

**FLORIDA** | Board of Clinical Laboratory Personnel

DRAFT MINUTES

May 9 2014

Embassy Suites Orlando – Lake Buena Vista South  
4955 Kyngs Heath Road  
Kissimmee, Florida 34746



Michele Morgan, DBA

*Chair*

Carleen Van Siclen, MHHA, MLS (ASCP)

*Vice-Chair*

Adrienne Rodgers, BSN, JD

*Executive Director*

Sharon Guilford, CPM

*Program Operations Administrator*

1 **CALL TO ORDER/ROLL CALL** by Chair Dr. Michele Morgan

2 The Florida Board of Clinical Laboratory Personnel held a meeting on Friday, May 9, 2014, which  
3 was called to order at 9:00 a.m., at Embassy Suites Orlando – Lake Buena Vista South, 4955 Kyngs  
4 Heath Road, Kissimmee, Florida 34746, to which all persons were invited to attend. These  
5 proceedings were recorded and an audio file of the meeting was posted to the Board's website.  
6

7 **General Board Business started at 9:00 A.M.**

8  
9 Those present for all or part of the meeting included the following:

10  
11 **BOARD MEMBERS PRESENT:**

12 Michele Morgan, DBA, Chair  
13 Carleen Van Siclen, MSHA, MLS (ASCP), Vice Chair  
14 Linda Valdes, MS, MT(ASCP)  
15

16 **EXCUSED ABSENCE:**

17 Alvaro Hernandez, MBA  
18

19 **BOARD STAFF PRESENT:**

20 Adrienne Rodgers, BSN, JD, Executive Director  
21 Sharon Guilford, CPM, Program Operations Administrator  
22 Jose Montalvan, Regulatory Supervisor/Consultant  
23

24 **BOARD COUNSEL:**

25 Deborah Bartholow Loucks, Assistant Attorney General  
26 Office of the Attorney General  
27

28 **PROSECUTION COUNSEL:**

29 Elana J. Jones, Assistant General Counsel  
30 Department of Health, Office of the General Counsel  
31

32 **Begin 9:01 A.M.**

33  
34 **I. APPROVAL OF PREVIOUS MEETING'S MINUTES OF THE BOARD OF CLINICAL  
35 LABORATORY PERSONNEL:**  
36

37 Minutes of the March 11, 2014, General Business Meeting Telephone Conference Call were reviewed.  
38 Ms. Valdes noted the following correction to the minutes: Page 7 – her name is misspelled. Board  
39 staff replied that it had been corrected.  
40

41 Motion to accept the minutes was made by Ms. Van Siclen and seconded by Ms. Valdes.  
42

43 Vote 3 ayes/ 0 opposed; motion carried.  
44

45 **End 9:02 AM**

46 **Begin next section 9:02 AM**  
47

48 **II. DISCIPLINE:**

49 1. No Board members were recused due to participation on the probable cause panel.

1  
2 a. Respondent Eddie Pumarada Azalula, CLP was not present and was not represented by  
3 counsel.

4 An administrative complaint filed on September 10, 2013 alleged a violation of s. 483.825(1)(w),  
5 F.S., through a violation of s. 456.072(1)(q), F.S., by violating a lawful order of the Board.  
6 Specifically, Respondent failed to pay the \$500 fine and costs in the amount of \$579.52 by  
7 December 17, 2012, as mandated by the Final Order of the Board of Clinical Laboratory Personnel  
8 in case number 2009-24116.  
9

10 The Department of Health's Motion for Determination of Waiver and for Final Order by Hearing Not  
11 Involving Disputed Issues of Material Facts was presented to the Board.  
12

13 Following discussion, the following action was taken by the Board:  
14 Motion to find Respondent was properly served made by Dr. Morgan  
15 Second by Ms. Van Siclen  
16 Vote: 3 yeas / 0 opposed; motion carried  
17

18 Motion to find Respondent, who failed to respond to the Administrative Complaint, waived the right to  
19 a hearing, and to adopt findings of fact as alleged in the Administrative Complaint as the Board's  
20 findings made by Ms. Valdes, second by Ms. Van Siclen.  
21 Vote: 3 yeas / 0 opposed; motion carried  
22

