



**DIRECTOR'S REPORT
TO THE OHIO BOARD OF DIETETICS
FOR FISCAL YEAR 2008**

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Executive Secretary, Ohio Board of Dietetics

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 began operations July 1, 1987. The function of the Board is to regulate the profession of dietetics in the State of Ohio pursuant to Chapter 4759 of the Ohio Revised Code.

MISSION STATEMENT

During 2008 the Board reviewed and revised its mission, and then developed a vision statement that were adopted by the Board to guide the activities of the agency.

Mission – “The mission of the Ohio Board of Dietetics is to effectively protect the public by regulating the practice of dietetics through licensure, and by fairly and consistently enforcing the laws and rules governing nutritional practices.”

Vision – “The vision of the Ohio Board of Dietetics is to be recognized and respected as protecting the nutritional health of Ohio citizens by providing efficient and effective licensure of dietitians; enforcing applicable laws, rules and practice standards; and supporting professional ethics and competency in order to assure the provision of scientifically based nutritional practice.”

SCOPE OF PRACTICE

Ohio has enacted 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 preventative 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 dietitians, one public member, and one dietetic educator who holds a doctoral degree. The Board usually holds six regular meetings per year, and holds sub-committee or other meetings as needed. Meetings are usually held in the Vern Riffe Center in Columbus and are open to the public. In FY 2008 the Board held six regular meetings, 6 case review committee meetings, 3 rules committee meetings, 1 public rules hearing, 1 Administrative hearing, and 1 application review committee meeting.

Board members are paid an hourly rate for the performance of official Board business. This rate is established by the General Assembly and currently is \$19.55 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, and miscellaneous expenses. Board members may also purchase health, vision, and dental insurance as a benefit of their employment.

Past Board Members:

Carol McGlaughlin, 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
Alice Giffin, Wooster – Dietitian Member
Tonda Hollenback, Bowling Green – Public Member
James G. Behnke, Middletown – Dietitian Member
Roberta S. Hurley, Columbus – Dietitian Educator Member
Lori Mooney, Dublin - Dietitian Member**
Jonathan Hughes, Dublin – Public Member**
Lorna Fuller, Cleveland – Dietitian Member
David Holben, Athens – Dietitian Educator Member
Cynthia Blocksom, Cincinnati – Dietitian Member

**Members re-appointed after completion of first term.

FY 2008 Board Members and Terms:

James Mermis, Columbus – Chairman, Public Member	3/11/2005 to 6/30/2009
Vandaeon Rogers, Dayton – Vice Chairman, Dietitian Member	10/12/2005 to 6/30/2010
Claire Adkins, Akron – Dietitian Member** -- Chairman	8/1/2000 to 6/30/2003
	7/1/2003 to 6/30/2008
Kay Soltesz, Pemberville – Dietitian Educator Member	7/01/2006 to 6/30/2011
Mary Frances Astrom, Athens – Dietitian Member	3/28/2008 – 6/30/2012

Ohio Dietetic Association Liaison:

Patricia McKnight

Staff:

Administrative Staff includes: a Director (Executive Secretary), a Compliance Specialist (Administrative Assistant 3/ Investigator), and a Secretary. These are full-time equivalent positions. In addition, one intermittent clerical position assists with licensure renewal activities (budgeted at 1,000 hr. / yr.). Hearing officers, court reporters and additional clerical services are contracted on a temporary basis as needed.

FY 2008 Staff:

Tamara Spencer – Secretary
Beth Shaffer – Compliance Specialist (retired March 31, 2008)
Donald Davis – Compliance Specialist (hired May 5, 2008)
Kay Mavko – Executive Secretary / Director
Diane Weaver – Intermittent Clerk

Over 3,200 Dietitian licenses were issued during FY 2008, which includes renewed licenses and issuance of Limited Permits. Licensees must meet minimum academic requirements,

complete a pre-professional experience and pass a licensure examination. Continuing education is required for license renewal.

