florida at the AC Marriott Hotel. Ms. Irving also noted that there was an election scheduled on the for this meeting, and that the Board Chair and Vice Chair would be invited to Tallahassee where all Chairs and Vice Chairs would be present for all 22 professions. Ms. Irving added that there would be representation present from the Attorney General’s Office, the Prosecution Services Unit, the Office of General Counsel, and HCPR, and that new initiatives and goals of the Department would be discussed during this meeting such as the ELI Virtual Chat AI and electronic license issuance.



ii. Financial Report

Ms. Irving directed the Board members' attention to the financial report included in the agenda materials, noting that the Board is currently in good standing. Ms. Irving added that she is in the process of scheduling a meeting with the Department accountant as well as the Budget Chair of the Board so that the financial report may be reviewed in more detail.

D. Board Counsel's Report – Kara Aikens

i. Rules Report

(TS 00:40:52 Minutes) Ms. Aikens presented the Rules Report for November 2022, noting the inclusion of Rule 64B14-4.003, F.A.C., and Rule 64B14-4.005, F.A.C., which were each scheduled to go into effect on December 4, 2022.

E. Committee Reports

i. Continuing Education – Anne Dubois

Nothing to report.

ii. Credentials - Brett Saunders

Nothing to report.

iii. Disciplinary Compliance - Brett Saunders

Nothing to report.

iv. Legislation – Anne Dubois

Nothing to report.

v. Rules - Brett Saunders

Nothing to report.

vi. Probable Cause – Michael Wright

Nothing to report.

vii. Unlicensed Activity – Michael Wright

Nothing to report.

viii. Malpractice Committee – Brett Saunders

Nothing to report.



VII. OTHER BUSINESS

A. 2023 Delegation of Authority

Ms. Irving presented the 2023 Delegation of Authority to the Board for review.

Motion: by Ms. Dubois to approve the Delegation of Authority.
Second: by Mr. Wright.
Vote: passed unanimously.

B. Ratifications

License Numbers Issued

Ms. Dubois stated that she would have to recuse herself the ratification for some licenses issued for the professions prosthetist-orthotist and prosthetist (POR License #424 and PRO License #210).

The MQA Reports included in the agenda materials showed the following licenses issued between July 27, 2022, and November 8, 2022: four prosthetists-orthotists licenses, one prosthetist license, three orthotist licenses, one orthotic fitter license, one orthotic fitter assistant license, two orthotic resident licenses, and four prosthetic resident licenses.

Motion: by Ms. Dubois to accept the ratification lists for 3101, 3102, 3103, 3104, 3105, 3109, and 3110 excluding POR License #424 and PRO License #210.
Second: by Mr. Wright.
Vote: passed unanimously.

Ms. Dubois recused herself.

Motion: by Mr. Saunders to accept the ratification for POR License #424 and PRO License #210.
Second: by Mr. Wright.
Vote: passed unanimously.

C. Elections

i. Chair

Motion: by Mr. Saunders to accept nomination of Mr. Saunders as Chairperson of the Board.
Second: by Ms. Dubois.
Vote: passes unanimously.



ii. Vice-Chair

- Motion:** by Ms. Dubois to accept nomination of Ms. Dubois as Vice-Chairperson of the Board.
- Second:** by Mr. Saunders.
- Vote:** passes unanimously.

VIII. FOR YOUR INFORMATION – Annual Report and Long-Range Plan

Mr. Saunders noted that the Annual Report and Long-Range Plan was included in the agenda materials for review.

IX. NEXT MEETING DATE

Mr. Saunders stated that the next meeting would be held on February 3, 2023, at 9:00 A.M. EST on the virtual platform Microsoft TEAMS.

X. PUBLIC COMMENTS

Mr. Saunders opened the floor for public comment. No public comment was made.

XI. ADJOURNMENT @ 9:51 A.M. EST