

**OHIO BOARD OF DIETETICS  
MINUTES OF THE BOARD MEETING  
March 28, 2008  
Board Room, - 31<sup>st</sup> Floor, Vern Riffe Center  
Columbus, Ohio  
10: A.M.**

**AGENDA ITEM #1 – CALL TO ORDER**

**BOARD MEMBERS PRESENT:** James Mermis, Vandadean Rogers, Kay Soltesz, Claire Adkins

The replacement for the vacant dietitian member position has still not been appointed by the governor’s office. However, the Governor’s office has indicated that an appointment is imminent, and has indicated that one may potentially be announced by the conclusion the meeting today.

**OTHERS PRESENT:** Kay Mavko, OBD Executive Secretary; Pat McKnight, Ohio Dietetic Association liaison; Beth Shaffer, OBD Compliance Specialist.

The meeting was called to order at 10:05 A.M. by Chairman Mermis. Yvonne Tertel, Assistant Attorney General was introduced to the Board as counsel assigned to the Board by the Attorney General’s office. Ms. Tertel has many years of experience in state government and we are looking forward to working with her. She has a previous commitment that precludes her from being able to stay at the meeting today, but she will try to attend the pertinent parts of future meetings as she is available.

**AGENDA ITEM #2– APPROVAL OF MINUTES OF THE JANUARY 25, 2008 MEETING**

The minutes of the January 25, 2008 regular Board meeting were presented to the Board by the Executive Secretary and they were reviewed and approved as corrected.

The following motion resulted:

**RESOLUTION #1**

**Vandadean Rogers moved and Kay Soltesz seconded a motion to approve the minutes of the January 25, 2008 regular Board meeting as submitted by the Executive Secretary.**

**The motion was approved with vote as follows:**

<b>James Mermis</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>
<b>Vandadean Rogers</b>	<b>yes</b>	<b>Claire Adkins</b>	<b>yes</b>

The minutes and the correction to the Enforcement Report are filed in the official record at the Board office.

**AGENDA ITEM #3- APPROVAL OF LICENSES**

Ms. Mavko presented the names of 5 individuals who were issued a Limited Permit license between November 16, 2007 and January 25, 2008.

**RESOLUTION #2**

**Kay Soltesz moved and James Mermis seconded a motion to place upon the minutes of the January 25, 2008 meeting the names of 5 individuals who were issued a Limited Permit during Fiscal Year 2008 with the expiration date of April 30, 2008 since the November 16, 2007 meeting of the Board. The names appear on the list presented to the Board by the Executive Secretary. (See attached list labeled Resolution #2)**

**The motion was approved with vote as follows:**

<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>
<b>Vandadean Rogers</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>

Ms. Mavko presented the names of 36 individuals who were issued a license for Fiscal Year 2008 between November 16, 2007 and January 25, 2008. The list included 24 initial licenses, 6 reinstatements, 2 reactivations, and 4 duplicate licenses. The following motion was made:

**RESOLUTION #3**

**James Mermis moved and Vandadean Rogers seconded a motion to place upon the minutes of the January 25, 2008 meeting, the names of 36 dietitians who met qualifications, pursuant to Section 4759.06 ORC, and who were issued a license by the Executive Secretary during Fiscal Year 2008 since the November 16, 2007 meeting of the Board, and whose names appear on the list presented to the Board by the Executive Secretary. (See attached list labeled Resolution #2)**

**The motion was approved with vote as follows:**

<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>
<b>Vandadean Rogers</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>

Ms. Mavko reported it was just recently discovered that one error had been made on each of the initial licensure lists presented to the Board at the September 2007 and July 2007 Board meetings. The issuance of a Duplicate license was missed on each of those lists.

She presented the Board with copies of the corrected lists and requested that a motion to amend the original lists be made. The following motion resulted:

**RESOLUTION # 4**

**Kay Soltesz moved and Vandadean Rogers seconded a motion to place upon the minutes of the July 20, 2007 and September 14, 2007 meetings, the names of 2 dietitians who met qualifications, pursuant to Section 4759.06 ORC, and who were issued a Duplicate license by the Executive Secretary during Fiscal Year 2008 and whose names errantly failed to appear on the list presented to the Board by the Executive Secretary at those meetings. (See attached corrected lists labeled Resolution #4a and # 4b and substituted for the original lists)**

**The motion was approved with vote as follows:**

<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>
<b>Vandadean Rogers</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>

**DISCUSSION OF HB 104 AND ITS AFFECTS ON APPLICATIONS AND APPLICANTS FOR INITIAL LICENSES**

Ms. Mavko reported that HB 104 – requiring Criminal Background checks has passed and will be enacted on March 28, 2008. This requires that the Board draft rules and develop procedures requiring that applicants for initial licenses submit to criminal background checks from the Ohio Bureau of Criminal Investigation and Identification (BCII) and the Federal Bureau of Investigation (FBI) by way of finger printing.

