

The Florida

Board of Psychology

Draft Minutes

JANUARY 15, 2016

**BOARD OF PSYCHOLOGY
GENERAL BUSINESS MEETING**

**B RESORT AND SPA
1905 HOTEL PLAZA BOULEVARD
ORLANDO, FLORIDA 32830
(407) 828-2828**



Dr. Dean Aufderheide, Ph.D
Chair
Dr. J. Drake Miller
Vice Chair

Minutes

**DEPARTMENT OF HEALTH
BOARD OF PSYCHOLOGY
GENERAL BUSINESS MEETING
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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

J. Drake Miller, Psy.D
Ms. Mary D. O'Brien

STAFF PRESENT

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

ASSISTANT ATTORNEY GENERAL

Rachel Clark, Esq.

Dr. J. Drake Miller, called the Credentials Committee to order at approximately 8:03 a.m.

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

Tab 1. Ashok Chhabra Exam with Waiver

Dr. Chhabra was present and sworn in. He was not represented by counsel.

Dr. Chhabra was before the November 6, 2015 Credentials Committee under the Endorsement of Other State License method, however, he requested to withdraw his application and change his method to Exam with Waiver. He was unable to locate his supervisor to complete Florida supervision forms, therefore, he has submitted supervision forms from New York for your consideration.

Provided for the committee's review was the application, transcripts and supervision forms.

Following discussion, Ms. Mary O'Brien moved to approve the application. Dr. J. Drake Miller seconded the motion, which carried 2/0.

Minutes

Tab 2. Carla DiBrino Examination

Dr. DiBrino was not present and was not represented by counsel.

Dr. Di Brino has applied for licensure under the Examination method. Her doctorate degree was received from Adler School of Professional Psychology on 04/30/1999 and her degree requirements were complete on 10/02/1998, however, the clinical program was not APA accredited until 11/13/1998. She has also submitted supervision forms from one of her post-doctoral supervisors, Dr. Christopher Higgins, however, the dates and hours are inconsistent with the supervision forms that were received from Illinois. Dr. Di Brino has stated that only the hours needed for licensure in Illinois were documented on the Illinois forms, however, her supervision under Dr. Higgins continued on.

Provided for the committee's review was the application, transcripts and supervision forms as well as a statement from Dr. Higgins verifying that Dr. Di Brino received additional hours of supervision.

Following discussion, Dr. J. Drake Miller moved to approve the application. Ms. Mary O'Brien seconded the motion, which carried 2/0.

Tab 3. William Perry Endorsement of 20 Years of Licensed Psychology Experience

Dr. Perry was present and sworn in. He was not represented by counsel.

Dr. Perry is before the committee due to his "yes" answer on number 32 of the application indicating that he has been convicted of, or entered a plea of guilty, nolo contendere, or no contest to a crime in any jurisdiction. He was convicted of fraud and false statements in 1997.

Provided for the committee's review was the application, transcripts and criminal history documents from the US District Court in Northern California.

Following discussion, Dr. J. Drake Miller moved to approve the application. Ms. Mary O'Brien seconded the motion, which carried 2/0.

ADDENDUM

CREDENTIALS COMMITTEE

Tab 4. Lauren Mason Exam with Waiver

Dr. Mason was not present, nor represented by counsel.

Dr. Mason has applied for licensure under the Exam with Waiver method and has waived the 90 day requirement for board action on her application. She has submitted supervision forms indicating she has only received one hour per week of clinical supervision under Dr. Keith Hannan. Rule 64B19-11.005, F.A.C., Supervised Experience Requirements provides, as follows:

(c) The post-doctoral training must be a cohesive and integrated training experience which includes the following criteria:

3. It includes an average of at least two (2) hours of clinical supervision each week, at least one (1) hour of which is individual face-to-face supervision.

Minutes

Provided for the board's review was the application, transcripts and supervision forms.

Following discussion, Dr. J. Drake Miller moved to deny the application with the option to withdraw within 14 days of the filing of the final order. Ms. Mary O'Brien seconded the motion, which carried 2/0.

The Credentials Committee adjourned at 8:16 a.m.

Call to order - General Business Meeting

GENERAL BUSINESS MEETING

Dr. J. Drake Miller, Vice Chair, called the general business meeting to order at approximately 9:02 a.m. Those present for all or part of the meeting, included the following:

MEMBERS PRESENT

J. Drake Miller, Psy.D, Vice Chair
Andrew Rubin, Ph.D.
Mary D. O'Brien, J.D
Dr. Randi Mackintosh, PsyD
Dr. Catherine Drew, Ph.D

STAFF PRESENT

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

MEMBERS ABSENT

Dr. Dean Aufderheide was excused from this meeting.

