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17 **FLORIDA** | Board of Clinical Laboratory Personnel

18
19 DRAFT MINUTES
20 August 7, 2015

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22 Castle Hotel
23 8629 International Drive
24 Orlando, FL 32819
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Carleen P. Van Siclen, MS, MLS (ASCP)
Chair

Linda Valdes, MS, MT (ASCP)
Vice-Chair

Anthony B. Spivey, DBA
Executive Director

1 **General Board Business started: 9:06 a.m.**

- 2
3 I. The meeting was called to order by Ms. Van Siclen. Those present for all or part of the meeting included the
4 following:

5
6 **MEMBERS PRESENT:**

7 Carleen Van Siclen, MSHA, MLS (ASCP), Chair
8 Linda Valdes, MS, MT (ASCP), Vice Chair
9 Steven Shelfer, MT (ASCP)
10 Michele Morgan, DBA

11 **STAFF PRESENT:**

12 Anthony B. Spivey, DBA, Executive Director
13 Joseph Lesho, Program Operations Administrator
14 Savada Knight, Regulatory Supervisor
15 Edith Rogers, Administrative Assistant II

16 **MEMBERS NOT PRESENT:**

17 Alvaro A. Hernandez, MBA (Excused)
18 Beatriz Montoya, MBA, DMD, BSMT, AMT (Excused)

19 **BOARD COUNSEL:**

20 Deborah Bartholow Loucks, Assistant Attorney General
21 Office of Attorney General

22 **PROSECUTION COUNSEL:**

23 Elana Jones, Assistant General Counsel

24 **COURT REPORTER:**

25 Paulita Kundid
26 Volusia Reporting Company
27 385-255-2150

28 *Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda*
29 *outline. AUDIO from this meeting can be found online: <http://floridasclinicallabs.gov/>*

30
31 **General Board Business started at 9:07 a.m.**

32 **Section II started at 9:07 a.m.**

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

36
37 Minutes of the May 22, 2015 General Business Meeting were reviewed.

38
39 **Action taken:** Motion to accept the minutes as written was made by Dr. Morgan and seconded by Ms. Valdes.
40 Vote: 4 yeas / 0 opposed; motion carried

41
42 **Section II ended at 9:08 a.m.**

43 **Section III ended at 9:08 a.m.**

44
45 **III. DISCIPLINE:**

46
47 **a. Settlement Agreement –**

48
49 **i. Kearin Gibson Sharaf, Case Number 2014-08777**

50 Respondent was present and was represented by counsel, Lenis Archer, Esq.

51
52 Dr. Morgan was recused due to participation on the Probable Cause Panel. Due to the absences of Mr.
53 Hernandez and Ms. Montoya, the board lacked a quorum for this case. The board agreed to allow
54 prosecution to make their presentation and hold discussion, and then take final agency action at the next
55 board meeting.
56

1 A one-count Administrative Complaint was filed on February 17, 2015 alleging violation of s.
2 483.825(1)(c), F.S., due to demonstrating incompetence or making consistent errors in the performance of
3 clinical laboratory examinations or procedures or erroneous reporting. No previous complaints or
4 disciplinary actions have been levied against the respondent; therefore, the department recommended that
5 the board accept the Settlement Agreement.
6

7 Ms. Jones advised the board that the settlement agreement contained the following provisions:
8

- 9 • Fine: \$1000—to be paid within one year of the final order
- 10 • Reimbursement of Costs: Not to exceed \$4500—to be paid within one year of the final order
- 11 • Probation: One year, with terms determined by the board

12 **Discussion:**

13 The board and Ms. Sharaf briefly discussed what Ms. Sharaf has learned from the disciplinary process.
14

15 Ms. Archer offered to provide the board with additional material to be presented at the next meeting if the
16 board feels it would be necessary. Ms. Loucks stated that the materials can indeed be included if the board
17 agrees, and also requested that a transcript of the discussion be included in the materials for the next
18 meeting.
19

20
21 **Section III ended 9:17 a.m.**

22 **Section IV started 9:17 a.m.**
23

24 **IV. PETITIONS**

25 **a. Reconsideration –**

26 **i. Aixia Sun – Supervisor**

27 Ms. Sun was present and was represented by counsel, Wade Stidham, Esq.
28

29 Ms. Sun submitted a Petition for Waiver/Variance from Rule 64B3-5.002, F.A.C., which was filed on
30 January 2, 2015. At the March 6, 2015 board meeting, the board denied the petition on the grounds that the
31 experience submitted by Ms. Sun was not pertinent clinical laboratory experience, and therefore would not
32 meet the underlying purpose of the statute if approved. Due to the denial of the petition, the board also
33 denied Ms. Sun’s application for licensure. On April 15, 2015, the board office received a Petition for
34 Rehearing or Review, filed April 17, 2015, requesting that the board reconsider her original Petition for
35 Waiver/Variance.
36

