

**OHIO BOARD OF DIETETICS  
MINUTES OF THE BOARD MEETING  
July 15, 2005  
Board Room, 31<sup>st</sup> Floor, Verne Riffe Center  
Columbus, Ohio**

**AGENDA ITEM #1 – CALL TO ORDER**

**BOARD MEMBERS PRESENT:** David Holben, Lorna Fuller, Claire Adkins, James Mermis

**OTHERS PRESENT:** Kay Mavko, OBD Executive Secretary; Beth Shaffer, OBD Compliance Specialist; Barbara Pfeiffer, Assistant Attorney General; Pat McKnight, Ohio Dietetic Association Liaison, Fangwei Zhang and Emily Chase, OSU Nursing Graduate Students.

**ABSENT:** Cynthia Blocksom (schedule conflict)

The meeting was called to order at 10:05 a.m. Mr. Holben and the Board members welcomed Mr. Mermis to his first meeting as Public Member. Mr. Mermis explained that he was disappointed that he was unable to attend the April meetings due to previously scheduled business commitments. He noted that he is looking forward to serving on the Board.

**AGENDA ITEM #2 – APPROVAL OF MINUTES OF THE APRIL 28, 2005 MEETING**

The minutes of the April 28, 2005 regular Board meeting were presented by the Executive Secretary and reviewed and approved as submitted. The following motion resulted:

**RESOLUTION #1**

**Claire Adkins moved and Lorna Fuller seconded a motion to approve the minutes of the April 28, 2005 regular Board meeting as submitted and corrected.**

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

<b>David Holben</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>

Ms. Mavko indicated that the minutes and report of the April 29, 2005 retreat has not yet been received from Lori Mooney, facilitator of the retreat. Ms. Mavko will work with Ms. Mooney to complete the report and enter the activities upon the minutes.

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

Ms. Mavko presented the names of 28 individuals who were issued Limited Permit licenses with an expiration date of October 31, 2005 since the April 28, 2005 meeting of the Board. The following motion was made:

**RESOLUTION #2**

**Lorna Fuller moved and Claire Adkins seconded a motion to place upon the minutes of the July 15, 2005 meeting the name of 28 individuals who were issued Limited Permits during fiscal year 2005 with an expiration date of October 31, 2005 since the April 28, 2005 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>David Holben</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>

**RESOLUTION #3**

**Lorna Fuller moved and James Mermis seconded a motion to place upon the minutes of the July 15, 2005 meeting, the names of 13 dietitians who met qualifications, pursuant to Section 4759.06 ORC, and who were issued a license by the Executive Secretary during Fiscal Year 2005 since the April 28, 2005 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:**

<b>David Holben</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>

**RESOLUTION #4**

**Claire Adkins moved and Lorna Fuller seconded a motion to place upon the minutes of the July 15, 2005 meeting the names of 9 individuals who were issued Limited Permits during fiscal year 2006 with an expiration date of October 31, 2005 since the April 28, 2005 meeting of the Board, and whose 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:**

<b>David Holben</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>

**RESOLUTION #5**

**Lorna Fuller moved and James Mermis seconded a motion to place upon the minutes of the July 15, 2005 meeting, the names of 12 dietitians who met qualifications, pursuant to Section 4759.06 ORC, and who were issued a license by the Executive Secretary during Fiscal Year 2006 since the April 28, 2005 meeting of the Board, 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:**

<b>David Holben</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>

**AGENDA ITEM # 4 – FY 2006 RENEWAL UPDATE**

Ms. Mavko reported that as of 7/15/2005 2769 licensees have completed renewal of their FY 2006 licenses, 198 have submitted renewal applications but are incomplete, and 289 have not renewed yet. Reminder letters will be sent out shortly to those who have not yet renewed, indicating that the late period allowing them to renew with a late penalty extends until August 15 and that their FY 05 licenses are expired.

The unusually high number of incomplete applications on file relate to the new jurisprudence continuing education requirement. Many dietitians didn't complete needed cues, lost their certificates of completion, or just didn't understand that the certificate of completion was required for renewal. Staff members have been answering many phone calls about the requirement, sending out many duplicate certificates, and faxing a lot of information.

Continued communication with licensees about the requirement will be important so that confusion does not continue the next time the jurisprudence documentation is due.

A number of employers of dietitians have contacted the Board office this year concerned that their staff had not renewed their licenses prior to the June 30 expiration date. In some cases employers restricted dietitians from practicing or from working at all until they could provide proof of holding a valid license. This put some additional pressure on OBD staff to quickly process renewal applications.

