

**DIRECTORS REPORT
TO THE OHIO BOARD OF DIETETICS
FOR FISCAL YEAR 2000**

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Prepared by Kay Mavko, MS, RD, LD

Executive Secretary, Ohio Board of Dietetics

I. HISTORY AND ORGANIZATION

The five-member Ohio Board of Dietetics was created by Am. Sub. H.B. 570 of the 116th General Assembly and enacted into law on July 1, 1987. The Ohio Board of Dietetics regulates the profession of dietetics in the State of Ohio pursuant to Chapter 4759 of the Ohio Revised Code.

MISSION STATEMENT

The purpose of the dietitian licensure law is to protect the public from harmful incompetent or negligent nutritional practices. The Board accomplishes its mission as follows:

- Establishes standards of professional responsibility and practice for Ohio dietitians
- Issues licenses and limited permits
- Investigates complaints and determines disciplinary action
- Administers a minimal competency examination
- Requires continuing education to ensure competent practice of dietitians

SCOPE OF PRACTICE

Ohio's law is a mandatory licensure law requiring everyone who practices dietetics as defined in the law to be licensed, unless specifically exempted. "The practice of dietetics" means any of the following, as specified in Section 4759.01(A) of the Revised Code:

- 1) Nutritional assessment to determine nutritional needs and to recommend appropriate nutritional intake, including enteral and parenteral nutrition;
- 2) Nutritional counseling or education as components of preventive, curative, and restorative health care;
- 3) Development, administration, evaluation, and consultation regarding nutritional care standards

BOARD MEMBERS AND MEETINGS

Board members are appointed by the Governor for five year terms. The Board is comprised of three (3) dietitians, one (1) public member and one (1) dietetic educator who holds a doctoral degree. The Board usually meets six times per year. Meetings are usually held in the Vern Riffe Center in Columbus and open to the public. In FY 2000 the Board held eight meetings.

Board members are paid an hourly rate while performing official Board business. This rate is established by the General Assembly and currently ranges from \$17.37 to \$19.55 per hour. The Board member's initial appointment date determines the hourly rate. Additionally, all Board members are reimbursed at the state per diem rate for travel, meals and miscellaneous expenses.

Past Board Members:

- Carol McLaughlin, Cleveland - Dietitian Member **
- Margaret Horvath, Youngstown - Dietitian Member
- Edith Lerner, Cleveland - Dietetic Educator Member
- Cheryl Boyce, Columbus - Public Member
- Anita Howe, Cincinnati - Dietitian Member
- Mable Hardeman Edwards, Columbus - Public Member
- Bradley Sinnott, Columbus - Public Member
- Susan Rudge, Oxford - Dietetic Educator Member
- Darlene Rogers, Youngstown - Public Member
- Anne Coble Voss, Columbus - Dietitian Member

** First Board Chair, appointed in July 1987; Reappointed by Gov. Voinovich and served until expiration of second term on June 30, 1995.

Current Board Members & Terms:

- | | |
|--|---------------------|
| Roberta S. Hurley, Columbus, Akron -
Educator Member Chairman | 7/1/96 to 6/30/2001 |
| Alice Giffin, Wooster - Dietitian Member | 7/7/95 to 6/30/2000 |
| Lori Mooney, Dublin - Dietitian Member | 7/26/93 to 6/30/97 |
| - reappointed | 7/1/97 to 6/30/2002 |
| Tonda Hollenback, Bowling Green- Public Member | 11/7/97 to 6/30/99 |
| - reappointed | 7/8/99 to 6/30/2004 |
| James G. Behnke, Middletown - Dietitian Member | 7/1/98 to 6/30/2003 |

Ohio Dietetic Association Liaison:

Patricia McKnight

STAFF

Administrative staff includes: a Director (Executive Secretary), a Compliance Specialist (Administrative Assistant/investigator), and an Office Assistant. These are all full-time equivalent positions. In addition, one intermittent clerical position assists with licensure renewal activities. Hearing officers, court reporters and additional clerical services are contracted on a temporary basis as needed.