II. FY 2008 HIGHLIGHTS

COOPERATION WITH GOVERNMENT 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 attended the annual Council on Licensure, Enforcement and Regulation Meeting in Atlanta, Georgia.
- 2) Ms. Shaffer the annual American Dietetic Association meeting in Philadelphia, Pennsylvania.

Ohio Activities:

- 1) The Board and staff continue to spend a significant amount of time and effort related to House Bill 148 in the 127th General Assembly (previously HB 148, HB 117, HB 314 and HB 188). The legislation would remove much of the Board's authority, and would allow the unregulated practice of nutrition and dietetics by individuals who could practice without meeting any educational or pre-professional practice requirements. Additionally, it permits much of the practice of medicine, dentistry, nursing, pharmacy, chiropractic, psychology, and OT/PT/AT. The bill was introduced by proponents who do not meet the requirements of the licensed professions in Ohio, and who appear to be seeking removal of the regulatory oversight of medicine, allied medicine specialties and nutrition practitioners.

The bill has changed over time with various versions introduced or considered. Each version has been unacceptable - in that none includes education, training, or oversight requirements that would provide protection for the public.

The first priority of the board continues to be the health and safety of the citizens of Ohio by regulating the practice of dietetics. Therefore, it is anticipated that continued efforts and agency resources may be necessary to preserve the integrity of the dietetic practice act and the regulatory oversight of medical nutrition therapy practices.

- 2) The Board continues to work closely with the Boards and Commissions Management Group. The group addresses common issues and processes that impact the regulatory agencies, and works together to share information that will improve the individual agencies.
- 3) Kay Mavko attended the Attorney General's Administrative Law seminar which reviewed pertinent information regarding administrative legal processes and actions in Ohio.

- 4) Kay Mavko attended the Ohio Dietetic Association annual meeting.
- 5) The Board collaborated with the Ohio Dietetic Association in sponsoring the Annual Legislative Conference for dietetic practitioners and students that was held at the Riffe Center on March 5, 2008. The conference was an excellent opportunity for the dietitians, dietetic technicians and students to learn about nutrition related legislation and issues, and to network with legislators and legislative staff.
- 6) OBD and other health regulatory boards joined together to propose HB 104 which requires applicants for licensure to provide a criminal background check report to the Board prior to issuance of an initial license. The Bill was passed by the Legislature and enacted in March 2008. Staff prepared information and policies and procedures for the background check process and successfully communicated pertinent information about the new requirements to graduating dietitians. An administrative rule which describes the new process is ready to propose when the next group of administrative rules are revised.

Agency Activities:

- 1) The OBD Communique' was published three times in FY 2008 and updated licensees about Board member appointments, license verification, legislative matters (including the proposed criminal records check for applicants, and administrative rules revisions), etc.
- 2) Staff continue to provide presentations on licensure, regulation, and enforcement to Ohio dietetic programs, dietetic technician programs, and to professionals working in the field. In FY 2008 staff spoke to 16 dietetic programs, 3 dietetic technician programs, staff dietitians at 2 hospitals, the ODA Legislative workshop, 2 district Dietetic Association meetings, National and Ohio Kidney Conference meeting, the annual Ohio Department of Health meeting, the Franklin County WIC staff meeting, and the Ohio Health Care Association annual meeting, Ohio Nutrition Council meeting, North East Ohio Council on Renal Nutrition meeting, and the Dietary Solutions Company annual staff meeting.. These presentations reached over 600 persons.
- 3) One dietetic intern spent a week at the OBD office learning about regulation and licensure.
- 4) All application types were reviewed and revised integrating the new information on background checks.
- 5) Beth Shaffer, Compliance Specialist retired at the end of March, and Donald Davis was hired in May to replace her.
- 6) The OBD website was updated with current information and links, including the new processes for background checks.

- 7) The Board completed the five year review of Administrative Rules and completed the Rules filing process for 2 new and 17 amended rules. The Standards of Practice Rules (section 6-01 AOC) were not amended, however it is anticipated that they will be during FY 2009 in order to be consistent with the American Dietetic Associations revised Standards of Practice and Standards of Professional Performance that were released in spring of 2008.

