

The Florida

Board of Psychology

Draft Minutes

JANUARY 20, 2017

**BOARD OF PSYCHOLOGY
GENERAL BUSINESS MEETING**

**SHERATON TAMPA EAST
10221 PRINCESS PALM AVENUE
TAMPA, FL 33610
(813) 623-6363**



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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(Draft)**

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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.

Call to order - General Business Meeting

GENERAL BUSINESS MEETING

Dr. J. Drake Miller, Vice Chair, called the general business meeting to order at approximately 8:09 a.m. Those present for all or part of the meeting, included the following:

MEMBERS PRESENT

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

STAFF PRESENT

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

MEMBERS ABSENT

Dr. Dean Aufderheide, PhD. Excused

ASSISTANT ATTORNEY GENERAL

Rachel Clark, Esq.
Diane Guillemette, Esq.

ASSISTANT GENERAL COUNSEL

Carrie McNamara, Esq.-Absent

DEPUTY GENERAL COUNSEL

Louise St. Laurent, Esq.

COURT REPORTER

Esquire Deposition Solutions
Julie Haley
1-800-838-2814

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DISCIPLINARY PROCEEDINGS

VOLUNTARY RELINQUISHMENT

Tab 1. John Alan Teal, Case # 2015-27985

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

On or about September 26, 2016, A Uniform Consumer Complaint was filed with the Department of Health, alleging that Dr. Teal violated the provisions of Chapter 490 or Chapter 456, Florida Statutes. In Lieu of undergoing further disciplinary proceedings, the Respondent returned an executed Voluntary Relinquishment of his license.

Following discussion, Dr. J. Drake Miller moved to approve the voluntary relinquishment. Dr. Randi Mackintosh seconded the motion, which carried 5/0.

PROSECUTORS REPORT

Tab 2. Carrie McNamara, Esq.

Total cases open/active in PSU:	27
Cases in EAU:	0
Cases in intake:	1
Cases under legal review:	10
Cases where probable cause recommendation made:	8
Cases where probable cause found/waived:	2
Cases in holding status:	0
Cases awaiting supplemental investigation:	2
Cases undergoing expert review:	4
Cases pending before DOAH:	0
Cases on agenda for current/future board meeting:	1
Cases older than one year:	7
2014:	2
2015:	5
Change in total since last report:	-2 cases (-22.2%)
Total Unlicensed Activity (ULA) Cases:	8
Under legal review:	6
Citation and/or Notice to Cease and Desist issued:	2
Formal hearing requested:	0
Change in total since last report:	-2 cases (-20%)

Following discussion, Ms. Mary O'Brien moved to continue processing cases over a year old. Dr. Catherine Drew seconded the motion, which carried 5/0

Discipline Items Ending Time: 8:17 a.m.

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ADMINISTRATIVE PROCEEDINGS

APPLICANTS FROM APA ACCREDITED PROGRAMS FOR EXAMINATION AND LICENSURE AS NOTED

Tab 3. List of Applicants

Dr. Randi Mackintosh indicated she had a supervisor relationship with applicant, Dr. Sarah Mbiza, however, that would not influence her or cause any bias.

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

APPLICANT REQUESTS FOR EXTENSION PURSUANT TO §490.005(3)(b), F.S.

Tab 4. Catherine Funes

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

Dr. Funes requested an extension of time allowed to complete the requirements for licensure.

Following discussion, Ms. Mary O'Brien moved to approve the request for an extension for an additional twelve (12) months. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Tab 5. Jill Ehrenreich May

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

Dr. May requested an extension of time allowed to complete the requirements for licensure.

Following discussion, Dr. Catherine Drew moved to approve the request for an extension for an additional twelve (12) months. 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 6. List of Applicants

Dr. Logan Kaleta withdrew his application and Dr. Catherine Funes was granted an extension, therefore, no action is required.

