

New Jersey Office of the Attorney General

DIVISION OF CONSUMER AFFAIRS ORTHOTICS AND PROSTHETICS BOARD OF EXAMINERS PUBLIC SESSION MINUTES July 29, 2014

The meeting of the New Jersey State Orthotics and Prosthetics Board of Examiners was held on July 29, 2014, at the State Office Building at 124 Halsey Street, Newark, NJ. The meeting was convened in accordance with the Open Public Meetings Act with previous notification having been sent to the Secretary of State and the following publications: The Record in Bergen County, The Star Ledger, Camden Courier Post, Trenton Times, Aisling Swift Press of Atlantic City and Asbury Park Press, to advise of the scheduling of this meeting. The meeting was called to order by Heikki Uustal, M.D. (Chair) at 10:20 A.M.

OPENING STATEMENT - Reading of "The Sunshine Law"

PRESENT - Board Members Heikki Uustal, M.D. (Chair)
Mildred E. Carlascio, LO, (Vice-Chair) and
Louis J. Haberman, LPO.

ALSO PRESENT: Deputy Attorney General Oo; and
Executive Director Laura L. Anderson.

I. MINUTES: May 15, 2014 Public Session Minutes Approval.

THE BOARD, UPON MOTION MADE BY MILDRED E. CARLASCIO AND SECONDED BY LOUIS J. HABERMAN, ACCEPTED THE MAY 15, 2014 PUBLIC SESSION MINUTES AS PRESENTED.

II. LEGISLATION

ASSEMBLY BILLS

Bill A- 3225 provides for licensure of chiropractic assistants.

Upon discussion, the Board took no position regarding this bill and considered this bill as informational.

III. BOARD ELECTION(Pursuant to N.J.S.A. 45:12 B-5)

Nominations for Chair and Vice-Chair of the Board before the Elections for Office, the Board opened nominations:

Dr. Heikki Uustal was nominated as a Chair by Louis J. Haberman and seconded by Mildred E. Carlascio.

Mildred E. Carlascio was nominated as a Vice-Chair by Louis J. Haberman and seconded by Dr. Uustal.

Submitted for Board consideration and vote was the slate of candidates nominated by the Board at this meeting.

A. Chair: Dr. Heikki Uustal B. Vice-Chair: Mildred E. Carlascio

THE BOARD, UPON MOTION MADE BY MILDRED E. CARLASCIO AND SECONDED BY LOUIS J. HABERMAN, VOTED TO CLOSE NOMINATIONS AND MOVE INTO ELECTIONS.

ACTION: The Board voted unanimously for Dr. Heikki Uustal as Chair.

Dr. Heikki Uustal was elected Chair of the Board to take effect immediately.

ACTION: The Board voted unanimously for Mildred E. Carlascio as Vice-Chair.

Mildred Carlascio was elected Vice-Chair of the Board to take effect immediately.

IV. CALENDAR YEAR 2015 MEETING SCHEDULE

(Proposed Dates)

January 15, 2015

July 16, 2015

March 19, 2015

September 17, 2015

May 21, 2015

November 19, 2015

THE BOARD, UPON MOTION MADE BY LOUIS J. HABERMAN, AND SECONDED BY MILDRED E. CARLASCIO ACCEPTED AND CONFIRMED THE DATES SCHEDULED FOR CALENDAR 2015.

V. APPLICATIONS REVIEW (INITIAL)

Orthotist-Prosthetist

Glenn A. Beall ID # 1626587

UPON MOTION MADE BY LOUIS J. HABERMAN AND SECONDED BY MILDRED E. CARLASCIO, THE BOARD DETERMINED THAT MR. GLENN A. BEALL BE REQUIRED TO PROVIDE A DETAILED CLARIFICATION REGARDING HIS RESPONSES TO QUESTIONS 11, 12 AND 13 OF THE APPLICATION FOR BOARD'S CONSIDERATION.

VI. CORRESPONDENCE

RE: Rutgers Services at Correctional Facilities
Anthony R. DiGironimo

Inquiry from Anthony R. DiGironimo regarding Rutgers' Request For Proposal (RFP) # R14-2451 to bidders for the provision of orthotics and prosthetics devices and related services at correctional facilities.

A RESPONSE LETTER TO MR. DIGIRONIMO HAS BEEN MAILED REFLECTING RUTGERS' CLARIFICATION AND MODIFICATION TO SECTION 2.1.1.2 OF THE RFP WHICH STATES THAT "TO THE EXTENT PERMITTED BY NEW JERSEY STATE LICENSING REGULATIONS, THE SUPPLIER MAY EMPLOY A LICENSED ORTHOTIST ASSISTANT OR LICENSED PROSTHETIST ASSISTANT TO PERFORM THE FOLLOWING SERVICES."

