

12/13/85

Minutes of Meeting
JOINT COMMITTEE OF REFERENCE
LICENSING OF PROFESSIONALS - DIETITIANS
December 10, 1985

A meeting of the Joint Committee of Reference on the Licensing of Professionals - Dietitians was held in Hearing Room 3 of the House Wing at 10:10 a.m., on Wednesday, December 10, 1985, with Co-Chairman Dave Carson presiding.

Members Present.

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| Representative Johnson | Senator Harelson |
| Representative Ridge | Senator Lunn |
| Representative Carson, Co-Chairman | Senator Kunasek, Co-Chairman |

Members Absent.

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| Representative Hanley | Senator A. Gutierrez |
| Representative McLendon (excused) | Senator Hill (excused) |

Speakers.

Sheila Glenn, House Research Analyst
Patrick Chorpensing, Legislative Consultant, Arizona Dietetic Council
Susanne Cheung, Chairman, Licensure, Arizona Dietetic Association
Dr. Linda Vaughan, Assistant Professor, Food and Nutrition, ASU
Robyn J. DeBell, R.D., Arizona Dietetic Association-Tucson
Rhonda Montalvo, R.N., Arizona Nursing Network
Sandra T. Landye, R.D., Arizona Dietetic Association
Richard Borden, Ph. D., Dean, School of Health Professions, NAU
James A. Lowell, President, Arizona Council Against Health Fraud
Sue Zevan, R.D., Central Arizona Dietetic Association
Cathy Corak, Consultant Dietitian, Dimensions in Dietetics, Inc.
Mary H.G. Gessay, R.D., Pediatric Nutrition Services
Mindy Myers, Clinical Dietitian, Yavapai Regional Medical Center

Senator Kunasek suggested, since there is no established procedure for hearings of this type, that the committee hear testimony, then meet again to make it's recommendations. Mr. Carson stated he had no objection and that the meeting would follow that course of action.

Mr. Carson explained the structure of the committee to those present and stated that this meeting is pursuant to House Bill 2281 relating to regulation of health professions.

Sheila Glenn, House Research Analyst, explained H.B. 2281, which was enacted into law and became effective on August 7, 1985. (See Attachment A for copy of remarks) She distributed to the committee H.B. 2281, Health Professions Regulation and Scope of Practice, Summary of Application and Legislation to Regulate Dietitians/Nutritionist, Rationale for Regulating Dietitians/Nutritionist in the State of Arizona and H.B. 2414. (See Attachments B through F)

Patrick Chorpenning, Legislative Consultant, Arizona Dietetic Council, explained that the terms dietitian and nutritionist are one in the same. He then explained the purpose of H.B. 2414 (see Attachment F) which was withdrawn by the Dietetic Council in favor of H.B. 2281 (see Attachment B). Mr. Chorpenning stated that by asking for licensure the dietitians were not trying to keep people out of the profession, but to restrict those who wish to provide advice and consultation without proper training. He added that he believes licensure is needed for regulation of the profession.

In reply to questions from committee members, Mr. Chorpenning explained that registration of dietitians contains no mechanism to take action against people within the profession as licensure would and that at this time anyone may call themselves a dietitian/nutritionist. He also explained that "Registered Dietitian" is a term held by the Dietetic Association and that the Association's requirements must be met in order to use that title.

Susanne Cheung, Chairman, Licensure, Arizona Dietetic Association, informed the committee that registered dietitians provide guidance and counseling to people with special dietary needs, i.e., diabetics, etc., and that the dietitians must have special training and study. She stated that licensure would identify those who have completed such training and give the consumer more information as to who is qualified to give counseling. Ms Cheung distributed to the committee articles pertaining to nutritionists. (See Attachments G and H)

Linda Vaughan, Assistant Professor, Food and Nutrition, Arizona State University, explained that a four year degree is required for a registered dietitian but that in some cases field experience combined with education will fulfill the necessary requirements. She distributed to committee members a copy of the basic education requirements from ASU. (Attachment I)

Robyn J. DeBell, R.D., Arizona Dietetic Association-Tucson, stated that she works closely with doctors and/or referring professionals and does public relations work to educate physicians on the need for the services of dietitians. She distributed to the committee a copy of an article that appeared in USA TODAY. (Attachment J)

Rhonda Montalvo, R.N., Arizona Nursing Network, stated that registered dietitians are an integral part of the health care field and supports the intent of licensure to protect the public. She added that nurses do have courses in school on nutrition, but that they rely on dietitians for complicated problems.

Sandra T. Landye, R.D., Arizona Dietetic Association, stated that health fraud is extensive, especially among the elderly who have problems. She added that she counsels 150-200 people in hospitals or on an out-patient basis, works extensively with doctors and is available to home health care departments of the hospitals. She distributed to the committee an article on food and drug frauds. (Attachment K)

Richard Borden, Ph. D., Dean, School of Health Professions, NAU, stated that he is also a registered physical therapist and supports the effort to license dieticians.

James A. Lowell, President, Arizona Council Against Health Fraud, stated he has published over 100 articles on fraud and is a writer for THE DAILY STAR newspaper in Tucson. He then proceeded with a slide presentation showing examples of cases in which people were victimized and stated there were three main areas of harm to the public; 1) financial harm from purchases of quackery products; 2) omission - where a victim does not get the help advertised; and 3) commission - where a victim does get help but that help is harmful.

Mr. Lowell informed the committee that many times the victims of "scams" are not around to testify, as they have died. He added licensure will not totally solve the problems, but will give the consumer guidelines for determining who is qualified.

Sue Zevan, R.D., Central Arizona Dietetic Association, stated that she is in private practice and that licensure may help decrease health care costs and cited case histories of her clients.

Cathy Corak, Consultant Dietitian, Dimensions in Dietetics, Inc., stated that she works closely with supermarkets and that consumers want to know what the pro and con information is regarding foods. She informed the committee that she also works with long term care facilities for the elderly, most of which have registered dietitians on staff. Her involvement includes nutrition assessment, cost containment, working with technicians and medical teams. She distributed to the committee a pamphlet on "Health Power". (Attachment L)

Mary H.G. Gessay, R.D. Pediatric Nutrition Services, stated that she specializes in maternal, fetal and pediatric nutrition. She added that nutrition is complex and not simplistic.

Mindy Myers, Clinical Dietitian, Yavapai Regional Medical Center, cited actual cases of people who ended up in the hospital as a result of fraudulent counseling. She added that with licensure, the consumer may bring the fraudulent counselors before a board for that fraud.

Senator Harelson warned Ms Myers that the Attorney General's Office and the County Attorney will not "come running" unless there was a big issue at stake because of their heavy work loads.

Susanne Cheung then stated that licensure is only the beginning of this process of educating the public, but that it will provide an avenue by which the consumer may know who is legitimate.

Mr. Carson thanked all in attendance for the well organized presentation of facts. He added that the committee will digest the information handed out and then set a time for another hearing. Mr. Carson also asked the Dietetic Association to provide data to the committee estimating the financial impact on the public should they receive licensure.

Senator Lunn moved, seconded by Mr. Ridge, that the meeting adjourn.
THE MEETING ADJOURNED AT 12:05 P.M.

(Attachments are on file in the office of the Chief Clerk and the Committee Secretary)

D R A F T

During the last legislative session HB 2281 was enacted into law and became effective on August 7, 1985. This act establishes guidelines for the regulation of health professions not regulated before the effective date of the act and for professions which seek to expand their scope of practice.

The act requires that any health profession that seeks regulation must justify the regulation. No profession shall be regulated except for the exclusive purpose of serving the public interest. A health profession will only be regulated if it can be demonstrated that lack of regulation will clearly harm the public health, safety and welfare. The Legislature has also determined that if regulation is necessary, it must be carried out in the least restrictive manner consistent with the public interest and safety. Enhancement of professional status or qualification for third-party reimbursement are not acceptable motives for occupational regulation.

Applicant groups seeking regulation submit a written report to JLOC which assigns the report to an appropriate Committee of Reference which studies the report and then makes a report to JLOC as to whether or not the profession shall be regulated. The Committee of Reference report is submitted to the President, the Speaker and the Governor.

Eight factors must be considered in the report the applicant group submits to JLOC.

1. A definition of the problem and why regulation is necessary, including:
 - a. The nature of the potential harm to the public.
 - b. The extent to which consumers need and will benefit from regulation.
2. Efforts made to address the problem including voluntary efforts to resolve disputes and establishing a code of ethics.
3. Alternatives including regulation of business employers, regulation of the program or service, certification and registration of practitioners and why alternatives would not be adequate to protect the public interest.
4. The benefit to the public if regulation is granted.
5. The extent to which regulation might harm the public.
6. The maintenance of standards.
7. A description of the group proposed for regulation including an estimate of the number of practitioners and different levels of practice.
8. The expected costs of legislation.

Minutes of Meeting
JOINT COMMITTEE OF REFERENCE
LICENSING OF PROFESSIONALS - DIETITIANS
January 13, 1986

A meeting of the Joint Committee of Reference on the Licensing of Professionals - Dietitians was held in Hearing Room 3 of the House Wing at 2:20 p.m., on Monday, January 13, 1986, with Co-Chairman Dave Carson presiding.

Members Present

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|------------------------------------|------------------------------|
| Representative Johnson | Senator Harelson |
| Representative Hanley | Senator Lunn |
| Representative Carson, Co-Chairman | Senator Hill |
| | Senator Kunasek, Co-Chairman |

Members Absent

| | |
|-------------------------|----------------------|
| Representative McLendon | Senator A. Gutierrez |
| Representative Ridge | |

Speakers

Patrick Chorpenning, Legislative Consultant, Arizona Dietetic Council
Sheila Glenn, House Research Analyst
Susanne Cheung, Chairman, Licensure, Arizona Dietetic Association

Mr. Carson explained that comprehensive testimony of the previous hearing of the committee had resulted in a draft (see Attachment A) which would serve as a guideline for discussion in this meeting, adding that he did not anticipate any testimony, as such, at this hearing. He cautioned the committee members that this draft was not an indication that introduction of this legislation to the full legislature was imminent.

Patrick Chorpenning, Legislative Consultant, Arizona Dietetic Council, explained that he and his associates had had an opportunity to review the draft and that the Board of Directors of the Arizona Dietetic Association had met, had reviewed this proposed bill, and is very much in favor of it in its present language. He mentioned that there were members of the Dietetic Association in the audience who would be willing to address the committee to answer any questions.

Sheila Glenn, House Research Analyst, explained and reviewed the wording of the rough draft (see analysis - Attachment B).

Susanne Cheung, Chairman, Licensure, Arizona Dietetic Association, suggested that on page two, line 15, of the draft, the words, "OR A DIETETIC MANAGER" should be added after "TECHNICIAN". She informed the committee that registered dietitians provide professional guidance and counseling to people with special dietary needs. She cited an example wherein a

child had been miscounseled in the use of Vitamin A and, as a result, had suffered fluids on the brain as a result of an overdose of this vitamin. She repeated that licensure of dietitians would identify those individuals who have completed sufficient training to give consumers qualified counseling and information in the area of diet and nutrition.

Senator Harelson expressed concern that, by recommending this current draft, the committee would not be misrepresented in the future with regard to persons wishing to use some unusual remedies for health reasons which the Dietetic Council did not agree with.

Ms Cheung explained that the Association is seeking licensure of Dietitians for the protection of the public, that the public should have people available who are licensed in the law for at least the minimum qualifications and who can check out such claims of "cures" by individuals.

Senator Kunasek clarified the purpose of the committee and stated that it was his understanding the committee was to either encourage or discourage in recommending to the entire legislature that this committee feels that licensing is the proper thing at this time. He stated that, in his opinion, what the committee should be doing is one of making a recommendation to the full legislature as to whether or not this committee recommends licensing or registration of some type.

Mr. Carson responded that he agreed with Mr. Kunasek and mentioned that the rough draft represents the intent of the dietitians and that it should be clear in everyone's mind what that intent is.

Senator Kunasek stated that regardless of the recommendation of the committee, it is still up to the group advocating licensure as to whether or not they want to pursue it. He added that the committee had sufficient information at this point to make a decision.

Mr. Carson stated that, as a result of the hearings, the committee should now have a pretty objective test as to whether HB 2281 had merit. He further added that with the rough draft stating the intentions of the dietitians, plus the testimony received at length in the first hearing, that the committee should have enough information to make a reasonable decision.

Senator Lunn explained that he shared Mr. Kunasek's concerns about the function of the hearings but felt it was necessary to ensure that the committee had fully accomplished its mission. Mr. Lunn then moved, with Mrs. Johnson seconding, that the committee recommend that the full legislature give further attention to this matter.

A voice vote was taken and the committee voted 5-2-3 to recommend that the matter of licensing dietitians be advanced to the full legislature for consideration.

Senator Lunn moved, seconded by Mrs. Johnson, that the meeting adjourn.

THE MEETING ADJOURNED AT 2:42 P.M.

(Attachments are on file in the office of the Chief Clerk and the Committee Secretary)

Licensing of Dietitians
1/13/86

Rough Draft
Folder #622
1/2/86 JS/js

REFERENCE TITLE: board of dietitians

State of Arizona
House of Representatives
Thirty-seventh Legislature
Second Regular Session
1986

H. B. _____

Introduced by _____

AN ACT

RELATING TO PROFESSIONS AND OCCUPATIONS; PROVIDING FOR LICENSURE OF DIETITIANS; PRESCRIBING DEFINITIONS; PROVIDING FOR THE BOARD OF DIETITIANS; PRESCRIBING MEMBERSHIP, TERMS, ORGANIZATION, MEETINGS, COMPENSATION AND DUTIES OF THE BOARD; PRESCRIBING FEES; PRESCRIBING NONAPPLICABILITY OF LICENSING STATUTES; PRESCRIBING LICENSE QUALIFICATIONS; PRESCRIBING LICENSE RENEWAL; PRESCRIBING CONTINUING EDUCATION REQUIREMENTS; PROVIDING FOR WAIVER OF EXAMINATION; PROVIDING FOR COMITY; PRESCRIBING DISCIPLINARY ACTION; PRESCRIBING GROUNDS FOR DISCIPLINARY ACTION; PRESCRIBING COMPLAINT PROCEDURE; PROVIDING FOR INACTIVE STATUS; PRESCRIBING UNLAWFUL ACT; PRESCRIBING DEFINITION AND CLASSIFICATION OF A CRIMINAL OFFENSE; PRESCRIBING SUNSET TERMINATION DATE OF THE BOARD AND RELATED STATUTES; PRESCRIBING INITIAL TERMS OF ADVISORY COUNCIL MEMBERS; AMENDING TITLE 32, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 33; AMENDING SECTION 41-2366, ARIZONA REVISED STATUTES; AMENDING SECTION 41-2374, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1985, CHAPTER 366, SECTION 4; REPEALING SECTION 41-2374, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1985, CHAPTER 325, SECTION 4, AND MAKING AN APPROPRIATION.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Purpose

3 In order to safeguard the public health, safety and welfare, to
4 protect the public from being misled by inaccurate information, to assure
5 the availability of nutritional services of high quality to persons in need
6 of such services and to assure the highest degree of professional conduct
7 on the part of dietitians, the purpose of this act is to provide for the
8 regulation of dietitians through licensure.

9 Sec. 2. Title 32, Arizona Revised Statutes, is amended by adding
10 chapter 33, to read:

ATTACHMENT A

CHAPTER 33
DIETITIANS

ARTICLE 1. BOARD OF DIETITIANS

32-3251. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOARD" MEANS THE BOARD OF DIETITIANS.
2. "DIETETIC ASSISTANT" MEANS A PERSON RESPONSIBLE FOR PROVIDING FOOD SERVICE SUPERVISION OR NUTRITION CARE SERVICE, OR BOTH, UNDER THE SUPERVISION OF A DIETITIAN OR A DIETETIC TECHNICIAN.
3. "DIETETIC COUNSELING" MEANS THOSE SERVICES PROVIDED BY A HEALTH CARE PROFESSIONAL WHO HAS DEFINITE AND SPECIALIZED KNOWLEDGE AND TRAINING IN THE NUTRITIONAL CARE OF INDIVIDUALS THROUGHOUT THE LIFE CYCLE AND WHO HAS RESPONSIBILITY FOR DESIGN AND MANAGEMENT OF NUTRITIONAL CARE IN VARIOUS SETTINGS.
4. "DIETETIC TECHNICIAN" MEANS A PERSON WHO ASSISTS EITHER IN FOOD SERVICE MANAGEMENT OR IN PROVIDING NUTRITIONAL CARE SERVICES TO INDIVIDUALS OR GROUPS UNDER THE SUPERVISION OF A DIETITIAN.
5. "DIETETICS" MEANS THE INTEGRATION AND APPLICATION OF SCIENTIFIC PRINCIPLES OF FOOD, NUTRITION, BIOCHEMISTRY, PHYSIOLOGY, MANAGEMENT AND BEHAVIORAL AND SOCIAL SCIENCES TO ACHIEVE AND MAINTAIN PEOPLE'S HEALTH.
6. "DIETITIAN" MEANS A PERSON RESPONSIBLE FOR THE NUTRITIONAL CARE OF INDIVIDUALS OR GROUPS, OR BOTH. THIS CARE INCLUDES THE APPLICATION OF THE SCIENCE AND ART OF HUMAN NUTRITION IN HELPING PEOPLE SELECT AND OBTAIN FOOD FOR THE PRIMARY PURPOSE OF NOURISHING THEIR BODIES IN HEALTH OR DISEASE THROUGHOUT THE LIFE CYCLE.
7. "UNPROFESSIONAL CONDUCT" INCLUDES DISHONESTY, FRAUD, INCOMPETENCY OR GROSS NEGLIGENCE IN THE PERFORMANCE OF PROFESSIONAL RESPONSIBILITIES.

32-3252. Board of dietitians; membership; terms

A. A BOARD OF DIETITIANS IS ESTABLISHED CONSISTING OF THE FOLLOWING SEVEN MEMBERS RECOMMENDED BY THE ARIZONA DIETETIC ASSOCIATION AND APPOINTED BY THE GOVERNOR:

1. ONE DIETITIAN ENGAGED IN THE PRACTICE OF CLINICAL DIETETICS AND RESEARCH.
2. ONE DIETITIAN ENGAGED IN THE PRACTICE OF COMMUNITY DIETETICS.
3. ONE DIETITIAN ENGAGED IN MANAGEMENT.
4. ONE DIETITIAN ENGAGED IN CONSULTATION AND PRIVATE PRACTICE.
5. ONE DIETITIAN WHO IS AN EDUCATOR.
6. ONE PHYSICIAN LICENSED PURSUANT TO CHAPTER 13 OR 17 OF THIS TITLE.
7. ONE PUBLIC MEMBER.

B. THE TERMS OF OFFICE OF THE BOARD MEMBERS ARE THREE YEARS. A MEMBER SHALL NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

32-3253. Organization; meetings; compensation

A. THE BOARD SHALL ANNUALLY ELECT A CHAIRMAN, VICE-CHAIRMAN AND SECRETARY-TREASURER FROM ITS MEMBERSHIP.

B. THE BOARD MAY HOLD MEETINGS AT TIMES AND PLACES IT DESIGNATES.

C. A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTES A QUORUM.

1 D. MEMBERS OF THE BOARD ARE ELIGIBLE TO RECEIVE COMPENSATION AS
2 DETERMINED PURSUANT TO SECTION 38-611 FOR EACH DAY OF ACTUAL SERVICE IN THE
3 BUSINESS OF THE BOARD.

4 32-3254. Powers and duties of the board; fees

5 A. THE BOARD SHALL ADOPT REASONABLE AND NECESSARY RULES AND
6 STANDARDS FOR THE ADMINISTRATION OF THIS CHAPTER, INCLUDING SETTING FEES
7 WHICH DO NOT EXCEED THE FOLLOWING:

- 8 1. FOR A LICENSE EXAMINATION, TWO HUNDRED DOLLARS.
- 9 2. FOR ISSUANCE OF A LICENSE, TWO HUNDRED DOLLARS.
- 10 3. FOR BIENNIAL LICENSE RENEWAL, ONE HUNDRED SIXTY DOLLARS.
- 11 4. FOR DELINQUENT LICENSE RENEWAL, FIFTY DOLLARS.

12 B. THE BOARD SHALL LICENSE DIETITIANS PURSUANT TO THIS CHAPTER.

13 32-3255. Dietitian licensing fund

14 A. A BOARD OF DIETITIANS FUND IS ESTABLISHED.

15 B. ALL MONIES COLLECTED PURSUANT TO THIS CHAPTER SHALL BE
16 TRANSMITTED TO THE STATE TREASURER WHO SHALL DEPOSIT TEN PER CENT OF THE
17 MONIES IN THE STATE GENERAL FUND AND TRANSFER THE REMAINING NINETY PER CENT
18 TO THE BOARD OF DIETITIANS FUND.

19 C. MONIES DEPOSITED IN THE FUND ARE SUBJECT TO SECTION 35-143.01.

20 ARTICLE 2. LICENSURE

21 32-3271. Nonapplicability of chapter

22 THIS CHAPTER DOES NOT APPLY TO:

23 1. A STUDENT WHO IS ENROLLED IN AN APPROVED EDUCATIONAL PROGRAM AND
24 ENGAGES IN THE PRACTICE OF DIETETICS UNDER THE SUPERVISION OF A LICENSED
25 DIETITIAN AS PART OF AN APPROVED EDUCATIONAL PROGRAM.

26 2. A DIETITIAN WHO IS SERVING IN THE ARMED FORCES OR THE PUBLIC
27 HEALTH SERVICE OF THE UNITED STATES OR IS EMPLOYED BY THE VETERANS
28 ADMINISTRATION, IF HIS PRACTICE OF THE PROFESSION OF DIETETICS IS RELATED
29 AND LIMITED TO SUCH SERVICE OR EMPLOYMENT.

30 3. A PHYSICIAN LICENSED PURSUANT TO CHAPTER 13 OR 17 OF THIS TITLE,
31 A NURSE LICENSED PURSUANT TO CHAPTER 15 OF THIS TITLE, A PHARMACIST
32 LICENSED PURSUANT TO CHAPTER 18 OF THIS TITLE, A NATUROPATH LICENSED
33 PURSUANT TO CHAPTER 14 OF THIS TITLE OR A HOMEOPATH LICENSED PURSUANT TO
34 CHAPTER 29 OF THIS TITLE IF HIS PRACTICE OF DIETETICS IS INCIDENTAL TO THE
35 PRACTICE OF HIS OWN PROFESSION.

36 4. A DIETETIC ASSISTANT OR DIETETIC TECHNICIAN UNDER THE DIRECT
37 SUPERVISION OF A LICENSED DIETITIAN.

38 5. A PERSON WHO IS EMPLOYED BY AN AGENCY, BUREAU OR DIVISION OF THE
39 FEDERAL GOVERNMENT, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE IF
40 HIS PRACTICE OF THE PROFESSION OF DIETETICS IS RELATED AND LIMITED TO SUCH
41 EMPLOYMENT.

42 32-3272. Qualifications for dietitian license; renewal;
43 continuing education

44 A. THE BOARD SHALL ISSUE A DIETITIAN LICENSE PURSUANT TO ITS RULES
45 TO AN APPLICANT WHO:

- 46 1. IS OF GOOD CHARACTER.
- 47 2. HAS SATISFACTORILY COMPLETED EDUCATION AND TRAINING APPROVED BY
48 THE BOARD.

1 3. HAS PASSED AN EXAMINATION WHICH IS DESIGNED TO TEST FOR
2 COMPETENCY IN DIETETICS AND IS ADMINISTERED BY A PUBLIC OR PRIVATE AGENCY
3 RECOGNIZED AND APPROVED BY THE BOARD.

4 8. A LICENSE IS NOT TRANSFERABLE.