Board members suggested that the Communiqué' newsletter that is mailed with FY 07 renewal remind licensees about the need to allow plenty of time for processing applications, and that the application committee consider adding back the May 31 date as a suggested date for submitting renewal applications in order to allow time for processing and receipt of the license ID card prior to June 30 expiration.

**END OF FY 2005 LICENSURE REPORT**

Ms. Mavko presented the end of FY 2005 licensure report including the following statistics:

Licenses issued in FY 2005

Initial	146
Reactivation	18
Reinstatement	25
Duplicates	18
Limited Permits	77

(12 persons issued 2 permits each)

3230 renewal applications mailed

Active licensees (already renewed for FY 06)	2391	
Active in renewal (application mailed / no response yet requests for status changes not processed)	622	
Active in renewal incomplete (app received by incomplete)	222	<u>3235</u>
Active LP licenses (expire 10/31/2005)		

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

Earlier in the year a licensee expressed concern to the Board about the need to have two limited permits prior to being able to take the examination. Staff researched application information regarding limited permits holders who were issued two permits during FY 2005 and presented the following information to the Board:

Twelve individuals were issued 2 limited permits each.  
Ten of the twelve who held 2 permits did not complete internships until July or August, were issued permits in August or September and apparently could not schedule taking the examination until late in October or after.  
All 12 were working at the time the second permit was issued.  
6 of the twelve second permit holders returned to work on the permit until after the April 1 prorated period began.

Based upon the information reviewed, it does not appear cost effective to pursue another method of issuing limited permits due to the administrative and cost burden that would result. The Board asked Ms. Mavko to contact the concerned dietitian and report the findings.

A copy of the information reviewed is attached to the minutes of the meeting.

## **INGENIX REQUEST FOR INFORMATION**

Ms. Mavko reported that the Board has received a request from the IGENIX credentials verification organization questioning whether the Board grants a “grace” period to licensed practitioners when their licenses expire, and asking if dietitian licensees would still have a valid license during such a designated “grace” period. Ms. Mavko questioned whether the Board or legal counsel interpret the “late” period defined in section 4759-4-06 OAC as a “grace” period. The consensus is that the late period is not a “grace” period, that licenses are expired if not renewed timely by June 30 and Ms. Mavko was directed to respond to INGENIX and provide a copy of *the Laws and Rules Governing the Practice of Dietetics in the State of Ohio* for their reference.

## **AGENDA ITEM #5 --ENFORCEMENT REPORT**

Ms. Shaffer reported that for the period of April 28, 2005 through July 15, 2005 there are currently 13 open cases pending. Four cases were closed at the April 28, 2005 meeting and 10 cases opened since that time. A summary of recently completed and pending cases was provided. A copy of the enforcement report is on file with the minutes of the meeting.

Ms. Shaffer presented the Board with a draft of the Annual Enforcement Report for FY 2005. The report indicates that in FY 2005 the Board docketed 92 new cases, closed 90, and had 19 cases pending at the end of the year. Of the complaints investigated 95(87%) involved those who meet qualifications for licensure and 14 (13%) relate to unlicensed practice or not meeting criteria of exemption from licensure by those who do not meet qualifications for licensure.

Minor additions were suggested and a copy of the final report will be forthcoming in the annual Directors report.

Staff prepared a summary listing of all formal actions taken by the Board from 1987 until present. The summary includes case #, respondent name, allegations, and summary of actions. The data is categorized by actions against those not qualified for licensure and actions taken against those qualified for a license or licensed to practice. The summary information will be useful as a quick reference, and for public requests. A copy of the summary report is attached to the minutes of the meeting.

## **STATUS OF BOARD ACTIONS**

The Notice of Opportunity for Hearing was issued 2/28/2005 to the respondent in case #05OBD73 and re-issued on April 18, 2005 due to a technical error. A proposed consent agreement related to the case will be considered in Executive Session.

The hearing scheduled for June 6 for the respondent in case #04OBD93 was postponed and will be re-scheduled.

**AGENDA ITEM #6—EXECUTIVE SESSION - ENFORCEMENT**

The Board moved into Executive Session at 11:17 a.m. with a roll call vote. The following were in attendance: Mr. Holben, Ms. Fuller, Ms. Adkins, Mr. Mermis Ms. Pfeiffer, Ms. Shaffer, and Ms. Mavko.

