

**The Florida
Board of Psychology**

**DEPARTMENT OF HEALTH
BOARD OF PSYCHOLOGY
GENERAL BUSINESS MEETING
APRIL 29, 2022**

MINUTES

**GENERAL BUSINESS MEETING
EMBASSY SUITES BY HILTON - TAMPA AIRPORT WESTSHORE
555 N. WESTSHORE BLVD
TAMPA, FL 33609
(813)875-1555**



**Dr. Randi Mackintosh, Chair
Ms. Mary (Denny) O'Brien, Vice-Chair**

**DEPARTMENT OF HEALTH
BOARD OF PSYCHOLOGY
GENERAL BUSINESS MEETING**

April 29, 2022

-MINUTES-

**Embassy Suites by Hilton - Tampa Airport Westshore
555 N. Westshore Blvd
Tampa, FL 33609
(813) 875-1555**

1 **Participants in this public meeting should be aware that these proceedings are being**
2 **recorded and that an audio file of the meeting will be posted to the Board's website.**

3 **8:00 a.m. EST**

4 **Call to order - General Business Meeting**

5 **Dr. Randi Mackintosh, Chair, called the general business meeting to order at**
6 **approximately 8:00 a.m. Those present for all or part of the meeting, included the**
7 **following:**

8 **MEMBERS PRESENT**

9 Dr. Randi Mackintosh, Psy.D., Chair
10 Mary (Denny) O'Brien, J.D.
11 Dawn Silver, Ph.D.
12 Madiley Broz, Psy.D.
13 Seema Weinstein, Ph.D.

STAFF PRESENT

Allen Hall, Executive Director
Anna King, Program Operations Administrator

14 **ASSISTANT ATTORNEY GENERAL**

15 Diane Guillemette, Esq.

ASSISTANT GENERAL COUNSEL

Christina Shideler, Esq.

16 **COURT REPORTER**

17 Magnolia Court Reporting
18 Cindy Green
19 407-896-1813

20 **DISCIPLINARY PROCEEDINGS**

21 **SETTLEMENT AGREEMENT**

22 1. Dr. Nancy M. Wonder, Case No. 2021-05720 (p/c/p Dr. Dawn Silver and Dr. Amy Swan)

23 Dr. Wonder was present and represented by legal counsel, Mr. Edwin Bayo, Esq.

24 Dr. Wonder was before the Board for alleged violations of Section 490.009(1)(w), F.S. (2017-
25 2019) through a violation of Rule 64B19-19.006(1) and/or (4), F.A.C., and 490.009(1)(r), F.S.
26 (2017-2019), for failing to meet the minimum standards of performance in professional activities
27 when measured against generally prevailing peer performance.

28 Dr. Silver & Dr. Mackintosh were recused from the discussion due to service on the probable
29 cause panel for this case.

1 Ms. Shideler presented the case to the Board.

2 After discussion, a settlement agreement was proposed consisting of payment of a fine of \$1,500,
3 completion of 10 hours of continuing education credits in Ethics and Boundaries within 9- days,
4 probation of 1 year with 2 inspections (One at the beginning and the second 6 months from them.
5 A third inspection will be issued if there are any issues on the 11th month) and lastly payment of
6 costs totaling \$3,500 in one year's time.

7 **MOTION:** Dr. Weinstein moved to accept the proposed Settlement Agreement. The motion was
8 seconded by Dr. Broz and carried 3/0.

9 **DETERMINATIONS OF WAIVERS & HEARINGS NOT INVOLVING DISPUTED ISSUES OF**
10 **MATERIAL FACT**

11 2. Dr. Tricia D. Cassel, Case No. 2020-29110 (p/c/p Dr. Dean Aufderheide and Dr. Dawn
12 Silver)

13 Dr. Cassel was not present and not represented by legal counsel

14 Dr. Cassel was before the Board for an alleged violation of Section 490.009(1)(r), F.S. (2020), for
15 failing to meet the minimum standards of performance in professional activities when measured
16 against generally prevailing peer performance.

17 Dr. Silver was recused from the discussion due to service on the probable cause panel for this
18 case.

19 Ms. Shideler presented the case to the Board.

20 After discussion, Dr. Mackintosh and Dr. Weinstein agreed upon a \$1,000 fine to be paid within
21 one years' time, and a referral to PRN and suspension until cleared by the PRN.

22 **MOTION:** Dr. Mackintosh made a motion to accept the investigative report and exhibits into
23 evidence for the purposes of imposing penalty, that the Respondent was properly served and has
24 waived her right to a formal hearing and made a motion to adopt the findings of fact and
25 conclusions of law as set forth in the Administrative Complaint and that this constitutes a violation
26 of the Florida Statutes, as set forth in the Administrative Complaint. The motion was seconded by
27 Dr. Weinstein and carried 4/0.

