

FLORIDA | Board of Clinical Lab Personnel

DRAFT MINUTES

December 7, 2017

Rosen Plaza Hotel
9700 International Drive
Orlando, FL 32819



Carleen Van Sicen, MSHA, MLS (ASCP) *Chair*
Linda Valdes, MS, MT (ASCP) *Vice-Chair*
Anthony Spivey, DBA, *Executive Director*

The Florida Board of Clinical Laboratory Personnel held a meeting on Thursday, December 7, 2017, commencing at 9:00 a.m. This meeting was held at the Rosen Plaza, 9700 International Drive, Orlando, Florida 32819, (407) 996-1931, to which all persons were invited to attend. Participants in this public meeting were made aware that these proceedings were being recorded and that an audio file of the meeting will be posted to the board's website.

AGENDA

1 **Section I began: 9:09 a.m.**

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3 **I. CALL TO ORDER (Roll Call):**

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

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

7 Michele Morgan, D.B.A. **(Not present, absence excused)**

8 Yvette McCarter, Ph.D.

9 Beatriz E. Montoya, MBA, DMD, BSMT, AMT **(Not present, absence excused)**

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11 **Board Staff Present:**

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13 Dr. Anthony Spivey, DBA, Executive Director

14 Gail Curry, Program Operations Administrator

15 Kelly Woodard, Regulatory Supervisor

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17 **Board Counsel:**

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19 Deborah Loucks, Assistant Attorney General

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21 **Prosecution Services:**

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23 John Wilson, Assistant General Counsel

24 Elana Jones, Assistant General Counsel

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26 **Court Reporter:**

27
28 For the Record

29 (850) 222-5491

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31 **Section I ended: 9:10 a.m.**

32 **Section II began: 9:10 a.m.**

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34 **II. APPROVAL OF MINUTES:**

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36 **a. September 22, 2017**

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38 **Action:** Motion to approve meeting minutes made by Dr. McCarter. Second made by Ms.
39 Valdes

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41 **Vote:** 3 yeas/ 0 opposed. Motion carried.

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43 **Section II ended: 9:11 a.m.**

44 **Section III began: 9:11 a.m.**

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III. PETITIONS FOR WAIVER AND VARIANCE:

a. Sandhya Boyapalle, PhD.

Not present, nor represented by counsel. The board determined that application was incomplete. Therefore, no action was required on the application.

Action: Motion to deny the petition due to failure to achieve the requirements by other means made by Dr. McCarter. Second made by Ms. Van Siclen.

Vote: 3 yeas/ 0 opposed. Motion carried.

Section III ended: 9:18 a.m.

Section IV began: 9:18 a.m.

IV. SETTLEMENT AGREEMENT:

a. Arthur E. Pollock

Present. Not represented by counsel.

Action: Motion to accept the terms of the settlement agreement made by Ms. Van Siclen. Second made by Ms. Valdes.

Vote: 3 yeas/ 0 opposed. Motion carried.

b. Stephen M. Askey

Present. Not represented by counsel.

Action: Motion to accept the terms of the settlement agreement made by Dr. McCarter. Second made by Ms. Valdes.

Vote: 3 yeas/ 0 opposed. Motion carried.

Section IV ended: 9:34 a.m.

Section V began: 9:34 a.m.

V. APPLICANTS PRESENTED FOR BOARD REVIEW:

a. TECHNOLOGIST

Courtney Cox

Present. Represented by counsel.

Action: Motion to approve the application made by Ms. Van Siclen. Second made by Ms. Valdes.

Vote: 3 yeas/ 0 opposed. Motion carried.

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Jennifer Heaps

Present. Not represented by counsel. Ms. Heaps waived the 90 day statutory requirement to act on her application. The board requested verification of employment from Ms. Heaps' current employer and proof that she has registered for the required exam.

Action: No action was required by the board. Application tabled to the next board meeting to allow Ms. Heaps to submit additional documentation.

b. SUPERVISOR

Joshua Z. Seither

Not present, nor represented by counsel.

Action: Motion to require Mr. Seither to attend one of two future board meetings made by Dr. McCarter. Second made by Ms. Van Siclen.

Vote: 3 yeas/ 0 opposed. Motion carried.

Benjamin Witten

Present. Not represented by counsel

Action: Motion to deny the application for failure to comply with the current requirements made by Ms. Valdes. Second made by Ms. Van Siclen.

Vote: 3 yeas/ 0 opposed. Motion carried.

Wayne Morris

Present. Not represented by counsel.

Action: Motion to approve the application made by Dr. McCarter. Second made by Ms. Valdes.

Vote: 3 yeas/ 0 opposed. Motion carried.

Curtis Wade

Not present, nor represented by counsel.

Action: Motion to deny the application and allow Mr. Wade to withdraw his application within 15 days made by Ms. Van Siclen. Second made by Ms. Valdes

Vote: 3 yeas/ 0 opposed. Motion carried.

c. TRAINEE

Adam Tyson

147 Present. Not represented by counsel.

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149 **Action:** Motion to approve the application made by Ms. Van Siclen. Second made by Ms.
150 Valdes.