III. LICENSURE / EXAMINATION ACTIVITY

FISCAL YEAR 2008 LICENSURE ACTIVITY

LICENSES / PERMITS ISSUED	FY 2007	FY 2008
Initial Licenses *	176	170
Reactivations	25	19
Renewals**	2919	3179
Reinstatement of lapsed or disciplined licenses	26	28
Limited Permits ***	87	109
Totals	3233	3,505

* Initial licenses include those that are pro-rated (issued within 100 days of expiration).

** Renewals include those renewing during the late period for FY 08 and those renewing timely for FY09.

*** The Ohio Board of Dietetics accepts passing of the Registration Examination for dietitians that is sponsored by the Commission on Dietetics Registration (CDR) as one of the requirements for licensure in Ohio. Limited Permit licenses are issued to dietitians who have completed the education and practice requirements but have not yet passed the examination.

IV. REVENUES / EXPENDITURES

State professional licensing boards are required to be financially self-supporting from revenues generated through license fees. Licensure and renewal fees are deposited into the 4K9 rotary fund that was established for the professional boards and commissions

<u>Fee Types</u>	<u>FY 2008</u>
Initial License	\$ 125
Reactivation of Inactive license	\$ 125
Reinstatement of lapsed, revoked, or suspended license	\$ 180
License Renewal	\$ 95
Late fee (applies to renewal applications postmarked between 7/1- 8/15/08)	\$ 47.50
Duplicate license or permit	\$ 20
Limited Permit	\$ 65

FY 2008 REVENUE

	FY 2008	FY 2007
License Application Fees	\$ 28,645.00	\$ 28,630.50
Renewal Fees	\$ 310,287.50	\$ 277,525.00
Late Fees	\$ 4,940.00	\$ 4,892.50
Limited Permit Fees	\$ 7,280.00	\$ 5,655.00
Miscellaneous (Public records requests, dup ID cards, etc.)	\$ 340.00	\$ 440.00
Total Revenue Posted *, **, ***	\$ 351,490.00	\$317,142.50

Note: * Some revenue posted for FY 08 applies to licenses issued in FY 09.

** A number of dietitians did not renew timely by June 30, 2007 due to the relatively new jurisprudence continuing education requirements, therefore anticipated FY07 revenues were reduced by over \$10,000. Those revenues shifted into FY 08.

*** Due to the cut-over to OAKS financials, \$14,250 in revenue that normally would have been deposited in FY07 was shifted to FY08. Therefore, posted FY07 revenues were low and the revenue shifted into FY08.

FY 2008 EXPENDITURES

	FY 2008	FY 2007
Personal Service (Cat. 500 & 510)	\$ 247,907.09	\$ 220,832.99
Supplies and Maintenance (Cat. 520)	\$ 61,502.60	\$ 48,402.18
Equipment (Cat. 530)	\$ 1,657.80	\$ 0.00
Subsidies & Shared Rev. (Cat. 550)	\$	\$
Prior Year Encumbrances	\$ 10,803	\$ 7,862.79
Total Expenses	\$ 321,870.49	\$ 317,302.50
Net Over Revenue	\$ 29,619.51	\$ -\$160.00
Budgeted Appropriations	\$ 342,501.10	\$330,320.00

**V. ENFORCEMENT ACTIVITY
COMPLAINTS INVESTIGATED**

FISCAL YEAR	2004	2005	2006	2007	2008
Cases to Start	20	17	19	17	14
New Cases	108	92	100	93	90
Total Cases	128	109	119	110	104
Cases Closed	111	90	102	96	90
Cases Pending	17	19	17	14	14

74 (71%) of cases were against those qualified for licensure

30 (29%) of cases were against those not qualified for a license

SUMMARY OF BOARD ACTIONS TAKEN OR INITIATED IN FY 2008

CITATIONS / NOTICE OF OPPORTUNITY FOR HEARING	5
HEARINGS HELD	1
CONSENT AGREEMENTS ENTERED	2
LICENSED WITH ADVISORY LETTERS	10
FINAL ADJUDICATION ORDER ISSUED	1
CEASE AND DESIST LETTERS	1