28 **MOTION:** After discussion, Dr. Mackintosh made a motion to impose the stated penalties. The
29 motion was seconded by Dr. Weinstein and carried 4/0.

30 The Department requested that the Board assess the costs of prosecuting the case.

31 **MOTION:** Dr. Mackintosh made a motion to assess the costs of \$2,816.48 to be paid within one
32 year of the filing of the Final Order. The motion was seconded by Dr. Weinstein and carried 4/0.

33 **VOLUNTARY RELINQUISHMENT**

34 3. Dr. Andrea V. Pellegrini, Case No. 2021-34359 (p/c/p Waived)

35 Dr. Pellegrini was not present and represented by legal counsel, Mr. Edwin Bayo, Esq.

36 Dr. Pellegrini was before the Board for an alleged violation of Section 456.072(1)(z), F.S. (2021),
37 for being unable to practice with reasonable skill and safety to patients by reason of illness or use

1 of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental
2 or physical condition.

3 Ms. Shideler presented the case to the Board.

4 Prior to the Board Meeting, Dr. Pellegrini withdrew her Voluntary Relinquishment attentively, Dr.
5 Pellegrini agreed to a suspension until cleared by PRN and payment of a \$600 fine within one
6 year.

7 **MOTION:** Dr. Mackintosh moved to accept the withdraw of the Voluntary Relinquishment in
8 exchange of the agreement of a suspension until cleared by PRN and payment of the fine of \$600
9 within one years' time. The motion was seconded by Dr. Weinstein and carried 5/0.

10 Dr. Herkov was present on behalf of PRN and sworn in. Dr. Herkov confirmed PRN's willingness
11 to assist the licensee.

12 **MOTION:** Dr. Mackintosh verbally accepted the Settlement Agreement for the record. The motion
13 was seconded by Dr. Weinstein and carried 5/0.

14 **PROSECUTOR'S REPORT**

15 4. Christina Shideler, Esquire

16 Ms. Shideler presented the following prosecutor's report.
17

<u>Case Status</u>	<u>Report</u> Date 6/9/21	<u>Report</u> Date 1/11/22	<u>Report</u> Date 3/8/22
Total cases open/active in Prosecution Services:	20	21	22
Cases in Emergency ActionUnit:	0	1	0
Cases under legal review:	9	3	3
Cases awaiting supplemental investigation/expert opinion:	n/a	3	0
Cases with PCP recommendation:	2	3	8
Cases where probable causehas been found:	8	2	1
Cases where DOAH has been requested:	n/a	8	7
Cases pending before DOAH:	0	0	0
Cases on Board meeting agendas:	1	2	3
Cases on appeal:	0	0	0
Cases older than one year:	8	7*	8

18 Following discussion, Dr. Mackintosh moved to continue prosecuting cases older than 1 year. Ms.

1 O'Brien seconded the motion, which carried 5/0.

2 **ADMINISTRATIVE PROCEEDINGS**

3 **PERSONAL APPEARANCE PURSUANT TO §456.013(3)(c), F.S.,**

4 5. Teresa Torres Examination

5 Dr. Torres was present and not represented by legal counsel.

6 Dr. Torres previously applied for licensure under the Examination method in 2018. Dr. Torres
7 submitted a *Kansas Attestation of Supervised Psychology Professional Experience* for post-
8 doctoral experience completed in Alabama from 2005 – 2008. Dr. Torres indicated her original
9 supervisor could not be reached to complete Florida's form. During the November 2018 meeting,
10 the Board denied Dr. Torres' application due to its determination that her post-doctoral
11 supervision did not meet Florida's requirements. Thereafter, Dr. Torres opted to withdraw her
12 application to avoid a permanent record of denial.

13 Dr. Torres re-applied for licensure in September 2021. With her application, she provided a
14 personal attestation of the hours completed during her post-doctoral supervision. During the
15 October 29, 2021, meeting, the Board reviewed the application and determined to require Dr.
16 Torres' appearance at one of the next two scheduled meetings for further discussion, pursuant to
17 Section 456.013(3)(c), F.S.

18 Dr. Torres' application was last before the Board in January 2022 to review new post-doctoral
19 supervision completed under Florida-licensed psychologists from November 2017 – June 2021.
20 Due to her failure to personally appear at the January meeting, Dr. Torres must appear at the
21 April 2022 meeting to comply with the Board's order.

22 **MOTION:** Following discussion, Dr. Mackintosh moved to approve the application for psychologist
23 licensure. Dr. Silver seconded, which carried 5/0.

