

**MINUTES OF THE BOARD MEETING**  
**January 25, 2002**  
**Verne Riffe Center**  
**Columbus, Ohio**

**AGENDA ITEM #1 – CALL TO ORDER**

**BOARD MEMBERS PRESENT:** Lori Mooney, Claire Charley, Lorna Fuller,  
Jonathan Hughes

David Holben arrived at 10:20.

**OTHERS PRESENT:** Beth Shaffer, OBD Compliance Specialist; Kay Mavko, OBD Executive Secretary; Kelley Haddox, Assistant Attorney General; Pat McKnight, Ohio Dietetic Association Liaison; Fred Vierow, Legislative Agent, Ohio Dietetic Association; Lashanda Harrison, Assistant Auditor.

The meeting was called to order at 10:10a.m. Ms. Mavko introduced Ms. Harrison, Assistant Auditor who is observing part of the meeting as a component of the routine audit process.

**AGENDA ITEM #2 – APPROVAL OF MINUTES OF THE NOVEMBER 30, 2001 MEETING**

The minutes from the November 30, 2001 meeting were reviewed and were approved as corrected. The following motion resulted:

**RESOLUTION #1**

**Claire Charley moved and Jonathan Hughes seconded a motion to approve the minutes of the November 30, 2001 Board meeting as corrected.**

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

<b>Lori Mooney</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Charley</b>	<b>yes</b>	<b>Jonathan Hughes</b>	<b>yes</b>

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

Ms. Mavko presented the names of six (6) persons who were issued limited permit licenses during FY 2002 since the last meeting of the Board. The following motion was made:

**RESOLUTION #2**

**Lorna Fuller moved and Claire Charley seconded a motion to place upon the minutes of the January 25, 2002 meeting the name of six (6) individuals who were issued limited permits in FY 2002 since the November 30, 2001 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>Lori Mooney</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Charley</b>	<b>yes</b>	<b>Jonathan Hughes</b>	<b>yes</b>

Ms. Mavko presented the names of fifty-two (52) dietitians who were issued licenses during FY 2002 since the last meeting of the Board. The following motion was made:

**RESOLUTION #3**

**Jonathan Hughes moved and Lorna Fuller seconded a motion to place upon the minutes of the January 25, 2002 meeting, the names of eighteen (18) dietitians who met qualifications, pursuant to Section 4759.06 ORC, and who were issued a license by the Executive Secretary during Fiscal Year 2002 since the November 30, 2001 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>Lori Mooney</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Charley</b>	<b>yes</b>	<b>Jonathan Hughes</b>	<b>yes</b>

Ms. Mavko noted that one of the licenses reinstated was that of Ms. Nancy Stamp whose expired license situation was discussed in detail at the November 30, 2001 meeting.

**AGENDA ITEM #4 – REVIEW OF FY 03 LICENSE RENEWAL FORM**

Staff reviewed the FY 2002 renewal form that was used last year and made suggestions to the Board for revisions for the upcoming FY 2003 Renewal. A draft form was presented to the Board, which included the suggested revisions. The Board made additional suggestions and approved the revised form as amended.

The Board directed Ms. Mavko to proceed with printing of the renewal applications for FY 2003. A copy of the proposed FY 2003 renewal form is attached to minutes of the meeting.

**AGENDA ITEM # 5 -- APPLICATION FOR NUTRITION EDUCATION EXEMPTION**

There was no response to the Board's request for additional information in regard to the Belmont County Committee on Aging application for a nutrition education exemption. Ms. Mavko will contact them again. The matter is tabled until the next meeting.

**AGENDA ITEM #6 – BOARD REVIEW OF LICENSEE QUESTION REGARDING DIETITIANS WRITING ORDERS**

Cora Martin, a licensed dietitian posed questions about Ohio dietetic licensure as related to dietitians writing orders. Because the nature of the questions went beyond past Board interpretations regarding verbal orders, Ms. Mavko asked the Board for direction.

In preparation to discuss the issue the Board members were provided with a copy of Ms. Martin's correspondence and relevant information including past letters sent to licensees with questions about verbal orders, copies of the old and newly revised Nursing Home Rule regarding medical supervision and orders {3701-17-13 (B) OAC}, the 12/2/96 Communique' Board response to questions about writing TPN orders, JCAHO standard TX4.2 regarding authorized individuals prescribing, ordering, food and nutritional products, JADA articles "*Development and Implementation of the Clinical Privileges for Dietitian Nutrition Order Writing Program at a Long-term Acute-care Hospital*" and "*Clinical Privileges: Missing Piece of the Puzzle for Clinical Standards that Elevate Responsibilities and Salaries for Registered Dietitians*". (Copies are attached to the minutes of the meeting.)