FY 2000 Staff:

Patricia Cullen--Office Assistant
Beth Shaffer---Compliance Specialist
Megan Hemmerich (6/12/00-8/15/0) Clerical Intermittent,
Nicole Reed (6/17/00 - 8/15/00) ---Clerical Intermittent
Kay Mavko -- Executive Secretary / Director

Approximately 3,000 licenses are issued annually, which includes issuance of approximately 100 Limited Permits. Licensees must meet minimal academic requirements, complete a pre-professional experience, and pass a licensure examination. Continuing education is required for licensure renewal.

II. 2000 HIGHLIGHTS

COOPERATION WITH GOVERNMENTAL AGENCIES & PROFESSIONAL ASSOCIATIONS

It is the Board's general philosophy to educate and inform the public regarding the dietitian licensure law which promotes compliance with the law.

National activities:

- 1) Ms. Shaffer and Ms. Hollenback attended the National Council on Licensure, Enforcement Regulation annual meeting in Portland, Oregon. ■
- 2) Ms. Mavko and Ms. Giffin attended the American Dietetic Association meeting in Atlanta. In particular, Ms. Mavko attended the ADA meetings regarding proposed plans for professional development / continuing education in order to plan for integration of their approach for Ohio's licensed non-registered dietitians.
- 3) Ms. Mavko and Ms. Hurley attended the annual Citizens Advocacy Council Meeting in Orlando, Florida.
- 4) Ms. Mavko provided direction and guidance to two new state licensure Boards, Maine and Hawaii when requested. The experience and expertise of the Ohio Board is often requested by new Boards.

Ohio activities:

1) The Board continues to work closely with other professional health licensing boards. OBD staff participate in an ad hoc group of Ohio Health Care Boards. The group is planning an educational conference about health related licensure in Ohio for the legislative aides of members of the Ohio legislature.

2) The Dietetic Technician licensure bill, HB 132 - was introduced to the legislature in January of 1999 by Representative Barbara Boyd from Cleveland. This is the third attempt to promote this issue. The purpose of the bill is to license Dietetic Technicians within 4759 of the ORC. Board staff have met with the proponents of the bill, the dietetic association, dietetic educators and others to propose amendments to the bill as introduced. A number of revisions to the proposed bill have been negotiated, but there are still some concerns regarding specifics within the legislation. OBD has remained neutral regarding the legislation, but continues to maintain an active role in suggesting language which can be incorporated into the amendments and providing information to licensees and the public regarding the proposed legislation. It appears that the bill may be voted out of the Labor and Commerce Committee of the House in the fall of 2000.

3) HB 381 - Dietary Supplement Bill - was introduced into the legislature in FY 2000 stating the intent of codifying in Ohio law portions of the federal "Dietary Supplement and Health Education Act of 1994". The proponent's position is that it would clarify what information can be provided by salespersons selling supplements. The bill as introduced was problematic for the Board and Ms. Mavko met with legislators, the proponents, and testified in opposition. Eventually, compromise language that appears to be acceptable has been developed, and the bill has been voted out of the Labor and Commerce Committee. It will be introduced in the Senate in the fall of FY 2001.

4) HB 562 - Licensure of Naturopaths - was introduced in the spring of FY 2000. Language in the bill authorizes these practitioners to perform nutritional assessment and counseling, and perform dietary therapy. The bill has not yet had sponsor testimony, and OBD has joined with other health related Boards in opposition to the legislation. Staff will continue to monitor the bill.

5) Staff continue to provide presentations on licensure regulations and complaint handling/ enforcement activities to Ohio dietetic programs at universities/colleges (graduate, undergraduate and internship programs). In FY 2000 staff spoke to 12 dietetic programs, 3 dietetic technician programs, 2 hospital dietetics staff meetings, and the ODA legislative workshop. These presentations reached over 258 persons.

Agency Activities:

1) Board staff again precepted dietetic student interns for various experiences which ranged from one day to two weeks in length. This year 8 interns were exposed to licensure, enforcement, investigation of complaints, and regulation in dietetics.

2) The agency's newsletter, "OBD Communique", was published two times. Its purpose is to keep

licensees informed regarding the public meetings, status of legislation, new guidelines, and current licensure issues and trends in Ohio.

3) Staff developed a letter to send to complementary and alternative health care providers who are now advertising on the internet and soliciting practitioners to participate as providers. The informational letter informs them about the Ohio law and their responsibilities to correctly inform their participants that persons practicing dietetics in Ohio, upon Ohio citizens, need to be appropriately licensed or exempt.

