

TEXAS BOARD OF ORTHOTICS & PROSTHETICS

BOARD MEETING

Friday, August 15, 2014, 1:00 pm
William P. Hobby Jr. Building Room 100
333 Guadalupe St, Austin, TX 78701

MINUTES

Members Present

Leah Esparza
Miguel Mojica
Roy McCoy
Richard Neider
Ray Smith

Members Absent

Rebecca Brou
David Kercheval

Staff Present

Cindy Bourland
Michael De La Cruz
Yvonne Feinleib
Don Jansky
Carol Miller

Public Present

Jackie Adolph
Mike Allen
Katie Brinkley
James McCoy
Lisa Guichet
Natalie Stewart
Catherine Mize
Matt Wall

Agenda Item 1 was introduction of members, guests, and staff. The meeting was called to order by Ray Smith at 1:15 p.m.

Agenda Item 2 was discussion and possible action concerning board members who are inexcusably Absent from Regularly Scheduled Board Meetings, as defined under Texas Occupations Code Section 605.057(a)(5). Rebecca Brou was absent and her absence was excused; David Kercheval was absent and his absence was unexcused. Ray Smith made a motion to notify the Governor's appointments office that grounds exist for removal of Mr. Kercheval for failure to attend board meetings. The motion was seconded by Roy McCoy and passed.

Agenda Item 3 was review and approve the May 2, 2014 board meeting minutes. Miguel Mojica made a motion to approve May 2, 2014 board meeting minutes. The motion was seconded by Richard Neider and passed.

Agenda Item 4 was discussion and possible action regarding reports from the board committees

a. Licensing and Accreditation Committee. Miguel Mojica gave the report.

- Number of Applications Reviewed (22)
- Number of Applications Approved (21)
- Number of Applications Denied (0)
- Number of Applications Tabled (1)
- Discussion and Possible Action regarding Staff Recommendations on the Implementation of the New and Amended Rules related to Licensure Applications
- Review, Discussion, and Possible Action regarding the Evaluation of Orthotic- and Prosthetic-Related Degrees of Volunteers from Malaysia with current Texas Licensing Requirements. No action taken.

b. Enforcement Committee. Richard Neider gave the report.

- Number of Cases Reviewed (10)
- Disciplinary Action Recommended (1)
- Number of Cases Closed (9)
- Number of Cases Tabled
- Staff Report Concerning Update on Open Enforcement Cases, to include Tabled Enforcement Cases
- Staff Report Concerning Closed Enforcement Cases
- Discussion and Possible Action Concerning the Draft Sanction Guide

c. Rules Committee. Roy McCoy gave the report.

Review, Discussion, and Possible Action by the Rules Committee Regarding Public Comments Received and Committee Recommendations to the Board on Adoption of Amendments and New Rules Concerning Licenses and Registrations Issued by the Board, 22 Texas Administrative Code, Chapter 821: Richard Neider made the motion to accept proposed changes. The motion was seconded by Miguel Mojica and passed.

- Amendments to §§821.1, 821.2, 821.4, 821.5, 821.9, 821.10, 821.13, 821.16, 821.17, 821.20, and new §821.30 and §821.31. Richard Neider made the motion to accept proposed rules. The motion was seconded by Miguel Mojica and passed.

Review, Discussion, and Possible Action by the Rules Committee Regarding Amendments to the Rules Concerning the Licensure and Regulation of Orthotics and Prosthetics, 22 Texas Administrative Code, Chapter 821, including possible amendments to:

- Rule §821.15 Accreditation of Prosthetic and Orthotic Facilities regarding a new posting requirement for hours of operation. Richard Neider made a

motion to table the item and add it to next meeting agenda in November. The motion was seconded by Miguel Mojica and passed.

Discussion and Possible Action regarding a New Rule establishing Two Different Levels Orthotic Assistant licensure, with Different Educational Requirements and Different Scopes of Practice. Richard Neider made a motion to place in November agenda. The motion was seconded by Ray Smith and passed.

Discussion and Possible Action Concerning Petition for the Adoption of a Rule regarding Orthoses Sold by Online Retailers. Richard Neider to place on November agenda. The motion was seconded by Miguel Mojica and passed.

Agenda Item 5 was review, discussion, and possible action by the Texas Board of Orthotics and Prosthetics regarding adoption of new and amended rules concerning licenses and registrations issued by the board, 22 Texas Administrative Code, Chapter 821, after consideration of the rules committee report and recommendations, including:

Amendments to §§821.1, 821.2, 821.4, 821.5, 821.9, 821.10, 821.13, 821.16, 821.17, 821.20, and new §821.30 and §821.31. Richard Neider made the motion to accept proposed changes. The motion was seconded by Leah Esparza and passed.