37 **Discussion:**

38 Mr. Stidham stated that he believes the boards initial decision was based on the application, and not the
39 petition. He explained to the board why he believes that a denial of the petition would create a hardship for
40 Ms. Sun.
41

42 Ms. Van Siclen stated that after reviewing petition again, she believed that the underlying purpose of the
43 statute has been achieved, and moved to approve the petition.
44

45 Ms. Loucks explained that the board must first reverse the denial of the original petition.
46

47 **Action:** Motion to reverse the denial of the Petition for Waiver/Variance was made by Ms. Van Siclen and
48 seconded by Mr. Shelfer.

49 Vote: 4 yeas / 0 opposed; motion carried
50

51 **Action:** Motion to approve the application for licensure was made by Ms. Van Siclen and seconded by Mr.
52 Shelfer.
53

54 Vote: 4 yeas / 0 opposed; motion carried
55
56

1 **b. Waiver/Variance –**
2

3 **i. Nathan Allen Lawrence – Supervisor**

4 Mr. Lawrence was not present, and was not represented by counsel.
5

6 Mr. Lawrence submitted an application for licensure as a supervisor which was received by the board office
7 on January 29, 2015. A review of the application by Ms. Valdes determined that the clinical laboratory
8 experience submitted by Mr. Lawrence was not sufficient to grant the requested licensure. In response, Mr.
9 Lawrence submitted a Petition for Waiver/Variance from Rule 64B3-2.003(6), F.A.C. requesting that the
10 board accept his academic credits from Air University/Community College of the Air Force and grant him
11 a license.
12

13 **Discussion:**

14 Ms. Van Siclen expressed her belief that Mr. Lawrence’s experience was not sufficient for
15 immunohematology, but that it was sufficient for blood banking. Ms. Valdes agreed.
16

17 **Action Taken:** Motion to deny the Petition for Waiver/Variance because the petitioner was not
18 substantially affected more than any other similarly situated persons, and the underlying purpose of the
19 statute would not be achieved by other means was made by Ms. Van Siclen and seconded by Ms. Valdes
20 Vote: 4 yeas / 0 opposed; motion carried
21

22 The board discussed allowing Mr. Lawrence to withdraw his application for licensure so that he would not
23 be negatively impacted by a denial. Ms. Van Siclen also suggested that the board allow Mr. Lawrence to
24 amend his application to apply for a technologist in blood banking.
25

26 **Action:** Motion to allow to Mr. Lawrence to withdraw or amend his application was made by Ms. Van
27 Siclen and seconded by Ms. Valdes.

28 Vote: 4 yeas / 0 opposed; motion carried
29

30 Section IV ended 9:37 a.m.

31 Section V started at 9:37 a.m.
32

33 **V. Applications Presented for Board Review:**
34

35 **b. Natalie Yefimenko – Technologist**

36 Ms. Yefimenko was present, and was represented by counsel, Cathleen O’Dowd, Esq.
37

38 Ms. Yefimenko submitted an application for licensure as a Technologist, which was received by the board
39 office on April 9, 2015. Board staff referred the application to Ms. Valdes, who then referred the application to
40 the full board due to possible Unlicensed Activity.
41

42 **Discussion:**

43 Ms. O’Dowd explained to the board that the facility at which Ms. Yefimenko is employed does not fall under
44 the category of a Clinical Laboratory, therefore unlicensed activity was not an issue.
45

46 Ms. Van Siclen then asked Ms. Yefimenko to describe her job duties and experience.
47

48 After additional discussion, Ms. Valdes stated that she doesn’t believe the experience is sufficient for licensure
49 as a generalist, but that her experience may qualify her for blood banking.
50

51 **Action:** Motion to approve the application for licensure as a technologist in blood banking was made by Dr.
52 Morgan and seconded by Ms. Van Siclen.