The following motion was made:

**RESOLUTION # 6**

**Lorna Fuller moved and James Mermis seconded a motion to move into Executive Session pursuant to Ohio Revised Code 121.11 (G)(3), for the purpose of discussing matters pertaining to investigations of charges, complaints against licensees, and consultation with legal counsel.**

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

<b>David Holben</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>

Executive Session concluded at 12:30 p.m..

**AGENDA ITEM # 7 – FINDINGS, ORDERS, and ACTIONS**

The following findings, orders, and actions resulted from the Executive Session held for the consideration of enforcement matters:

**RESOLUTION # 7**

**Lorna Fuller moved and Claire Adkins seconded a motion to close the following cases for reasons cited:**

- 05OBD80     Insufficient evidence of practice in Ohio**
- 05OBD82     Application withdrawn. No further investigation indicated.**
- 05OBD84     Records checked. Unfounded. License renewed.**
- 05 OBD86     Records checked. Unfounded. Limited Permit issued. Recheck records prior to issuance of initial license.**
- 05OBD87     Records checked. Unfounded. Limited Permit issued. Recheck records prior to issuance of initial license.**
- 05OBD91     Records checked. Issue Limited Permit. Re-check for new violations prior to issuing initial license.**

**05OBD92 License renewed. Records checked. Unfounded.**

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

<b>David Holben</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>

The Board moved to enter into the following two consent agreements.

**RESOLUTION # 8**

**Lorna Fuller moved and James Mermis seconded a motion to approve the consent agreement as presented to the Ohio Board of Dietetics and signed by the respondent in case 05OBD88. Informational letters regarding Ohio licensure shall be sent to the dietitian co-workers employed at the same facility as the respondent, and to the distance internship completed by the respondent.**

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

<b>David Holben</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>

The respondent was revealed to be Erin Stevens, Louisville, Ohio.

**RESOLUTION #9**

**Lorna Fuller moved and James Mermis seconded a motion to approve the consent agreement as presented to the Ohio Board of Dietetics and signed by the respondent in case 05OBD73.**

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

<b>David Holben</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>

The respondent was revealed to be Mary Keller, Stow, Ohio.

The Board approved amendment of the Notice of Opportunity for Hearing previously issued to the respondent in case #04OBD93. No additional allegations were added, some allegations were removed, and technical changes to dates and notations were made. The following motion resulted:

**RESOLUTION #10**

**Lorna Fuller moved and Claire Adkins seconded a motion to amend the notice of opportunity for hearing issued to the respondent in case #04OBD93**

as it was presented to the Board. The amended notice continues to allege violations of Section 4759.07(A)(6) of the Ohio Revised Code and Ohio Administrative Code Sections 4759-6-01(E)(1)(a) and(d), (4) and (H)(1). The motion was approved with roll call vote as follows:

David Holben	yes	Lorna Fuller	yes
Claire Adkins	yes	James Mermis	yes

A copy of the draft amended notice is attached to the minutes of the meeting.

The hearing for case #04OBD93 will be re-scheduled for August 31, 2005.

### **AGENDA ITEM #8--DISCUSSION OF PERTINENT LEGISLATIVE MATTERS**

#### **HB 95 – Budget Bill – Transfer and consolidation of regulatory boards –**

The FY 2006-2007 Budget Bill as proposed by Governor Taft proposed the transfer and consolidation of 27 Ohio Regulatory Boards to the Department of Health, Commerce, and Safety effective July 1, 2006. The House or Representatives modified the bill to exempt 7 boards (Medicine, Nursing, Pharmacy, Dental, Accountancy, Engineers, and Architects/Landscape Architects. The House version also added three representatives of the affected boards to the transition committee.

The affected boards have elected the three representatives and they are Anne Cunningham, Embalmers and Funeral Directors Board; Chris Logsdon, Respiratory Care Board; and Jeff Rosa, OT, PT, AT Board. The Board representatives are anxious to begin working with the transition team and have written a letter to the other committee members indicating their election as representatives and suggesting that the group begin to meet as soon as possible. They are awaiting a response from the transition team leader, Nikki Guillford.

Meanwhile the boards transition team representatives have started to collect information about each of our boards and agencies in order to effectively represent us.

Ms. McKnight indicated that the Ohio Dietetic Association is continuing to oppose the proposal and intends to work with the other professional associations related to the affected boards to express their concerns.

