

**OHIO BOARD OF DIETETICS
MINUTES OF THE BOARD MEETING
July 18, 2008
Board Room 31st 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, Mary Frances (Francie) Astrom

OTHERS PRESENT: Kay Mavko, OBD Executive Secretary; Pat McKnight, Ohio Dietetic Association liaison; Donald Davis, OBD Compliance Specialist, Diane Weaver, OBD Intermittent Clerk 1, Yvonne Tertel, Principal Assistant Attorney General, Kristen Starr, Assistant Attorney General, Kathy Bockbrader, Jonathan Fulkerson, Section Chief, Office of the Attorney General

The meeting was called to order at 10:04 A.M. by Chairman Mermis.

Kristen Duff Starr was introduced as the newly appointed Assistant Attorney General representing the Board (replacing Ms.Tertel) and Mr. Fulkerson and Ms Bockbrader were also introduced. The attorneys led a brief discussion about the importance of limiting disciplinary case information to pertinent facts when cases are presented to the Board. Following the discussion Mr. Fulkerson, and Ms. Bockbrader left the meeting.

AGENDA ITEM #2– APPROVAL OF MINUTES OF THE MAY 16, 2008 MEETING

The minutes of the May 16, 2008 regular Board meeting were presented to the Board by the Executive Secretary and they were reviewed and approved as submitted.

The following motion resulted:

RESOLUTION #1

Claire Adkins moved and Kay Soltesz seconded a motion to approve the minutes of the May 16, 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	Claire Adkins	yes
		Mary Frances Astrom	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 36 individuals to the Board who were issued a Limited Permit license between 5/16/2008 and 6/30/2008 end of fiscal year.

RESOLUTION #2

Claire Adkins moved and Kay Soltesz seconded a motion to place upon the minutes of the July 18, 2008 meeting the names of 36 individuals who were issued a Limited Permit during Fiscal Year 2008 with the expiration date of October 31, 2008 since the May 16, 2008 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:

Claire Adkins	yes	James Mermis	yes
Vandadean Rogers	yes	Kay Soltesz	yes
		Mary Frances Astrom	yes

Ms. Mavko presented the names of 5 individuals who were issued a license for Fiscal Year 2008 between May 16, 2008 and June 30, 2008 end of fiscal year. The list included 4 initial licenses and 1 reactivation. The following motion was made:

RESOLUTION #3

Claire Adkins moved and Kay Soltesz seconded a motion to place upon the minutes of the July 18, 2008 meeting, the names of 5 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 May 16, 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 #3)

The motion was approved with vote as follows:

Claire Adkins	yes	James Mermis	yes
Vandadean Rogers	yes	Kay Soltesz	yes
		Mary Frances Astrom	yes

Ms. Mavko presented the names of 9 individuals to the Board who were issued a Limited Permit license between 5/16/2008 and 6/30/2008 end of fiscal year.

RESOLUTION # 4

Claire Adkins moved and Vandadean Rogers seconded a motion to place upon the minutes of the July 18, 2008 meeting the names of 9 individuals who were issued a Limited Permit during Fiscal Year 2009 with the expiration

date of October 31, 2008 since the July 1, 2008 beginning of the fiscal year through July 17, 2008. 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:

Claire Adkins	yes	James Mermis	yes
Vandadean Rogers	yes	Kay Soltesz	yes
		Mary Frances Astrom	yes

Ms. Mavko presented the names of 15 individuals who were issued a license for Fiscal Year 2009 between the July 1, 2008 start of the 2009 fiscal year through July 17, 2008. The list included 10 initial licenses 4 reactivations and 1 duplicate license. The following motion was made:

RESOLUTION # 5

Claire Adkins moved and Mary Frances Astrom seconded a motion to place upon the minutes of the July 18, 2008 meeting, the names of 15 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 July 1 start of the FY 2009 fiscal year through July 17, 2008, 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:

Claire Adkins	yes	James Mermis	yes
Vandadean Rogers	yes	Kay Soltesz	yes
		Mary Frances Astrom	yes

**AGENDA ITEM #4 – FY2009 LICENSE RENEWAL INTERIM REPORT –
DIANE WEAVER / KAY MAVKO**

Diane Weaver reported that on 4/14 and 4/15/2008 the Board mailed 3,347 renewal applications to eligible licensees. An additional one (1) application was printed and held due to questions about whether the licensee is eligible for renewal. The application was then subsequently mailed.

As of 7/18/2008 74 batches of renewal applications have been returned and processed for a total of 3,122 . Sixty two (62) persons have requested a change to inactive status, 26 have elected to let their license expire. Twenty eight (28) incomplete applications are on file waiting for additional information.

