

# **FLORIDA BOARD OF ATHLETIC TRAINING GENERAL BOARD MEETING**

## **DRAFT MINUTES**

**July 8, 2022 @ 9:00 a.m. EST**

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



**Kari Riddle, LAT, ATC, Chair**  
**Janet Hartman, Chief of General Operations**  
**Ashleigh K. Irving, Interim Executive Director**



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General Board Meeting  
July 8, 2022

## **CALLED TO ORDER @ 9:00 a.m. EST**

Roll Call was conducted by Ashleigh Irving, Interim Executive Director.

### **Members Present:**

Kari Riddle, ATC, LAT – Chair  
Billy J. “Bo” McDougal, ATC, LAT – Vice-Chair  
James T. Watson, ATC, LAT  
Kevin Christie, DC  
Frank Walters, PhD, LAT, ATC  
Gerald Stevens, LAT, ATC

### **Members Not Present:**

Randy S. Schwartzberg, MD (Excused Absence)  
Lynne Roberts (Excused Absence)  
James B. Hudson (Excused Absence)

### **Staff Present:**

Janet Hartman, Chief of General Operations  
Ashleigh Irving, Interim Executive Director  
Eric Pottschmidt, Program Operations Administrator  
Ronald “Tom” Jones, Assistant Attorney General  
Collie Nolen, Senior Attorney, Assistant General Counsel

## **AGENDA**

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### **WELCOME AND APPROVAL OF NEW INTERIM EXECUTIVE DIRECTOR – Ashleigh K. Irving**

After discussion the Board took the following action:

**Motion:** by Dr. Christie to accept Ashleigh K. Irving as the new Executive Director.  
**Second:** by Mr. Watson  
**Vote:** Passed Unanimously.

### **REVIEW AND APPROVAL OF MINUTES – March 1, 2022**

**Motion:** by Mr. Stevens to approve the March 1, 2022 minutes.  
**Second:** by Dr. Walters  
**Vote:** Passed Unanimously



## **DISCIPLINE (TS – 00:04:25 Minutes)**

### *Darrell A. Crews, AL; Case Number 2021-39702 – Determination of Waiver*

Darrell Crews was not present did not have legal representation. Mr. McDougal is recused from vote due to participation on PCP.

(TS 00:04:55 – TS 00:09:25) Ms. Nolen presented the case before the Board with the following allegations:

**Count I** - violation of section 456.072(1)(c), Florida Statutes (F.S.) 2020 – Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

**Count II** - violation of section 456.072(1)(x), Florida Statutes (F.S.) 2020 – Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999.

**Count III** - violation of section 468.719(1)(e), Florida Statutes (F.S.) 2021 – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

On or about January 6, 2021, the respondent pled nolo contendere to three counts of video voyeurism by a school employee and failed to report to the Board in writing within 30 days after entering said pleas. The respondent also failed to maintain his certification with the Board of Athletic Trainers' Association Board of Certification, Inc. (BOC) in good standing when BOC suspended the respondent's certification on or about July 14, 2021.

The Department presented the following motions for the Boards consideration and requested a vote on the following:

1. To accept the investigative report into evidence;
2. To find that the Respondent was properly served and waived their right to a formal hearing;
3. To adopt the findings of fact as set forth in the administrative complaint.

**Motion:** by Ms. Riddle to approve the motions as presented.

**Second:** by Dr. Walters

**Vote:** Passed Unanimously

The Department presented the following motions for the Boards consideration and requested a vote on the following:

1. To adopt the conclusions of law as set forth in the administrative complaint;
2. To find that it constitutes a violation of the practice act.

**Motion:** by Ms. Riddle to approve the motions as presented.

**Second:** by Mr. Stevens

**Vote:** Passed Unanimously

The Department recommended revocation and an administrative fine in the amount of \$12,000, citing the total amount of the maximum fines of count one (\$2,000), count two (\$5,000), and count three (\$5,000). The Department noted that the recommendation for revocation is outside of the disciplinary guidelines, however Ms. Nolen further stated that there are aggravating factors which support a revocation, as cited in Florida Administrative Code 64B33-5.002(1) and Florida Administrative Code 64B33-5.002(5).



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(TS 00:09:25) Mr. Stevens questioned the plan of action regarding the proposed monetary penalty. Ms. Nolen then stated that if the fine is implemented and then is not paid, the Department could potentially enforce a judgement upon the respondent as consequence. Mr. Stevens then inquired if this is a permanent revocation or if the respondent could ever apply again in the future for licensure in Florida. Ms. Nolen replied that to her understanding it is a permanent revocation of this license, but if the respondent were to attempt to re-apply in the future it would then be required to be reviewed by the Board, as well as any outstanding fines being paid if so imposed.

After discussion, the following action was taken:

**Motion:** by Mr. Stevens to accept the recommendation by the department for revocation and an administrative fine in the amount of \$12,000.  
**Second:** by Dr. Christie  
**Vote:** Passed Unanimously

Ms. Nolen then addressed the timeframe wherein the respondent must pay the administrative fine. The Department recommended to allow four years from the date of Final Order for the fines to be paid, with \$3,000 being paid each year. Ms. Riddle requested to amend the previous motion with the additional clarification that the administrative fine in the amount of \$12,000 must be paid within four years from the date of Final Order, which amounts to \$3,000 per year.