**HB 117 and Sub HB 117- HB 117 (Reidelbach) and SB 98 (Clancy) –** The Commerce and Labor committee has heard proponent and opponent testimony regarding HB 117. The proponents have now drafted a substitute bill (Sub HB 117) which continues to allow unlicensed individuals who lack verifiable evidence of appropriate education, training and skills to provide “complementary and alternative health care services” without regulation, licensure or oversight.

There has been no recent activity related to the bill as the legislature is on summer recess. However, it is anticipated that the proponents will continue to lobby hard for the bill

when the legislature returns in the fall. Ms. Mavko and Ms. McKnight have scheduled a meeting with concerned board and association representatives on August 3<sup>rd</sup> to discuss the legislation.

**SB 95 (R. Miller) – School Food Service Standards – (ED)** Ms. McKnight reports that Dr. Bob Murray and members of various school related associations (including ODA) have met and are proposing hosting 3 breakfast meetings in the fall with interested parties to discuss development of state guidelines and districts then being responsible for the particular wellness policies.

**SB 94 (R. Miller)- Telemedicine services – (HHA)** has been introduced and addresses the provision of and insurance coverage for telemedicine services in Ohio. There has been no activity.

**HB 9 (Oelslager) – Public Records Law – (CC)** proposing the revision of the public records laws in Ohio that apply to public access to records and the “sunshine” provisions has had no significant activity.

**HB 267 – REVISES LAWS GOVERNING ISSUANCE OF CERTAIN PROFESSIONAL LICENSES** – It is a lengthy bill that would remove most regulatory boards' abilities to refuse to issue licenses, and discipline felons and those persons convicted of misdemeanors .. Even those related to practice. The bill has been assigned to the Commerce and Labor Committee and the Chairman has indicated that hearings on it are unlikely. All of the regulatory boards are concerned about the bill. A copy of the sections that that related to dietetics is attached to the minutes of the meeting.

**SENATE HHS COMMITTEE CHAIRMAN CHANGE** - Senate President Bill Harris announced that Sen. Kevin Coughlin (R-Cuyahoga Falls) will replace Sen. Lynn Wachtmann (R-Napoleon) as chairman of the Senate Health, Human Services & Aging Committee. It is hoped that the change in leadership will have a positive effect upon moving the Diabetes Cost Reduction Act.

## **AGENDA ITEMS #9 – BOARD REPORTS**

### **Chairman – David Holben**

1. Dr. Holben again thanked Ms. Fuller for her participation as dietitian member of the Board for the past 5 years.
2. Dr. Holben noted that he will be traveling for the next month, and will return on August 26, 2005. Ms. Mavko has been provided with contact information during his absence.

### **ODA Liaison – Pat McKnight –**

1. Ms. McKnight reported that 16<sup>th</sup> Annual Legislation and Public Policy Workshop is tentatively scheduled for March 29, 2006.

2. Representatives of the Ohio Dietetic Association have been asked to have input on Medicaid enteral products policies.
3. BREAKFAST FOR CHAMPIONS – is an event sponsored by the Ohio Dietetic Association, Greater Akron Dietetic Association, and Beyond Eating for Monday September 12, 2005 that is intended to permit dietitian to network with their district legislators and members of the House Commerce and Labor Committee regarding the Diabetes Cost Reduction Act and HB 117 (Sub HB 117).

**Director’s Report – Kay Mavko**

1. Ms. Mavko has been researching the available on-line web-based hosted test service providers to see if providing on-line jurisprudence continuing education is cost effective. The early information is disappointing, in that the costs are very high. She will continue to look at other alternatives.
2. Ms. Mavko checked with all board members to make sure that their financial disclosure statements are all submitted and complete. All members reported that they are now complete.
3. Ohio dietitian, Lynne Esselstein has been officially appointed to the Governor’s Advisory Committee on Physical Fitness, Wellness, and Sports. She has been unofficially working with that committee for some time.

**AGENDA ITEM # 10 --FINANCIAL REPORT – Kay Mavko --** The financial report was presented for the months of May and June including Allocations and Appropriations, Expenditures, Revenues to Date. Expenditures for the month of May were \$19180.83 and \$21,854.39 for June. Year-end expenditures including encumbrances set for yet to be billed expenses were \$299,743.74. Revenue for May was \$99,174.02 and for June was 142,75.00. Annual revenue collected was \$297,300.52. This resulted in gain/loss of (-\$2,443.22).

A comparison of FY 05 annual revenue to disbursements against FY 04 figures indicate that revenue collection for FY 05 was a little behind FY 04 figures. This appears to be due to the larger number of renewal applications received after the June 30 close of the fiscal year. Therefore, it is anticipated that July FY06 revenues will be higher than usual for the first month of the new fiscal year.