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152 **Vote:** 3 yeas/ 0 opposed. Motion carried.

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154 **Jermel Mayfield**

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156 Not present, nor represented by counsel.

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158 **Action:** Motion to approve the application made by Ms. Van Siclen. Second made by Ms.
159 Valdes

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161 **Vote:** 3 yeas/ 0 opposed. Motion carried.

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163 **Jason Malpass**

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165 Present. Not represented by counsel.

166

167 **Action:** Motion to approve the application made by Dr. McCarter. Second made by Ms.
168 Valdes.

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170 **Vote:** 3 yeas/ 0 opposed. Motion carried.

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172 **Shane Curran**

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174 **Action:** Motion to require Mr. Curran to attend one of two future board meetings made by
175 Ms. Van Siclen. Second made by Ms. Valdes.

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177 **Vote:** 3 yeas/ 0 opposed. Motion carried.

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179 **d. TECHNICIAN**

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181 **Abner Leps**

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183 Not present, nor represented by counsel. The board stated that the documentation submitted
184 by Mr. Leps was not sufficient and only addressed his physical capability to practice. The
185 board concluded that Mr. Leps shall be approved contingent upon submitting sufficient
186 evidence that he may practice with reasonable skill and safety.

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188 **Action:** Application was acted on in June 2017. No action was required by the board.

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190 **Section V ended: 11:20 a.m.**

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192 **Break: 11:20-11:57 a.m.**

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194 **Section VI began: 11:57 a.m.**

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196 **VI. RATIFICATION:**

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a. Licensure

Clinical Laboratory Personnel

Action: Motion to ratify the approval of licensees made by Ms. Van Siclen. Second made by Dr. McCarter.

Vote: 3 yeas/ 0 opposed. Motion carried.

Clinical Laboratory Personnel Trainees

Action: Motion to ratify the approval of licensees made by Ms. Van Siclen. Second made by Dr. McCarter.

Vote: 3 yeas/ 0 opposed. Motion carried.

Clinical Laboratory Personnel Training Program

Action: Motion to ratify the approval of licensees made by Dr. McCarter. Second made by Ms. Valdes

Vote: 2 yeas/ 1 opposed. Motion carried.

b. Continuing Education Providers & Courses approved by CE

Action: Motion to ratify the approval of the continuing education courses made by Ms. Valdes. Second made by Dr. McCarter

Vote: 3 yeas/ 0 opposed. Motion carried.

Section VI ended: 12:00 p.m.

Section VII began: 12:00 p.m.

VII. PROSECUTION REPORT:

Mr. Wilson and Ms. Jones provided statistics regarding the prosecutions currently open in the Department.

Total Cases: 8

Under Legal Review: 2

Emergency Action: 2

Cases older than 1 year continued for prosecution: 5 (2 will be resolved during this meeting)

Action: Motion to authorize continued prosecution of cases older than one year made by Ms. Van Siclen. Second made by Dr. McCarter.

Vote: 3 yeas/ 0 opposed. Motion carried.

Section VII ended: 12:06 p.m.

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Section VIII began: 12:06 p.m.

VIII. BOARD COUNSEL REPORT:

a. Rules Report for October

b. Adding Specialty (Director, Supervisor, Technologist and Technician)

Ms. Loucks presented the rules report and advised that the matrix in the Adding Specialty application shall be revised to the new matrix in effect. Ms. Loucks informed the board of current anti-trust issues.

Section VIII ended: 12:12 p.m.

Section IX began: 12:12 p.m.

IX. CHAIR/VICE CHAIR REPORT:

Ms. Van Siclen advised of the vacant board member positions and suggested that all potential personnel apply. Ms. Valdes addressed senate bill (SB) 622 in regards to the removal of AHCA (Agency for Health Care Administration) oversight for clinical labs. Ms. Valdes also indicated that ASCP (American Society of Clinical Pathologists) has accepted structured training programs for single specialties and has added a certification exam known as Specialist in Molecular Biology. The board agreed that the exam shall be acceptable and added to the board's existing rules.

Section IX ended: 12:15 p.m.

Section X began: 12:15 p.m.

X. EXECUTIVE DIRECTOR'S REPORT:

a. Annual Delegation of Authority

Dr. Spivey explained and presented the Annual Delegation of Authority as well as the Conviction Record Guidelines. Dr. Spivey also explained that the Chair/Vice Chair meeting was scheduled for September but was postponed due to Hurricane Irma. The meeting has been moved to April 23, 2018.

Action: Motion to approve the Annual Delegation of Authority and Conviction Record Guidelines made by Dr. McCarter. Second made by Ms. Valdes.

Vote: 3 yeas/ 0 opposed. Motion carried.

Section X ended: 12:21 p.m.