The Board considered this matter closed.

2. RE: Code L3000

A letter received from Anthony R. DiGironimo regarding PAL's recommended use of reimbursement for custom orthoses.

THE BOARD DETERMINED THAT THE INFORMATION PROVIDED TO THE BOARD WHICH WAS MARKED "FOR INFO ONLY" AS INFORMATIONAL.

3. RE: Off the Shelf/Orthotics /Medicare definition
Anthony R. DiGironimo

Information from Anthony R. DiGironimo regarding off-the-shelf orthotics and whether the Board would allow non-licensed individuals to fit rigid products that are considered braces and supports trunk or limb, limits motion, immobilizes, or protects joints, trunk, head, and neck, notwithstanding Medicare reimbursement policies.

UPON MOTION MADE BY LOUIS J. HABERMAN AND SECONDED BY MILDRED E. CARLASCIO, THE BOARD DETERMINED THAT A LETTER BE SENT TO MR. DIGIRONIMO STATING THAT THE BOARD REGULATES ANY CUSTOM FITTED OR CUSTOM DEVICES, RIGID OR SEMI-RIGID, THAT SUPPORT THE TRUNK OR LIMBS, LIMIT OR ASSIST MOTION IN ANY DIRECTION, OR IMMOBILIZE, STABILIZE AND PROTECT JOINTS, TRUNK, HEAD AND NECK, FOOT OR ANKLE, AND ARE APPLIED TO THE PATIENT FOR THE PURPOSE OF TREATING A DISEASE OR INJURY, WHEN PRESCRIBED BY A PHYSICIAN AS DEFINED IN N.J.S.A. 45:12B-3. NEW JERSEY LAWS EXEMPT FABRIC AND ELASTIC SUPPORTS, CORSETS, ARCH SUPPORTS, TRUSSES, ELASTIC HOSE, CANES, CRUTCHES, CERVICAL COLLARS, DENTAL APPLIANCES OR OTHER SIMILAR DEVICES CARRIED IN STOCK AND SOLD BY DRUG STORES, DEPARTMENT STORES, CORSET SHOPS OR SURGICAL SUPPLY FACILITIES.

4. RE: National Supplier Clearing House ("NSC")
Gladys C. Rivera

Gladys C. Rivera, Fraud Analyst at NSC requesting the Board to review the accuracy of the information shown on their database to insure DMEPOS suppliers are in compliance with regulations upon enrollment in the Medicare program.

Dr. Uustal to review the information on the website.

5. RE: DME Provider
Micah Grace

Micah Grace, a representative from a national DME with intention to provide diabetic shoes in New Jersey, inquired whether occupational therapists and physical therapists can provide non-custom diabetics shoes (A5500) and inserts (A5512) and whether certified occupational therapist assistants (COTA) and physical therapy assistants (PTA) can provide the same under the supervision and direction of the licensed occupational therapist and physical therapist.

THE BOARD, UPON THE MOTION MADE BY LOUIS J. HABERMAN AND SECONDED BY MILDRED E. CARLASCIO, DETERMINED THAT A LETTER BE SENT STATING THAT ONLY LICENSED ORTHOTISTS CAN ENGAGE IN THE ACTIVITIES AND SERVICES THAT ARE TRADITIONALLY THE FUNCTION OF A LICENSED ORTHOTIST INCLUDING THE DESIGNING, MANUFACTURING, FITTING, AND MODIFYING OF SHOES AND RELATED FOOT APPLIANCES, RIGID OR SEMI-RIGID, THAT SUPPORT, LIMIT OR ASSIST MOTION IN ANY DIRECTION, OR IMMOBILIZE, STABILIZE AND PROTECT FOOT OR ANKLE, AND ARE APPLIED TO THE PATIENT FOR THE PURPOSE OF TREATING A DISEASE OR INJURY, WHEN PRESCRIBED BY A PHYSICIAN AS DEFINED IN N.J.S.A. 45;12B-3. NEW JERSEY LAWS DO NOT APPLY TO CERTIFIED PEDORTHISTS, LICENSED MEDICAL DOCTORS, LICENSED PODIATRISTS AND LICENSED DENTISTS.

