

**DEPARTMENT OF HEALTH
BOARD OF PSYCHOLOGY
GENERAL BUSINESS MEETING
APRIL 24, 2009
Minutes**

**The Marriott Tampa Airport
Tampa International Airport
Tampa, FL 33607
(813) 879-5151**

To accommodate individuals wishing to address the board, the board Chair may adjust the sequence of the agenda items. The minutes reflect the actual sequence of events rather than the original agenda order.

CREDENTIALS COMMITTEE MEETING

MEMBERS PRESENT

Amy Swan, Psy.D., Chair
Richard Hoffman, Ph.D.
Harry J. Reiff, Psy.D.

STAFF PRESENT

Allen Hall, Executive Director
Anna L. Hart King, Program Operations Administrator
Lisa N. Dillon, Regulatory Specialist II

ASSISTANT ATTORNEYS GENERAL

Mary Ellen Clark and Donna McNulty

COURT REPORTER

Dempster & Berryhill Court Reporting
Penny M. Appleton
(813) 229-8225
www.berryhillCR.com

Dr. Amy Swan, Psy.D., Chair, called the Credentials Committee meeting to order at approximately 9:04 a.m.

(The applicants were not present or represented at the committee meeting unless otherwise noted.)

Tab 1 Lambos, William (Endorsement of Other State License)

Dr. Lambos was present.

Dr Lambos waived the processing time requirement of s.120.60 F.S. in order to complete the process of becoming an ABPP Diplomate. Dr. Lambos intends to change his application method to endorsement of ABPP Diplomate status.

It was decided that addressing the personal history portion of the application would be economical, and eliminate the need for the issue to be brought before the Board again, after Dr. Lambos achieves ABPP Diplomate status. Following discussion, Dr. Harry Reiff moved to accept the application as it relates to the history section. Dr. Richard Hoffman seconded the motion, which carried 3/0.

Tab 2 Needle, Rachel Brook (Examination)

Following discussion, Dr. Harry Reiff moved to accept the application. Dr. Richard Hoffman seconded the motion, which carried 3/0.

Tab 3 Nassetti, Matthew (Endorsement of Other State License)

Following discussion, Dr. Harry Reiff moved to accept the application. Dr. Richard Hoffman seconded the motion, which carried 3/0.

The Credentials Committee adjourned at 9:35 a.m.

CONTINUING EDUCATION COMMITTEE MEETING

MEMBERS PRESENT

Amy Swan, Psy.D., Chair
Richard Hoffman, Ph.D.
Dr. Luis Orta, Ph.D

STAFF PRESENT

Allen Hall, Executive Director
Anna L. Hart King, Program Operations Administrator
Lisa N. Dillon, Regulatory Specialist II

ASSISTANT ATTORNEY GENERAL

Mary Ellen Clark

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Dr. Amy Swan, Psy.D., Chair, called the Continuing Education Committee meeting to order at approximately 9:35 a.m.

(The applicants were not present or represented at the committee meeting unless otherwise noted.)

Tab 1 JK Seminars, LLC

Following discussion, Dr Luis Orta moved to approve the providers Continuing Education Course entitled: *Suicide Assessment and Management: Ethical Standards of Care & Preventing Medical Errors*. Dr. Richard Hoffman seconded the motion, which carried 3/0.

The Continuing Education Committee adjourned at 9:33 a.m.

GENERAL BUSINESS MEETING

Dr. Amy Swan, Chair, called the General Business meeting to order at approximately 10:00 a.m. Those present for all or part of the meeting included the following:

MEMBERS PRESENT

Amy Swan, Psy.D., Chair
Rafael Rivas-Vazquez, Psy.D. Vice - Chair
Richard Hoffman, Ph.D.
Luis E. Orta, Ph.D.
Harry J. Reiff, Psy.D.
Ms. Patrice Moore

STAFF PRESENT

Allen Hall, Executive Director
Anna L. Hart King, Program Operations Administrator
Lisa N. Dillon, Regulatory Specialist II