The board postponed section XI and addressed sections XII, XIII, XIV, and XV

Section XI began: 12:44 p.m.

XI. OLD BUSINESS:

a. CLP Rules (Valdes)

- 299 **b. Training Program Application (Van Siclen)**
- 300 **c. Training Self Study document (Van Siclen)**
- 301 **d. 64B3-3.001**
- 302 **e. 64B3-3.002**
- 303 **f. 64B3-3.003**
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305 Discussion ensued involving changes related to the requirements and curriculum of
306 approved training programs as well as renewals. Ms. Van Siclen addressed self-study
307 documents and the National Accrediting Agency for Clinical Laboratory Sciences
308 (NAACLS) standards. Ms. Van Siclen sought opinion by the board members regarding
309 changing the training program application and rule to indicate that all new program
310 applicants must be accredited by NAACLS or other accrediting agency. The American
311 Society of Clinical Pathologists (ASCP) has changed their eligibility to NAACLS
312 standards. The board discussed inspecting programs that were not accredited by
313 NAACLS. Ms. Van Siclen advised that current Florida programs would not be impacted.
314 The board discussed experience and educational requirements of the programs for each
315 specialty. The board made numerous changes and revisions to said rules and applications.
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317 Ms. Loucks asked whether the proposed rules would have adverse impacts on small
318 business and whether regulatory costs would exceed two hundred thousand dollars within
319 1 year of implementation. The board stated no adverse impact or increase of costs.
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321 Ms. Loucks asked whether the proposed rules would be subject to a minor violation.
322 Minor violation means that it will not directly affect the public health, safety, or welfare
323 and is able to be resolved with citation or notice of non-compliance. The board stated No
324 minor violations.
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326 **Action:** Motion to open rule development for Chapters 64B3-3.001, 64B3-3.002, 64B3-
327 3.003, 64B3-5.011, 64B3-5.002, 64B3-5.003, 64B3-6.001 of the Florida Administrative
328 Code made by Ms. Van Siclen. Second made by Dr. McCarter.
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330 **Vote:** 3 yeas/ 0 opposed. Motion carried.
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332 **Section XI ended: 4:04 p.m.**
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334 **Section XII began: 12:21 p.m.**
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336 **XII. NEW BUSINESS:**
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338 **a. ASCP Structured Training Programs (Ms. Valdes)**
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340 Ms. Valdes addressed ASCP structured training programs in Section IX.
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342 **b. Discussion for 483.824 (Dr. Spivey)**
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344 Dr. Spivey addressed issues surrounding clinical lab directors and the ability to oversee
345 testing that they are not specifically qualified in. The Agency for Health Care
346 Administration (AHCA) has requested that the board form a proposal to change the
347 statute allowing directors to oversee specialties that they do not qualify for. However,
348 advised that testing could also be overseen by subordinates that have the appropriate
349 qualifications. Ms. Valdes indicated that the Clinical Laboratory Improvement

350 Amendments (CLIA) does not recognize oversight by pathologists and it would not be in
351 the best interest for the directors to oversee high complexity testing. Directors are still
352 permitted by accreditation agencies to oversee the testing, but not permitted by CLIA.

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354 **Section XII ended: 12:32 p.m.**

355 **Section XIII began: 12:32 p.m.**

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357 **XIII. COMMITTEE REPORTS:**

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359 **a. Budget – Dr. Morgan**

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361 Dr. Spivey explained the budget of the board.

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363 **b. Continuing Education – Ms. Valdes**

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365 Nothing to report

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367 **c. Credentials – Ms. Van Siclen**

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369 Nothing to report

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371 **d. Disciplinary Compliance – Dr. Montoya**

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373 Nothing to report

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375 **e. Examination – Dr. Montoya**

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377 Nothing to report

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379 **f. Healthiest Weight – Dr. McCarter**

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381 Nothing to report

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383 **g. Legislation – Dr. McCarter**

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385 Nothing to report

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387 **h. Probable Cause – Dr. Morgan**

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389 Nothing to report

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391 **i. Professional Association – Ms. Valdes**

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393 Nothing to report

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395 **j. Rules – Ms. Van Siclen**

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397 Nothing to report

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399 **k. Training Program – Dr. McCarter**

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401 Nothing to report
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403 **I. Unlicensed Activity – Ms. Valdes**
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405 Nothing to report
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407 **Section XIII ended: 12:41 p.m.**
408 **Section XIV began: 12:41 p.m.**
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410 **XIV. NEXT MEETING DATE**

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412 March 23, 2018
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414 **Section XIV ended: 12:43 p.m.**
415 **Section XV began: 12:43 p.m.**
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417 **XV. PUBLIC COMMENT:**

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419 **Section XV ended: 12:44 p.m.**
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421 ***The board referred back to section XI***
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423 **Section XVI began: 4:05 p.m.**
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425 **XVI. ADJOURNMENT**

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427 **Meeting adjourned at 4:05 p.m.**
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