53 Vote: 4 yeas / 0 opposed; motion carried
54

55 **a. Michael Raymond Malloy – Technician**

56 Mr. Malloy was not present and was not represented by counsel.

1
2 Mr. Malloy submitted an application for licensure as a Technician, which was received by the board office on
3 May 6, 2015. Board staff referred the application to the full board because Mr. Malloy responded “yes” to an
4 applicant history question. Mr. Malloy has submitted additional information regarding the circumstances
5 leading to the “yes” response.
6

7 **Discussion:**

8 Dr. Morgan stated that she was confident that Mr. Malloy has sufficiently addressed his applicant history issue.
9

10 **Action Taken:** Motion to approve the application for licensure was made by Dr. Morgan and seconded by Ms.
11 Van Siclen.

12 Vote: 4 yeas / 0 opposed; motion carried
13
14

15 **c. Julianne Mercedes Kaiser – Technician (tabled from previous meeting)**

16 Ms. Kaiser was not present, and was not represented by counsel.
17

18 Ms. Kaiser submitted an application for licensure as a Technician, which was received by the board office on
19 March 31, 2015. Board staff referred the application to the full board because Ms. Kaiser responded “yes” to
20 certain applicant history questions. Ms. Kaiser submitted additional documentation with her application
21 regarding the circumstances leading to the “yes” response. The application and supporting documentation were
22 presented before the full board at the May 22, 2015 meeting, where it was tabled to allow Ms. Kaiser to obtain
23 additional documentation from her treating physician. On August 4, 2015, the board office received an
24 evaluation letter from Ms. Kaiser’s treating practitioner, Nina Kirchgessner, ARNP, PMHNP-BC.
25

26 **Discussion:**

27 Dr. Morgan stated that she did not find the additional information to be sufficient. Ms. Van Siclen agreed.
28

29 Ms. Loucks presented the idea of approving the application for licensure contingent upon a favorable PRN
30 evaluation. Mr. Shelfer made that motion. The motion was not seconded.
31

32 Ms. Valdes proposed that the board require a personal appearance by Ms. Kaiser before acting on the
33 application. Mr. Shelfer made an amended motion.
34

35 **Action:** Motion to require Ms. Kaiser to appear at one of the next two in-person meetings was made by Mr.
36 Shelfer and seconded by Ms. Valdes.

37 Vote: 3 yeas / 1 opposed (Morgan); motion carried
38

39 **d. Anayanssi Pena Garcia – Trainee/Generalist**

40 Ms. Garcia was not present, and was not represented by counsel.
41

42 Ms. Garcia submitted an application for licensure as a Clinical Laboratory Trainee in the Generalist specialty
43 area, which was received by the board office on May 6, 2015. Board staff referred the application to the full
44 board because Ms. Garcia responded “yes” to an applicant history question. Ms. Garcia has submitted additional
45 information regarding the circumstances leading to the “yes” response.
46

47 **Action Taken:** Motion to approve the application for licensure was made by Ms. Van Siclen and seconded by
48 Dr. Morgan.

49 Vote: 4 yeas / 0 opposed; motion carried
50

51 **Section V ended at 10:10 a.m.**

52
53 **The board took a break at 10:10 a.m.**

54
55 **Section VI started at 10:30 a.m.**
56

1 **VI. RATIFICATION OF LICENSURE:**

2
3 **a. Licensure –**

4
5 **i. Clinical Laboratory Personnel**

6
7 **Action taken:** Motion to ratify the issuance of Clinical Laboratory Personnel licenses listed on pages 207
8 through 210 of the agenda was made by Dr. Morgan and seconded by Ms. Valdes.
9 Vote: 4 yeas / 0 opposed; motion carried

10
11 **ii. Clinical Laboratory Personnel Trainees**

12
13 **Action taken:** Motion to ratify the issuance of Clinical Laboratory Personnel Trainee licenses listed on
14 pages 211 through 213 of the agenda was made by Dr. Morgan and seconded by Ms. Valdes.
15 Vote: 4 yeas / 0 opposed; motion carried

16
17 **b. Continuing Education –**

18
19 **i. CE Providers and Courses Approved by CE Committee Chair**

20
21 **Action taken:** Motion to ratify CE Providers and Courses Approved by CE Committee Chair was made by
22 Mr. Shelfer and seconded by Ms. Van Siclen.
23 Vote: 4 yeas / 0 opposed; motion carried

24
25 **Section VI ended 10:31 a.m.**

26 **Section VII started 10:31 a.m.**

27
28 **VII. PROSECUTION REPORT:**

29 Ms. Jones presented the prosecution report and asked for a motion to allow continued prosecution of year-old
30 cases.