ASSISTANT GENERAL COUNSEL

Laura Lopez

ASSISTANT ATTORNEYS GENERAL

Mary Ellen Clark
Donna C. McNulty

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DISCIPLINARY PROCEEDINGS

MOTION FOR BOARD'S FINAL ORDER BY STIPULATION

Tab 2 Janet P. Hurley, Case No. 2007-23583 (p/c/p Rafael Rivas-Vazquez & Carol Webster)

Dr. Hurley and her attorney Scott Leemis were present and sworn in by the court reporter. Dr. Rafael Rivas-Vazquez was recused due to participation on the probable cause panel. Dr. Harry Reiff recused himself from the discussion and vote because of previous contact with the parties in the case.

Dr. Hurley was charged with violating s. 490.009(1)(r), F.S. (2007), for failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience. Dr. Hurley is also charged with violating Rule 64B19.0025(1)(2), F.A.C., by entering a professional report into the medical record of the complainant without the complainant's informed consent.

Following discussion, Dr. Luis Orta moved to accept the stipulation, which requires the following:

- Payment of costs in the amount of \$3,128.58;
- Payment of fine in the amount of \$1,000;
- A signed and notarized psychology laws and rules affidavit; and
- Completion of six (6) hours of continuing education in the areas of ethics and record keeping.

Dr. Richard Hoffman seconded the motion, which carried 5/0.

Tab 1 A. Norman Goldwasser, Case No. 2004-27669 (p/c/p Rafael Rivas-Vazquez & Carol Webster)

Dr. Goldwasser was present and not represented by counsel. Dr. Goldwasser was sworn in by the court reporter. Dr. Rivas-Vazquez was recused due to participation on the probable cause panel.

Dr. Goldwasser was charged with violating s. 490.009(1)(u), F.S. (2002-2003) for failing to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 490.0147; violating s. 456.072(1)(q), F.S. (2005), for failing to comply with a lawfully issued subpoena of the department; s. 490.009(1)(r), F.S. (2002-2003), for failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not

qualified by training or experience; violating s. 490.009(1)(w) F.S. (2002-2003), through a violation of Rule 64B19.0025, F.A.C., by failing to keep complete and adequate medical records. Following discussion, Dr. Richard Hoffman moved to accept the stipulation, which requires the following:

- Payment of costs in the amount of \$5,780.56;
- Payment of fine in the amount of \$3,000;
- A signed and notarized psychology laws and rules affidavit; and
- Completion of twelve (12) hours of continuing education in the areas of record keeping, and supervision.

Dr. Luis Orta seconded the motion, which carried 5/0.

MOTION FOR DETERMINATION OF WAIVER

Tab 3 Johann N. Prewett, Case No. 2008-15286 (p/c/p Rafael Rivas-Vazquez & Carol Webster)

Dr. Prewett was not present. Dr. Rafael Rivas-Vazquez was recused due to participation on the probable cause panel.

Dr. Prewett was charged with violating s. 490.009(1)(p), F. S. (2008), for being unable to practice the profession for which he is licensed, with reasonable skill and competence, as a result of a mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance.

Dr. Harry Reiff moved that Dr. Prewett was properly served and failed to respond, or dispute the material facts in the administrative complaint. Dr. Richard Hoffman seconded the motion, which carried 5/0.

In the absence of any dispute of any material facts, Ms. Patrice Moore moved to adopt the facts and conclusions of law set forth in the administrative complaint. Dr. Richard Hoffman seconded the motion, which carried 5/0.

Ms. Patrice Moore moved to accept the investigative file into evidence. Dr. Harry Reiff seconded the motion, which carried 5/0.

The penalties for Case No. 2008-15286 and Case No. 2008-16412 were consolidated. Dr. Richard Hoffman moved to impose suspension of the license until satisfaction of the following:

- Evaluation by the Board-approved impaired practitioners' treatment provider;
- Entry into a contract with the Professionals Resource Network (PRN);
- Full Compliance with the terms of Final Order Number DOH-08-0691-FOI-MQA;
- Demonstrated capability of returning to practice with reasonable skill and safety;
- Payment of costs in the amount of \$5,464.32; and
- Payment of fine in the amount of \$3,000.00.

