

**OHIO BOARD OF DIETETICS
MINUTES OF THE BOARD MEETING
November 8, 2002
Verne Riffe Center
Columbus, Ohio**

AGENDA ITEM #1 – CALL TO ORDER

BOARD MEMBERS PRESENT: Claire Adkins, Jonathan Hughes, David Holben, Cynthia Blocksom

Lorna Fuller was unable to attend.

OTHERS PRESENT: Beth Shaffer, OBD Compliance Specialist; Kay Mavko, OBD Executive Secretary; Kelley Haddox, Assistant Attorney General; Pat McKnight, Ohio Dietetic Association Liaison; Ohio Dietetic Association; Andrea Dyer, Alison Harrer, Sarah Harris, Krista Mohl, John Ridgway, Chris Sardo, Katie Shannon, Bridget Wehrman, Dietetic Interns from Mount Carmel College of Nursing.

Ms. Adkins welcomed the dietetic interns, described the mission of the Board, and each of the board members introduced themselves to the students. The Students left the meeting at approximately 12:15 p.m.

AGENDA ITEM #2 – APPROVAL OF MINUTES OF THE SEPTEMBER 27, 2002 MEETING

The minutes from the September 27, 2002 meeting were reviewed and were approved as submitted. The following motion resulted:

RESOLUTION #1

Cynthia Blocksom moved and David Holben seconded a motion to approve the minutes of the September 27, 2002 Board meeting as submitted.

The motion was approved with vote as follows:

Claire Adkins	yes	David Holben	yes
Jonathan Hughes	yes	Cynthia Blocksom	yes

AGENDA ITEM #3 – APPROVAL OF LICENSES

Ms. Mavko presented the names of 39 individuals who were issued limited permits since the September 27, 2002 meeting of the Board. The following motion was made:

RESOLUTION #2

David Holben moved and Jonathan Hughes seconded a motion to place upon the minutes of the November 8, 2002 meeting the names of 38 individuals who were issued limited permits with an expiration date of April 30, 2002 during FY 2003 since the September 27, 2002 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 & #3)

The motion was approved with vote as follows:

Claire Adkins	yes	David Holben	yes
Jonathan Hughes	yes	Cynthia Blocksom	yes

One limited permit was issued with an expiration date of December 31, 2002 based on the information that this was a third permit issued to an individual who failed to sit for the examination on either of the first two permits issued.

RESOLUTION #3

David Holben moved and Jonathan Hughes seconded a motion to place upon the minutes of the November 8, 2002 meeting the name of one individual who was issued a limited permit with an expiration date of December 31, 2002 during FY 2003 since the September 27, 2002 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 & #3)

The motion was approved with vote as follows:

Claire Adkins	yes	David Holben	yes
Jonathan Hughes	yes	Cynthia Blocksom	yes

Ms. Mavko presented the names of 47 persons who were issued a license during FY 2003 Since the September 27, 2002 meeting of the Board. The following motion was made:

RESOLUTION #4

David Holben moved and Cynthia Blocksom seconded a motion to place upon the minutes of the November 8, 2002 meeting, the names of 47 dietitians who met qualifications, pursuant to Section 4759.06 ORC, and who were issued a license by the Executive Secretary during Fiscal Year 2003 since the September 27, 2002 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:

Claire Adkins	yes	David Holben	yes
Jonathan Hughes	yes	Cynthia Blocksom	yes

Ms. Mavko reported to the board that out of the 38 persons who currently hold limited permits six who failed the examination are working under the supervision of licensed dietitians.

AGENDA ITEM # 4– ENFORCEMENT REPORT

Ms. Shaffer presented the enforcement report for the period of September 27 , 2002 through November 8, 2002. There are currently 43 cases pending. Fifteen cases were closed at the September 27, 2002 meeting and ten cases opened since that meeting.