ASSISTANT ATTORNEY GENERAL

Rachel Clark, Esq.

COURT REPORTER

Diana Garcia
American Court Reporting
407-896-1813

ANTITRUST PRESENTATION

Tab 1. Rachel Clark

This item has been withdrawn from the agenda and will be heard by the Board at a future meeting.

Tab 2. Antitrust Opinion

Provided for the Board's review was a synopsis of an application of the Supreme Court's antitrust opinion (see North Carolina State board of Dental Examiners v. Federal Trade Commission, 135 S.Ct. (2015)) to the Texas Medical Board.

The case, Taladoc, Inc., Et Al., v. Texas Medical Board Et Al. was also provided.

Ms. Rachel Clark provided a brief synopsis. Dr. J. Drake Miller indicated the Board should be cautious regarding potential anti-competitive decisions/actions.

Minutes

Tab 3. FTC Staff Guidance on Active Supervision of State Regulatory Boards Report

Ms. Rachel Clark provided a brief overview.

MOTION TO VACATE FINAL ORDER

Tab 4. Vanja Abreu

Dr. Abreu was present and sworn in. She was represented by

Dr. Vanja Abreu voluntarily relinquished her license during the April 26, 2013 General Business meeting following an Administrative Complaint alleging that she had been adjudicated guilty of crimes related to healthcare fraud in violation of Section 490.009(1)(w) and 456.072(1)(II) Florida Statutes. At the time of the Final Order, Dr. Abreu had in fact been convicted of Conspiracy to Commit Health Care Fraud, in violation of 18 U.S.C. Section 1349 in United States v. Vanja Abreu, case number 11-20100-Cr-Seitz (S.D.Fla). Immediately upon her conviction becoming final, Dr. Abreu filed a Notice of Appeal challenging the conviction in the Eleventh Circuit Court of Appeals. On October 29, 2015, The Eleventh Circuit Court of Appeals issued the Mandate of the Court reversing the conviction, vacating her sentence and remanding to the district court with instructions that it enter a judgement of acquittal. Based upon the conviction that has now been vacated, Dr. Abreu is requesting the Board vacate the Final Order and reinstate her license.

Following discussion, Ms. Mary O'Brien moved to vacate the final order and reinstate Dr. Abreu's license. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Tab 5. Carrie McNamara, Esq.

As of December 30, 2015, there were **27 open disciplinary cases** in the PSU Detailed Inventory.

- Under Legal Review: 21
- PC recommendation made or no PC found and not yet closed: 6
- Probable cause found: 0

Cases Older Than One Year:

2014:	13
Total:	13

Of the 27 open cases, 2 are in the Emergency Action Unit (EAU). Of the 25 cases in the Allied Section, all are assigned to me, one has been downgraded from EAU, four are new since the last Prosecutor's Report, four are awaiting expert review, and four will go to the next PCP meeting.

Activity Since Last Meeting

- Caseload size since last meeting: 15% reduction
- Cases older than one year: 25% reduction

Following discussion, Dr. J. Drake Miller moved to continue the prosecution of cases one (1) year or older. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Minutes

APPLICANTS FROM APA ACCREDITED PROGRAMS FOR EXAMINATION AND LICENSURE AS NOTED

Tab 6. List of Applicants

Dr. J. Drake Miller moved to approve the list of applicants for examination and licensure as noted. Ms. Mary O'Brien seconded the motion, which carried 5/0.

FILE CLOSURE APPLICANTS FOR DENIAL PURSUANT TO §490.005(3)(b), F.S.

Tab 7. List of Applicants

Dr. Lazara Gascon was removed from the list due to the withdrawal of her application. Following discussion, Dr. J. Drake Miller moved to approve the list of applicants for file closure as noted. Dr. Andrew Rubin seconded the motion, which carried 5/0.

PETITION FOR VARIANCE OR WAIVER AND REVIEW OF APPLICATION FOR LICENSURE

Tab 8. Sonia Borghino-Gavotti Examination

Dr. Borghino-Gavotti was not present, nor was she represented by counsel.

Dr. Borghino is before the Board for review of her application under the foreign-trained examination method. Dr. Borghino has also submitted a Petition for Variance from Rule 64B19-11.005, F.A.C., with regard to her supervised experience.