The Board reserves jurisdiction to impose such reasonable terms of discipline as are warranted at the time Respondent's license is reinstated.

Ms. Patrice Moore, Esq seconded the motion, which carried 5/0.

Tab 4 Johann N. Prewett, Case No. 2008-16412 (p/c/p Rafael Rivas-Vazquez & Carol Webster)

Dr. Prewett was not present. Dr. Rafael Rivas-Vazquez was recused due to participation on the probable cause panel.

Dr. Prewett was charged with violating Section 490.009(1)(t) F.S. (2008) for failing to abide by the terms required by the Board's April 16, 2008 Final Order. Section 490.009(1)(t) F.S. (2007) provides that violating a rule of the Board or Department, or violating an order of the Board or Department previously entered in a disciplinary hearing constitutes grounds for disciplinary action by the Board of Psychology.

Following discussion, Ms. Patrice Moore moved that Dr. Prewett was properly served and has waived his right to a formal hearing. Dr. Luis Orta seconded the motion, which carried 5/0.

Dr. Richard Hoffman moved to adopt the facts and conclusions of law set forth in the administrative complaint. Dr. Luis Orta seconded the motion, which carried 5/0.

Dr. Harry Reiff moved to accept the investigative file into evidence. Ms. Patrice Moore seconded the motion, which carried 5/0.

The penalty was consolidated with Case No. 2008-15286 as reflected above in Tab 4.

Tab 5 Melinda J. Stewart, Case No. 2007-07276 (p/c/p Rafael Rivas-Vazquez & Carol Webster)

Withdrawn until further notice.

PROSECUTOR'S REPORT

Tab 6 Laura Lopez, Prosecuting Attorney

Ms. Lopez presented the prosecutor's report outlining the current status of the forty-five open disciplinary cases, as of March 25, 2009.

Under legal review	22
Scheduled for probable cause review	12
Probable cause found	11

17 of the above cases are more than one year old. Dr. Rafael Rivas-Vazquez moved to allow the Department to continue prosecuting the cases that are more than one year old. Ms. Patrice Moore seconded the motion, which carried 6/0.

ADMINISTRATIVE PROCEEDINGS

REVIEW OF LICENSURE APPLICATION AND PETITION FOR WAIVER

Tab 7 Emily McNally, re: Rule 64B19-11.001, F.A.C., Examination

Dr. McNally was present and represented by legal counsel, Dr. James Meyer.

Dr. McNally filed a petition requesting a variance from, and waiver of, Rule 64B19-11.001, F.A.C., regarding examinations.

In April of 2008, Dr. McNally applied for licensure by endorsement of licensure in another state. On October 24, 2008, the Board approved Dr. McNally for examination and licensure via the list of applicants from APA accredited programs.

Rule 64B19-11.001(1)(c), F.A.C., requires that the minimum passing score on EPPP shall be 70% for any examination taken prior to the October 2000. Dr. McNally's petition stated that she took the EPPP on 9/16/01 and received a score only a half-percent below Florida's requirement. Dr. McNally contended that, considering her training and experience, the legislative intent and purpose of preserving the health, safety, and welfare of the public, would not be derogated if she were allowed a variance and waiver of Rule 64B19-11.001, F.A.C.

Following discussion, Dr. Rafael Rivas-Vazquez moved to approve the petition in light of Dr. McNally's clinical, academic, and professional activities over the past 15 years. Additionally, when Dr. McNally passed the exam, the score was sufficient for licensure in New Jersey. Dr. Richard Hoffman seconded the motion, which carried 6/0.

Following further discussion, Dr. Richard Hoffman moved to approve the application for licensure by endorsement of the New Jersey license. Dr. Luis Orta seconded the motion, which carried 6/0.