REVIEW OF PSYCHOLOGIST LICENSURE APPLICATIONS

Tab 7. Daniela Jaramillo, Endorsement of Other State License (WI 2001)

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

Dr. Jaramillo was initially before the June 6, 2014 Credentials Committee for review of her application under the Endorsement of Other State license method. Due to the Committee moving toward denial, as they determined the regulations of Wisconsin in 2001 were not as stringent as Florida's regulations at that time, Dr. Jaramillo requested to withdraw her application. She has since reapplied for licensure again under the Endorsement of Other State License method. Provided for the Board's review was the

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application and the regulations in effect in Wisconsin at the time the applicant was licensed in that state, as well as the applicable regulations in effect in Florida at that same time.

Following discussion, Dr. J. Drake Miller moved to deny the application based on the education and experience requirements from Wisconsin in 2001 not being equivalent to the same requirements in Florida during that same time. Ms. Mary O'Brien seconded the motion, which carried 5/0.

Tab 8. Tracy Alloway, Bifurcation Exam (Foreign-Educated)

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

Dr. Catherine Drew indicated she had a professional relationship with Dr. Alloway, however, that would not influence her or cause any bias.

Dr. Tracy Alloway has applied for licensure under the bifurcation/examination method, however, her doctorate degree was received from the University of Edinburgh in the United Kingdom. Provided for the Board's review was the application, credentials evaluation and letter of APA comparability.

Following discussion, Dr. Randi Mackintosh moved to approve the application. Dr. Andrew Rubin seconded the motion, which carried 5/0.

PETITION FOR VARIANCE OR WAIVER AND REVIEW OF LICENSURE APPLICATION

Tab 9. Eileen Diaz, Rule 64B19-11.005, F.A.C., Supervised Experience Requirements

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

Dr. Diaz initially applied for licensure on July 6, 2012. Her application was approved on September 18, 2012. She was granted a twelve (12) month extension at the September 26, 2014 Board Quorum Conference Call expiring on September 18, 2015. She withdrew her application on September 9, 2015. Dr. Diaz reapplied for licensure on January 13, 2016. After reviewing the previous file, staff noted that the Supervising Psychologist Verification form that was received with the initial application indicated that Dr. Diaz only received 725.5 hours of direct client contact. Dr. Diaz has filed a petition for variance or waiver of Rule 64B19-11.005, F.A.C., Supervised Experience Requirements requesting the Board to consider the direct client contact hours she received as a provisional psychologist as meeting the rule requirement.

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

Following discussion, Dr. J. Drake Miller moved to approve the application contingent upon receipt of documentation from her supervisor or an attestation from the institution verifying her direct client contact hours within 90 days. Dr. Andrew Rubin seconded the motion, which carried 5/0.

Following discussion, Dr. J. Drake Miller moved to deny the petition based on there is no hardship and the underlying purpose of the statute has not been met. Dr. Randi Mackintosh seconded the motion, which carried 5/0.

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PETITION FOR DECLARATORY STATEMENT

Tab 10. Giamarie Daino

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

Dr. Daino has submitted a petition for a declaratory statement requesting the Board to allow her to make recommendations for medical marijuana consults to physicians, including psychiatrists as well as other health care professionals, who are credentialed and granted the authority to prescribe medical marijuana.

Provided for the Board's review was the petition, the scope of practice for psychology located in Section 490.003(4), F.S., as well as Rule 64B19-17.002, F.A.C., Disciplinary Guidelines.

The Board is unable to offer an opinion at this time as there are no laws or regulations currently developed pertaining to medical marijuana. Dr. Daino has requested to withdraw her petition. She may file again in the future.

RULES REVIEW AND/OR DEVELOPMENT

Tab 11. Rule 64B19-11.012, F.A.C., Application Forms

During the November 17, 2016 General Business Meeting the Board approved changes to Rule 64B19-11.005, F.A.C., Supervised Experience Requirements. The proposed revisions to the application reflect the changes made to the rule. Pages 2, 12 and 13 of the application removes the reference to a Primary Supervisor and the written cohesive statement. Page 13, number 4 also describes what the additional hour of clinical supervision can include.

Provided for the Board's review is the revised application form as well as the recently approved draft of the supervised experience rule.

Following discussion, Dr. Randi Mackintosh moved to approve all changes presented. Dr. Catherine Drew seconded the motion, which carried 5/0.