Section 490.005, F.S., provides as follows with regard to applicants who completed their studies outside of the U.S. and Canada:

- (1) Any person desiring to be licensed as a psychologist shall apply to the department to take the licensure examination. The department shall license each applicant who the board certifies has:*
- (b) Submitted proof satisfactory to the board that the applicant has:*
- 2. Received the equivalent of a doctoral-level psychological education, as defined in s. 490.003(3), from a program at a school or university located outside the United States of America and Canada, which was officially recognized by the government of the country in which it is located as an institution or program to train students to practice professional psychology. The burden of establishing that the requirements of this provision have been met shall be upon the applicant;*

Rule 64B19-11.0035, F.A.C., Licensure by Examination: Proof Satisfactory to the Board for the Purpose of Determining Eligibility for Examination further provides, as follows:

- (3) The following proof is satisfactory to the Board for the purpose of showing that the applicant's degree obtained outside of the United States or Canada was equivalent to a Ph.D. in psychology, a Psy.D., or an Ed.D. in psychology and was obtained from a program equivalent to a program accredited by a programmatic accrediting agency recognized and approved by the U.S. Department of Education: an original, signed letter on official letterhead confirming same and sent directly to the Board from the director of a doctoral psychology program accredited by the accrediting agency recognized and approved by the United States Department of Education. The letter shall enumerate the exact documents that were reviewed in determining comparability or augmentation. The Board shall also require the validation of degree and internship equivalence performed by a credentials' evaluation service acceptable to the Board.*

Minutes

Provided for the Committee's review were the essential documents required to begin their review of her application, to include the following:

- Licensure Application
- Education Documents
 - Credentials Evaluation Report c/o Josef Silny & Associates, Inc.
 - APA Comparability Letter c/o Jose' Pons Madera, Ph.D.
 - Letter from Dr. Borghino re: her Doctoral Studies
 - Certificates and Transcript of Doctoral training in Political Science at the University of Milan and Masters of Science training in Investigative Psychology at The University of Liverpool
- Experience Documents
 - Petition for Variance from Rule 6419-11.005, F.AC.
 - 90-Day Waiver Statement re: Action on Petition
 - Supervising Psychologist Verification Form and Letter prepared by Dr. Judith Margolin, NJ Licensed Psychologist #3493
- Staff Correspondence

Action Required:

The Board is asked to determine whether the applicant meets the requirements to be approved for licensure under the foreign-trained examination method. As part of that determination, the Board is also required to take action on the petition for variance submitted by the applicant.

Following discussion, Dr. Andrew Rubin moved to deny the application due to Dr. Borghino-Gavotti's degree not being equivalent to a doctorate degree in psychology. Dr. J. Drake Miller seconded the motion, which carried 5/0.

Following discussion, Dr. J. Drake Miller moved to deny the petition based on it fails to demonstrate that the purpose of the underlying statute has been or will be achieved and that application of the rule imposes a substantial hardship or violates principles of fairness. Ms. Mary O'Brien seconded the motion, which carried 5/0.

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

Tab 9. Joseph Cautilli Exam with Waiver

Dr. Cautilli was not present, nor represented by counsel.

Dr. Cautilli has applied for licensure under the Exam with Waiver method. He has waived the 90 day requirement for Board action on his completed application and has also submitted a petition for a variance or waiver of Rule 64B19-11.005, F.A.C., requesting the Board accept his supervision as acceptable for Florida Licensure. His post-doctoral supervisor, Dr. Jack Apache is deceased, therefore supervision forms from Pennsylvania have been submitted documenting 1500 hours. Dr. Cautilli also submitted supervision forms documenting additional hours he received under Dr. Gary Ames who is a licensed psychologist under a master's degree. A statement from an additional supervisor, Dr. Jeffrey Wexler has also been received.

Provided for the Board's review was the application, transcripts and supervision forms.

Minutes

Following discussion, Dr. J. Drake Miller moved to deny the petition for variance or waiver due to the purpose of the underlying statute not being met. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Following discussion, Dr. Andrew Rubin moved to deny the application due to the supervision requirements not begin met. Ms. Mary O'Brien seconded the motion, which carried 5/0.

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

Tab 10. Carmen Diaz Exam with Waiver

Dr. Diaz was not present, nor represented by counsel.

Dr. Diaz has filed a petition for variance or waiver of Rule 64B19-11.005, F.A.C., Supervised Experience Requirements. Dr. Diaz's application under the Exam with Waiver method was before the October 23, 2015 Credentials Committee meeting due her supervisor being deceased and supervision forms from New Mexico being submitted. The committee noted that one hour of her supervision was under a Licensed Independent Social Worker. They requested a personal appearance and suggested Dr. Diaz file a petition for variance or waiver of the supervision rule. Dr. Diaz has since submitted additional supervision forms from New Mexico and has filed the petition. She has also waived the 90 day requirement for board action on her application.

