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**FLORIDA** | Board of Clinical Laboratory Personnel

MEETING MINUTES

March 6, 2015

Teleconference

Department of Health

4042 Bald Cypress Way

Tallahassee, FL 32399-3257



Carleen P. Van Siclen, MS, MLS (ASCP)

***Chair***

Linda Valdes, MS, MT (ASCP)

***Vice-Chair***

Adrienne Rodgers, BSN, JD

***Interim Executive Director***

1 **General Board Business started: 9:04 a.m.**

2  
3 I. The meeting was called to order by Ms. Van Siclen, Chair, at approximately 9:04 a.m. Those present for all or part of the  
4 meeting included the following:  
5

6 **MEMBERS PRESENT:**

7 Carleen Van Siclen, MSHA, MLS (ASCP), Chair  
8 Linda Valdes, MS, MT (ASCP), Vice Chair  
9 Beatriz Montoya, MBA, DMD, BSMT, AMT  
10 Steven Shelfer, MT (ASCP)  
11 Alvaro A. Hernandez, MBA – Arrived at 9:09 a.m.

**STAFF PRESENT:**

Adrienne Rodgers, Interim Executive Director  
Joseph Lesho, Program Operations Administrator  
Michele Jackson, Regulatory Supervisor  
Savada Knight, Regulatory Specialist II  
Kelly Woodard, Regulatory Specialist II  
Julia Gilyard, Regulatory Specialist II

13  
14 Motion to approve Dr. Morgan’s absence made by Ms. Van Siclen, seconded by Ms. Valdes.  
15 Vote: 4 yeas / 0 opposed; motion carried  
16

17 **BOARD COUNSEL:**

18 Deborah Bartholow Loucks, Assistant Attorney General  
19 Office of Attorney General  
20

21 **COURT REPORTER:**

22 For the Record  
23 (850) 222-5491  
24

25 *Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda outline. AUDIO from*  
26 *this meeting can be found online: <http://floridasclinicallabs.gov/>*  
27

28 **General Board Business started at 9:09 a.m.**

29 **Section II started at 9:09 a.m.**

30  
31 **II. APPROVAL OF PREVIOUS MEETING’S MINUTES OF THE BOARD OF CLINICAL LABORATORY**  
32 **PERSONNEL**

33  
34 Minutes of the January 23, 2015 General Business Meeting were reviewed.

35  
36 **Action taken:** Motion to accept the minutes was made by Mr. Hernandez and seconded by Ms. Valdes.  
37 Vote: 5 yeas / 0 opposed; motion carried  
38

39 **Section II ended at 9:10 a.m.**

40 **Section III started at 9:10 a.m.**

41  
42 **III. BOARD ACTIONS**

43  
44 a. **PETITION FOR DECLARATORY STATEMENT:**

45 **i. Deborah C. Martuch**

46 Petitioner was present and was not represented by counsel.

47  
48 Petitioner asked the Board for a declaratory statement regarding the interpretation of rule 64B3-13.001, FAC, which  
49 required that a procedure manual, approved, signed, and dated by the laboratory director both initially and biennially  
50 thereafter, be made available to all personnel responsible for any aspect of the testing process. In particular,  
51 Petitioner asked if the biennial review could be delegated if interim revisions of procedures are approved and signed  
52 off by the laboratory director.  
53

54 **Discussion:**

55 Ms. Valdes stated that in her experience, she has always seen it delegated.

56  
57 Ms. Van Siclen asked if the rule should be reviewed in order to clarify this issue.  
58

1 Ms. Valdes said she would recommend that they do so because the rule seems to contradict itself, and she feels it  
2 needs to be revised. Mr. Hernandez agreed.

3  
4 **Action taken:** Motion to approve the request for declaratory statement made by Mr. Shelfer, seconded by Ms.  
5 Valdes.

6 Vote: 5 yeas / 0 opposed; motion carried

7  
8 **Terms of declaratory statement:**

9 A Medical Director may delegate the biennial review required under rule 64B3-13.001, F.A.C., to a licensed  
10 Clinical Laboratory Director.

