

**OHIO BOARD OF DIETETICS
MINUTES OF THE BOARD MEETING
July 17, 2009
Board Room 31st Floor, Vern Riffe Center
Columbus, Ohio 10:00 A.M.**

DRAFT

AGENDA ITEM #1 – CALL TO ORDER

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

OTHERS PRESENT: Pat McKnight, Ohio Dietetic Association liaison; Kristen Starr, Assistant Attorney General; Levi Tkach, legal intern; Donald Davis, Compliance Specialist; Kay Mavko, OBD Executive Secretary; Leah Reibel, newly appointed Public Board Member.

ABSENT: Kay Soltesz, conflict

Chairman Rogers called the meeting to order, noting that a quorum of members eligible to vote is in attendance. Ms. Rogers welcomed newly appointed Public Board member, L. Leah Reibel to the meeting, and noted that her participation would be mostly observational, since her paperwork has not all been processed yet.

The Board members each introduced themselves and described their role on the Board. Ms. Reibel also reviewed her experience and her interest in being appointed to the Board.

AGENDA ITEM #2– APPROVAL OF MINUTES OF THE MAY 22, 2009 MEETING

The minutes of the May 22, 2009 regular Board meeting, and Administrative Rules hearing were presented to the Board by the Executive Secretary and they were reviewed and approved as submitted with minor corrections.

The following motion resulted:

RESOLUTION #1

Mary Frances Astrom moved and Marsha Dumm seconded a motion to approve the minutes of the May 22, 2009 regular Board meeting and Administrative Rules hearing as submitted by the Executive Secretary.

The motion was approved with vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

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

AGENDA ITEM #3 – APPROVAL OF LICENSES

Ms. Mavko presented the names of 20 individuals to the Board who were issued a Limited Permit license between May 22, 2009 and the June 30, 2009 end of FY 09. Each of the limited permits issued expires on October 31, 2009.

RESOLUTION #2

Marsha Dumm moved and Mary Frances Astrom seconded a motion to place upon the minutes of the July 17, 2009 meeting the names of 20 individuals who were issued a Limited Permit during Fiscal Year 2009 (which ended June 30, 2009), with the expiration date of October 31, 2009 since the May 22, 2009 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:

Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

Ms. Mavko presented the names of 30 individuals who were issued a license for Fiscal Year 2009 (which ended June 30, 2009) since the May 22, 2009 Board meeting. The list included 5 initial licenses, 1 reinstatement, 1 reactivation, 2 duplicate license ID cards, and 2 duplicate license certificates. The following motion was made:

RESOLUTION # 3

Mary Frances Astrom moved and Marsha Dumm seconded a motion to place upon the minutes of the July 17, 2009 meeting, the names of 11 dietitians who met qualifications, pursuant to Section 4759.06 ORC, and who were issued a license by the Executive Secretary during Fiscal Year 2009 (which ended June 30, 2009) since the May 22, 2009 meeting of the Board, and whose names appear on the list presented to the Board by the Executive Secretary. (See attached list labeled Resolution #3)

The motion was approved with vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

Ms. Mavko presented the names of 5 individuals to the Board who were issued a Limited Permit license during FY 2010 between July 1, 2009 and the Board meeting. Each of the limited permits issued expires on October 31, 2009.

RESOLUTION # 4

Marsha Dumm moved and Mary Frances Astrom seconded a motion to place upon the minutes of the July 17, 2009 meeting the names of 5 individuals who were issued a Limited Permit during Fiscal Year 2010 with the expiration date of October 31, 2009 since July 1, 2009 beginning of the fiscal year. The

names appear on the list presented to the Board by the Executive Secretary. (See attached list labeled Resolution # 4).

The motion was approved with vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

Ms. Mavko presented the names of 10 individuals who were issued a license for Fiscal Year 2010 since July 1, 2009 beginning of the new Fiscal Year until the July 17, 2009 Board meeting. The list included 5 initial licenses, and 5 reinstatements. The following motion was made:

RESOLUTION # 5

Mary Frances Astrom moved and Marsha Dumm seconded a motion to place upon the minutes of the July 17, 2009 meeting, the names of 10 dietitians who met qualifications, pursuant to Section 4759.06 ORC, and who were issued a license by the Executive Secretary during Fiscal Year 2010 beginning July 1, 2009 through July 16, 2009, and whose 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:

Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

Ms. Mavko Reported on the End of FY 2009 License Statistics as of June 30, 2009. These statistics are used for the Legislative Service Commissions annual report on the financial status of agencies that regulate occupations or professions.