Agenda Item 6 was review, discussion, and possible action by the Texas Board of Orthotics and Prosthetics regarding proposed amendments to §821.15 Accreditation of Prosthetic and Orthotic Facilities regarding a new posting requirement for hours of operation Richard Neider made a motion to table the item and place on November agenda. The motion was seconded by Miguel Mojica and passed.

Agenda Item 7 was review, discussion, and possible action regarding final disciplinary action on 1070-14-0014 & 0015, 1070-12-0008 and 1070-10-0038.

Roy McCoy made a motion to approve final disciplinary action on 1070-14-0014 & 1070-14-0015. The motion was seconded by Richard Neider and passed.

Miguel Mojica made a motion to approve final disciplinary action on 1070-12-0008. The motion was seconded by Roy McCoy and passed.

Roy McCoy made a motion to approve final disciplinary action on 1070-10-0038. The motion was seconded by Miguel Mojica and passed.

Agenda Item 8 was review, discussion, and possible action regarding default order on case 1070-10-0077. No action was taken.

Agenda Item 9 was review, discussion and possible action regarding status of cases at the Office of General Counsel awaiting hearings at the State Office of Administrative Hearings:

1070-09-0010. No action was taken.

1070-09-0014. An agreement has been reached at informal conference. No action was taken.

1070-09-0027. Roy McCoy made a motion to offer a second informal conference in November. The motion was seconded by Miguel Mojica and passed.

1070-10-0057. Roy McCoy made a motion to offer a second informal conference in November. The motion was seconded by Miguel Mojica and passed.

1070-10-0074. No action was taken.

1070-10-0075. No action was taken.

1070-11-0010. No action was taken.

1070-13-0002. The applicant will be offered a second informal conference in November.

1070-13-0023. The application was withdrawn, so the complaint will be closed.

1070-13-0029. No action was taken.

Agenda Item 10 was discussion of past enforcement cases in which a notice of violation (NOV) was issued and then withdrawn, and future enforcement actions. The board discussed the item. No action was taken.

Agenda Item 11 was review, discussion and possible action regarding requests for opening complaints by the board. The board discussed opening complaints based on a written complaint. No action was taken.

Agenda Item 12 was the report on the annual meeting of the Texas Chapter of the American Academy of Orthotics & Prosthetics held on August 8-9, 2014 in San Antonio, Texas. Ray Smith gave the report.

Agenda Item 13 was review, discussion and possible action regarding applications for the position of Executive Director, Texas Board of Orthotics and Prosthetics. Cindy Bourland gave the report.

Agenda Item 14 was presiding officer's report on current challenges and accomplishments; interaction with stakeholders, state officials, and staff; committee appointments and functions; workload of board members; and general information regarding the routine functioning of the board. Ray Smith gave the report.

Agenda Item 15 was Executive Director's report on program operations; customer service accomplishments, inquiries, and challenges; current and/or historical licensee statistics; media, legislative, and stakeholder contacts and concerns; workload processing; special projects assigned to Executive Director; general information regarding the routine functioning of the licensure program; and Executive Director's report concerning update on open, tabled, and closed enforcement cases as well as disciplinary action log and tool Yvonne Feinleib gave the report.

Agenda Item 16 was Professional Licensing and Certification Unit management report on unit organization and staffing; program costs and revenue; current operational initiatives; customer service accomplishments and challenges; workload processing and statistical information; status of rulemaking within the unit; legislative and media contacts and tracking; general information on functioning of the unit. Cindy Bourland gave the report.

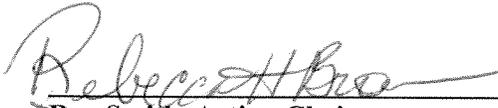
Agenda Item 17 was review, discussion and possible action regarding expanding the dates for future meetings of the Texas Board of Orthotics and Prosthetics from two to three days. The board discussed the item.

Agenda Item 18 was set next meeting dates. The next meeting dates were set for November 13-14, 2014 in Dallas, Texas. The meeting dates for 2015 were set for February 25-27, 2015; May 14-15, 2015; August 19-21, 2015; and November 18-20, 2015. All 2015 meetings will be held in Austin, Texas.

Agenda Item 19 was propose agenda items. No agenda items were proposed.

Agenda Item 20 was public comment. Two persons provided public comments.

Agenda Item 21 was adjournment. The meeting was adjourned at 3:26 p.m. by Ray Smith.



Ray Smith, Acting Chair
Professional Member



Date