4) Re-collection of all licensees' social security numbers for purposes of potential reporting for child support enforcement, and for potential disclosure to the health and Human Services Health Care Integrity and Protection Data Bank was coordinated with license renewal. After all have been re-collected, OBD will comply with the requirement to provide information about adverse actions to the Data Bank (Fall of 2000)

III. LICENSURE/EXAMINATION ACTIVITY

FISCAL YEAR 1999 LICENSURE ACTIVITY		
LICENSES/PERMITS ISSUED	FY 1999	FY 2000
Initial Licenses/Reactivations	179	217
Renewals	2803	3,037
Reinstatement of lapsed	20	23
Limited Permits	97	125
Totals	3,132	3,402

The Ohio Board of Dietetics contracts with the Commission on Dietetic Registration (CDR) for examinations. Beginning in FY 2000 CDR changed to a computer administered examination; therefore the Board needed to amend section 4759.05, 4759.06 ORC and 4759-4-08 OAC. It appears that the change in examination processes or difficulty has resulted in a higher failure rate in Ohio than prior to computer administration. In past years, the average number of permit holders' failing has been three to four, while in FY 2000 six persons failed. Nationally, CDR reports that the failure rate has not increased.

IV. REVENUES/EXPENDITURES

State professional licensing boards are required to be financially self-supporting from revenues generated through licensure fees. Licensure and renewal fees are deposited into the rotary fund 4K9 that was established for the Professional Boards and Commissions. Nearly all (90%) of the revenues generated through OBD's licensing and renewal fees now directly support its own operations.

Fees were last increased in FY 1994 and currently are adequate to meet expenditures. Any excesses or shortfalls are adjusted within the 4K9 fund to the benefit of the participating agencies.

<u>FEES</u>	
Application- Initial license	\$110
Reinstatement - Inactive license	\$110
Reinstatement - Lapsed, revoked, or suspended license	\$165
Renewal license	\$ 80
Limited permit & renewal	\$ 55
Late fee (applies to renewal application <u>postmarked</u> after 6/30)	\$ 40
Duplicate license or permit	\$ 20

REVENUES		
	FY 1999	FY 2000
License Application Fees	\$31,185	\$26,000
Renewal Fees	229,680	243,133
Late Fees	2,840	3,220
Limited Permit Fees	5,335	6,490
Miscellaneous (Public records request, duplicate I.D.CARDS, etc.	234	307
Total Revenue posted FY 99	\$270,596	\$279,150

Note: Some revenue posted for FY 2000 applies to licenses issued in FY 99 or FY 2001.

EXPENDITURES		
	FY 1999	FY 2000

EXPENDITURES		
	FY 1999	FY 2000
Payroll/Purchased Services	\$183,219	\$211,030
Maintenance	34,181	41,589
Equipment	835	0
Prior year encumbrances	9,144	16,405
Total	\$227,741	\$269,024
Net +	\$42,854	\$13,242

The excess funds from FY 2000 will be maintained in the 4K9 fund to off set unanticipated expenditures. These appropriations may only be used with Controlling Board approval.

V. ENFORCEMENT

COMPLAINTS INVESTIGATED IN FY 2000

OPEN CASES TO START.....	32
NEW CASES.....	113
INVESTIGATED CASES.....	145
CLOSED CASES.....	112
CASES PENDING.....	33

COMPLAINT HISTORY

FISCAL YE AR	1993	1994	1995	1996	1997	1998	1999	2000
Cases to start	25	71	43	31	26	36	37	32
New Cases	60	133	112	90	113	131	103	113
Total Investigated cases	85	204	155	121	139	167	140	145

Cases Closed	14	161	124	95	103	130	108	112
Cases Pending	71	43	31	26	36	37	32	33

BOARD ACTIONS TAKEN OR INITIATED IN FY 2000

CEASE AND DESIST ORDERS.....6
CITATIONS/NOTICE OF OPPORTUNITY.....6
HEARINGS HELD.....1
LICENSED WITH CONDITIONS AND LETTER OF CAUTION.....2
LICENSED WITH LETTER OF CAUTION.....7
 Limited Permit.....2
 Initial License.....3
 Reinstatement.....2