The quarterly enforcement statistics show that at the end of September total number of cases for the first quarter FY 2003 were down from first quarter FY 2002 by about one third. Case efficiency is good, as 43% of total cases were closed during first quarter FY 2003 compared to 34% during the same period of FY 2002. Ms. Shaffer provided information on categories of allegations on open cases. The largest numbers of docketed complaints are for unlicensed practice by persons qualified for a license. For unlicensed practice there are more cases docketed in the areas of supplement sales, persons practicing under exemptions 4759.10(B) &(E), and alternative practitioners. For licensed dietitians allegations for lack of moral character, and breach of standards lead the number of complaints investigated.

A brief summary of recently completed and pending cases was provided.

STATUS OF BOARD ENFORCEMENT ACTIONS

Ms. Shaffer provided the board with an update on the completion of the terms in the consent agreement between the Board and Ms. Rebecca Sens. Ms. Sens provided proof of meeting all of the terms of the consent agreement, and her license to practice was issued on 10/25/02.

AGENDA ITEM #5—DISCUSSION OF PENDING LEGISLATION

HB 314 – Representative Ron Young's office requested a meeting between Representative Reidelbach and OBD to discuss HB 314. Pat McKnight and Fred Vierow will also attend to represent the Ohio Dietetic Association. The meeting is scheduled for 10:30 November 12, 2002.

*** This meeting was subsequently cancelled late in the day on November 8, 2002 due to a schedule conflict for the Representatives.

The agenda for the Commerce and Labor Committee meeting scheduled for November 12, 2002 includes HB 314, Introduction of Substitute HB 314, Proponent and Opponent Testimony. Ms. Mavko received a copy of the proposed substitute bill just prior to the Board meeting, and briefly reviewed it. Copies were provided to the board members.

The proposed Substitute HB 314 appears to be worse than the first bill. All practice protection is removed, title protection for anything other than Licensed Dietitian is removed, all exemptions to practice are removed, and the requirement for sunset review remains. A new section that proposes a non-enforceable notice to consumers is included, and applies to all persons not licensed under Chapter 4759.

The Board discussed the proposed substitute bill and directed Ms. Mavko to vigorously oppose it. She was directed to prepare opponent testimony for presentation before the Commerce and Labor Committee, and to continue to monitor activities regarding the bill.

Ms. Mavko was also directed to update licensees about the bill by adding an insert to the OBD Communique' newsletter which is ready to be mailed.

*** During the morning of November 12, 2002 Representative Reidelbach requested that Chairman Young remove HB 314 from the Commerce and Labor committee meeting agenda. Therefore, Substitute HB 314 was not introduced as originally planned.

HEALTHCARE WORKFORCE SHORTAGE ADVISORY COUNCIL - Ms. Mavko provided the Board with a copy of a template for regulatory change that was developed by the Health Care Workforce Shortage Advisory Council. (A copy is attached to the minutes of the meeting). The template includes information on existing regulations, entities responsible for enforcement of those regulations, how the regulation contributes to the healthcare workforce shortage, and proposed changes that might improve the workforce shortage condition. The template is being used as a mechanism to prioritize the work of the council.

Although the template does not include any proposed changes that directly affect the Board or dietitians, there are some topics that might indirectly affect the practice of dietitians. Ms. Mavko will continue to monitor this council's activities, and report to the Board.

DIABETES SELF-MANAGEMENT BILL - Ms. Mcknight reported that there has been no activity regarding the Diabetes Self Management legislation. It will die at the end of this legislative session. Representative Schneider, and Senator Armbruster have expressed intent to re-introduce the bill in the 125th legislative session.

November is Diabetes Awareness month, and a meeting will be held in the Riffe Center on November 22, 2002.

AGENDA ITEM #6 – REPORT OF RULES REVIEW COMMITTEE

The Rules subcommittee met during October and finished review of the administrative rules. They recommended changes be made to the following administrative rules: 4759-4-04, 4759-4-06, 4759-4-10, 4759-5-02, 4759-6-01. The recommended changes were reviewed and approved by the full board.

