

**DIRECTORS REPORT
TO THE OHIO BOARD OF DIETETICS
FOR FISCAL YEAR 1999**

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Approved by the Board on September 24, 1999**

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 1999 the Board held eight meetings. Two of the meetings were held in order to allow public input into administrative rules changes.

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 \$18.98 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.

Current Staff:

Patricia Cullen--Office Assistant
Beth Shaffer---Compliance Specialist
Megan Hemmerich---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. 1999 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. Mavko and Ms. Hurley attended the National Council on Licensure, Enforcement and Regulation annual meeting in Denver, Colorado. Ms. Mavko attended advanced investigator training and completed two parts of the three part certification.
- 2) Ms. Mavko attended the American Dietetic Association meeting in Kansas City. She presented information about how OBD incorporated the proposed continuing education changes into to the administrative rules.
- 3) Ms. Shaffer attended the annual Citizens Advocacy Council Meeting in Austin, Texas. On behalf of the Board, she provided comment on the Model Act to Improve Reporting of Adverse Actions by Health Care Organizations to State Health Professional and Occupational Licensing Authorities.
- 4) Ms. Shaffer attended the Council on Licensure, Enforcement and Regulation Summit on State Regulation of Health Professionals in Atlanta, Georgia. The meeting provided an overview of changes taking place in the field of health care professions regulation and of the trends that are driving this change.

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 which sponsored a consumer conference about licensure in Ohio. The conference was well received, and plans for future joint efforts are under consideration.
- 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.

3) Staff continue to provide presentations on licensure regulations and complaint handling/enforcement activities to many of Ohio's ten district dietetic associations, as well as dietetic programs at universities/colleges (graduate, undergraduate and internship programs). In FY 99 Board members and staff spoke to 11 dietetic programs, 1 dietetic technician practice group, 3 hospital dietetics staff meetings, ODA legislative workshop, and had a poster at the Ohio Dietetic Association annual meeting. These presentations reached over 430 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 5 interns were exposed to licensure, enforcement, investigation of complaints, and regulation in dietetics. Two high school and one college student exploring dietetics as a career met with Ms. Mavko for information.

2) The agencies 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 gathered information regarding programs that offer certifications in nutrition and developed an informational letter that was sent to each to inform them of the dietetic licensure law in Ohio. This educational information should better inform the programs of the Ohio law and their responsibilities to correctly inform their students about what such certifications enable graduates to do.

III. LICENSURE/EXAMINATION ACTIVITY

FISCAL YEAR 1999 LICENSURE ACTIVITY		
LICENSES/PERMITS ISSUED	FY 1998	FY 1999
Initial Licenses/Reactivations	199	179
Renewals	2859	2803
Reinstatement of lapsed	17	20

FISCAL YEAR 1999 LICENSURE ACTIVITY

LICENSES/PERMITS ISSUED	FY 1998	FY 1999
Limited Permits	98	97
Totals	3,173	3,132

The Ohio Board of Dietetics contracts with the Commission on Dietetic Registration (CDR) for examinations. Examinations have been given two times each year in April and October in various metropolitan locations in Ohio. Beginning in FY 2000 CDR is changing to a computer administered examination, therefore the Board will need to amend some rules and processes.

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 twenty one (21) participating agencies.

FEES

Application- Initial license	\$110
Reinstatement - Inactive license	\$110
Reinstatement - Lapsed, revoked, or suspended license	\$165

FEES (con't)

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 1998	FY 1999
License Application Fees	\$28,030	\$31,185

REVENUES		
	FY 1998	FY 1999
Renewal Fees	232,760	229,680
Late Fees	2,160	2,840
Limited Permit Fees	5,610	5,335
Miscellaneous (Public records request, duplicate I.D.CARDS, etc.	137	234
Total Revenue posted FY 99	\$268,697	\$270,596

Note: Some revenue posted for FY 99 applies to licenses issued in FY 98 or FY 2000.

