

OBD

Ohio Board of Dietetics

Fiscal 2005

**Director's
Report**

Kay Mavko

July 1, 2004

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June 30, 2005

**DIRECTORS REPORT
TO THE OHIO BOARD OF DIETETICS
FOR FISCAL YEAR 2005**

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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

The purpose of the dietitian licensure law is to protect the public from harmful, incompetent, or negligent nutritional practices. The Board accomplishes its mission as follows:

- Establishes standards of professional responsibility and practice for Ohio dietitians
- Issues licenses and limited permits
- Investigates complaints and determines disciplinary action
- Administers a minimal competency examination
- Requires continuing education to ensure competent practice of dietitians

SCOPE OF PRACTICE

Ohio's 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 2005 the Board held six regular meetings, 1 special meeting to consider disciplinary matters, 6 case review committee meetings, 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, meals, and miscellaneous expenses. Board member 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**

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

Current Board Members and Terms:

| | |
|--|------------------------|
| David Holben, Athens – Dietitian Educator Member, Chairman | 7/7/2001 to 6/30/2006 |
| Cynthia Blocksom, Cincinnati – Dietitian Member, Vice Chairman | 7/1/2002 to 6/30/2007 |
| Claire Adkins, Akron – Dietitian Member** | 8/1/2000 to 6/30/2003 |
| | 7/1/2003 to 6/30/2008 |
| Lorna Fuller, Cleveland – Dietitian Member | 7/1/2000 to 6/30/2005 |
| James Mermis, Columbus – Public Member | 3/11/2005 to 6/30/2009 |

Ohio Dietetic Association Liaison:

Patricia McKnight

Staff

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

FY2005 Staff:

Penny Rogers – Office Assistant 3
Beth Shaffer – Compliance Specialist
Kay Mavko – Executive Secretary / Director
Jill Marinis (6/12-8/24/2005) – Intermittent Clerk

Over 3,000 licenses are issued annually, which includes issuance of approximately 125 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. 2005 HIGHLIGHTS

COOPERATION WITH GOVERNMENTAL 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 Kansas City.
- 2) Ms. Shaffer and Dr. Holben attended the American Dietetic Association Food and Nutrition Conference and Expo in Anaheim.
- 3) Ms. Mavko and Ms. Adkins attended the Citizen Advocacy Center annual meeting in Orlando.

Ohio Activities:

1) The Board and staff continue to spend a significant amount of time and effort related to House Bill 117 in the 126th General Assembly (previously HB 314 and HB 188). The legislation would remove much of the Board's authority, and would allow the unlicensed practice of nutrition and dietetics by individuals who could practice with no educational or practice requirements or oversight. The bill was introduced by proponents who do not meet the requirements to practice dietetics in Ohio, and who appear to be seeking removal of the regulatory oversight of 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.

- 2) The Board continues to work closely with the ad-hoc group of Ohio Regulatory Boards. The group addresses common issues and processes that impact the regulatory agencies, and work together to share information that will improve the individual agencies.
- 3) Sub. H.B. 66 (budget bill FY 2006-2007) was passed by the 127th General Assembly establishing the legislature's intent to transfer and then consolidate 20 regulatory boards, including the Ohio Board of Dietetics, into the departments of Commerce, Health and Safety. The bill removed the operating budget requests for FY 2007 for each affected agency.

The stated purpose of the proposed transfer is to provide additional efficiencies, cost effectiveness and accountability. The legislation creates a transition committee that will develop transition plans and make a report to the legislature by December 31, 2005.

Following submission of the report legislation will be introduced to accomplish the recommendations, transitions, consolidations, and budgets for FY 2007 for each affected agency.

The board is concerned that the proposal could jeopardize licensee and consumer services that Ohio boards currently provide, and will not maintain staffing, fiscal, and program autonomy to a sufficient degree to assure the Board's continued effective protection of the public.

The Board and staff have been thoroughly engaged in consideration of this proposal, and it is anticipated that as the transition team meets and recommendations are made that additional time and resources will be devoted to the proposed changes. This legislation has the potential to drastically re-shape OBD and the regulatory landscape in Ohio.

4) One Board member, two staff, and Ms. McKnight (ODA liaison to the Board) attended the Ohio Dietetic Association annual meeting. Ms. McKnight and Ms. Mavko presented brief updates on legislative matters affecting the practice of dietetics in Ohio, including HB 117 and Ms. Mavko gave a presentation on the new jurisprudence continuing education requirements that was implemented in FY 2005.