After lengthy discussion and review of the resources and law and rules, the board directed that the response to Ms. Martin include the following:

- nothing in Chapter 4759 ORC authorizes or prohibits dietitians writing nutrition orders
- the authority for order writing is the responsibility of the agency or institutional governing body
- the Board has developed no guidelines but suggests that one who is approaching the development of order writing privileges for dietitians consider other laws, rules and regulations that apply like JCAHO, Medical Practice Acts, and those practice acts of other licensed health care providers.
- The Board recommends that one review the JADA articles "*Development and Implementation of the Clinical Privileges for Dietitian Nutrition Order Writing Program at a Long-term Acute-care Hospital*" and "*Clinical Privileges: Missing Piece of the Puzzle for Clinical Standards that Elevate Responsibilities and Salaries for Registered Dietitians*".

Ms. Mavko will respond to Ms. Martin on behalf of the Board.

**AGENDA ITEM # 7– ENFORCEMENT REPORT**

Ms. Shaffer presented the enforcement report for the period of November 30, 2001 through January 25, 2002. There are currently forty-six (46) cases pending. Twenty-nine (29) cases were closed at the November 30, 2001 meeting and seven cases opened since that meeting.

The Quarterly enforcement information was also presented and when compared to the second quarter of FY 2001, and shows an increase in total cases, open cases, and cases pending. Numbers of new cases are similar to the previous fiscal year.

The categories of open cases were included in the report and a report of lapsed licenses was provided. The Compliance Specialist also reported to the board as follow-up ordered on cases 01OBD73, 01OBD67, and 01OBD68. The case numbers, allegations and disposition of completed cases closed at the last board meeting and the pending cases under investigation were also included.

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

**AGENDA ITEM #8 --STATUS OF BOARD ACTIONS**

**Gregory Avarella** - Ms. Shaffer reported that Mr. Avarella submitted his quarterly report timely to the Board. There have been no changes in conditions of his court ordered probation. The Board directed that the case be kept open, and that future reports be reviewed in executive session.

**Rebecca Sens** – The Board reviewed and made a motion to approve the consent agreement offered by the Board and which was returned and signed by Ms. Rebecca Sens. The following motion resulted:

**RESOLUTION # 4**

**Jonathan Hughes moved and Lorna Fuller seconded a motion to approve the consent agreement as presented between Rebecca Sens and the Ohio Board of Dietetics effective January 25, 2002.**

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

<b>Lori Mooney</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Charley</b>	<b>yes</b>	<b>Jonathan Hughes</b>	<b>yes</b>
<b>David Holben</b>	<b>yes</b>		

Staff was directed to Provide Ms. Sens with a copy of the signed consent agreement, and cover letter including information about the conditions of the agreement including the ethics course approved by the Board, contacts for taking the examination, and how to access a copy of the code of ethics of the American Dietetic Association. The Board also directed that the case be left open, and that an informational letter be prepared for the Nursing Home Administrator and that the Board of Examiners of Nursing Home Administrators be made aware of the situation.

**AGENDA ITEM #9– EXECUTIVE SESSION**

The Board moved into Executive Session at 11:25 a.m. with a roll call vote. In attendance were the following: Ms. Mooney, Ms. Charley, Ms. Fuller, Mr. Hughes, Dr. Holben, Ms. Shaffer, Ms. Mavko, Ms. Haddox. The following motion was made:

**RESOLUTION #5**

**Claire Charley moved and Lorna Fuller 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>Lori Mooney</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Charley</b>	<b>yes</b>	<b>Jonathan Hughes</b>	<b>yes</b>
<b>David Holben</b>	<b>yes</b>		

The Board moved out of executive session at 12:40 p.m.

**AGENDA ITEM #10– FINDINGS, ORDERS, and ACTIONS**

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

**RESOLUTION #6**

**Claire Charley moved and Lorna Fuller seconded a motion to close the following complaints:**

<b>02OBD06</b>	<b>No longer practicing – computer specialist - also dropped RD</b>
<b>02OBD12</b>	<b>Licensed in Osteopathic medicine – not practicing as dietitian, current RD</b>
<b>02OBD18</b>	<b>No longer practicing in Ohio, lives and works in KY, current KY license and RD</b>
<b>02OBD19</b>	<b>No longer practicing - full time student computer science / dropped RD</b>

