

**OHIO BOARD OF DIETETICS
MINUTES OF THE BOARD MEETING
March 20, 2009
Board Room 31st Floor, Vern Riffe Center
Columbus, Ohio 10:15 A.M.**

DRAFT

AGENDA ITEM #1 – CALL TO ORDER

BOARD MEMBERS PRESENT: Vandadean Rogers, Kay Soltesz, Mary Frances (Francie) Astrom, Marsha Dumm

BOARD MEMBERS ABSENT: James Mermis

OTHERS PRESENT: Pat McKnight, Ohio Dietetic Association liaison; Kristen Starr, Assistant Attorney General; Donald Davis, Compliance Specialist; Kay Mavko, OBD Executive Secretary; Bluffton University students, Lindsey Miller, Allison White, Vicki Auer, Karla Nofziger, Rebecca Small, Tiffany Carnes, Jenna Kauffman, Gloria Effendi

Chairman Rogers called the meeting to order, and welcomed the Bluffton students. Each Board member and staff member introduced themselves and described their position on the Board and each Bluffton student shared information with the Board about themselves. Ms. Mavko described the Board mission and overview of agency activities.

AGENDA ITEM #2– APPROVAL OF MINUTES OF THE JANUARY 23, 2009 MEETING

The minutes of the January 23, 2009 regular Board meeting were presented to the Board by the Executive Secretary and they were reviewed and approved as submitted as corrected.

The following motion resulted:

RESOLUTION #4

Mary Frances Astrom moved and Vandadean Rogers seconded a motion to approve the minutes of the November 7, 2008 regular Board meeting as submitted by the Executive Secretary.

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

The minutes are filed in the official record at the Board office.

AGENDA ITEM #4 – APPROVAL OF LICENSES

Ms. Mavko presented the names of 6 individuals to the Board who were issued a Limited Permit license including one duplicate limited permit license between 11/7/2008 and 1/22/2009.

RESOLUTION #5

Mary Frances Astrom moved and Vandadean Rogers seconded a motion to place upon the minutes of the January 23, 2009 meeting the names of 6 individuals who were issued a Limited Permit during Fiscal Year 2009, with the expiration date of April 30, 2009 issued since the November 7, 2008 meeting of the Board. The list included one Limited Permit holder who was issued a supervised limited permit. The names appear on the list presented to the Board by the Executive Secretary. (See attached list labeled Resolution #5)

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

Ms. Mavko presented the names of 37 individuals who were issued a license for Fiscal Year 2008 between September 19, 2008 and November 6, 2008. The list included 28 initial licenses (two of which received advisory letters for short periods of unlicensed practice), 4 reinstatements, 1 reactivation, and 4 duplicate licenses (1 at no charge due to a type-o). The following motion was made:

RESOLUTION # 6

Kay Soltesz moved and Mary Frances Astrom seconded a motion to place upon the minutes of the January 23, 2009 meeting, the names of 37 dietitians who met qualifications, pursuant to Section 4759.06 ORC, and who were issued a license by the Executive Secretary during Fiscal Year 2009 since the November 7, 2008 meeting of the Board, and whose names appear on the list presented to the Board by the Executive Secretary. (See attached list labeled Resolution #6)

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

AGENDA ITEM # 5 – DISCUSSION OF PERTINENT LEGISLATIVE ISSUES

Pat McKnight and Kay Mavko reported that HB 580 (127th General Assembly) has had no official activity since the last Board meeting. Due to the end of the legislative session

HB 580 died in committee. It is likely that another attempt will be made by the proponents in the 128th Assembly.

The major effort in this session will begin with the Budget Bill. It is usually introduced in late January or early February. Due to the tough economic situation in the U.S. and Ohio it is anticipated that the budget bill may include significant proposals that could affect education, health-care, business and government. The news sources have reported that Governor Strickland will be seeking significant cost saving and pay concessions that could affect OBD payroll and/or staffing.

Ms. McKnight reported that Representative Barbara Boyd will be the primary sponsor of the Diabetes bill that will be introduced in the early part of the 128th General Assembly. Representative Randy Gardner will co-sponsor. The proponents are hoping that new committee leadership will assist in getting the legislation to move.

Discussions about what to include in anticipated School Food legislation are occurring by proponents that include ODA, the Ohio Business Roundtable, Hunger Alliance, School Foodservice, and others.