31
32 **Action:** Motion to allow continued prosecution of year-old cases was made by Ms. Van Siclen and seconded by
33 Ms. Valdes.
34 Vote: 4 yeas / 0 opposed; motion carried

35
36 **Section VII ended 10:33 a.m.**

37 **Section VIII started 10:33 a.m.**

38
39 **VIII. BOARD COUNSEL REPORT:**

40
41 **a. Rules Status – Presented as an FYI**

42
43 **b. JAPC Letter – Rule 64B3-11.001, F.A.C.**

44 This item was taken later in the agenda during the Rules Committee report.

45
46
47 **c. Review of Suggested Rules for Repeal**

48 This item was taken later in the agenda during the Rules Committee report.

49
50
51 **Section VIII ended 10:35 a.m.**

52 **Section IX started 10:35 a.m.**

53
54 **IX. CHAIR/VICE-CHAIR REPORT:**

55
56 **a. Future Agenda Items**

1 Ms. Van Siclen asked the board if anyone would like to volunteer for the Healthiest Weight Liaison meeting in
2 Tallahassee, FL on September 23, 2015. Dr. Spivey mentioned that the issue is already on the agenda for
3 discussion during the Executive Director's report.
4

5 Ms. Van Siclen then asked that Ms. Loretta Sayles from the Florida Society of Histotechnology (FSH) come
6 forward to speak about proposed rule language regarding Histotechnology continuing education requirements.
7 Ms. Sayles explained that FSH takes the stance that histotechnology credits are considered Advanced CE
8 credits, and proceeded to list subjects that would be considered.
9

10 Ms. Van Siclen asked Ms. Sayles if she could provide the board with a specific list in writing. Ms. Sayles
11 agreed to provide such a list.
12

13 **Section IX ended at 10:38 a.m.**

14 **Section X began at 10:38 a.m.**
15

16 **X. EXECUTIVE DIRECTOR'S REPORT:**
17

18 **b. Chair/Vice-Chair Meeting – September 24, 2015**
19

20 Ms. Valdes said that she plans to arrive in Tallahassee for the Chair/Vice-Chair meeting on September 23, 2015,
21 so she will attend the Healthiest Weight Liaison meeting while she's there.
22
23

24 **a. Discussion of Rule 64B3-10.005, F.A.C.**
25

26 Dr. Philip Amuso, Retired Director for the Department of Health Bureau of Public
27 Health Laboratories, addressed the board to discuss proposed changes to Rule 64B3-10.005, F.A.C.
28

29 As a result of the discussion, the board decided that they will hold a Rules Workshop in conjunction with the
30 next in-person board meeting.
31

32 **c. 2016 Board Meeting Dates –**
33

- 34 **i. January 15, 2016 – Conference Call –**
- 35 **ii. March 4, 2016 – Orlando**
- 36 **iii. June 10, 2016 – Conference Call**
- 37 **iv. August 26, 2016 – Orlando**
- 38 **v. December 2, 2016 – Conference Call**
39

40 Ms. Loucks stated that she will have a conflict on January 15, 2016, but that she can make other
41 arrangements so the meeting will not have to be rescheduled.
42

43 Mr. Lesho then asked the board if they would prefer that the October 2, 2015 meeting be changed to an in
44 person meeting. The board agreed, and also agreed to change the November 6, 2015 meeting to a
45 conference call.
46

47 **Section X ended at 10:55 a.m.**

48 **Section XI began at 10:55 a.m.**
49

50 **XI. NEW BUSINESS:**
51

52 **a. Discussion – Blood Banking Donor Process**
53

54 The board tabled this discussion for the Rules Workshop. The board decided to hold the Rules Workshop on
55 October 1, 2015.
56

1 **Section XI ended at 10:58 a.m.**
2 **Section XII began at 10:58 a.m.**

3
4 **XII. OLD BUSINESS:**

5
6 No discussion items.

