

**OHIO BOARD OF DIETETICS  
MINUTES OF THE BOARD MEETING  
May 22, 2009  
Board Room 31<sup>st</sup> Floor, Vern Riffe Center  
Columbus, Ohio 10:00 A.M.**

**AGENDA ITEM #1 – CALL TO ORDER**

**BOARD MEMBERS PRESENT:** Vandadean Rogers, Kay Soltesz, James Mermis, Mary Frances (Francie) Astrom, Marsha Dumm

**OTHERS PRESENT:** Pat McKnight, Ohio Dietetic Association liaison; Kristen Starr, Assistant Attorney General; Donald Davis, Compliance Specialist; Kay Mavko, OBD Executive Secretary.

Chairman Rogers called the meeting to order.

**AGENDA ITEM #2– APPROVAL OF MINUTES OF THE MARCH 20, 2009 MEETING**

The minutes of the March 20, 2009 regular Board meeting were presented to the Board by the Executive Secretary and they were reviewed and approved as submitted with minor corrections.

The following motion resulted:

**RESOLUTION #1**

**James Mermis moved and Mary Frances Astrom seconded a motion to approve the minutes of the March 20, 2009 regular Board meeting as submitted by the Executive Secretary.**

**The motion was approved with vote as follows:**

<b>James Mermis</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>
<b>Vandadean Rogers</b>	<b>yes</b>	<b>Mary Frances Astrom</b>	<b>yes</b>
		<b>Marsha Dumm</b>	<b>yes</b>

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

**AGENDA ITEM #3 – APPROVAL OF LICENSES**

Ms. Mavko presented the names of 9 individuals to the Board who were issued a Limited Permit license since the March 20, 2009 meeting of the Board.

**RESOLUTION #2**

**Kay Soltesz moved and James Mermis seconded a motion to place upon the minutes of the May 22, 2009 meeting the names of 9 individuals who were**

issued a Limited Permit during Fiscal Year 2009, with the expiration date of October 31, 2009 since March 20, 2009 meeting of the Board. The names appear on the list presented to the Board by the Executive Secretary. (See attached list labeled Resolution #2)

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

Ms. Mavko presented the names of 30 individuals who were issued a license for Fiscal Year 2009 since the March 20, 2009 Board meeting. The list included 24 initial licenses, 3 reinstatements, 3 reactivations. The following motion was made:

### **RESOLUTION # 3**

**Marsha Dumm moved and Mary Frances Astrom seconded a motion to place upon the minutes of the May 22, 2009 meeting, the names of 30 dietitians who met qualifications, pursuant to Section 4759.06 ORC, and who were issued a license by the Executive Secretary during Fiscal Year 2009 since the March 20, 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 #3)**

The motion was approved with vote as follows:

James Mermis	yes	Kay Soltesz	yes
Vandadean Rogers	yes	Mary Frances Astrom	yes
		Marsha Dumm	yes

### **AGENDA ITEM # 4 – FY 2010 LICENSE RENEWAL INTERIM REPORT**

Ms. Mavko reported that on April 16 & 17, 2009 staff mailed 3,407 dietitian license renewal applications to eligible licensees. As of 5/21/2009 19 batches of renewal applications have been returned and processed including 16 requests for inactive status, 20 requests for expired status, 882 licenses were renewed, printed and mailed. Ninety - four renewal applications are currently in process, and 69 applications are currently incomplete. Additionally 2 are in the problems folder due to failure to provide correct payment.

As compared to this same time last year, we are about at the same point, with a little less than 1/3 of eligible licensees having returned their renewal applications.

Since this is a year that licensees must meet the Jurisprudence continuing education requirement, it is anticipated that the flow of renewal applications may be delayed. The intermittent Clerk 1 position will be filled on May 26 by Diane Weaver (who worked in that spot last summer also) to assist with the processing of applications.

## **AGEND ITEM # 5-- DISCUSSION OF LEGISLATIVE ISSUES**

The legislative issue of greatest concern right now is OBD's continued concern with the proposed "consolidation of back office services" that has been proposed within the budget bill and the impending sweep of the 4K9 rotary fund that will remove most or all of the funds that have been on deposit there over the past years.