5 C. A LICENSE EXPIRES ON JUNE 30 OF EACH EVEN NUMBERED YEAR UNLESS
6 SOONER REVOKED OR SUSPENDED. A LICENSED DIETITIAN MAY RENEW HIS LICENSE BY
7 PAYING THE PRESCRIBED RENEWAL FEE AND SUBMITTING PROOF OF HAVING
8 SUCCESSFULLY COMPLETED AT LEAST THIRTY HOURS OF CONTINUING EDUCATION.

9 D. IF A LICENSED DIETITIAN FAILS TO SUBMIT PROOF OF HAVING
10 SATISFIED THE CONTINUING EDUCATION REQUIREMENT, THE BOARD SHALL NOT RENEW
11 HIS LICENSE UNLESS HE FULFILLS THE CONTINUING EDUCATION REQUIREMENT WITHIN
12 ONE HUNDRED TWENTY DAYS.

13 32-3273. Waiver of examination; comity

14 THE BOARD MAY ISSUE A DIETITIAN LICENSE WITHOUT AN EXAMINATION OR
15 WITH A PARTIAL EXAMINATION TO AN APPLICANT WHO HOLDS A DIETITIAN LICENSE
16 ISSUED BY ANOTHER STATE IF THE STANDARDS FOR LICENSURE IN THAT STATE ARE AT
17 LEAST SUBSTANTIALLY EQUIVALENT TO THOSE OF THIS STATE AND THE APPLICANT IS
18 OTHERWISE QUALIFIED.

19 ARTICLE 3. REGULATION

20 32-3281. Disciplinary action; grounds

21 THE BOARD MAY DENY AN APPLICATION FOR A DIETITIAN LICENSE OR, AFTER
22 NOTICE AND OPPORTUNITY FOR A HEARING, SUSPEND OR REVOKE A DIETITIAN
23 LICENSE, CENSURE A LICENSED DIETITIAN, PLACE A LICENSED DIETITIAN ON
24 PROBATION OR IMPOSE A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS
25 FOR EACH OFFENSE FOR ANY ONE OR A COMBINATION OF THE FOLLOWING:

26 1. CONVICTION OF A FELONY, OR A MISDEMEANOR INVOLVING MORAL
27 TURPITUDE.

28 2. OBTAINING OR RENEWING A LICENSE BY FRAUD OR DECEIT.

29 3. UNPROFESSIONAL CONDUCT.

30 4. ADDICTION OR DEPENDENCE ON DRUGS OR ALCOHOL.

31 5. WRONGFUL TRANSFER OF A LICENSE OR FALSELY IMPERSONATING ANOTHER
32 LICENSED DIETITIAN.

33 6. A VIOLATION OF THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS
34 CHAPTER.

35 32-3282. Complaint procedure; appeal

36 A. A COMPLAINT AGAINST A LICENSED DIETITIAN SHALL BE FILED IN
37 WRITING WITH THE BOARD WITHIN SIXTY DAYS AFTER THE DATE OF THE OCCURRENCE
38 OF THE EVENT CAUSING THE COMPLAINT. IF THE BOARD DETERMINES THAT THE
39 CHARGES MADE IN THE COMPLAINT ARE SUFFICIENT, IF TRUE, TO WARRANT
40 SUSPENSION OR REVOCATION OF A DIETITIAN LICENSE OR CENSURE OR PROBATION OF
41 A LICENSED DIETITIAN UNDER THIS ARTICLE, IT SHALL ISSUE AN ORDER FIXING THE
42 TIME AND PLACE FOR A HEARING AND REQUIRING THE LICENSED DIETITIAN
43 COMPLAINED AGAINST TO APPEAR AND ANSWER THE COMPLAINT. THE ORDER SHALL
44 HAVE A COPY OF THE COMPLAINT AFFIXED TO IT AND BOTH SHALL BE SERVED ON THE
45 LICENSED DIETITIAN EITHER PERSONALLY OR BY CERTIFIED MAIL SENT TO THE LAST
46 ADDRESS OF THE LICENSED DIETITIAN KNOWN TO THE BOARD AT LEAST TWENTY DAYS
47 BEFORE THE DATE SET FOR HEARING. ALL HEARINGS SHALL BE CONDUCTED PURSUANT
48 TO TITLE 41, CHAPTER 6.

1 B. DECISIONS OF THE BOARD ARE SUBJECT TO JUDICIAL REVIEW PURSUANT
2 TO TITLE 12, CHAPTER 7, ARTICLE 6.

3 32-3283. Inactive status

4 A. A LICENSED DIETITIAN IN GOOD STANDING MAY REQUEST IN WRITING
5 THAT THE BOARD TRANSFER HIS NAME AND LICENSE TO AN INACTIVE STATUS LIST.

6 B. A LICENSED DIETITIAN WHO REQUESTS REMOVAL OF HIS NAME AND
7 LICENSE FROM THE INACTIVE STATUS LIST, ON SUBMITTAL OF PROOF OF HAVING
8 SUCCESSFULLY COMPLETED THIRTY HOURS OF CONTINUING EDUCATION, PAYMENT OF
9 PRESCRIBED FEES AND APPROVAL OF THE BOARD, MAY RESUME ACTIVE LICENSE
10 STATUS.

11 32-3284. Unlawful act

12 IT IS UNLAWFUL FOR A PERSON TO REPRESENT HIMSELF AS A DIETITIAN
13 UNLESS HE IS LICENSED PURSUANT TO THIS CHAPTER.

14 32-3285. Violation; classification

15 A PERSON WHO VIOLATES ANY PROVISION OF THIS CHAPTER IS GUILTY OF A
16 CLASS 3 MISDEMEANOR. EACH DAY OF VIOLATION CONSTITUTES A SEPARATE
17 OFFENSE.

18 Sec. 3. Section 41-2366, Arizona Revised Statutes, is amended to
19 read:

20 41-2366. Schedule for termination July 1, 1990

21 A. The following agencies shall terminate on July 1, 1990:

- 22 1. The department of health services.
- 23 2. The solar energy commission.
- 24 3. The state board of tax appeals.
- 25 4. The Arizona commission on uniform state laws.
- 26 5. The Arizona water commission.
- 27 6. The air pollution control hearing board.
- 28 7. The day care advisory board.
- 29 8. The Arizona council for the ~~deaf~~ HEARING IMPAIRED.
- 30 9. The water quality control council.
- 31 10. The feed advisory council.
- 32 11. The compensation fund board and board of directors, including
33 the compensation fund investment committee and the compensation fund
34 manager.
- 35 12. The state board of deposit.
- 36 13. The department of library, archives, and public records,
37 including the activities and functions of the library and archives board
38 and director and the historical advisory commission and the board of
39 library examiners.
- 40 14. The joint legislative budget committee.
- 41 15. The state auditor general.
- 42 16. The legislative council.
- 43 17. The joint legislative tax committee.
- 44 18. The department of water resources.
- 45 19. The state board of psychologist examiners.
- 46 20. The advisory council on aging.
- 47 21. The state board of accountancy.
- 48 22. The state dental board.

1 23. Subject to subsection B, the state insurance department.
2 24. The agriculture and horticulture commission and activities and
3 functions of the state entomologist, the state chemist and those
4 activities relating to fruit and vegetable standardization.
5 25. The small business procurement advisory committee.
6 26. THE BOARD OF DIETITIANS.
7 B. Termination of the insurance department is subject to approval
8 by the voters of a constitutional amendment repealing the authority for the
9 department pursuant to article XV, section 5, Constitution of Arizona.
10 Sec. 4. Section 41-2374, Arizona Revised Statutes, as amended by
11 Laws 1985, chapter 366, section 4, is amended to read:
12 41-2374. Schedule for termination of statutes January 1, 1991
13 The following statutes are repealed on January 1, 1991:
14 1. Title 36, Arizona Revised Statutes, relating to the department
15 of health services.
16 2. Title 41, chapter 3, article 6, Arizona Revised Statutes,
17 relating to the solar energy commission.
18 3. Title 42, chapter 1, article 5, Arizona Revised Statutes,
19 relating to the state board of tax appeals.
20 4. Sections 41-1306 and 41-1307, Arizona Revised Statutes, relating
21 to the Arizona commission on uniform state laws.
22 5. Title 45, chapter 1, article 1.1, Arizona Revised Statutes,
23 relating to the Arizona water commission.
24 6. Title 36, chapter 14, article 1, Arizona Revised Statutes,
25 relating to the air pollution control hearing board.
26 7. Title 36, chapter 7.1, article 2, Arizona Revised Statutes,
27 relating to the day care advisory board.
28 8. Title 36, chapter 17.1, article 1, Arizona Revised Statutes,
29 relating to the Arizona council for the ~~deaf~~ HEARING IMPAIRED.
30 9. Title 36, chapter 16, article 1, Arizona Revised Statutes,
31 relating to the water quality control council.
32 10. Title 24, chapter 7, article 1, Arizona Revised Statutes,
33 relating to the feed advisory committee.
34 11. Title 23, chapter 6, article 5, Arizona Revised Statutes,
35 relating to the compensation fund board and board of directors, including
36 the compensation fund investment committee and the compensation fund
37 manager.
38 12. Title 35, chapter 2, article 2, Arizona Revised Statutes,
39 relating to the state board of deposit.
40 13. Title 11, chapter 7, article 1, Arizona Revised Statutes,
41 relating to the board of library examiners and title 41, chapter 8, article
42 3, relating to the department of library, archives and public records,
43 including the activities and functions of the library and archives board,
44 director and the historical advisory commission.
45 14. Title 41, chapter 7, article 10, Arizona Revised Statutes,
46 relating to the joint legislative budget committee.
47 15. Title 41, chapter 7, articles 10.1 and 10.2, Arizona Revised
48 Statutes, relating to the state auditor general.

1 16. Title 41, chapter 8, article 1, Arizona Revised Statutes,
2 relating to the legislative council.

3 17. Title 41, chapter 8, article 2, Arizona Revised Statutes,
4 relating to the joint legislative tax committee.

5 18. Title 45, chapter 1, article 1 and chapter 2, Arizona Revised
6 Statutes, relating to the department of water resources.

7 19. Title 32, chapter 19.1, Arizona Revised Statutes, relating to
8 psychologists.

9 20. Title 46, chapter 1, article 7, Arizona Revised Statutes,
10 relating to the advisory council on aging.

11 21. Title 32, chapter 6, Arizona Revised Statutes, relating to
12 certified public accountants.

13 22. Title 32, chapter 11, Arizona Revised Statutes, relating to the
14 dental board.

15 23. Title 20, Arizona Revised Statutes, relating to insurance.

16 24. Title 3, Arizona Revised Statutes, relating to various
17 agricultural functions and the Arizona commission of agriculture and
18 horticulture.

19 25. TITLE 41, CHAPTER 23, ARTICLE 11, ARIZONA REVISED STATUTES,
20 RELATING TO THE SMALL BUSINESS PROCUREMENT PROGRAM.

21 26. TITLE 32, CHAPTER 33, ARIZONA REVISED STATUTES, RELATING TO
22 DIETITIANS.

23 Sec. 5. Repeal

24 Section 41-2374, Arizona Revised Statutes, as amended by Laws 1985,
25 chapter 325, section 4, is repealed.

26 Sec. 6. Initial terms of board of dietitians members

27 A. Notwithstanding section 32-3252, Arizona Revised Statutes, as
28 added by this act, the initial terms of members of the board of dietitians
29 are:

30 1. Three terms beginning on the effective date of this act and
31 ending on June 30, 1988.

32 2. Four terms beginning on the effective date of this act and ending
33 on June 30, 1989.

34 B. The governor shall make all subsequent appointments as
35 prescribed by statute.

36 Sec. 7. Appropriation

37 The sum of _____ is appropriated from the state general
38 fund to the board of dietitians fund for personal services, in-state
39 travel, professional and outside services and other operating expenses.

House of Representatives

MEMO

DATE: January 6, 1986

TO: Members of House Tourism, Professions and Occupations
Committee of Reference
Members of Senate Health and Welfare Committee of
Reference

FROM: Sheila Glenn

RE: Board of Dietitians; Rough draft folder 622 1/2/86 JS/js

This bill provides for the regulation of dietitians through licensing. The bill begins with an intent clause. The definitions section defines "board," "dietetic assistant," "dietetic counseling," "dietetic technician," "dietetics," "dietitian," and "unprofessional conduct."

The bill prescribes a seven member board consisting of five dietitians, one medical or osteopathic physician and a public member. Terms of office are three years and no member may serve more than two consecutive terms. Officers consist of a chairman, vice-chairman, and a secretary-treasurer. A majority of members constitutes a quorum. Members are eligible for compensation.

The board may adopt rules and regulations and set fees not to exceed the following:

- License exam - \$200
- Issuance of license - \$200
- License renewal - \$160
- Delinquent license renewal - \$50

The Board of Dietitians is a 90-10 board. Several groups are not regulated by the Board. They include:

- Students of dietetics
- A dietitian in the armed forces or health service of the United States
- A medical doctor, osteopath, pharmacist, naturopath, nurse or homeopath
- A dietetic assistant or technician under the direction of a dietitian
- A person employed by a political subdivision of the state or by the federal government.

Qualifications for licensure of dietitians are given. Renewal of a license requires 30 hours of continuing education.

ATTACHMENT B

The Board may license a dietitian from another state without examination or with a partial examination if standards in the other state are comparable to those of Arizona.

The Board may deny a license application, or after notice and a hearing suspend or revoke a license, censure a dietitian, place a dietitian on probation or impose a civil penalty of not more than \$1000.

The bill provides a procedure for complaints against licensed dietitians and hearings.

A dietitian in good standing may request that his name and license be transferred to inactive status. Removal of inactive status requires payment of required fees, approval of the Board and proof of 30 hours of continuing education.

Violation of any provisions of the chapter is a class 3 misdemeanor. Each day of violation constitutes a separate offense.

The Board of Dietitians terminates in 1990 and related statutes in 1991.

An appropriation is provided for.

pm8619

ISSUED BY
ROSE MOFFORD
SECRETARY OF STATE

State of Arizona
House of Representatives
Thirty-seventh Legislature
First Regular Session
1985

CHAPTER 352

HOUSE BILL 2281

AN ACT

RELATING TO PROFESSIONS AND OCCUPATIONS; ESTABLISHING GUIDELINES FOR THE REGULATION OF HEALTH PROFESSIONS; PRESCRIBING DEFINITIONS; PRESCRIBING NONAPPLICABILITY OF STATUTORY PROVISIONS; PRESCRIBING REQUIREMENTS FOR REGULATION OF HEALTH PROFESSION LEGISLATION; PRESCRIBING APPLICANT GROUPS' WRITTEN REPORTS; PRESCRIBING REGULATORY FACTORS; PRESCRIBING FACTORS FOR INCREASE IN SCOPE OF PRACTICE; PRESCRIBING ACCOMPANYING EVIDENCE FOR CONTINUING EDUCATION REQUIREMENTS, AND AMENDING TITLE 32, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 31.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Purpose; intent

3 A. The purpose of this act is to establish guidelines for the
4 regulation of health professions which are not regulated by this state
5 before the effective date of this act and for those regulated professions
6 which seek to increase their scope of practice.

7 B. The legislature believes that all individuals should be
8 permitted to enter into a health profession unless there is an overwhelming
9 need for this state to protect the interests of the public by restricting
10 entry into the profession. If such a need is identified, the regulation
11 adopted by this state should be set at the least restrictive level
12 consistent with the public interest to be protected.

13 C. Requirements for licensees to engage in continuing education as
14 a condition of continued licensure have not been proven to be an effective
15 method of guaranteeing or improving the competence of licensees or the
16 quality of care received by the consumer. The legislature is concerned
17 about the appropriateness of mandated continuing education.

18 Sec. 2. Title 32, Arizona Revised Statutes, is amended by adding
19 chapter 31, to read:

20 CHAPTER 31

21 REGULATION OF HEALTH PROFESSIONS

22 ARTICLE 1. GENERAL PROVISIONS

23 32-3101. Definitions

24 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1 1. "APPLICANT GROUP" MEANS ANY HEALTH PROFESSIONAL GROUP OR
2 ORGANIZATION, ANY INDIVIDUAL OR ANY OTHER INTERESTED PARTY WHICH PROPOSES
3 THAT ANY HEALTH PROFESSIONAL GROUP NOT PRESENTLY REGULATED BE REGULATED OR
4 WHICH PROPOSES TO INCREASE THE SCOPE OF PRACTICE OF A HEALTH PROFESSION.

5 2. "CERTIFICATION" MEANS A VOLUNTARY PROCESS BY WHICH A REGULATORY
6 ENTITY GRANTS RECOGNITION TO AN INDIVIDUAL WHO HAS MET CERTAIN
7 PREREQUISITE QUALIFICATIONS SPECIFIED BY THAT REGULATORY ENTITY AND WHO
8 MAY ASSUME OR USE THE WORD "CERTIFIED" IN HIS TITLE OR DESIGNATION TO
9 PERFORM PRESCRIBED HEALTH PROFESSIONAL TASKS.

10 3. "GRANDFATHER CLAUSE" MEANS A PROVISION IN REGULATORY LEGISLATION
11 APPLICABLE TO PRACTITIONERS ACTIVELY ENGAGED IN THE REGULATED HEALTH
12 PROFESSION BEFORE THE EFFECTIVE DATE OF THE REGULATORY LEGISLATION WHICH
13 EXEMPTS THE PRACTITIONERS FROM MEETING THE PREREQUISITE QUALIFICATIONS SET
14 FORTH IN THE REGULATORY LEGISLATION TO PERFORM PRESCRIBED OCCUPATIONAL
15 TASKS.

16 4. "HEALTH PROFESSIONS" INCLUDES BUT IS NOT LIMITED TO THE
17 FOLLOWING REGULATED PROFESSIONS AND OCCUPATIONS:

- 18 (a) PODIATRY PURSUANT TO CHAPTER 7 OF THIS TITLE.
- 19 (b) CHIROPRACTIC PURSUANT TO CHAPTER 8 OF THIS TITLE.
- 20 (c) DENTISTRY PURSUANT TO CHAPTER 11 OF THIS TITLE.
- 21 (d) MEDICINE PURSUANT TO CHAPTER 13 OF THIS TITLE.
- 22 (e) NATUROPATHY PURSUANT TO CHAPTER 14 OF THIS TITLE.
- 23 (f) NURSING PURSUANT TO CHAPTER 15 OF THIS TITLE.
- 24 (g) DISPENSING OPTICIANS PURSUANT TO CHAPTER 15.1 OF THIS TITLE.
- 25 (h) OPTOMETRY PURSUANT TO CHAPTER 16 OF THIS TITLE.
- 26 (i) OSTEOPATHIC MEDICINE PURSUANT TO CHAPTER 17 OF THIS TITLE.
- 27 (j) PHARMACY PURSUANT TO CHAPTER 18 OF THIS TITLE.
- 28 (k) PHYSICAL THERAPY PURSUANT TO CHAPTER 19 OF THIS TITLE.
- 29 (l) PSYCHOLOGY PURSUANT TO CHAPTER 19.1 OF THIS TITLE.
- 30 (m) VETERINARY MEDICINE PURSUANT TO CHAPTER 21 OF THIS TITLE.
- 31 (n) PHYSICIAN'S ASSISTANTS PURSUANT TO CHAPTER 25 OF THIS TITLE.
- 32 (o) RADIOLOGIC TECHNOLOGISTS PURSUANT TO CHAPTER 28 OF THIS TITLE.
- 33 (p) HOMEOPATHIC PHYSICIANS PURSUANT TO CHAPTER 29 OF THIS TITLE.
- 34 (q) MIDWIFERY PURSUANT TO TITLE 36, CHAPTER 6, ARTICLE 7.
- 35 (r) HEARING AID DISPENSERS PURSUANT TO TITLE 36, CHAPTER 17.

36 5. "INCREASE THE SCOPE OF PRACTICE" MEANS TO ENGAGE IN CONDUCT
37 BEYOND THE AUTHORITY GRANTED TO A HEALTH PROFESSION BY LEGISLATION.

38 6. "INSPECTION" MEANS THE PERIODIC EXAMINATION OF PRACTITIONERS BY
39 A STATE AGENCY IN ORDER TO ASCERTAIN WHETHER THE PRACTITIONERS' OCCUPATION
40 IS BEING CARRIED OUT IN A FASHION CONSISTENT WITH THE PUBLIC HEALTH, SAFETY
41 AND WELFARE.

42 7. "LEGISLATIVE COMMITTEES OF REFERENCE" MEANS JOINT SUBCOMMITTEES
43 COMPOSED OF THE MEMBERS OF THE APPROPRIATE STANDING COMMITTEES OF THE HOUSE
44 OF REPRESENTATIVES AND SENATE APPOINTED PURSUANT TO SECTION 41-2354.

45 8. "LICENSURE" OR "LICENSE" MEANS AN INDIVIDUAL, NONTRANSFERABLE
46 AUTHORIZATION TO CARRY ON A HEALTH ACTIVITY WHICH WOULD OTHERWISE BE
47 UNLAWFUL IN THIS STATE IN THE ABSENCE OF THE PERMISSION, AND THAT IS BASED
48 ON QUALIFICATIONS WHICH INCLUDE GRADUATION FROM AN ACCREDITED OR APPROVED

1 PROGRAM AND ACCEPTABLE PERFORMANCE ON A QUALIFYING EXAMINATION OR A SERIES
2 OF EXAMINATIONS.

3 9. "PRACTITIONER" MEANS AN INDIVIDUAL WHO HAS ACHIEVED KNOWLEDGE
4 AND SKILL BY PRACTICE AND WHO IS ACTIVELY ENGAGED IN A SPECIFIED HEALTH
5 PROFESSION.

6 10. "PUBLIC MEMBER" MEANS AN INDIVIDUAL WHO IS NOT AND NEVER HAS BEEN
7 A MEMBER OR SPOUSE OF A MEMBER OF THE HEALTH PROFESSION BEING REGULATED AND
8 WHO DOES NOT HAVE AND NEVER HAS HAD A MATERIAL FINANCIAL INTEREST IN EITHER
9 THE RENDERING OF THE HEALTH PROFESSIONAL SERVICE BEING REGULATED OR AN
10 ACTIVITY DIRECTLY RELATED TO THE PROFESSION BEING REGULATED.

11 11. "REGISTRATION" MEANS THE FORMAL NOTIFICATION WHICH, BEFORE
12 RENDERING SERVICES, A PRACTITIONER SHALL SUBMIT TO A STATE AGENCY SETTING
13 FORTH THE NAME AND ADDRESS OF THE PRACTITIONER, THE LOCATION, NATURE AND
14 OPERATION OF THE HEALTH ACTIVITY TO BE PRACTICED AND, IF REQUIRED BY A
15 REGULATORY ENTITY, A DESCRIPTION OF THE SERVICE TO BE PROVIDED.

16 12. "REGULATORY ENTITY" MEANS ANY BOARD, COMMISSION, AGENCY OR
17 DEPARTMENT OF THIS STATE WHICH REGULATES ONE OR MORE HEALTH PROFESSIONS IN
18 THIS STATE.

19 13. "STATE AGENCY" MEANS ANY DEPARTMENT, BOARD, COMMISSION OR AGENCY
20 OF THIS STATE.

21 32-3102. Nonapplicability of chapter

22 THIS CHAPTER DOES NOT:

23 1. APPLY TO ANY REGULATORY ENTITY OR INCREASE IN SCOPE OF PRACTICE
24 LEGISLATIVELY ENACTED BEFORE THE EFFECTIVE DATE OF THIS CHAPTER, EXCEPT AS
25 PROVIDED IN THIS CHAPTER.

26 2. APPLY TO OR INTERFERE IN ANY WAY WITH THE PRACTICE OF RELIGION OR
27 ANY KIND OF TREATMENT BY PRAYER.

28 3. APPLY TO ANY REMEDIAL OR TECHNICAL AMENDMENTS TO ANY
29 LEGISLATION.

