

# OBD COMMUNIQUE

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Ohio Board of Dietetics  
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## OHIO DIETETIC PRACTICE ACT THREATENED!

In late June, Representative Linda Reidelbach (R) Columbus, introduced **House Bill 314** to the Ohio General Assembly with the intent to **remove the Ohio Board of Dietetics' authority to investigate complaints and regulate unlicensed individuals** who are practicing dietetics without a license.

**As introduced, the bill would remove the authority of the Board to protect the public. It:**

- \* **permits unqualified persons to practice dietetics**
- \* **allows anyone to practice dietetics without a license**
- \* **narrows title protection to only the use of the title "dietitian"**  
(anyone licensed or not, qualified or not, could call themselves nutritionist, nutrition counselor, nutrition specialist, etc.)
- \* **allows the Board to only seek disciplinary action against licensees**  
(we would be powerless to stop others from practicing if they didn't call themselves a dietitian)

The bill also puts the Board up for Sunset Review in December of 2004, which subjects it to proving that the agency is protecting the public. The Board would then likely go out of existence, as it would be impossible to protect the public once its enforcement authority was removed.

The proponents of the bill have expressed concerns about how broadly the Board interprets the law regarding unlicensed persons who use titles indicating the practice of dietetics (like nutrition consultant) and who are offering nutrition advice. They also have alleged that the Board is heavy-handed in carrying out its enforcement activities.

**The activities of the Board do not bear out the accusations.** Education of the person complained about or the business responsible for the alleged activity is the Board's first action when investigating inquiries. Sanctions are pursued only when the person or business continues action that is thought to be in violation. A review of the Board enforcement information (See page 2 & 3) shows that most persons come into compliance voluntarily. Legal actions are pursued by the Board on only a minority of cases. Previous cases tested in the courts, have upheld the Board's interpretation of its jurisdiction.

**YOUR ACTION IS NEEDED NOW!!!** Please contact both your State Representative and your State Senator (with your home zip code plus 4, you can use the State legislature web site to find those names -[www.legislature.state.oh.us](http://www.legislature.state.oh.us)). You may also get a copy of HB 314 at this web address. Legislators are on recess at home in their districts until mid-September, so this is a good time to contact them. You may use the information in this article (especially the points highlighted above) to explain to your legislators the harm of removing the Board's authority to protect the public. You can describe your own examples of how individuals may be harmed. **Ask your legislators for a commitment NOT to support HB 314!** Then please report your legislators' responses to Kay Mavko, (614) 466-3291, Ohio Board of Dietetics or to Pat McKnight, (614) 234-8631, Ohio Dietetic Association.

**SUMMARY OF ACTIONS TAKEN OR INITIATED BY THE BOARD**  
**FISCAL YEAR 2001 (JULY 1, 2000 - JUNE 30, 2001)**

***WITHDRAWAL OF NOTICE OF OPPORTUNITY FOR HEARING***

**Cynthia Miller (L#1590) - Alliance** Notice of Opportunity for hearing proposing to revoke FY 2000 license issued effective 7/1/99 for failure to comply with continuing education requirements mailed on 3/9/00. Notice withdrawn by the Board on 9/13/00 based on evidence from the Commission on Dietetic Registration of completion of continuing education requirements consistent with the requirements pursuant to Section 4759-4-04 of the Ohio Administrative Code.

***NOTICE OF OPPORTUNITY FOR HEARING ISSUED***

**Cynthia Wagner Robbins(L#3972) - Circleville**

Based on allegations of failure to meet continuing education requirements for renewal of fiscal year 2001 license. Notice of Opportunity for hearing was issued on 9/8/00 proposing to deny renewal of license. An amended Notice of Opportunity for Hearing was issued on 11/30/00.

***HEARINGS HELD***

**Cynthia Wagner Robbins (L#3972) Circleville**

Based on no response to the Notice of Opportunity for Hearing mailed on 11/30/00, a Goldman Hearing was held on 2/20/01. Renewal denied based on evidence of failure to meet continuing education requirements for renewal. Adjudication order hand-delivered 6/5/01.

***CEASE AND DESIST ORDERS ISSUED***

**Andrea Stern - Chesterland**

Cease and Desist Order was issued 1/21/01 based on engaging in nutrition assessment, nutrition counseling, nutrition education, setting nutrition care standards and using titles "certified nutrition consultant, certified consultant, certified nutritional microscopist and nutritionist" in a business Mend Your Body, Inc. without being licensed or exempt from licensure. Case closed by Board on 5/11/01 based on evidence that respondent ceased practice and use of titles tending to indicate practice of dietetics.

**Paula Diflora - Cincinnati**

Cease and Desist Order was issued on 2/21/01 based on engaging in nutrition counseling and education for weight loss in Fit for Life business and use of designations on business cards and displayed in office which tend to indicate the practice of dietetics, without being licensed or exempt from licensure.

**George Diflora - Cincinnati**

Cease and Desist Order was issued on 2/21/01 based on engaging in nutrition assessment by microscopic nutritional analysis and nutrition counseling and education in Fit for Life business and displaying credentials tending to indicate the practice of dietetics without being licensed or exempt from licensure.

**Pam Popper - Worthington**

Cease and Desist Order issued on 2/10/01 based on engaging in nutrition education for preventive, curative, restorative health care at The Wellness Forum and holding self forth to practice dietetics by use of designations tending to indicate the practice of dietetics, including "nutrition doctor, and Ph.D in Nutrition", without being licensed or meeting exemption from licensure.

