

**OHIO BOARD OF DIETETICS
MINUTES OF THE BOARD MEETING
February 26, 2010
Board Room 31st Floor, Vern Riffe Center
Columbus, Ohio 10:00 A.M.**

AGENDA ITEM #1 – CALL TO ORDER

BOARD MEMBERS PRESENT: Kay Soltesz, Mary Frances (Francie) Astrom, Marsha Dumm, Leah Reibel, Vandadean Rogers

OTHERS PRESENT: Pat McKnight, Ohio Dietetic Association liaison; Kristen Starr, Assistant Attorney General; Donald Davis, Compliance Specialist; Kay Mavko, OBD Executive Secretary; Karen Dion, MBA, RD, LD, incoming OBD Executive Secretary.

Chairman Soltesz called the meeting to order at 10:05 a.m., noting that a quorum was in attendance. Ms. Soltesz welcomed Ms. Dion to the meeting and thanked her for attending this meeting which occurs prior to her official start date on 3/1/2010 as the new Executive Secretary.

AGENDA ITEM #2 – APPROVAL OF MINUTES OF THE NOVEMBER 13, 2009 AND JANUARY 22, 2010 MEETINGS

The minutes of the November 13, 2009 regular Board meeting were presented to the Board by the Executive Secretary and they were reviewed and approved as submitted. The following motion resulted:

RESOLUTION #1

Francie Astrom moved and Vandadean Rogers seconded a motion to approve the minutes of the November 13, 2009 regular Board meeting as submitted by the Executive Secretary.

The motion was approved with vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	yes
Kay Soltesz	yes	Marsha Dumm	yes
		Leah Reibel	yes

The minutes of the January 22, 2010 special Board meeting were presented to the Board by the Executive Secretary and they were reviewed and approved as submitted. The following motion resulted:

RESOLUTION #2

Francie Astrom moved and Vandadean Rogers seconded a motion to approve the minutes of the January 22, 2010 special Board meeting as submitted by the Executive Secretary.

The motion was approved with vote as follows:

Vandadean Rogers yes
Kay Soltesz yes

Mary Frances Astrom yes
Marsha Dumm yes
Leah Reibel yes

The minutes of both meetings are filed in the official record at the Board office.

AGENDA ITEM #3 – APPROVAL OF LICENSES

Ms. Mavko presented the names of 2 individuals to the Board who were issued a Limited Permit license between November 13, 2009 and February 26, 2010 board meetings. Each of the limited permits issued expires on April 30, 2010.

RESOLUTION #3

Mary Frances Astrom moved and Marsha Dumm seconded a motion to place upon the minutes of the February 26, 2010 meeting the names of 2 individuals who were issued a Limited Permit during Fiscal Year 2010 with the expiration date of April 30, 2010 since the November 13, 2009 meeting of the Board. The 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:

Vandadean Rogers yes
Kay Soltesz yes

Mary Frances Astrom yes
Marsha Dumm yes
Leah Reibel yes

Ms. Mavko presented the names of 48 individuals who were issued a license for Fiscal Year 2010 since the November 13, 2009 Board meeting. The list included 38 initial licenses (1 with an advisory letter), 2 reinstatements, 5 reactivations, and 3 duplicate license ID cards. The following motion was made:

RESOLUTION # 4

Marsha Dumm moved and Mary Frances Astrom seconded a motion to place upon the minutes of the February 26, 2010 meeting, the names of 48 dietitians who met qualifications, pursuant to Section 4759.06 ORC, and who were issued a license by the Executive Secretary during Fiscal Year 2010 since the November 13, 2009 meeting of the Board, and whose names appear on the list presented to the Board by the Executive Secretary. (See attached list labeled Resolution #4)

The motion was approved with vote as follows:

Vandadean Rogers yes
Kay Soltesz yes

Mary Frances Astrom yes
Marsha Dumm yes
Leah Reibel yes

AGENDA ITEM # 4 – REPORT ON SUPERVISION VERIFICATION PROJECT

As of 2/22/2010 Board staff sent a letter and request for verification of supervision to 370 dietitians that had records of supervising exempt dietetic technicians (DTs), dietetic technicians registered (DTR's), and Nutrition Assistants (NA's). The records of all those responding have been updated in the E-license system, and to date there are 57 persons who have not responded to the Boards request for information.