As a result of the committee's meetings and recommendations the following motion resulted:

RESOLUTION #5

Jonathan Hughes moved and Cynthia Blocksom seconded a motion to review, rescind, amend and propose new rules as presented by the Executive Secretary on behalf of the Rules Review subcommittee in order for the board to fulfill its required five year rule review in compliance with section 119.03 of the Ohio Revised Code:

4759-1-01	Public notice of rule adoption	Rescind, propose new rule
4759-1-02	Notice of board meetings	Amend
4759-1-03	Personal information systems	No change
4759-2-01	Definitions	Amend
4759-3-01	Duties of board members	Amend
4759-3-02	Executive secretary	No change
4759-3-03	Minutes of board meetings	No change
4759-3-04	Cooperation and communication with professional organizations	No change
4759-3-05	Advisory committees	No change
4759-3-06	Parliamentary procedures	No change
4759-3-07	Adjudication hearings	No change
4759-4-01	Applications	Amend
4759-4-02	Pre-professional experience	No change
4759-4-03	Examination	Amend
4759-4-04	Continuing education	Amend
4759-4-05	Licensure by reciprocity	No change
4759-4-06	Inactive status with Status categories	Rescind / Replace new rule
4759-4-07	Failure to maintain licensure	No change
4759-4-08	Limited permit	Amend
4759-4-09	License certificates and permits	No change
4759-4-10	Fees	Rescind / Replace with new rule
4759-5-01	Prorated initial license fees	No change
4759-5-01	Supervision of persons claiming exemption	No change
4759-5-02	Student practice	Rescind / Replace with new rule title
	Student Practice Exemption	

4759-5-03	Supervision of others Plan of treatment exemption	Rescind / Replace with new rule title
4759-5-04	Additional nutritional activities	Amend
4759-5-05	Distribution of literature	Amend
4759-5-06	Weight control programs Weight control program exemption	Rescind / Replace with new rule
4759-6-01	Standards for professional responsibility and practice	Amend
4759-6-02	Interpretation of standards	No change
4759-7-01	Filing of complaints	No change
4759-8-01	Severability Representatives; appearances communications applicability	Rescind / Replace with new rule
4759-8-02	Filing request for hearing	New rule
4759-8-03	Notice of hearings	New rule
4759-8-04	Authority and duties of attorney hearing examiners	New rule
4759-8-05	Consolidation	New rule
4759-8-06	Intervention	New rule
4759-8-07	Continuance of hearing	New rule
4759-8-08	Motions	New rule
4759-8-09	Filing	New rule
4759-8-10	Service on parties	New rule
4759-8-11	Computation and execution of time	New rule
4759-8-12	Transcripts	New rule
4759-8-13	Subpoenas for purpose of hearing	New rule
4759-8-14	Mileage reimbursement and witness fees	New rule
4759-8-15	Reports and recommendations	New rule
4759-8-16	Exchange of documents and witness lists	New rule
4759-8-17	Pre-hearing conference	New rule
4759-8-18	Requirements for pre-hearing exchange of information	New rule
4759-8-19	Status conference	New rule
4759-8-20	Depositions and transcripts of prior testimony	New rule
4759-8-21	Prior action by the board	New rule
4759-8-22	Stipulation of facts	New rule
4759-8-23	Witnesses	New rule
4759-8-24	Conviction of crime	New rule
4759-8-25	Rules of evidence	New rule
4759-8-26	Broadcasting and rule photographing administrative hearings	New rule

4759-8-27	Sexual misconduct evidence	New rule
4759-8-28	Settlements, dismissals, and voluntary surrenders	New rule
4759-9-01	Severability	New rule (moved from old 8-01)

The context of rule amendments and new rules proposed should be as presented to the Board, however the Executive Secretary shall have editorial discretion in order to format the rules in a manner consistent with the Legislative Service Commission style manual requirements.

The motion was approved with vote as follows:

Claire Adkins	yes	David Holben	yes
Jonathan Hughes	yes	Cynthia Blocksom	yes

Ms. Mavko will proceed with preparing the rules for filing, and the planning for a public hearing to be held on January 3, 2003 in conjunction with the regular board meeting.

AGENDA ITEM #7 – REVIEW OF RULES HEARING PROCESS

Staff will prepare the appropriate public notices required for the administrative rules hearing. This is the last time that the Board will be required to publish in three Ohio newspapers. Publication in the Register of Ohio will replace newspaper publication, and save the agency about \$600-\$1,000 in the future.