EXPENDITURES		
	FY 1998	FY 1999
Payroll/Purchased Services	\$182,102	\$183,219
Maintenance	44,050	34,181
Equipment	0	835
Prior year encumbrances	2,120	9,144
Total	\$228,272	\$227,741
Net +	\$40,425	\$42,854

The excess funds from FY 1999 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 1999

OPEN CASES TO START..... 37
NEW CASES..... 103
INVESTIGATED CASES.....140
CLOSED CASES.....108
CASES PENDING..... 32

COMPLAINT HISTORY

FISCAL YE AR	1993	1994	1995	1996	1997	1998	1999
Cases to start	25	71	43	31	26	36	37
New Cases	60	133	112	90	113	131	103
Total Investigated cases	85	204	155	121	139	167	140
Cases Closed	14	161	124	95	103	130	108
Cases Pending	71	43	31	26	36	37	32

BOARD ACTIONS TAKEN OR INITIATED IN FY 1999

CEASE AND DESIST ORDERS.....4
CITATIONS/NOTICE OF OPPORTUNITY.....2
HEARINGS HELD..... 1
LICENSED WITH CONDITIONS AND LETTER OF CAUTION.....2
LICENSED WITH LETTER OF CAUTION.....14
 Limited Permit.....3
 Initial License.....6
 Reinstatement.....1
 Renewal.....3
 Exceed 15 day exemption for out of state RD.....1
LICENSE SUSPENSIONS.....1
REFERRAL TO OTHER BOARDS.....3

CATEGORIES OF 140 INVESTIGATED CASES

FISCAL YEAR 1999

ALLEGED UNLICENSED PRACTICE

PRODUCT SALES.....24
 HEALTH FOOD SALESPERSONS.....10
 INDEPENDENT DISTRIBUTORS.....4
 WELLNESS/HOLISTIC/MIND&BODY.....6
 PROFESSIONAL OFFICE EMPLOYEES.....4

WEIGHT LOSS PROGRAMS.....11

FITNESS/PERSONAL TRAINER.....11

OTHER LICENSED PROFESSIONALS.....11
 PHARMACISTS.....5
 NURSES.....2
 OCCUPATIONAL THERAPISTS.....1
 CHIROPRACTORS.....1
 PHYSICIANS.....2

CLAIMING EXEMPTIONS 4759.10 (B)OR(E).....6
 FOUR YEAR GRADUATE.....3
 DIETETIC TECHNICIANS.....3

MISCELLANEOUS.....11

DIETITIAN APPLICANTS.....20

LICENSE EXPIRED WITHOUT REASON (8 are limited permits).....40

ALLEGED MORAL CHARACTER VIOLATIONS

BY APPLICANTS.....2

ALLEGED VIOLATIONS OF STANDARDS OF PRACTICE

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

CATEGORIES OF INVESTIGATED CASES
FISCAL YEAR 1996 - 1999

FISCAL YEAR	1996	1997	1998	1999
UNLICENSED PRACTICE				
PRODUCT SALES	4	5	19	24
WEIGHT LOSS PROGRAMS	5	11	17	11
FITNESS/PERSONAL TRAINER	12	15	11	11
OTHER LICENSED PROFESSIONALS	3	11	9	11
EXEMPTIONS B&E	2	2	11	6
MISCELLANEOUS	16	16	5	11
DIETITIAN APPLICANTS	26	9	18	20
EXPIRED LICENSES-NO REASON	46	51	61	40
ALLEGED MORAL CHARACTER VIOL.	1	4	4	2
ALLEGED VIOLATIONS OF STANDARDS	8	6	8	2
ALLEGED FAILURE TO MEET REQUIREMENTS	3	11	4	2
TOTAL INVESTIGATED CASES	121	139	167	140

FISCAL YEAR 1999 ENFORCEMENT TRENDS

- 1. The percentage of complaints investigated for product sales is up from 11% to 23%.**
- 2. Complaints against weight control programs and fitness personnel remain about the same.**
- 3. Although investigations of other licensed professionals are about the same, there are fewer nurses and chiropractors and more pharmacists in this category.**
- 4. Dietitian applicants who have practiced prior to licensure are investigated. This fiscal year, sixteen letters of caution, two with conditions, were issued and one hearing was held. A decrease in the length of unlicensed practice is noted and attributed to education and enforcement.**

5. **Complaints for violations of standards are down and may be due to health care changes including nursing home regulations (Federal and JCAHO accreditations). Complaints against those claiming dietetic technician and 4 year graduate exemptions have increased in past two fiscal years.**
6. **Investigation for license expiration without reason includes expirations of limited permits.**

**SUMMARY OF ACTIONS TAKEN OR INITIATED BY THE BOARD
FISCAL YEAR 1999 (JULY 1, 1998- JUNE 30, 1999)**

FINAL ORDERS

Christine M. Thompson (L#4578) - Huber Heights

Based on unlicensed practice and use of title in Ohio for 8 months prior to application for license and omitting application information, a Notice of Opportunity for a Hearing was issued by the Board on 8/20/99. Hearing was held on 11/18/99. Dietitian license was issued and immediately suspended for six months with conditions for reinstatement. Order mailed 11/24/98, effective 12/3/98.