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 16. The conference was an excellent opportunity for the Board to inform licensees about nutrition related legislation and issues.

Agency Activities:

1) The OBD Communique' was published twice in FY 2005 and updated licensees about the new requirements for OBD approved jurisprudence continuing education, board disciplinary activities, legislative activities that could effect dietetic practice, changes in renewal applications, and the potential consolidation of regulatory boards (including OBD).

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 2005 staff spoke to 14 dietetic programs, 3 dietetic technician programs, and staff dietitians at 2 hospitals, the ODA Legislative workshop, the Ohio Dietetic Association Annual meeting, Ohio Dietetic Educations meeting, four district dietetic association meetings, the annual WIC symposium, and the Ohio Health Care Association annual meeting. These presentations reached over 500 persons.

5) All application types were reviewed and revised.

6) The new CAVU licensing software was used to print license renewal applications for the first time and for license issuing. This process went smoothly.

7) The first board approved self- study Jursiprudence module was mailed to all licensees. Staff processing of the required quizzes and mailing of the certificates of completion took a significant amount of time and record keeping. The process complicated license renewal. Methods to simplify the process will be explored.

8) Staff revised the procedures for recording expenses in order to improve internal controls.

III. LICENSURE / EXAMINATION ACTIVITY

| FISCAL YEAR 2003 / 2004 LICENSURE ACTIVITY | | |
|---|---------------|----------------|
| LICENSES / PERMITS ISSUED | FY2005 | FY 2004 |
| Initial Licenses | 124 | 149 |
| Reactivations | 18 | 21 |
| Renewals | 3,009 | 3065 |
| Reinstatement of lapsed or disciplined licenses | 22 | 23 |
| Limited Permits | 124 | 106 |
| Totals | 3297 | 3364 |

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

| Fee Types | FY 2005 |
|--|----------------|
| Initial License | \$125 |
| Reactivation of Inactive license | \$125 |
| Reinstatement of lapsed, revoked, or suspended license | \$180 |
| License Renewal | \$ 95 |
| Late fee (applies to renewal application postmarked between 7/1- 8/15) | \$47.50 |
| Duplicate license or permit | \$ 20 |

FY 2005 REVENUE

| | FY 2005 | FY 2004 |
|---|----------------------|---------------------|
| License Application Fees | \$ 23,600.00 | \$ 18,350.00 |
| Renewal Fees | \$ 263,085.00 | \$291,225.00 |
| Late Fees | \$ 4,750.00 | \$ 3,520.00 |
| Limited Permit Fees | \$ 5,330.00 | \$ 5,960.00 |
| Miscellaneous (Public records requests, dup ID cards, etc.) | \$ 420.00 | \$ 364.00 |
| Total Revenue Posted | \$ 297,300.00 | \$323,512.00 |

Note: * Some revenue posted for FY 2005 applies to licenses issued in FY 2004 or FY 2006.
 ** \$ An increased number of dietitians did not renew timely by June 30 due to the new continuing education requirements, therefore anticipated FY05 revenues were reduced by over \$25,000. Those revenues shifted to FY 2006.

FY 2005 EXPENDITURES

| | FY 2005 | FY 2004 |
|--------------------------------|--------------------|-------------------|
| Payroll / Purchased Services | \$ 230,815 | \$229,146 |
| Maintenance | \$ 49,891 | \$ 51,675 |
| Equipment | \$ 335 | \$ 2,220 |
| Other | \$ 77 | \$ 165 |
| Prior Year Encumbrances | \$ 18,623 | \$ 8,580 |
| Total Expenses | \$ 299,744 | \$ 291,786 |
| Net Over Revenue | \$-2,443.22 | \$ 31,636 |
| Budgeted Appropriations | \$ 329,687 | \$334,917 |

V. ENFORCEMENT ACTIVITY

COMPLAINTS INVESTIGATED

| FISCAL YEAR | 2001 | 2002 | 2003 | 2004 | 2005 |
|--------------------|-------------|-------------|-------------|-------------|-------------|
| Cases to Start | 33 | 31 | 20 | 20 | 17 |
| New Cases | 108 | 85 | 82 | 108 | 92 |
| Total Cases | 141 | 116 | 102 | 128 | 109 |
| Cases Closed | 110 | 96 | 82 | 111 | 90 |
| Cases Pending | 31 | 20 | 20 | 17 | 19 |