Active Licensed dietitians - 2811 ** mid-renewal number
Active in Renewal (not yet renewed) - 530 **
Incomplete renewal applications on file - 87 **
Requested Inactive Status - 48
Requested Expired Status - 34
Reported as Deceased - 4
Active Limited Permits - 29
Non Registered Licensed Dietitians - 68
Pending Limited Permit applications on file - 11
Pending Limited Permit applications to issue - 7

A copy of the report is attached to the minutes of the meeting.

AGENDA ITEM # 4 – 2nd INTERIM FY 2010 LICENSE RENEWAL REPORT

Ms. Mavko reported that on April 16 & 17, 2009 staff mailed 3,407 dietitian license renewal applications to eligible licensees. As of 7/16/2009 3146 licensees have renewed, 146 have not responded, 53 renewal applications are incomplete, 2 applications are being followed up as problems for bounced check or no check. Forty eight licensees requested a change in status to Inactive, and 34 requested expired status. Four persons were reported as deceased.

Renewal has been progressing quite well considering that the Intermittent Clerk was only with us from May 26 through June 19 because she became employed as a dietitian. Due to the budget uncertainty and cutbacks we did not replace her, and the rest of the staff covered renewal processing. We adjusted the processing procedures during the peak days (June 25 through July 10) so that license issuance would proceed as quickly as possible, and less critical information could be put into the data system at a later time.

A copy of the 2nd Interim FY 2010 License Renewal Report is attached to the minutes of the meeting.

AGENDA ITEM # 5 -- ENFORCEMENT REPORT – DON DAVIS

Mr. Davis presented the Enforcement Report with statistics for enforcement from May 23, 2009 through the end of FY 2009 (ended June 30) and for the first period of FY 2010 from July 1 - July 16, 2009. The enforcement statistics indicate that the period started with 15 open cases, 6 were closed at the May Board meeting, 4 cases were opened, resulting in a pending caseload at the end of FY 2009 of 13 open cases.

The July 1- July 17, 2009 period began with 13 open cases carried over from FY 2009, then 2 cases were opened for a total of 15 cases as of July 16, 2009.

Fourth Quarter statistics were shared with the Board and compared with fourth quarter of FY 2008. The case activity for both of those periods was very comparable.

A summary of completed and pending cases was provided.

A draft of the Annual enforcement report was also provided to the Board and reviewed. The report shows that Board staff investigated 92 cases in FY 2009, 83% of the investigations included allegations against those who meet qualifications for licensure and 17 % were for allegations of unlicensed practice by those who do not meet qualifications for licensure. The categories most often investigated included unlicensed practice (7), unlicensed practice for failure to renew (54), and potential moral character violations (11) for dietitians. The investigations related to those not eligible for a license were highest amongst personal trainers (8), other licensed professionals (4), and alternative practitioners (4).

The Summary of Board actions for FY 2009 include 1 hearing held, 1 consent agreement entered into, 7 advisory letters, 1 adjudication order revoking a license, and 2 cease and desist letters sent.

Just one minor change was recommended, and the report was accepted for inclusion in the Directors Annual report, and the fall Communique' newsletter.

Copies of the Enforcement Report, and draft Annual Enforcement Report are attached to the minutes of this meeting.

STATUS OF BOARD ACTIONS

No report.

AGENDA ITEM #6 - EXECUTIVE SESSION – ENFORCEMENT

The Board moved into Executive Session at 11:00 a.m. with the following motion:

RESOLUTION # 6

Mary Frances Astrom moved and Marsha Dumm 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:

Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

The Board came out of executive session at 11:25 a.m.

AGENDA ITEM # 7– FINDINGS, ORDERS, AND ACTIONS

RESOLUTION # 7

Mary Frances Astrom moved and Marsha Dumm seconded a motion to close the following cases for the reasons cited:

09OBD71	Limited Permit applicant, moral character; unfounded issue LP
09OBD72	Initial license applicant; moral character, unfounded Issue Initial license
09OBD73	Limited Permit applicant, moral character; unfounded Limited Permit issued on 7/2/2009
09OBD74	Renewal application, moral character; unfounded License renewed 6/29/2009

- 10OBD01 Limited Permit applicant, moral character; unfounded Issue Limited Permit and re-check prior to issuance of Second permit or initial license
- 10OBD02 Limited Permit applicant, failed to take RD exam timely; unfounded, issue second Limited Permit

The motion was approved with vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

AGENDA ITEM #8 – FINANCIAL REPORT

The financial report was presented for the months of May and June 2009 including Allotments, Expenditures and Revenues to year end. Expenditures for the month of May were \$35,246.26, and for April expenditures were \$11,187.47. Year-end expenses totaled \$302,831.06 which includes \$4,348.00 in FY 08 encumbrances expended in FY 2009. Actual spending in FY 2009 will be \$298,483.23 which includes \$6,132.25 encumbered for invoices not yet received against FY 2009 goods and services. The budget overview report used for this financial report only shows budget of \$298,483.23 even though our appropriation was actually \$348,964. OBM swept the balance (\$50,480.77) from the report to balance the FY 2009 budget.