The affected regulatory boards met this week with a representative of BCII and the Attorney General’s office to discuss the process that applicants would follow and where fingerprinting is available in Ohio. Ohio only uses an electronic fingerprinting process while out of state applicants will have to roll their fingerprints using the ink type cards and then have them sent to Ohio to convert to electronic. Ohio does not accept prints submitted from any out of state electronic locations. Although a lot of information was shared, many questions remain on the process. Ms. Mavko indicated that as information becomes clearer, she will develop a draft of procedures for the agency to use.

Ms. Mavko suggested that the Rules committee schedule a meeting or meetings as soon as possible to consider the Administrative Rule requirements, and indicated that she would seek input from other Boards who already have the criminal background check requirement in place like the Nursing and Dental Boards.

Additionally, the Application Review committee will need to consider the impact that this has on applications, and any additional instructions that may need to be developed.

Good communication with colleges, universities and Dietetic Internship programs about the new requirement will be necessary so that incoming applicants are prepared for the financial and procedural demands that this requirement imposes. As soon as we have nailed down the particulars, staff will begin to develop instructions for applicants, and make certain that they get communicated to Ohio programs in particular.

**AGENDA ITEM #4 – APPLICATION FOR NUTRITION EDUCATION EXEMPTION**

The Neighborhood Family Practice applied to the Board for exemption for the agency to provide Nutritional Education Activities pursuant to 4759.10 (D) of the Ohio Revised Code. The exemption application was reviewed by the Board, and approved via the following motion:

**RESOLUTION # 5**

**Kay Soltesz moved and Vandadean Rogers seconded a motion to approve the application of the Neighborhood Family Practice, 3569 Ridge Road, Cleveland, Ohio 44102 to provide Nutritional Education Activities pursuant to 4759.10 (D) of the Ohio Revised Code. The exemption will be in effect for two years from the date of its approval.**

**The motion was approved with vote as follows:**

<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>
<b>Vandadean Rogers</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>

**AGENDA ITEM # 5 – ENFORCEMENT**

Ms. Shaffer presented the Enforcement report for the period of November 16, 2007 through January 25, 2008 including Quarterly statistics for the first two quarters of FY 2008. Of 68 open cases, 54 were closed at the November Board meeting and since then 8 cases have been opened. Therefore, there are 22 cases pending.

The comparison of enforcement statistics between 2<sup>nd</sup> Quarter 2008 and 2<sup>nd</sup> Quarter 2007 indicate that the number of new cases has increased (+10), number of cases closed has also increased (+19), resulting in a lower number (-12) of pending cases for this same time period.

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

**AGENDA ITEM # 6 -- STATUS OF BOARD ACTIONS**

Ms. Shaffer reported that the Consent Agreement offered to Ms. Andrea Cox has been signed and returned. It will be reviewed in Executive Session for potential approval. Ms. Vibhuti Patel who entered into a Consent Agreement previously is scheduled to appear before the Board later in the meeting (Agenda Item #12). Ms. Shaffer reports that she completed a follow-up visit to a facility where Sandra Hathaway practices, and she will report her findings in Executive Session.

**AGENDA ITEM # 7 – EXECUTIVE SESSION - ENFORCEMENT**

**RESOLUTION # 6**

**Vandadean Rogers moved and Kay Soltesz 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:**

<b>Claire Adkins</b>	<b>yes</b>	<b>Vandadean Rogers</b>	<b>yes</b>
<b>James Mermis</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>

The Board came out of executive session at 11:50 A.M.

**AGENDA ITEM # 8 – FINDINGS, ORDERS, AND ACTIONS**

**RESOLUTION # 7**

**James Mermis moved and Vandadean Rogers seconded a motion to close the following cases for the reasons cited:**

- 08OBD12      Adjudication order was mailed. Board refused to issue renewal of FY 08 license for failure to complete the late renewal fee. Fifteen days passed with no appeal.
- 07OBD53      Completed terms of Consent Agreement. License remains on probation.
- 08OBD64      Unfounded. Appears to met supplement sales exemption pursuant to 4759.10 (H) & (I) and provides GNMNI.
- 08OBD65      Unfounded. Systems problem correction.
- 08OBD73      Unfounded. Letter acknowledging cooperation and copy of guideline F provided.
- 08OBD79      Advisory letter with condition to applicant. Letter to LD supervisor.