30 32-3103. Regulation of health profession legislation

31 A. REGULATION SHALL NOT BE IMPOSED ON ANY UNREGULATED HEALTH
32 PROFESSION EXCEPT FOR THE EXCLUSIVE PURPOSE OF PROTECTING THE PUBLIC
33 INTEREST. ALL PROPOSED LEGISLATION TO REGULATE A HEALTH PROFESSION FOR THE
34 FIRST TIME SHALL BE REVIEWED ACCORDING TO THE FOLLOWING CRITERIA. A HEALTH
35 PROFESSION SHALL BE REGULATED BY THIS STATE ONLY IF:

36 1. UNREGULATED PRACTICE CAN CLEARLY HARM OR ENDANGER THE PUBLIC
37 HEALTH, SAFETY OR WELFARE AND THE POTENTIAL FOR HARM IS EASILY RECOGNIZABLE
38 AND NOT REMOTE OR DEPENDENT ON TENUOUS ARGUMENT.

39 2. THE PUBLIC NEEDS AND CAN REASONABLY BE EXPECTED TO BENEFIT FROM
40 AN ASSURANCE OF INITIAL AND CONTINUING PROFESSIONAL ABILITY.

41 3. THE PUBLIC CANNOT BE EFFECTIVELY PROTECTED BY OTHER MEANS IN A
42 MORE COST BENEFICIAL MANNER.

43 B. AFTER EVALUATING THE CRITERIA PRESCRIBED IN SUBSECTION A AND
44 CONSIDERING GOVERNMENTAL AND SOCIETAL COSTS AND BENEFITS, IF THE
45 LEGISLATURE FINDS THAT IT IS NECESSARY TO REGULATE A HEALTH PROFESSION NOT
46 PREVIOUSLY REGULATED BY LAW, THE LEAST RESTRICTIVE ALTERNATIVE METHOD OF
47 REGULATION SHALL BE IMPLEMENTED, CONSISTENT WITH THE PUBLIC INTEREST AND
48 THE FOLLOWING:

1 1. IF EXISTING COMMON LAW AND STATUTORY CIVIL ACTIONS AND CRIMINAL
2 PROHIBITIONS ARE NOT SUFFICIENT TO ERADICATE EXISTING HARM, THE REGULATION
3 SHALL PROVIDE FOR STRICTER CIVIL ACTIONS AND CRIMINAL PROHIBITIONS.

4 2. IF A SERVICE IS BEING PERFORMED FOR INDIVIDUALS WHICH INVOLVES A
5 HAZARD TO THE PUBLIC HEALTH, SAFETY OR WELFARE, THE REGULATION SHALL IMPOSE
6 INSPECTION REQUIREMENTS AND ENABLE AN APPROPRIATE STATE AGENCY TO ENFORCE
7 VIOLATIONS BY INJUNCTIVE RELIEF IN COURT.

8 3. IF THE THREAT TO THE PUBLIC HEALTH, SAFETY OR ECONOMIC
9 WELL-BEING IS RELATIVELY SMALL AS A RESULT OF THE OPERATION OF THE HEALTH
10 PROFESSION, THE REGULATION SHALL IMPLEMENT A SYSTEM OF REGISTRATION.

11 4. IF THE CONSUMER MAY HAVE A SUBSTANTIAL BASIS FOR RELYING ON THE
12 SERVICES OF A PRACTITIONER, THE REGULATION SHALL IMPLEMENT A SYSTEM OF
13 CERTIFICATION.

14 5. IF IT IS APPARENT THAT ADEQUATE REGULATION CANNOT BE ACHIEVED BY
15 MEANS OTHER THAN LICENSING, THE REGULATION SHALL IMPLEMENT A SYSTEM OF
16 LICENSING.

17 32-3104. Applicant groups; written report

18 APPLICANT GROUPS SHALL SUBMIT A WRITTEN REPORT EXPLAINING THE
19 FACTORS PRESCRIBED IN SECTION 32-3105 OR 32-3106 TO THE JOINT LEGISLATIVE
20 OVERSIGHT COMMITTEE ESTABLISHED PURSUANT TO SECTION 41-2353. THE JOINT
21 LEGISLATIVE OVERSIGHT COMMITTEE SHALL ASSIGN THE WRITTEN REPORT TO THE
22 APPROPRIATE LEGISLATIVE COMMITTEE OF REFERENCE. THE LEGISLATIVE COMMITTEE
23 OF REFERENCE SHALL STUDY THE WRITTEN REPORT AND DELIVER THE REPORT OF ITS
24 RECOMMENDATIONS TO THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE, THE SPEAKER
25 OF THE HOUSE OF REPRESENTATIVES, THE PRESIDENT OF THE SENATE, THE GOVERNOR
26 AND, IF APPROPRIATE, THE REGULATORY BOARD OF THE HEALTH PROFESSION WITHIN
27 THREE MONTHS AFTER A WRITTEN REPORT IS SUBMITTED PURSUANT TO THIS SECTION.
28 LEGISLATIVE COMMITTEES OF REFERENCE MAY HOLD HEARINGS AS THEY DEEM
29 NECESSARY. IF A HEALTH PROFESSIONAL GROUP PROPOSES TO INCREASE THE SCOPE
30 OF PRACTICE OF ITS PROFESSION, COPIES OF THE WRITTEN REPORT SHALL BE SENT
31 TO THE REGULATORY BOARD OF THE HEALTH PROFESSION FOR REVIEW AND COMMENT.
32 IF APPLICABLE, THE REGULATORY BOARD OF THE HEALTH PROFESSION SHALL MAKE
33 RECOMMENDATIONS BASED ON THE REPORT SUBMITTED BY APPLICANT GROUPS TO THE
34 EXTENT REQUESTED BY THE LEGISLATIVE COMMITTEES OF REFERENCE.

35 32-3105. Applicants for regulation; factors

36 APPLICANT GROUPS FOR REGULATION SHALL EXPLAIN EACH OF THE FOLLOWING
37 FACTORS TO THE EXTENT REQUESTED BY THE LEGISLATIVE COMMITTEES OF
38 REFERENCE:

39 1. A DEFINITION OF THE PROBLEM AND WHY REGULATION IS NECESSARY
40 INCLUDING:

41 (a) THE NATURE OF THE POTENTIAL HARM TO THE PUBLIC IF THE HEALTH
42 PROFESSION IS NOT REGULATED AND THE EXTENT TO WHICH THERE IS A THREAT TO
43 PUBLIC HEALTH AND SAFETY.

44 (b) THE EXTENT TO WHICH CONSUMERS NEED AND WILL BENEFIT FROM A
45 METHOD OF REGULATION IDENTIFYING COMPETENT PRACTITIONERS AND INDICATING
46 TYPICAL EMPLOYERS, IF ANY, OF PRACTITIONERS IN THE HEALTH PROFESSION.

47 (c) THE EXTENT OF AUTONOMY A PRACTITIONER HAS, AS INDICATED BY THE
48 FOLLOWING:

1 (i) THE EXTENT TO WHICH THE HEALTH PROFESSION CALLS FOR INDEPENDENT
2 JUDGMENT AND THE EXTENT OF SKILL OR EXPERIENCE REQUIRED IN MAKING THE
3 INDEPENDENT JUDGMENT.

4 (ii) THE EXTENT TO WHICH PRACTITIONERS ARE SUPERVISED.

5 2. THE EFFORTS MADE TO ADDRESS THE PROBLEM INCLUDING:

6 (a) VOLUNTARY EFFORTS, IF ANY, BY MEMBERS OF THE HEALTH PROFESSION
7 TO EITHER:

8 (i) ESTABLISH A CODE OF ETHICS.

9 (ii) HELP RESOLVE DISPUTES BETWEEN HEALTH PRACTITIONERS AND
10 CONSUMERS.

11 (b) RECOURSE TO AND THE EXTENT OF USE OF APPLICABLE LAW AND WHETHER
12 IT COULD BE AMENDED TO CONTROL THE PROBLEM.

13 3. THE ALTERNATIVES CONSIDERED INCLUDING:

14 (a) REGULATION OF BUSINESS EMPLOYERS OR PRACTITIONERS RATHER THAN
15 EMPLOYEE PRACTITIONERS.

16 (b) REGULATION OF THE PROGRAM OR SERVICE RATHER THAN THE INDIVIDUAL
17 PRACTITIONERS.

18 (c) REGISTRATION OF ALL PRACTITIONERS.

19 (d) CERTIFICATION OF ALL PRACTITIONERS.

20 (e) OTHER ALTERNATIVES.

21 (f) WHY THE USE OF THE ALTERNATIVES SPECIFIED IN THIS PARAGRAPH
22 WOULD NOT BE ADEQUATE TO PROTECT THE PUBLIC INTEREST.

23 (g) WHY LICENSING WOULD SERVE TO PROTECT THE PUBLIC INTEREST.

24 4. THE BENEFIT TO THE PUBLIC IF REGULATION IS GRANTED INCLUDING:

25 (a) THE EXTENT TO WHICH THE INCIDENCE OF SPECIFIC PROBLEMS PRESENT
26 IN THE UNREGULATED HEALTH PROFESSION CAN REASONABLY BE EXPECTED TO BE
27 REDUCED BY REGULATION.

28 (b) WHETHER THE PUBLIC CAN IDENTIFY QUALIFIED PRACTITIONERS.

29 (c) THE EXTENT TO WHICH THE PUBLIC CAN BE CONFIDENT THAT QUALIFIED
30 PRACTITIONERS ARE COMPETENT INCLUDING:

31 (i) WHETHER THE PROPOSED REGULATORY ENTITY WOULD BE A BOARD
32 COMPOSED OF MEMBERS OF THE PROFESSION AND PUBLIC MEMBERS OR A STATE AGENCY,
33 OR BOTH, AND, IF APPROPRIATE, THEIR RESPECTIVE RESPONSIBILITIES IN
34 ADMINISTERING THE SYSTEM OF REGISTRATION, CERTIFICATION OR LICENSURE,
35 INCLUDING THE COMPOSITION OF THE BOARD AND THE NUMBER OF PUBLIC MEMBERS, IF
36 ANY, THE POWERS AND DUTIES OF THE BOARD OR STATE AGENCY REGARDING
37 EXAMINATIONS AND FOR CAUSE REVOCATION, SUSPENSION AND NONRENEWAL OF
38 REGISTRATIONS, CERTIFICATES OR LICENSES, THE ADOPTION OF RULES AND CANONS
39 OF ETHICS, THE CONDUCT OF INSPECTIONS, THE RECEIPT OF COMPLAINTS AND
40 DISCIPLINARY ACTION TAKEN AGAINST PRACTITIONERS AND HOW FEES WOULD BE
41 LEVIED AND COLLECTED TO PAY FOR THE EXPENSES OF ADMINISTERING AND OPERATING
42 THE REGULATORY SYSTEM.

43 (ii) IF THERE IS A GRANDFATHER CLAUSE, WHETHER GRANDFATHERED
44 PRACTITIONERS WILL BE REQUIRED TO MEET THE PREREQUISITE QUALIFICATIONS
45 ESTABLISHED BY THE REGULATORY ENTITY AT A LATER DATE.

46 (iii) THE NATURE OF THE STANDARDS PROPOSED FOR REGISTRATION,
47 CERTIFICATION OR LICENSURE AS COMPARED WITH THE STANDARDS OF OTHER
48 JURISDICTIONS.

11.D. 2201

1 (iv) WHETHER THE REGULATORY ENTITY WOULD BE AUTHORIZED TO ENTER
2 INTO RECIPROCITY AGREEMENTS WITH OTHER JURISDICTIONS.

3 (v) THE NATURE AND DURATION OF ANY TRAINING INCLUDING WHETHER THE
4 TRAINING INCLUDES A SUBSTANTIAL AMOUNT OF SUPERVISED FIELD EXPERIENCE,
5 WHETHER TRAINING PROGRAMS EXIST IN THIS STATE, IF THERE WILL BE AN
6 EXPERIENCE REQUIREMENT, WHETHER THE EXPERIENCE MUST BE ACQUIRED UNDER A
7 REGISTERED, CERTIFIED OR LICENSED PRACTITIONER, WHETHER THERE ARE
8 ALTERNATIVE ROUTES OF ENTRY OR METHODS OF MEETING THE PREREQUISITE
9 QUALIFICATIONS, WHETHER ALL APPLICANTS WILL BE REQUIRED TO PASS AN
10 EXAMINATION, AND IF AN EXAMINATION IS REQUIRED, BY WHOM IT WILL BE
11 DEVELOPED AND HOW THE COSTS OF DEVELOPMENT WILL BE MET.

12 (d) ASSURANCE OF THE PUBLIC THAT PRACTITIONERS HAVE MAINTAINED
13 THEIR COMPETENCE INCLUDING:

14 (i) WHETHER THE REGISTRATION, CERTIFICATION OR LICENSURE WILL CARRY
15 AN EXPIRATION DATE.

16 (ii) WHETHER RENEWAL WILL BE BASED ONLY ON PAYMENT OF A FEE OR
17 WHETHER RENEWAL WILL INVOLVE REEXAMINATION, PEER REVIEW OR OTHER
18 ENFORCEMENT.

19 5. THE EXTENT TO WHICH REGULATION MIGHT HARM THE PUBLIC INCLUDING:

20 (a) THE EXTENT TO WHICH REGULATION WILL RESTRICT ENTRY INTO THE
21 HEALTH PROFESSION INCLUDING:

22 (i) WHETHER THE PROPOSED STANDARDS ARE MORE RESTRICTIVE THAN
23 NECESSARY TO ENSURE SAFE AND EFFECTIVE PERFORMANCE.

24 (ii) WHETHER THE PROPOSED LEGISLATION REQUIRES REGISTERED,
25 CERTIFIED OR LICENSED PRACTITIONERS IN OTHER JURISDICTIONS WHO MIGRATE TO
26 THIS STATE TO QUALIFY IN THE SAME MANNER AS STATE APPLICANTS FOR
27 REGISTRATION, CERTIFICATION AND LICENSURE IF THE OTHER JURISDICTION HAS
28 SUBSTANTIALLY EQUIVALENT REQUIREMENTS FOR REGISTRATION, CERTIFICATION OR
29 LICENSURE AS THOSE IN THIS STATE.

30 (b) WHETHER THERE ARE PROFESSIONS SIMILAR TO THAT OF THE APPLICANT
31 GROUP WHICH SHOULD BE INCLUDED IN, OR PORTIONS OF THE APPLICANT GROUP WHICH
32 SHOULD BE EXCLUDED FROM, THE PROPOSED LEGISLATION.

33 6. THE MAINTENANCE OF STANDARDS INCLUDING:

34 (a) WHETHER EFFECTIVE QUALITY ASSURANCE STANDARDS EXIST IN THE
35 HEALTH PROFESSION, SUCH AS LEGAL REQUIREMENTS ASSOCIATED WITH SPECIFIC
36 PROGRAMS THAT DEFINE OR ENFORCE STANDARDS OR A CODE OF ETHICS.

37 (b) HOW THE PROPOSED LEGISLATION WILL ASSURE QUALITY INCLUDING:

38 (i) THE EXTENT TO WHICH A CODE OF ETHICS, IF ANY, WILL BE ADOPTED.

39 (ii) THE GROUNDS FOR SUSPENSION OR REVOCATION OF REGISTRATION,
40 CERTIFICATION OR LICENSURE.

41 7. A DESCRIPTION OF THE GROUP PROPOSED FOR REGULATION, INCLUDING A
42 LIST OF ASSOCIATIONS, ORGANIZATIONS AND OTHER GROUPS REPRESENTING THE
43 PRACTITIONERS IN THIS STATE, AN ESTIMATE OF THE NUMBER OF PRACTITIONERS IN
44 EACH GROUP AND WHETHER THE GROUPS REPRESENT DIFFERENT LEVELS OF PRACTICE.

45 8. THE EXPECTED COSTS OF REGULATION INCLUDING:

46 (a) THE IMPACT REGISTRATION, CERTIFICATION OR LICENSURE WILL HAVE
47 ON THE COSTS OF THE SERVICES TO THE PUBLIC.

1 (b) THE COST TO THIS STATE AND TO THE GENERAL PUBLIC OF IMPLEMENTING
2 THE PROPOSED LEGISLATION.

3 32-3106. Applicants for increase in scope of practice;
4 factors

5 APPLICANT GROUPS FOR INCREASED SCOPE OF PRACTICE SHALL EXPLAIN EACH
6 OF THE FOLLOWING FACTORS TO THE EXTENT REQUESTED BY THE LEGISLATIVE
7 COMMITTEE OF REFERENCE:

8 1. A DEFINITION OF THE PROBLEM AND WHY A CHANGE IN SCOPE OF PRACTICE
9 IS NECESSARY INCLUDING THE EXTENT TO WHICH CONSUMERS NEED AND WILL BENEFIT
10 FROM PRACTITIONERS WITH THIS SCOPE OF PRACTICE.

11 2. THE EXTENT TO WHICH THE PUBLIC CAN BE CONFIDENT THAT QUALIFIED
12 PRACTITIONERS ARE COMPETENT INCLUDING:

13 (a) EVIDENCE THAT THE PROFESSION'S REGULATORY BOARD HAS FUNCTIONED
14 ADEQUATELY IN PROTECTING THE PUBLIC.

15 (b) WHETHER EFFECTIVE QUALITY ASSURANCE STANDARDS EXIST IN THE
16 HEALTH PROFESSION, SUCH AS LEGAL REQUIREMENTS ASSOCIATED WITH SPECIFIC
17 PROGRAMS THAT DEFINE OR ENDORSE STANDARDS OR A CODE OF ETHICS.

18 (c) EVIDENCE THAT STATE APPROVED EDUCATIONAL PROGRAMS PROVIDE OR
19 ARE WILLING TO PROVIDE CORE CURRICULUM ADEQUATE TO PREPARE PRACTITIONERS
20 AT THE PROPOSED LEVEL.

21 3. THE EXTENT TO WHICH AN INCREASE IN THE SCOPE OF PRACTICE MAY HARM
22 THE PUBLIC INCLUDING THE EXTENT TO WHICH AN INCREASED SCOPE OF PRACTICE
23 WILL RESTRICT ENTRY INTO PRACTICE AND WHETHER THE PROPOSED LEGISLATION
24 REQUIRES REGISTERED, CERTIFIED OR LICENSED PRACTITIONERS IN OTHER
25 JURISDICTIONS WHO MIGRATE TO THIS STATE TO QUALIFY IN THE SAME MANNER AS
26 STATE APPLICANTS FOR REGISTRATION, CERTIFICATION AND LICENSURE IF THE
27 OTHER JURISDICTION HAS SUBSTANTIALLY EQUIVALENT REQUIREMENTS FOR
28 REGISTRATION, CERTIFICATION OR LICENSURE AS THOSE IN THIS STATE.

29 4. THE COST TO THIS STATE AND TO THE GENERAL PUBLIC OF IMPLEMENTING
30 THE PROPOSED INCREASE IN SCOPE OF PRACTICE.

31 32-3107. Continuing education requirements; evidence
32 of effectiveness

33 ANY LEGISLATIVE PROPOSAL WHICH CONTAINS A CONTINUING EDUCATION
34 REQUIREMENT FOR A HEALTH PROFESSION SHALL BE ACCOMPANIED BY EVIDENCE THAT
35 SUCH A REQUIREMENT HAS BEEN PROVEN EFFECTIVE FOR THE HEALTH PROFESSION.

Approved by the Governor - May 14, 1985

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HEALTH PROFESSIONS REGULATION AND SCOPE OF PRACTICE

With the passage of H.B. 2281, Chapter 352, Laws of 1985, the Legislature has expressed its intent to restrict regulation of the health professions and any changes in the scope of practice of existing regulated professions unless there is an overwhelming need for such regulation or change in scope of practice to protect the public.

GENERAL POLICY

The Legislature has determined that regulation shall not be imposed on any unregulated health profession except for the exclusive purpose of protecting the public interest. A health profession will only be regulated if it can be demonstrated that lack of regulation will clearly harm the public health, safety or welfare, and the public needs and can reasonably be expected to benefit from an assurance of initial and continuing professionalism. It must also be demonstrated that the public cannot be protected by other means in a less expensive manner.

The Legislature has also determined that if regulation is necessary it must be carried out in the least restrictive manner consistent with the public interest and safety.

Any person or organization wishing to have a health profession or practice regulated by the state or to change the scope of practice of a regulated profession must follow the procedures outlined in H.B. 2281 before the Legislature will consider such legislation.

While there is no substitute for reading the bill itself, this pamphlet will give you general directions for applying to regulate a profession or change the scope of practice of an existing regulated profession.

APPLYING FOR REGULATION

Any person or organization applying for regulation of a health profession must submit its written application to the Joint Legislative Oversight Committee (JLOC). The JLOC shall refer the request to the appropriate Committee of Reference (COR) which shall study the request and submit a report to the JLOC, the Speaker of the House, the President of the Senate, the Governor, and any appropriate regulatory bodies. The COR may hold hearings on the request as it deems necessary, but it must make the report, along with any recommendations it has, within three months after receiving the application from the JLOC.

If any person or organization wishes to increase the scope of practice of a regulated health profession, they must also submit a copy of the written report to the board or agency which regulates the profession or practice so the agency can comment and make recommendations to the appropriate COR within the three month study period.

Any legislative proposal which contains a continuing education requirement shall be accompanied by evidence that the requirement has been proven effective for the health profession.

QUESTIONS TO BE ANSWERED IN REQUESTING REGULATION

Any group requesting regulation of a profession or activity must explain each of the following factors in its request for regulation:

I. A definition of the problem and why regulation is necessary, including:

- a. The nature of the potential harm to the public if the health profession remains unregulated and the extent to which there is a threat to health and safety.
- b. Why consumers need and how they will benefit from regulation which identifies competent practitioners and typical employers, if any, in the profession to be regulated.
- c. The independence or autonomy a practitioner has as shown by the extent to which the health profession calls for independent judgment and the extent of skill or experience needed to make that independent judgment. The extent to which practitioners are supervised.

II. Efforts made to solve the problems in the profession through voluntary efforts and the establishment of a code of ethics or similar means such as resolving disputes between practitioners and consumers.

Recourse to and the extent to which present law could be used or amended to solve the problems.

III. Alternatives which should be considered include:

- a. Regulation of business employers or practitioners rather than employee practitioners.
- b. Regulation of the program or service rather than individual practitioners.
- c. Registration of all practitioners.
- d. Certification of all practitioners.
- e. Other alternatives.

IV. Benefit to the public if regulation is granted, including:

- a. The number of specific problems which can reasonably be expected to be reduced by regulation.
- b. Whether the public can identify qualified practitioners.
- c. The reasons why the public can be sure that practitioners are qualified and competent based on:

1. Whether the proposed regulatory entity would be a board made up of members of the profession and public members or a state agency, or both, and their respective responsibilities in administering the system of regulation, certification, or licensure. It should state the number of public and professional members on the board or agency, and its powers and duties regarding examinations, revocations, suspensions, and nonrenewal or registrations, the adoption of rules of ethics, conduct of investigation, receipt of complaints, and how fees would be levied and paid for the expenses of administering and operating the regulatory scheme.
 2. Whether grandfathered practitioners will be required to meet the new qualifications of regulation at a later date.
 3. The nature of the standards proposed for the profession or practitioners as compared with other states and jurisdictions.
 4. Whether there would be reciprocity with other states and jurisdictions.
 5. The nature and extent of training, experience, internship or similar qualifications for licensure or certification and whether or not there are alternate methods of meeting the requirements, and if an examination is required, who will develop, administer and charge, for it.
- d. Assurance of the public that practitioners have maintained their competence including:
1. Whether registration, certification or license will carry an expiration date.
 2. Whether renewal will be based only on a payment of fee or will involve re-examination or other enforcement.
- V. The extent to which regulation might harm the public including:
- a. Restriction of entry into the profession because the proposed standards are more restrictive than necessary to insure safe and effective performance because the regulation denies reciprocity to practitioners moving here from other states where they have met similar or equivalent standards.
 - b. Whether there are similar professions to the applicant group which should be included or excluded from the proposed legislation.
- VI. The maintenance of standards by demonstration that:
- a. Effective quality assurance standards exist in the health profession, and

- b. How the proposed legislation will assure quality through the code of ethics, if any, which will be adopted and the grounds for suspension, revocation and other disciplinary action.