**Motion:** by Mr. Stevens to accept this amendment to the previous motion as presented.  
**Second:** by Dr. Christie  
**Vote:** Passed Unanimously

The Department then asked that the costs of prosecution in the amount \$137.32 be paid within one year from the date of Final Order.

**Motion:** by Mr. Stevens to accept the payment for costs of prosecution in the amount \$137.32 to be paid within one year from the date of Final Order.  
**Second:** by Dr. Walters  
**Vote:** Passed Unanimously

*Segundo S. Huerta, AL; Case Number 2021-07205 – Determination of Waiver* (TS 00:15:45)

Segundo S. Huerta was not present and did not have legal representation. Mr. McDougal is recused from vote due to participation on PCP. Mr. McDougal is recused from vote due to participation on PCP.

Ms. Nolen presented the case before the Board with the following allegations:

**Count I** - violation of section 468.719(1)(e), Florida Statutes (F.S.) through a violation of section 468.711(3), Florida Statutes (F.S.) which requires the licensee to be currently certified by the National Athletic Trainers' Association Board of Certification, Inc. (BOC), or its successor agency and maintain that certification in good standing without lapse. On or about January 19, 2021, the BOC issued a Consent Agreement suspending the respondent's certification as an entry-level athletic trainer.

The Department presented the following motions for the Boards consideration and requested a vote on the following:

1. To accept the investigative report into evidence;
2. To find that the Respondent was properly served and waived their right to a formal hearing;
3. To adopt the findings of fact as set forth in the administrative complaint.



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After discussion, the following action was taken:

**Motion:** by Ms. Riddle to approve the motions as presented.  
**Second:** by Mr. Stevens  
**Vote:** Passed Unanimously

The Department presented the following motions for the Boards consideration and requested a vote on the following:

1. To adopt the conclusions of law as set forth in the administrative complaint;
2. To find that it constitutes a violation of the practice act.

**Motion:** by Ms. Riddle to approve the motions as presented.  
**Second:** by Dr. Walters  
**Vote:** Passed Unanimously

The Department recommended suspension of the respondent's license until he is compliant with the current licensure requirements including holding a valid certification with the BOC which is in good standing. The Department further recommended an administrative fine in the amount of \$2,000 to be paid within one year from the date of Final Order.

**Motion:** by Ms. Riddle to accept the recommendation by the department for suspension of licensure until the respondent is in good standing with a valid BOC certification, as well as an administrative fine in the amount of \$2,000 to be collected within one year from the date of Final Order.  
**Second:** by Dr. Christie  
**Vote:** Passed Unanimously

The Department then asked that the costs of prosecution in the amount \$916.20 be paid within one year from the date of Final Order.

**Motion:** by Mr. Stevens to accept the payment for costs of prosecution in the amount \$916.20 to be paid within one year from the date of Final Order.  
**Second:** by Mr. Watson  
**Vote:** Passed Unanimously

### **PROSECUTOR'S REPORT (TS – 00:20:25 Minutes)**

Ms. Nolen presented the report to the Board. After discussion, the Department requested that the Board authorize the continued prosecution of the year and older cases.

**Motion:** by Mr. Stevens to allow PSU to continue to prosecute 1 year and older cases.  
**Second:** by Dr. Walters  
**Vote:** Passed Unanimously



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<u>Case Status</u>	<u>Report</u> Date 2/21/22	<u>Report</u> Date 6/29/22
Total cases open/active in Prosecution Services:	<b>4</b>	<b>3</b>
Cases in Emergency Action Unit:	0	0
Cases under legal review:	0	0
Cases awaiting supplemental investigation/expert opinion:	0	0
Cases with PCP recommendation:	2	0
Cases where probable cause has been found:	1	1
Cases where DOAH has been requested:	0	0
Cases pending before DOAH:	0	0
Cases on Board meeting agendas:	1	2
Cases on appeal:	0	0
<b>Cases older than one year: *</b>	<b>0</b>	<b>0</b>

### **APPLICATION REVIEW (TS – 00:22:30 Minutes)**

Max Mahaffey, File #6920

Max Mahaffey was not present and did not have legal representation. Mr. Mahaffey's application was before the board due to failure to disclose a DWI from 2005 on his application. The Board members were provided with two letters of explanation for consideration.

After discussion, the following action was taken:

**Motion:** by Dr. Christie to approve the application.  
**Second:** by Mr. Watson  
**Vote:** Passed Unanimously

Ms. Riddle noted that a review of the application verbiage may be necessary to ensure the criminal history questions are clear. Following discussion between Ms. Riddle and Ms. Hartman, it was agreed that this rule development can be reviewed during the next meeting once the language is prepared by Board Counsel.

**UNLICENSED ACTIVITY PRESENTATION – RONALD DILWORTH – Rescheduled for September 2022 meeting.**



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## **REPORTS (TS – 00:31:15 Minutes)**

**Chair's Report - Kari Riddle** – Nothing to report.

**Vice Chair's Report - Billy J. "Bo" McDougal** – Nothing to report.

**Executive Director's Report – Ashleigh K. Irving** – Ms. Irving directed the Board's attention to the proposed meeting dates for 2023.

