

The Florida

# Board of Psychology

## Draft Minutes

GENERAL BUSINESS MEETING  
JULY 25, 2014  
MINUTES  
*(Draft)*

HYATT REGENCY JACKSONVILLE RIVERFRONT  
225 E. COASTLINE DR.  
JACKSONVILLE, FL 32202  
(904) 588-1234



**Luis Orta, Ph.D.**  
Chair

**Dean Aufderheide, Ph.D.**  
Vice Chair

# Minutes

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**DEPARTMENT OF HEALTH  
BOARD OF PSYCHOLOGY  
GENERAL BUSINESS MEETING  
JULY 25, 2014  
MINUTES  
(Draft)**

**HYATT REGENCY JACKSONVILLE RIVERFRONT  
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**To accommodate individuals wishing to address the board, the board Chair may adjust the sequence of the agenda items. The minutes reflect the actual sequence of events rather than the original agenda order.**

## **CREDENTIALS COMMITTEE MEETING**

### **MEMBERS PRESENT**

Harry J. Reiff, Psy.D., Chair  
J. Drake Miller, Psy.D  
Administrator  
Ms. Mary D. O'Brien, J.D

### **STAFF PRESENT**

Allen Hall, Executive Director  
Anna L. Hart King, Program Operations

### **ASSISTANT ATTORNEY GENERAL**

Debroah Loucks, Esq.

**Dr. Harry Reiff, Chair, called the Credentials Committee to order at approximately 8:00 a.m.**

**(The applicants were not present or represented at the committee meeting unless otherwise noted.)**

### **Tab 1. Norella Jubiz Bassi Examination (Foreign Trained)**

Dr. Jubiz Bassi was present and sworn in. She was not represented by counsel.

Dr. Jubiz Bassi has applied for licensure under the examination method; however, her degree was received from Maimonides University in Argentina. Provided for the Board's review is the application, credentials evaluation and letter of APA comparability.

Following discussion, Dr. J. Drake Miller moved to approve the application. Ms. Mary D. O'Brien seconded the motion, which carried 3/0.

The Credentials Committee adjourned at 8:15 a.m.

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## GENERAL BUSINESS MEETING

**Dr. Luis Orta, Chair, called the general business meeting to order at approximately 9:00 a.m. Those present for all or part of the meeting, included the following:**

### MEMBERS PRESENT

Luis E. Orta, Ph.D., Chair  
Harry J. Reiff, Psy.D.  
Administrator  
J. Drake Miller, Psy.D.  
Andrew S. Rubin, Ph.D.  
Mary D. O'Brien, J.D

### STAFF PRESENT

Allen Hall, Executive Director  
Anna L. Hart King, Program Operations

### ASSISTANT ATTORNEY GENERAL

Deborah Loucks, Esq.

### ASSISTANT GENERAL COUNSEL

Lealand McCharen, Esq.

### COURT REPORTER

Cindy Denise  
Statewide Reporting Services  
233 E. Bay St.  
Ste 606  
Jacksonville, FL 32202  
904-353-7706  
904-813-9280  
Statewide606@bellsouth.net

## DISCIPLINARY PROCEEDINGS

### MOTION FOR FINAL ORDER BY HEARING NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACTS

**Tab 1. William Leonard Kale, Case # 2011-04373 (p/c/p Dr. Luis Orta, Dr. Amy Swan, Ms. Ana Martin-Lavielle)**

Dr. Kale was present and sworn in. He was represented by Julie Gallagher, Esq. and Lauri E. Cleary, Esq.

Dr. Luis Orta recused himself due to his participation on the Probable Cause Panel. Dr. Dean Aufderheide presided in his stead.

Dr. Kale was charged by an Administrative Complaint with violating Section 490.009(1)(w), Florida Statutes (2012) through a violation of 456.072(1)(ii), Florida Statutes (2012) by being convicted of crimes related to health care fraud.

Ms. Mary D. O'Brien moved that the respondent was properly served with the Administrative Complaint and is entitled to an informal hearing. Dr. Harry Reiff seconded the motion, which carried 5/0.

Ms. Mary D. O'Brien moved to adopt the findings of fact as set out in the Administrative Complaint. Dr. Andrew Rubin seconded the motion, which carried 5/0.