- VII. A description of the group proposed for regulation, including a list of associations, organizations and other groups representing the practitioners in this state, and the estimate of the number of practitioners in each group and whether the groups represent different levels of practice.
- VIII. The impact registration, certification, or licensure will have on the costs of services to the public, and the costs to the state and the general public of implementing the proposed legislation.

QUESTIONS FOR THOSE INCREASING THEIR SCOPE OF PRACTICE

Applicant groups which wish to increase the scope of practice of their profession must be able to explain the following factors to the extent requested by the committee of reference.

1. A definition of the problem and why a change in the scope of practice is necessary, including the benefits to consumers as a result of this change.
2. The extent to which the public can be assured of qualified and competent practitioners, including:
 - a. evidence that the regulatory board has functioned to protect the public, and
 - b. whether effective quality assurance standards exist in the health profession, and
 - c. evidence that state approved educational programs provide or will provide core curriculum adequate to prepare practitioners at the proposed level.
3. The extent to which an increased scope of practice may harm the public, including information as to whether the increased scope of practice will restrict entry into the profession, and whether practitioners coming to this state will be denied reciprocity when they have qualified in a jurisdiction which has substantially similar standards.
4. The costs to the state and the general public of implementing the proposed increase in the scope of practice.

SUMMARY OF APPLICATION AND LEGISLATION
TO REGULATE DIETITIANS/NUTRITIONIST

I. Summary Of Application

A. Why Regulation Is Necessary

1. Potential Harm To Arizonans May Occur Due To Untrained Nutrition Counselors':

- Lack of awareness that health risks and side effects may be involved in recommending dietary modifications;
- Belief that all disease is result of faulty diets.
- Recommendations of large dosages of vitamins and/or mineral supplements which may be expensive and in appropriate (elderly population being particularly vulnerable);
- Promotion of weight loss regimen without knowing the nutritional implications and consequence of weight loss.

2. Benefit Of Regulation

- Prevent proliferation of individuals using "diploma mill" qualifications and of individuals proclaiming themselves as nutritionists.
- Provide a method for consumers to identify competent practitioners, protect consumer health and keep costs under control.

3. Extent Of Independent Judgment Required

- Need to integrate broad knowledge base, discerning between valid research and popular theories and apply this information practically.
- Receive minimal supervision in job.

B. Voluntary Efforts Made To Solve Problems

- Use of national organization such as American Dietetics Association to resolve disputes is far removed, cumbersome, time consuming and consequences not necessarily stop one from practicing.

- Federal agencies have varying degrees of authority to regulate nutrition products and services.
- Arizona's Financial Fraud Division of Attorney General's Office provides injunctive relief when wide spread pattern of abuse, but does not control individual or more limited instances of abuse.

C. Consideration Of Various Alternatives For Regulation

- Regulation of employers would be impractical and ineffective.
- Self-employed and employee practitioner should both be regulated to effectively control profession.
- Registration would prove misleading as the word registered, is part of legally protected professional designation "Registered Dietitian"; would require minimum professional training, and would provide no legal recourse for harmful nutrition counseling.
- Certification does not define scope of practice (allows individuals to practice under different title), and would not have trained, experienced professionals review disciplinary action.
- Licensure is desired level of regulation since would provide legally defined scope of practice and a disciplining authority with technical expertise.

D. Benefit To Public If Regulation Is Granted

1. Elimination Of Problems

- Establishment of baseline training requirements would eliminate harmful practices due to insufficient academic preparation.
- Review Board would provide method for removing unqualified individuals from practice.

2. Identification Of Practitioners

- Display of license at site where services are rendered.

3. Assurances That Practitioners Are Qualified And Competent

- Department of Health Services and Council of Advisors in Dietitians/Nutrition would be regulatory entity (see H.B. 2414).
- In specific cases a waiver from application exam may be granted.

- Standards are compatible with other states.
- Reciprocity with other states having similar licensing standards is provided for in H.B. 2414.
- Educational programs for dietitians require six month field experience.
- Applicants must pass written exam; the cost of administering exam will be incurred by applicant.

4. Assurance That Competency Is Maintained

- License will carry expiration date.
- Renewal based on payment of fee and any other requirements established by DHS.

E. Extent To Which Regulation Would Harm Public

- Licensure not limit access to profession; only eliminate individuals who do not meet established requirements.
- Legislation only regulates practice of dietetics in Arizona, exempt groups are listed in H.B. 2414.

F. Maintenance Of Quality Assurance Standards

- Standards of practice have been developed by American Dietetic Association.
- Proposed legislation (H.B. 2414) provides for development of guidelines and procedures for administration of licensing act and outlines grounds for disciplinary action.

G. Description Of Proposed Regulated Group

- Regulates dietitians, dietetic assistants and dietetic technicians who interpret nutritional needs of individuals.
- Estimated 600 to 650 dietitians in Arizona, approximately 530 are members of Arizona Dietetic Association.

H. Cost Impact Of Licensing

- No increase cost to consumer.
- No cost of State of Arizona; costs will be borne by profession.

II. Summary Of Proposed Legislation
(Based on H.B. 2414 - 1985)

- A. Requires Department of Health Services to issue a biennial dietitian license to an applicant who meets education and training requirements and who passes a DHS approved exam.
- B. Establishes the seven member Arizona Council of Advisors in Dietetics and Nutrition to assist the director in establishing guidelines and procedures for administration of the chapter.
- C. Exempts the following individuals from licensing requirements:
 - Dietetic student, government employed dietitian, physician licensed by Board of Medical Examiners, Arizona licensed nurse, Arizona licensed pharmacist and dietetic assistant or technician.
- D. Allows DHS to:
 - Waive examination if licensure applicants meets certain requirements.
 - Issue provisional licenses.
 - Deny licensure applications or take disciplinary action against licensed dietitians.
 - Adopt rules, including setting fees.
- E. Prescribes complaint handling procedure.
- F. Classifies violation of the chapter as a class 3 misdemeanor.
- G. Prohibits DHS from renewing dietitian license unless continuing education requirement is met.
- H. Establishes a dietitian licensing fund, consisting of 90 percent of all monies collected pursuant to the chapter (remaining 10% is deposited in general fund).
- I. Defines "dietitian," "dietetics," "dietetic counseling," "dietetic assistant," "dietetic technician" and "unprofessional conduct."

RATIONALE FOR REGULATING
DIETITIANS/NUTRITIONIST IN
THE STATE OF ARIZONA

1. Dietitians throughout the United States are spearheading legislation to achieve licensure for themselves and to restrict the use of the word "nutritionist" to individuals with recognized credentials. The key issues which will be emphasized throughout this report and subsequent hearings are: public protection and credentials.

The Arizona Dietetic Association believes it is unfair to expect individuals to check the credentials of every health practitioner they encounter. Rather, it should be the role of government to establish standards and to prevent individuals who don't meet the standards from representing themselves as equivalent to those who do. No legislation offers complete protection against all forms of practices but licensure will make it difficult for unqualified individuals to advertise that they are experts.

- a. The nature of the potential harm to the people of Arizona can best be depicted by presenting a few specific cases:

- (i) Untrained nutrition counselors generally are not aware of the health risks that may be involved in recommending dietary modifications and restrictions and have encouraged people to follow diets that are harmful to them. A very obese (200+ lbs) woman went to a weight loss clinic which did not have Registered Dietitians on staff. She was placed on a 500 Calorie, low Carbohydrate diet. In addition to receiving multiple vitamin/mineral supplements and vitamin injection, she was told to test her urine for ketones each morning. She was told to remain in ketosis to effect weight loss. This regimen was maintained for 7 months at which time she sought medical care because she was feeling weak, lack of energy, and dizzy. The physician discovered she had abnormal kidney function. She was subsequently referred to an R.D. who counseled her on how to lose weight nutritionally. She remained out of ketosis and still be able to lose weight. Her kidney function also returned to normal.

- (ii) Many untrained nutrition counselors believe that all disease is the result of faulty diets. They recommend people to treat their conditions with diet and nutrition supplements. People who do have serious health problems are thus encouraged to avoid traditional medical care, sometimes with disastrous consequences. A young, newly diagnosed diabetic woman, who's insulin dependent, was told by an untrained nutrition counselor that she could control her diabetes by diet alone. She stopped insulin treatment. As a result, she was hospitalized in two days for diabetic ketoacidosis.

1. a. (iii) Untrained nutrition counselors frequently recommend large dosages of vitamins and/or mineral supplements which are expensive and inappropriate. One female patient, who's extremely thin, has been breastfeeding her infant child and was told that she has reactive hypoglycemia. She was placed on an extremely choice-restricted diet and was instructed to take 9 different nutritional supplements including glandular extracts.

A woman who has received hair analysis was told to take 10 different megadosages of vitamin/mineral supplements at breakfast and dinner every day to treat conditions as diagnosed by such technique.

- (iv) Untrained nutrition counselors often are not aware of the possible side effects which can result from their recommendations. A 19-month old child was brought into a medical clinic because of unusual discoloration of skin. The mother was told by an untrained nutrition counselor to feed her son carrot juice for treatment of diaper rash. The child had a yellow nose, hands, and feet. The discoloration was due to an overdose of carotene (Vitamin A precursor) from carrot juice. In addition, the child's infant formula already has an adequate amount of Vitamin A. After consultation with a registered dietitian, she was told to discontinue the practice and the condition went away. If she had been feeding the child vitamin A tablets, the child wouldn't be so lucky because overconsumption of Vitamin A is toxic.
- (v) Untrained nutrition counselors generally are not aware of the effects of nutrient interactions on health. A patient was given zinc supplement by an untrained nutrition counselor. She was diagnosed to have a low hemoglobin count. She sought medical care and also was referred to an R.D. who took her off zinc supplements. Her hemoglobin returned to normal. Zinc competed with iron absorption, that may be responsible for the low hemoglobin level.
- (vi) Many weight loss regimen are promoted by untrained nutrition counselors who do not know the nutritional implications and consequences of weight loss. Many patients went to weight loss centers and were told to go on an extremely low calorie diet. As a consequence, they feel tired and weak and many sought medical care and counseling from registered dietitians. A female patient had gone to a weight loss clinic. She was told that she had malnutrition. Her treatment was raw potato and vinegar tablets. Such treatment was not based on proven scientific studies. She sought medical care and also received nutrition counseling from an R.D. who counseled her onto the right track.
- (vii) The elderly population is particularly vulnerable to recommendations from untrained nutrition counselors in purchasing and consuming megadoses of vitamin/mineral

- 1: a. (vii) supplements. Such expenditures are often times unnecessary, and can be dangerous. This is sad because the money spent on the supplements can be spent on foods which can provide nutrients and calories needed for their health.

In a 1984 report to the Senate Select Committee on Aging, United States Congressman, Claude Pepper testified that the elderly spent between \$10-\$15 billion on nutrition fraud.

- b. There is a continued proliferation of individuals using "diploma mill" qualifications and of individuals proclaiming themselves as nutritionists. While nutritional claims made for products on TV must be documented by the manufacturer, nutrition qualifications claimed by individuals requires no certification within the State of Arizona. Consumers have a right to be able to make an informed choice when selecting a nutrition counselor. Consumers should have reasonable assurances that enforceable professional standards have been met by dietitians. The consumer should not be a victim of unreasonable fees charged by individuals claiming to be professionals. Legal recourse against nutrition fraud must be available to consumers.

Licensure would benefit the consumer and provide a method for the consumer to identify competent practitioners.

Typical employers of dietitians are institutional health care settings such as hospitals, mental health centers, rehabilitation centers and nursing homes. Dietitians also provide dietetic services for community based programs such as home health agencies, feeding programs for seniors, women, infants, children and school lunch. Dietitians work in research centers and as professors in universities. Many are consultants in private practice and still others work for large private corporations or governmental agencies. Licensure would provide assurances to consumers of the basic competence of dietitians regardless of the nature of the practice.

Consumer health would be protected and costs kept under control if consumers were assured that practitioners providing dietetic services met standard professional qualifications.

- c. (i) As a health profession, dietetics and nutrition is one of the newest sciences of our times. It is only within the last 50 years that scientists have begun to understand all the nutrients and how they function within the body. As a result, scientifically accepted theoretical knowledge is in a state of constant fluctuation. Dietitians are required to maintain continuing education credits and all dietitians have a broad knowledge base in physiology, psychology, biochemistry, anthropology, pathology, food science and nutrition.

In working with consumers, dietitians are required to integrate this knowledge base, discern between valid research and "popular theories" and apply this information practically.

1. c. (i) Dietitians acknowledge diet as only one factor in influencing the condition of a person's health. Thus independent judgment and synthesis of information are a crucial requirement of this health profession.
- (ii) Dietitians receive minimal supervision in their jobs. Often general diet prescriptions (i.e. diabetic, low sodium) are written by the physician and the dietitian determines the specific nutrient levels required to meet individuals needs. Physicians frequently request dietitians to assess nutritional requirements and determine the therapeutic diet necessary.

2. a. (i) A code of ethics, "The Standards of Professional Responsibility", became effective for members of the American Dietetics Association January 1, 1984. This code applies only to members of this professional organization and not to all practicing dietitians. Membership in the professional organization is voluntary. Efforts are being made to look at how this information might be shared with state licensure.

The Commission on Dietetic Registration, a separate and autonomous body from the American Dietetic Association, whose purpose is to establish and enforce standards for dietetic registration, will be looking at a code of ethics that in the event of judgment against an individual could lead to removal of registration status.

- (ii) Without statutory provisions for investigation and discipline, no avenue exists, except through the national organization to resolve disputes between health practitioners and consumers. This avenue, whereby consumers and practitioners can resolve disputes, is far removed, cumbersome, time consuming, and the consequences would not necessarily stop one from practicing.

- b. Three federal agencies have varying degrees of authority to regulate nutrition products and services: the U.S. Postal Service handles mail fraud, the Food and Drug Administration regulates food and food additives, and the Federal Trade Commission prohibits deceptive advertisements.

The only potentially applicable state law to regulate practitioners could be the Financial Fraud Division of the Attorney General's Office. It is questionable whether this type of improper practice would even be defined under the Consumer Protection Act. Also, this Act normally provides injunctive relief when there is a widespread pattern of abuse. This does not control the individual or more limited instances where serious injury may occur to a person. The U.S. Senate Select Committee on Aging's 4 year cooperative study concluded in 1984 that "enforcement efforts at the local, state, or national level to prevent such (nutrition) frauds are nonexistent".

2. b. The Arizona Dietetic Association strongly believes that the only effective legal recourse for consumer protection from incompetent nutrition practitioners, is by enacting a State licensure law.
3. a. Dietitians work in many different employer-employee settings in both the private and public sector. To attempt to regulate all business employers in regard to dietetic practices would be impractical and, probably, ineffective, since most employers would be ignorant of their responsibilities and not spend the time, expense and effort in regulating dietitians. Dietitians should be responsible for their own actions and regulation. If the self-employed practitioner is regulated, then the employee practitioner should also be regulated to effectively control the profession. Both private and employed dietitians conduct the same activities. The only effective way to regulate private practitioners is through licensure and this should also be applied to practitioner employees.
- b. The same arguments as in 3.a. applies against the alternative to regulate a program of service rather than the individual.
- c. Registration: This method would be unsuitable for regulating dietitians and would prove misleading and potentially harmful to the public. The title "Registered", used with any other descriptive title, would be misleading because the word registered is part of the legally protected professional designation, "Registered Dietitian". This title indicates high professional standards in the field of nutrition. Registration is the weakest mechanism for regulation and would require no minimum professional training. This method of credentialing essentially creates a roster of names and addresses. The public could be easily misled by an individual who could use the registration certificate to infer professional qualifications.

Also, there is no legal recourse for the victim of inaccurate or harmful nutrition counseling. No disciplinary board in the Uniform Disciplinary Act would be created. Dangerous nutrition advice would not be reviewed for technical or ethical error by other licensed nutrition professionals.

- d. Certification: While some health professions provide a "service", the science of nutrition is "substance" oriented because it affects the chemical composition of and the cellular functions in the body. A change in diet has immediate consequences as well as long-term effects that remain a part of the body's tissues.

Example: The fat content of the diet will have long-term effects because fat is incorporated into cell membranes. If the diet is high in polyunsaturated fat, this type of fat will predominate in cell membranes. Polyunsaturated fats

3. d. Example: (continued)
are more susceptible to free-radical chemical reactions and high intakes in animals have been related to a decreased life span. Also, diets high in total fat and high in polyunsaturated fats are associated with an increased incidence of breast cancer. (Polyunsaturated fats should be as part of a low fat diet and constitute no more than 10% of calories.)

The public trusts that recommendations on diet do not put them at medical risk.

Certification provides entitlement but does not define scope of practice. An unqualified person may not use the protected title but could engage in nutrition counseling and practice under some other title. As outlined in Section 1 of this report, the public has suffered harm from such practices. The unqualified person who has sought false credentials, i.e., from a diploma mill, would not be deterred by certification.

Disciplinary actions would be reviewed by a board comprised of nonprofessionals. Testimony in a case on harmful nutrition counseling would be technical in nature involving documentation from medical research. Unqualified individuals often use terms such as "controversial" to avoid specific criticisms of unsound or unethical practices. The trained, experienced professional is needed to review such arguments to determine validity of the documentation which is offered to support the theory, or to determine negligence in patient care.

Thus certification is not the appropriate level of regulation for the profession of dietetics.

- e. Other alternatives are not available to legally define scope of practice, minimum standards for practice, or to establish a professional regulatory board and provide criminal and civil sanctions. The designation "Registered Dietitian" defines minimum standards for training and professional maintenance. However, registration is not mandatory and there is no review process at the national level to revoke or suspend the registration of incompetent practitioners.
- f. As described in Section 3.e., there is no alternative that is adequate to protect the public interest. The specific instances of harm noted in Section 1 of this report were a result of inadequate regulation of this health profession and of the unavailability of legal recourse for the injured individual.
- g. Licensure is the level of regulation that would best protect the public interest. There is widespread interest in nutrition as it relates to preventative medicine, fitness/good health, and therapeutic intervention. The number of individuals exposed to unsound nutrition advice is large and rapidly growing. The risk of

3. g. harm is very real and specific cases of harm have been documented in Section 1. The incentive for the unscrupulous individual to claim an expertise and practice in this profession is great. Testimony before the Select Committee on Aging, Subcommittee on Health and Long-term Care noted that nutrition fraud costs the American public billions of dollars each year. The unscrupulous individual who wishes to practice "pseudo-medicine" is deterred from using titles or practicing as a Physician, Nurse, Pharmacist or Chiropractor because these health professions are all licensed. Nutrition is the easy target because there is no scope of practice, no minimum standards and no risk of legal sanctions.

Licensure of dietetics would provide a legally defined scope of practice. Unscrupulous individuals could not avoid meeting professional standards by using another title; minimum baseline training needs would be defined, and continuing education requirements specified.

The "disciplining authority" created by licensure would have the expertise to review the technical and highly specialized information involved in a board hearing. Specific conducts, acts or conditions of unprofessional conduct as outlined in H.B. 2414 (37th Legislature, First Regular Session) would include the following:

Article 3. Regulations

- Section 1 - Grounds for disciplinary action
- Section 2 - Complaint procedure and appeal
- Section 3 - Inactive status
- Section 4 - Unlawful act
- Section 5 - Violation: classification

For these reasons licensure is necessary to provide the adequate regulation that cannot be achieved by other means.

4. a. There are two major mechanisms for protecting the public health in licensure regulation; first, the establishment of baseline training requirements and second, recourse for harmful practice with the establishment of a review board. Section 1 of this report described harmful practices that are usually the result of insufficient academic preparation to understand the complex body functions that are influenced by nutrition. By establishing baseline criteria for practice much of this misinformation would be eliminated.

The Review Board would provide a method for removing unqualified individuals from practice. From the examples on harm cited in Section 1, practitioners who had recommended known toxic levels of a supplement would be subject to disciplinary procedures. The public would then be protected from continued misinformation.

- b. The Licensed Dietitian would present and/or post at the site where services are rendered the license as prescribed.

4: b. Without licensure the public will continue to be deceived when trying to select a competent practitioner. Currently "nutritionists" can post degrees from various institutions that the public believes are valid. For instance, Donsbach University provides nutrition diplomas for a fee. The Board of the American Association of Nutritional Consultants provides membership for a \$50.00 fee.

c. (i) The regulatory entity as proposed in H.B. 2414 (37th Legislature, First Regular Session) would be comprised of both the Arizona Department of Health Services and the establishment of the Arizona Council of Advisors in Dietetics and Nutrition.

The Advisory Council shall consist of the following seven members:

- 1) One dietitian engaged in the practice of clinical dietetics and research.
- 2) One dietitian engaged in the practice of community dietetics.
- 3) One dietitian engaged in management.
- 4) One dietitian engaged in consultation and private practice.
- 5) One dietitian who is an educator.
- 6) One health care professional who is not a dietitian.
- 7) One public member.

The department with the assistance of the Advisory Council shall adopt reasonable and necessary rules and standards for the administration of this statute. The individual applying for licensure must pass a written examination which is designed to test for competency in dietetics and is administered by a public or private agency recognized and approved by the Department of Health Service. Cause for revocation, suspension and nonrenewal of license includes those that indicate the applicant has engaged in conduct which has endangered the health, welfare and safety of the public. A complaint procedure and appeal process has been outlined in H.B. 2414 (37th Legislature, First Regular Session).

(ii) The "grandfather clause" is outlined in H.B. 2414 which allows the Department of Health Services to grant a waiver for the written examination in specific cases and also allows for comity within the licensure procedure.

(iii) The standards are compatible with those either in place in other states or are proposed by other states.

4. c. (iv) The licensure bill proposed by the Arizona Dietetic Association provides for reciprocity with states that have licensure requirements equal to or greater than those in Arizona.
- (v) There are various educational programs for dietitians in Arizona. All of them require a minimum of six months field experience under the supervision of a "licensed" dietitian. All applicants will be required to successfully complete a written examination except as noted in H.B. 2414 (waiver of examination). In the event that an examination is required, the cost of development and administering of this process will be incurred by the applicant via the Dietitian Licensing Fund. All monies collected pursuant to licensure will be transmitted to the State Treasurer who shall deposit ten percent of the monies in the State General Fund and transfer the remaining ninety percent to the Dietitian Licensing Fund.
- d. The license will carry an expiration date and be presented and/or posted at the work site. Renewal will be based on the payment of the fee and other requirements as established by the department which provides evidence of continued competency.
5. a. (i) Licensure would not limit access to this profession by qualified individuals. The proposed standards would eliminate only those individuals who do not meet established requirements and would insure continued competency. The minimum standards of training are important to assure that the practitioner understands the technical nature of this integrated science.

Example: A new wellness program requests a Licensed Dietitian to review material on nutrition and preventative medicine. The program recommends that individuals of all ages would benefit from a low fat diet and stipulates that skim milk be used by the entire family. The trained professional in reviewing this material would base recommendations on many areas of expertise:

1. from food science, that skim milk is low in cholesterol;
2. from infant nutrition, that mother's milk is a naturally good source of cholesterol;
3. from biochemistry, that cholesterol is an important component of nerve cells;
4. from physiology, that infants are in a crucial stage of development of the nervous system; and,
5. from clinical nutrition, that infants with an inadequate source of cholesterol suffer nerve damage.