- 02OBD23 Reinstated 11/5/01 (no evidence of unlicensed practice)
- 02OBD24 Renewed with late fee 8/17/01 for postmarked 8/14/01
- 02OBD28 No longer practicing dietetics in Ohio
- 02OBD29 Relocated to NY – not practicing, teaching Jr. High school
- 02OBD30 No longer practicing dietetics in Ohio
- 02OBD34 Reinstated 9/21/01 (no evidence of unlicensed practice)
- 02OBD38 Relocated to MI
- 02OBD43 No longer practicing dietetics in Ohio
- 02OBD48 Relocated to CA, current RD
- 02OBD49 Retired and not practicing dietetics, dropped RD
- 02OBD51 No longer practicing dietetics in Ohio, home with sick child
- 02OBD54 Claiming exemption per 4759.10(D) working for US Air Force, current RD
- 02OBD59 No longer practicing dietetics in Ohio, is in pharmaceutical sales

The motion was approved with roll call vote as follows:

Lori Mooney	yes	Lorna Fuller	yes
Claire Charley	yes	Jonathan Hughes	yes
David Holben	yes		

**RESOLUTION #7**

Claire Charley moved and Jonathan Hughes seconded a motion to approve the reinstatement application and issue license to the respondent in 02OBD56 with letter of caution and conditioned upon providing a written description of the difference in function of ADA, CDR, and the Ohio Board of Dietetics, including the applicable fees and dates due for each .

The motion was approved with roll call vote as follows:

Lori Mooney	yes	Lorna Fuller	yes
Claire Charley	yes	Jonathan Hughes	yes
David Holben	yes		

**RESOLUTION #8**

Claire Charley moved and Jonathan Hughes seconded a motion to close 02OBD70, and 02OBD71 as unfounded.

The motion was approved with roll call vote as follows:

Lori Mooney	yes	Lorna Fuller	yes
Claire Charley	yes	Jonathan Hughes	yes
David Holben	yes		

**RESOLUTION #9**

Claire Charley moved and Dr. Holben seconded a motion to close 02OBD72. The limited permit was issued with a letter of caution and informational letter sent to the supervisor.

The motion was approved with roll call vote as follows:

Lori Mooney	yes	Lorna Fuller	yes
Claire Charley	yes	Jonathan Hughes	yes
David Holben	yes		

**RESOLUTION #10**

Claire Charley moved and Lorna Fuller seconded a motion to close 02OBD74 upon the respondent meeting the condition of describing what opportunities were available during education or internship to learn about licensure, and to describe the licensure requirements in Ohio. The board previously approved the issuance of a Limited Permit license with letter of caution, and information letter to supervisor. The case will be closed at the time of compliance with the condition.

The motion was approved with roll call vote as follows:

Lori Mooney	yes	Lorna Fuller	yes
Claire Charley	yes	Jonathan Hughes	yes

David Holben excused himself from the vote.

**RESOLUTION #11**

Claire Charley moved and Lorna Fuller seconded a motion to arrange an educational meeting between the respondent in 02OBD04 and representatives of the Board (including a Board member, Director, Compliance Specialist, and the Board’s Assistant Attorney General). The Board will contract with an expert in the respondents area of practice who will meet with the respondent to assess systems related to the respondents practice, offer suggestions, and provide a report to the Board.

The motion was approved with roll call vote as follows:

Lori Mooney	yes	Lorna Fuller	yes
Claire Charley	yes	Jonathan Hughes	yes
David Holben	yes		

**RESOLUTION #12**

Claire Charley moved and Dave Holben seconded a motion to issue a Notice of Opportunity for Hearing proposing to revoke the FY 2002 license issued to the respondent in 02OBD63 for allegedly violating Section 4759-4-04 of the

**Ohio Administrative Code. Staff was directed to attempt to contact the respondent by telephone and by mail to discuss the option to voluntarily surrender license prior to issuance of the Notice. If there is no timely response or surrender the notice should be issued on February 25, 2002.**

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

<b>Lori Mooney</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Charley</b>	<b>yes</b>	<b>Jonathan Hughes</b>	<b>yes</b>
<b>David Holben</b>	<b>yes</b>		

### **RESOLUTION #13**

**Claire Charley moved and Dave Holben seconded a motion to issue a Notice of Opportunity for Hearing to the respondent in 02OBD69 for allegedly violating Section 4759-4-04 of the Ohio Administrative Code. If the respondent is unsuccessful in providing proof of compliance with continuing education requirements timely, the Notice should be issued on February 25, 2002.**

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

<b>Lori Mooney</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Charley</b>	<b>yes</b>	<b>Jonathan Hughes</b>	<b>yes</b>
<b>David Holben</b>	<b>yes</b>		

### **AGENDA ITEM #11 – PENDING LEGISLATION**

The Board discussed bills before the Ohio legislature that are of interest to the Board. In regard to HB 314, staff learned that the proponents have requested to be put on the agenda of the Commerce and Labor committee expressing intent to introduce an amendment to the bill when the committee meets on Tuesday January 29, 2002. Staff provided the Board with copies of the amendment. The Board reviewed and discussed the amendment language, and determined that introduction of such an amendment would not change the Board's position in opposition to HB 314. Staff were directed to continue to follow the activity surrounding this bill.