Provided for the board's review was the petition, application, transcripts and supervision forms.

Following discussion, Dr. J. Drake Miller moved to approve the petition for variance or wavier due to the intent of the underlying statute being met. Ms. Mary O'Brien seconded the motion, which carried 5/0.

Following discussion, Dr. J. Drake Miller moved to approve the application. Ms. Mary O'Brien seconded the motion, which carried 5/0.

Tab 11. Kelley Gill Bifurcation/Exam

Dr. Gill and her supervisor, Dr. John Mihalovich were both present and sworn in. She was not represented by counsel.

Dr. Gill applied for licensure under the Bifurcation/Exam method. Dr. Gill was before the November 6, 2015 Credentials Committee due to concerns regarding her supervision. The committee requested a personal appearance from Dr. Gill and her supervisor, Dr. John Mihalovich at the January 15, 2016 General Business meeting.

Provided for the committee's review was the application, transcripts and supervision forms.

Following discussion, Dr. J. Drake Miller moved to reconsider the application. Ms. Mary O'Brien seconded the motion, which carried 5/0.

Dr. Gill's supervisor, Dr. John Mihalovich addressed the Board.

Dr. Gill has indicated that she has begun another post-doctoral position and is accumulating hours under another psychologist.

Minutes

Following discussion, Dr. J. Drake Miller moved to approve the application under the Bifurcation/Exam method. Dr. Andrew Rubin seconded the motion, which carried 5/0. Dr. Gill will be required to complete additional months of supervision and will have two (2) years from the date of this board meeting to complete the hours. She will be required to submit a cohesive and integrated letter from her primary supervisor as well as a new Supervising Psychology Verification form.

RULES REVIEW AND/OR DEVELOPMENT

Tab 12. Rule 64B19-11.005, F.A.C., Supervised Experience Requirements

During the December 4, 2015 Board Quorum Conference Call, Dr. Aufderheide requested the supervision rule to be added to the January 15, 2016 General Business meeting for discussion regarding the cohesive and integrated requirement.

The Board discussed the rule and took no action.

Tab 13. Rule 64B19-11.012, F.A.C. Application Forms

Board staff proposes revisions to the psychologist licensure application to streamline the form and provide more direct and simplified instructions to applicants regarding the most efficient method by which to seek licensure. The major changes proposed are described below.

- To eliminate confusion regarding which applicants qualify for which methods, pages 2 and 3 of the application instructions are now categorized to indicate options available based on whether the applicant is an APA Graduate, ABPP Diplomate or Non-APA Graduate.
- In conjunction with the changes above, **Question 1, Application Methods**, is also now organized to clearly indicate the methods available dependent on the applicant's background.
- The current applicant requires both the applicant and post-doctoral supervising psychologist to document the experience. This is duplicative and often results in discrepancies and application processing delays.
- Rule 64B19-11.005, F.A.C., Supervised Experience, places the responsibility for compliance primarily on the post-doctoral supervising psychologist. Staff proposes that the **Supervising Psychologist Verification Form** be the only document required to document the post-doctoral experience and that **Part V. Supervised Experience** be removed from the application form.

Following discussion, Dr. Randi Mackintosh suggested adding the applicant's signature to the supervision form as well as the supervisors.

Following discussion, Dr. J. Drake Miller moved to approve the application. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Following discussion, Dr. J. Drake Miller moved to open the rule for development. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Following discussion, Dr. J. Drake Miller moved to delete paragraph 4 of the rule. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Minutes

Following discussion, Dr. J. Drake Miller moved that the change in Rule 64B19-11.012, F.A.C. would not have a negative impact on small businesses and the change in the rule would not have an economic impact on government or any entity in excess of \$200,000 within one year of the repeal of the rule. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Following discussion, Dr. J. Drake Miller moved that the date of birth may be removed from the application if necessary. Dr. Randi Mackintosh seconded the motion, which carried 5/0.