As of 7/18/2008 there has been no response from 138 licensees eligible for renewal. To date 48 persons have paid with a late fee.

Renewing licensees have reported supervision of the following exempt practitioners:

Exempt per 4759.10 (B) ORC
Dietetic Technicians (not registered) - 310
Dietetic Technicians, Registered – 270

Exempt per 4759.10 (E) ORC
Baccalaureate Degree in Dietetics – 132
Baccalaureate Degree in Dietetics and Registered – 1

Total – 713

Ms. Mavko noted that the exempt practitioner statistics are “as reported by the licensed dietitian supervisor”. There certainly may be some reported in the wrong category (in fact at least one person is recognized to be reported in the wrong category).

A copy of the interim license renewal report is attached to the minutes of the meeting.

After presenting her report, Ms. Weaver thanked the Board for her experience as Intermittent Clerk this summer. She will be resigning prior to the next meeting to begin her dietetic internship at Mount Carmel School of Nursing.

AGENDA ITEM # 5 –REPORT ON CONTINUING EDUCATION FOR LD-NON RD LICENSEES

Ms. Mavko reported that of the 70 licensees who were expected to submit Learning Logs in order to complete their Professional Development Portfolio, and be eligible to renew their FY 09 license 2 have changed to Inactive status, and 3 requested Expired status. Therefore, 65 licensees Logs were due.

Sixty (60) Learning Logs were submitted timely and are complete and their licenses were renewed. One licensee has submitted a Log that includes adequate numbers of hours - but for technical reasons the submission is still incomplete.

4 licensees have submitted no Logs for various reasons.

Ms. Mavko asked the Board for direction on follow-up with the incomplete licensees. The Board recommended that staff call each person instructing them that they need to complete by the August 15 end of the late period. Then if not complete send a letter indicating that they are expected to complete the continuing education requirement immediately. If not complete by the September meeting the Board may act to propose to deny renewal of their FY09 license.

Finally, staff asked what number of Portfolios to audit. The Board determined that 5% would be the appropriate number and the following motion was made:

RESOLUTION # 6

Kay Soltesz moved and Mary Frances Astrom seconded a motion directing staff to audit 5% of the Professional Development Portfolios submitted to the Board for the Continuing Education Period of 7/1/2003 – 6/30/2008.

The motion was approved with vote as follows:

Claire Adkins	yes	James Mermis	yes
Vandadean Rogers	yes	Kay Soltesz	yes
		Mary Frances Astrom	yes

AGENDA ITEM #6 – DISCUSSION OF PERTINENT LEGISLATIVE ISSUES

Pat McKnight reported that Congress voted to override the President’s veto of the Medicare bill that contains language expanding Medical Nutrition Therapy coverage. The legislation establishes a process by which Medicare can review coverage of MNT and expand it to certain areas that prevent the progression of a chronic condition. This is a major accomplishment for all of the dietetics professionals who have lobbied legislators to get this done.

ODA is a member of the Partnership to Fight Chronic Disease. During the week of July 21- 25, 2008 the Democrat party will be developing their platform, and is having meetings in Columbus and Cleveland seeking input. Pat McKnight will be in attendance at the meetings to encourage inclusion of nutrition issues.

Ms. McKnight also reported that the Ohio Department of Agriculture has recently enacted legislation designating that the Director of Agriculture regulates food nutrition information at food service operations, and giving the Director authority to promulgate rules for the purpose of such regulation. The statute indicates that no political subdivision can enact, adopt or continue local legislation related to food nutrition information in food service operations.

Ms. Mavko reported to the Board that Representative John Adams has made a public record request for statistics regarding the investigation and prosecution of individuals by the Board. He is the sponsor of HB 580 -Alternative and Complementary Practitioners bill. As the request was overly broad, Ms. Mavko sought clarification from Rep. Adams office on the time frame requested, and was informed that information for the past 2 years was adequate. Copies of the Summary of Actions Statistics and the Actions Taken for both FY 2006 and FY 2007 as published in the Board’s Annual Report were provided.

AGENDA ITEM # 7 – REPORT - STANDARDS OF PRACTICE WORKGROUP

The American Dietetic Association’s Quality Management Committee has recently revised the Standards of Practice and Standards of Professional Performance for Registered Dietitians (SOP/SOPP). They have also developed SOP and SOPP for

Dietetics Technicians Registered, and a definition of the supervision required for Dietetic Technicians Registered by the Registered Dietitian. The revisions stress the team interaction of RDs and DTRs so there is shared understanding in practice.

The Board has engaged a workgroup of interested and affected parties to make recommendations to the Board about the SOP/SOPP. The first meeting is scheduled for July 31, 2008, and includes dietitians from various practice settings, exempt practitioners, and affected parties.