**The motion was approved with vote as follows:**

<b>Claire Adkins</b>	<b>yes</b>	<b>Vandadean Rogers</b>	<b>yes</b>
<b>James Mermis</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>

**RESOLUTION # 8**

**James Mermis moved and Vandadean Rogers seconded a motion to close case # 08OBD60, to approve the signed Consent Agreement entered into between Andrea Cox and the Ohio Board of Dietetics, and to refer pertinent case information to the American Dietetic Association for use of the trademarked title “Registered Dietitian”.**

**The motion was approved with vote as follows:**

<b>Claire Adkins</b>	<b>yes</b>	<b>Vandadean Rogers</b>	<b>yes</b>
<b>James Mermis</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>

**RESOLUTION # 9**

**James Mermis moved and Vandadean Rogers seconded a motion to authorize staff to issue and amended Notice of Opportunity for Hearing to case # 07OBD76, Nicole DiBattista if she is convicted of or pleads guilty to a felony conviction prior to the next (March) Board meeting, and to timely re-schedule a hearing before the Board.**

**The motion was approved with vote as follows:**

<b>Claire Adkins</b>	<b>yes</b>	<b>Vandadean Rogers</b>	<b>yes</b>
<b>James Mermis</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>

**AGENDA ITEM # 9 – PERTINENT LEGISLATIVE ISSUES**

There has been no official activity on **HB 148 – the Alternative and Complementary Practitioner’s** bill. Staff will continue to monitor.

Ms. McKnight reports that the **Diabetes Cost Reduction bill SB 99** was initially sponsored by Senator Gardner who has now moved to the House of Representatives. It is uncertain what effect that will have on the legislation, or if the bill may be changed some.

Ms. Kcknight reports that she is working with other interested parties to work out concerns about the **School Wellness legislation HB 254**– especially those concerns related to the cost of education of food service directors and the need for background checks.

The plans for the **ODA Legislative Workshop** that will be held in the Verne Riffe center on March 5, 2008 are progressing on schedule. Ms. McKnight encouraged Board members to attend and indicated that the fee would be waived for them.

**AGENDA ITEM # 10 - PREPARATION FOR PUBLIC HEARING**

The Board discussed the procedures that would be used at the Rules Hearing later in the day, and reviewed the script prepared for the occasion.

The Board briefly adjourned for lunch prior to the afternoon Public Rules Hearing and remainder of the meeting agenda.

### **AGENDA ITEM #11 – PUBLIC RULES HEARING**

At 1:30 P.M. until 2: 15P.M. a Public Rules Hearing was held to gather input on 17 proposed rule amendments and 2 new rules replacing 2 rules to be rescinded (because changes were more than 50% of text). The Ohio Dietetic Association testified in support of the rule changes. Representatives of the Ohio Podiatric Medical Association, Ohio State Chiropractic Board, and the Ohio State Chiropractic Association testified in opposition to Rule 4759-2-01 Definitions.

A complete transcript of the Rules Hearing is on file at the Board office.

### **AGENDA ITEM # 12 – APPEARANCE OF VIBHUTI PATEL BEFORE THE BOARD**

Ms. Vibhuti came before the Board in partial fulfillment of the terms of the Consent Agreement entered into between her and the Board. She described the circumstances and reasons for having made false statements in her applications for limited permit licensure in violation of Chapter 4759 and the applicability of the coursework and other experiences assisting her to meet the requirement of good moral character.

The Board members questioned Ms. Patel about the lessons learned from this process, and stressed the expectation that she would be truthful in the future when presenting information to the Board.

### **DISCUSS ION OF INFORMATION FROM PUBLIC RULES HEARING**

The Board reviewed the opposition related to Administrative Rule 4759-2-01 OAC that was presented at the Public Rules Hearing and directed Ms. Mavko to work with the constituents to point out that the rule does not change the current statutory exemption for licensed health professionals who are acting within the scope of their practice. She was also directed to proceed with the rule in its current form, unless the opposition intensifies and/or is perceived to jeopardize adoption of the rule.

### **AGENDA ITEM # 13 – BOARD REPORTS**

**CHAIRMAN – Claire Adkins** - Ms. Adkins reported that the election for the leadership positions of Chairman and Vice Chairman would occur later in the meeting. Ms. Adkins indicated that she plans to be available for the July 2008 meeting if a

replacement is not appointed for her position by then.