AGENDA ITEM # 6 -- ENFORCEMENT REPORT – DON DAVIS

Mr. Davis presented the Enforcement Report for FY 2009 period from November 8, 2008 through January 22, 2009. The enforcement statistics indicate that the period started with 24 open cases, 7 were closed at the November Board meeting, and since then 5 cases have been opened, resulting in a pending caseload of 22 open cases.

The Quarterly Enforcement statistics indicate that 7 new cases were opened during the quarter, and 7 were closed with an ending balance at the end of the quarter of 20 cases open. In comparison to the second quarter of FY 2007, 5 fewer new cases were opened this year and the ending number was the same – so. In FY 2008 we were still investigating and closing a larger number of expired licenses during the second quarter, where in FY2009 we concluded those investigations and closed those cases during the first quarter of the fiscal year.

A summary of completed and pending cases was provided. A copy of the Enforcement Report is attached to the minutes of this meeting.

STATUS OF BOARD ACTIONS

The Board deliberated upon the matter of Nicole DiBattista earlier in the meeting and moved to revoke the license. Ms. Mavko will prepare the Adjudication Order as soon as possible. No other ongoing actions were reported.

AGENDA ITEM # 7 – EXECUTIVE SESSION – ENFORCEMENT

The Board moved into Executive Session at 10:45 a.m. with the following motion:

RESOLUTION # 7

Mary Frances Astrom moved and Vandadean Rogers seconded a motion for the Board to move into Executive Session pursuant to Revised Code Section 121.22, for the purpose of considering the investigation of charges or complaints against licensees or regulated individuals under the Board's jurisdiction.

The motion was approved with roll call vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

The Board came out of executive session at 11:15 a.m.

AGENDA ITEM # 8 – FINDINGS, ORDERS, AND ACTIONS

RESOLUTION # 8

Kay Soltesz moved and Vandadean Rogers seconded a motion to close the following cases for the reasons cited:

08OBD10	Plead guilty to misdemeanor not related to practice
08OBD81	Title violation, not eligible for licensure, unfounded
09OBD01	Allegation of unlicensed practice; business closed
09OBD55	Title violation by former licensee; website updated
09OBD56	Unlicensed practice / Title violation; ceased practice & title
09OBD60	Initial license; moral character, unfounded

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

RESOLUTION # 9

Kay Soltesz moved and Francie Astrom seconded a motion to close the following cases for the reasons cited:

Cases of Licenses Expired for No Reason:

09OBD07	Requested to reinstate; has not, no evidence of practice
09OBD10	Requested to reinstate; has not. no evidence of practice
09OBD25	Requested to reinstate; has not, no evidence of practice
09OBD43	Unable to locate/contact; no evidence of practice
09OBD44	Reinstated; no evidence of practice
09OBD61	Limited Permit expired 10/31/08; no evidence of practice

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

RESOLUTION # 10

Kay Soltesz moved and Francie Astrom seconded a motion to close the following cases for the reasons cited:

09OBD59 Unlicensed practice; license issued with advisory letter

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

RESOLUTION # 11

Vandadean Rogers moved and Kay Soltesz seconded a motion to approve the Consent Agreement as presented by the Ohio Board of Dietetics Probable Review Committee to the respondent in case number 09OBD63 effective 1/23/2009.

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

RESOLUTION # 12

Kay Soltesz moved and Francie Astrom seconded a motion to close the following cases for the reasons cited:

09OBD63 Unlicensed practice; eligible for licensure

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

AGENDA ITEM # 9 --BOARD REPORTS

CHAIRMAN – Mr. Mermis thanked the Board for their support as Chairman and noted that his term is up at the end of this meeting, and that his appointment is

scheduled to conclude in June. He indicated that elections for the 2009 leadership positions would occur later in the meeting.

ODA LIAISON – Pat McKnight -

1. There are two ODA sponsored Advocacy Days planned for 2009. They are scheduled for April 1st (when legislators will be scheduled to talk with students and dietetic interns) and March 18th (for dietitians following the format that has been used for the past number of years). As usual Ms. Mavko will update attendees on licensure related information.
2. The American Dietetic Association’s Public Policy Workshop (PPW) which is usually held in Washington, D.C will be held February 8, 9, and 10 using a webinar format this year in order to save costs. “Plenary Parties” will be held in the State districts and at other locations, where dietitians will meet together to observe a webinar presentation and then break out into groups to plan legislative visits with members of Congress. Those visits will occur in the congresspersons home district rather than in Washington, and will be scheduled during targeted times ending in August. Ms. McKnight reminded the Board that it is important to mobilize dietitians to communicate with their legislators because the President and Congress will be focusing on health care reform.