AGENDA ITEM # 8 -- ENFORCEMENT REPORT – DON DAVIS

Mr. Davis presented the Enforcement Report for the period of May 16 through July 18, 2008 and summarized the FY 2008 Quarterly Enforcement Statistics. 5 were closed at the May Board meeting and since then 3 cases have been opened, resulting in a pending caseload of 15 open cases.

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

Kimberley Beckley's probation ended June 30, 2008 and her continuing education requirements have been met.

Sandra Hathaway has completed all Board assigned coursework per Adjudication Order and her probation ended June 30, 2008. Her Professional Development Portfolio is incomplete, in that she has not yet submitted her Learning Log of activities attended. Her renewal application is pending.

The status hearing for the respondent in case 07OBD10 has again been rescheduled for August 1, 2008.

The original NOH issued to the respondent in case 07OBD76 was rescinded June 11, 2008 and a new NOH issued and has been served to counsel, and a hearing requested. Service to the licensee has not yet been accomplished. Once service is perfected, a hearing will be scheduled.

AGENDA ITEM # 9 – EXECUTIVE SESSION – ENFORCEMENT

The Board moved into Executive Session at 11:00 A.M. with the following motion:

RESOLUTION # 7

Mary Frances Astrom 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:

Claire Adkins	yes	James Mermis	yes
Vandadean Rogers	yes	Kay Soltesz	yes
		Mary Frances Astrom	yes

The Board came out of executive session at 12:00 Noon.

The Board briefly adjourned for a Luncheon honoring Claire Adkins, whose Board member appointment ended 6/30/2008. She was thanked for her 7 plus years of service to the Board.

The Board re-convened at 1:40 PM.

AGENDA ITEM # 10 – FINDINGS, ORDERS, AND ACTIONS

RESOLUTION # 8

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

08OBD84	Unfounded for lack of evidence
08OBD85	Came into compliance, education provided
08OBD88	Unfounded
08OBD90	Unfounded
08OBD89	Unfounded. Meets exemption for supplement sales and providing general non-medical nutrition information

The motion was approved with vote as follows:

Claire Adkins	yes	James Mermis	yes
Vandadean Rogers	yes	Kay Soltesz	yes
		Mary Frances Astrom	yes

RESOLUTION # 9

Claire Adkins moved and Kay Soltesz seconded a motion for Ms. Mavko to engage the services of a Hearing Examiner for the hearing requested by the respondent in case # O7BOBD76:

The motion was approved with vote as follows:

Claire Adkins yes
Vandadean Rogers yes

James Mermis yes
Kay Soltesz yes
Mary Frances Astrom yes

AGENDA ITEM # 11- BOARD REPORTS

CHAIRMAN – James Mermis – Mr. Mermis again thanked Ms. Adkins for her service on the Board, and noted that his appointment ends in June of 2009. Mr. Mermis expressed his interest in re-appointment if the Board and Governor’s office are amenable.

ODA LIAISON – Pat McKnight - The two Advocacy Days planned for 2009 are scheduled for April 1st when legislators will meet to talk with students and dietetics interns, and another planned for March 18th for Dietitians following the format that has been used for the past number of years.

Ms. McKnight reported that Larry Stelzer is moving away from Columbus, and is Resigning as the Legislative Agent for the Ohio Dietetic Association. ODA will be looking for a replacement.

DIRECTORS REPORT – Kay Mavko

1. The Auditor of State is no longer on site in the Board office and is almost done with the audit of the agency. The final report should be available by the September Board meeting.
2. Scott Elisar, Deputy Legal Counsel for the Governor’s office recently sent a memo to the Boards and Commissions reminding the agencies about the minimum attendance requirements for Board members. Board members must attend at least three-fifths of the regular and special meetings held during any two-year period or they forfeit the position pursuant to ORC § 3.17. If a Board wishes to enact stricter attendance requirements than those in the ORC they may do so.
3. Staff are not requesting any additional end of year purchases, except for the small back up, color printer fax machine that was approved at the last Board meeting. Due to the Governor’s restrictions on IT purchases, the usual replacement of computers will be delayed.
4. The new OAKS Time and Attendance System seems to be going just fine. It is a little more labor intensive in that requests for time off, sick time etc must be approved on-line and then processed before time sheets can be approved. It has made a one day task into at least a two day process.
5. Ms. Mavko shared a letter with the Board that was sent from Ms. Caudill,

Executive Director of the Ohio State Chiropractic Board that summarized a meeting between the two executives. The letter shared concerns about issues that were discussed related to scope of practice, approaches to the investigation of complaints regarding chiropractors, concerns that OBD expressed about the education of chiropractors related to nutrition, and issues related to personnel and Board members demonstrating a lack of knowledge and respect for the chiropractic profession.