23 Motion that findings of fact support the violation of the Practice Act as charged in the administrative  
24 complaint made by Ms. Van Siclen, second by Ms. Valdes.  
25 Vote: 3 yeas / 0 opposed; motion carried  
26

27 Motion that the Board accept into evidence the investigative file for purposes of determining penalty  
28 and the opportunity to make a penalty recommendation made by Ms. Van Siclen, second by Ms.  
29 Valdes.  
30 Vote: 3 yeas / 0 opposed; motion carried  
31

32 Motion to find the Respondent in violation of Florida Statutes as charged in the administrative  
33 complaint made by Ms. Van Siclen, second by Dr. Morgan.  
34 Vote: 3 yeas / 0 opposed; motion carried  
35

36 Department recommendation: Fine in the amount of \$1,000; costs not to exceed \$1,200; suspension  
37 until Respondent complies with the terms of the Final Order in DOH case number 2009-24116  
38

39 Motion to impose discipline as recommended by the Department and to pay fine within 30 days of the  
40 Final Order made by Ms. Van Siclen, second by Ms. Valdes.  
41 Vote: 3 yeas / 0 opposed; motion carried  
42

43 Motion to assess costs in the amount of \$56.57 payable within 30 days of the date of the Final Order  
44 made by made by Ms. Van Siclen, second by Ms. Valdes.  
45 Vote: 3 yeas / 0 opposed; motion carried  
46

47 [End 9:09 AM](#)

48 [Begin next section 9:09 AM](#)  
49

1 **III. PETITION FOR VARIANCE/WAIVER:**

2  
3 1. Petitioner Colleen B. Bracken was present and was not represented by counsel.

4  
5 Petitioner Bracken requested a variance/waiver from rule 64B3-5.003(3)(a), F.A.C. Petitioner feels  
6 she cannot successfully complete the NRCC Toxicological Technologist Specialty Examination  
7 since it tests areas of science for which she is not qualified and which she will not use in her work.  
8 The requirement for examination is statutorily imposed in section 468.803, Fla. Stat., and cannot  
9 be waived. Board could allow the applicant to choose another examination.

10  
11 Motion to deny the variance/waiver was made by Ms. Van Siclen and seconded by Ms. Valdes.

12  
13 Discussion: Board counsel explained the grounds for which a variance/waiver may be granted and  
14 reminded the board that a statute cannot be waived; Ms. Van Siclen asked if the petitioner looked into  
15 other examinations that would test the narrower chemistry field in which petitioner practiced; Dr.  
16 Morgan stated that an advanced degree in chemistry and 12 years' experience should have prepared  
17 petitioner for the national examinations; Ms. Valdes asked why petitioner believed she could not pass  
18 the national examination.

19 Input from Petitioner: The testing required by Florida is broader than her education and experience  
20 since both are in forensic chemistry, because her focus was so narrow she does not qualify to take  
21 some of the national examinations, she only reviews data from tests administered and reported by  
22 others, her past work experience is only in drug testing and toxicology.

23  
24 Vote: 3 yeas / 0 opposed; motion carried.

25  
26 2. Andrea D. Plante was present and was not represented by counsel.

27  
28 Petitioner Plante requested a variance/waiver from Rule 64B3-5.003, F.A.C. Petitioner had not  
29 taken the national examination and admits she is not qualified to take the ASCP exam due to  
30 not having performed the required tests/tasks. Petitioner asserts that her education,  
31 experience and out-of-state licensure serve the underlying purposes of the implemented statute.

32  
33 Motion to deny the variance/waiver was made by Ms. Van Siclen and seconded by Ms. Valdes.

34  
35 Discussion: Dr. Morgan asked petitioner to seek alternative testing since the Board does not have  
36 authority to waive requirements of statute and stated she recognized that the Nevada license was a  
37 specialty license; Board counsel asked if the duties as described by petitioner were considered  
38 "clinical" because if not then petitioner does not require a license; Ms. Valdes clarified that petitioner's  
39 analysis leads to an ultimate decision about the test subject and therefore the duties were clinical in  
40 nature.

41  
42 Input from Petitioner: Petitioner stated her circumstances were similar to those of the prior case, her  
43 employer does not require licensure to perform the duties, petitioner explained details of her duties.