The board disagreed with the premise offered by the Executive proposal that the regulatory boards are inefficient and would benefit from the consolidation of the components suggested within the original proposal. Staff and Ms. McKnight from the Ohio Dietetic Association have been contacting and meeting with key Representatives to discuss this issue, and request complete removal of the proposal from the budget bill HB 1. Other boards have been engaged in similar activities, while some agencies are just accepting the matter as fate.

A copy of the talking points used in these discussions is attached to the minutes of this meeting.

If the proposal is not removed by the House, we will work with members of the Senate - some of whom have already expressed concern with the concept and the unreasonable scope of the proposal.

HB 81 - Diabetes Bill has sponsor and proponent testimony, during which the Republican members of the committee had many questions. The Diabetes Association, physicians, YMCA all testified as proponents. It is believed that there may be a call for a vote within the committee this summer, as support appears to be adequate to move it out of committee.

School Foods Legislation - is still being developed - no bill yet, but the proponents are trying to incorporate nutrition standards, beverages, and competitive foods concerns all into it. Also working on incorporating school food service director credentialing and some teeth in the wellness policy requirements.

A fundraiser for Sherrod Brown is being hosted by Pat McKnight and sponsored by Ohio Dietetic Association political action committee on June 26 at Life Care Alliance. He has been very supportive of nutrition issues in the past.

## **AGENDA ITEM # 6 -- ENFORCEMENT REPORT – DON DAVIS**

Mr. Davis presented the Enforcement Report for FY 2009 period from March 20, 2009 through May 22, 2009. The enforcement statistics indicate that the period started with 11 open cases, 1 was closed at the March Board meeting, and since then 5 cases have been opened, resulting in a pending caseload of 15 open cases.

A summary of completed and pending cases was provided. A copy of the Enforcement Report is attached to the minutes of this meeting.

### **STATUS OF BOARD ACTIONS**

No report.

### **AGENDA ITEM # 7 --BOARD REPORTS**

**CHAIRMAN** – Ms. Rogers had no report.

#### **ODA LIAISON – Pat McKnight -**

1. Ms. McKnight reported that ODA has scheduled one of the Advocacy Days planned for 2010. On March 17, 2010 the dietitians Advocacy Day will be held again at the Riffe center. The corresponding student Advocacy day has not been scheduled yet as it will be coordinated around the ODA annual meeting and the Ohio Nutrition Council conference.
2. The American Dietetic Association's Public Policy Workshop (PPW) which is usually held in Washington, D.C was held February 8, 9, and 10 using a webinar format this year in order to save costs. Follow-up legislative visits with members of Congress are planned for the summer and the focus will be on the various aspects of nutrition and dietetic services that will be incorporated into health care reform.

#### **DIRECTORS REPORT – Kay Mavko**

1. Ms. Mavko reminded board members to submit their travel reimbursement requests as soon as possible after the May meeting so that timely expenditures can be processed. Board members were also reminded that as of May 1, the mileage rate would be reduced to 45 cents per mile. New reimbursement form templates will be sent to each Board member by e-mail.
2. Ms. Mavko reported that she met with representatives of MT Business Technology to explore the process for scanning, transferring and indexing existing hard copy critical documents to an on-line storage and retrieval system. The proposal for software components, annual updates and services for set-up and training was \$3,575.00. Due to the recent budget issues, and imminent spending restrictions and or cuts this project will be set aside once again. A copy of the proposal is attached to the minutes of the meeting.
3. Ms. Mavko reviewed the major benefit changes that will be applied to agency staff over the next 3 years including 10 unpaid furlough days during each of FY 2010 and 2011. Changes to sick leave policy, wage and step freezes, 2 year freeze on personal days with 32 hour lump sum payment in 2011 and

32 hours of sick leave credited in 2011, changes to absence around paid holidays, etc. Specifics are available on the DAS website, and in the Union contracts.

The Board discussed the possibility of all staff taking the Friday after Thanksgiving as one of their mandatory furlough days and potentially closing the office because it is traditionally a very slow business day. The Board consensus was to explore closing that day, and Ms. Mavko will follow-up to see if that will be possible. DAS Human Resources Policy is already looking into the issue, and has indicated that guidance will be forthcoming on this issue.