95 (87%) of cases were against those qualified for licensure
 14 (13%) of cases were against those not qualified for a license

SUMMARY OF BOARD ACTIONS TAKEN OR INITIATED IN FY 2005

| | |
|--|----------|
| CITATIONS / NOTICE OF OPPORTUNITY FOR HEARING | 2 |
| HEARINGS HELD | 0 |
| CONSENT AGREEMENTS | 1 |
| LICENSED WITH LETTER OF CAUTION | 6 |
| LETTER OF CAUTION FOR PRACTICE CONCERNS | 3 |
| FINAL ORDER | 1 |
| CEASE AND DESIST LETTERS | 1 |

CATEGORIES OF 109 INVESTIGATED CASES – FISCAL YEAR 2005

**ALLEGATIONS REGARDING THOSE WHO MEET
QUALIFICATIONS FOR LICENSURE**

| | |
|---|-----------|
| UNLICENSED PRACTICE / APPLICANT | 6 |
| UNLICENSED PRACTICE / LICENSE EXPIRED WITHOUT REASON | 55+8LP |
| FAILURE TO MEET CONTINUING EDUCATION REQUIREMENTS | 2 |
| STANDARDS OF PRACTICE VIOLATION – COMPETENCY | 4 |
| STANDARDS OF PRACTICE VIOLATION – CONDUCT | 1 |
| FAILURE TO TAKE EXAMINATION IN A TIMELY MANNER | 1 |
| MORAL CHARACTER VIOLATION | 12 |
| FAILURE TO MEET APPLICATION REQUIREMENTS FOR RENEWAL | 4 |
| FELONY CONVICTION | 2 |
| TOTAL (87%) | 95 |

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

| | |
|--|-----------|
| SUPPLEMENT SALES | 3 |
| WELLNESS CENTERS | 1 |
| ALTERNATIVE | 3 |
| WEIGHT LOSS PROGRAMS | 2 |
| FITNESS / PERSONAL TRAINER | 2 |
| DIETETIC TECHNICIAN {EXEMPTION 4759.10(B)} | 0 |
| BS IN DIETETICS {EXEMPTION 4759.10(E)} | 1 |
| OTHER LICENSED PROFESSIONALS | 2 |
| MISCELLANEOUS | 0 |
| TOTAL (13%) | 14 |

ACTIONS TAKEN OR INITIATED BY THE BOARD FY2005

NOTICE OF OPPORTUNITY FOR HEARING

Sandra Hathaway – (L#2399)- Zanesville

Based on allegations of failure to meet acceptable standards of practice for nutritional assessment and support of nursing home residents, Notice of Opportunity for Hearing was mailed on 4/6/05 proposing to revoke, suspend, place on probation*** license to practice dietetics. Hearing requested and scheduled for 6/10/05, and then continued to 8/31/05.

Mary Keller - (L# 1209) - Stow

Based on felony conviction, and allegations of failure to disclose information on application, a Notice of Opportunity for Hearing was mailed 3/28/05 proposing to revoke, suspend, refuse to issue***license to practice dietetics. {Settled by Consent Agreement in Fiscal Year 2006 (July 1, 2005-June30, 2006)}

CONSENT AGREEMENT

Roya Parsons – (Supervised LP # 10038 -expired) – Galion

Based on allegations of unlicensed practice of dietetics and use of title RDE for 8 months, consent agreement offered. Consent agreement effective 9/22/04. Supervised Limited Permit issued and immediately suspended for 30 days, stayed upon conditions. Supervised Limited Permit expired on 9/22/04.

CEASE AND DESIST LETTER

Kay Conley – West Union

Cease and Desist letter mailed 1/14/05. Ceased unlicensed practice and came into compliance with supervision. Response received 2/18/05.

LICENSE ISSUED WITH LETTER OF CAUTION

Initial License.....Zanesville
Initial License.....Willoughby
Initial License.....Columbus
Reinstatement.....Akron
Reinstatement.....Columbus
Reinstatement.....Millersburg

LETTER OF CAUTION FOR PRACTICE CONCERNS

04OBD98.....Columbus
04OBD96.....Martins Ferry
05OBD74.....Williamsburg

FINAL ORDER

Greg Avellana (L#5107) –Columbus. End probation on license to practice effective 4/28/05