May revenue totaled \$96,512.50 and \$149,080.00 for June resulting in total revenue for FY 2009 of \$352,333.78. Actual revenue collected in FY 2009 was \$3,096 more than the \$349,237 projected for the fiscal year.

It was noted that the May 5, 2009 \$4,750.00 deposit for a batch of renewal fees was credited to April in error by the Treasurer's office, will not be changed. Ms. Mavko was unable to get this corrected through the Treasurer's office and State Accounting, but will make note of the revenue shift in the Revenue Journal for accounting purposes.

Year end financial information shows that \$236,814 was spent on payroll and \$61,669 on operational expenses. Under the state ordered expenditure controls that were implemented in FY 2009 the agency under spent budgeted appropriations by \$50,841, and Revenue collected over Expenses leaves a balance of \$53,851 that the agency left in the 4K9 fund.

BUDGET UPDATE

Ohio is operating under interim budgets until agreement can be struck on HB 1. We are receiving weekly appropriations that only cover payroll. No other dollars for operations or expenses are being allotted, and no bills are being paid.

It is anticipated that the budget recommendations from the Senate will likely be the numbers that survive the Budget Conference Committee for appropriations to the Boards and commissions. Our agency anticipates that \$311,067 will be appropriated. This is an 11% reduction from the FY 2009 appropriation of \$348,964.

We have been told that in addition to the reduced appropriation, operational expenditures will be limited to 70 % of FY 2009 expenses. And in fact in May we were directed to submit an appropriations plan to OBM with that target. However, that plan was based upon flat funding for appropriations as recommended by the House (\$348,964). Our budget allotments will need to be submitted to OBM quickly after the budget bill is approved.

It is unknown whether the "consolidation of back office services for Boards and Commissions" effort will be included in the final budget or not. Numerous legislators have indicated that they are not in support, but it is unknown at this time whether the language was actually removed or not.

APPROPRIATIONS / ALLOTTMENT PLAN

Ms. Mavko shared drafts of the allotments based on current information, and discussed the impact that it will have on the agency. Significant cuts will be necessary if both the reduced appropriation and expenditure controls are put in place. That combined reduction/control scenario could result in an effective reduction of over \$80,000 from FY 2009 levels.

The Board members expressed concern about how the agency will be able to operate on such significant reductions, and expressed concern that key operational objectives and statutory mandates must be maintained. Based upon the outcome of the budget, an allocation plan that maximizes the amount of operational funding will be developed and submitted to OBM.

RESOLUTION # 8

Mary Frances Astrom moved and Marsha Dumm seconded a motion to approve expenditures as presented for May and June 2009 and to accept the Financial Report as submitted to the Board by the Executive Secretary.

The motion was approved with vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

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

AGENDA ITEM # 9 --BOARD REPORTS

CHAIRMAN – Ms. Rogers had no report.

ODA LIAISON – Pat McKnight -

1. Ms. McKnight reported that the Ohio Nutrition Council Biennial conference will be held beginning the evening of March 23 and all day the 24th, 2010. The Ohio Dietetic Association is scheduling a one day Annual meeting that will start the evening of April 8 and go all day on April 9th, 2010. These shortened formats should encourage attendance, and reduce costs.
2. The American Dietetic Association's Public Policy Workshop for 2010 will be held Sunday March 21st in the districts using the webinar approach again.
3. The Ohio Dietetic Association's Legislative Day for dietitians is planned for March 17, 2010 and for students is scheduled for April 21st.
4. Ms. McKnight reported that the fundraiser for Senator Sherrod Brown that she hosted on behalf of the Ohio Dietetic Association political action committee on June 26, 2009 was well attended and considered to be quite a success. He has been very supportive of nutrition issues in the past. At the fundraiser he spoke about the pending health care reform legislation and its relationship to nutrition. Attendees had a good opportunity to share their concerns and ideas with him.

DIRECTORS REPORT – Kay Mavko

1. Ms. Mavko reported that there were about 10 days of SIGNIFICANT e-license problems right at the height of renewal activity. Some of the issues were server related, and DAS finally got the new server up. Then the problems continued and the Nursing Board on-line renewal just about shut down the whole system. The Nursing Board agreed to abandon their on-line renewal in order to alleviate the problems for the rest of the agencies. During the problems OBD staff revised our renewal processes, inputting only essential data so that we could stay on top of license renewal and issuance. Then we made up the data entry later.
2. Ms. Mavko reported that revisions to the State travel rules will be proposed in August. After the new rules are enacted, the process will move from State Accounting to the new Shared Services division of DAS, and will be done on-line. Therefore, each staff and Board members' e-mail address was provided to Shared Services to prepare for the new function. Training on the new process will occur in September.
3. Ms. Mavko reported that she has been asked by American Dietetic Association President Jessie Pavlinac to participate on a work group focusing on licensure

and its effects on dietetic practice and the public interest. The work will be done by a series of conference calls. The group is charged with completing the project by December 31, 2009.