4. Ms. Mavko reminded the board members that the policies and procedures that were developed in November, 2008 in response to the governor's Management Directive on data confidentiality are now impacted by the implementation of HB 648. DAS Information Technology has been working on developing guidance for all state agencies, and it is an on-going process. Once there is clear direction new policies and procedures will have to be developed, and ultimately Administrative Rules promulgated.
5. Ms. Mavko reminded the Board that Ms. Mermis' term as public member will conclude on June 30, 2009. If he is re-appointed there will be no transition. If a new member is appointed it may take some time. Therefore, Ms. Mavko asked Mr. Mermis to keep the July meeting on his calendar in case he is re-appointed or in case a replacement member has not been appointed by that date. He agreed to "pencil the meeting in".
6. Ms. Mavko reported that in response to the governors Executive Order 2009 - 07S the Office of Budget and Management is requiring that by May 31 each agency submit an allotment plan for FY 2010 that includes 30% reductions in administrative costs (non-payroll) and answers to specific questions. A cost control target was calculated by them and provided to us and it means that our spending authority would be reduced by over \$20,553. Our administrative spending is such that we can not meet the target unless extensive changes in operations occur, and we would still need to reduce payroll (Clerk 1 position).

Ms. Mavko reviewed the types of cuts that must be considered and the Board discussed the options and the effects they would have. Cutting travel, the number of regular and committee meetings of the board, replacement of computers, refunds, etc. She will work with our OBM budget analyst to put the plan together and submit it timely.

7. The Board was reminded that Ms. Mavko will be on vacation for a week from June 5 through 12, but will remain in telephone contact and by e-mail as possible.

**AGENDA ITEM #8 – FINANCIAL REPORT**

The financial report was presented for the months of March and April 2009 including Allotments, Expenditures and Revenues to Date. Expenditures for the month of March were \$20,012.02 and April expenditures were \$25,029.18. March revenue totaled \$1,975.00 and \$20,682.50 for April resulting in total revenue to date of \$101,991.28.

It was noted that a May 5, 2009 \$4,750.00 deposit for a batch of renewal fees was credited to April in error by the Treasurer's office. Ms. Mavko will attempt to get this corrected.

**BUDGET UPDATE**

The budget recommendations from the Senate have not been released yet. It is anticipated that Conference Committee will have to work out numerous compromises. It is unknown whether the "consolidation of back office services for Boards and Commissions" effort will remain or not. Numerous senators have indicated that they are not in support, but the language would need to be removed.

**APPROPRIATIONS / ALLOTTMENT PLAN**

Due to the anticipated reductions in appropriations for FY 2010 and 2011 the Board discussed numerous cost savings ideas. Once the final appropriations are known, cost savings actions will be put in place.

A list of the ideas considered is attached to the minutes of the meeting in the Financial Report section.

**RESOLUTION # 4**

**James Mermis moved and Kay Soltesz seconded a motion to approve expenditures as presented for March and April 2009 and to accept the Financial Report as submitted to the Board by the Executive Secretary.**

**The motion was approved with vote as follows:**

<b>James Mermis</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>
<b>Vandadean Rogers</b>	<b>yes</b>	<b>Mary Frances Astrom</b>	<b>yes</b>
		<b>Marsha Dumm</b>	<b>yes</b>

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

**AGENDA ITEM # 9 & 10 – SUBCOMMITTEE MEETINGS AND REPORTS**

The Education subcommittee met to review Continuing Education / Professional Development Learning Plans and Learning Logs, and requests for approval of

Jurisprudence Programs. The Rules committee met to continue work on drafting of Guidelines on the proposed changes to the Standards of Practice, Professional Performance, and Supervision Rules.

Each committee provided a brief report.

EDUCATION COMMITTEE – The Education committee reported that they reviewed 13 Professional Development Plans and approved 12 with 1 licensee receiving suggestions for revision. Three Learning Logs were approved.