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Ms. Mary D. O'Brien moved to adopt material in Tab 1 and any addendum material into evidence in the proceeding. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Ms. Mary D. O'Brien moved to adopt the conclusions of law as set forth in the Administrative Complaint and finds that this constitutes a violation of the practice act. Dr. J. Drake Miller seconded the motion, which carried 5/0.

Dr. Kale's attorney, Julie Gallagher addressed the Board requesting an indefinite suspension until the case is resolved.

The complainant in the case addressed the Board.

Dr. Kale's attorney, Lauri Cleary addressed the Board indicating their brief is due to the United States Court of Appeals on the appellate case on September 19, 2014. They anticipate it will take a year to eighteen (18) months to receive the court's opinion.

Assistant General Counsel, Lealand McCharen indicated the Department of Health's recommendation is revocation.

Following discussion, Dr. J. Drake Miller moved to revoke Dr. Kale's license with a \$10,000 fine and costs held in abeyance. Dr. Harry Reiff seconded the motion, which carried 5/0.

Following discussion, Dr. J. Drake Miller moved to impose costs of \$906.84. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Following discussion, Dr. J. Drake Miller moved to hold the fines and costs in abeyance for six (6) months following the determination of the appeal. Dr. Andrew Rubin seconded the motion, which carried 5/0.

## **MOTION FOR DETERMINATION OF WAIVER AND FOR FINAL ORDER BY HEARING NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT**

### **Tab 2. Richard Schulman, Case # 2013-02123 (p/c/p Dr. Luis Orta, Dr. Amy Swan, Ms. Ana Martin-Lavielle)**

Dr. Schulman was present and sworn in. He was represented by James Meyer, Esq..

Dr. Luis Orta recused himself due to his participation on the Probable Cause Panel. Dr. Dean Aufderheide presided in his stead.

Dr. Schulman was charged by an Administrative Complaint with violating Section 490.009(1)(t), Florida Statutes (2012) by failing to comply with a properly entered disciplinary final order in case 2011-08435, which required Dr. Schulman to practice only under the indirect supervision of a Board approved Supervisor. Dr. Schulman has treated numerous patients without the required supervision.

Ms. Mary D. O'Brien moved to accept the associated report into evidence, the respondent was properly served and will waive the right to a formal hearing, to adopt the findings of fact as set forth in the Administrative Complaint, and to adopt the conclusions of law as set forth in the Administrative Complaint. Dr. Andrew Rubin seconded the motion, which carried 5/0.

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Mr. Lealand McCharen informed the Board of the Department of Health's recommendation:  
Suspension until compliant  
Fine of \$5,000  
Reprimand

Dr. Schulman's supervisor, Michael Healy was unable to attend the meeting. He provided a report that was read into the record by Mr. James Meyer.

Following discussion, Dr. Harry Reiff moved to issue a reprimand of Dr. Schulman's license for failure to comply with the previous order and impose a \$3,000 fine to be paid within six (6) months. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Following discussion, Ms. Mary D. O'Brien moved to impose \$1,038.14 in costs to be paid within six (6) months. Dr. Andrew Rubin seconded the motion, which carried 5/0.

## **PROSECUTOR'S REPORT**

### **Tab 3. Lealand McCharen, Esq**

Total Cases open/active in PSU:	12
Cases under legal review:	3
Cases where PC Recom made:	1
Total Cases where PC has been found:	8
Cases in holding status:	0
Cases awaiting supp. invest.:	0
Cases in an 80 status:	6
Cases pending before DOAH:	0
Cases awaiting board action:	2
Cases in Emergency Action Unit:	3

Following discussion, Dr. Dean Aufderheide moved to allow the continuance of prosecuting cases that are over a year old. Ms. Mary D. O'Brien seconded the motion, which carried 6/0.

## **ADMINISTRATIVE PROCEEDINGS**

### **APPLICANTS FROM APA ACCREDITED PROGRAMS FOR EXAMINATION AND LICENSURE AS NOTED**

#### **Tab 4. List of Applicants**

Dr. Dean Aufderheide moved to approve the list of applicants for examination and licensure as noted. Dr. Andrew Rubin seconded the motion, which carried 6/0.