### 2023 Proposed Meeting Dates

March 14th, 2023 | June 6th, 2023 | September 19th, 2023 | December 5th, 2023

After discussion, the following action was taken:

**Motion:** by Mr. Stevens to approve 2023 Proposed Meeting Dates.

**Second:** by Dr. Christie

**Vote:** Passed Unanimously

### Financial Review

Ms. Irving provided the expenditure report in the meeting material for review.

(TS 00:33:15-00:38:30) Ms. Hartman acknowledged and congratulated Mr. McDougal for the accomplishment of his program, Paxon School for Advanced Studies, winning the High School Sports Safety Program of the Year Award at the 2022 North Florida High School Sports Safety Award Gala. Ms. Hartman also discussed the current initiative to transition to electronic licensing issuance which was prompted by an inquiry made by Mr. McDougal to Ms. Hartman.

## **Board Counsel's Report – Ronald "Tom" Jones (TS – 00:39:50 Minutes)**

Mr. Jones introduced Dr. Patty Tripp, President of the Athletic Trainers' Association of Florida. Dr. Tripp then presented the following proposed rule change to the Board.

### Athletic Trainers Association of Florida Proposed Rule Changes

#### **Rule 64B33-2.003, F.A.C. Requirements for Continuing Education; Rule 64B33-4.001, F.A.C. Protocols; Scope of Practice – Dry Needling Discussion**

### **(TS – 00:40:35 Minutes thru 00:1:11:10 Minutes)**

Dr. Tripp stated that the purpose of the proposed change is to provide clarity and consistency as well as to align the scope of practice for Athletic Trainers with the BOC. Dr. Tripp then stated that the Board members have been provided with documentation outlining the proposed rule change.

After discussion, the following action was taken:

**Motion:** by Mr. Stevens to open the rule for development.

**Second:** by Dr. Walters

**Vote:** Passed Unanimously

#### **Rule 64B33-5.002, F.A.C. Mitigating and Aggravating Circumstances (TS—01:11:45)**

Mr. Jones presented a letter received from the Joint Administrative Procedures Committee which called for removal of Rule 64B33-5.002(14), citing lack of specificity in the language which violates section 120.52(8)(d),



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F.S. Mr. Jones recommended to delete Rule 64B33-5.002(14) in order to be in compliance with section 120.52(8)(d), F.S.

After discussion, the following action was taken:

**Motion:** by Dr. Christie to accept the recommendation as set forth by Mr. Jones.  
**Second:** by Mr. McDougal  
**Vote:** Passed Unanimously

**Annual Regulatory Plan (TS – 01:16:00)**

Mr. Jones provided the 2023 Annual Regulatory Plan in the meeting material for review.

After discussion, the following action was taken:

**Motion:** by Dr. Christie to approve 2023 Annual Regulatory Plan.  
**Second:** by Dr. Walters  
**Vote:** Passed Unanimously

**Rules Report (TS – 01:18:25)**– Nothing to report.

Mr. Stevens agreed to collaborate with Mr. Jones, Board Counsel, on developing language for the rule development initiative proposed during this meeting.

After discussion, the following action was taken:

**Motion:** by Mr. Watson to approve Mr. Stevens working with Mr. Jones on developing language for the rule development initiative proposed during this meeting.  
**Second:** by Mr. McDougal  
**Vote:** Passed Unanimously.

**SERC Questions (TS – 01:25:15)**

**SERC questions relate to Rule 64B33-5.002, F.A.C. Mitigating and Aggravating Circumstances**

- Will the proposed rule amendments have adverse impact on small business, or will the proposed rule amendments be likely to directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000 in the aggregate in Florida within one year after implementation?
- Should a violation of this rule or any part of this rule be designated as a minor violation?
- Would a Sunset provision be applicable to this Rule?

**Motion:** by Dr. Walters to vote in the negative for all SERC questions.  
**Second:** by Mr. Stevens  
**Vote:** Passed Unanimously



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## **RATIFICATIONS (TS – 01:26:35)**

### **Licenses Issued**

**Motion:** by Dr. Christie to accept the ratification list for Profession 1001.  
**Second:** by Mr. McDougal  
**Vote:** Passed Unanimously

## **OLD BUSINESS/NEW BUSINESS (TS – 01:28:25)**

Gerald Stevens asked question related to what other professions offer medical errors courses that could be approved for Athletic Trainers to be taken. Further discussion has been tabled to the next regularly scheduled meeting.

Kari Riddle inquired about synchronizing BOC renewal cycle with the licensure renewal cycle. Athletic Training renewal cycle ends September 30, 2022, and BOC renewal cycle ends December 31, 2023. Further discussion has been tabled to the next regularly scheduled meeting.

**NEXT MEETING DATE –** September 13, 2022 @ 7:30 a.m. - GoToMeeting

**PUBLIC COMMENTS –** No public comments.

**ADJOURNMENT @** 9:46 a.m.