RECONSIDERATION OF LICENSURE APPLICATION

Tab 8 Anthony Sabatasso

Dr. Sabatasso's application for psychologist licensure was approved in September 2005 under the application method "Endorsement of 20 Years Licensed Psychologist Experience", pending passage of the state laws and rules exam. Subsequent to the approval of Dr. Sabatasso's application, there was a material change in his status.

Prior to discussion, Dr. Richard Hoffman moved to reconsider the application. Dr. Luis Orta seconded the motion, which carried 6/0.

Following discussion, Dr. Richard Hoffman moved for a personal appearance by Dr. Sabatasso, pursuant to 456.013(3)(c), F.S. Dr. Luis Orta seconded the motion, which carried 6/0.

PETITIONS FOR VARIANCE

Tab 9 David E. Cox, re: Rule 64B19-11.005(1)(c), F.A.C., Supervised Experience Requirements

Dr. David E. Cox filed a petition for variance from Rule 64B19-11.005(1)(c), F.A.C., regarding supervised experience requirements.

Rule 64B19-11.005(1)(c), F.A.C. provides, in part, that a supervisor must be either a licensed Florida psychologist in good standing with the Board, or a doctoral-level psychologist licensed in good standing in another state providing supervision for licensure in that state.

Dr. Cox has been employed as a Postdoctoral Fellow at the University of Florida College of Medicine since June 2007. Dr. Cox has worked under the direct supervision of a Florida licensed Neurologist and an Illinois-licensed Psychologist.

Following discussion, the Board concurred that the postdoctoral fellowship is not in compliance with the requirements set forth in Rule 64B19-11.005(1)(c), F.A.C. Dr. Rafael Rivas-Vazquez moved to deny the petition for variance. Dr. Richard Hoffman seconded the motion, which carried 6/0.

APPLICANTS FROM APA ACCREDITED PROGRAMS FOR EXAMINATION AND LICENSURE AS NOTED

Tab 10 List of Applicants

Dr. Rafael Rivas-Vazquez moved to approve the list of applicants for examination and licensure as noted. Dr. Luis Orta seconded the motion, which carried 6/0.

RULES REVIEW AND/OR DEVELOPMENT

Tab 11 Delegation of Professional Responsibilities or Activities by Licensed Psychologists to Paraprofessionals

During the January 2009 meeting, the Board discussed draft language proposed by Dr. Rafael Rivas-Vazquez and Board Counsel.

During the current meeting, the Board discussed diagnostic interviews being performed by persons other than psychologist; issues of supervision; oversight; and inappropriate delegation of professional responsibilities.

The discussion will be continued at the end of the June 2009 Board Quorum call. The Board aims to discuss a plan to develop proposed legislation which will provide statutory authority to implement this rule.

Tab 12 Rule 64B19-18.008, F.A.C., Board Approval of Specialty Certifying Bodies

Rule 64B19-18.008, F.A.C., was noticed for development in November 2008 to allow the Board to address certain questions raised by Dr. Richard Hoffman and to address feedback received from interested parties.

During the March 2009 conference call, the Board addressed Dr. Hoffman's inquiries regarding the approval of entities granting psychopharmacology diplomates, oral examination requirements, and a requirement for approved entities to list their diplomates on their public websites.

Following discussion, Dr. Amy Swan moved to have Board Counsel draft language to specify that oral examinations should be conducted face-to-face, and that certifying bodies will be required to make readily available, by website and by telephone, the names of their diplomates. Additionally, the language will include provisions to monitor the certifying bodies for compliance with laws and rule. Dr. Richard Hoffman seconded the motion, which carried 6/0.

Tab 13 Rule 64B19-11.005, F.A.C., Supervised Experience

Post Doctoral Supervision Title:

During the March 2009 conference call, Dr. Richard Hoffman indicated a need for the Board to address Rule 64B19-11.005(1)(b) F.A.C., and the issue of the title used, or bestowed, on a post-doctoral individual pursuing the supervision requirements for licensure.