24 6. Rachel Scharlepp Bifurcation/Examination

25 Dr. Scharlepp was present and not represented by legal counsel.

26 Dr. Scharlepp has applied for licensure under the Bifurcation/Examination method. Dr. Scharlepp
27 is before the Board for review of her affirmative response on the application regarding a pending
28 investigation. The applicant notes that the next related legal proceeding is scheduled for July 25,
29 2022.

30 Provided for the Board's review was the application, supporting documents and criminal history
31 documents submitted by the applicant.

32 **MOTION:** Following discussion, Dr. Mackintosh moved to grant continuance of consideration of
33 the application until resolution of open case. Dr. Silver seconded, which carried 5/0.

34 **BREAK:** 9:01 a.m

35 **RECONVENED:** 9:17 a.m

36 **PETITION FOR DECLARATORY STATEMENT**

1 7. Dr. Francisco Martinez-Mesa re: Rule 64B19-19.005 & 19.006, F.A.C, Releasing
2 Psychological Records & Confidentiality

3 Dr. Martinez-Mesa is currently licensed in Florida and is requesting the Board's guidance as to
4 what is permissible to disclose during the deposition of a Court Case. The petition references
5 Rules 64B19-19.005 and 64B19-19.006, F.A.C., along with §456.059, F.S.

6 Provided for the Board's review was Dr. Martinez-Mesa's Petition for Declaratory Statement.

7 Dr. Martinez-Mesa was present and not represented by legal counsel.

8 **MOTION:** Following discussion, Dr. Mackintosh moved to deny the Petition for Declaratory
9 Statement. Ms. O'Brien seconded, which carried 5/0.

10 **LICENSURE RATIFICATION LISTS**

11 8. Licensed Psychologists

MOTION: Dr. Mackintosh moved to accept the ratification list as noted. Dr. Broz seconded, which
carried 5/0.

12 9. Licensed Provisional Psychologists

13 **MOTION:** Dr. Mackintosh moved to accept the ratification list as noted. Dr. Broz seconded, which
14 carried 5/0.

15 10. Limited License Psychologist

16 There were no limited licensees to ratify during this meeting.

17 **CONTINUING EDUCATION PROVIDER RATIFICATION LIST**

18 11. List of Applicants

19 **MOTION:** Dr. Mackintosh moved to accept the ratification list as noted. Dr. Weinstein seconded,
20 which carried 5/0.

21 **APPLICATION EXTENSION RATIFICATION LIST**

22
23 12. List of Applicants

24 **MOTION:** Dr. Mackintosh moved to accept the ratification list as noted. Dr. Broz seconded, which
25 carried 5/0.

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

27 13. List of Applicants

28 There were not File Closure applicants presented for closure

29 **RULES REVIEW & DEVELOPMENT**

1 14. Rule 64B19-18.004, F.A.C., Use of Test Instruments

2 During the January 2022 meeting, the Board approved proposed amendments to the testing rule
3 to specify requirements for testing via videoconferencing. The Board determined that a sunset
4 provision would not be necessary.

5 After filing notice of the proposed rule with the Department of State, Mr. Dierlam was contacted by
6 the Governor's Office of Fiscal Accountability and Regulatory Reform (OFARR), which informed
7 the "public health and safety" exception is no longer an option and that the Board must include a
8 sunset provision in the rule.

9 THE FULL TEXT OF THE PROPOSED RULE IS:

10 **64B19-18.004 Use of Test Instruments.**

11 (1) No Change.

12 (2) A psychologist who uses test instruments in the psychologist's practice of psychology:

13 (a) Must consider whether research supports the underlying presumptions which govern the interpretive statements
14 which would be made by the test instrument as a result of its completion by any service user;

15 (b) Must be able to justify the selection of any particular test instrument and the method that instrument is
16 administered for the particular service user who takes the test at the instruction of the psychologist;

17 (c) Through (d) No Change.

18 (3) Through (4) No Change.

19 (5) The face-to-face requirement of subsection (4) may be satisfied via Synchronous Online Video Communication
20 Technology ("videoconferencing") only if all of the following circumstances exist:

21 (a) The administration occurs via HIPPA complaint videoconferencing platform;

22 (b) Immediately prior to administration of the test instrument the psychologist independently verifies the service
23 user's, or the service user's guardian's if applicable, identification via a government issued picture identification;

24 (c) Immediately prior to administration of the test instrument the psychologist independently verifies the service
25 user is in a quiet setting free of distractions;

26 (d) The psychologist documents the rationale for test administration via videoconferencing in the service user's
27 records; and

28 (e) The psychologist provides the service user with a disclosure informing the service user that the test instrument
29 administration via videoconferencing could have unknown impacts on the acceptance of and/or weight given to resulting
30 evaluations and/or assessment by third parties.

