



May 11, 2017

To: Senator Bob D. Hackett, Chairman  
Senate Finance Health and Medicaid Sucommittee  
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Ohio Academy of Nutrition and Dietetics

The Ohio Academy of Nutrition and Dietetics believes that the current budget proposal abolishing the Ohio Board of Dietetics (OBD) and replacing it with an advisory council under the Medical Board strips key authorities that are needed for the meaningful regulation of dietitians and protection of Ohio consumers. HB 49 would jeopardize dietitians and consumers in Ohio for the following reasons.

Won't save Ohio taxpayers money – as the current activities and services are totally covered by licensure fees.

The proposal abolishes one of the most efficient and effective licensure boards in Ohio that has been able to adeptly protect Ohio citizens and provide “right sized” regulation and “accessible services to over 4,000 dietitians. Burying

The proposal will disrupt the efficient employment of licensed dietitians in Ohio medical facilities and businesses.

**Advisory Council Structure, Member Qualifications Are Inadequate to Provide Meaningful Regulation of Dietitians - 4759.051 (lines 65662 - 65675)**

Sections 4759.03 and 4759.04 ORC describing the structure and meeting requirements of OBD have been removed and replaced with inadequate language that would vastly diminish the effectiveness of dietitian regulation.

1. Section 4759.051 only requires the Medical Board to appoint a dietetics advisory council and “to make initial appointments” of “individuals knowledgeable in the area of dietetics.” What does “knowledgeable” in dietetics mean? There are no requirements that the advisory council include anyone who would be subject to dietitian licensure.

The Academy feels strongly that the majority of members of any advisory council charged with giving advice to the Medical Board about licensure and regulation of dietitians should be Ohio licensed dietitians who are the subject of regulation, who understand the profession. The OAND can identify and recommend qualified and willing dietitians to the Medical Board and that concept should be included in the authorizing language. Although we have great respect for the Medical Board members and staff, they are not familiar with the actual practice of dietetics, emerging issues within nutrition practice and food science, nor are they aware of the requirements for nationally accepted education, and training of dietitians. A dietetic educator

should be included on the council to evaluate dietetic education programs, and internship experiences which do frequently change as the curriculum is aligned with modern clinical standards and science based practice.

2. There is no requirement for the advisory council to actually meet, or who has authority to call meetings of the council. There is also no mention or responsibility to re-appointment a advisory council members after the initial assignments -so it appears that the advisory council could disappear after the first 3 years of existence.
3. The proposal has removed the voice and input of the public member that has been a component of the independent board. The consumer's voice is important to achieve balance and consumer focus when policy, practice, and regulations merge that will affect Ohio citizens and that achieve common sense regulation of nutrition professionals.

### **Lack of Peer Review in Disciplinary Cases**

4. We strongly feel that dietitian licensees will be at an unfair disadvantage when they are investigated by investigators who may have little or no knowledge about dietetics and who then go on to be disciplined by the 9 Doctors and 3 public members of the Medical Board.

All regulated professionals disciplined through the administrative hearing process should be evaluated by knowledgeable peers who understand the science, art, and inherent dangers within their specific areas of practice.

If the remedy for dietitian input during disciplinary cases is for the Medical Board to hire expert witnesses - this would result in unnecessary added expense – not cost savings. If it is anticipated that advisory council members could be utilized as experts in dietitian proceedings – this supports the need to specify the appointment of licensed dietitians to the advisory council in order to be able to evaluate the practice of peers.

### **Addition of Overly Burdensome Requirements for Physical and Mental Examinations**

5. (lines 65771 – 65777) Section 4759.07 (B) has been added to the existing disciplinary section of the dietetics law.

Section 4759.07(B) (lines 65788 - 65797) requires that “if the (medical) board has reason to believe” the licensee or applicant is impaired that they are compelled to undertake an examination by a treatment provider or physician who is chosen by the medical board and the applicant/licensee must pay for the exam. Such exams cost \$400-\$1,500 in Ohio. Failure by an applicant to take a demanded examination (perhaps because they can't afford it, or find a job in another state while their application in Ohio is still active) constitutes an admission to the allegations and can result in a final order being entered without the taking of testimony or presentation of evidence. This negative finding could follow the dietitian throughout their career and disrupt their ability to get a license and a job as a health professional.

We understand the intent of the requirement as it applies to physicians, nurses, dentists, pharmacists, or others who have access to addictive prescription medications. Those professions have a much higher incidence of drug and alcohol addiction. However, the dietetics profession has a fraction of such issues. Ours are usually application reports of single incident youthful experimentation and DUI violations.

Over the past 10 years, OBD has investigated 114 moral character cases which potentially can include drug and alcohol addiction, as well as other legal convictions. Of those cases OBD has only had to take 6 actions against 3 individual dietitians. (Resulting in 1 license probation/inactivation, 1 voluntary surrender, and 1 revocation for illegally furnishing, selling illegal drugs and injecting dietary supplements in the course of practice) and 1 applicant with pending drug related charges who withdrew her application. The rest were closed after the verification of legal information, and review of evidence that the applicants were fit to practice.

Each year less than 10% of OBD cases are related to drugs and alcohol – versus the Medical Boards 60%.

We have great respect for the addiction treatment component and required after care reporting used by the Medical Board to assure that health professionals are fit to practice. However, the robust, expensive assessment and recovery program created for higher risk physicians does not fit the needs of dietitians.

## **6. Average Days From Receipt of Application to Issuance of a License:**

Under the current structure the Ohio Board of Dietetics is far more timely at issuing initial licenses than the Medical Board. During FY2015 and 2016 the average number of days from submission of a complete application to issuance of a license under the current Ohio Board of Dietetics was:

AVG number of days from receipt of application to license issuance: 8.33 days

\*\*Approximately 20 had a significantly longer timeframe to license issuance due to waiting to receive background check results from another agency.

Without outliers, the average number of days is 3-4.

The Medical Board FY 2015 License Process Timelines as reported in their annual report indicate processing time of applications without a complaint were:

Without complaints

MD/DO – 48 days

DPM – 41 days

Allied Practitioners – 38 days

With resolved complaints

MD/DO – 71 days

DPM – 76 days

Allied Practitioners – 85 days

It doesn't make sense to move OBD into a process that takes over 5 times as long to issue an initial license. It will significantly delay the employment of new graduate dietitians and those dietitians who move into Ohio.

## 7. Enforcement, Investigations, Compliance and Hearing Completion

Ohio Board of Dietetics most recent reported data show that:

FY 15: 113 cases investigated. AVG days from docket to closure is 83 days.

FY 16: 115 cases investigated. AVG days from docket to closure is 99 days.

OSMB FY 2015 Annual Report indicates that Median number of days from receipt of complaint to closure was 157 – 50% longer than OBD’s record.

## 8. Reassignment of (2) OBD Staff

In Section 515.31 lines (105234 – 105308) There is no clear articulation of intent to use current OBD staff in roles related to dietitian programs. But there is clear description of the authority of the Medical Board to reassign staff to other roles and to remove staff with no regard for maintaining the services, efficiency, effectiveness or activities that are currently provided by the independent OBD.

The Ohio Academy of Nutrition and Dietetics requests that the proposal to abolish OBD and move licensing functions and regulation of dietitians to the Ohio State Medical Board be removed from HB 49, that full funding be restored for FY 2018-2019 and that OBD remain an independent licensure board.

Additionally, we request that the entire health licensure boards consolidation proposal included in HB 49 be removed.

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