Dr. Rafael Rivas-Vazquez moved to notice Rule 64B19-11.005, F.A.C., for development. Dr. Luis Orta seconded the motion, which carried 6/0. Board Counsel will present draft language to be discussed during the July 2009 at which time the Board will decide if the changes to the rule impact small business.

ASPPB Guidelines on Practicum Experience for Licensure:

Dr. Harry Reiff presented to the Board ***ASPPB Guidelines on Practicum Experience for Licensure***. Dr. Reiff received the document from the Association of Psychology Postdoctoral and Internship Centers (APPIC). APPIC provided the document to APA-accredited internship programs. Dr. Reiff discussed the APA's decision to accept a different approach to the counting of the overall 4000 hour supervised experience requirement for licensure.

Dr. Amy Swan expressed concerned about the diversity in quality of practicum experiences compared to the quality of post doctoral supervised experience. Dr. Harry Reiff reiterated that he is in support of post doctoral supervision but mentioned that in light of the difficulties faced by new graduates in finding post doctoral positions, perhaps there are alternative ways to count the required hours of experience.

BOARD COUNSEL'S REPORT

Tab 14 Rule Status Report: Mary Ellen Clark, Assistant Attorney General

- Rule 64B19-11.010(1)(c), F.A.C., Limited Licensure Application Form
- Rule 64B19-11.011, F.A.C., Provisional Licensure Application Form
- Rule 64B19-11.012, F.A.C., Psychology Licensure Application Form

During the January 2009 meeting, the Board agreed to proposed modifications of the psychology limited, provisional and regular licensure application forms, which were revised to comply with requirements of the Americans with Disabilities Act (ADA) and to address other technical changes.

During the March 2009 conference call, the Board voted to approve the Statement of Estimated Regulatory Costs (SERC). The applicable rules were noticed for development. The forms must become effective by June 1, 2009.

The Joint Administrative Procedures Committee (JAPC) raised minor concerns regarding the applications. Board Counsel is working with Board staff on the amendments that will be made to the applications to address the concerns of (JAPC).

Dr. Luis Orta moved to approve the proposed new forms including changes to the application provided by Board counsel. Dr. Richard Hoffman seconded the motion, which carried 6/0.

Dr. Rafael Rivas-Vazquez moved to give Board counsel the authority to notice the rules for rule development after the applications voted on in January 2009 take effect, and that the additional changes to the application will not impact small business. Dr. Luis Orta seconded the motion, which carried 6/0.

- Rule 64B19-18.008, F.A.C., Board Approval of Specialty Certifying Bodies

Please reference minutes under Tab 12 regarding this rule.

Discussion of Recent Cases: Donna McNulty, Assistant Attorney General

Mrs. McNulty discussed the implications of the cases listed below.

- Francis J. Ducion, D.D.S., et al., v. Dr. Ana M. Viamonte Ros, in her official capacity as the State Surgeon General, et al.
- Department of Business and Professional Regulation, Construction Industry Licensing Board v. Adam Harden

- Stephen W. Thomas v. Department of Health, Board of Medicine

REPORTS, IF ANY

Tab 15 Amy Swan, Psy.D.

Dr. Amy Swan recognized and expressed her appreciation for Assistant Attorney General, Mary Ellen Clark, Esquire, who spent six years as the Board's Counsel and is being transferred to another Board. The Board also welcomed incoming counsel, Mrs. Donna McNulty.

Dr. Rafael Rivas-Vazquez moved to delegate Dr. Amy Swan, to write a letter on behalf of the Board expressing appreciation for Ms. Clark and commending her on her excellent service to the Board.

Dr. Luis Orta seconded the motion, which carried 6/0.

Other Board Members:

Dr. Harry Reiff provided a brief status report on legislation of interest to the Board.

Tab 16 Executive Director

Report topics

- Cash Balance Report
- Expenditures by Function
- Report on MQA Trust Fund Sweep

Informational item.