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### **PETITION FOR VARIANCE OR WAIVER AND REVIEW OF APPLICATION FOR LICENSURE**

#### **Tab 5. Janina Brandt**

Dr. Brandt was present and sworn in. She was not represented by counsel.

Dr. Brandt petitions for a variance or waiver of Rule 64B19-11.005, F.A.C. Supervised Experience Requirements, for the Board to consider the hours she received during her internship together with the hours she received post-doctoral as meeting the supervised experience requirements.

Following discussion, Dr. Dean Aufderheide moved to approve the petition for variance or waiver. Dr. J. Drake Miller seconded the motion, which carried 6/0.

Following discussion, Dr. Dean Aufderheide moved to approve the application. Dr. Andrew Rubin seconded the motion, which carried 6/0.

#### **Tab 6. Kathleen Gibney**

Dr. Gibney was present and sworn in. She was represented by Eric Eied, Esq.

Dr. Gibney petitions for a variance or waiver of Rule 64B19-11.0035, F.A.C. Licensure by Examination: Proof Satisfactory to the Board for the Purpose of Determining Eligibility for Examination, for the Board to consider her education that she received from Northeastern University, Boston, to be acceptable. Dr. Gibney received her doctorate degree on June 18, 1994, however her program was not APA accredited until October 31, 1995.

Following discussion, the Board recommended contacting the American Psychological Association (APA) to check on whether they might consider the date of the site visit consistent with accreditation since she was attending the university at that time.

Following discussion, Dr. Harry Reiff moved to deny the petition due to the statute requiring APA accreditation. Dr. Dean Aufderheide seconded the motion, which carried 6/0.

Dr. Gibney requested to withdraw the application. Dr. J. Drake Miller moved to accept the withdrawal. Dr. Andrew Rubin seconded the motion, which carried 6/0.

### **PERSONAL APPEARANCE REQUEST PURSUANT TO SECTION 456.013(3)(C), FLORIDA STATUTES**

#### **Tab 7. Mickaella Moreta**

Dr. Moreta was present and sworn in.

Dr. Moreta was before the June 6, 2014 Credentials Committee for review of her post-doctoral supervision. Dr. Moreta received her post-doctoral supervision from Dr. Bruce Kopp, who is now deceased. Dr. Stephen Zaslow, the director of the program where Dr. Moreta received her supervision, has submitted the Supervising Psychologist Verification form along with a statement regarding the training she received.

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The committee requested a personal appearance due to their concerns regarding the dates of supervision as well as Dr. Moreta's criminal history. Dr. Moreta has submitted corrections to Page 4 of the application per the committee's request.

Due to the Board's concerns regarding Dr. Moreta's judgement and recordkeeping, Dr. Harry Reiff moved to approve the application under the provision that Dr. Moreta receive six (6) months of indirect supervision during the first year of her practice. She will be required to submit CV's for three potential supervisors for Dr. Orta to review and select. The supervisor will be required to review at least twenty-five (25) percent of her cases and submit a report at the end of six (6) months. If the report is not satisfactory to Dr. Orta, Dr. Moreta will be required to appear before the Board with her supervisor. Dr. J. Drake Miller seconded the motion, which carried 6/0.

*At this point in the meeting, the Board broke for lunch at 12:00 p.m. and reconvened at 1:09 p.m.*

*At this point in the meeting, Tab 12 & 13 were taken out of order.*

## RULE STATUS REPORT

### Tab 12. Deborah Loucks, Assistant Attorney General

The following rules are in process:

- Rule 64B19-11.010 F.A.C., Limited Licensure

Rule Number	Title	Sent to OFARR	Rule Dev. Published	Notice Published	Adopted	Effective
64B19-11.010	Limited Licensure	03/27/14	04/04/14	04/22/14 07/07/14	04/25/14 JAPC 04/30/14 JAPC	Itr rec'd
	response			Tolled	05/05/14 JAPC	Itr rec'd

- Rule 64B19-17.004 F.A.C., Citations

Rule Number	Title	Sent to OFARR	Rule Dev. Published	Notice Published	Adopted	Effective
64B19-17.004	Citations	11/07/13	11/15/13			

- Rule 64B19-17.007 F.A.C., Mediation

Rule Number	Title	Sent to OFARR	Rule Dev. Published	Notice Published	Adopted	Effective
64B19-17.007	Mediation	11/07/13	11/15/13			