11  
12 The board will discuss possible changes to this rule during the May 22, 2015, meeting.

13  
14 b. **PETITION FOR VARIANCE/WAIVER:**

15 i. **Yannery Gonzalez Fundora**

16 Petitioner was present and was not represented by counsel

17  
18 Petitioner asked the Board to reconsider its Notice of Intent to Deny entered on December 17, 2014. At the meeting  
19 on December 5, 2014, the Board concluded that Ms. Gonzalez-Fundora had not met the required experience listed in  
20 Rule 64B3-5.003, F.A.C. Ms. Gonzalez-Fundora applied for licensure as a technologist in chemistry. Josef Silny &  
21 Associates, Inc. opined that Ms. Gonzalez-Fundora's education from the University City Jose Antonio Echeverria  
22 (CUJAE) Cuba is equivalent to a Bachelor of Science in chemical engineering. However, the extent of Ms.  
23 Gonzalez-Fundora's experience could not be determined.

24  
25 **Discussion:**

26 Ms. Loucks explained to the board that this is a reconsideration regarding a Notice of Intent to Deny, not a Petition  
27 for Waiver/Variance.

28  
29 At the request of Ms. Van Siclen, the petitioner explained her work and educational experience. Ms. Van Siclen then  
30 asked the board if they would consider that experience as equivalent to the required experience listed in Rule 64B3-  
31 5.003, F.A.C.

32  
33 Mr. Hernandez asked if anything like this has been done before, and Ms. Loucks responded by stating that an issue  
34 like this has not come before the board.

35  
36 Ms. Van Siclen explained that similar experience in the Philippines has been considered equivalent, to which Mr.  
37 Hernandez stated that he did not want the board to discriminate and consider the experience based on the country.

38  
39 Mr. Shelfer said he believes that the petitioner was adequately trained.

40  
41 **Action taken:** Motion to approve request for reconsideration made by Mr. Shelfer, seconded by Mr. Hernandez.  
42 Vote: 5 yeas / 0 opposed; motion carried

43  
44 **Action taken:** Motion to vacate Notice of Intent to Deny and approve licensure as a technologist in chemistry made  
45 by Mr. Shelfer, seconded by Mr. Hernandez.

46 Vote: 5 yeas / 0 opposed; motion carried

47  
48 **Section III ended at 9:34 a.m.**

49 **Section IV started at 9:37 a.m.**

50  
51 **IV. PETITIONS WITH APPLICATIONS PRESENTED FOR BOARD REVIEW:**

52 a. **Axia Sun – Supervisor**

53 Ms. Sun was present was not represented by counsel.

54  
55 **PETITION:**

56 Ms. Loucks stated Ms. Sun applied for licensure as a Supervisor in Clinical Chemistry. Ms. Sun requested a  
57 variance/waiver from rule 64B3-5.002(3)(a), F.A.C., which requires the applicant possess 3-years of pertinent  
58 clinical laboratory experience, with at least one-year experience in the specialty area in which licensure is requested.

1 Ms. Sun's experience comes from developing analytical methods and not from clinical laboratory experience as  
2 defined by the rules.  
3

4 **Discussion:**

5  
6 The petitioner began by explaining her work and educational experience.

7 Mr. Hernandez explained that she does not meet the requirements, and that the board must abide by the rules that are  
8 in place. Mr. Shelfer agreed, stating that though her qualifications are exceptional, she would need a training license  
9 in order to comply.

10  
11  
12 **Action taken:** Motion to deny the petition based on the petitioner's failure to demonstrate that the literal application  
13 of the rule affects her in a manner significantly different from the way it affects other similarly situated persons who  
14 are subject to the rule made by Mr. Hernandez, seconded by Ms. Valdes.