Ms. Mavko suggested that it would be more appropriate for she and Mr. Davis to utilize jurisprudence programs that they did not help to write. In that regard the committee approved and recommended to the full Board that 2 programs be approved for Jurisprudence continuing education for OBD staff who are licensed dietitians and must meet the Jurisprudence requirement. They are "Legal Self-Protection: Contracts, Confidentiality, Conflict by Sara Perovich MPH, RD, LD, for Ms. Mavko and "How to Testify in Court", Presented by James Manken and Ohio Auditor of State Mary Taylor for Mr. Davis to use. Copies of the programs outlines are attached to the minutes of the meeting.

**RESOLUTION #5**

**Kay Soltesz moved and Mary Francis Astrom seconded a motion to approve 2continuing education programs "Legal Self-Protection: Contracts, Confidentiality, Conflict by Sara Perovich MPH, RD, LD, for Ms. Mavko and "How to Testify in Court", Presented by James Manken and Ohio Auditor of State Mary Taylor to meet the jurisprudence requirements for Ms. Mavko and Mr. Davis.**

**The motion was approved with vote as follows:**

<b>James Mermis</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>
<b>Vandadean Rogers</b>	<b>yes</b>	<b>Mary Frances Astrom</b>	<b>yes</b>
		<b>Marsha Dumm</b>	<b>yes</b>

RULES COMMITTEE – The Rules Committee reported that they continued to work on editing drafts of 4 guidelines to educate licensees on the proposed changes to the Supervision, Standards of Practice, and Standards of Professional Performance rules that will likely be enacted in July.

**AGENDA ITEM # 11 – UPCOMING MEETINGS**

Remaining dates scheduled for Regular Board meetings in 2009 are as follows:

July 17, 2009

~~September 25, 2009~~ - Changed to October 2, 2009

November 13, 2009

## **AGENDA ITEM #12 - PUBLIC HEARING ON PROPOSED ADMINISTRATIVE RULES**

A public hearing was held at 1:30 p.m (and ended at 1:55 p.m.) to receive comments and testimony concerning the board's intention to consider adoption of one new administrative rule, rescission of 4 current rules and adoption of replacement rules in order to comply with Ohio Revised Code 119.032.

A summary of the Rules considered follows:

### **New Rules**

- 4759-4-11**      Criminal Records Check      Establishes the process for applicants to submit fingerprints through the Bureau of Criminal Identification and Investigation for the purpose of criminal records check pursuant to 4759.061 of the Ohio Revised code. Describes how the Board will process background check reports, how they will be reviewed and considered by the Board, retained in the office, and establishes that the report is a confidential record and shall be handled appropriately.

### **New Rules Replacing Rescinded Rules**

- 4759-5-01      Supervision of Persons Claiming Exemption      Identifies that the rule applies to dietetic technicians, dietetic technicians registered, and nutrition associates who work under the supervision of the dietitian. Identifies that the supervising dietitian is responsible for the nutrition care of patients, and shall not delegate the nutrition care process but may assign tasks within the process to competent exempt practitioners. The supervising dietitian must verify credentials, establish competency of exempt practitioners, and require their on-going dietetics related continuing education. Guidelines for assignments, and referrals shall be provided by the dietitian to exempt practitioners, and performance criteria established. The supervising dietitian shall maintain written documentation of initial and on-going competency and professional development

of the exempt practitioner, and shall provide supervision in a manner that protects the public.

4759-6-01      Standards of Practice

Defines and describes the terms and steps in the standards of practice in nutrition care including: "nutrition care process", "nutrition assessment", " nutrition diagnosis", "nutrition intervention", "nutrition monitoring and evaluation" consistent with the American Dietetic Association definitions and processes.