5. a. (i) Thus the Licensed Dietitian would recommend, for this and other reasons, that skim milk is an inappropriate food choice for an infant and toddler.
- (ii) The standards would be consistent with the criteria met in other states. See proposed legislation - H.B. 2414, Section 32-3123 (waiver of examination; comity).
- b. The proposed legislation defines and regulates the practice of dietetics in Arizona only. Exclusion categories are outlined in H.B. 2414, Article 2, 32-3121 (Nonapplicability of chapter).
6. a. The Quality Assurance Committee of the Council on Practice of the American Dietetics Association developed "Standards of Practice for the Profession of Dietetics" in 1984. These standards, which govern only the members of the professional organization, state the accountability measurers of the profession and serve as a guide for the individual's professional responsibility.
- b. (i) It is the intent of the proposed legislation that the Advisory Council assist the Director of the Department of Health Services in establishing guidelines, procedures and criteria for the administration of the dietitian licensure bill. Please reference the proposed bill (H.B. 2414; Section 32-3102).
- (ii) The grounds for revocation of licensure are outlined in detail in proposed H.B. 2414, Article 3.
- | | |
|---------|------------------------------|
| 32-3151 | Disciplinary action, grounds |
| 32-3152 | Complaint procedure, appeal |
| 32-3153 | Inactive status |
| 32-3154 | Unlawful act |
| 32-3155 | Violation, classification |
7. The group proposed for regulation are professional dietitians, dietetic assistants and dietetic technicians, who interpret nutritional needs of individual needs of individuals in all phases of the life cycle.
- It is estimated that there are approximately 600 to 650 dietitians, not all of whom are practicing. The Arizona Dietetic Association represents approximately 530 members. The scope of practice, which is reflected throughout H.B. 2414, would cover all practitioners.
8. a. Licensure of dietitians in Arizona should not have any effect on increasing costs to the consumer. The adverse effects of non-licensure are very prevalent today in that unqualified individuals cost the public on the national level billions of dollars per year.
- b. The cost to the state of Arizona for the implementation of H.B. 2414 is zero. There may, however, be an initial amount required via appropriation, but funds from the Dietitian Licensing Fund would replenish the State Treasury. The cost for licensure of dietitians would be borne by the profession.

STATE OF ARIZONA
37th LEGISLATURE
FIRST REGULAR SESSION

REFERENCE TITLE: dietitian licensure

HOUSE

HB 2414

Introduced

February 11, 1985

Referred on February 11, 1985

Rules

TOURISM, PROFESSIONS & OCCUPATIONS

HEALTH

Introduced by

Representatives Aldridge, Hartdegen, Hull, Kelley, McElhaney, Wessel, Wettaw

AN ACT

RELATING TO PROFESSIONS AND OCCUPATIONS; PROVIDING FOR LICENSURE OF DIETITIANS; PRESCRIBING DEFINITIONS; PROVIDING FOR ARIZONA COUNCIL OF ADVISORS IN DIETETICS AND NUTRITION; PRESCRIBING MEMBERSHIP, TERMS, ORGANIZATION, MEETINGS, COMPENSATION AND DUTIES OF THE ADVISORY COUNCIL; PRESCRIBING POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH SERVICES; PRESCRIBING FEES; PRESCRIBING NONAPPLICABILITY OF LICENSING STATUTES; PRESCRIBING LICENSE QUALIFICATIONS; PRESCRIBING LICENSE RENEWAL; PRESCRIBING CONTINUING EDUCATION REQUIREMENTS; PROVIDING FOR WAIVER OF EXAMINATION; PROVIDING FOR COMITY; PROVIDING FOR PROVISIONAL LICENSES; PRESCRIBING DISCIPLINARY ACTION; PRESCRIBING GROUNDS FOR DISCIPLINARY ACTION; PRESCRIBING COMPLAINT PROCEDURE; PROVIDING FOR INACTIVE STATUS; PRESCRIBING UNLAWFUL ACT; PRESCRIBING DEFINITION AND CLASSIFICATION OF A CRIMINAL OFFENSE; PRESCRIBING INITIAL TERMS OF ADVISORY COUNCIL MEMBERS, AND AMENDING TITLE 32, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 31.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Purpose

In order to safeguard the public health, safety and welfare, to protect the public from being misled by inaccurate information, to assure the availability of nutritional services of high quality to persons in need of such services and to assure the highest degree of professional conduct on the part of dietitians, the purpose of this act is to provide for the regulation of dietitians through licensure.

Sec. 2. Title 32, Arizona Revised Statutes, is amended by adding chapter 31, to read:

CHAPTER 31

DIETITIANS

ARTICLE 1. GENERAL PROVISIONS

32-3101. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

F. THE ADVISORY COUNCIL SHALL ASSIST THE DIRECTOR IN ESTABLISHING GUIDELINES, PROCEDURES AND CRITERIA FOR THE ADMINISTRATION OF THIS CHAPTER.

32-3103. Powers and duties of the department; fees

A. THE DEPARTMENT MAY, WITH THE ASSISTANCE OF THE ADVISORY COUNCIL, ADOPT REASONABLE AND NECESSARY RULES AND STANDARDS FOR THE ADMINISTRATION OF THIS CHAPTER, INCLUDING SETTING FEES NOT TO EXCEED THE FOLLOWING:

1. FOR A LICENSE EXAMINATION, TWO HUNDRED DOLLARS.
2. FOR ISSUANCE OF A LICENSE, TWO HUNDRED DOLLARS.
3. FOR BIENNIAL LICENSE RENEWAL, ONE HUNDRED SIXTY DOLLARS.
4. FOR DELINQUENT LICENSE RENEWAL, FIFTY DOLLARS.

B. THE DEPARTMENT SHALL LICENSE DIETITIANS PURSUANT TO THIS CHAPTER.

32-3104. Dietitian licensing fund

A. A DIETITIAN LICENSING FUND IS ESTABLISHED.

B. ALL MONIES COLLECTED PURSUANT TO THIS CHAPTER SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL DEPOSIT TEN PER CENT OF THE MONIES IN THE STATE GENERAL FUND AND TRANSFER THE REMAINING NINETY PER CENT TO THE DIETITIAN LICENSING FUND.

C. MONIES DEPOSITED IN THE DIETITIAN LICENSING FUND ARE SUBJECT TO SECTION 35-143.01.

ARTICLE 2. LICENSURE

32-3121. Nonapplicability of chapter

THIS CHAPTER DOES NOT APPLY TO:

1. A STUDENT WHO IS ENROLLED IN AN APPROVED EDUCATIONAL PROGRAM AND ENGAGES IN THE PRACTICE OF DIETETICS UNDER THE SUPERVISION OF A LICENSED DIETITIAN AS PART OF AN APPROVED EDUCATIONAL PROGRAM.

2. A DIETITIAN WHO IS SERVING IN THE ARMED FORCES OR THE PUBLIC HEALTH SERVICE OF THE UNITED STATES OR IS EMPLOYED BY THE VETERANS ADMINISTRATION, IF HIS PRACTICE OF THE PROFESSION OF DIETETICS IS RELATED TO SUCH SERVICE OR EMPLOYMENT.

3. A PHYSICIAN LICENSED PURSUANT TO CHAPTER 13 OF THIS TITLE, A NURSE LICENSED PURSUANT TO CHAPTER 15 OF THIS TITLE OR A PHARMACIST LICENSED PURSUANT TO CHAPTER 18 OF THIS TITLE, IF HIS PRACTICE OF DIETETICS IS INCIDENTAL TO THE PRACTICE OF HIS OWN PROFESSION.

4. A DIETETIC ASSISTANT OR DIETETIC TECHNICIAN UNDER THE DIRECT SUPERVISION OF A LICENSED DIETITIAN.

5. A PERSON WHO IS EMPLOYED BY AN AGENCY, BUREAU OR DIVISION OF THE FEDERAL GOVERNMENT, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE, IF HIS PRACTICE OF THE PROFESSION OF DIETETICS IS RELATED TO SUCH EMPLOYMENT.

32-3122. Qualifications for dietitian license; renewal; continuing education

A. THE DEPARTMENT SHALL ISSUE A DIETITIAN LICENSE PURSUANT TO ITS RULES TO AN APPLICANT WHO:

1. IS OF GOOD CHARACTER.
2. HAS SATISFACTORILY COMPLETED EDUCATION AND TRAINING APPROVED BY

THE DEPARTMENT.

6. A VIOLATION OF THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

32-3152. Complaint procedure; appeal

A. A COMPLAINT AGAINST A LICENSED DIETITIAN SHALL BE FILED IN WRITING WITH THE DEPARTMENT WITHIN SIXTY DAYS AFTER THE DATE OF THE OCCURRENCE OF THE EVENT CAUSING THE COMPLAINT. IF THE DEPARTMENT DETERMINES THAT THE CHARGES MADE IN THE COMPLAINT ARE SUFFICIENT, IF TRUE, TO WARRANT SUSPENSION OR REVOCATION OF A DIETITIAN LICENSE OR CENSURE OR PROBATION OF A LICENSED DIETITIAN UNDER THIS ARTICLE, IT SHALL ISSUE AN ORDER FIXING THE TIME AND PLACE FOR A HEARING, AND REQUIRING THE LICENSED DIETITIAN COMPLAINED AGAINST TO APPEAR AND ANSWER THE COMPLAINT. THE ORDER SHALL HAVE A COPY OF THE COMPLAINT AFFIXED TO IT AND BOTH SHALL BE SERVED ON THE LICENSED DIETITIAN EITHER PERSONALLY OR BY CERTIFIED MAIL SENT TO THE LAST ADDRESS OF THE LICENSED DIETITIAN KNOWN TO THE DEPARTMENT AT LEAST TWENTY DAYS BEFORE THE DATE SET FOR HEARING. ALL HEARINGS SHALL BE CONDUCTED PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 1.

B. DECISIONS OF THE DEPARTMENT ARE SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

32-3153. Inactive status

A. A LICENSED DIETITIAN IN GOOD STANDING MAY REQUEST IN WRITING THAT THE DEPARTMENT TRANSFER HIS NAME AND LICENSE TO AN INACTIVE STATUS LIST.

B. A LICENSED DIETITIAN WHO REQUESTS REMOVAL OF HIS NAME AND LICENSE FROM THE INACTIVE STATUS LIST MAY, ON SUBMITTAL OF PROOF OF HAVING SUCCESSFULLY COMPLETED THIRTY HOURS OF CONTINUING EDUCATION, PAYMENT OF PRESCRIBED FEES AND APPROVAL OF THE DIRECTOR, RESUME ACTIVE LICENSE STATUS.

32-3154. Unlawful act

IT IS UNLAWFUL FOR A PERSON TO REPRESENT HIMSELF AS A DIETITIAN UNLESS HE IS LICENSED PURSUANT TO THIS CHAPTER.

32-3155. Violation; classification

A PERSON WHO VIOLATES ANY PROVISION OF THIS CHAPTER IS GUILTY OF A CLASS 3 MISDEMEANOR. EACH DAY OF VIOLATION CONSTITUTES A SEPARATE OFFENSE.

Sec. 3. Initial terms of advisory council members

A. Notwithstanding section 32-3102, Arizona Revised Statutes, as added by this act, the initial terms of members of the Arizona council of advisors in dietetics and nutrition are:

1. Three terms beginning on the effective date of this act and ending on June 30, 1987.

2. Four terms beginning on the effective date of this act and ending on June 30, 1988.

B. The director of the department of health services shall make all subsequent appointments as prescribed by statute.

WHAT IS A NUTRITIONIST?

by Betsy McPherrin

A person who knows nothing of the intricacies of food chemistry or of the complicated mechanism of the body ... is not qualified to draw conclusions from his experiences with food; he is probably more apt to give the wrong interpretation than the right one, and incalculable harm is done by those who thus draw unwarranted conclusions from scanty evidence, then close their minds to all further reasoning and endeavor to make converts to their pet theories about diet.

This warning, which appeared in a 1931 nutrition textbook, is still valid. Today, aided by television, self-styled nutritionists can influence huge numbers of people in a short period of time.

In medicine and most other health professional fields, educational standards are controlled by laws which protect the public. But in nutrition, anyone who so chooses can designate himself an "expert."

In May 1980, *Us* magazine featured an upbeat 1100-word story, with photographs, about Kurt Donsbach and his 3-year-old Donsbach University School of Nutrition. The article stated that Donsbach holds Ph.D.s in nutrition and naturopathic medicine and is head of "the first—and so far only—university in the country dealing with the various aspects of nutrition."

Angered by these claims, two ACSH advisors fired off separate protests to the National News Council (NNC), an independent organization based in New York which reviews the accuracy and fairness of news articles. One of the complainants was Stephen Barrett, M.D., an Allentown, Penn. psychiatrist who keeps close tabs on Donsbach's activities. The other was Victor Herbert, M.D., J.D., Professor of Medicine, Downstate Medical Center, State University of New York, and Assistant Director of Public Information for the American Institute of Nutrition.

Donsbach, they pointed out, is a chiropractor whose degree in nutrition is from an unaccredited school (Union University in Los Angeles, not to be confused with the highly-regarded Union University in upstate New York), and his "Ph.D. in naturopathic medicine" is actually an "N.D.," a naturopathic degree that is recognized in only a few states. Donsbach University is not accredited by the state of California, but merely "authorized," a status requiring no state inspection or approval—just the filing of a program description and a financial statement.

Donsbach's original faculty of seven included a physician who lost his California license in 1975 for using unproven nutritional therapies, and another individual who is an



Laboratory skills are an essential part of professional nutrition education.

iridologist (a person who believes it is possible to tell almost everything about a person's health by merely looking at his eyes). In 1971, Donsbach pleaded guilty to practicing medicine without a license after being charged with prescribing vitamins, minerals, and herbal tea as treatment for cancer and other serious diseases. In 1973, he pleaded "no contest" and was placed on probation for violating his state's "new drug" laws; and in 1974 he was fined for violating his probation agreement to stay out of the food supplement business.

Far from being "the real thing"—as the *Us* magazine article called it—Donsbach University offers its degrees by mail, with less than a year of required study. In their complaints, Drs. Barrett and Herbert charged that the article gave unwarranted respectability to Donsbach and his school.

In September 1980, the National News Council agreed. Its Board (comprised of such media luminaries as Elie Abel, longtime NBC correspondent, former Dean of the Columbia University School of Journalism, now professor of Journalism at Stanford; William A. Rusher, publisher of the *National Review*; and Michael E. Pulitzer, publisher and editor of the *Arizona Daily Star* and associate editor of the *St. Louis Post-Dispatch*) decided the complaint was valid. But, according to assistant editor Brendan

Elliott, *Us* magazine will not issue a retraction. Why? They feel they did not misstate the facts and that the article was not misleading. "Does printing something in a magazine give it legitimacy?" asked Mr. Elliott. His naivete about the powers of the press in such matters is disturbing, since for many readers, the answer is yes.

Donsbach's correspondence course differs drastically from the classroom education offered at accredited institutions, a fact completely hidden from readers of the *Us* article. Only thirteen courses, all home study, are required for the bachelor's degree. The "core curriculum," which can be completed in as little as eleven months, consists of ten home study courses: Introduction to Nutrition, Introduction to Chemistry, Physiology of Nutrition I and II, Food and Nutrition Principles I and II, Principles of Nutrition and Disease, Dietary Management, Nutrition and Health Care Management, and Jurisprudence of Nutrition Consultation ("a discussion of legal rights and limitations as a nutritional consultant," admittedly arising out of Donsbach's troubles with the law). Three home study electives may be chosen from among such courses as Speedreading, Self-Image Psychology, and Sales Development ("proper sales techniques in selling yourself as a nutrition consultant").

Donsbach's courses are taught from popular books such as *The Save Your Life Diet*, by David Reuben, M.D. (who gave us *Everything We Always Wanted to Know About Sex but Were Afraid to Ask*, an early '70s best seller), *Nutrition Handbook*, by Carlton Fredericks, Ph.D. (whose degree is in education, not nutrition), and *The Super Energy Diet*, by Robert Atkins, M.D. (author of another best seller which advocates a reducing diet dangerously low in carbohydrate and high in fat and protein). These are not textbooks, but rather presentations of opinion based on little or no scientific evidence.

Standard college level textbooks aim to present unbiased information which gives students a basis for evaluating popular literature similar to that featured in the Donsbach course. Donsbach's "scientific" texts are merely watered-down study guides. For example, the critical nutrition-related subjects of chemistry, organic chemistry, and biochemistry are all covered in a 207-page home study outline at Donsbach; conventional textbooks may devote more than twice that number of pages to each subject.

Nutrition courses offered at accredited universities are based on the scientific method of analysis and taught by qualified faculty. At the University of Nebraska, for example, the undergraduate program in Human Nutrition and Food Science Management includes six science courses (physiology, microbiology, two general

chemistry courses, organic chemistry, and biochemistry, all with laboratory work), five technical nutrition courses (Introduction to Nutrition, Introduction to Dietetics, Nutrition Through the Life Cycle, Advanced Nutrition, and Clinical Nutrition), as well as field experience and five or more courses in food science, consumer foods, food preparation, and food service management. Professional education is rounded out with courses in communications, humanities, and social sciences. This curriculum amounts to four years of full-time study. When completed, this degree qualifies a graduate for entry level positions in dietetics or food service, often in a hospital.

A masters degree in nutrition widens career opportunities and improves chances for advancement. At Donsbach, a student who receives a B.S. need only complete four additional home study courses plus a thesis to qualify for a masters degree. In contrast, at Philadelphia's Drexel University, a Masters degree in Nutrition Science requires completion of an original laboratory research project plus eleven to thirteen classroom courses, including three in biochemistry, five in statistics and research methods, and electives such as Food Microbiology (with lab work), Food Safety, and Effect of Food Processing on Nutrients. This degree requires an additional two years of full time study beyond the undergraduate level.

To those who complete its B.S. and M.S. program, Donsbach grants a Ph.D. after four more home study courses plus a dissertation which may consist of library research (as opposed to original nutrition research). The doctorate granted by accredited universities is far more demanding. Those who wish to be nutrition researchers usually pursue a Ph.D. in biochemistry. This requires an additional two years of study and a thesis based on original scientific research. Those wishing to concentrate on teaching and education research usually seek the degrees of Ph.D. and Ed.D. in nutrition education. A nutrition education dissertation may be slightly less technical than one in science, but must still provide an original contribution to the field.

Each nutrition-related degree earned from an accredited university signifies that a person possesses a broad background in science and a thorough grasp of nutrition concepts.

In addition to an academic degree, most legitimate nutritionists usually seek professional certification. There are two restricted-membership professional associations for nutritionists at the doctoral level. Active membership in the American Institute of Nutrition (AIN) is open to scientists who have published meritorious original investigations in some phase of nutrition, who are presently working in the field, and who are

sponsored by two AIN members. Nominees are considered by a membership committee and a council of officers. The American Society for Clinical Nutrition (ASCN) has similar membership requirements, but specifies clinical nutrition research. All ASCN members are members of AIN. Associate memberships in both organizations are available to investigators just starting their careers. In certain cases, membership is extended to persons who have made outstanding contributions to nutrition through teaching, administration, or technical service.

Nutritionists at the doctoral level may also seek certification by the American Board of Nutrition as specialists in clinical nutrition (M.D.s only) or human nutritional sciences (both M.D.s and Ph.D.s). There are currently 400 board-certified nutrition specialists in the U.S., all of whom have passed a 4-hour (3-hour written, 1-hour oral) examination on all phases of nutrition including deficiency disease, metabolism, food/drug interaction, therapeutic diets, and the derivation and use of the recommended dietary allowances (RDAs) for essential nutrients. Certified nutrition specialists usually work in hospitals, where they conduct clinical research and consult with primary care physicians.

The nutrition professional probably most familiar to the general public is the registered dietician (R.D.) who is specially trained to translate nutrition research into healthful, tasty diets. The R.D. certification is usually sought by Bachelors and Masters level nutrition graduates. To qualify, candidates must obtain professional experience before taking the 4-hour comprehensive written examination covering all aspects of nutrition and food service management. Most of the 29,000 active R.D.s in the country work in hospitals. Typically, they counsel patients and conduct classes for pregnant women, heart and kidney patients, diabetics, and other persons with special dietary needs. R.D.s are also employed by community agencies such as geriatric, day care, and drug/alcohol abuse centers. In addition, increasing numbers of R.D.s are entering private practice where they counsel physician-referred clients.

There we have the credentials for "real" nutritionists—academic degrees from accredited institutions, AIN or ASCN membership, board certification, or registration in dietetics.

Realizing the value of professional achievement, unqualified nutritionists have set up their own credentialing system. The degrees from Donsbach University and other nonaccredited schools are one example. Another is A.N.C.A. (American Nutritional Consultants Association), organized by Donsbach and others after California legislation passed in 1979 specified that it is

legal for laypersons working in health food stores to give nutritional advice. (Offering "nutritional advice" has always been legal; diagnosing illness and prescribing treatment are illegal.) A.N.C.A. offers a correspondence course for \$100, open to anyone with "a professional interest in the science of dietetics and nutrition, and the desire to become a nutrition consultant." Lessons written by Donsbach cover foods (an entire lesson on ice cream, for instance) and nutrients (including "proper food combining"). The Standard Operating Procedures Manual describes office practice, including the "client-consultant agreement" and "how to tape sessions." A diploma (suitable for framing) is awarded for satisfactory course completion and a certificate of completion (also suitable for framing) for unsatisfactory work. One of A.N.C.A.'s "diplomates" (graduates) described how reading books by Adele Davis (a now-deceased writer of poorly documented but popular nutrition books) "really got me hooked!" For a \$25 fee, anyone can buy membership in A.N.C.A., entitling them to use the initials after their name.

The N.D. (Doctor of Naturopathy) degree displayed by Donsbach and many other popular self-styled "nutritionists" may be obtained by correspondence course and encompasses unorthodox treatment methods such as homeopathy, reflexology, biofeedback and autogenic training, joint and muscle manipulation, dietary supplements, herbalism, spinal manipulation, and acupuncture. The initials C.H. stand for "certified herbologist," D.C. for "doctor of chiropractic," R.H. for "registered healthologist," C.A. for "certified acupuncturist," none of which signify competence in nutrition.

Organizations often cited in the biographical data of would-be nutritionists include the International Academy of Biological Medicine, the International Naturopathic Association, the International Society for Research on Civilization Diseases and Environment, Academy of Orthomolecular Psychiatry, International Academy of Preventive Medicine, American Academy of Medical Preventics, and the Orthomolecular Medical Society.

These seemingly professional "credentials" are worth both money and respect. To quote one of Donsbach's Ph.D. graduates, "they call me doctor now!" Another graduate now operates the Nutrition Education Association, Inc. out of her Houston home. She sells her books on "the new nutrition" for \$25 a set to individuals willing to set up "new nutrition study groups" and charge "students" \$40 or \$50 a course. She confided that her degree "isn't a real Ph.D.," but that it had "served her well." "After all," she (continued on page 11)

WHAT IS A NUTRITIONIST?

(continued from page 5)

said, "people see the Ph.D. and they don't ask where you got it. They don't care." However, she would not recommend pursuing a degree from Donsbach, stating instead that chiropractic (a licensed profession based on the theory that most diseases are caused by spinal problems) might be the best route for someone interested in a nutrition career. Her main regret is that she was denied membership in the International College of Applied Nutrition (ICAN), which is open to anyone with an M.D. or Ph.D. from an accredited educational institution. Membership requires no expertise in nutrition, but it does provide an impressive array of letters to use after one's name (F.I.C.A.N.).

Which group—legitimate nutritionists or pseudo-scientists—has the most impact on the public? Of the legitimate nutritionists, registered dietitians are probably the most accessible. Some hospitals now provide outpatient nutrition clinics, and privately-practicing dietitians may be found by looking in the yellow pages under "dietician" or "nutrition." Responsible publications usually call upon dietitians to write or contribute to nutrition articles. One of the goals of their organization, the American Dietetics Association and its local chapters, is to provide community nutrition education.

Research-oriented nutritionists traditionally have less contact with the general public, communicating primarily with their peers. However, the increased visibility of unqualified nutritionists has spurred some of them to take their expertise to the public through books and magazine articles. Most reputable magazines and newspapers will consult with these professionals when preparing nutrition articles.