LICENSE SUSPENSIONS.....4
 One stayed

REFERRAL TO OTHER BOARDS.....3
SIGNED CONSENT AGREEMENTS.....4

**CATEGORIES OF 145 INVESTIGATED CASES
FISCAL YEAR 2000**

ALLEGED UNLICENSED PRACTICE

PRODUCT SALES.....27
 STORE FRONT.....6
 INDEPENDENT DISTRIBUTORS.....11
 NATUROPATHS.....5
 ALTERNATIVE PRACTITIONERS.....5
 PHARMACIES.....1

WEIGHT LOSS PROGRAMS.....5

FITNESS/PERSONAL TRAINER.....8

OTHER LICENSED PROFESSIONALS.....7
 PHARMACISTS.....1
 NURSES.....3

CHIROPRACTORS.....2
PHYSICIANS.....1

CLAIMING EXEMPTIONS 4759.10 (B)OR(E).....11
FOUR YEAR GRADUATE.....5
DIETETIC TECHNICIANS.....2
DIETETIC TECHNICIANS REGISTERED.....4

MISCELLANEOUS.....7
DIETITIAN APPLICANTS.....17

LICENSE EXPIRED WITHOUT REASON54

ALLEGED IMPAIRMENT VIOLATIONS

BY1

ALLEGED MORAL CHARACTER VIOLATIONS

BY APPLICANTS.....5

ALLEGED VIOLATIONS OF STANDARDS OF PRACTICE

FAILURE TO MEET CEU REQUIREMENTS.....1
INCOMPETENT PRACTICE.....2

CATEGORIES OF INVESTIGATED CASES
FISCAL YEAR 1996 - 1999

FISCAL YEAR	1996	1997	1998	1999	2000
UNLICENSED PRACTICE					
PRODUCT SALES	4	5	19	24	27
WEIGHT LOSS PROGRAMS	5	11	17	11	5
FITNESS/PERSONAL TRAINER	12	15	11	11	8
OTHER LICENSED PROFESSIONALS	3	11	9	11	7
EXEMPTIONS B&E	2	2	11	6	11
MISCELLANEOUS	16	16	5	11	7

FISCAL YEAR	1996	1997	1998	1999	2000
DIETITIAN APPLICANTS	26	9	18	20	17
EXPIRED LICENSES-NO REASON	46	51	61	40	54
ALLEGED MORAL CHARACTER VIOL.	1	4	4	2	5
ALLEGED VIOLATIONS OF STANDARDS	8	6	8	2	2
ALLEGED FAILURE TO MEET REQUIREMENTS	3	11	4	2	1
TOTAL INVESTIGATED CASES	121	139	167	140	145

FISCAL YEAR 2000 ENFORCEMENT TRENDS

- 1. The number of complaints investigated for product sales is up slightly from 24 to 27.**
- 2. Complaints against weight control programs and fitness facilities are down 50%.**
- 3. Dietitian applicants who have practiced prior to licensure are investigated. This fiscal year, seven letters of caution, two with conditions, were issued. A decrease in the number of persons practicing and the length of unlicensed practice is noted and attributed to education and enforcement.**
- 4. Complaints against those claiming dietetic technician and 4 year graduate exemptions have increased. This is attributed to increased awareness of the required supervisory relationship between dietitians and exempt persons, and increased concern among dietitians about standards of practice for dietetic technicians.**
- 5. Investigation for license expiration without reason includes expirations of limited permits.**
- 6. There was an increase in the number of licensees who expired without reason. This may be due to the pressure within the market resulting in increasing numbers of persons either leaving practice or moving out of state.**

SUMMARY OF ACTIONS TAKEN OR INITIATED BY THE BOARD FISCAL YEAR 2000 (July 1, 1999-June 30, 2000)

NOTICE OF OPPORTUNITY FOR HEARING

John Zagan-Reynoldsburg

Based on allegations of unlicensed practice of dietetics via presentation of a general program of weight control, Notice of Opportunity for Hearing issued 5/21/99. Hearing held 10/28/99 and continued to permit board to review a written

approval of weight control program by a licensed physician. Board determined that the program appears to meet the exemption pursuant to section 4759.10 (I) ORC. Hearing conclusion pending.

Jan Wagner- Cincinnati

Based on allegations of unlicensed practice and use of title, and reports of criminal charges, Notice of Opportunity for Hearing was issued 8/6/99.