Following discussion, Dr. Randi Mackintosh 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. Ms. Mary O'Brien seconded the motion, which carried 5/0.

Tab 12. Rule 64B19-17.002, F.A.C., Disciplinary Guidelines

Section 456.072, F.S., Grounds for Discipline, Penalties, Enforcement has been amended with the addition of the subsection (kk).

(kk) Willfully failing to comply with s. 627.64194 or s. 641.513 with such frequency as to indicate a general business practice.

During the November 17, 2016 General Business Meeting the Board moved to open Rule 64B19-17.002, F.S., Disciplinary Guidelines for development to add the violation.

Provided for the Board's review was the draft language.

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Following discussion, Dr. Randi Mackintosh moved to accept the draft language. Dr. J. Drake Miller seconded the motion, which carried 5/0.

Following discussion, Dr. J. Drake Miller moved that the change in Rule 64B19-17.002, 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. Randi Mackintosh seconded the motion, which carried 5/0.

REPORT OF ASSISTANT ATTORNEY GENERAL-Rachel Clark, Esquire

Tab 13. Rule Status Report

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

Ms. Rachel Clark provided the Rules Report

• Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
64B19-11.005	Supervised Experience Requirements		09/28/2016 11/30/2016	10/07/2016	12/12/2016		

REVIEW OF DRAFT PROPOSED LEGISLATION

Tab 14. Psychology Licensure Laws

Provided for the Board's review are the changes to the statutes discussed at the November 2016 General Business Meeting.

- 490.003, F.S., Definitions
- 490.005, F.S., Licensure by examination
- 490.006, F.S., Licensure by endorsement

Florida Psychological Association representatives, Dr. Zoe Proctor-Weber, Immediate Past-President and Dr. Nekeshia Hammond, President addressed the Board regarding the associations assistance on pushing the proposed legislation through. They suggested contacting Executive Director, Dr. Carolyn Stimel for follow up.

The Board took a break at 9:08 a.m. and reconvened at 9:30 a.m.

NEW BUSINESS

Tab 15. Discussion: Post-Doctoral Supervision-Review of Texas Board of Psychological Examiners 2016-17 Sunset Staff Report Findings

Dr. Miller has requested the Board's review of the **Texas State Board of Examiners of Psychologists' 2016-2017 Sunset Advisory Commission Staff Report** for purposes of discussing potential changes to the Florida Board's post-doctoral supervision requirements.

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Provided for the Board's consideration during the discussion were the documents noted below.

- November 2016 Minutes Excerpt outlining the last action taken by the Board regarding Rule 64B19-11.005, F.A.C., Supervised Experience Requirements
- Proposed Rule Language approved by the Board at the November 2016 meeting
- Texas State Board Report
- Currently Published Supervised Experience Rule and Underlying Statute

The Board has questioned whether there have been any problems in the fifteen (15) states that have implemented this. Dr. Carolyn Stimel, Executive Director of the Florida Psychological Association may have information on the other states. Dr. J. Drake Miller has indicated that any board members may provide additional information or questions to Board staff for future discussion.

Tab 16. Discussion: Pro-Bono Request from Licensee

The licensee has requested to table this item until the April 21, 2017 General Business meeting.

Tab 17. 2017 Psychology Board Election of Officers and Liaisons

Position	2016 Assignments	2017 Assignments
Chair	Dean Aufderheide, Ph.D.	J. Drake Miller, Psy.D.
Vice Chair	J. Drake Miller, Psy.D.	Andrew Rubin, Ph.D.
ASPPB Delegate	Andrew Rubin, Ph.D.	Andrew Rubin, Ph.D.
Budget Liaison	J. Drake Miller, Psy.D.	J. Drake Miller, Psy.D.
Continuing Education Liaison	Catherine Drew, Ph.D. Andrew Rubin, Ph.D. (CE Liaison Back-Up)	Catherine Drew, Ph.D.
Credentials Liaison	J. Drake Miller, Psy.D.	Randi Mackintosh, Psy.D.
Healthy Weight Liaison	Andrew Rubin, Ph.D.	Andrew Rubin, Ph.D.
Legislative Liaison	Randi Mackintosh, Psy.D.	Randi Mackintosh, Psy.D.
Unlicensed Activity Liaison	Andrew Rubin, Ph.D.	Mary D. O'Brien, J.D.