**ODA LIAISON – Pat McKnight** - No report.

**DIRECTORS REPORT – Kay Mavko**

1. The Board members were provided with a copy of the American Dietetic Association’s DRAFT 2008 Standards of Practice in Nutrition Care for RDs and DTRs and Ms. Mavko reviewed the time frame for providing feedback, and voting, and possible implementation. If enacted the Board will need to consider the proposed changes, and the affect they would have on the practice of dietetics in Ohio. The board decided to actively seek input from stakeholders including dietitians and dietetic technicians in various practice arenas, educators of dietitians and dietetic technicians, as well as representatives from the Ohio Healthcare Association (OHA), Ohio Health Care Association (OHCA), WIC, Ohio Department of Health, etc.

Ms. Mavko will attempt to contact interested parties and plan a workgroup structure.

2. Ms. Mavko proposed that the Board take a first step towards the goal to eventually have a paperless process for license applications and licensee files. This step would entail the coding of existing licensee files with bar coded name so that the future scanning of documents would be efficient and accurate. Central Business Group has presented staff with a proposal for a label printing program and labels for new license files, and pre-printed bar codes to apply to existing files for less than \$1,600.00.

The plan would start with the labeling of expired and inactive files first, then active files. Next, staff would identify the oldest files to be scanned, and removed from the agency. Eventually, as time and budget permits, staff will work forward to the largest task of scanning current active files.

The Board approved the request and the following motion resulted:

**RESOLUTION # 10**

**Kay Soltesz moved and James Mermis seconded a motion to approve the expenditure of \$1,600.00 to begin to label and bar code expired, inactive, and current licensee files.**

**The motion was approved with vote as follows:**

<b>Claire Adkins</b>	<b>yes</b>	<b>Vandadean Rogers</b>	<b>yes</b>
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**James Mermisy**      **yes**                      **Kay Soltesz**                      **yes**

3.      W-2 statements were printed this week, and mailed to the home address of employees and Board members homes. Board members who do not receive theirs should let staff know as soon as possible.
4.      The annual renewal fee for the Quia subscription remains \$297.00. The subscription continues to be an effective way for licensees to complete the required Jurisprudence continuing education. Pending no objections from the Board the renewal will be processed.
5.      Each Board member was given a copy of their calendar year 2007 travel reimbursement record to include with the 2007 Financial Disclosure form that must be filed by April 15, 2008.
6.      Each Board member was given a copy of the newly released Gongwer Ohio Government Directory.
7.      Ms. Mavko reported on the December 2007 Administrative Law Conference that she attended. The program was very informative.
8.      Ms. Mavko has extended an offer for the summer Intermittent Clerk 1 position to Diane Weaver, an OU graduate student. She has verbally accepted, and the planned start date will be April 28, 2008. Due to the current budget cut-backs and hiring controls, the process to fill the position may take a little longer than usual.
9.      The Board can expect agency spending, hiring, travel and expenses to be more closely scrutinized as a result of the controls put in place by Governor Strickland to attempt to balance the State budget against falling revenue estimates. OBD is not a General Revenue Fund agency, so we have not been required to cut by any certain percentage or dollar amount. We were encouraged to look at the potential of offering an Early Retirement Incentive program, however the cost / vs. cost savings were not advantageous for the agency.
10.     Ms. Mavko has scheduled upcoming presentations in Columbus at the Ohio Nutrition Council Bi-ennial Nutrition Conference, and the Ohio Health Care Association annual meeting. Additionally she will make a presentation to the Northwest Ohio Dietetic Association meeting in the Toledo area in April. The topic for presentation will be the revised administrative rules, and implementation of background checks for license applicants.

**AGENDA ITEM # 14 – FINANCIAL REPORT**

**AGENDA ITEM #11 – FINANCIAL REPORT**

The financial report was presented for the months of November and December 2007 including Allocations and Appropriations, Expenditures, and Revenues to Date. Due to the lack of reports available, the figures included in this report are calculated again on best guess information, and much of the reporting was done by hand. Operation expenditures for the month of November was \$1,225.10 and for December was \$7,536.57 excluding payroll.

Revenue collected for November was \$2,985.00 and for December was \$1,890.00 resulting in a total revenue for the first half of FY 2008 of \$81,920.00.

A comparison of revenue collected in the first half of FY 2008 (81,890.00) versus the first half of FY 2007 (\$59,477.50) illustrates the heavy July and August FY 2008 collections as licensees delayed renewing most likely due to the requirement for Jurisprudence Continuing Education. A similar same shift was noted in the last biennium that the jurisprudence requirement was in place.