Kristine Lynch-Ravenna

Based on unlicensed practice and use of title prior to issuance of initial license, Notice of Opportunity for Hearing was issued on 10/9/00.

Neal Kornis-Sandusky

Based on unlicensed practice and use of titles prior to issuance of initial license, Notice of Opportunity for Hearing was issued on 11/19/99.

June Esquibel- Mercer, PA

Based on unlicensed practice and use of titles in Ohio exceeding 15-day limit for out of state RD, a Notice of opportunity for Hearing issued 3/24/00.

Cynthia Miller- Alliance

Based on allegations of failure to comply with continuing education requirements for renewal of FY 2000 license issued effective 7/1/99, a Notice of Opportunity for Hearing was issued on 3/9/00. Hearing requested and continued until after 8/31/00.

CEASE AND DESIST ORDERS

Mary Lou Reed - Athens

Based on allegations of unlicensed practice and use of title "Executive Dietitian", Cease and Desist Order issued 2/1/99. Case closed by the board 7/23/99 based on evidence of ceased practice and ceased holding self forth as dietitian.

Larry Pacifico - Dayton

Based on allegations of unlicensed practice of dietetics and holding self forth as nutrition expert, Cease and Desist Order issued 6/8/99. Case closed by the board 5/19/00 based on evidence of ceased practice and appears to meet exemption for the dissemination of literature in the state.

Gina Sutter- Wapakoneta

Based on allegations of holding self forth to practice dietetics as "dietitian", Cease and Desist Order issued on 8/6/00. Case closed by board 9/24/99 based on evidence of ceased holding self forth to practice dietetics as dietitian.

Elaine Thomas- Columbus

Based on allegations of use of title "Nutrition Consultant", in spite of previous advise from the Board, Cease and Desist Order issued on 12/6/99. Case closed by board 1/21/00 based on evidence of ceased use of title and appears to meet exemptions claimed.

Annesia Welch Schooler- Columbus

Based on allegations of practicing dietetics claiming exemption without meeting the criteria of the exemption, Cease and Desist Order hand-delivered on December 14, 1999. Case closed by Board 1/21/00 based on evidence of ceased practice and title under that exemption.

Sandra Gill- Columbus

Based on allegations of practicing dietetics claiming exemption without meeting the criteria of the exemption, Cease and Desist Order hand-delivered on December 14, 1999. Case closed by Board 1/21/00 based on evidence of ceased practice and title under that exemption.

Dorthea Zivkovic- Cincinnati

Based on allegations of unlicensed practice and use of title "nutritionist" and "nutrition educator", Cease and Desist Order issued on 5/10/00.

CONSENT AGREEMENTS

Jan Wagner- Cincinnati (L#4781)

Based on unlicensed practice and use of title, and reports of criminal charges initial license issued and suspended for 90 days. Suspension stayed with conditions. Agreement effective 9/24/99. License reinstated on 9/24/99.

Kristine Lynch-Ravenna (L#4800)

Based on unlicensed practice and use of title, initial license issued and suspended for 90 days with conditions. Agreement effective 9/24/99. License reinstated 11/16/99.

Neal Korn-Sandusky (L# 4820)

Based on unlicensed practice and use of titles, initial license issued and suspended for 90 days with conditions. Agreement effective 12/3/99. License reinstated on 12/6/99.

June Esquibel- Mercer, PA (L#4922-Inactive)

Based on unlicensed practice and use of titles, initial license issued, suspended for 63 days with conditions stayed with conditions. Agreement effective 5/19/00. License issued 5/19/00. License placed in Inactive Status 7/1/00.