Staff requested direction from the Board on how best to approach collection of the remaining information. After discussion, it was decided that staff members should contact each non-responding dietitian by telephone to seek the most current supervision information.

Brief discussion about the recent changes in Supervision, Standards of Practice and Standards of Professional Practice rules, and the Board website materials on the topics will be included in the calls as an educational opportunity when speaking with the dietitians to verify the needed supervision information.

AGENDA ITEM # 5 -- PLANS FOR 2011 LICENSE RENEWAL

Ms. Mavko presented the Board with the final FY 2011 renewal application for one last review before it is submitted for printing. Although no changes were made at this meeting, discussion about the legal questions ensued. The Board members decided to leave the legal questions as proposed for the FY 2011 renewal, but to collect samples of other boards renewal applications and review their questions. A copy of the renewal application is attached to the minutes of the meeting. The renewal application color will be gold for FY 2011.

It was reported that the necessary letters and procedures for renewal have been updated and are ready, and that the cardstock and application paper will be ordered during the first week of March.

Ms. Mavko is willing to volunteer her time on April 2 to assist Ms. Dion in printing the renewal file, roster and printing the applications.

Ms. Mavko also mentioned that a student has expressed interest in either volunteering or being hired into the Clerk 1 position to assist with renewal and gain experience working in the OBD office this summer during the renewal period. Additionally, Ms. Mavko suggested that even though the Board's budget was cut and it was anticipated that adequate funds might not be available to hire the clerk, it now appears that the Board will

most likely have the funds available due to the cost savings resulting from the change in Executive Secretary position.

The Board Compliance Specialist and Secretary are quite competent in their roles within the renewal process and will be very helpful to the new Director.

AGENDA ITEM # 6-- ENFORCEMENT REPORT – DON DAVIS

Mr. Davis presented the Enforcement Report with statistics for the period of November 13, 2009 through February 26, 2010. The enforcement statistics indicate that the period started with 22 open cases, 13 were closed at the November 13, 2009 Board meeting, 7 cases were opened resulting in a pending caseload of 16 cases.

A summary of completed and pending cases was provided. Additionally, the second quarter FY 2010 statistics were reported and compared to the second quarter of FY 2009. The total number of new cases at the mid-point of each year are comparable, however more cases were closed in the first half of FY 2010 than in first half of FY 2009, as a result of quicker more successful follow-up on expired licenses.

The board members questioned why 3 particular cases are still pending from FY 08 and 09. Mr. Davis and Ms. Mavko indicated that although they do not have the particulars on each case they will re-assess the status of the cases in question and report back at the next meeting.

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

STATUS OF BOARD ACTIONS

Mr. Davis reported that the "Goldman" hearing originally scheduled for this meeting was postponed, pursuant to a recommendation from the 2009 Probable Review Panel.

AGENDA ITEM #7 - EXECUTIVE SESSION – ENFORCEMENT

The Board moved into Executive Session at 11:10 a.m. with the following motion:

RESOLUTION # 5

Marsha Dumm moved and Mary Frances Astrom seconded a motion for the Board to move into Executive Session pursuant to Revised Code Section 121.22, for the purpose of considering the investigation of charges or complaints against licensees or regulated individuals under the Board's jurisdiction, and to include Karen Dion, incoming Executive Secretary.

The motion was approved with roll call vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	yes
Kay Soltesz	yes	Marsha Dumm	yes
		Leah Reibel	yes

The Board came out of executive session at 11:55 a.m.