15 Vote: 5 yeas / 0 opposed; motion carried  
16

17 **APPLICATION:**

18 Ms. Sun requested a variance/waiver from rule 64B3-5.002(3)(a), F.A.C., which was denied by the Board. The  
19 variance was needed in order for Ms. Sun's application to be considered for approval.  
20

21 **Discussion:**

22 Ms. Van Siclen asked the petitioner if she would like to withdraw her application for licensure so that it would not  
23 be considered a denial. The petitioner stated that she did not wish to withdraw.  
24

25 **Action taken:** Motion to deny licensure as a Supervisor in Clinical Chemistry made by Mr. Hernandez, seconded by  
26 Ms. Valdes.

27 Vote: 5 yeas / 0 opposed; motion carried  
28

29 **b. Yanic Gisele Jamila Valentine – Technologist**

30 Ms. Valentine was present and was not represented by counsel.  
31

32 **PETITION:**

33 Ms. Loucks stated Ms. Valentine applied for licensure as a Technologist. Ms. Valentine requested a variance/waiver  
34 from rule 64B3-5.003, F.A.C., which required the applicant possess 3-years of pertinent clinical laboratory  
35 experience, with at least 6-months experience in the specialty area in which licensure is requested. Ms. Valentine's  
36 experience came from managing the specimen processing department, but without conducting laboratory testing.  
37

38 **Discussion:**

39 The petitioner explained her clinical laboratory experience and reiterated her petition. She stated that she could not  
40 afford to enroll in a full training program to gain the required experience because time and finances would not allow  
41 it. Ms. Van Siclen asked if she had contacted any program directors to see if she could enroll only in the courses that  
42 she needed to meet the requirements. The petitioner stated that she had done so, but that the program directors would  
43 not allow that.  
44

45 **Action taken:** Motion to deny the petition based on the petitioner's failure to demonstrate that the literal application  
46 of the rule affects her in a manner significantly different from the way it affects other similarly situated persons who  
47 are subject to the rule made by Ms. Valdes, seconded by Mr. Hernandez.

48 Vote: 5 yeas / 0 opposed; motion carried  
49

50 **APPLICATION:**

51 Ms. Valentine requested a variance/waiver from rule 64B3-5.003, F.A.C., which was denied by the Board. The  
52 variance was needed in order for Ms. Valentine's application to be considered for approval.  
53

54 **Discussion:**

55 Ms. Van Siclen asked the petitioner if she would like to withdraw her application for licensure so that it would not  
56 be considered a denial. The petitioner requested to withdraw the application.  
57

1 Based on its decision on Ms. Valentine’s Petition for Variance/Waiver, Ms. Valentine withdrew her application for  
2 licensure.

3  
4 **Action taken:** A motion to accept the withdrawal was made by Ms. Van Siclen, seconded by Ms. Valdes.  
5 Vote: 5 yeas / 0 opposed; motion carried  
6

7 **c. Benjamin Stephen Witten – Technologist**

8 Mr. Witten was present and was not represented by counsel.  
9

10 **PETITION:**

11 Ms. Loucks stated Mr. Witten applied for licensure as a Technologist in Clinical Chemistry. Mr. Witten requested a  
12 variance/waiver from rule 64B3-5.003, Option 1, F.A.C., which requires the applicant possess 3-years of pertinent  
13 clinical laboratory experience, with at least 6-months experience in the specialty area in which licensure is  
14 requested. Mr. Witten did not have the requisite experience but instead holds a Master of Science in Environmental  
15 Chemistry, worked as a teaching assistant for 2 years, and as a Chemist in a professional setting for 3-years.  
16

17 **Discussion:**

18 The petitioner explained his work and educational experience.  
19

20 Ms. Valdes expressed concern because she believed that his experience was very different from the experience  
21 required by the rule. She also questioned whether or not the laboratory that employed the petitioner should be  
22 referred for Unlicensed Activity. The petitioner stated that all of his work was under supervision, and that the  
23 laboratory was properly licensed.  
24

25 Ms. Van Siclen stated that because the petitioner’s experience differed from the required experience, it would not be  
26 considered as satisfaction of that required under rule 64B3-5.003, Option 1, F.A.C.  
27