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Probable Cause Panel – As Currently Appointed by Board Chair	
PCP Chair	Dr. Harry Reiff
Past Board Member	Dr. Luis Orta
Current Board Member	Dr. Andrew Rubin
Alternate Past Board Member	Dr. Amy Swan
Alternate Past Board Member	Dr. E. Carol Webster

Following discussion, Ms. Mary O'Brien moved to nominate Dr. J. Drake Miller as the new Chair. Dr. Catherine Drew seconded the motion, which carried 5/0.

Following discussion, Dr. Randi Mackintosh moved to nominate Dr. Andrew Rubin as the new Vice-Chair. Dr. Catherine Drew seconded the motion, which carried 5/0.

Following discussion, Dr. J. Drake Miller moved to approve the elections as noted. Dr. Randi Mackintosh seconded the motion, which carried 5/0.

There will be no change to the Probable Cause Panel.

Tab 18. 2017 Psychology Board Delegation of Authority

The Delegation of Authority, reviewed and approved annually, facilitates administrative efficiency and documents when individuals or entities have been delegated to act on behalf of a Board/Council.

Delegations for each profession, in the board office, were analyzed for best practices and standardized where possible. A substantially revised document is presented for your consideration.

Each Board/Council is invited to review, make changes if necessary, and approve the 2017 delegation.

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

Tab 19. 2017 Psychology Board Conviction Record Guidelines

The Conviction Record Guidelines, reviewed and approved by the Boards/Councils, are used by staff to assist in determining which licensure applications require individual consideration at the quarterly meetings. Board/Council review of every applicant that reports a conviction of any kind, regardless of when the issue occurred, would be an inefficient process. As minor convictions and some more serious convictions, where significant time has elapsed, are generally not considered grounds for denial, a screening process based upon specific criteria allows the Board/Council to focus on applicants who may pose a risk to the public.

Current Conviction Record Guidelines for professions in the board office were analyzed for best practices and a standardized proposal is presented for your consideration. Time periods, terminology and headings have been amended. The "Notes" section was updated to provide additional clarity.

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Each Board/Council is invited to review, make changes if needed, and approve the 2017 Conviction Record Guidelines. The previously approved guidelines are provided to assist in your deliberations. Following discussion, the Board has requested that Section 456.0635, F.S., be added to Category 5 on the Conviction Record Guidelines.

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

OLD BUSINESS

Tab 20. November 17, 2016 General Business Meeting Minutes

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

REPORTS, IF ANY

Tab 21. Dr. Dean Aufderheide, Ph.D.

Other Board Members:

Dr. Andrew Rubin

- o Healthiest Weight Updates, if any

Dr. Catherine Drew presented the Continuing Education Ratification List. Following discussion, Dr. Catherine Drew moved to approve the list of Continuing Education providers and Medical Errors courses. Dr. J. Drake Miller seconded the motion, which carried 5/0.

PROVIDERS FOR PREVENTION OF MEDICAL ERRORS COURSES

Provider Names	CE Provider Numbers	Course Numbers	Approval Dates
Advanced Mental Health Training Institute	50-11996	20-558937	01/18/2017
CE4LESS	50-10860	20-551805	01/18/2017

Tab 22. Executive Director

Report topics

- o Cash Balance Reports

Informational Item

- o Expenditures by Function Report

Informational Item

OTHER BUSINESS AND INFORMATION

Tab 23. ASPPB Disciplinary Data Report

Informational Item

Tab 24. ASPPB Meeting Minutes

Informational Item

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Tab 25. Psychology Staff Recognition

Informational Item

ADDENDUM

APPLICANT REQUESTS FOR EXTENSION PURSUANT TO §490.005(3)(b), F.S.

Tab 26. Parinaz Nazarizadeh

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

Dr. Nazarizadeh requested an extension of time allowed to complete the requirements for licensure.

Following discussion, Dr. Randi Mackintosh moved to approve the extension request for an additional twelve (12) months. Ms. Mary O'Brien seconded the motion, which carried 5/0.

