

OBD COMMUNIQUE

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Ohio Board of Dietetics
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HB 314

HB 314 – which endangers the authority of the Ohio Board of Dietetics has had three hearings in the Commerce and Labor committee of the Ohio House of Representatives. Sponsor testimony was provided by Representative Linda Reidelbach.

The proponent testimony was lead by Pam Popper (Worthington) and other persons involved in the sale of food products and dietary supplements. The sponsor and proponents expressed concerns about the Board's interpretation of the law, about the freedom of individuals to conduct food and nutrition classes, and asserted that nutrition is a matter of "common sense" and should not require licensure. The proponents also alleged that the Board is heavy-handed in its activities and that there would be no risk of nutritional harm if the law were changed as proposed.

On October 30 opponents had an opportunity to refute the proponent testimony, and provide factual information about Board activities. Pat McKnight, RD, LD (Ohio Dietetic Association) and Monica Cengia, RD, LD presented over 30 examples of nutritional harm. Dr. John Allred, PhD focused on the unique skills and training that dietitians have to be able to present complete nutrition information. Kay Mavko from the Board reviewed the current law, described the proposed language in HB 314 which goes beyond the expressed intent of the bill, described the investigatory processes and enforcement statistics of the Board, and refuted the proponents allegations of inappropriate actions and heavy-handedness.

Unfortunately only about half of the committee members were in attendance at the October 30 hearing (due to conflicting meetings about the budget deficit). Now we are busy meeting with the committee members to make sure that they have the materials presented, and an opportunity to ask questions.

Meantime, the proponents were interviewed for an article titled "Wellness industry takes on state" that was published in the Toledo Blade newspaper. The article was picked up by the Associated Press, and slightly different versions were published in other newspapers (Cleveland Plain Dealer, Canton Reporter, Columbus Dispatch, etc.). Again, some misinformation was included in the article. Again, Board staff and the Ohio Dietetic Association have spent significant time and effort trying to get factual information to the right people and to clear up misunderstandings.

It is unclear at the moment whether the bill will have more activity in the Commerce and Labor committee. There could potentially be more testimony in January. The proponents of HB 314 are aggressive, and will likely be pushing for more action.

In order to preserve the licensure of dietitians in Ohio it is important that dietitians contact their Ohio legislators to convince them to oppose HB 314. If you need more information, contact Kay Mavko at the Board office, or call Pat McKnight with the Ohio Dietetic Association.

HB 288 – Dietetic Technician Licensure Bill

There has been no activity regarding HB 288 – Licensure of Dietetic Technicians since its introduction in May of 2001. The bill is assigned to the House of Representatives Commerce and Labor Committee. It is in direct conflict with HB 314, also being heard by the same committee. Chairman Bryan Williams has said that he will not place it on the committee agenda until HB 314 clears, because it would be very confusing for the members to consider both at the same time.

DIETITIAN BOARD MEMBER POSITION AVAILABLE JULY 2002!

Effective June 30, 2002, Lori Mooney will complete her term as dietitian board member on the Ohio Board of Dietetics. The Ohio Dietetic Association will be looking for dietitians to nominate to Governor Taft's office for the vacancy.

The dietitian member should be a licensed dietitian who has been actively engaged in the practice of dietetics in Ohio for at least five years preceding appointment. The Board meets at least 6 times per year in Columbus, and the meetings last all day. Current members are from the Cleveland, Akron, Dublin, and Athens areas of Ohio.

If you are interested in being nominated for the position, contact Pat McKnight at the Ohio Dietetic Association. (614) 234-5861

LICENSE VERIFICATION FOR MEDICARE MNT REIMBURSEMENT

If you will be applying to become a Medicare Medical Nutrition Therapy benefit provider you may need to provide verification that you were a licensed dietitian at the time that the legislation was enacted 12/21/00. The Ohio Board of Dietetics has prepared a special verification form for this purpose.

Simply, contact the Board office and let us know that you need licensure verification for Medicare MNT reimbursement and we will fax and /or mail you the verification.

LICENSED DIETITIANS WHO ARE ALSO DIETETIC TECHNICIANS REGISTERED CAN COORDINATE CONTINUING EDUCATION CYCLES

In Ohio there are some dietitians who are not registered dietitians but met the requirements for grandfathering as licensed dietitians (L.D.) and must report their continuing education directly to the Board (on an assigned 5-year cycle) in order to maintain the Ohio dietitian license. Some of these L.D.'s are also dietetic technicians registered (DTR) with the Commission on Dietetic Registration. (CDR). In order to maintain the DTR credential, they report continuing education hours to CDR on a 5-year cycle that began when they first achieved registration status. The 5-year cycles for reporting to each agency may be different.

Upon the request of some of the Ohio L.D.,(non R.D.), DTRs the Board has approved a process for coordinating the continuing education reporting cycles in Ohio so that they match.

If you are a L.D., DTR and would like to coordinate your continuing education reporting cycles please contact Kay Mavko at the Board office.