The hearing will be held January 3, 2003 in room 1932 of the Verne Riffe Center for Government and the Arts. The regular January Board meeting will follow the public hearing.

The process for how the public hearing will proceed, and the script used to run the hearing was reviewed. Board members were reminded that the hearing is an opportunity for the public to be heard, and that Board members should ask appropriate questions if they need clarification from the persons providing testimony.

The Board does not need to respond to issues raised during the public hearing. After the hearing, the Board will then take the comments, concerns, and interests of the parties under consideration.

If there is significant concern to warrant that a rule should be pulled from the rule filing, it may be revised and re-filed, or withdrawn.

The new and amended rules will be under the jurisdiction of the Joint Committee on Agency Rule Review (JCARR) through January 29, 2003. The JCARR hearing for those

rules will most likely be on January 21, 2003. The no change rules stay under JCARR jurisdiction longer, and will likely be on the consent agenda at the February 10, 2003 JCARR gearing. Ms. Mavko and at least one Board member should attend the JCARR hearing.

Kelley Haddox, Assistant Attorney General will review the script and make modifications as needed.

Board members should plan ahead to be certain to arrive in Columbus well before the 9:00 a.m. start of the hearing and meeting. It is suggested that out of town members may wish to stay over-night in Columbus the night of January 2 in order to be assured of a timely start on January 3. Ms. Mavko can assist with hotel arrangements if needed. We will try to plan a light agenda for the regular board meeting in order to allow for a timely departure at the end of the day.

AGENDA ITEM #8 – UPDATE ON ON-LINE VERIFICATION PROJECT

The on-line verification of licenses is now available at the Board's website www.state.oh.us/obd. A selection for "License Verification" has been added on the homepage. The output is very basic and works off of our current Standard Renewal System. When we upgrade to the new renewal system sometime next year we will be able to incorporate a much more sophisticated license verification option.

AGENDA ITEM # 9 – BOARD REPORTS

Chairman's Report – Claire Adkins – No report

ODA Liaison – Pat McKnight

Ms. McKnight reported that the plans for the March 26, 2003 Legislative Workshop are well underway. The registration brochure will be available on-line at the Ohio Dietetic Association website. The Ohio Hunger Taskforce will again be a co-sponsor, OBD will arrange meeting space and Ms. Mavko will provide an update on licensure related legislation.

Ms. McKnight reported that the Ohio Dietetic Association plans to recommend Ms. Adkins for re-appointment to the Board at the conclusion of her current appointment.

AGENDA ITEM #7—EXECUTIVE SESSION

The Board moved into Executive Session at 2:15 p.m. with a roll call vote. In attendance were the following: Ms. Adkins, Mr. Holben, Ms. Blocksom, Ms. Shaffer, Ms. Mavko, Ms. Haddox. The following motion was made:

RESOLUTION #6

Dave Holben moved and Jonathan Hughes 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:

Claire Adkins	yes	David Holben	yes
Jonathan Hughes	yes	Cynthia Blocksom	yes

The board moved out of executive session at 3:30 p.m.

AGENDA ITEM #8– FINDINGS, ORDERS, and ACTIONS

The following findings, orders, and actions resulted from the Executive Session held during the meeting:

RESOLUTION #7

David Holben moved and Jonathan Hughes seconded a motion to close the following complaints:

- 01OBD83 Education provided. Unfounded.**
- 02OBD78 Insufficient information.**
- 02OBD85 Unfounded. Informational letter to respondent.**
- 03OBD41 License issued with letter of caution.**
- 03OBD43 Records checked. Limited permit issued. Recheck records prior to issuance of initial license.**
- 03OBD09 Retired and not practicing dietetics.**
- 03OBD10 No longer practicing dietetics in Ohio - school food service director – other LD.**
- 03OBD11 No longer practicing dietetics in Ohio, practicing in WVA.**
- 03OBD12 No longer practicing dietetic in Ohio, teaching elementary school**
- 03OBD14 Retired and not practicing dietetics.**

- 03OBD15** No longer practicing in Ohio, home with kids.
- 03OBD17** No longer practicing dietetics in Ohio, Pharmaceutical sales – drop RD.
- 03OBD24** No longer practicing dietetics in Ohio – home with baby.
- 03OBD25** Retired and not practicing dietetics.
- 03OBD26** No longer practicing dietetics in Ohio – home with kids.
- 03OBD27** Reinstated – VA hospital since January 02.
- 03OBD33** Relocated to Arizona.
- 02OBD76** Unfounded. Appears to be in compliance with exemption 4759.10 (H) &(I) ORC.