LETTERS OF CAUTION ISSUED WITH ISSUANCE OF LICENSE

LD practiced on lapsed license- **Youngstown**

RD practiced prior to initial license- **Fairfield**

LD practiced on lapsed license- **Orrville**

RD from out of state practiced prior to initial license- **Cincinnati**

RD from out of state exceeded out of state exemption- **Steubenville**

RD practiced prior to initial license and practice when LP eligible- **Toledo***

RD practiced prior to initial license- **Loveland**

LP eligible practiced prior to limited permit- **Brunswick**

LP eligible practiced prior to limited permit- **Lakewood**

RD practiced on license expired in Ohio- **Tiffin**

RD from out of state practiced prior to initial license - **Holland***

*** issued upon completion of condition**

LONG RANGE GOALS

Enforcement Goals for Fiscal Year 2000

- **Continue to educate out of state dietitians and out of state students regarding Ohio licensure and Ohio limited permits in order to decrease unlicensed practice amongst this group.**
- **Continue to monitor weight control centers to determine if multiple exemptions are being claimed and if they are in compliance with exempt criteria.**
- **Continue distribution of bulletins and guidelines to encourage voluntary compliance with the law.**
- **Develop a bulletin addressing 4759.10 (A) exemption for other licensed professionals to clarify "acting within the scope of his profession".**
- **Continue collecting data on issues related to telecommunication practice per Board current opinion.**
- **Develop strategies to improve communications with complaintants.**

OFFICE OPERATIONS GOALS:

- **Implement the new License 2000 software when it is acquired.**
- **Develop full service internet resources to support board mission and activities - purchase software, and train staff.**
- **Purchase new printer for in-office issuance of licenses, license ID cards, and other printing.**
- **Evaluate the on-going need for limited permit licenses based on demand after implementation of computer based testing.**

EDUCATION / TRAINING GOALS:

- **Provide staff with training to support technology for new licensure renewal, website, File Maker, and other software to be implemented in FY 2001.**
- **Continue to support opportunities to enhance Board member effectiveness by allocating funds for**

participation in professional conferences/board member training seminars;

- **Continue to communicate with members of the General Assembly about OBD's role and the practice of Dietetics in the state. Assist them in identifying OBD as a resource for information about the practice of dietetics. Participate in Joint Health Boards conference for legislative aides.**
- **Develop guidelines and educational materials to inform non- registered Ohio licensees about "Professional Development 2001" Budget for educational seminars to instruct licensed dietitians about completing the self assessment and portfolio.**
- **Continue to offer a training experience for dietetic interns at the Ohio Board of Dietetics in order to better inform them about licensure and regulatory responsibilities in dietetic practice.**
- **Continue OBD involvement at Ohio Dietetic Association state meetings and at district meetings in order to increase the understanding of licensing - its benefits to the profession and to the public. Offer for OBD staff to speak to district associations.**

NETWORKING GOALS:

- **Continue to support public awareness of the Ohio Board of Dietetics and the Dietitian Licensure Law and encourage public participation by providing an "open"forum at Board meetings;**
- **Meet with representatives of other licensure boards to investigate developing a national federation of Dietetic Licensure Boards. Hold an exploratory meeting in Columbus.**
- **Work with other licensing boards to develop collaborative practice agreements where boundaries are in dispute. Monitor and influence the development of new practice models. Assert our definition of competency in dietetic practices.**

COMMUNICATION GOALS:

- **Continue to develop OBD web site, and e-mail access for licensees and the public. Investigate the possibility of on-line verification.**
- **Continue to communicate the revised rules regarding limited permits and limited permit issuance periods to students, dietetic program instructors, and licensees.**
- **Join in state and national efforts to educate the public about the health care regulatory laws.**
- **Develop strategies to help licensees understand the role and procedures of the Board. Consider regional forums in response to topical issues.**

LEGISLATIVE GOALS:

- Continue to maintain awareness of H.B. 132 Dietetic Technician Licensure bill, provide information as requested, and work with proponents to modify the bill so that it is enforceable if enacted and does not jeopardize the current licensure law.**
- If dietetic technician licensure is not enacted, investigate the needed authority to permit the development of Board policies relative to continuing education for exempt dietetic technicians and four year graduates.**
- Monitor the progress of HB 381, the dietary supplement legislation. Work with other health care boards, agencies, and associations in order to assure that the bill does not adversely affect dietetic licensure, or other health related laws, or jeopardize the health and well-being of Ohio citizens**
-
- Monitor and influence the progress of HB 562, licensure of naturopaths. Work with other health care boards, agencies and associations to oppose the licensure of these practitioners, and to assure that the bill does not jeopardize the health and well-being of Ohioans.**
- Monitor the evolution of weight control programs in Ohio. Be prepared to provide public information and education as requested and to classify types of programs to determine if current law's standards are being met. Assess the need for policies and law or rule changes which may be necessary and for collaborative action alliances.**
- Investigate adding a law related education requirement to the rules.**