AGENDA ITEM # 8 – FINDINGS, ORDERS, AND ACTIONS

Following Executive Session the following findings, orders and actions were made:

RESOLUTION # 6

Marsha Dumm moved and Leah Reibel seconded a motion to close the following cases for the reasons cited:

- 08OBD86 Beyond scope of practice, unfounded**
- 10OBD63 Unlicensed practice, unfounded**
- 10OBD64 Unlicensed practice, came into compliance**
- 10OBD65 Unlicensed practice, came into compliance**
- 10OBD66 Title violation, came into compliance**

The motion was approved with vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	recused
Kay Soltesz	yes	Marsha Dumm	yes
		Leah Reibel	yes

RESOLUTION # 7

Marsha Dumm moved and Kay Soltesz seconded a motion to close the following case for the reason cited:

- 10OBD67 Moral character, unfounded, recommend issue initial license**

The motion was approved with vote as follows:

Vandadean Rogers	recused	Mary Frances Astrom	recused
Kay Soltesz	yes	Marsha Dumm	yes
		Leah Reibel	yes

RESOLUTION # 8

Marsha Dumm moved and Vandadean Rogers seconded a motion to close the following cases for the reasons cited:

- 10OBD68 Moral character, unfounded**
- 10OBD70 Moral character, unfounded**

The motion was approved with vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	recused
Kay Soltesz	yes	Marsha Dumm	yes
		Leah Reibel	recused

RESOLUTION # 9

Marsha Dumm moved and Mary Frances Astrom seconded a motion to close the following case for the reason cited:

10OBD69 Unlicensed practice, came into compliance, follow-up in 3-6 months to assess continued compliance

The motion was approved with vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	yes
Kay Soltesz	recused	Marsha Dumm	yes
		Leah Reibel	recused

RESOLUTION # 10

Marsha Dumm moved and Mary Frances Astrom seconded a motion to rescind the Notice of Opportunity for Hearing issued on 10/6/2009 to the respondent in case 10OBD55. Additionally staff will send a letter to the respondent instructing that the application for renewal of FY10 dietitian license remains incomplete for failure to provide evidence of completing one hour in jurisprudence education, and will not be processed, unless a response is received by the Board within 30 days. The application fee is non-refundable. The respondents FY 2009 license is expired.

The motion was approved with vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	yes
Kay Soltesz	recused	Marsha Dumm	yes
		Leah Reibel	recused

The Board briefly broke for lunch.

AGENDA ITEM # 9 -- DISCUSSION OF PERTINENT LEGISLATIVE ISSUES

Updates on legislation previously introduced into the 128th Legislative Session and that is being followed by the Board were discussed. The legislative report is attached to the minutes of the meeting.

New legislation that was brought to the attention of the Board members included:

HB 442 - Alternative practitioners legislation - Rep. Kenny Yuko sponsor has been introduced into the House Commerce and Labor Committee of which he is the Chairman. His office has indicated that sponsor testimony will likely be scheduled on March 9, 2010.

The Board discussed the bill and it's continued lack of requirements for any minimum education, training, competency testing, oversight, or standards of practice for persons who would be permitted to engage in activities that currently require a license.

Ms. Mavko drafted talking points about the Board's concerns to be used when speaking to legislators and interested parties, and the Board members reviewed the draft and suggested some changes, then adopted the document as one that represents it's concerns. A copy is attached to the minutes of the meeting.

SB 155 -Charges the cost of all biennial audits to state agencies - Senators Carey, and D. Miller co-sponsors was introduced. This bill would result in an estimated \$15,000 expense to the Board for its biennial audits which are currently paid for by the Department of Administrative Services. The Board will follow this legislation and work with other affected agencies to express the concerns related to such an unfunded mandate, as well as include the concern in budget preparations for FY 2012 and 2013.

Ms. McKnight expressed concern that **SB210 and HB 373 - the school nutrition bills** are silent to requiring qualifications for school food service directors. The association is seeking to have the bills include dietitians, dietetic technicians, registered or certified SNS school nutrition services professionals

AGENDA ITEM # 10 --BOARD REPORTS

CHAIRMAN – Ms. Soltesz reported that the search, and interview process for a new Executive Secretary to replace Ms. Mavko, who resigned at the November 13, 2009 Board meeting has concluded. Ms. Karen Dion, MBA, RD, LD previously employed by the Ohio Department of Health WIC program has accepted the position, and is attending as an observer at today's meeting. She will officially transfer to OBD on March 1, 2010. Ms. Mavko has agreed to stay on for two weeks to assist in training the new Director and to ease the transition.