The FY2006 Appropriations Allotment Plan was presented to the Board. The FY 2006 appropriation is \$332,495.00. Budgeted allotments were adjusted slightly to accommodate increased costs in payroll and maintenance expenses. A new object code for Data processing that reflects the maintenance fees for the copier will be used this year.

The Board discussed planned travel expenses for FY 2006 and has budgeted for staff and members to attend the following meetings: Council on Licensure, Enforcement and Regulation Annual meeting (1 staff, 1 board member), The American Dietetic

Association Annual Meeting (1 staff, 1 board member), the Citizen Advocacy Center annual meeting (1 staff), Listen and Learn ADA teleseminar on order writing privileges and new standardized language (staff and any board members able to attend), the Ohio Dietetic Association Annual Meeting (2 staff, 3 Board members)

The following motion resulted from the discussion of travel requests:

**RESOLUTION #11**

**Lorna Fuller moved and Claire Adkins seconded a motion to approved participation in Council on Licensure, Enforcement and Regulation Annual meeting (1 staff, 1 board member) in Phoenix Arizona September 15-17, 2005; The American Dietetic Association Annual Meeting (1 staff, 1 board member) in St. Louis, October 22-25, 2005; the Citizen Advocacy Center annual meeting (1 staff), Denver Colorado, November 3-5, 2005; Listen and Learn ADA tele-seminar on order writing privileges and new standardized language (2 staff and any board members able to attend), at the OBD office, Columbus; and the Ohio Dietetic Association Annual Meeting (2 staff, 3 Board members) May 11-12, 2006, Columbus, Ohio and to reimburse of all usual and necessary travel expenses.**

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

<b>David Holben</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>

**RESOLUTION #12**

**Claire Adkins moved and Lorna Fuller seconded a motion to approve expenditures as presented for the months of May and June 2005 and to accept the financial report as submitted to the Board by the Executive Secretary.**

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

<b>David Holben</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Adkins</b>	<b>yes</b>	<b>James Mermis</b>	<b>yes</b>

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

**AGENDA ITEM #11 – FOLLOW UP FROM APRIL BOARD RETREAT**

Due to family issues, Ms. Mooney was unable to submit the summary of the April Board retreat as planned. The follow-up will be re-scheduled for the August meeting.

## **AGENDA ITEMS 11 AND 12 --SUBCOMMITTEE MEETINGS AND REPORTS**

The **Education subcommittee** met briefly to review 12 portfolio submissions. Most of the portfolios submission reviewed were accepted. Those that weren't need slight changes.

The **Rules Committee** met and reviewed suggested draft processes used by other agencies for routine, minor or frivolous complaints lodged against Board members, and for serious complaints or allegations lodged against Board members.

The rules committee noted that for minor complaints related to violations of Chapter 4759 the Board's current complaint process would suffice with the addition of requiring the respondent Board member to be excluded from probable review panel investigatory review, discussion of the facts during enforcement executive session discussions, and will not vote or be present during deliberations on the matter.

For serious allegations or complaints not directly related to Chapter 4759, the committee suggested that the Executive Director will be notified, and will seek counsel from the Board Assistant Attorney General and the Board Chairman (unless the respondent is the Board Chairman). The Director of Boards and Commissions should be notified, and Ohio Highway Patrol, Ohio Inspector General, and Ohio Ethics Commissions will be notified to determine which agency should investigate the complaint. Once the appropriate investigative authority is identified, the Board staff will not be involved in the investigation unless specifically requested by the investigating agency.

Staff will draft policies incorporating the suggestions of the rules committee and present them for review at an upcoming Board meeting.

## **AGENDA ITEM #13 – UPCOMING MEETINGS**

The proposed meeting dates for the remainder of calendar 2005 are as follows:

Re-scheduled Hearing date August 31, 2005

September 16, 2005 – moved to August 31 in conjunction with re-scheduled hearing

November 18, 2005

Board members were asked to bring their 2006 calendars to the August 31 meeting to review potential dates for planning 2006 meetings.

## **AGENDA ITEM # 14 ADJOURNMENT**

**A motion was made to adjourn the meeting. There was consensus by the Board. The July 15, 2005 meeting of the Ohio Board of Dietetics adjourned at 5:15 p.m.**

**Respectfully submitted,**

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

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

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

**David Holben**  
**Chairman, Ohio Board of Dietetics**

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

**Witness**