28 After additional discussion and consideration of the facts presented, a motion was made to deny the petition.  
29

30 **Action taken:** Motion to deny the petition based on the petitioner’s failure to demonstrate that the literal application  
31 of the rule affects him in a manner significantly different from the way it affects other similarly situated persons who  
32 are subject to the rule made by Ms. Van Siclen, seconded by Mr. Hernandez.  
33 Vote: 5 yeas / 0 opposed; motion carried  
34

35 **APPLICATION:**

36 Mr. Witten requested a variance/waiver from rule 64B3-5.003, F.A.C., which was denied by the Board. The  
37 variance was needed in order for Mr. Witten’s application to be considered for approval.  
38

39 **Discussion:**

40 Ms. Van Siclen asked the petitioner if he would like to withdraw his application for licensure so that it would not be  
41 considered a denial. The petitioner requested to withdraw the application.  
42

43 Based on its decision on Mr. Witten’s Petition for Variance/Waiver, Mr. Witten withdrew his application for  
44 licensure.  
45

46 **Action taken:** A motion to accept the withdrawal was made by Ms. Van Siclen, seconded by Mr. Shelfer.  
47 Vote: 5 yeas / 0 opposed; motion carried  
48

49 **Section IV ended at 10:35 a.m.**

50 **Section V started at 10:35 a.m.**

51 **V. APPLICANTS FOR BOARD REVIEW:**

52 **a. Farzad Beriji - Technologist**

53 Applicant was present and was not represented by counsel.  
54

55 Mr. Beriji applied for licensure as a Technologist in Cytogenetics. Mr. Beriji’s degree reflects a total of 35 academic  
56 science hours: 12 in biology, 16 in chemistry, and 7 in physics. Rule 64B3-5.003, F.A.C. requires 36 hours.  
57  
58

1  
2 **Discussion:**

3 Ms. Van Siclen explained that Rule 64B3-5.003, F.A.C. was scheduled to be discussed later in the agenda, and that the  
4 discussion would focus on lowering the required amount of hours. Based on this, she made a motion to approve the application.  
5

6 **Action taken:** Motion to approve licensure as a Technologist in Cytogenetics made by Ms. Van Siclen, seconded by  
7 Ms. Valdes.

8 Vote: 5 yeas / 0 opposed; motion carried  
9

10 b. **Noah Seth Blum – Technologist**

11 Applicant was present and was not represented by counsel.

12 Mr. Blum applied for licensure as a Technologist Generalist. Mr. Blum responded in the affirmative to question 1 of  
13 the health history. Information relating to his treatment was reviewed by the Board.  
14

15 **Action taken:** Motion to approve licensure as a Technologist made by Ms. Van Siclen, seconded by Mr. Shelfer.

16 Vote: 5 yeas / 0 opposed; motion carried  
17

18 **Section V ended 10:41 a.m.**  
19

20 The board decided to take a 10-minute break. While on the break, a licensee identified herself and stated that she wished to  
21 obtain Continuing Education (CE) credit for attending the meeting based on Rule 64B3-11.001, F.A.C. Board staff explained  
22 that, as stated in the rule, conference calls do not satisfy the requirement of the rule. Ms. Loucks suggested that once the board  
23 reconvened, that the caller ask that the board waive that provision of the rule to allow her to obtain the CE credits, which she  
24 did.  
25

26 **Action taken:** Motion to deny the request to allow the conference call to count for CE credit made by Ms. Van Siclen,  
27 seconded by Mr. Hernandez.

28 Vote: 5 yeas / 0 opposed; motion carried  
29

30 Ms. Van Siclen then stated that she would like to have the rule reviewed because she believes that the conference calls do  
31 provide a good educational experience.  
32

33 **Section VI started 10:57 a.m.**  
34

35 **VI. RATIFICATION OF LICENSURE**

36 a. **Clinical Laboratory Personnel**

37 Motion to ratify issuance of Clinical Laboratory Personnel license numbers 46733 through 46848 made by Mr.  
38 Hernandez, seconded by Ms. Van Siclen.