**RESOLUTION # 11**

**James Mermis moved and Vandadean Rogers seconded a motion to approve expenditures as presented for November and December 2007 and to accept the financial report as submitted to the Board by the Executive Secretary.**

**The motion was approved with vote as follows:**

<b>Claire Adkins</b>	<b>yes</b>	<b>Vandadean Rogers</b>	<b>yes</b>
<b>James Mermis</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>

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

**AGENDA ITEM # 15 – ELECTION OF OFFICERS FOR CALENDAR 2008 AND ASSIGNMENT OF COMMITTEES**

Chairman Adkins indicated that the informal procedure for the election of officers for calendar 2008 is for the Board Chairman to request nominations from the floor for the leadership positions of Board Chairman and Vice Chairman. Ms. Adkins called for nominations.

The following motions resulted:

**RESOLUTION # 12**

**Vandadean Rogers moved and Kay Soltesz seconded a motion to nominate James Mermis for Chairman of the Ohio Board of Dietetics for calendar year 2008 effective at the close of the January Board meeting. Mr. Mermis indicated that he would accept the nomination.**

**The motion was approved with vote as follows:**

<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>
<b>Vandadean Rogers</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>

**RESOLUTION # 13**

**Kay Soltesz moved and James Mermis seconded a motion to elect Vandadean Rogers as Vice-Chairman of the Ohio Board of Dietetics for calendar year 2008, effective at the close of the January Board meeting. Ms. Rogers accepted the nomination.**

**The motion was approved with vote as follows:**

<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>
<b>Vandadean Rogers</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>

Chairman Adkins thanked the Board members for agreeing to serve in the leadership positions during calendar year 2008. She 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 2008**

Ms. Mavko described the current make-up of Board committees. The 2007 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 2008. The Board members were polled for their individual interest in service on particular committees.

The following Board member committee assignments were made:

Ms. Rogers – Probable Review Panel  
Ms. Soltesz – Application Review Committee  
Continuing Education / Professional Development committee

Ms. Adkins – Continuing Education / Professional Development committee  
Rules Committee

Ms. McKnight – Rules committee

Mr. Mermis – Rules committee

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

Mr. Mermis thanked Ms. Adkins for her service as Board Chairman for calendar 2007 and was presented with the name stamp used during her tenure as a small token of the Board's appreciation.

### **AGENDA ITEMS # 16 & 17 - SUBCOMMITTEE MEETINGS AND REPORTS**

The **Continuing Education / Professional Development Committee** met and reported that they approved the application of the Ohio Dietetic Association for 1 hour of Ohio Board of Dietetics approved Jurisprudence education for the March 5, 2008 program "Licensure Issues" at the Legislation & Public Policy Advocacy Day, Columbus, Ohio.

The Committee denied an application for Jurisprudence credit submitted by Dietary Support Services, Inc. for the program "Can Your Kitchen Pass the Food Safety Test?" because it is not related to the Laws and Rules Governing the Practice of Dietetics – but focuses on food service, safety and sanitation principles.

The committee also reviewed 5 Learning Logs and 1 Learning Plan. Three of the Logs and the Learning Plan were accepted, and 2 Logs were partially accepted.

The **Rules Committee** reported that it has scheduled three meetings to be held on February 29, 2008 at the Board office, and on March 28, 2008 and May 16, 2008 in conjunction with the regular Board meetings to consider rules related to background checks, and the standards of practice.

### **AGENDA ITEM # 18 - UPCOMING MEETINGS**

Ms. Mavko reminded the Board members that a meeting date for the July meeting had not yet been determined. After discussion, July 18 was selected.

The tentative meeting dates for the remainder of calendar year 2008 are:

March 28, 2008

May 16, 2008

July 18, 2008

September 19, 2008

November 7, 2008

**AGENDA ITEM # 19 - ADJOURNMENT**

**A motion was made to adjourn the meeting. There was consensus by the Board.  
The January 25, 2008 meeting of the Ohio Board of Dietetics adjourned at 5:10 p.m.**

**Respectfully submitted,**

\_\_\_\_\_ **Date** \_\_\_\_\_  
**Kay Mavko, Executive Secretary**  
**Ohio Board of Dietetics**

\_\_\_\_\_ **Date** \_\_\_\_\_  
**Claire Adkins, Chairman,**  
**Ohio Board of Dietetics**

\_\_\_\_\_ **Date** \_\_\_\_\_  
**Witness**