DIRECTORS REPORT – Kay Mavko

1. Juliana Smith and Stephanie Patrick from the American Dietetic Association inquired about the Ohio dietitian licensure law and particular statements that unlicensed alternative practitioners are making as they oppose dietitian licensure efforts in New Jersey and Wisconsin. They are asserting that the Ohio law restricts free speech and commercial nutrition activity and has stopped the free dissemination of nutrition information. After a short discussion about the issue, ADA staff requested that a short memo be mailed to the Wisconsin and New Jersey Dietetic Association describing the Ohio Law and its relationship to commercial activity, free speech related to nutrition.

Ms. Mavko prepared a brief letter that was sent to both the Wisconsin and New Jersey Dietetic Associations and copies to ADA Washington, D.C, and staff. Copies of the letter were provided for the Board’s review.

2. Ms. Mavko reported that the cost of the Board’s subscription to the Quia website for posting of the on-line jurisprudence modules will be doubling for 2009. It still appears to be a bargain compared to other sites that cost 5-10 times as much. A new module will be posted as soon as it is approved by the Board.
3. Ms. Mavko reported that the Boards and Commissions are currently

being provided with a trial subscription to the Hannah legislative report in order to evaluate it, and potentially switch from Gongwer. The site is quite robust and has some features that appear to be excellent. However, pricing is higher so a compelling case would need to be made to justify a change.

4. In response to the governor's Management Directive issued on November 20, 2008 and in anticipation of the implementation of HB 648, Ms. Mavko drafted 4 policies related to public records, data and e-mail and requested that the Board review and approve them for implementation. It is understood that the policies may need to be changed when advice about HB 648 is received. Additionally a list of the Laws and Rules pertinent to information obtained by the Board was also drafted. The policies will be added to a new section V of the Policy and Procedures Manual devoted to Data and Information. The Board reviewed the material, and pending no suggestions or changes the following motion was made:

RESOLUTION # 13

Marsha Dumm moved and Kay Soltesz seconded a motion to approve the following policies: 5.1 Data Authority, 5.2 Ohio Board of Dietetics Public Records Policy, 5.3 Processing Public Records Requests, 5.4 Accessing Sensitive Personal Data, 5.5 E-mail, Use of Agency E-mail.

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

AGENDA ITEM #10 – FINANCIAL REPORT

The financial report was presented for the months of November and December 2008 including Allotments, Expenditures and Revenues to Date. Expenditures for the month of October were \$22,328.68 and added into this report because they were not available until after the last Board meeting. November expenditures were \$39,609.91 and December were \$19,866.69. November revenue totaled \$1,530.00 and \$2,073.28.00 for December resulting in total revenue to date of \$75,643.78.

Because this financial report includes the mid-year information Ms. Mavko compared the Revenue collections at the December 31 mid point of FY 2009 to mid-point FY2008. Revenues currently are \$6,276.22 less than the previous year. The collections in July and August of this year were \$5,252 less than last year. This reflects the revenue shift that occurs due to the jurisprudence requirement every other year.

Ms. Mavko requested that the Board approve renewal of our subscription to the Quia website which is \$597 for the year. It is a very cost effective on-line site when compared to others.

RESOLUTION #14

Kay Soltesz moved and Vandadean Rogers seconded a motion to approve the expenditure of \$597 for renewal of the subscription to the Quia website.

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

RESOLUTION # 15

Vandadean Rogers moved and Kay Soltesz seconded a motion to approve expenditures as presented for October, November and December 2008 and to accept the Financial Report as submitted to the Board by the Executive Secretary.

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

A copy of the Financial Report is attached to the minutes of the meeting.

BUDGET UPDATE

Ms. Mavko noted that the FY2010-2011 Budget bill has not been submitted to the legislature but that it should be soon. Agency budget testimony usually starts sometime in February before House Committees and the Board will be informed of when we are scheduled.