There are some indications, however, that the pseudo-experts attract more attention. In one midwestern university community, a group of R.D.s were unable to interest enough people to form a class on "diet and heart disease," although they advertised on radio, in the newspaper, and in fliers to all

local physicians. But a pediatrician-turned-nutritionist who is a frequent guest on television talk shows drew 600 people to hear his unorthodox dietary recommendations. Studies have shown that health food users, a group with a greater-than-average interest in nutrition, first consult with health food store owners and health food publications for answers to their nutrition questions. Both sources have proven unreliable. In 1978, a newspaper reporter, advised by an official of the American Medical Association, visited 16 health food stores. At each stop he described symptoms which, to an experienced physician, might suggest leukemia or cancer of the spleen. In only one store was the reporter urged to see a doctor. At all others, he was urged to buy one or more of their products. In one case, the salesperson telephoned her mother for a "diagnosis" and "prescription."

Few, if any, publications sold in health food stores are acceptable to legitimate nutritionists. While most of this information is harmless, some can cause serious illness. The estate of Adele Davis, a popular nutrition writer, has been sued twice by people who were harmed by following her questionable advice.

In some fields of endeavor phony credentials have little effect on the public. Unfortunately, this is not so with nutrition, a field with serious health implications. Thus, one goal of health and nutrition educators should be to teach people how to evaluate sources of nutrition information. Does this person hold a nutrition degree from an accredited university? Is she certified by the American Board of Nutrition, a member of AIN or ASCN, or a registered dietician? Does she have a thorough knowledge of biochemistry and physiology, food and food processing? Even with these credentials, a person is not a qualified nutritionist if he treats isolated, preliminary findings as if they were major breakthroughs, or if he relies on theories which have little or no experimental evidence. Nutritionists evaluate information in a scientific manner; they are cautious about recommending dietary changes on the basis of inconclusive research. They are informed on current research findings and attempt to form opinions based on their own analyses and those of respected scientists. Real nutritionists warn against unrealistic expectations of what diet can do. They realize that nutrition is not a cure-all, it is just one aspect of good health.

In rebuttal to the *Us* magazine article, there is a difference between self-styled nutrition experts and professional nutritionists. Real nutritionists may not have all the answers, but their scientific education and experience enables them to separate fact from folklore

WHY LICENSING OF "NUTRITIONISTS" IS NEEDED

Stephen Barrett, M.D.

Dietitians throughout America are spearheading legislation to achieve licensure for themselves and to restrict use of the word "nutritionists" to individuals with recognized credentials. Some of the bills being lobbied also define "nutrition practice" and restrict it to licensed practitioners. Opponents claim that bills of this type are motivated by greed and an intention to create a monopoly for one school of thought. But in my opinion, the key issues are credentials and public protection.

During the past century or so, our educational system has established a system of accreditation to ensure that schools meet appropriate standards of quality. At the same time, state governments have established licensing systems for many professions to ensure that practitioners meet appropriate standards of competence. In many fields, professional groups have established certification procedures that recognize additional levels of expertise.

Accreditation of a school means that its credits can be transferred to other schools and be used as a basis for entering various professions. If a person is licensed on the basis of an examination, it means that the state government has recognized the achievement of a certain level of competence. Certification conveys an additional endorsement of expertise.

Occasionally self-taught individuals acquire expertise with little or no formal education. However, the fields of health and nutrition are sufficiently complex that this is unlikely. Accreditation, licensure and certification are important because they can help to identify who is qualified. They offer no guarantee, but they do increase the odds of getting a competent practitioner.

Within the past five years, a very peculiar thing has happened in the area of nutrition. A number of individuals and organizations have developed several types of "credentials" which resemble those of established medical and nutrition organizations. I am aware of no other field in which this phenomenon has ever taken place.

During the past 50 years, perhaps 50 individuals without valid credentials have pretended to be medical doctors and actually managed for a time to practice. So far as I know, no one has ever been exposed as a fake dentist, podiatrist, optometrist, or even chiropractor. But in nutrition, unaccredited correspondence schools and other organizations have issued thousands of "degrees" and certificates which suggest that the recipient is a qualified expert in nutrition. What's wrong with this situation is that these documents are promoted as though they are equivalent in meaning to established credentials—which they are not.

I'm not going to get into the issue of what makes 5 to 7 years of full-time training for a masters or doctoral degree in nutrition superior to a correspondence course of 6 to 9 months based on unproven theories. The important thing is that at present, both kinds of practitioners can represent themselves as "nutritionists" and display their diplomas on the wall as though they mean the same thing.

I believe that it is unfair to expect people to check the credentials of every health practitioner they encounter. Rather, it should be the role of government to set licensing standards and to prevent individuals who don't meet the standards from representing themselves as equivalent to those who do. Licensing will not offer complete protection against all forms of nutrition practice conducted in private between consenting adults. But it will make it difficult for unqualified individuals to advertise widely that they are experts.

Dr. Barrett, a practicing psychiatrist and consumer advocate, is editor of *Nutrition Forum Newsletter* and co-author/editor of 20 books including *Vitamins* and *"Health" Foods: The Great American Hustle*. In 1984, he received an FDA Commissioner's Special Citation Award for Public Service in combatting nutrition quackery.

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BASIC REQUIREMENTS

Arizona State University
COLLEGE/UNIVERSITY

Tempe, Arizona 85287
CITY/STATE

8-22-84
DATE

| AREA OF SUBJECT MATTER | * | COURSE TITLE | COURSE NUMBER | COURSE CREDIT | SEMESTER/QUARTER |
|----------------------------------|---|--|--|--|--|
| Chem. inorganic | | General Chemistry <u>AND</u> General Chemistry | CHM 113 CHM 115 <u>OR</u> CHM 116 | 4 hours 4 hours | Fall/Spring Fall/Spring |
| Chem organic | | General Organic Chemistry ^a <u>AND</u> General Organic Chemistry ^a | CHM 331, 332 <u>AND</u> CHM 332, 334 | 4 hours 4 hours | Fall/Spring Fall/Spring |
| Microbiology | | Microbiology <u>AND</u> Microbiology Lab. | MIC 201 MIC 202 | 3 hours 1 hour | Fall/Spring Fall/Spring |
| Human Physiology | | Human Anatomy and Physiology <u>AND</u> Human Anatomy and Physiology | ZOL 201 ZOL 202 | 4 hours 4 hours | Fall/Spring Fall/Spring |
| Sociology or Psychology | | Introductory Sociology <u>OR</u> Introduction to Psychology | SOC 101 PGS 100 | 3 hours 3 hours | Fall/Spring Fall/Spring |
| Economics | | Principles of Economics <u>OR</u> Principles of Economics | ECN 201 ECN 202 | 3 hours 3 hours | Fall/Spring Fall/Spring |
| Food | | Applied Food Principles <u>AND</u> Experimental Foods | FON 142 <u>AND</u> FON 442 | 3 hours 3 hours | Fall/Spring |
| Nutrition | | Human Nutrition <u>AND</u> Advanced Nutrition I | FON 141 FON 440 | 3 hours 3 hours | Fall/Spring Fall |
| Management Theory and Principles | | Principles of Management | MGT 301 | 3 hours | Fall/Spring |
| Communication | | Advanced Composition <u>OR</u> Business Communication <u>OR</u> Writing for Professionals <u>OR</u> Journalism News Writing | ENG 211 ADS 233 ENG 301 JRN 201 | 3 hours 3 hours 3 hours 3 hours | Fall/Spring Fall/Spring Fall/Spring Fall/Spring |
| Math ^a | | Algebra and Trigonometry <u>OR</u> Math for Soc., Life & Mgmt. | MAT 115 MAT 141 | 4 hours 4 hours | Fall/Spring Fall/Spring |
| Learning Theory | | Methods of Teaching Home Ec. <u>OR</u> Educational Psychology | HEE 480 EDP 310 | 3 hours 3 hours | Fall Fall/Spring |

a- May be acquired prior to college entrance

Please Note: Courses used in Basic Requirements can not be used to satisfy competence statements in the Areas of Emphasis.

10/25/84
Approved for the Basic Requirements and the

Health, Management, Clinical and Community Areas of Emphasis.

J. Feltner / J. Judd
4/82

SUMMARY OF PROPOSED PROGRAM

NON-CUP PLAN IV

AREA OF PROGRAM EMPHASIS

MANAGEMENT

Arizona State University
COLLEGE/UNIVERSITY

Tempe, Arizona 85287
CITY/STATE

8-22-84
DATE

| AREA OF SUBJECT MATTER | * | COURSE TITLE | COURSE NUMBER | COURSE CREDIT | SEMESTER/ QUARTER |
|--|---|---|--|--|--|
| Labor Econ. or Relations | | Industrial Relations and Collective Bargaining | MGT 423 | 3 hours | Fall/Spring |
| Food Service Sys. Mgmt. | | Food Service Systems Management AND Quantity Food Production | FON 344 AND FON 445 | 3 hours | Fall |
| Prin. of Business Organization | | Personnel Management | MGT 311 | 3 hours | Fall/Spring |
| Financial Mgmt. | | Fundamental of Finance | FIN 300 | 3 hours | Fall/Spring |
| Data Processing (Computer logic) OR Data Evaluation (Statistics) | | Management Information Systems OR Statistical Analysis OR Social Statistics OR Introduction to Statistics | CIS 202 OR QBA 221 ^{cr} SOC 390 ^{cr} PSY 230 ^{cr} | 3 hours 3 hours 3 hours 3 hours | Fall/Spring Fall/Spring Fall/Spring Fall/Spring |

Please Note: Courses used in Basic Requirements can not be used to satisfy competence statements in the Areas of Emphasis.

NON-CUP¹ PLAN IV
AREA OF PROGRAM EMPHASIS

CLINICAL

Arizona State University
COLLEGE/UNIVERSITY

Tempe, Arizona 85287
CITY/STATE

8-22-84
DATE

| AREA OF SUBJECT MATTER | * | COURSE TITLE | COURSE NUMBER | COURSE CREDIT | SEMESTER/ QUARTER |
|-------------------------------------|---|---|--|--|---|
| Biochemistry | | Principles of Biochemistry or General Biochemistry | CHM 361 or CHM 461 | 4 hrs 4 hrs | Fall/Spring |
| Biochemical Anal. | | Lab portion of 361 Lab portion of 461 | CHM 367 or CHM 467 | 1 hr 1 hr | Fall/ Spring |
| Anatomy or Adv. Phy. or Genetics | | Human Genetics | ZOL 241 | 3 hours | Fall/Spring |
| Cultural Anthro. or Sociology | | Introduction to Cultural and Social Anthropology | ASB 102 | 3 hours | Fall/Spring |
| Nutrition | | Human Nutrition Assessment Laboratory | FON 446 | 4 hours | Spring |
| Nutrition in Disease | | Diet Therapy | FON 444 | 3 hours | Spring |
| Data Evaluation | | Statistical Analysis <u>OR</u> Social Statistics <u>OR</u> Introduction to Stats. <u>OR</u> Biometry | QBA 221 SOC 390 PSY 230 BIO 415 | 3 hours 3 hours 3 hours 3 hours | Fall/Spring Fall/Spring Fall/Spring Fall |

Please Note: Courses used in Basic Requirements can not be used to satisfy competence statements in the Areas of Emphasis.

SUMMARY OF PROPOSED PROGRAM

NON-CUP¹ PLAN IV

AREA OF PROGRAM EMPHASIS

COMMUNITY

Arizona State University
COLLEGE/UNIVERSITY

Tempe, Arizona 85287
CITY/STATE

8-22-84
DATE

| AREA OF SUBJECT MATTER | * | COURSE TITLE | COURSE NUMBER | COURSE CREDIT | SEMESTER/ QUARTER |
|----------------------------------|---|---|--|--|---|
| Biochemistry | | Principles of Biochemistry or GENERAL Biochemistry AND Human Nutrition Assessment Laboratory | CHN 361 OR CHN 461 AND FON 446 | 4 hours | Spring |
| Cultural Anthro. or Sociology | | Introduction to Cultural and Social Anthropology | ASB 102 | 3 hours | Fall/Spring |
| Psychology _c | | Introduction to Psychology | PSG 100 | 3 hours | Fall/Spring |
| Nutrition in Disease | | Diet Therapy | FON 444 | 3 hours | Spring |
| Nutrition & Comm. Health | | Community Nutrition | FON 448 | 3 hours | Fall |
| Food Serv. Sys. Management | | Quantity Food Production | FON 445 | 3 hours | Spring |
| Data Evaluation | | Statistical Analysis <u>OR</u> Social Statistics <u>OR</u> Introduction to Stats. <u>OR</u> Biometry | QBA 221 SOC 390 PSY 230 BIO 415 | 3 hours 3 hours 3 hours 3 hours | Fall/Spring Fall/Spring Fall/Spring Fall |

c- If not completed in Basic Requirements

Please Note: Courses used in Basic Requirements can not be used to satisfy competence statements in the Areas of Emphasis.

SUMMARY OF PROPOSED PROGRAM

NON-CUP PLAN IV

AREA OF PROGRAM EMPHASIS

GENERAL

Arizona State University
COLLEGE/UNIVERSITY

Tempe, Arizona 85287

CITY/STATE

8-22-84

DATE

| AREA OF SUBJECT MATTER | * | COURSE TITLE | COURSE NUMBER | COURSE CREDIT | SEMESTER/ QUARTER |
|--|---|--|---------------------------|------------------|----------------------|
| Biochemistry | | Principles of Biochemistry | CHM 361 | 4 hours | Fall/Spring |
| | | OR General Biochemistry | CHM 461 | 4 hours | Fall/Spring |
| Cultural Anthro. or Sociology | | Introduction to Cultural and Social Anthropology | ASB 102 | 3 hours | Fall/Spring |
| Food Service System Mgmt. | | Food Service Systems Management AND Quantity Food Production | FON 344 AND FON 445 | 3 hours | Fall |
| Nutrition in Disease (Prerequisite Bioch) | | Diet Therapy | FON 444 | 3 hours | Spring |
| Data Processing (Computer logic) or Data Evaluation (Statistics) | | Management Information Systems | CIS 202 | 3 hours | Fall/Spring |
| | | OR | OR | | |
| | | Statistical Analysis | QBA 221 | 3 hours | Fall/Spring |
| | | OR | OR | | |
| | | Social Statistics | SOC 390 | 3 hours | Fall/Spring |
| | | OR | OR | | |
| | | Introduction to Statistics | PSY 230 | 3 hours | Fall/Spring |

Please Note: Courses used in Basic Requirements can not be used to satisfy competence statements in the Areas of Emphasis.

THE PERSONAL DIET

Tailoring nutrition to your needs

By Janis Johnson
Special for USA TODAY

When Annette Campbell of Tucson, Ariz., was considering pregnancy at age 34, her gynecologist suggested she first consult a nutritionist, lose 15 or 20 pounds and get into shape.

"Like most people, I ate a fair amount of fast food, and it was hard to get the right nutrition," says Campbell, who runs a design business with her husband. Not only did Robyn DeBelle, a registered dietitian, lower the fat in Campbell's diet, she raised her consumption of protein and calcium, taught her new eating habits, worked out a diet to lower her hypertension and monitored her exercise programs.

Two-and-one-half years and an 18-month-old son later, Campbell still visits DeBelle every two to three weeks, now with the aim of regaining her pre-pregnancy fitness. "It's a policing kind of thing," Campbell says. "Not everyone can do this on her own. Plus it's faster, more direct."

Having a personal nutritionist is a growing trend in this diet-and-fitness-conscious age.

William "Refrigerator" Perry, a Chicago Bears defensive tackle, consulted a registered dietitian for weight-loss. Baseball announcer Joe Garagiola, Motown film president Suzanne DePasse and celebrity agent The Mengers have sought nutrition counseling at Canyon Ranch Health and Fitness Resort in Tucson. And tennis champ Martina Navratilova credits her 1983 U.S. Open victory to the help of nutritionist Robert Hans, who is not a registered dietitian but is the best-selling author of *Eat to Win: The Sports Nutrition Bible* (NAL, \$4.50).

The cost ranges from \$35 to \$75 for the initial visit, \$15 and up for follow-up consultations. For their money, clients generally receive a custom-designed diet addressing their particular lifestyle and nutritional needs, as well as sound advice.

But for all the advantages and current trendiness, nutritionists "are a very variable lot," says personal health columnist Jane Brody.

Anyone can use the title "nutritionist." Only a registered dietitian (R.D.) is required to meet strict educational requirements, including a dietetic internship, and pass an exam. That means if you don't check the nutritionist's qualifications, you may be in for useless, if not bad, information.

And you can't always count on your physician to provide good nutritional advice. Although some have credentials indicating special training in nutrition, most receive little, if any, says Dr. Myron Winick, director of the Institute of Human Nutrition at New York's Columbia University. Winick is chairman of a national panel that recommended improved nutrition education in medical



HER OWN NUTRITIONIST: Annette Campbell, left, checks in with dietitian Robyn DeBelle every two-three weeks. DeBelle changed her eating habits and worked out a diet to lower hypertension.

schools.

Yet with major killer diseases—including heart illness, hypertension, diabetes, obesity and cancer—now linked in part to what we eat, "nutrition is something we can do something about," says Winick, author of *Your Personalized Health Profile—Choosing the Diet That's Right for You* (William Morrow, \$16.95).

DeBelle and her partner, Marilyn Tapia of Associates in Professional Nutrition Counseling, offer a program typical of the most reputable services. Their clients—usually referred by physicians—keep a three-day record of everything they eat and send it in a week before the initial visit.

The dietitians perform an analysis, which includes nutritional deficiencies, effects of medication on foods, and lifestyle habits, such as smoking, exercise or eating on the run. After this advance written study, only one office visit may be necessary, although many patients like Campbell prefer follow-up sessions.

"Unless you're really up on nutrition, you don't know

what's in food," says Kathy Bourdet, a registered dietitian at the Sports Medicine Center at St. Francis Memorial Hospital in San Francisco. "You can read a lot of books, but there's a lot of quackery. Nutrition is still changing all the time."

Laurie Jobu, a former professional dancer, consulted Bourdet after an injury. "Dancers are typically treated out because of weight," says Jobu. "She began to me about

the need for enough calories for healing and energy. It was very encouraging on a psychological level."

Jobu had sought nutritional advice once before, and it wasn't helpful. "I was given a straight diet. It had nothing to do with me. I walked out knowing I'd never follow it."

There can be other disadvantages. Many health insurance plans don't cover consultations with nutritionists. And

How to counsel yourself

If you can't afford your own nutrition counselor, there are many outlets for receiving reliable information. Some provide one-on-one consultations at little or no cost; others will mail information. Among them:

- Medical organizations, such as local or national offices of the American Heart Association, the American Cancer Society and the American Diabetes Association.
- City, county or state health departments.
- County or state extension services.
- Hospital nutrition departments.
- Nutrition/dietetics departments of state colleges and universities.
- Books by qualified nutritionists.

■ Newsletters, such as *Nutrition and Health* by the Institute of Human Nutrition, Columbia University College of Physicians and Surgeons, 701 W. 168th St., New York, N.Y. 10032.

■ Food and Nutrition Information Center, National Agricultural Library Building, Room 304, Beltsville, Md., 20705; (301) 344-3719.

■ National Health Information Clearing House, P.O. Box 1133, Washington, D.C. 20013; (800) 336-4797; in Virginia, (703) 522-2590.

How to find the right dietitian

When choosing a personal nutritionist, look for someone who:

- Is a registered dietitian (R.D.) certified by the American Dietetic Association in Chicago. (800) 881-8459 or (312) 230-5000, or is a member of the American Society for Clinical Nutrition or the American Board of Nutrition. Many official-sounding accreditations are actually issued by non-ac-

credited diploma mills.

■ Is willing to work with your physician.

■ Does not sell commercial products, such as vitamins or diet foods, or promote a particular brand of these items.

■ Is available for follow-up consultation.

■ Advocates a variety of food. Anyone who eliminates entire nutritional categories is suspect.

■ Does not give hair analysis tests or cytotoxic allergy tests; neither has any scientific validity for dietary assessment.

■ Does not recommend high megavitamin or mineral doses or large amounts of other "miracle" substances.

■ Assesses your entire health picture. If you want to lose weight, for example, exercise should be included in the recommendations.

In some cases, you can get just as much information out of books or free material from medical associations, cooperative extension services or public universities.

For Campbell, the danger is becoming too reliant on her dietitian, who makes sense out of all the nutritional information she reads. "I find it good to keep it simple," she says. "But you have to remember—you do the work yourself."

Attachment J

FOODS, DRUGS, or FRAUDS?

In March 1983, an internal Food and Drug Administration memo talked about "one of the most blatant forms of quackery that we have seen." Recently, CU phoned the company discussed in that memo and ordered three purported cancer cures and two herpes nostrums....

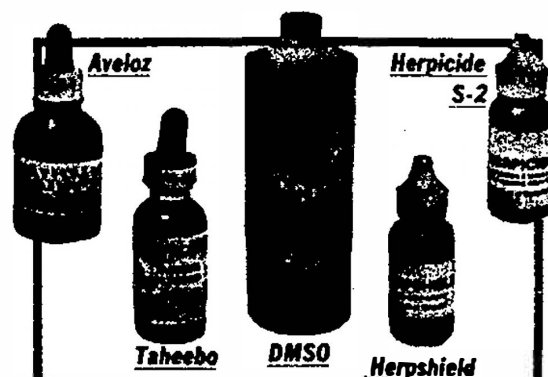
We received the products above. In our judgment, and in the judgment of a panel of experts we assembled, they do indeed represent "blatant quackery."

Yet such products are freely sold. According to the House Subcommittee on Health and Long-term Care, quackery is now a \$10-billion business in the U.S., and growing "at an alarming rate," probably more than 12 percent a year. "Nutrition supplements" with unproven health claims are a significant part of the business. Sellers of such supplements often peddle their products to health-

food-store owners who may not know that the claims are false or unproven.

Rarely are the claims found on a product's label. More often, the claims are found in other literature, displayed elsewhere in the store. This separation enables the manufacturers to claim that they're selling nutrition supplements rather than drugs.

To strip away this veneer of separation, CU created its own "health-food store." What we found out forms the basis for Part I of this report, "Drugs in Disguise."



These Life Extension products, judged illegal by a panel of experts assembled by CU, are among the dozens of such products we bought.

Aveloz. This is an extract from a South American shrub. Life Extension claims that, "taken by the tablespoonful every hour Aveloz shrinks cancerous growths in one week." The claim, our expert panel says, is baseless.

DMSO. Life Extension's literature says that DMSO "will probably prove to be the most effective agent currently available for the treatment of cancer." The product is an industrial solvent.

Tahebo. An extract from the bark of the South American tabebuia tree, tahebo, says the company, "undoubtedly contains a substance found to be highly effective against cancers." No known controlled experiments support that claim, say CU's expert consultants.

Herpsihield. Life Extension's brochure says this gel permits "the healthful pleasures of clean sex, without the fear of viral infection." In fact, no method of preventing the transmission of herpes virus has been proven reliable.

Herpicide S-2. Another gel with unidentified ingredients, this substance is claimed to heal blisters (presumably herpes blisters) "in 3 to 4 days!!!" The only drug recognized as effective against herpes blisters is acyclovir, a prescription drug.

Another dimension to the health-fraud boom is the person-to-person peddling of nostrums by multilevel sales organizations. A CU reporter became a distributor for several of these organizations. The resulting inside view forms the basis for Part II, "The Dubious Distributors."

Contributing to the growth of health fraud is the lack of an effective policy at the FDA. Fighting health fraud used to rank higher among the agency's priorities than it does now. We discuss the FDA's role in Part III, "Why the FDA Doesn't Crack Down."



Drugs in disguise

When is a drug not a drug? When it's a 'food.'

Many nutrition supplements sold in health food stores are claimed—despite lack of scientific proof—to treat or prevent a variety of serious diseases, delay aging, or restore pep. You won't find these claims on the labels of the bottles that line the shelves. The treatment-and-prevention claims appear elsewhere: in pamphlets stacked nearby, in books available for browsing or purchase, or in "bag stuffers" given away at the checkout counter. Often, buyers have no way to know whether this literature comes from the manufacturers of the products.