HB 288, the Dietetic Technician Licensure bill, has had no activity. Chairman Williams has not included it on the agenda for the Commerce and Labor committee.

The Diabetes Self-Management Bill is still stalled. Ms. Mcknight continues to be very involved and to monitor its activity.

There was no pertinent activity reported for other bills.

## **AGENDA ITEM #12 – BOARD REPORTS**

### **Chairman – Lori Mooney**

Ms. Mooney reported that this is her last meeting as Chairman, and thanked the Board for their support. She reflected on the growth and development that has occurred over her years of service to the Board, and noted her appreciation to all particularly during her leadership as Chairman.

Ms. Mooney reported that the election of new officers for the Board will occur at the end of this meeting, and that new officers will assume their duties after the election.

### **ODA Liaison – Pat Mcknight**

Ms. Mcknight reported that the American Dietetic Association Legislative Conference in Washington D.C. is scheduled for the week of February 11-15, 2002. A number of dietitians from Ohio will be represented there.

The Ohio Dietetic Association Legislation and Public Policy Workshop which is co-sponsored by the Board is scheduled for April 10, 2002. OBD staff were encouraged to invite other board directors and staff for the lunch reception.

Ms. Mcknight discussed the recent effective lobbying efforts made to secure state funding and matching funds for the WIC Farmers Market coupon program. The program was originally cut by the Ohio Department of Health as a result of the agency trying to fill budget shortfalls. Rep. Kaptur announced that she planned to hold a bake sale at the state house and bring in women from all over Ohio to raise private funds and draw attention to the issue. Then Governor Taft pressed top officials to use some of the state's \$10 billion share of the national tobacco settlement to fund the state's portion - thereby enabling Ohio to qualify to receive federal matching funds.

Ms. McKnight reported that the article published in the OBD Communiqué regarding the upcoming Board position was successful in generating interest in the position from about 6 people.

### **Directors Report – Kay Mavko**

1. Ms. Mavko reported that the Department of Administrative Services Information Service is continuing to negotiate again for another licensing system to replace the Standard Renewal System.
2. The Computer Resource Center was downsized effective September 30, 2001 and only one staff person remains. As a result of the downsizing of the Computer Resource Center in September, the Boards and Commissions have agreed to explore hiring one of the personnel back on a charge back basis to service the

Boards and Commissions. Bruce Sinmaz has agreed to accept the position and will likely start in March.

Although the scope of the services and costs are not firm, it appears that the cost may be in the range of \$50 - \$60 per workstation. That would cost OBD about \$200-\$240 per month, which has not been budgeted in this biennium.

3. Each Board member received a copy of the January edition of the Communique' newsletter that was mailed to licensees and other interested parties. This edition seems to have been particularly well read. Staff have received a number of calls relative to information contained in the newsletter, change of address requests, and expressions of interest in opposing HB 314.
4. Unfortunately, the administrative processes have still not yet been ironed out for Board members to be able to purchase health insurance. DAS/DHR says they are still working on it.
5. The American Specialty Health Network (ASHN) recently announced that they have become the first organization in the country to receive accreditation from the American Accreditation HealthCare Commission (URAC) for their massage therapy, dietetics, and naturopathy programs. URAC provides accreditation standards that are recognized nationally as the benchmarks for quality in managed care organizations. ASHN requires that nutrition services be provided by Registered and licensed dietitians, and is thorough in verifying licensure status in Ohio.
6. Board members were reminded that they must complete their violet colored financial disclosure statement for calendar year 2001 and turn it in to the Ethics Commission no later than 5 PM on April 15. Ms. Mavko gave each board member a copy of their individual board related reimbursements to include with the statements.
7. Ms. Mavko reported on the Workforce Shortage Task Force meetings that she has been monitoring on behalf of the Board. It is apparent that the role of licensure appears to be taking on a fairly high level of significance. The Draft recommendations include exploring the ideas of a super board and/or institutional licensure. Staff will continue to monitor.