44  
45 Vote: 3 yeas / 0 opposed; motion carried.

46  
47 3. Petitioner Sussan Binesh, LMT was not present and was not represented by counsel.

48  
49 Petitioner Binesh requested a variance/waiver from Rule 64B3-11.001, F.A.C. Petitioner took

1 courses in the Laboratory Medical Technician program at Erwin Technical Center in 2012. Petitioner  
2 could not receive credit for CE courses through CE Broker and so asked the board for credit  
3 through her education. Petitioner earned a Medical Administration Assistant diploma from Penn  
4 Foster Career Center in 2013. The following deficiencies in the petition were noted: no statement as  
5 to how the variance/waiver would serve the underlying purposes of the implemented statute; no  
6 specific facts that demonstrate a substantial hardship or violation of the principles of fairness.  
7

8 Motion to deny the variance/waiver was made by Ms. Van Siclen, second by Dr. Morgan.

9 Discussion: Petitioner was originally licensed in 2005; Ms. Van Siclen stated that since petitioner was  
10 not new to the profession, she had a duty to know the laws governing the profession, had an  
11 opportunity to select the correct courses, and there was no hardship evidenced.  
12

13 Vote: 3 yeas / 0 opposed; motion carried.  
14

- 15 4. Petitioner Melanie Passon was not present and was not represented by counsel.  
16

17 Petitioner Passon filed a new petition for a variance/waiver from Rule 64B3-5.003(3), F.A.C., which  
18 sets forth the requirements for licensure as a technologist. An Order Denying Petition for Variance  
19 and Waiver was entered by the Board on December 23, 2013, when it first considered Petitioner's  
20 request for variance/waiver. Petitioner's qualifications meet those of a technician, but not that  
21 required by a technologist and is presently licensed as a technician.  
22

23 Motion to deny the variance/waiver was made by Ms. Van Siclen and seconded by Ms. Valdes.  
24

25 Discussion: Ms. Van Siclen stated that petitioner was able to take examination appropriate to her  
26 level and there was no demonstration of hardship.  
27

28 Vote: 3 yeas / 0 opposed; motion carried.  
29

30 [End 9:49 AM](#)

31 [Begin next section 9:50 AM](#)  
32

#### 33 **IV. RECONSIDERATION OF NOTICE OF INTENT TO DENY:**

- 34 1. Emilio Margolles-Clark was present and was represented by counsel, Monica Felder Rodriguez.  
35

36 The applicant submitted an application for licensure as a technologist in the specialty area of  
37 molecular pathology under section 483.823, Fla. Stat. The applicant was not present at the March  
38 11, 2014, Board meeting when his application was considered and on March 24, 2014, the Board  
39 entered a Notice of Intent to Deny based on applicant's failure to demonstrate that he had the  
40 requisite one year of pertinent clinical laboratory experience because his experience came from  
41 working in a research laboratory. Subsequent to the entry of the Notice, applicant provided  
42 additional information, which he believed would demonstrate his work was pertinent. Applicant  
43 requested reconsideration of his application based on this additional information.  
44

45 Motion to vacate and approve for licensure was made by Ms. Van Siclen and seconded by Ms.  
46 Valdes.  
47

48 Discussion: Dr. Morgan stated that the grounds for approving others in similar situations were based  
49 on actual job duties.  
50

1 Input from Petitioner: Applicant is a research associate and not a clinical associate, he only assists  
2 the clinical associate to find better testing methods, he does use human tissue in his current work, he  
3 has performed this type of work for the past three years.

4  
5 Vote: 3 yeas / 0 opposed; motion carried.

6  
7 2. Alberto Van Olphen was present and was not represented by counsel.

8  
9 The applicant submitted an application for licensure as a director in the specialty area of  
10 microbiology and serology/immunology under section 483.823, Fla. Stat. The applicant was not  
11 present at the March 11, 2014, Board meeting when his application was considered and on March  
12 24, 2014, the Board entered a Notice of Intent to Deny based on applicant's failure to demonstrate  
13 that he had the requisite academic degree or certification for licensure as a director. Subsequent  
14 to the entry of the Notice, the applicant explained that he was given May 9, 2014, as the date his  
15 application would be considered by the Board and provided additional information about his  
16 academic degree, which he believed would demonstrate his work was pertinent. Applicant  
17 requested reconsideration of his application based on this additional information. Applicant is  
18 scheduled to take the AMB examination on June 13, 2014.