COMPLAINT PROCESS

The Board's authority to investigate complaints is provided in Section 4759.05 (B) of The Laws and Rules Governing the Practice of Dietetics in the State of Ohio. Anyone may complain to the Board alleging that a person has committed an action prohibited by the laws and rules of this Chapter. A person complaining about a violation is asked to complete a standard complaint form which may be downloaded from the OBD web site.

The complaint is reviewed by the Board's executive secretary. If it appears to be a violation and within the jurisdiction of Chapter 4759, the complaint is referred to the compliance specialist for investigation. The compliance specialist collects the facts, summarizes the case, and presents it to a committee consisting of: the Board's assistant attorney general, a Board member, the executive secretary and the compliance specialist. This committee reviews the facts collected and determines if the case is ready to be heard by the full Board. If so, the committee makes a recommendation to the Board for an action. After the case is presented to the full Board, they may accept, reject or modify the action recommended.

The Board enforcement actions may be found in the Director's Annual Report under Enforcement Activity. For clarification and review, please see the following seven year history of the Board's actions related to enforcement of the Dietetic Practice Act.

CLOSED COMPLAINT HISTORY OF BOARD ACTIONS AGAINST THOSE NOT MEETING QUALIFICATIONS FOR LICENSURE FISCAL YEARS 1995-20001

Fiscal Year	1995	1996	1997	1998	1999	2000	2001
Number of Closed Complaints	27	15	28	40	45	36	42
<i>closed for voluntary compliance or unfounded</i>	18	11	19	28	37	26	33
<i>referred to other boards</i>	8	4	8	9	3	3	5
<i>cease and desist letters</i>	1		1	2	4	6	4
<i>consent agreements entered</i>				1			
<i>hearings held</i>						1	
<i>injunctions filed</i>				1			

CLOSED COMPLAINT HISTORY OF BOARD ACTIONS AGAINST THOSE MEETING QUALIFICATIONS FOR LICENSURE FISCAL YEARS 1995-2001

FINANCIAL CRUNCH HITS BOARDS AND COMMISSIONS

The Ohio Board of Dietetics is required by law to be self-supporting based on collection of licensure and renewal fees. OBD has always been a good fiscal manager, and has remained "in the black". We have been able to increase services by becoming more efficient and effective without a fee increase since 1993.

As most of you are aware, the State of Ohio is facing difficult problems with the current biennium budget. All agencies (including Boards and Commissions) have been directed by the Governor to limit spending, and to conserve resources for the remainder of this biennium (through June 30, 2003).

Some services previously provided to OBD by other sections of state government have been withdrawn or charges for the services have been significantly increased. Additionally, there are some costs incurred by the agency that are higher than budgeted (rent, xeroxing, computer services, and an unusually high number of very large public records requests)

In response to the Governors direction, and in order to conserve resources, OBD plans to:

- limit out of state travel
- reduce the hours of part-time staff employed to assist with license renewal
- delay printing and reduce the number of Laws and Rules scheduled for printing
- engage only in spending that is essential
- as of 11/30/01 begin to charge for the cost of duplicating public records requests

The Board will be taking a close look at the FY 2001 finances and projections for the remainder of the biennium during the January 25, 2002 meeting.

YOU ASKED IT!

Q. Have the recently revised Nursing Home Administrative Rules changed what a dietetic technician can do?

A. No. In Ohio, dietetic technicians (and baccalaureate dietetics graduates without internships) may claim exemption to practice dietetics under the supervision of a licensed dietitian or registered dietitian pursuant to 4759.10(B) and (E)ORC. Dietetic technicians may engage in dietetic practice as determined to be appropriate by the supervising dietitian and in a manner that protects the public.

If you would like guidance on what may be appropriate, or what supervision is required by the dietitian, please see Guidelines (A), (B) and (G) published by the Ohio Board of Dietetics. You can request a copy from the office, or access it on-line at the OBD website: www.state.oh.us/obd.

Dietetic technicians must not practice dietetics independently without appropriate supervision.

Q. What can dietary managers (who are not licensed or exempt) do in Nursing Homes?

A. Unlicensed assistive personnel may not engage in the practice of dietetics as defined in 4759.01 ORC. They may be delegated tasks that are related to dietetic practice but that do not require the skill, knowledge and judgment of a licensed or exempt person. Such tasks include collecting nutritional data, implementing nutrition care plans, and monitoring nutritional progress without interpretation.

Dietary managers may not perform nutritional assessments, do nutritional education or counseling, make nutritional recommendations, or set nutritional care standards.

Guideline D is available at the Board office or at our web-site for more information on this topic.

Q. Many dietitians have called the Board office asking what the requirements are for dietary managers according to the recently revised Nursing Home Administrative Rules?

A. Section 3701-17-07 OAC now requires that a food service manager must have successfully completed a certification in food protection course and passed an approved food protection certification examination according to Rule 3701-21-25 OAC.

Various courses and exams may apply. Check with the Ohio Department of Health (ODH) for the Guidelines to Certification in Food Protection. They can be contacted by phone at (614) 466-1390 or you can find information at the ODH website: www.odh.state.oh.us/ODHPrograms/FOOD/food1.htm