### **AGENDA ITEM #13 – FINANCIAL REPORT**

The Financial Report was presented for the period November 1, 2001 through December 31, 2001 including Allocations and Appropriations, Expenditures, Revenues to Date, and comparison of Revenue and Disbursements. Expenditures as of December 31, 2001 totaled \$115,394.13. Revenue deposited through December 31, 2001 is \$38,144.50.

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

The mid-year revenues were compared to revenues collected at the mid-point of FY 2001. As of December 31, 2000 revenues were 31,588 compared to December 31, 2001 of \$38,144.

Based on the current obligations and similar spending for the balance of the fiscal year, and including additional expenses for computer services, Xeroxing, under-budgeted rent, etc. it appears that with good fiscal restraint the board can remain in a positive budget position through the end of FY 2002. However, with the additional costs that the board has encountered, and will continue to absorb it appears that we may end up in a negative position at the end of FY 2003.

Ms. Mavko presented estimated revenue projections through FY 2005 using the current fee structure, and described how those projections would effect the board's position in the 4K9 fund. Because the board is required by law to be self-supporting and it's only significant source of revenue to cover expenses is fees, it appears that fees will need to be re-assessed in the next biennium.

The Board directed Ms. Mavko to prepare a fee proposal with revenue and expense projections for the next regular board meeting.

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

#### **AGENDA ITEM #14 – BOARD / RULES REVIEW**

The materials for filing of administrative hearing rules are ready. The Board will continue to wait for the conclusion of the legislative activities regarding HB 314 before filing any proposed rule changes. The proposed administrative hearing rules continue to remain as policy.

#### **AGENDA ITEM #15 – REPORT FROM CLEAR**

Ms. Shaffer thanked the Board for sponsoring her attendance at the Council on Licensure Enforcement and Regulation (CLEAR) held in San Antonio, Texas and presented a brief review of the material covered.

CLEAR's President's Award went to Ben Shimberg, who was honored for his role in occupational licensing from the public perspective. The keynote speaker was a consumer reporter from Raleigh, NC who compared her role with that of licensing boards in that both are charged with protecting the public and being relevant. Other session topics attended included: Mutual Recognition (nurses now have 17 states in the compact); Unlicensed Practice; Focus Groups, Federal Issues; Special Interest vs. Public Interest; Credentialing; Distance Education and Selling Yourself.

**ELECTION OF OFFICERS**

At the November meeting the following persons were nominated from the floor for election to leadership positions on the board:

- Chairman – Claire Charley
- Vice Chairman, PRP representative – Jonathan Hughes

Chairman Mooney placed the nominations on the floor and after discussion the following two motions resulted:

**RESOLUTION #14**

**Dave Holben moved and Lorna Fuller seconded a motion to elect Claire Charley as Chairman of the Ohio Board of Dietetics for the calendar year 2002 effective at the close of the January meeting.**

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

<b>Lori Mooney</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Charley</b>	<b>yes</b>	<b>Jonathan Hughes</b>	<b>yes</b>
<b>David Holben</b>	<b>yes</b>		

**RESOLUTION #15**

**Dave Holben moved and Lorna Fuller seconded a motion to elect Jonathan Hughes as Vice-Chairman of the Ohio Board of Dietetics for the calendar year 2002 effective at the close of the January meeting.**

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

<b>Lori Mooney</b>	<b>yes</b>	<b>Lorna Fuller</b>	<b>yes</b>
<b>Claire Charley</b>	<b>yes</b>	<b>Jonathan Hughes</b>	<b>yes</b>
<b>David Holben</b>	<b>yes</b>		

The newly elected Chairman generally appoints the next senior board member to be responsible to review the financial report and advise the Executive Secretary on budget matters. Ms. Charley appointed Ms. Lorna Fuller to review financial matters for the calendar year 2002.

**AGENDA ITEM #16-- UPCOMING BOARD MEETING DATES**

**The next regular Board meeting is scheduled for March 15, 2002.**

The following meeting dates are tentatively scheduled for the remainder of calendar year 2002.

- March 15, 2002
- May 17, 2002
- July 26, 2002
- September 27, 2002
- November 15, 2002

**AGENDA ITEM # 17 - ADJOURNMENT**

**A motion was made to adjourn the meeting. There was consensus by the Board.  
The January 25, 2002 regular meeting of the Ohio Board of Dietetics adjourned at  
5:20 p.m.**

**Respectfully submitted,**

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

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

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

**Lori Mooney  
Chairman, Ohio Board of Dietetics**

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

**Witness**