CEASE AND DESIST ORDERS

Amee D. McCloud Holland - Reynoldsburg

Cease and Desist issued 8/17/98 based on allegations of false credentials for practicing as 4-yr. Graduate under a L.D. pursuant to section 4759.10 (E) of the Ohio Revised Code and using reference title on a resume of "experienced nutritionist" tending to indicate the practice of dietetics. Closed by Board on 11/12/98 for ceased practice and ceased holding self out with title indicating practice of dietetics.

Claudia David Roscoe - Toledo

Cease and Desist Order issued 12/14/98 based on allegations of violating title tending to indicate the practice of dietetics (Licensed Certified Nutritionist) while claiming exemption for product sales pursuant to 4759.10 (H) of the Ohio Revised Code. Closed by the Board on 1/22/99 for ceased use of title and appears to meet exemption pursuant to sales.

John Zagan - Reynoldsburg

Cease and Desist Order issued on 8/11/98 based on allegations of unlicensed practice of dietetics and not meeting exemption for presentation of a general program of weight control.

Mary Lou Reed - Athens

Cease and Desist Order issued 2/1/99 based on allegations of unlicensed practice and use of title "Executive Dietitian."

LETTERS OF CAUTION

Letters of caution were issued for unlicensed practice that appears to be unintentional prior to application for licensure. Simultaneous informational letters regarding requirements for licensure were issued to employers.

RD from out of state practiced in **Troy, OH**

Limited Permit eligible person practiced in **Akron, OH**

RD living in another state exceeded 15 day exemption for practice in **Stubenville, OH**

Limited Permit expired, practiced prior to getting initial license, **Dayton, OH**

Limited Permit eligible, then RD practiced in **Cincinnati, OH**

LD practiced knowingly with expired license, **Cincinnati, OH**

LD practiced knowingly with expired license, **Oxford, OH**

RD from out of state practiced in **Union City, OH**

LD practiced knowingly with expired license, **Kirtland, OH**

LD practiced knowingly with expired license, **Perrysburg, OH**

Limited Permit eligible person practiced in **Nelsonville, OH**

Limited Permit eligible person from out of state practiced in **Athens, OH**

Limited Permit eligible person practiced in **Marion, OH**

Limited Permit eligible person and then RD practiced in **Cincinnati, OH**

Limited Permit eligible person and then RD practiced in **Cincinnati, OH**

RD from out of state practiced in **Aurora, OH**

RD, new graduate, practiced in **Akron, OH**

Limited Permit expired, practiced prior to getting initial license, **Columbus, OH**

Limited Permit expired, practiced prior to getting initial license, **Akron, OH**

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 complainants.**

OFFICE OPERATIONS GOALS:

- **Implement the new License 2000 software when it is acquired, install newly acquired word processing and office management software in order to become year 2000 compliant.**
- **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, word processing, and other software to be implemented in FY 2000.**
- **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.**
- **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;**

- **Continue to network with other regulatory boards/commissions at the state and national levels to implement changes reflective of health care reform to ensure protection of the public. Meet with representatives of other licensure boards to investigate developing a national federation of Dietetic Licensure Boards.**
- **Work with other licensing boards to develop collaborative practice agreements.**

COMMUNICATION GOALS:

- **Continue to develop OBD home page, and e-mail access for licensees and the public. After implementation of new licensing system, investigate the possibility of on-line verification.**
- **Complete the amendment of rules regarding issuance of limited permit licenses and incorporation of computer based testing for Ohio dietitians.**
- **Join in state and national efforts to educate the public about the health care regulatory laws.**

LEGISLATIVE GOALS:

- **Complete the amendment of Administrative rules regarding issuance of limited permit licenses and incorporation of computer based testing for Ohio dietitians.**
- **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.**
- **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.**