THE BOARD, UPON MOTION MADE BY LOUIS J. HABERMAN AND SECONDED BY MILDRED E. CARLASCIO, DETERMINED TO REFER THE QUESTION REGARDING THE PROVISION OF NON-CUSTOM DIABETICS SHOES (A5500) AND INSERTS (A5512) BY CERTIFIED OCCUPATIONAL THERAPIST ASSISTANTS (COTA) AND PHYSICAL THERAPY ASSISTANTS (PTA) UNDER THE SUPERVISION AND DIRECTION OF THE LICENSED OCCUPATIONAL THERAPIST AND PHYSICAL THERAPIST TO THE RESPECTIVE BOARDS THAT REGULATE THE PROVISION OF SAID DEVICES AND RELATED SERVICES.

6. RE: Board's regulations
Latham & Watkins LLP/Eric C. Greig

The Board received an inquiry from Eric C. Greig of Latham & Watkins LLP inquiring whether a person who acquires certification from ABC or similar organization (BOC) could provide fitting services for other orthoses, such as prefabricated knee or spinal orthoses, without becoming licensed by the state.

THE BOARD, UPON MOTION MADE BY LOUIS J. HABERMAN AND SECONDED BY MILDRED E. CARLASCIO, DETERMINED THAT A LETTER BE SENT TO STATE THAT ONLY LICENSED ORTHOTISTS CAN PROVIDE FITTING SERVICES FOR ORTHOSES, SUCH AS PREFABRICATED KNEE OR SPINAL ORTHOSES, PURSUANT TO N.J.S.A. 45;12B-3, WITH AN EXEMPTION FOR CERTIFIED PEDORTHISTS, LICENSED MEDICAL DOCTORS, LICENSED PODIATRISTS AND LICENSED DENTISTS. ADDITIONALLY, THE LETTER SHOULD INFORM MR. GRIEG THAT AFTER VIGOROUS DELIBERATIVE PROCESS AND STUDY, THE EXAMINATION PROVIDED BY THE AMERICAN BOARD FOR CERTIFICATION IN ORTHOTICS WAS DETERMINED TO BE THE MOST COMPREHENSIVE AT THE TIME WHEN THE REGULATION WERE PROMULGATED TO ASSESS AN APPLICANT'S KNOWLEDGE AND TRAINING FOR THE PURPOSE OF LICENSURE.

7. RE: DME Sales Rep.

Ulrich Froehlich

Inquiry from Ulrich Froehlich, a DME sales representative, regarding who can fit braces and what the requirements are for orthotist licensure.

THE BOARD, UPON MOTION MADE BY LOUIS J. HABERMAN AND SECONDED BY MILDRED E. CARLASCIO, DETERMINED THAT A LETTER BE SENT TO STATE THAT, NOT WITHSTANDING PAYMENTS FROM INSURANCE COMPANIES, ONLY LICENSED ORTHOTISTS CAN FIT BRACES, PURSUANT TO N.J.S.A. 45:12B-3. NEW JERSEY LAWS EXEMPT FABRIC AND ELASTIC SUPPORTS, CORSETS, ARCH SUPPORTS, TRUSSES, ELASTIC HOSE, CANES, CRUTCHES, CERVICAL COLLARS, DENTAL APPLIANCES OR OTHER SIMILAR DEVICES CARRIED IN STOCK AND SOLD BY DRUG STORES, DEPARTMENT STORES, CORSET SHOPS OR SURGICAL SUPPLY FACILITIES. NEW JERSEY LAWS ALSO EXEMPT CERTIFIED PEDORTHISTS, LICENSED MEDICAL DOCTORS, LICENSED PODIATRISTS AND LICENSED DENTISTS.

8. Orthotist Licensure
David E. Dauenheimer,
Assistant US Attorney

Inquiry from David E. Dauenheimer, Assistant US Attorney, inquiring whether unlicensed manufacturer representatives could do fittings of orthotics under the supervision of a physician in the physician office.

THE BOARD, UPON MOTION MADE BY LOUIS J. HABERMAN AND SECONDED BY MILDRED E. CARLASCIO, DETERMINED THAT DIVISION OF LAW RESPOND TO THE INQUIRY REGARDING THE SCOPE OF DELEGATION OF DUTIES OF PHYSICIANS IN THIS MATTER.

VII. INFORMATIONAL MATERIAL

David Rabe, Lic 45OR00000100 and 45PR00000200
Consent Order filed July 11, 2014

The Board considered this as information material.

VIII. ADJOURNMENT

At 12:55 P.M. the Board, upon a motion made by Louis J. Haberman and seconded by Mildred E. Carlascio, voted to adjourn the Public Session and moved to the Executive Session for advice of counsel and review of open matters (including any investigations and deliberations). When and if action is taken, it will be reported in Public Session.

The meeting was adjourned at 2:30 PM.

Respectfully submitted,

Laura L. Anderson
Executive Director