Kristen Starr Duff announced that she will be taking maternity leave July 13 through October 5, 2010, and that another Assistant Attorney General will be assigned to cover the needs of the Board during her absence.

ODA LIAISON – Pat McKnight

1. The Ohio Dietetic Association's Legislative Day for dietitians is planned for March 17, 2010 and a Fast Food Fact book will be the gift distributed to legislators. The legislative day for students is scheduled for April 21st, and is already at capacity.

ADA's Public Policy Workshop is March 22, 2010 in the affiliate states and will be held via webinar similar to last year's meeting.

The ODA annual meeting will be held on the evening of April 8 and all day April 9, 2010. Although there is no separate time designated in the meeting for state legislative issues, Ms. McKnight and Ms. Dion intend to be available between presentations to share information with attendees and to answer questions informally.

DIRECTORS REPORT – Kay Mavko

1. Ms. Mavko shared the Ethics Commission training schedule for 2010, and reminded the Board members that they are required to attend in 2010 if they did not go in 2009. Leah Reibel, Kay Soltesz will plan to attend and Karen Dion will also need to attend an Ethics training session. The schedule of sessions is attached to the minutes of this meeting.
2. Ms. Mavko shared the results of the OAKS survey report with the Board members. Some of the opportunities for improvement include providing a higher level of support with regard to agency reporting, improving access and reconciliation of internal systems and reports, improvement in payroll processing, improvement in help desk response to complex issues, and revision and enhancement of functional training and job aids to be more relevant to day-to-day activities. A copy of the survey report is attached to the minutes of the meeting.
3. The Fall Communique' reporting the budget related changes, board member changes, website updates, and FY 2009 enforcement activities was mailed to licensees after the last meeting. The next newsletter will be posted to the website only, and then another prepared for mailing with the renewal applications.
4. Ms. Mavko reports that she explored the potential for developing an agency e-mail list through OIT. A sample of the Board of Speech Language and Pathology's list serve was shared with the Board. The Board members directed staff to start a similar process on the OBD website.
5. Ms. Mavko indicated that the Limited Permit license ID cards will need to be printed since the old cards carry her name as Executive Secretary. She suggested

that the new cards be printed with no signatures upon them, and that they be signed by both the Chairman and Executive Secretary in groups of approximately 50 at a time. The Board agreed, and the new cards will be ordered during the first week of March.

6. Board members were reminded to complete their annual Financial Disclosure reports prior to April 15 and turn them in to Ms. Dion so that she can submit them to Ethics and have a receipt copy printed for each. Submitting them late carries a large late fee.
7. Ms. Mavko informed the Board members that Board member Training Webinars are available from the Council on Licensure Enforcement and Regulation and that the module on Roles and Responsibilities of a Board member is scheduled for March 31, 2010 from 2-3pm. The cost is \$75 per person. Marsha Dumm and Leah Reibel plan to attend. The Executive Director will register them to attend. She will also see if the modules are each independent from each other, and will keep the board members updated on future opportunities for training.
8. Ms. Mavko reported that the Council on Licensure Enforcement and Regulation (CLEAR) meeting will be held in Nashville in September 2010 and suggested that it would be a good opportunity to have the new Executive Secretary attend and complete Basic Investigator training along with the annual meeting. The board members agreed and Ms. Dion will plan accordingly, and budget for the expense.

Additionally Ms. Mavko sought and received approval from Chairman Soltesz to register Mr. Davis to attend CLEAR Specialized Investigator Training scheduled for March 29-31, 2010 in Louisville, KY.

9. Ms. Mavko reported that a member of the Genetic Counselors association contacted the Board office and informed her that the genetic counselors were seeking licensure as an independent board. They estimate that they would license close to 100 licensees, and asked if OBD could provide the administrative services necessary for their board activities. Most genetic counselors work in medical facilities providing counseling related to genetic diseases.