4. OBD staff have received the appropriate approvals to enable all three staff members to take one of their required cost saving days on November 27 the day after Thanksgiving. That day is traditionally a very low demand day. Staff will post notification to licensees and the public on the Board website, and via voice message on agency phones. The Ohio Dietetic Association will also be notified.
5. Ms. Mavko reminded the board members that as one of the cost saving measures being put in place in FY 2010 the Communique' newsletter will be published in hard copy and sent to licensees via the mail only one more time this Fall, and with the annual renewal mailing (as long as we continue to mail renewal application forms), but will otherwise only be available on the OBD website.

The Communique' will include articles on the budget constraints, standards of practice rules and information, appreciation for Jim Mermis' service on the Board, introduction of Leah Reibel as the new Public Board member, and the annual summary of Enforcement Actions. Staff will target September for mailing of the newsletter.

The Board briefly had lunch. Mr. Mermis who retired from the Board was unable to attend as originally scheduled, due to a conflict. Ms. Mavko will follow-up with him to share our appreciation for his service, and to give him a small token of appreciation.

AGEND ITEM # 10-- DISCUSSION OF LEGISLATIVE ISSUES

HB 81 - the Diabetes Cost Reduction act has been voted out of the House Health committee in May -- the first time the diabetes bill has made it out of committee. It did not make it to the floor of the House for a vote before the summer break.

Ms. McKnight and Ms. Mavko were invited by Representative Kenny Yuko to an interested parties meeting to review a draft of some legislation that he is considering. The bill appears to be yet another derivation of the "Alternative and Complementary Health Freedom" bills that have been proposed over the past 9 years. The legislation included many of the same fatal flaws that previous versions have had, and they were discussed by the Board. Upon the direction of the Board, staff will communicate the concerns to Rep. Yuko and the attorneys representing the proponents as they requested. A copy of the draft legislation, and the Board's draft of concerns is attached to the minutes of the meeting.

AGENDA ITEM # 11 & 12 – SUBCOMMITTEE MEETINGS AND REPORTS

The Education subcommittee met to review Continuing Education / Professional Development Learning Plans and Learning Logs, and requests for approval of Jurisprudence Programs. The Rules committee met to continue work on drafting of revisions to Guidelines A, and G, and development of new guidelines H and I related to the proposed changes to the Standards of Practice, Professional Performance, and Supervision Rules.

Each committee provided a brief report.

EDUCATION COMMITTEE – The Education committee reported that they reviewed one learning plan and one learning log submitted by the same person. There appears to be a page missing so staff will send it back as incomplete.

The committee also recommended that the Board approve one program that will be presented at the American Dietetic Association Food and Nutrition conference in Denver in October. The program is titled "Protecting Dietetics Practice from Scope Creep" for 1.5 credits.

RESOLUTION # 9

Mary Frances Astrom moved and Marsha Dumm seconded a motion to approve the program "Protecting Dietetics Practice from Scope Creep" for 1.5 continuing education units in Ohio Board of Dietetics approved continuing education.

The motion was approved with vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

RULES COMMITTEE – The Rules Committee reported that they continued to work on editing drafts of four guidelines A, G, H and I to educate licensees on the proposed changes to the Supervision, Standards of Practice, and Standards of Professional Performance rules that will likely be enacted in July. The final drafts will be sent out to all Board members once the final changes are incorporated. If no changes or minimal changes are provided they will be posted on the Board website.

AGENDA ITEM # 13 – UPCOMING MEETINGS

Remaining dates scheduled for Regular Board meetings in 2009 are as follows:

~~September 25, 2009~~ - Changed to October 2, 2009

November 13, 2009

Due to budget reductions the Board will meet 5 times in 2010 rather than 6. Dates proposed for calendar year 2010 include the following:

February 26
May 21
July 30

October 8
December 10

AGENDA ITEM #14 - ADJOURNMENT

A motion was made to adjourn the meeting. There was consensus by the Board to adjourn the July 17, 2009 meeting of the Ohio Board of Dietetics at 2:30 p.m.

Respectfully submitted,

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

_____ **Date** _____
Vandadean Rogers, Chairman,
Ohio Board of Dietetics

_____ **Date** _____
Witness