19  
20 Motion to vacate the Notice of Intent to Deny was made by Dr. Morgan and seconded by Ms. Van  
21 Siclen.

22  
23 Vote: 3 yeas / 0 opposed; motion carried.

24  
25 Input from Petitioner: He took courses side-by-side with medical students, the course of study in his  
26 degree implies it is a biological science degree.

27  
28 Discussion: Board counsel advised that no further motion was needed to accept Applicant's  
29 education as meeting the requirements under section 483.823, Fla. Stat.; Board staff indicated that a  
30 temporary license would be issued and if Applicant passed the AMB examination then the full license  
31 would issue.

32  
33 3. Thais G. Almarall was not present and was not represented by counsel.

34  
35 The applicant submitted an application for licensure as a generalist technician under section  
36 483.823, Fla. Stat. On March 24, 2014, the Board entered a Notice of Intent to Deny based on  
37 applicant's failure to demonstrate that she had the requisite three years of pertinent clinical  
38 laboratory experience within the 10 years preceding her application. Subsequent to the entry of  
39 the Notice, a copy of applicant's updated employment verification was received in the Board  
40 office. Applicant requested reconsideration of her application based on this new information.

41  
42 Motion to continue the request for reconsideration to the next meeting of the Board was made by Dr.  
43 Morgan and seconded by Ms. Van Siclen.

44  
45 Discussion: Ms. Valdes read the materials and found it difficult to determine whether the experience  
46 was in all 5 areas; Ms. Van Siclen agreed; Dr. Morgan stated that it would be helpful to have the  
47 applicant present.

48  
49 Vote: 3 yeas / 0 opposed; motion carried.

1  
2 Dr. Morgan, Ms. Valdes and Ms. Van Siclen agreed to look into a rule change regarding veterinary  
3 medicine and pharmacy degrees as meeting the educational requirements of section 483.823, Fla.  
4 Stat.

5  
6 End 10:12 AM; Break taken  
7 Begin next section 10:31 AM  
8

9 **V. APPLICANTS PRESENTED FOR BOARD REVIEW:**

- 10  
11 1. Christina Yuh-Ron Hung was present and was not represented by counsel.

12  
13 The applicant was before the board for review of her application for a Clinical Laboratory Personnel  
14 Technologist license to determine whether her degree as a doctor of medicine, granted by the  
15 Medical University of Vienna, met the requirements for which licensure was sought.

16  
17 Motion to issue a license was made by Ms. Van Siclen and seconded by Ms. Valdes.

18  
19 Discussion: Ms. Van Siclen stated that she made her decision based on the medical school transcript  
20 for 16 hours of academic sciences.

21  
22 Input from Petitioner: The medical school changed to an integrated system of academics and clinical  
23 experiences built on the classroom work, she was unsure how to explain where the hours for one  
24 were found within the total hours.

25  
26 Vote: 3 yeas / 0 opposed; motion carried.

- 27  
28 2. Ashraf Mozayani was present and was not represented by counsel.

29  
30 The applicant was before the board for review of her application for a Clinical Laboratory Personnel  
31 Director license to determine whether her academic degrees included chemical, biological, or clinical  
32 laboratory science, and whether the Diplomate examination submitted by the American Board of  
33 Forensic Toxicology met the requirements of a national examination as listed in rule 64B3-5.007,  
34 F.A.C.

35  
36 Motion to issue a license was made by Ms. Valdes and seconded by Ms. Van Siclen.

37  
38 Discussion: Ms. Valdes stated that she had no concern about the Applicant's degree.

39  
40 Input from Petitioner: Applicant gave information about the different levels of qualification for belonging to  
41 the American Board of Forensic Toxicology and spoke about her work experiences.

42  
43 Vote: 3 yeas / 0 opposed; motion carried.

44  
45  
46 Dr. Morgan, Ms. Valdes and Ms. Van Siclen discussed looking into a rule change to add the examination  
47 for Diplomate administered by the American Board of Forensic Toxicology as meeting the criteria in rule  
48 64B3-5.007, F.A.C.