- Rule 64B19-15.003 F.A.C., Reactivation of Inactive Licenses

Rule Number	Title	Sent to OFARR	Rule Dev. Published	Notice Published	Adopted	Effective
64B19-15.003	Reactivation of Inactive Licenses	06/30/14	07/02/14			

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## The following rules have been adopted:

- Rule 64B19-11.001 F.A.C., Examination

Rule Number	Title	Sent to OFARR	Rule Dev. Published	Notice Published	Adopted	Effective
64B19-11.001	Examination	03/27/14	04/04/14	04/22/14	05/21/14	06/10/14

- Rule 64B19-11.011 F.A.C., Provisional License; Supervision of Provisional Licensees

Rule Number	Title	Sent to OFARR	Rule Dev. Published	Notice Published	Adopted	Effective
64B19-11.011	Provision License	03/27/14	04/04/14	04/22/14	05/21/14	06/10/14
	Supervision of Provisional Licensees					

- Rule 64B19-11.012 F.A.C., Application Forms

Rule Number	Title	Sent to OFARR	Rule Dev. Published	Notice Published	Adopted	Effective
64B19-11.012	Application Forms	11/14/13	11/22/13	12/09/13	04/11/14	05/01/14

Following discussion, Dr. Dean Aufderheide moved to approved the Limited Licensure Application. Ms. Mary D. O'Brien seconded the motion, which carried 6/0.

Following discussion, Dr. Dean Aufderheide moved to drop the rule development on rules 64B19-17.004, F.A.C., Citations and 64B19-17.007, F.A.C., Mediation. Ms. Mary D. O'Brien seconded the motion, which carried 6/0.

## REPORTS, IF ANY

### Tab 13. Dr. Luis Orta, Ph.D. Other Board Members

#### Credentials Committee Report

Dr. Harry Reiff reported to the full Board the Credentials Committee's recommendation. The committee recommended approval of tab one (1)

Dr. Harry Reiff moved to ratify the recommendation of the committee. Ms. Mary O'Brien seconded the motion, which carried 6/0.

## REVIEW OF PROPOSED LEGISLATIVE ACTIONS

### Tab 8. Proposed Statutory Revisions Regarding Psychology Licensure Laws

Section 490.005, F.S., Licensure by Examination  
Section 490.006, F.S., Licensure by Endorsement

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During the June 20, 2014 Legislative Committee Meeting, Dr. J. Drake Miller agreed to consult with Rachel Clark on drafting language for the Endorsement of 20 Years of Licensed Psychology Experience method to remove the requirement that the applicant must possess a doctoral degree in psychology as described in Section 490.003, F.S.

The proposed draft language was provided for the Board's consideration.

Following discussion, the Board determined that they would leave the language as is.

## **Tab 9. Florida Board of Psychology Position Statement: Behavior Analysts**

Review of previous legislation regarding behavior analysts was before the Legislative Committee on June 20, 2014. The Committee re-stated its previous recommendation that the licensure and regulation of behavior analysts fall under the purview of the Board of Psychology. Dr. Harry Reiff agreed to draft a more detailed statement in support of the committee's recommendation for further discussion by the full Board.

Provided for the Board's review was Dr. Reiff's draft statement, in which he was asking for the Board's liberal critique and proposed edits. Additionally, Dr. Miller, Legislative Committee Chair, provided information from the APA Practice Directory outlining legal and policy issues regarding behavior analysis. A final summary of actions on CS/CS/SB 1212 (2014), the engrossed version of the bill and last analysis of the bill from the House Appropriations Committee were also provided for reference.

Following discussion, the Board accepted the position statement prepared by Dr. Harry Reiff. The Board requested that Allen Hall submit the official statement to the Bureau Chief and to the Legislative Planning office.

Florida Psychological Association (FPA) representatives Ms. Connie Galiette, JD, Executive Director and Dr. Carolyn Stimel, Director of Professional Affairs, addressed the Board indicating that FPA has made Behavior Analysts a top priority on their legislative platform.

Dr. Harry Reiff will speak with the Association of State and Provincial Psychology Board's (ASPPB) representatives, Dr. Steve DeMers and Dr. Alex Siegel to request they speak with the Florida Department of Health to provide their position on Behavior Analysts and to follow up with an official statement.