The motion was approved with vote as follows:

Claire Adkins	yes	David Holben	yes
Jonathan Hughes	yes	Cynthia Blocksom	yes

RESOLUTION #8

Cynthia Blocksom moved and Dave Holben seconded a motion to issue a notice of opportunity for a hearing as presented to the Board regarding Case #02OBD80 for allegedly violating Section(s) 4759.07(A)(1) and (6) of the Ohio Revised Code and Administrative Code 4759-6-01(K)(1) and (2).

The motion was approved with roll call vote as follows:

Claire Adkins	yes	David Holben	yes
Jonathan Hughes	yes	Cynthia Blocksom	yes

The respondent was revealed to be Gretchen Griffiths of Wooster, Ohio.

RESOLUTION #9

Cynthia Blocksom moved and Dave Holben seconded a motion to issue a notice of opportunity for a hearing proposing to deny renewal of licensure as presented to the Board regarding case #03OBD30 for allegedly violating Section(s) 4759.07(A)(1), 4759.06(A)(1) and (2) of the Ohio Revised Code if the respondent does not complete payment of the appropriate fee in a timely manner after consultation with the Board's Assistant Attorney General.

The motion was approved with roll call vote as follows:

Claire Adkins	yes	David Holben	yes
Jonathan Hughes	yes	Cynthia Blocksom	yes

The respondent in case #03OBD30 was not revealed as there was a condition included in the motion that, if met, could negate the issuance of the notice of opportunity.

AGENDA ITEM #12– FINANCIAL REPORT

The financial report was presented for the period of September 1, 2002 through October 31, 2002 including Allocations and Appropriations, Expenditures, Revenues to date, and Comparison of Revenue and Disbursements. Expenditures as of October 31, 2002 totaled \$107,720. Revenue deposited through October 31, 2002 is \$29,381.

RESOLUTION #10

David Holben moved and Cynthia Blocksom seconded a motion to approve the financial report as submitted by the Executive Secretary, including approval of the September and October expenditures.

The motion was approved with vote as follows:

Claire Adkins	yes	David Holben	yes
Jonathan Hughes	yes	Cynthia Blocksom	yes

Due to the impending Commerce and Labor committee meeting on Tuesday November 12, 2002, Ms. Mavko will likely have to abandon her plan of attending the Citizen Advocacy Center meeting next week. The airline ticket that was already purchased can be used for up to one year from November 12 but will be penalized \$100 change fee when used. Registration for the meeting was not paid in advance, so the cost to the Board for the cancellation of the trip is minimized.

Budget Planning for FY 2004 – 2005

As directed by the Board at the September meeting, Ms. Mavko submitted a request to the Office of Budget and Management (OBM) to revise the original FY 2004-2005 budget request and delay the proposed fee increase until FY 2005. OBM did not identify any problems with the revision, and it is assumed that the revised budget request is incorporated into our materials. Our first budget hearing will likely occur in January or February of 2003.

The November Communique' includes an article about the proposed fee increase in order to provide licensees with adequate notice.