RULE STATUS REPORT

Tab 14. Rachel Clark, Assistant Attorney General

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

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
64B19-11.001	Examination	05/29/15	07/24/15	08/04/15	10/13/15	11/13/15	12/03/15

- Rule 64B19-11.004 F.A.C., Licensure by Examination: Additional Educational Requirements for Initial Licensure

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
64B19-11.004	Licensure by Examination: Additional Educational Requirements for Initial Licensure.	10/23/15	12/01/15				

- Rule 64B19-11.006 F.A.C., Incomplete Applications

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
64B19-11.006	Incomplete Applications	07/17/15 (ARR repeal)	09/24/15	N/A (repeal)	09/24/15	11/05/15	11/25/15

Minutes

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

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
64B19-11.012	Application Forms	05/29/15	07/24/15	08/04/15	10/13/15	11/13/15	12/03/15

- Rule 64B19-12.002 F.A.C., Application and Examination Fee for Licensure by Examination; Review Fee

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
64B19-12.002	Application and Examination Fee for Licensure by Examination; Review Fee	05/29/15	07/23/15	08/04/15	10/13/15	11/13/15	12/03/15

- Rule 64B19-12.003 F.A.C., Reexamination Fee

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
64B19-12.003	Reexamination Fee	05/29/15 (ARR repeal)	07/23/15	08/04/15 (repeal)	10/13/15	11/13/15	12/03/15

- Rule 64B19-12.011 F.A.C., Fee to Enforce Prohibition Against Unlicensed Activity

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
64B19-12.011	Fee to Enforce Prohibition Against Unlicensed Activity	07/17/15 (ARR repeal)	09/24/15	N/A (repeal)	09/24/15	11/05/15	11/25/15

Minutes

REPORTS, IF ANY

Tab 15. Dr. Dean Aufderheide, Ph.D.

Other Board Members:

Dr. Andrew Rubin, Healthiest Weight Updates, if any

Dr. Andrew Rubin provided brief comments regarding Healthiest Weight.

Tab 16. Executive Director

Report topics

- Cash Balance Reports

Informational Item

- Expenditures by Function Report

Informational Item

Tab 17. Credentials Committee Report

Dr. J. Drake Miller reported to the full Board the Credentials Committee's recommendation. The committee recommended approval of tabs 1, 2 and 3. Dr. Lauren Mason's application was denied.

Dr. J. Drake Miller moved to ratify the recommendation of the committee. Ms. Mary O'Brien seconded the motion, which carried 5.

Tab 18. First Time Renewals for Limited Licensees

Board Staff has requested a discussion on the continuing education requirements for first time renewals for Limited Licensees. Currently, the continuing education rule allows for psychologists to be exempt from the 40 hour continuing education requirement for their first renewal only, except for the 2 hour medical errors course, due to passing the Laws and Rules exam. Limited Licensees however, are not required to take the exam for initial licensure, and the rule does not clarify what is required for their first renewal.

This item has been withdrawn from the agenda.

NEW BUSINESS

Tab 19. Election of Officers

BOARD CHAIR:

Dr. Dean Aufderheide

VICE CHAIR:

Dr. J. Drake Miller

BUDGET LIASION:

Dr. J. Drake Miller

LEGISLATIVE LIASION:

Dr. Randi Mackintosh

Minutes

COMMUNICATIONS LIASION:

Dr. J. Drake Miller

UNLICENSED ACTIVITY LIASION:

Dr. Andrew Rubin

CONTINUING EDUCATION LIASION

Dr. Catherine Drew

Dr. Andrew Rubin as back-up

CREDENTIALS COMMITTEE:

Dr. J. Drake Miller, Chair

Ms. Mary O'Brien

Dr. Catherine Drew

Dr. Randi Mackintosh

HEALTHY WEIGHT LIASION

Dr. Andrew Rubin

PROBABLE CAUSE PANEL

Dr. Amy Swan

Dr. Luis Orta

Dr. Andrew Rubin

ASPPB DELEGATE

Dr. Andrew Rubin

Following discussion, Dr. J. Drake Miller moved to approve the list of candidate assignments as nominated. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Tab 20. Delegation of Authority and Conviction Record Guidelines

Following discussion, Dr. J. Drake Miller moved to approve the Delegation of Authority and the Conviction Record Guidelines. Ms. Mary O'Brien seconded the motion, which carried 5/0.

OLD BUSINESS

Tab 21. October 23, 2015 General Business Meeting Minutes

Following discussion, Dr. J. Drake Miller moved to accept the minutes. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Tab 22. December 4, 2015, Board Quorum Meeting Minutes

Following discussion, Dr. J. Drake Miller moved to accept the minutes. Ms. Mary O'Brien seconded the motion, which carried 5/0.

Minutes

OTHER BUSINESS AND INFORMATION

Tab 23. ASPPB Disciplinary Data Report

Informational Item

Tab 24. ASPPB Meeting Minutes

Informational Item

Tab 25. Psychology Staff Recognition

Informational Item

The meeting adjourned at 10:57 a.m.