CATEGORIES OF 104 INVESTIGATED CASES – FISCAL YEAR 2008

**ALLEGATIONS REGARDING THOSE WHO MEET
QUALIFICATIONS FOR LICENSURE - FY 2008**

UNLICENSED PRACTICE / APPLICANT	10
UNLICENSED PRACTICE/LICENSE EXPIRED WITHOUT REASON	45 + (7LP)
FAILURE TO MEET CONTINUING EDUCATION REQUIREMENTS	1
STANDARDS OF PRACTICE VIOLATION – COMPETENCY	3
STANDARDS OF PRACTICE VIOLATION – CONDUCT	2
FAILURE TO TAKE EXAMINATION IN A TIMELY MANNER	0
MORAL CHARACTER VIOLATION	9
FAILURE TO MEET LICENSURE QUALIFICATIONS	2
FELONY / MISDEMEANOR CONVICTION	1
Total: 74 / 104 (71%)	74

**ALLEGATIONS OF UNLICENSED PRACTICE OR NOT MEETING
CRITERIA OF EXEMPTION BY THOSE WHO DO NOT MEET
QUALIFICATIONS FOR LICENSURE - FY 2008**

SUPPLEMENT SALES	6
WELLNESS CENTERS	2
ALTERNATIVE	3
WEIGHT LOSS PROGRAMS	2
FITNESS / PERSONAL TRAINER	10
DIETETIC TECHNICIAN {EXEMPTION 4759.10(B)}	1
BS IN DIETETICS {EXEMPTION 4759.10(E)}	1
OTHER LICENSED PROFESSIONALS	5
MISCELLANEOUS	0
Total: 30 / 104 (22%)	30

**FISCAL YEAR 2008 ANNUAL ENFORCEMENT REPORT
ACTIONS TAKEN OR INITIATED BY THE BOARD
July 1, 2007- June 30, 2008**

ADJUDICATION ORDER

Robert Iafelice (L#1966) – Concord

Notice of Opportunity for a Hearing was issued proposing to deny application for renewal of FY 2008 license to practice dietetics. Hearing was not requested. “Goldman” Administrative Hearing held 11/16/07, and based on Findings of Fact and Conclusions of Law, the Ohio Board of Dietetics refused to renew FY 2008 license to practice dietetics for failure to complete application by not paying the required fees. Adjudication order mailed 11/21/07.

NOTICE OF OPPORTUNITY FOR HEARINGS

Robert Iafelice (L#1966) – Concord

Based on allegation of submitting an incomplete renewal application for failure to pay late fee, a Notice of Opportunity for Hearing was issued 9/17/07 proposing to deny application for renewal of FY 2008 license to practice dietetics.

Peachy Seiden (L#949) - Cincinnati

Based on allegation of unlicensed practice of dietetics and use of title RD LD between 9/9/03 and 7/1/07, a Notice of Opportunity for Hearing was issued 9/14/07 proposing to refuse to reinstate license. A Consent Agreement was offered in lieu of Hearing.

Nicole DiBattista (L#5750) – Mentor

Notice of Opportunity for Hearing issued 10/1/07 proposing to revoke license for acting outside scope of practice by prescribing, selling and/or administering dangerous drugs constituting a record of incompetent or negligent conduct in the practice of dietetics. Additionally, for advertising information that is not factual and misleading and for failures to document recommendations for dietary supplementation, the rationales for these recommendations, the plans for outcomes monitoring, and the adverse reactions individually and collectively, and for providing information to clients that is confusing, misleading or not factual constituting a record of incompetent or negligent conduct in the practice of dietetics. Finally, for failing to provide professional service with respect for unique needs and values of an individual client, by failing to act in a manner that maintains the integrity of the dietetics profession, and by failing to adhere to the standards of professional competence. Notice rescinded 6/11/2008.