AGENDA ITEM #13 -- DIRECTOR'S REPORT -- Kay Mavko

1. Ms. Mavko provided Board members each with a copy of the agency Disaster and Disaster Recovery Plan that was prepared as required. She suggested that each Board member take their copy home so that they would be aware of the plan in place if a disaster occurred in our building, and could easily access the information if necessary. A copy of the plan is attached to the minutes of the meeting.
2. The plan for training licensed non-registered dietitians in preparation for converting to the portfolio concept of continuing education/professional development was discussed. We will plan to provide training at nine sites around Ohio where clusters of licensees are employed. Training is planned to begin in March and go through May. Board members are asked to plan to attend the training sessions that are scheduled near their homes.
3. Ms. Mavko participated as a speaker in a panel presentation on Scopes of Practice Issues related to Certified Diabetes Educators and Diabetes Care at the Central Ohio Diabetes Association Symposium on Thursday November 8, 2003. Nancy Manns from the Nursing Board and Bill Winsley from the Pharmacy Board also spoke. The meeting was well attended and the presentation was well received.
4. Kay Mavko and Pat McKnight spoke to the Ohio Dietetic Educators Practice Group on Friday November 1, 2003 to update them on legislative matters related to licensure, and to inform them about the upcoming proposed rule changes. The group was very appreciative of the information.
5. Pat Cullen has changed her retirement date to 1/10/2003. Posting of her position will occur in early December, and the plan is to hire the new Office Assistant 3 to overlap for a two week time period prior to Pat's retirement. We will really miss Pat, but of course wish her well in her retirement. The position description will be updated, but no change in classification is being requested.
6. Board members are reminded that if they need over-night accommodations for the January 3, 2003 meeting they should contact Ms. Mavko.
7. Ms. Mavko requested that the Board consider appointment of the renewal application review committee. Ms. Adkins, Ms. Shaffer, Ms. Haddock, and Ms. Mavko agreed to participate. Ms. Mavko will coordinate a meeting of the subcommittee for late in January.
8. Generally, at the November meeting nominations are made for Board members to move into leadership positions on the board for the following calendar year. Due to the legislative issues that are currently challenging our agency, the Board members agreed to continue with Claire Adkins as Chairman, and Jonathan Hughes as Vice Chairman through June 30, 2003.

9. Ms. Mavko suggested that the Board consider a different format when re-printing the Laws and Rules this spring. Changing to an 8 1/2" x 11" format would allow for the direct downloading of text, and eliminate the re-typing, and type setting required in previous editions. Staff will explore the printing options available.

AGENDA ITEM #14 – REPORT FROM ADA ANNUAL MEETING

Ms. Shaffer thanked the Board for supporting her attendance at the American Dietetic Association Food and Nutrition Conference in Philadelphia October 19-22, 2002. With over 12,000 persons registered, the conference was one of the best attended in recent years. Ms. Shaffer reported on the following sessions:

- Nutrition supplementation and Dementia, including pertinent studies and outcomes on ginkgo, vitamin, E, C, and homocystine;
- Ethical, Legal, and Competency Issues of Integrating Complementary Alternative Medicine (CAM) into Dietetic Practice – Reva Touger-Decker, PhD, RD, FADA presented information about ADA's taskforce on CAM competencies. Key issues being considered are curiosity, competency building, collaborative relationships, open minds, professionalism, and critical thinking.
- A handout on "Water Recommendations, Are they Scientific?" was provided to the Board members.

Dave Holben shared information about sessions that he attended on Integrity in Scientific Research, and use of the Dietary Reference Intakes.

AGENDA ITEM #15 – REPORT FROM FARB MEETING – Kelley Haddox

Ms. Haddox attended the Federation of Associations of Regulatory Boards meeting and just returned the evening before the board meeting. She reported that the meeting content was good and it was a good opportunity to network with other attorneys. She will share more at the next board meeting.

AGENDA ITEM #15-- UPCOMING BOARD MEETING DATES

The next regular Board meeting is scheduled for January 3, 2003.

Board members established tentative meeting dates for calendar year 2003. They are as follows:

January 3, 2003	Public Rules Hearing 9:00 a.m. Regular Board meeting (following Rules hearing)
March 21, 2003	
May 30, 2003	

July 18, 2003
September 19, 2003
November 14, 2003

AGENDA ITEM # 16- ADJOURNMENT

**A motion was made to adjourn the meeting. There was consensus by the Board.
The November 8, 2002 regular meeting of the Ohio Board of Dietetics adjourned at
4:40 p.m.**

Respectfully submitted,

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

_____ Date _____
Claire Adkins
Chairman, Ohio Board of Dietetics

_____ Date _____
Witness