Tab 17 Credentials Committee Report

Dr. Amy Swan reported to the full Board the Credentials Committee's recommendations. Tab 1 is placed on administrative hold pursuant to the applicants request and waiver of processing time requirement of s.120.60 F.S. The Committee recommended approval of tabs 2 and 3. Dr. Rafael Rivas-Vazquez moved to ratify the recommendations of the committee. Dr. Richard Hoffman seconded the motion, which carried 6/0.

Tab 18 Continuing Education Committee Report

Dr. Amy Swan reported to the full Board the Continuing Education Committee's recommendations. The Committee recommended approval of tab 1.

Dr. Luis Orta moved to ratify the recommendations of the committee. Dr. Richard Hoffman seconded the motion, which carried 6/0.

NEW BUSINESS

Tab 19 Board Counsel's January 20, 2009 Memorandum, re: Discussion of Implications of Status of Applications Approved Pending Passage of Examination

The subject of Board Counsel's memorandum involved procedures utilized to address the misconduct of applicants approved for licensure pending passage of the required examination(s) and/or supervised experience requirements.

Board staff informed the members of changes to administrative procedures being effected to ensure the following: 1) upon ratification of the list of APA applicants, the Board is fully aware of the requirements pending for licensure based upon application method; 2) proper notice is provided to applicants being reconsidered due to misconduct, specifying the reason they are being brought before the Board and informing of the law which requires that applicants must notify the Board of any material changes to the application prior to issuance of the license; and 3) applicant approval letters are updated to include reference to the law that requires notice to the Board of any material application changes prior to licensure.

Tab 20 Correspondence from Dr. Vera Joffe, Licensed Psychologist, re: Multicultural Competency Training

The Board considered Dr. Joffe's correspondence and expressed encouragement of multicultural competency continuing education taken by individuals on their own volition, but did not agree to make the subject a mandatory continuing education requirement for licensed psychologists.

Tab 21 2009 Examination Fees

Testing Services addressed a memorandum to the Board regarding raising the current state laws and rules examination fee from \$75.00 to \$150.00 based on the results of the most recent testing fee assessment. These fees do not cover additional fees charged by national organizations, national examinations, computer-based administrators, or other contracted vendors.

Dr. Rafael Rivas-Vazquez moved to maintain the current examination fees. Dr. Luis Orta seconded the motion, which carried 6/0.

Board staff will inform testing services that the Board wishes to keep the current fee for the state laws and rules exam, and will continue to waive the administrative fee for the national exam.

OLD BUSINESS

Tab 22 January 23, 2009 General Business Meeting minutes

Dr. Luis Orta moved to approve the minutes. Dr. Rafael Rivas-Vazquez seconded the motion, which carried 6/0.

Tab 23 March 20, 2009 Board Quorum Call Meeting minutes

Dr. Rafael Rivas-Vazquez moved to approve the minutes. Dr. Luis Orta seconded the motion, which carried 6/0.

OTHER BUSINESS AND INFORMATION

Tab 24 ASPPB Disciplinary Data Report

Informational Item.

Tab 25 ASPPB Meeting Minutes

Informational Item.

Tab 26 PRN Monthly Report for January 2009

Informational Item.

Tab 27 Psychology Staff Recognition

Informational Item.

ADDENDUM

**Tab 28 New Business: Call for Nominations for ASPPB Board Officers ASPPB Fellows
and Other ASPPB Awards**

Informational Item.

Tab 29 Consideration of Proposed Supervisor: Paul Modesto

Dr. Modesto was required to submit, to the Board Chair, descriptions of the current practice of three proposed supervising psychologists, pursuant to the Final Order in Case No. 2005-0088.

The Board determined that the curriculum vitas of the proposed supervisors were unacceptable. Dr. Modesto will be required to submit curriculum vita for three supervisors who are psychologists licensed in Florida, and, who have experience in custody and forensic cases.

ADJOURNMENT

The meeting adjourned at 4:58 p.m.