4759-6-02      Standards of Professional Performance

Clarifies that licensees shall present accurate credentials, provide service based on clients needs and expectations, avoid discrimination and assure that adequate information is available to establish mutual goals with clients. Requires that dietitians provide quality practice by evaluating service, performing regular evaluation of services, and adhere to standards for the particular area of practice. Requires use of “evidence based” interventions and defines the term. Describes that a licensee assumes responsibility for practice and shall engage in lifelong learning, self assessment and evaluation of licensee and client needs. Requires professional development consistent with the requirements of the Commission on Dietetic Registration and encourages dietitians to make referrals when appropriate. Requires dietitian to remain free of conflict of interest and maintain honesty, integrity and trust, and to only endorse or promote products truthfully. Requires effective application of knowledge, and utilization of resources. Defines a “general program of weight control” and describes its required components. Requires other licensed professionals to be responsible for the supervision of unlicensed persons to whom they assign nutritional tasks. Requires dietitians to comply with all applicable laws and regulations, report violations as appropriate, apply

substantiated research and maintain client confidentiality while maintaining professional conduct with honesty and fairness.

4759-6-03      Interpretation of Standards      Clarifies that standards are consistent with those of the American Dietetic Association

Pat McKnight from the Ohio Dietetic Association was the only person to testify, and registered support for the rule changes.

Pending no opposition to the rule changes, it is anticipated that they will be placed on the June 22, 2009 agenda of the Joint Committee on Agency Rule Review as required, and could likely be enacted in July 2009.

A full transcript of the hearing was taken and is available through the Ohio Board of Dietetics.

**AGENDA ITEM # 13 - EXECUTIVE SESSION TO DISCUSS ADMINISTRATIVE RULES** - This agenda item was skipped, as there was no need to discuss the rules at this time.

**AGENDA ITEM #14 - EXECUTIVE SESSION – ENFORCEMENT**

The Board moved into Executive Session at 2:10 p.m. with the following motion:

**RESOLUTION # 6**

**Mary Frances Astrom moved and Marsha Dumm 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.**

**The motion was approved with roll call vote as follows:**

<b>James Mermis</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>
<b>Vandadean Rogers</b>	<b>yes</b>	<b>Mary Frances Astrom</b>	<b>yes</b>
		<b>Marsha Dumm</b>	<b>yes</b>

The Board came out of executive session at 2:40 p.m.

**AGENDA ITEM # 15- FINDINGS, ORDERS, AND ACTIONS**

**RESOLUTION # 7**

**James Mermis moved and Mary Frances Astrom seconded a motion to close the following cases for the reasons cited:**

- 07OBD76 License revoked based on 4th degree felony criminal conviction for the sale of Ephedra and Ephedrine products, a misdemeanor conviction for recommending, prescribing, and selling injectable Cyanocobalamin (Vitamin B 12) , and multiple standards of practice violations committed in the course of practice
- 09OBD63 Entered into, and met requirements of consent agreement

**The motion was approved with vote as follows:**

<b>James Mermis</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>
<b>Vandadean Rogers</b>	<b>yes</b>	<b>Mary Frances Astrom</b>	<b>yes</b>
		<b>Marsha Dumm</b>	<b>yes</b>

**RESOLUTION # 8**

**James Mermis moved and Mary Frances Astrom seconded a motion to close the following cases for the reasons cited:**

- 09OBD65 Unlicensed practice, came into compliance
- 09OBD66 Initial license: moral character, unfounded
- 09OBD67 Unlicensed practice, unfounded
- 09OBD69 Practice beyond exemption, unfounded, appears to meet exemption 4759.10(A)

**The motion was approved with vote as follows:**

<b>James Mermis</b>	<b>yes</b>	<b>Kay Soltesz</b>	<b>yes</b>
<b>Vandadean Rogers</b>	<b>yes</b>	<b>Mary Frances Astrom</b>	<b>yes</b>
		<b>Marsha Dumm</b>	<b>yes</b>

**AGENDA ITEM #16 - ADJOURNMENT**

**A motion was made to adjourn the meeting. There was consensus by the Board to adjourn the May 22, 2009 meeting of the Ohio Board of Dietetics at 3:15 PM. 3:15 p.m.**

**Respectfully submitted,**

\_\_\_\_\_ **Date** \_\_\_\_\_

**Kay Mavko, Executive Secretary  
Ohio Board of Dietetics**

\_\_\_\_\_ **Date** \_\_\_\_\_

**Vandadean Rogers, Chairman,  
Ohio Board of Dietetics**

\_\_\_\_\_ **Date** \_\_\_\_\_

**Witness**