## ***CONSENT AGREEMENTS***

### **Jan Martin (L#0395) - Columbus**

Consent Agreement: Conditions imposed for reinstatement of a lapsed license based on unlicensed practice of dietetics in fiscal year 2001 and a history of not renewing timely. The consent agreement was ratified on 11/13/00. License was reinstated on 11/21/00 upon completion of conditions imposed by Board.

### **#01OBD75 - E. Liverpool**

Consent Agreement: Conditions imposed for issuance of initial license to practice dietetics base on unlicensed practice and use of title prior to applying for licensure. The consent agreement was ratified on 3/23/01. License was issued on 3/27/01 based upon completion of conditions imposed by Board.

## ***LICENSE ISSUED WITH LETTER OF CAUTION***

LD with lapsed license practiced in **Columbus, OH**

LD with lapsed license practiced in **Uniontown, OH**

Limited Permit eligible practiced in **Copley, OH**

Limited Permit holder used LD title in **Jackson, OH**

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

Expired Licensee practiced prior to application for reinstatement in **Medina, OH**

\*RD practiced in **London, OH**

\*Expired Licensee practiced in **Fairfield, OH**

\*ISSUED UPON CONDITION OF COMPLETING BOARD ASSIGNMENT

## **2001 ENFORCEMENT OVERVIEW**

141 Cases were investigated by the Board during FY 2001 and were almost evenly distributed between licensees (or those who met qualifications for a license), and persons who do not meet qualifications.

110 cases were closed during the year. 36% came into compliance voluntarily, and 9 people (6%) received formal sanctions by the Board. Those actions are detailed above.

Of the remaining closed cases, 43% were dietitians with expired licenses who had moved or retired without notice and were not practicing, and expired limited permit holders.

11% of the complaints investigated were determined to be unfounded, and 6% of complaints were referred to other Boards or agencies for investigation.

The average number of days that a complaint was open was 129 days (just over 4 months) and the range was from 10-962 days.

If you would like additional information about enforcement activities, contact the Board office or view the OBD Annual Reports at: [www.state.oh.us/obd](http://www.state.oh.us/obd).

## **DAVID HOLBEN, PhD, RD, LD JOINS THE BOARD**

David Holben, PhD, RD, LD was appointed in July to a five year term as Educator Member of the Ohio Board of Dietetics. His term expires June 30, 2006 and he replaces Roberta Hurley, PhD, RD, LD.

Dr. Holben is currently an associate professor at Ohio University and is Director of the Dietetics Program. He has practiced as a pediatric dietitian specializing in pulmonary nutrition, as a generalist dietitian and Cardiac Rehabilitation consultant with adults, and was a faculty member at Youngstown State University. Dr. Holben was educated at Indiana University of Pennsylvania, Wayne State University, and The Ohio State University. He completed dietetic internship at Harper-Grace Hospitals in Detroit, Michigan. Dr. Holben is widely published, and has contributed numerous publications, abstracts, presentations, and posters on a variety of food and nutrition related topics. His primary area of research is rural health/food security.

Dr. Holben, his wife and son live in Athens and enjoy the rural atmosphere of Southern Ohio. His varied professional experiences and interests should be a benefit to the diversity of the Board.

## **A HEARTFELT THANKS TO DR. HURLEY FOR HER SERVICE**

Roberta Hurley, PhD, RD, LD has just completed a five-year appointment as Educator Member of the Ohio Board of Dietetics. Her contributions have been many, and her input and experience have been very beneficial. During her tenure, Dr. Hurley contributed to the leadership of the Board as Chairman, Probable Review Committee member, and as a member of the Board's Advanced Degree Alternative workgroup. Dr. Hurley was always able to isolate the key issues within matters brought before the Board. Her experience as an educator greatly assisted the Board and staff in development of written materials that accurately and succinctly reflect information for licensees and the public.

Board members are called upon to represent the Board in many circumstances - such as participating at professional meetings, conducting hearings, and testifying before the Legislature. Dr. Hurley's calm, knowledgeable and professional manner made her an excellent representative of the Board and of the profession of Dietetics in all situations.

We will miss Dr. Hurley, and wish her continued success in her personal and professional endeavors.

## **DIETETIC TECHNICIAN LICENSURE - HB 288**

Representative Peter Lawson Jones (D-Cleveland) reintroduced the Dietetic Technician Licensure bill in May, 2001 and it was assigned to the Commerce and Labor Committee of the House of Representatives. Sponsor testimony was given, and hearings are likely to be scheduled when the legislature returns from summer recess in September.

The introduction of HB 314 which threatens the entire Dietetic Practice Act and assignment of the bill to the Commerce and Labor Committee will complicate legislative activity regarding licensure of dietetic technicians, and threatens the success of the technician bill.

Please contact Dr. Sarah Wilder of the Advocates for Dietetic Technicians, call the Board office, or contact Pat McKnight of the Ohio Dietetic Association to get more information.

### **OHIO BOARD OF DIETETICS**

#### **Chairperson: Dietitian Member**

Lori K. Mooney, RD, LD  
Dublin

#### **Public Member**

Jonathan S. Hughes  
Dublin

#### **Dietitian Member**

Lorna Fuller, MS, RD, LD  
Cleveland

#### **Educator Member**

David H. Holben, PhD, RD, LD  
Athens

#### **Dietitian Member**

Claire A. Charley, MA, RD, LD  
Akron

#### **Ohio Dietetic Association Liaison**

Pat McKnight, MS, RD, LD  
Columbus

### **BOARD OFFICE STAFF**

#### **Executive Secretary**

Kay Mavko, MS, RD, LD

#### **Compliance Specialist**

Beth Shaffer, MS, RD, LD

#### **Office Assistant**

Pat Cullen, BS

#### **ASSISTANT ATTORNEY GENERAL**

Sallie Debolt