- 49  
50 3. Kevin W. Pruitt was present and was represented by counsel.

1 The applicant was before the board for review of his application for a Clinical Laboratory Personnel  
2 Technologist license in the areas of microbiology, serology/immunology, clinical chemistry,  
3 hematology and immunohematology. The applicant had answered "yes" to applications questions  
4 about his criminal history and about being an impaired practitioner, and by order of the board entered  
5 on January 31, 2014, was ordered to undergo an evaluation through the Professionals Resource  
6 network (PRN). PRN was unable to proceed with the evaluation and closed his case.  
7

8 Motion to allow Applicant to withdraw his application for license was made by Dr. Morgan and  
9 seconded by Ms. Valdes.

10  
11 Discussion: Board counsel informed the Board of the consequences of withdrawing the application,  
12 that information already submitted would still be available in a subsequent review for licensure, and  
13 that if withdrawn Applicant would have no obligation to cooperate with PRN at this time.  
14

15 Input from Petitioner: He spoke with representative at PRN and was provided only one doctor in  
16 Florida the others were out of state, he was not accepted for evaluation by the Florida doctor, he had  
17 no means to pay for all of the expenses associated with PRN, he believed he should try to get work  
18 out-of-state and return to Florida sometime in the future.  
19

20 Vote: 3 yeas / 0 opposed; motion carried.

- 21  
22 4. Oscar Guilarte was not present and was not represented by counsel.

23  
24 The applicant was before the board for review of his application for a Clinical Laboratory Personnel  
25 Supervisor's license to determine whether his doctoral degree in veterinary science met the  
26 requirements for which licensure was sought under option 1(a) since he lacked five years' experience  
27 based upon his undergraduate degree.  
28

29 Motion to issue a license was made by Ms. Valdes and seconded by Dr. Morgan.

30  
31 Discussion: Ms. Valdes stated that the Applicant would have his two years of experience shortly.  
32

33 Vote: 3 yeas / 0 opposed; motion carried.

- 34  
35 5. Sivutha Peou was not present and was not represented by counsel.

36  
37 The applicant was before the board for review of his application for a Clinical Laboratory Personnel  
38 Technician license in the Generalist area to determine whether the POLT certification examination  
39 met the requirements of 64B3-5.004, F.A.C.  
40

41 Motion to deny a license was made by Ms. Van Siclen and seconded by Ms. Valdes.

42  
43 Discussion: Board counsel informed the Board of the requirements for taking the POLT examination;  
44 Ms. Van Siclen stated she believed Applicant was eligible for other examinations and should take one  
45 of those.  
46

47 Vote: 3 yeas / 0 opposed; motion carried.

- 48  
49 6. The application of Mayra Rodriguez was pulled from the agenda as her license was issued based on  
50 additional information received by Board staff.  
51

1 7. Mary H. Rader was not present and was not represented by counsel.  
2

3 The applicant was before the board for review of her application for a Clinical Laboratory Personnel  
4 Supervisor's license in clinical chemistry and hematology to determine whether 24 hours of academic  
5 sciences required under rule 64B3-5.002, F.A.C. were met; whether her education met the  
6 requirements of rule 64B3-5.002, F.A.C.; and whether the MLT (ASCP) is an acceptable examination  
7 for licensure.  
8

9 Motion to deny a license was made by Dr. Morgan and seconded by Ms. Van Siclen.  
10

11 Discussion: Ms. Valdes found only 23 hours in academic science and not enough in chemistry; a  
12 discussion ensued about the NCA inclusion in the rule matrix.  
13

14 Vote: 3 yeas / 0 opposed; motion carried.  
15

16 8. The application of Lindsey E. Sangillo was was pulled from the agenda as she was issued a temporary  
17 license.  
18

19 End 11:20 AM

20 Begin next section 11:20 AM  
21

## 22 VI. RATIFICATIONS OF LICENSURE:

- 23
- 24 1. The Board ratified the licenses set out on agenda pages 287-299 issued by the Department  
25 of Health for Clinical Laboratory Personnel, and licenses numbered 10015 through 10158 for  
26 Clinical Laboratory Personnel Trainees. 3 yeas / 0 opposed  
27