For manufacturers and distributors of nutrition supplements with inflated claims, it makes good legal sense to keep the products separate from information about their claimed benefits. If a label merely says "take 2 tablets 3 times daily as a dietary supplement," the product is arguably a food supplement—and thus not subject to the rules governing drugs. But a therapeutic claim—"take 2 pills 3 times daily for relief of arthritis"—makes the product legally a drug and subjects it to FDA regulation.

Many of the products bear a disclaimer saying that they are "not intended to replace the services of a physician." But the claims made for them, and the manner in which they are marketed, send the

opposite message to buyers.

A drug, under the law, is a product "intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals." A drug can be legally marketed if it has been approved by the FDA, or if it is "generally recognized as safe and effective." If a drug meets neither of these criteria, the FDA can seize it, prevent the company from marketing it, and seek criminal penalties.

Some unproven remedies, as detailed later in this report, can cause serious injury because they contain toxic ingredients or contaminants. Many others, though innocuous themselves, encourage the victims of serious diseases to medicate themselves with ineffective substances when effective treatments exist.

In recent years, a lot of companies have begun playing the drugs-as-foods game. To get acquainted with some of them, CU created its own health-food store. We operated our store in two different states under two different names. That way, we could be sure all the products we ordered were shipped in interstate commerce. And we could also learn whether the health claims were being made by the manufacturer or distributor. That connection legally makes a product a drug, even if the claim never appears on the product's label.

We contacted more than 70 companies and asked for their catalogs and product information. We chose our products and sent back the order forms, along with requests for additional literature to help explain the products' uses.

In addition to more than 300 products, much literature was bestowed on us during the five months we ran our store: "Dear Retailer" letters from manufacturers explaining why their products should be prominently displayed; numerous catalogs filled with detailed product

descriptions; dozens of free flyers, brochures, "fact sheets," and bag stuffers to help us "increase sales dramatically." Some of this literature contained astonishing medical claims.

Our health-food store's products and accompanying literature were not sold to consumers. Instead, they were evaluated by a seven-member panel of medical and legal experts chosen by CU. The panel consisted of four attorneys who specialize in health and health-fraud issues, a specialist in internal medicine who is on the faculty of a major university medical center, a nutritionist, and a pharmacologist who is on the faculty of another major university medical center.

The panel evaluated one or two products from each company. For each product, the panelists made a judgment about whether the product was legally a drug; whether it was known to be effective for its claimed purpose; whether it posed a direct hazard to the user; and whether it posed an indirect hazard by encouraging users to abandon other forms of therapy. Many of the products were judged indirect hazards. A few were judged direct hazards—substances that could cause bodily harm to the user.

The final judgment the panelists made was whether, in their opinion, the manufacturer or distributor was violating the Federal Food, Drug and Cosmetic Act. New drugs must have FDA approval as being safe and effective before they can be marketed. New drugs marketed without FDA approval are considered illegal new drugs.

The panel also looked at whether the product was "misbranded." Here are two common reasons why a product might be legally considered misbranded:

(1) The label doesn't provide adequate directions on how to use the product for its advertised purposes.

(2) The labeling (which includes any

CU's expert panel is shown during product-evaluation session. Two panelists—Eugene Pfeifer and John S. Eldred—are attorneys who formerly did legal work for the FDA. Sorell L. Schwartz, Ph.D., is a professor of pharmacology at the Georgetown University School of Medicine and Dentistry, and was a consultant to the House Subcommittee on Health and Long-Term Care. Philip Witorsch, M.D., is a clinical professor of medicine at the George Washington University Medical Center. Barbara Levine, Ph.D., is director of the Nutrition Information Center, New York Hospital-Cornell University Medical Center and Memorial Sloan-Kettering Cancer Center. Grace Monaco and Rebecca Burke are attorneys with White, Fine & Verville, which often represents insurance companies in cases involving alleged health fraud.



literature used in the distribution of the drug) is false or misleading in some way.

In the panelists' unanimous opinion, the 42 companies listed in the table on page 278 offered products that violated both major provisions of the Food, Drug and Cosmetic Act: They were unapproved new drugs and they were misbranded.

Five products were judged the worst of the entire bunch. They are discussed in more detail below.

Liquid Citrus Bio-flavonoid Complex

If the panel had given an award for the most outrageously illegal claims made for a product, the award might have gone to *Liquid Citrus Bio-Flavonoid Complex*, manufactured and distributed by Bio-Botanica Inc., of Hauppauge, N.Y.

Bio-Botanica sent our store numerous



copies of a flyer entitled "Bio-Flavonoids and You!" The flyer indicates that *Liquid Citrus Bio-Flavonoid Complex* can help people with the following maladies: "herpes sores . . . easy bruising or hemorrhaging . . . diabetic cataracts . . . capillary oozing during surgical procedure . . . abnormal clumping of red blood cells and blood platelets . . . cancer-producing processes . . . excessive inflammation . . . abnormal uterine bleeding . . . allergy symptoms in children . . . cystitis toxicity . . . capillary bleeding caused by anti-coagulants . . . menopausal symptoms."

Bio-flavonoids are a mixture of organic chemicals found in citrus fruits. Discovered nearly 50 years ago, they were called "Vitamin P" for a short time—until researchers found they were not essential for humans. (A vitamin, by definition, is.) They have not been proven useful for treating any human maladies.

Padma 28

The panel found that many of our health-food-store products were "indirect hazards"—not harmful themselves, but hazardous because users may forgo treat-

ments that actually work. Our panel singled out *Padma 28* as the most dangerous indirect hazard it reviewed.

Padma 28 tablets contain 22 herbs prepared "in accordance with the principles of Tibetan herbology." An ad placed by Padma Marketing, the product's Berkeley, Calif. maker, boasted that



"*Padma 28* produces results in treating angina pectoris and PAO [peripheral arterial occlusion]."

A flyer the company sent to our store touts *Padma 28* not only for angina and PAO but also for "disabilities of old age, especially in relation to reduced circulation, such as senility, poor memory, and depressed energy levels," and for "poor circulation in general, producing cold feet, numb or antsy feeling in the arms and legs, stiffness of the joints."

The panel considered the claim that *Padma 28* relieved angina "highly dangerous." Panelists said that anyone using *Padma 28* for angina attacks instead of seeking help for the underlying heart problem could be making a fatal decision. Depending on the amount consumed, *Padma 28* may also represent a direct hazard. One of its ingredients is the herb aconite. Varro Tyler, dean of the Purdue University School of Pharmacology, told us that aconite is "extremely poisonous" and could be quite dangerous. How much aconite do you get with *Padma 28*? The label (unlike labels for approved drugs) doesn't say.

Meganephrine

"Dear Friends," the letter to our store began, "Nutritional specialty products are among the most effective agents that can be used in the prevention and treatment of coronary heart disease, stroke and related life-threatening complications." The letter was from Eva Milligen, vice president of Arteria Inc., of Concord, Calif. Arteria products are notable for having scientific-sounding names such as "Essential Mucopolysaccharides," "Acetylcholine Releasers," and "Electrolyte Replenisher."

Our panel reviewed claims for an Arteria product called *Meganephrine*. "This nutritional supplement," the company says on the order form, "is especially designed to offset adrenal insufficiency and also raise serum noradrenaline lev-

els." Does anyone really need a higher noradrenaline level? CU's medical consultants doubt it: Noradrenaline is made not only in the adrenal glands but also in nerve endings throughout the body. Deficiencies have not been described in the medical literature.

The panel considered *Meganephrine's* claims dangerous. The key claim is that the product cures adrenal insufficiency. Treatment of this rare disorder requires the services of an endocrinologist, and judicious use of corticosteroids.

Anyone who takes *Meganephrine* and gets away with it probably didn't have adrenal insufficiency. Used by a person with the disease, it could result in a fatality.

Meganephrine's ingredients come mainly from animal innards. Each capsule contains "250 mg Adrenal; 40 mg Hypo-



thalamus; 50 mg Pituitary; 100 mg Medulla concentrate; 250 mg Tyrosine (an amino acid)." In the view of CU's medical consultants, these ingredients are no more helpful than a hamburger.

DMSO

A brochure put out by Life Extension Products advertises "DMSO in the Treatment of Cancer Patients." The ad claims that DMSO could be "one of the most effective anticancer agents known," that it "has the properties desired in any cancer drug" and has been "used successfully" with chemotherapy.

The ad does contain one fact—that DMSO "is capable of passing through body tissue taking other products with it." But that fact makes DMSO a substance that could be directly, as well as indirectly, hazardous.

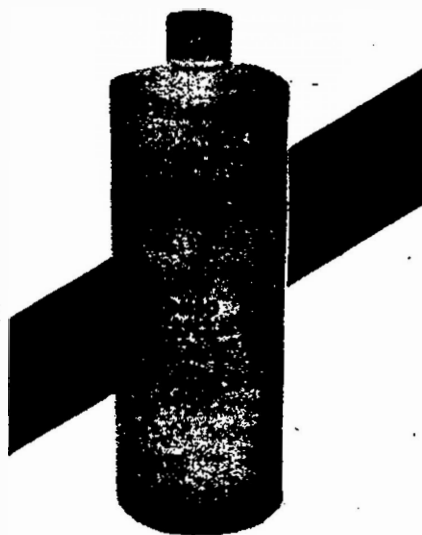
DMSO is an industrial solvent. The FDA has approved it solely for the treatment of interstitial cystitis, a rare bladder disease. But otherwise, DMSO has not been shown to alter the course of any other disease. Nevertheless, proponents of DMSO therapy claim miraculous relief from a variety of ailments, notably arthritis. Despite public-education efforts by the FDA, many people obtain DMSO from nonmedical sources and attempt to use it medically.

The unproven-claims brigade

Each company listed below markets or distributes at least one health product that CU's panel of experts believes to be in violation of Federal law (see story). The products of a few of these companies have been seized by the FDA. One company (Linblads Inc.) has been criminally prosecuted by the FDA. Most, so far as CU knows, have never been the subject of any FDA enforcement action.

| Company | Product and unproven claim | Company | Product and unproven claim |
|--|---|---|--|
| Advance Laboratories Inc. Watertown, Mass. | Prosta-Pak: Relieves symptoms of benign prostatic hypertrophy | HRG Distributors 17941 Brookshire Lane Huntington Beach, Calif. | Prosta-Pak: Treats prostate problems, frequent urination, constipation, etc. |
| Alta Health Products 1963 E. Locust St. Pasadena, Calif. | Pass D'Arroz: Treats cancer, leukemia, asthma, etc. | I. & H. Vitamins 38-01 38 Ave. Long Island City, N.Y. | Olivamide + 2: Treats circulation problems (numbness in limbs, poor memory, impotence, frigidity, etc.) |
| Arterio Inc. 1061 Shary Circle Concord, Calif. | Megastrophes: Treats adrenal insufficiency | Life Extension Foundation 2835 Hollywood Blvd. Hollywood, Fla. | Cogitax-2: Improves mental function and prevents memory loss associated with aging |
| Bart's of Long Island 270 West Merrick Road Valley Stream, N.Y. | Natural Minerals Cholesterol Reduct: Relieves high and low blood pressure, impotence, anemia, arthritis, etc. | Life Extension Prod. and Serv. 781 W. Oakland Park Blvd. Pt. Lauderdale, Fla. | Arterio: Treats cancer |
| Betty Kay Enterprises 2564 Union Blvd. Marina Del Rey, Calif. | Oravay Oral Cholesterol Program Kit: Removes arterial plaque, strengthens the heart, etc. | Linblads Inc. Dearborn, Mich. | Nutrichem: Treats colitis, ulcers, heartburn, etc. |
| Bio-Serious Inc. 75 Commerce Drive Hauppauge, N.Y. | Liquid Citrus Bio-Flavonoid Complex: Treats diabetic osteoarthritis, abnormal uterine bleeding, hypertension, etc. | Mini-Me Health Staff McAllen, Texas | Wart Solver: Eliminates viruses and treats warts, fever blisters, etc. |
| Biorace of America Ltd. 21 West Mall Plainville, N.Y. | Cresta-gleam: Strengthens the heart and heals a large variety of heart ailments | Minerals Lab Inc. 3501 Brinkwater Ave. Hayward, Calif. | Cardio-Guard: Reduces the incidence of stroke and heart attacks, regulates cholesterol and triglyceride levels |
| Bioguard P.O. Box 2211 Del Mar, Calif. | Heart of Health-Pak: Lowers cholesterol levels | Natural Health Products 177 East 87th St. New York, N.Y. | Life Preserving: Slows down the aging process, prevents immunity breakdown, etc. |
| Country Life Hauppauge, N.Y. | COMB-21 (CAN): Treatment or prevention of cancer | NF-Poly-Arches Formula Inc. 3363 S.E. 20th Portland, Ore. | Rheumaid: Treats arthritic, osteoporosis, etc. |
| Dynapre International P.O. Box 3002 Ogden, Utah | CN Unplug: arteries, lowers cholesterol, etc. | Nutri-Articles Sub. of Whitney Ind., Inc. 18211 Enterprise Lane Huntington Beach, Calif. | Peptide GHT: Boosts the body's fat-burning mechanism, suppresses the appetite |
| Edson Laboratories, Inc. 880 Grand Blvd. Deer Park, N.Y. | Max: Restores male potency, increases male sexual response | Nutri-Health 18211 Enterprise Lane Huntington Beach, Calif. | Free Flow (Ore-10): Prevents and treats hardening of the arteries, improves cardiovascular health |
| Eucalyptus Therapy Inc. P.O. Box 1808 Green Bay, Wis. | H/BP (Formula No. 378): Prevents and corrects high blood pressure | Nutri-Wood Douglas, Wyo. | 630 M-61: Treats gallbladder problems, strengthens the liver |
| Ezodon Box 91861 Pasadena, Calif. | Dr. Kearney's Super Nutrient Formula: Improves circulation, reduces and prevents arteriosclerosis, etc. | Oxygent Inc. Sub. of Biotech Research Corp. P.O. Box 37305, Houston, Texas | Cardiogen Q (Co-Q): Treatment of cardiovascular conditions, aging, and immunity problems |
| Essential Organics Derry, N.H. | Prosta-Arterio: Relieves symptoms of benign prostatic hypertrophy | Podium Marketing World Health Network 9460 Channing Way, Berkeley, Calif. | Podium 360: Lowers blood pressure and reduces pain caused by angina pectoris and peripheral arterial occlusion |
| First Nutrients P.O. Box 426 Palatine, Ill. | Chole-Pak: Unclogs large vessels | Saved Life Research Inc. 28003 John R Madison Heights, Mich. | Cebetic-TZ: Strengthens the immune system to prevent colds, flu, and fever |
| Flex Enterprises P.O. Box 391 Dickinson, Texas | Alco Flex Herpes Control Cream: Treats blisters, itching, and sores | Standard Process Lab Inc. 2023 W. Wisconsin Ave. Milwaukee, Wis. | Renalaid: Treats renal hypertension and renal insufficiency |
| FoodScience Laboratories 20 New England Drive Essex Junction, Vt. | Sea Mussel Capsules: Regenerates cells, lubricates joints | Serious Health Products 122 Broadway Fargo, N.D. | Memory Formula: Keeps the mind sharp and protects against the aging process |
| Epibiotics 60 Elliot St. Bristolboro, Vt. | DL-Phenylalanine Amphetamine: Relieves depression and the pain and inflammation of arthritis | Star-One Health Products Inc. Island Park, N.Y. | CSA: Prevents blood clots and combats arthritis, inflamed joints and heart problems |
| Great Earth Vitamin Stores 1801 Parkcourt Place Santa Ana, Calif. | Maintain DHEA Complex: Inhibits weight gain | The Vital Corporation 3800 W. Oquendo Las Vegas, Nev. | By-Pass: Reverses arteriosclerosis and unblocks arteries |
| Great Life Laboratories 500 Dorian Road Westfield, N.J. | Olivamide + 2: Treats circulation problems (numbness in limbs, poor memory, impotence, frigidity, etc.) | Vitaline Formulas 150 Country Club Drive Incline Village, Nev. | Che-Detox: Treats cardiovascular disease, neutralizes heavy metal poisons, improves liver and kidney function, etc. |
| Health from the Sun Products, Inc. P.O. Box 477, Dover, Mass. | Santitas Junior Caps: Acts as a diuretic and keeps the blood clean and free of impurities and poisons | Wakenage of America Co. Inc. Torrance, Calif. | Kyolic Super Formula 103: Treats cardiovascular problems, improves athletic performance |

After receiving our DMSO from Life Extension, we read the instruction sheet on "Use of DMSO in the Treatment of



Cancer." We could take it orally ("use one ounce of 100% DMSO mixed with 3 ounces of orange juice") or rectally, as a retention enema ("mix one ounce of 100% DMSO with three ounces of water").

DMSO could prove fatal, according to CU's panel, if used as a retention enema. As the Life Extension ad stated, DMSO does "take other products with it" as it

"passes through body tissue." In the rectum, these "other products" might include bacterial toxins that DMSO could carry through the intestinal wall and into the bloodstream.

For a person who is already weakened by cancer, the effect of the absorbed toxins could be life-threatening.

Another recommendation in the instruction sheet advised diabetics using insulin to "decrease the insulin intake by 40-50% during the DMSO treatment" and to consume sugar "regularly with the DMSO doses." For some diabetics, following this advice could produce acidosis, possibly progressing to coma.

Rheumoid

NF Physicians Formula Inc., of Portland, Ore., calls itself "An organization of health-care practitioners dedicated to the promotion of wellness." The company's 50-page catalog lists 292 diseases and conditions, ranging from Alzheimer's disease and angina pectoris to seizures, stroke, and warts. The product guide, or "Clinical Repertory," matches each ailment with the "nutritional substances" it says are effective in helping to rebalance the patient.

Our panel looked at one such "nutritional substance," called *Rheumoid*. *Rheumoid* tablets contain seven herbs, an amino acid (L-cysteine), and potassi-

um. An NF Physicians Formula information sheet describes *Rheumoid* as "a safe and effective alternative to the arthritis drugs currently in use"—a claim that disturbed the panel because it could encourage a halt to the use of effective medications.

In addition to arthritis, *Rheumoid* was touted for back pain, discopathy, osteomalacia, osteoporosis, and scoliosis.

NF Physicians Formula is just one of many companies that market products only to "health care professionals." Chiropractors appear to be the biggest customers. Laws prevent them from writing prescriptions for FDA-approved drugs,



so companies like NF Physicians Formula offer them the chance to "prescribe" something. Chiropractic journals we reviewed are full of ads for unapproved remedies.

Some bacteria with your gland concentrates, sir?

The savage commonly believes that by eating the flesh of an animal or man he acquires not only the physical, but the moral and intellectual qualities which were characteristic of that animal or man.—"The Golden Bough," by Sir James G. Frazer

Sympathetic magic lives. Long a staple of quack health spas and clinics, "raw gland concentrates" have lately become a health-food fad. As explained by a seller's pamphlet, "The theory is that like cells help like cells." So swallowing capsules of raw adrenal concentrate, for example, will supposedly "bolster the function" of your own adrenal glands.

CU's expert panel reviewed "raw glandulars" marketed by several companies. Companies generally didn't make therapeutic claims for these products. So the panel considered them to be legally marketed foods.

But the panel suggested that CU assay some glandulars for bacteria.

We sent out 13 glandular preparations for lab analysis, and got back some interesting results.

Manufacturers often boast that they process the glands at low temperatures. For example, the labels on glandulars from Biotics Research Corp. (Houston, Texas) say, "Dehydrated at low heat (40°C/104°F) to preserve associated enzyme factors." Low temperatures also help preserve something else:



contaminating bacteria.

An expert at the U.S. Pharmacopeia considers 100 bacteria per gram an unacceptably high level. Of the 13 products tested, seven had unacceptably high bacteria levels. The Biotics Research product—*Cytosyme-S (Stomach)*—was the worst. One gram of *Cytosyme-S* had a standard plate count of 6.5 million bacteria per gram. These included 24,000 coliform bacteria—intestinal bacteria whose presence indicates that hazardous intestinal organisms may also be present.

The next-worst was *Raw Prostate*, made by Brite Years (Tempe, Ariz.). One gram had a bacteria count of 4900 per gram, including 1100 coliform bacteria.

It's immaterial whether these products are legally considered foods or drugs. Those with high bacterial content are adulterated and potentially hazardous. In CU's view, the FDA should start looking into these glandular "foods."

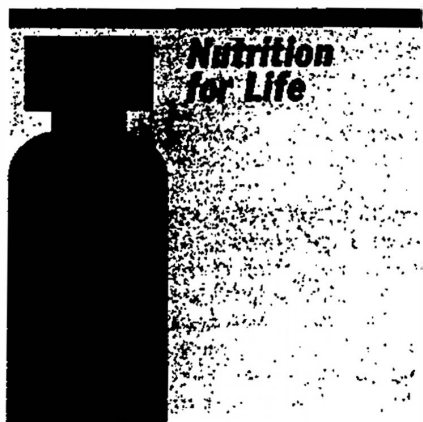
The dubious distributors

An inside look at the booming nutrition-supplement business.

It's easy to become a distributor of nutrition supplements. Just visit any of the "health expos" held regularly in major cities around the country. We attended two of them, the Philadelphia Health and Fitness Expo and the New York Whole Life Expo. We found dozens of booths filled with people explaining how we could improve our health and make good money at the same time. Thousands of Americans have become distributors for multilevel marketing organizations selling nutrition supplements.

Distributors buy products wholesale and sell them retail to neighbors, friends, and relatives. But to make big money as a distributor, you must usually sign up others as distributors under you—and help your distributors get people to work, in turn, for them. You get a percentage of all sales made by your "downline."

A CU reporter became a distributor for 11 nutrition-supplement businesses, including Nutrition for Life, Blue-Green Manna, and Herbalife. The vignettes that follow are based on his experiences as a nutrition-supplement insider.



Nancy (not her real name), a distributor for an organization called Nutrition for Life, lives in a stately old Manhattan building. She ushered the fledgling distributor into her apartment on the sixteenth floor and showed him into the living room. Lining one wall were four shelves filled with pill bottles and boxes.

The products on her shelves looked innocuous, with names like *Herbal Blend 8* and *Pau D'Arco Taheebo Tea*. Then Nancy explained what they're used for.

"*Herbal Blend 8*," she said as she plucked a bottle off the shelf, "cures diabetes." She said she knew of cases in which diabetics taking *Herbal Blend 8* have been able to come off insulin. The company can't make claims like that on the label, she said, "or the FDA would get after us."

The *Pau D'Arco Taheebo Tea* tablets, Nancy said, are for cancer. You take 6 to 9 tablets daily for prevention and 25 to 45 a day for serious illness. Taheebo, she said, "works with the immune system" and for that reason can also cure AIDS. She knows three patients who've been on the taheebo and "every one has gotten over AIDS."

"Can I actually tell people that?" the novice asked.

"Theoretically, you shouldn't make medical claims," Nancy said. "But I said it right off. It'll cure AIDS. Because it's true. Face to face, you can say anything you want."

Emphasize testimonials, Nancy advised. Recite cases in which the products successfully conquered disease. The new distributor's own experience with a product will also help convince people, she said. "You can say that it helped you if it did. Or even if it didn't."

Nancy explained how easy it is to sell the Nutrition for Life product line. "Everyone knows someone who has cancer or heart disease," she said. "Find out the names of those people, call them up, and tell them about the products."



"Next slide if we could, please," said Victor Kollman in the midst of his presentation to some 75 people gathered in

New York's Barbizon Plaza Hotel on a cold January night.

"Just to go around the circle of diseases we have worked with, particularly with those that involve the central nervous system, allergies, herpes virus, arthritis, leprosy, Mediterranean Fever, Alzheimer's disease, the general aging process, narcolepsy, sickle cell anemia, and anorexia nervosa. These are all various maladies that we have looked at in some depth. . . ."