31 A licensed psychologist who administers test instruments via videoconferencing as defined above must administer
32 the test instruments in a manner consistent with the prevailing standard of practice for the face-to-face administration of
33 test instruments under subsection (4) of this rule.

34 ~~(5)~~(6) It shall be a violation of this rule for a psychologist to sign any evaluation or assessment unless the
35 psychologist has had an active role in the evaluation or assessment of the subject as required by subsection (4), of this
36 rule. A psychologist may not sign any evaluation or assessment that is signed by any other person unless the psychologist
37 is signing as a supervisor, in conjunction with an evaluation or assessment performed by a psychological intern,
38 psychological trainee or psychological resident, or as a member of a multidisciplinary diagnostic team.

39 ~~(6)~~(7) "Test instruments" are standardized procedures which purport to objectively measure personal characteristics
40 such as intelligence, personality, abilities, interests aptitudes, and neuropsychological functioning including evaluation
41 of mental capacity to manage one's affairs and to participate in legal proceedings. Examples of such tests include
42 intelligence tests, multiple aptitude batteries, tests of special aptitudes, achievement tests, and personality tests
43 concerned with measures of emotional and motivational functioning, interpersonal behavior, interests, attitudes and
44 other affective variables.

45 Rulemaking Authority 490.004(4) FS. Law Implemented 490.003(4), 490.009(1)(r), (s), (v), (w) FS. History--New 6-
46 14-94, Formerly 61F13-20.004, Amended 5-19-97, Formerly 54AA-18.004, Amended 3-25-02, 11-18-
47 07, _____.

48
49 NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

50 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Psychology

1 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 28, 2022
2 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: March 10, 2022

3 **MOTION:** Following discussion, Dr. Mackintosh moved to add proposed text to sunset the
4 amendments to this rule on 4/30/27. Dr. Silver seconded the motion, which carried 4/1. Ms.
5 O'Brien opposed.

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

7 The Board's legislative proposal to remove the APA-accreditation requirement for the 10 Year
8 Endorsement application method was presented to the Legislature as part of CS/CS/SB 768
9 (2022), Department of Health. This bill passed and was signed by the Governor as of April 20,
10 2022, with an effective date of July 1, 2022.

11 Provided for the Board's review and action was a copy of the relevant parts of the bill, marked
12 and clean copies of the revised application and proposed rule language to incorporate the revised
13 form.

14 **MOTION:** Following discussion, Dr. Mackintosh moved to approve the revised application form
15 and rule language. Dr. Silver seconded the motion, which carried 5/0.

16 **MOTION:** Dr. Mackintosh moved the proposed rule language would not have an adverse impact
17 on small business. The proposed rule language would not have an economic impact on
18 government or any other entity in excess of \$200,000 within one year after the implementation of
19 the rule. Dr. Silver seconded the motion, which carried 5/0.

20 **MOTION:** Dr. Mackintosh moved the proposed rule language should not be designated as a
21 minor violation for first time offenses. Dr. Silver seconded the motion, which carried 5/0.

22 **MOTION:** Dr. Mackintosh moved there should not be a sunset provision. Dr. Silver seconded
23 the motion, which carried 5/0.

24 **REPORT OF ASSISTANT ATTORNEY GENERAL, DIANE GUILLEMETTE, ESQUIRE**

25 16. Rule Status Report

Ms. Guillemette presented the status of the following rules.

- 26 • Rule 64B19-12.006, F.A.C., Reactivation Fee and Charge of Status Fee

27 Effective Date 2/8/2022

- 28 • Rule 64B19-12.0085, F.A.C., Delinquency Fee

29 Effective Date 2/10/2022

- 30 • Rule 64B19-17.002, F.A.C., Disciplinary Guidelines

31 Effective Date 2/8/2022

- 32 • Rule 64B19-18.004, F.A.C., Use of Test Instruments

1 Pending

2 **OLD BUSINESS**

3 17. January 28, 2022, General Business Meeting Minutes

Following discussion, Dr. Mackintosh moved to approve the minutes as noted. Dr. Silver seconded, which carried 5/0.

4 **REPORTS, IF ANY**

5 18. Randi Mackintosh, PsyD.

6 ○ Other Board Members:

7 July 22nd Board Meeting has been moved to a conference call due to conflict for in-person.

8 19. Executive Director

9 Report topics:

10 ○ Cash Balance Report

11 ○ Expenditures by Function Report

12 Informational Item

13 **OTHER BUSINESS AND INFORMATION**

14 20. ASPPB Disciplinary Data Report

15 Informational Item

16 21. Florida Prescription Drug Monitoring Program (PDMP) Monthly Report

17 Informational Item

18 22. Psychology Staff Recognition

19 Informational Item

20 **ADJOURNMENT**

21 There being no further business the meeting adjourned at 10:30 a.m.