Notice of Opportunity for Hearing issued 6/11/08 proposing to revoke license for being convicted of a Felony of the fourth degree for acts engaged in the course of work as a dietitian and for being convicted of a Misdemeanor of the first degree for acts engaged in the course of work as a dietitian. Additionally, proposing to revoke license for acting

outside the scope of practice as a dietitian by prescribing, selling, and/or administering dangerous drugs and for failing to provide professional service with respect for unique needs and values of an individual client, by failing to act in a manner that maintains the integrity of the dietetics profession, and by failing to adhere to the standards of professional competence.

Andrea Cox – Dayton

Based on allegation of unlicensed practice of dietetics and use of title RD LD between 9/1/06 and 9/12/07, a Notice of Opportunity for Hearing was issued 11/21/07 to determine potential violation of Section 4759.02 of ORC.

CONSENT AGREEMENTS

Peachy Seiden (L#949) - Cincinnati

Consent Agreement effective 9/14/07 based on allegations in the Notice of Opportunity for Hearing mailed 9/14/07. License issued with conditions and immediately suspended for 60 days, stayed 45 days for time lapsed since ceasing practice. Conditions met. License reinstated 9/29/07.

Andrea Cox – Dayton

Consent Agreement effective 1/25/08 based on allegations of unlicensed practice of dietetics and use of title RD LD. Agreed to cease: the use of RD LD and similar terms, advertising that implied the practice of dietetics, claims of exemption from licensure and providing educational or professional credentials that inaccurately indicates ability to practice dietetics.

CEASE AND DESIST LETTERS

08OBD78 (RD)-Concord

Cease and Desist letter mailed 1/29/08 for prior unlicensed practice of dietetics. Ceased practice of dietetics and reinstated license 3/10/08.

ADVISORY LETTERS

07OBD78 (RD)- Ft. Wayne, IN

License issued with advisory letter mailed 6/18/07 for failing to be licensed to practice dietetics in the State of Ohio and exceeding 15 day RD exemption.

08OBD07 (RD)- Westlake

License issued with advisory letter mailed 9/14/07 for failing to be licensed to practice dietetics in the State of Ohio.

08OBD17 (RD)- Cleveland

License issued with advisory letter mailed 9/5/07 for practicing dietetics as a “Medical Nutrition Therapist” without having a current, valid license to practice dietetics in Ohio.

08OBD38 (RD)- Hudson

License issued with advisory letter mailed 10/10/07 for practicing dietetics as a “Medical Nutrition Therapist” without having a current, valid license to practice dietetics in Ohio.

08OBD58 (RD)- Cincinnati

License reinstated with advisory letter mailed 9/5/07 for practicing dietetics as “RD Nutrition Coach” without having a current, valid license to practice dietetics in Ohio.

08OBD66 (RD)- Kent

License issued with advisory letter mailed 11/2/07 for providing nutritional counseling at a Nutrition Outreach Program without having a current, valid license to practice dietetics in Ohio.

08OBD68 (LP)- Decatur, IN

Limited Permit issued with advisory letter mailed 11/8/07 for practicing dietetics as a “Dietitian” without having a current, valid license to practice dietetics in Ohio.

08OBD83 (RD)- Columbus

License issued with advisory letter mailed 2/8/08 for practicing dietetics as a “Dietitian” without having a current, valid license to practice dietetics in Ohio.

ADVISORY LETTERS WITH CONDITION

08OBD80 (RD)- Findlay

License issued with advisory letter upon completion of condition and mailed 2/1/08 for practicing dietetics as “Nutrition Associate” when not qualified for exemption 4759.10(E)ORC.

08OBD87 (RD)- Cincinnati

License issued with advisory letter upon completion of condition and mailed 8/4/08 for practicing dietetics as a “Registered Dietitian” without having a current, valid license to practice dietetics in Ohio.

Ohio Board of Dietetics Organizational Chart 2008 (as of 6/29/2008)