The Board discussed the pros and cons of adding another board to the agency, and questioned the status of the Lactation Consultants efforts who contacted OBD previously. It was felt that because many of the lactation consultants are dietitians their group might be a better fit. The Executive Director will follow-up to see what the status of the lactation consultants group is, and to continue to dialogue with the genetic counselors.

10. Ms. Mavko reported that she has been unable to track down the reference for one of the competency tools that were approved during the November meeting for posting on the Board website. She asked if the Board preferred the tool be posted

without a known reference, or should not be posted. The board directed that the document be posted as having an unknown author.

11. A memo was recently received from DAS Human Resources informing state agencies that the Health Benefit payroll deductions for the first pay period in FY 2010 were not taken, and this failure could jeopardize the required minimum Health Benefits fund balance.

In order to correct the situation, the last 12 pay periods of FY 2010 will have 1/12th of the missed deduction taken with each pay period. The employee portion will be made up in FY 2011, and will be spread out over all 26 pay periods.

This adjustment will need to be considered if projections are made for the next budget based on the FY 2010 payroll expenses.

A copy of the memo is attached to the minutes of the meeting.

12. Ms. Mavko indicated that she will draft the next Communique' newsletter prior to her departure. Suggested topics were suggested, and the draft will be sent to the Board members via e-mail prior to its publication.

AGENDA ITEM # 11 – FINANCIAL REPORT

The financial report was presented by Ms. Mavko for the months of November and December 2009, and January 2010 including Allotments, Expenditures and Revenues to date. She reported that the available budget of \$128,675 remains from the original budget of \$311,067 as of 2/18/2010.

Routine expenditures occurred during the period including \$28,006 in November, \$21,150 in December, and \$18,908 for January.

Revenues of \$1,560 in November, and \$2,365 for December were reported in OAKS. Ms. Mavko noted that a shift of \$375 into November from revenue actually deposited in December was reported in the OAKS report, and is noted. January revenue is \$1,520. Total revenue to date is \$72,080.48

A mid-year comparison as of December 31, 2009 versus December 31, 2008 indicates a slight reduction in FY 2010 revenue at that mid-year point of approximately \$5,000 and appears to reflect fewer late renewal fees collected in FY 2010.

A comparison of actual revenue collected during the first half of FY 2010 versus projected revenue was also presented. Revenue from initial licenses, re-instatements, and late renewals appear to be slightly higher than projected. Limited Permit fees are slightly lower than projected. It appears that the revenue projection for FY 2010 will be close to actual revenues collected.

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

RESOLUTION # 11

Vandadean Rogers moved and Marsha Dumm seconded a motion to approve expenditures as presented for November and December 2009 and January 2010 and to accept the Financial Report as submitted to the Board by the Executive Secretary.

The motion was approved with vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	yes
Kay Soltesz	yes	Marsha Dumm	yes
		Leah Reibel	yes

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

Ms. Mavko questioned who would be attending the Ohio Dietetic Association Annual meeting on behalf of the Board. Following discussion it was decided that Karen Dion would attend. Any Board members attending on behalf of the Board would be reimbursed for all usual and necessary expenses. The following motion resulted:

RESOLUTION # 12

Kay Soltesz moved and Leah Reibel seconded a motion to approve participation in the Ohio Dietetic Association Annual meeting in Columbus Ohio on April 8 and 9, 2010 and to reimburse for all usual and necessary expenses.

The motion was approved with vote as follows:

Vandadean Rogers	yes	Mary Frances Astrom	yes
Kay Soltesz	yes	Marsha Dumm	yes
		Leah Reibel	yes

AGENDA ITEM # 12& 13 – SUBCOMMITTEE MEETINGS AND REPORTS

The Education subcommittee met to review Continuing Education / Professional Development Learning Plans and Learning Logs. The Rules committee met to review a staff drafted report of Supervision form, and to discuss and develop a process to audit the reporting of continuing education for exempt dietetic technicians and nutrition assistants.

Each committee provided a brief report.

EDUCATION COMMITTEE – The Education committee reported that they reviewed and approved one learning plan and one learning log. Additionally, the committee approved the Ohio Dietetic Association Advocacy Day program for 1 continuing