AGENDA ITEM # 11 – ELECTION OF OFFICERS FOR CALENDAR 2009 AND ASSIGNMENT OF COMMITTEES

James Mermis indicated that the informal procedure for the election of officers for calendar 2009 is for the Board Chairman to request nominations from the floor for the leadership positions of Board Chairman and Vice Chairman. Mr. Mermis called for nominations.

The following motions resulted:

RESOLUTION # 16

Kay Soltesz moved and Mary Frances Astrom seconded a motion to nominate Vandadean Rogers for Chairman of the Ohio Board of Dietetics for calendar year 2009 effective at the close of the January Board meeting. Ms. Rogers indicated that she would accept the nomination.

The motion was approved with vote as follows:

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

RESOLUTION # 17

Mary Frances Astrom moved and Marsha Dumm seconded a motion to elect Kay Soltesz as Vice-Chairman of the Ohio Board of Dietetics for calendar year 2009, effective at the close of the January Board meeting. Ms. Soltesz accepted the nomination.

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

Chairman Mermis thanked the Board members for agreeing to serve in the leadership positions during calendar year 2009. He indicated that it is traditional for the incoming Chairman to make committee appointments at this time, and asked Ms. Mavko to describe the current committees and their make-up.

Appointment of Board Committees for Calendar Year 2009

Ms. Mavko described the current make-up of Board committees. The 2008 committees included the following:

Probable Review Panel: Board Vice-chairman, AAG, Compliance Specialist,
Director

Application Review: Dietitian member, Compliance Specialist, AAG, Director

Continuing Education / Professional Development: Educator member, Director,
Dietitian member

Rules Committee: Public member, Dietitian member, ODA liaison, Compliance
Specialist, Director

The consensus of the Board was to continue the same committees and member make-up for 2009. The Board members were polled for their individual interest in service on particular committees.

The following Board member committee assignments were made:

Ms. Rogers – Rules Committee

- Ms. Soltesz – Probable Review Panel and Continuing Education / Professional Development Committee
- Mr. Mermis – Rules Committee
- Ms. McKnight – Rules Committee
- Ms. Dumm – Application Committee, and Rules Committee

Ms. Mavko agreed to coordinate committee meetings and agendas as required for the work of the committees.

AGENDA ITEM # 12 & 13 – SUBCOMMITTEE MEETINGS AND REPORTS

The Education subcommittee met to review Continuing Education / Professional Development Learning Plans and Learning Logs, and requests for Jurisprudence Programs. The Rules committee met to continue work on drafting of Standards of Practice, Professional Performance, and Supervision Rules.

Each committee provided a brief report.

EDUCATION COMMITTEE – reported that they reviewed 6 Professional Development Plans and approved all with 2 licensees receiving minor suggestions. One Learning Log was approved. Additionally, the committee approved Ms. Mavko’s presentation at the March 18 and April 1, 2009 Ohio Dietetic Association Legislative Workshops for 1 hour of jurisprudence continuing education, the American Dietetic Association Public Policy Workshop for 1 hour of jurisprudence continuing education, and the Ohio Board of Dietetics Module “ Clarifying the Ohio Dietitian Licensure Law for Unlicensed Health, Wellness, Fitness Professionals” for 1 hour of jurisprudence continuing education.

RULES COMMITTEE – The Rules Committee reported that they continued to work on editing drafts of rules on Supervision, Standards of Practice, Standards of Professional Performance and anticipate that the final drafts of the rules will be ready for the full Board review at the March meeting.

APPLICATION COMMITTEE – The Application Committee set the date of February 10, 2009 to review renewal and other application types.

AGENDA ITEM # 14 - UPCOMING MEETINGS

Dates scheduled for Regular Board meetings in 2009 are as follows:

- | | |
|------------------|--------------------|
| January 23, 2009 | July 17, 2009 |
| March 20, 2009 | September 25, 2009 |
| May 22, 2009 | November 13, 2009 |

AGENDA ITEM #15 - ADJOURNMENT

A motion was made to adjourn the meeting. There was consensus by the Board. The January 23, 2009 meeting of the Ohio Board of Dietetics adjourned at 3:00 p.m.

Respectfully submitted,

_____ **Date** _____
Kay Mavko, Executive Secretary
Ohio Board of Dietetics

_____ **Date** _____
James Mermis, Chairman,
Ohio Board of Dietetics

_____ **Date** _____
Witness