## **Tab 10. Background Screening as Part of Initial Licensure Process**

An inquiry was made as to whether or not the Board would support legislation that would require psychologists to undergo background screening as part of the licensure process. Provided for the Board's review was information regarding the background screening process.

Following discussion, Dr. Dean Aufderheide moved that the Board would not require fingerprinting for the initial application process. Dr. Andrew Rubin seconded the motion, which carried 6/0.

*At this point in the meeting, Tab 14 was taken out of order*

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## REPORTS, IF ANY

### Tab 14. Executive Director

#### Report topics

- Cash Balance Reports
- Expenditures by Function Report
  
- Cash Balance Reports

Informational Item

- Expenditures by Function Report

Informational Item

## RULES REVIEW AND/OR DEVELOPMENT

### Tab 11. Rule 64B19-11.010, F.A.C., Limited Licensure

During the June 20, 2014 Legislative Committee, Dr. Harry Reiff requested to review and discuss the rule regarding Limited Licensure where it defines underserved or critical need populations as people living within a twenty (20) mile radius of any site in the state which has no other psychologist practicing in that twenty (20) mile radius.

Following discussion, Dr. Harry Reiff has agreed to consult with Board attorney, Rachel Clark on drafting language to remove the restriction of the twenty (20) mile radius. The draft language will be presented at the October 17, 2014 General Business Meeting.

## NEW BUSINESS

### Tab 15. Reciprocity of Medical Errors Providers

Ms. Connie Galietti, Executive Director of the Florida Psychological Association (FPA) has requested the Board discuss the possibility of a reciprocity agreement between the Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling and the Board of Psychology to allow approved providers of Medical Errors under one Board to be recognized by the other.

The Board agreed to table this item pending the outcome of the July 31, 2014 Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling meeting.

### Tab 16. Correspondence from the American Board of Professional Neuropsychology (Dr. Kanter, Executive Director)

Dr. Kanter addressed the Board.

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## **OLD BUSINESS**

### **Tab 17. April 24-25, 2014 General Business Meeting Minutes**

Dr. Harry Reiff noted that the Legislative Committee discussed the veterans bill and requested that a mention of the discussion be made in the minutes. He also noted that on Page four (4), Ms. Janet Pippin Orwig's name will need to be removed as a presenter as she was not in attendance.

Dr. Dean Aufderheide moved to accept the minutes with noted changes. Dr. J. Drake Miller seconded the motion, which carried 6/0.

### **Tab 18. June 20, 2014 Legislative Committee Meeting Minutes**

Dr. J. Drake Miller moved to accept the minutes. Ms. Mary O'Brien seconded the motion, which carried 6/0.

### **Tab 19. June 27, 2014 Board Quorum Conference Call Minutes**

Dr. J. Drake Miller moved to accept the minutes. Dr. Dean Aufderheide seconded the motion, which carried 6/0.

## **OTHER BUSINESS AND INFORMATION**

### **Tab 20. National Practitioner Databank: Reporting Notices of Intent to Approve with Conditions**

The Division of Medical Quality Assurance's (MQA) Bureau of Operations has made the Board office aware of changes in the types of Board actions that are reportable to the National Practitioner Databank (NPDB).

Although it was known that Notices of Intent to Deny, for reasons other than basic credentialing requirements, were reportable, it has not been until within the last six months to a year that the Division has specifically been required by the U.S. Department of Health & Human Services to also report adverse information contained in conditional licensure orders. This new requirement was said to be a result of the NPDB and the Healthcare Integrity and Protection Data Bank (HIPDB) being consolidated into one by Congress.

The purpose of providing this notice to the Board is to allow the members to be informed of potential reporting to NPDB when conditions are imposed for issuance of a license. The Attorney General's Office is also apparently discussing these changes and each Board's attorney will advise accordingly in cases where the Board determines such conditions should be imposed.

Informational Item

### **Tab 21. ASPPB Disciplinary Data Report**

Informational Item

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**Tab 22. ASPPB Meeting Minutes**

Informational Item

**Tab 23. Psychology Staff Recognition**

Informational Item

The meeting adjourned at 2:46 p.m.