7
8 **Section XII ended at 10:59 a.m.**
9 **Section XIII began at 10:59 a.m.**

10
11 **XIII. COMMITTEE REPORTS:**

- 12
13 **a. Budget – Dr. Morgan:** Nothing to report
14
15 **b. Continuing Education – Ms. Valdes:** Ms. Valdes brought to the attention of the board a source of confusion
16 regarding the CE allowance for licensees attending a full board meeting at which disciplinary hearings are
17 conducted. In the past, licensees in attendance were only required to stay for one hour of the meeting at which
18 disciplinary hearings are conducted; however, other health care boards require the licensees in attendance to
19 observe the entire meeting in order to receive credit. Ms. Valdes asked for clarification on the matter. It was
20 decided that the issue would be addressed during the rules workshop.
21
22 **c. Credentials – Ms. Van Sieten/ Ms. Valdes:** Nothing to report
23
24 **d. Disciplinary Compliance – Mr. Hernandez:** Not present; no report
25
26 **e. Examinations – Dr. Montoya:** Not present; no report
27
28 **f. Healthiest Weight – Mr. Hernandez:** Not present; nothing new to report. Ms. Valdes reiterated that she may
29 be able to attend the Healthiest Weight Liaison meeting on September 23, 2015.
30
31 **g. Legislation – Mr. Hernandez:** Not present; no report
32
33 **h. Probable Cause - Dr. Morgan/Mr. Hernandez:**
34
35 **i. Stats:** Presented as an FYI
36
37 **i. Professional Associations – Mr. Shelfer:** Nothing to report
38
39 **j. Rules – Ms. Van Sieten:** Ms. Van Sieten reiterated the Rules Workshop scheduled for October 1, 2015.

40
41 Ms. Loucks then presented the remainder of her Board Counsel Report:

42
43 **b. JAPC Letter – Rule 64B3-11.001, F.A.C.**

44
45 Ms. Loucks explained that she received a letter from the Joint Administrative Procedures Committee
46 (JAPC) regarding the proposed changes to Rule 64B3-11.001, F.A.C. The letter stated that the board has no
47 statutory authority for the phrase “contact hour,” so she changed the language to “continuing education
48 hour.”

49
50 Ms. Van Sieten asked if more changes should be made while the rule is opened for development. The board
51 agreed to toll the development until the Rules Workshop has concluded so that more changes could be
52 made.

53
54 **c. Review of Suggested Rules for Repeal**

55
56 Ms. Loucks suggested that Rules 64B3-8.001 and 64B3-9.012, F.A.C. be repealed.

1 **Action:** Motion to repeal Rule 64B3-8.001, F.A.C. was made by Dr. Morgan and seconded by Ms. Van
2 Siclen.
3 Vote: 4 yeas / 0 opposed; motion carried
4

5 **Action:** Motion to find that repealing the rule will not require a Statement of Estimated Regulatory Cost
6 was made by Ms. Valdes and seconded by Mr. Shelfer.
7 Vote: 4 yeas / 0 opposed; motion carried
8

9 **Action:** Motion to repeal Rule 64B3-9.012, F.A.C. was made by Ms. Van Siclen and seconded by Ms.
10 Valdes.
11 Vote: 4 yeas / 0 opposed; motion carried
12

13 **Action:** Motion to find that repealing the rule will not require a Statement of Estimated Regulatory Cost
14 was made by Ms. Valdes and seconded by Mr. Shelfer.
15 Vote: 4 yeas / 0 opposed; motion carried
16

17 Ms. Loucks then asked the board if they would like the Annual Regulatory Plan to be submitted under the
18 umbrella of the Department of Health, or if they would prefer to make it specific to the board. Ms. Van Siclen
19 stated that she would prefer it be done specific to the board.
20

21 **Action:** Motion to allow the board to submit its Annual Regulatory Plan to the department was made by Ms.
22 Van Siclen and seconded by Dr. Morgan.
23 Vote: 4 yeas / 0 opposed; motion carried
24

25 **Action:** Motion to delegate the Annual Regulatory Plan review to Ms. Van Siclen was made by Ms. Valdes and
26 seconded by Mr. Shelfer.
27 Vote: 4 yeas / 0 opposed; motion carried
28

29 **k. Training Program – Mr. Shelfer:** Mr. Shelfer informed the board that Southwest Florida College, an approved
30 training program, has changed their name to Southern Technical College.
31

32 **l. Unlicensed Activity – Ms. Valdes:** Nothing to report
33

34 **Section XIII ended at 11:13 a.m.**

35 **Section XIV began at 11:13 a.m.**
36

37 **XIV. NEXT MEETING DATE: October 2, 2015 – Teleconference Call**
38

39 It was once again noted that this meeting will be held in person.
40

41 **Section XIV ended at 11:15 a.m.**

42 **Section XV began at 11:15 a.m.**
43

44 **XV. ADJOURNMENT**
45

46 **The meeting was adjourned at 11:18 a.m.**
47