28 End 11:22 AM

29 Begin next section 11:22 AM  
30

31 **V. DISCUSSION OF CORRESPONDENCE: Interpreting rule 64B3-10.005, F.A.C., scope of**  
32 **practice.** Discussion ensued to add the language in the last sentence of 64B3-10.005(8) to  
33 subparagraphs (3) through (7) in that rule. Further discussion was had regarding the term  
34 "blood banking" versus the term "donor processing."  
35

36 **VI. DISCUSSION OF HISTOLOGY** – Jerry Santiago presented information for the Board's  
37 consideration regarding the HTL (QHIC) requirements to upgrade from a technician to a  
38 technologist; to remove option 2a on the upgrade from technical to technologist for those who have  
39 the HTL (QHIC) and 3 year's experience. The Board agreed to look into the need for a rule change  
40 to rule 64B3-5.003(3)(g), F.A.C.  
41

42 **VII. CHAIR/VICE CHAIR REPORT** – Dr. Morgan stated the new website was outstanding, fresh and  
43 easy to use. She is concerned that there are open positions on the Board and asked those  
44 present in the audience to let others who are eligible to know of the vacancies.  
45

46 **VIII. EXECUTIVE DIRECTOR'S REPORT** – Annual delegation of authority – The Board reviewed the  
47 amended Annual Delegation of Authority matrix provided by Ms. Rodgers, Executive Director.  
48 Dr. Morgan moved to approve the delegation, seconded by Ms. Valdes.  
49 Vote: 3 yeas / 0 opposed; motion carried.  
50

51 **IX. BOARD COUNSEL REPORT – Annual Regulatory Plan; Rule 64B-3.001, F.A.C.** Ms. Loucks  
52 advised the Board that the \$5.00 unlicensed activity fee and questions on page 6 were deleted

1 from the training program application.  
2  
3  
4

5 **X. COMMITTEE REPORTS**  
6

7 **Budget** - Dr. Morgan had no report  
8

9 **Continuing Education** – Ms. Valdes stated that she could not approve of many continuing education  
10 courses since they related more to nursing and not clinical laboratory personnel; she asked if she should  
11 bring these matters for full Board consideration; Board counsel stated that bringing before the full Board to  
12 decide was appropriate.

13 Dr. Morgan moved to ratify approvals made by Ms. Valdes, seconded by Ms. Van Siclen.

14 Vote: 2 yeas / 0 opposed; motion carried.  
15

16 **Examination** – Ms. Valdes had no report  
17

18 **Healthy Weight** – Mr. Hernandez was not present  
19

20 **Legislative** – Mr. Hernandez was not present  
21

22 **Probable Cause** – Dr. Morgan had no report  
23

24 **Professional Association** – Ms. Valdes had no report  
25

26 **Rules** – Ms. Van Siclen

- 27 a. Rule 64B3-5.002(3)(d),  
28 F.A.C. – Ms. Van Siclen asked if the rule should be modified for andrology and  
29 embryology.  
30 b. Rule 64B3-5.003, F.A.C. –  
31 Ms. Van Siclen stated the rule met or exceeded the federal guidelines. A link to federal  
32 guidelines in the rule and on the Board’s website was suggested.  
33 c. Rule 64B3-11.002, F.A.C.  
34 – Ms. Van Siclen led a discussion regarding allowance of less than one hour of CE.  
35 Board staff as was asked to verify that CE Broker does not accept less than one hour  
36 increments.  
37

38 **Training Program** – Ms. Van Siclen stated she found typographical errors on page 6 of the  
39 training program material. Board counsel advised that the entire page on which there were errors  
40 had been deleted. Ms. Van Siclen asked Mr. Montavan if all training program renewals were  
41 mailed out, to which Mr. Montalvan responded that all had been mailed.  
42

43 **Unlicensed Activity** – Ms. Valdes had no report  
44

45 **Prosecution Report** – Ms. Jones provided breakdown on cases older than one year.

46 Dr. Morgan moved to allow prosecution to continue prosecuting the cases older than one year,  
47 seconded by Ms. Van Siclen.

48 Vote: 3 yeas / 0 opposed; motion carried.  
49

50 **XI. ADJOURNMENT**  
51

52 **End General Business: 12:22 AM**

53 **Adjourned: 12:22 AM**