One of the suggestions that resulted from the meeting was to have a group of educators make a presentation to OBD pertaining to chiropractic education. After much discussion, the Board agreed to invite the chiropractic educators to attend an upcoming meeting to review their educational process especially as it relates to nutrition. Ms. Mavko will work with Ms. Caudill to schedule the presentation.

AGENDA ITEM #12 – FINANCIAL REPORT

The financial report was presented for the months of May and June 2008 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. Operational Expenditures for the month of May were \$7,048.16 and for June were \$1,256.34 excluding payroll.

Payroll expense third quarter was \$57,446.56 and fourth quarter to date was \$50,213.09. \$10,803.00 was encumbered for end of 2008 expenses not billed that will be paid during early FY 2009.

Total expenses for FY 2008 were \$311,067.49.

Revenue collected for May was \$110,565 and for June was \$129,132.50 resulting in a total revenue for FY 2008 of \$351,450.50.

2009 APPROPRIATIONS

Ms. Mavko presented the Board with a revised Allotment Budget for FY 2009. She noted that the budget appropriation for FY 2009 is \$348,964 not the original \$342,501.10 that she originally thought was available when the original Allotment Plan was presented to the Board at the May meeting. A copy of the revised FY 2009 Allotment template that was submitted to OBM is attached to the minutes of the meeting.

FY 2010 – 2011 BUDGET PREPARATION

Ms. Mavko reported that she finished training for the OAKS budget preparation for FY 2010-2011 at the end of June. She will begin Budget preparation in August.

RESOLUTION # 10

Claire Adkins moved and Kay Soltesz seconded a motion to approve expenditures as presented for May and June 2008 and to accept the financial report as submitted to the Board by the Executive Secretary.

The motion was approved with vote as follows:

Claire Adkins	yes	Vandadean Rogers	yes
James Mermis	yes	Kay Soltesz	yes
		Mary Frances Astrom	yes

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

Ms. Mavko requested Board approval for travel for the Compliance Specialist to attend Basic Investigator Training and the Council on Licensure Enforcement and Regulation Annual meeting in Anchorage, and for her to attend the American Dietetic Association Food and Nutrition Conference and Exposition in Chicago. The following motions were made:

RESOLUTION # 11

Claire Adkins moved and Kay Soltesz seconded a motion to approve Don Davis's attendance at Basic Investigator/Inspector Training and the Council on Licensure Enforcement and Regulation Annual meeting in Anchorage, Alaska from September 22 – 27, 2008, and to reimburse for all usual and necessary travel expenses.

The motion was approved with vote as follows:

Claire Adkins	yes	Vandadean Rogers	yes
James Mermis	yes	Kay Soltesz	yes
		Mary Frances Astrom	yes

RESOLUTION # 12

Claire Adkins moved and Vandadean Rogers seconded a motion to approve Kay Mavko's attendance at the American Dietetic Association Food and Nutrition Conference and Exposition in Chicago, IL October 26-28, 2008, and to reimburse for all usual and necessary travel expenses.

The motion was approved with vote as follows:

Claire Adkins	yes	Vandadean Rogers	yes
James Mermis	yes	Kay Soltesz	yes
		Mary Frances Astrom	yes

AGENDA ITEMS # 13 & 14 - SUBCOMMITTEE MEETINGS AND REPORTS

The **Continuing Education / Professional Development Committee** met and reported that they reviewed 2 new Learning Plans for the next continuing education cycle 7/1/2008 – 6/30/2013. They also reviewed and approved a draft of materials that staff adapted from the Commission on Dietetic Registration to use for the new Professional Development Cycle. Copies will be prepared and mailed with instructions to the 65 non-Registered Licensed dietitians in Ohio who must submit their continuing education directly to the Board.

The Committee also recommended that the Board approve the presentation “Business Dispute and Ethical Misconduct – What’s the Difference?” FNCE, October 2008 as an OBD approved Jurisprudence program. There was consensus by the Board to approve the program.

The **Rules Committee** met briefly and reported that it is suggesting that staff develop two new Jurisprudence modules to be completed this fall related to Personal Trainers and Fitness Professionals and Recognizing the Role of ADA / CDR, ODA, and the Ohio Board of Dietetics in Nutrition and Public Protection.

AGENDA ITEM # 15 - UPCOMING MEETINGS

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

- September 19, 2008
- November 7, 2008

AGENDA ITEM # 16 - ADJOURNMENT

A motion was made to adjourn the meeting. There was consensus by the Board. The July 18, 2008 meeting of the Ohio Board of Dietetics adjourned at 3:30 p.m.

Respectfully submitted,

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

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

_____ **Date** _____
Witness