REVIEW OF PSYCHOLOGIST LICENSURE APPLICATIONS

Tab 27. Larry Gorbel Endorsement of Other State License (NY 1993)

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

Dr. Gorbel has applied for licensure under the Endorsement of Other State License method. Provided for the Board's review was the application and the regulations in effect in New York at the time the applicant was licensed in that state, as well as the applicable regulations in effect in Florida at that same time.

Following discussion, due to the Board moving toward denial, Dr. Gorbel withdrew his application.

OTHER BUSINESS AND INFORMATION

Tab 28. Anti-Trust

The Board has discussed, on multiple occasions, anti-trust issues arising from the United States' Supreme Court's opinion in North Carolina Board of Dental Examiners v. Federal Trade Commission. The Attorney General's Office prepared and presented a detailed presentation addressing the issue and your attorney continues to address questions as they arise.

Legislation at the Federal or state level may eventually address the issue although the timeframe is uncertain.

Anti-trust litigation brought by an individual or an entity is a civil matter. Risk Management will not cover the defense costs of board members for anti-trust actions. Nonetheless, section 456.008, F.S., provides that members will be defended and defense costs will be paid from the trust fund.

456.008 Accountability and liability of board members.

(1) Each board member shall be accountable to the Governor for the proper performance of duties as a member of the board. The Governor shall investigate any legally sufficient complaint or unfavorable written report received by the Governor or by the department or a board concerning the actions of the board or its individual members. The Governor may suspend from office any board member for

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malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform his or her official duties, or commission of a felony.

(2) Each board member and each former board member serving on a probable cause panel shall be exempt from civil liability for any act or omission when acting in the member's official capacity, and the department shall defend any such member in any action against any board or member of a board arising from any such act or omission. In addition, the department may defend the member's company or business in any action against the company or business if the department determines that the actions from which the suit arises are actions taken by the member in the member's official capacity and were not beyond the member's statutory authority. In providing such defense, the department may employ or utilize the legal services of the Department of Legal Affairs or outside counsel retained pursuant to s. [287.059](#). Fees and costs of providing legal services provided under this subsection shall be paid from a trust fund used by the department to implement this chapter, subject to the provisions of s. [456.025](#).

Members will be defended but a court could impose damages. Damages are not covered. However, your attorney is monitoring all board actions and advising of any anti-trust implications. Rule language is being reviewed by the Attorney General's Office for any anti-trust issues and the Board will be notified of any concerns.

The Board of Podiatric Medicine drafted two letters relating to anti-trust issues. Staff has been requested to provide those letters. Although the underlying court case presents challenges, members are encouraged to consider the protections provided by the checks and balances in place to monitor and address potential anti-trust issues before they become actionable. To date, no anti-trust actions have been filed against Department of Health Boards.

Mr. Allen Hall reminded the Board of the Attorney General's assistance in ensuring compliance.

RULES REVIEW AND/OR DEVELOPMENT

Tab 29. Reduction in Lines of Regulation Discussion

Each profession has again been tasked with reducing lines of regulation. While the intention is not remove language that is productive to effective regulation, rules often can be combined or streamlined. Each member is requested to review the rules in preparation for a discussion at the meeting.

Ms. Diane Guillemette, Esq. will review the psychology rules for possible streamlining. The Board members are welcome to provide input.

Dr. Miller invited anyone from the audience to come forward to address the Board. Dr. Richard Hoffman came forward and requested the Board consider revising Rule 64B19-19.005(3), F.A.C., Releasing Psychological Records, which states that states raw data may only be released to a licensed psychologist, or school psychologist licensed pursuant to Chapter 490, F.S., or Florida certified or when the release of the material is otherwise required by law. He has requested a clear statement from the Board indicating why psychologists are justified in doing that, as he believes HIPPA requirements are not as stringent. Ms. Rachel Clark referred him to Section 456.057(6), F.S., Ownership and control of patient records; report or copies of records to be furnished; disclosure of information. She also informed him that the Board only deals with Florida state law, not federal law and she suggested that he consult with a private attorney.

The meeting adjourned at 10:34 a.m.