39 Vote: 5 yeas / 0 opposed; motion carried  
40

41 **Clinical Laboratory Personnel Trainees**

42 Motion to ratify issuance of Clinical Laboratory Personnel Trainees license numbers 10459 through 10521 made by  
43 Mr. Hernandez, seconded by Mr. Shelfer.

44 Vote: 5 yeas / 0 opposed; motion carried  
45

46 **Section VI ended 10:59 a.m.**

47 **Section VII started 10:59 a.m.**  
48

49 **VI. CHAIR/VICE CHAIR REPORT**

50 a. New business – Ms. Van Siclen congratulated Mr. Hernandez and Ms. Valdes on their reappointments to the board.  
51

52 b. Future agenda items – Ms. Van Siclen noted that she wanted the board to review Rules 64B3-13.001 and 64B3-  
53 11.001, F.A.C.  
54

55 **Section VII ended 11:00 a.m.**

56 **Section VIII started 11:00 a.m.**  
57  
58

1 **VIII. EXECUTIVE DIRECTOR'S REPORT**

2 Mr. Lesho noted that until the vacant Executive Director position is filled, Ms. Rodgers will continue to serve in the role  
3 in an Interim capacity.  
4

5 **Section VII ended 11:01 a.m.**

6 **Section IX started 11:01 a.m.**

7  
8 **IX. BOARD COUNSEL REPORT**

9 **Rules status report** – Nothing to report

10  
11 **Section IX ended 11:01 a.m.**

12 **Section X started 11:01 a.m.**

13  
14 **X. COMMITTEE REPORTS**

15 a. **Budget** – Nothing to report

16  
17 b. **Continuing Education** – Ms. Valdes

- 18 i. CE Providers and Courses approved by the Committee:  
19 Course numbers 20-467082, 20-472200, 20-475211, 20-477462

20  
21 **Action taken:** Motion to ratify committee approvals made by Mr. Hernandez, seconded by Mr. Shelfer.  
22 **Vote:** 5 yeas / 0 opposed; motion carried

23  
24 c. **Credentials** – Ms. Van Siclen/ Ms. Valdes: Nothing to report

25  
26 d. **Disciplinary Compliance** – Mr. Hernandez: Nothing to report

27  
28 e. **Examinations** – Dr. Montoya: Nothing to report

29  
30 f. **Healthiest Weight** – Mr. Hernandez: Nothing to report, though he noted that the Healthiest Weight liaisons plan to  
31 get together to discuss further actions.

32  
33 g. **Legislation** – Mr. Hernandez: Nothing to report

34  
35 h. **Probable Cause** - Dr. Morgan/Mr. Hernandez: As an FYI, Mr. Hernandez noted that the February 10, 2015 PCP  
36 meeting was not reported on the sheet included in the agenda materials.

37  
38 i. **Professional Associations** – Mr. Shelfer: Nothing to report

39  
40 j. **Rules** – Ms. Van Siclen reported on ASCP Qualifications in Cytogenetics – Rule 64B3-5.003, F.A.C. She suggested  
41 that the board lower the number of hours requirement from 36 to 30.

42  
43 **Action taken:** Motion to change the hours required by Rule 64B3-5.003, F.A.C, from 36 to 30 made by Mr. Hernandez,  
44 seconded by Ms. Van Siclen.

45 **Vote:** 5 yeas / 0 opposed; motion carried

46  
47 The board agreed that a Statement of Estimated Regulatory Cost was not necessary.

48  
49 k. **Training Program** – Mr. Shelfer: Nothing to report

50  
51 l. **Unlicensed Activity** – Ms. Valdes: Nothing new to report, though she reiterated that she would like board staff to  
52 contact the Agency for Health Care Administration to report possible Unlicensed Activity by Mr. Benjamin Stephen  
53 Witten's employer.  
54

55 **Section X ended at 11:11 a.m.**

56 **Section XI began at 11:11 a.m.**

57  
58 **NEXT MEETING** – May 22, 2015

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**General Board Business concluded at 11:11 a.m.**

The meeting was adjourned at 11:11 a.m.