The cure, Kollman indicated, is blue-green algae. Not just any blue-green algae, but algae of the species *Aphanizomenon flos-aquae*. It grows profusely in one place in the world: Upper Klamath Lake in Oregon. There it is harvested by K.C. Laboratories, freeze-dried, and sold to the world as *Blue-Green Manna*. Kollman owns K.C. Laboratories and is the discoverer of *Blue-Green Manna*.

About 25 products make up the Manna product line, which includes *Mannacol* (an alcohol extract), *Mannamist* (an algal nasal spray), and the capsules *Mannazen* and *Mannapra*.

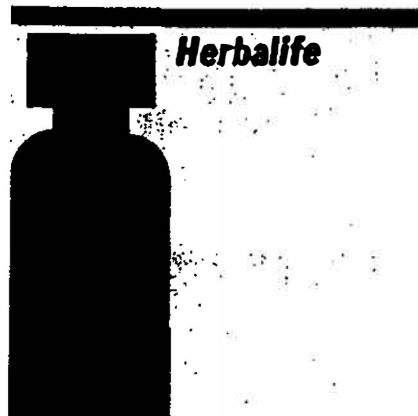
Eating algae is nothing new. Fish have done it for years. It formed a staple of the Aztecs' diet and is still eaten by lake dwellers on the West Coast of Africa. But convincing people to eat algae for serious diseases takes a certain genius. Few miracle cures have ever cost so little to package and sold for so much. A "Starter Pack"—120 capsules of *Blue-Green Manna* and one ounce of *Mannacol*—costs \$53. CU estimates the cost of the ingredients at well under a dollar.

How does *Manna* work? The way Kollman explains it, the algae contain "neuropeptides." When swallowed, these neuropeptides both detoxify the body and provide "food for the brain." Experts consulted by CU say that there is no known basis for these claims.

Kollman boasts that his manna is free of impurities such as "bacteria, fungi, yeast or mold of any type." But a 1983 FDA lab analysis of five ounces of *Blue-Green Manna* found: 15 whole or equivalent adult flies, 164 adult fly fragments, 41 whole or equivalent maggots, 59 maggot fragments, one ant, five ant fragments, one adult cicada, one cicada pupa, 763 insect fragments, nine ticks, four

mites, 1000 ostracods, two rat or mouse hairs, four bird feathers, six bird-feather barbules, and 10,500 water fleas.

In 1983, the FDA seized six *Blue-Green Manna* products as unsafe food additives. In resisting the seizure, Kollman swore under oath that he was an algae expert with a Ph.D. in biochemistry from Utah State University. The Government took a deposition from the Utah State registrar, who said the university had no record of Kollman's Ph.D.



"Why are you here?" Sharon asked the 15 new Herbalife distributors in a New York training session. "I'm assuming you want to get rich. You want to make money and you want to make it as quickly as possible."

And Herbalife is making some people rich. Founded five years ago by 29-year-old Mark Hughes, the company expects 1985 sales to exceed \$1-billion dollars. Hughes himself is a multimillionaire.

Herbs, of course, are the essence of Herbalife products. But some herbs can act as powerful drugs and may contain toxic chemicals.

We asked Varro Tyler of the Purdue University School of Pharmacy and a leading expert on herbs, to comment on the herbs in Herbalife products. After his comments, we can better appreciate the Herbalife slogan, "Lose weight now, ask me how." Herbalife products are stuffed with herbs that act as laxatives.

Four of the basic products—*Herbal-Aloe*, *Slim and Trim Herbal Vitamin Tablets (Formula 2)*, *Slim and Trim Linseed Oil Capsules (Formula 4)*, and *Florafiber* all act as laxatives. Anyone regularly dosed with laxatives, say CU's medical consultants, could develop dependence as well as mineral depletion—especially of potassium and magnesium.

In March, the California Attorney General filed a consumer-protection lawsuit against Los Angeles-based Herbalife and four of its executives, including Mark Hughes. The suit accuses Herbalife and its executives of "numerous unfair and

illegal statements and practices." These include making unapproved drug claims for some products, misrepresenting that the products' herbs will curb the appetite, and using a marketing plan that is an illegal pyramid scheme.



Oral chelation is one of the hottest fads in nutrition quackery today. The word "chelation" comes from the Greek "che-la," which means claw. Chelation products supposedly combat heart disease by grabbing onto the calcium in the plaques that obstruct arteries. Without its calcium "glue," the plug supposedly disappears. One proponent refers to chelation as "Liquid Plumber or Roto-Rooter for clogged arteries."

Oral chelation is an unproven treatment descended from another unproven treatment—intravenous chelation therapy for heart disease. The latter supposedly unclogs vessels in the heart with a chemical called EDTA, which is injected intravenously for one or two hours per treatment. There is no scientific evidence that intravenous EDTA helps in treating heart disease. It can actually cause harm by upsetting the body's mineral balance.

A month's supply of one product, called *Super-Che*, costs \$110. And a common recommendation is to "take the product for the rest of your life."

Besides draining your pocketbook, oral-chelation products may pose both direct and indirect hazards to your health. The indirect hazard is that a person with cardiovascular disease may forgo a needed operation, or legitimate drug therapy, in favor of oral-chelation treatment. The direct hazard is vitamin overdose.

In our research, we assembled 21 oral-chelation products. Eight of those—*Dr. Donsbach's Orachel*, *Cata-Chelex*, *Dr. D's Oraflow*, *Free Flow (Ora-K)*, *Ora-K Plus*, *Super-Che*, *Dyna-Che*, and *By-Pass*—contained levels of vitamin A that our panel judged potentially toxic. Vitamin A is a fat-soluble vitamin that can

accumulate in the body to dangerous levels when taken in high doses, and produce symptoms resembling those of a brain tumor. The products could be especially dangerous for pregnant women: At a 40,000 International Unit dosage, birth defects are a definite risk, according to our panelists.

Oral-chelation products amount to extraordinarily expensive, and overly potent, vitamin pills. Their risks are greater if the user takes other vitamin supplements as well.



As America's leading proponent of nutritional supplements for preventing and treating disease, Kurt W. Donsbach presides over a nutrition-supplement empire. His "Dr. Donsbach" line of nutritional supplements can be found on the shelves of many health-food stores.

He has written more than 40 publications on nutrition, including 20 "Dr. Donsbach Tells You What You Always Wanted to Know About . . ." booklets that he says have sold more than eight million copies.

He is founder and president of Donsbach University School of Nutrition, which offers bachelor's, master's, and Ph.D. degrees in nutrition through correspondence courses. The cost varies from \$2076 to \$5595, depending on the number of degrees sought and the method of payment. (A 20 percent discount is given for full payment in advance.) More than 4500 students have reportedly enrolled in the past five years.

He is chairman of the Board of Governors of the National Health Federation, a health-food-industry lobbying group.

He owns Health Radio Network, which transmits by satellite his daily, one-hour call-in show "Let's Talk Health" to 21 stations nationwide. The show's commercials promote his products.

He operates two "Preventive Care Clinics" in the Los Angeles area.

A recent pamphlet from his company describes Donsbach this way: "Doctor, Educator, Scientist, Author, Lecturer,

Consultant." Impressive-sounding credentials. But let's look at some of them.

Doctor? Donsbach is a chiropractor and a naturopath. He says he has a Ph.D. in nutrition from Union University, an unaccredited school. The school's president says there is no record of the degree; Donsbach says the school's record keeping is poor.

Educator? Donsbach University is not accredited by any agency recognized by the U.S. Department of Education or the Council on Post-Secondary Accreditation. Critics say it meets the Government definition of a diploma mill.

Scientist? One of Donsbach's inventions is the Nutrient Deficiency Test, a computer program used by some practitioners. Patients answer a 284-item questionnaire ("Do you catch cold easily?", "Is your tongue shiny?") The program supplies a printout that "diagnoses" nutritional deficiencies and lists the supplements (obtainable from the practitioner) needed to correct them.

An FDA chemist analyzed the test by feeding it questionnaires completed for perfectly healthy people of different ages

and sexes. We obtained the chemist's report through the Freedom of Information Act. In all cases, the print-out said "It appears that you have several nutrient deficiencies . . ." and listed needed vitamins and minerals. Nutrition experts judged the test worthless.

Author? Many of the "Dr. Donsbach Tells You What You Always Wanted to Know About . . ." booklets recommend massive doses of vitamins for diseases. A 16-year-old Illinois boy says he treated himself for two-and-a-half years with daily doses of 50,000 I.U. of vitamin A after reading Donsbach's "Acne" booklet. (The booklet actually recommended even more.) The boy became seriously ill, was diagnosed as having hypervitaminosis A, and had to be hospitalized; he's suing Donsbach for \$6-million.

Consultant? In 1982 and 1983, Donsbach personally prescribed vitamin A to a man with acne. The man has filed suit against Donsbach, saying that he was hospitalized for vitamin overdose and suffered permanent injury. Donsbach's consulting work has gotten him into trouble before. In 1970, while operating a health-

food store, Donsbach was visited in his "consulting room" by undercover agents for the California health department. He variously prescribed vitamins, minerals, herbs, and cabbage tablets for breast cancer, spastic colon, serious heart ailments, and emphysema. He pleaded guilty in 1971 to one count of practicing medicine without a license, and was fined \$2750.

In 1973, Donsbach was charged with nine more counts of illegal activity, including misbranding of drugs and manufacturing drugs without a license. He pleaded "no contest" to one of the new-drug charges, and paid a \$100 fine.

As a condition of his probation, Donsbach agreed not to involve himself in the "sale, manufacturing or repacking of any drugs." In 1974, he was found guilty of violating his probation and was fined \$200 plus court costs.

The panel that evaluated CU's health-store products concluded that several of Donsbach's products violate the law. Recently, an FDA official was quoted as saying that Donsbach's organization is "under investigation."



Why the FDA doesn't crack down

Fighting health fraud is low on its list.

Anthony Celeste, a U.S. Food and Drug Administration official, sees many examples of health fraud. He is the number-two official in charge of the agency's district and field offices nationwide. In early 1983, Celeste received some material that caught his attention. He wrote the following note to his boss, Joseph P. Hile:

March 3, 1983

SUBJECT: Quackery

The attached represents one of the most blatant forms of quackery that we have seen. The products are being shipped from the Bahamas via U.P.S. We have not spent any time investigating the source(s), distribution, promotion, etc., at this time, however, it would appear to be ripe for investigation and action.

Joseph P. Hile is Associate Commis-

sioner for Regulatory Affairs—the FDA's chief enforcement official. The material he received from Celeste consisted mainly of a brochure from a company called Life Extension Products. Three weeks later, Celeste's note and the Life Extension brochure were in a briefing package given to 17 top officials (including Arthur Hull Hayes, then the FDA commissioner) attending an FDA Policy Board meeting on quackery.

The items described in the Life Extension Products brochure included the five products shown on page 275.

Nearly two years after the FDA's meeting, we called the toll-free number on the Life Extension Products brochure. We charged the same five products (plus a nostrum called *Gerovital*, claimed to retard the aging process) to a Visa card, paying a total of \$305. The products arrived a week later. They were shipped from Florida, not from the Bahamas. The return address (Life Extension Products and Services, 781 W. Oakland Park Blvd.,

Ft. Lauderdale, Fla.) was printed clearly on the box.

Two years after Celeste informed Hile of these products, they are still "ripe for investigation and action."

Unfortunately, the FDA's apparent inaction in this case typifies its current stance on health fraud. The agency knows about Life Extensions' products and about dozens of other products that violate the law. But the FDA no longer vigorously enforces the law. In the battle against health fraud, the FDA has pretty much thrown in the towel.

A matter of priority

Health fraud is thriving today for several reasons. Throughout the nation, there is a keen interest in health, whether you call it fitness, wellness, or prevention. Many legitimate businesses and products ride this wave of interest—and the quacks do, too.

The specter of pollution has added to people's interest in healthful, "natural"

products. Also, many people view modern medical practice as too impersonal or too profit-oriented. That distrust has also played into the quacks' hands.

The FDA didn't create the current health-fraud boom. But it isn't doing much to dampen it, either, in the opinion of many present and former FDA employees that CU interviewed. With the exception of Joseph Hile, none was satisfied with the FDA's health-fraud enforcement policy.

Hile told us that the FDA has many responsibilities and a limited budget. Therefore, he said, the agency gives top priority only to health-fraud products that pose a direct health threat. Agency critics such as Dr. Stephen Barrett, a board member of the National Council Against Health Fraud, charge that this policy is "the standard agency ploy to divert public attention from the agency's lack of interest."

Clearly, fighting health fraud ranks low among FDA priorities. The agency has a budget of more than \$350-million. Of this, approximately \$1.8-million, or 0.5 percent, goes primarily to combat quackery. That figure includes money spent on public education.

FDA efforts against health fraud have consisted chiefly of public-education activities and civil actions (primarily injunctions and seizures of merchandise). In 1984, the agency recommended 26 seizures, two injunctions, and no criminal prosecutions.

The FDA has largely abandoned criminal prosecutions as an enforcement tool: It has undertaken only two criminal prosecutions involving fraudulent nutrition supplements in the past 22 years. Joseph Hile told CU that criminal cases are always more expensive and time-consuming than civil cases.

Other FDA officials disagree. They say that simple, carefully chosen criminal cases need not cost more—and can have a strong deterrent effect. These officials contend that the civil actions now favored by the FDA don't deter. White-collar criminals, they say, view a product seizure as merely a cost of doing business.

In its earlier days, the FDA used criminal prosecution considerably more frequently than it does now.

A backward glance

At the turn of the century, dangerous patent medicines were flourishing: sinus powders containing cocaine, "soothing syrups" sweetened with opium and morphine, pain-killers loaded with toxic acetanilid, cancer cures spiced with radium.

To halt abuses in the sale of medicine and to combat the even larger problem of adulterated food, Congress passed the

Pure Food and Drugs Act. But the 1906 law didn't give the agency that later became the FDA much enforcement authority.

A 1937 tragedy caused Congress to give the FDA enforcement power it had previously lacked. A small Tennessee drug company concocted a liquid variant of sulfanilamide, a legitimate medicine widely used to treat bacterial infections. This "Elixir Sulfanilamide" contained a then-untested toxic solvent, diethylene

"We are . . . simply overmatched."

—Arthur Hull Hayes, former FDA chief

glycol. It killed at least 107 people.

That disaster led to the Food, Drug and Cosmetic Act of 1938. For the first time, manufacturers had to prove their drugs were safe before marketing them.

The law also removed a major enforcement hurdle. Until then the FDA, to obtain criminal convictions, had to prove fraud—that a company *intentionally* committed violations such as making false therapeutic claims about its product. Under the new law, the FDA could win convictions merely by showing that the violations had occurred.

Over the next 25 years, the FDA put some notable quack promoters out of business—and often behind bars. By 1957, the FDA reported "more defendants . . . serving jail sentences for false curative claims than at any time in FDA history."

In 1961, FDA Commissioner George P. Larrick boasted of his agency's progress against health fraud in general and nutrition quackery in particular: "The Food and Drug Administration has had considerable success in combatting food quackery in the courts. There have been some heavy fines and some prison sentences . . . Such actions have had a marked deterrent effect."

Switch now to a 1982 speech on the same subject, prepared by Arthur Hull Hayes, then the FDA Commissioner.

"'Okay,' you may be thinking, 'if [quackery] is such a big problem, what is FDA doing about it?' The answer, I'm afraid, is not much. We are . . . simply overmatched."

The turning point

James Harvey Young, former professor of history at Emory University and probably the nation's leading academic authority on quackery, suggests that the FDA's de-emphasis of quackery dates

from another drug disaster—thalidomide, a tranquilizer that produced birth defects in the children of women who used it during pregnancy. The thalidomide tragedy prompted Congress to push the FDA into much closer supervision of prescription drugs. In 1962, Congress passed the Kefauver-Harris Amendments to the 1938 law. The amendments required that drugs must be proven not only safe (as required by the 1938 law) but also *effective* before the FDA could allow them on the market.

The amendment vastly increased FDA responsibility for dealing with legitimate drugs—both prescription and over-the-counter. The agency has also taken on increased responsibility in the realm of food safety. With these major new responsibilities, the FDA's priorities have changed sharply.

What the quacks fear

Those promoting nutritional supplements for serious diseases don't show much fear of the FDA. But they profess genuine concern about three bills introduced by Rep. Claude Pepper following a four-year review of health fraud by the House Subcommittee on Health and Long-Term Care, which Pepper chairs.

The subcommittee staff issued a 250-page report last May. The report particularly criticized the FDA's efforts. It found that the FDA, "once a formidable force in controlling quackery," no longer meets that description. "Considering the thousands of known quack remedies marketed each year, the potential for harm, and the billions [of dollars] lost yearly, [the FDA's] effort and the relatively few prosecutions generated by the FDA seems minimal at best," the report concluded.

The bills would do the following:

■ H.R. 6049 would create a clearinghouse for consumer health education and information within the National Library of Medicine.

■ H.R. 6050 would increase criminal penalties for those who "willfully sell or offer for sale drugs, devices, or medical treatment knowing that it is unsafe or ineffective or unproven for safety or efficacy."

■ H.R. 6051 would create a Strike Force on Health Quackery—two representatives each from the Justice Department, the FDA, the Federal Trade Commission, and the Postal Service.

Those whose livelihood depends on peddling nutritional supplements as drugs in disguise are lobbying heavily against "the Pepper bills." CU supports the bills, and we urge you to write your Representative in their favor. If you wish, you may enclose a copy of this report in support of your position. ■

HEALTH POWER

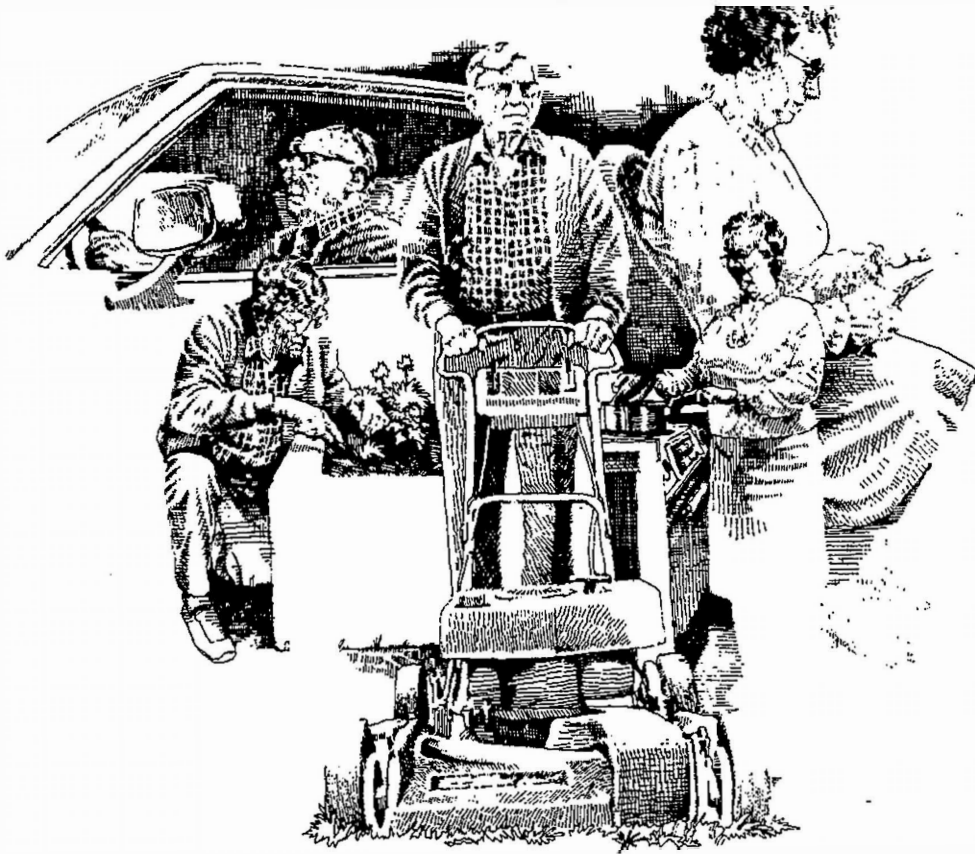
Bashas'
Nutrition awareness program

Vol. VI

Number IV

1985

Preparing for the prime of your life



You read and hear so much these days about nutrition and our aging bodies. You may wonder what's true and what's false. Join us in exploring medically approved facts that can steer you on a safer course as you get older.

As You Get Older, Are You Getting Better?

Myth: You gain weight as you get older.

Fact: It's true that as you age, your needs for calories and energy decrease by about five percent every decade. This is because the number of active cells in each organ decreases and often your physical activity is less.

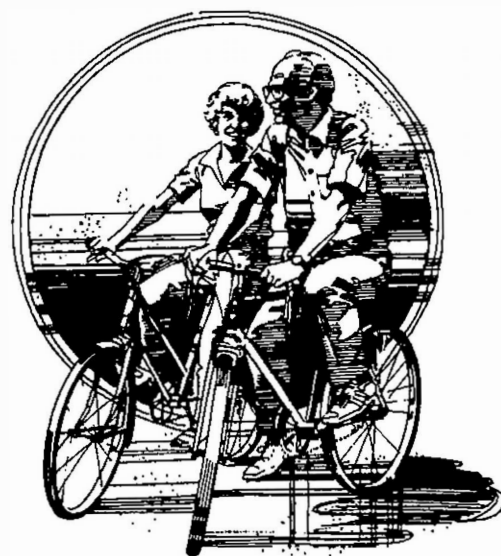
In 1980 the Recommended Dietary Allowances for older men and women recommended the following number of calories per day:

| | Age in years | Calories |
|-------|--------------|----------|
| Women | 51-75 | 1800 |
| | 76+ | 1600 |
| Men | 51-75 | 2400 |
| | 76+ | 2050 |

It's not true that you have to gain weight as you age. You can heave out the heavies in your diet. You can choose nutrient dense foods.

| Choose More Often | Choose Less Often |
|---|-----------------------|
| Skim or 2% milk | Whole milk |
| Yogurt | Sour cream |
| Fresh or baked fruit | Fruit pie |
| Whole grain bread | Blueberry muffin |
| Jelly | Margarine |
| Dry wine or spritzer | Mixed alcoholic drink |
| Lean meats and fish (trim the visible fat) | Fatty meats and fish |
| Herbed vegetables | Vegetables in sauces |
| Baked & broiled foods | Fried foods |
| Smaller portions | Larger Portions |

Keep in mind that 100 calories per day in excess of daily needs may result in a 10 pound weight gain in one year!



You can also walk, swim or even do exercises in a chair if you're confined to sitting. Check with your physician as needed.

Myth: "No Aging" diets can help you stay young.

Fact: Searching for the Fountain of Youth can be futile. A recent investigation by the Select Committee on Aging of the House of Representatives revealed Americans spend more than two billion dollars a year on valueless anti-aging remedies. Bogus anti-aging remedies are the fastest growing segment of current medical quackery. Of the several hundred products reviewed by the Committee, not one proved to have any value and some were dangerous as well as deceptive. (ACSH News and Views, Sept./Oct. 1984)

Some of the ineffective anti-aging remedies were...

*Underfeeding

Some animal research has suggested that underfeeding will extend your life. But in fact research has not proven this theory for humans. Early death and growth retardation has been the result for some animals because of underfeeding. Moderation in calories is desirable but extreme starvation for 20 to 25 years is hardly worth the price!

• **Life Extension** plan suggests a multi-chemical warfare against aging. This regimen consists of prescription drugs, megadoses of nutrients, large doses of substances like choline, RNA and BHT. The known risks of this regimen include headaches, intestinal disorders and kidney damage.

• **DNA and RNA** capsules are claimed to furnish old cells with raw new materials for rebuilding. But pills do not survive digestion intact. In fact, they can be harmful to those with kidney disease or gout.

Myth: Alzheimer's Disease is caused by too much aluminum in your diet.

Fact: Scientists generally do not support any direct nutritional connection to Alzheimer's Disease. Increased aluminum levels in the brain have been widely reported, but it is unknown if this is a result or cause of Alzheimer's. The aluminum is bound to protein and cannot be eliminated by dialysis as some have suggested.

Symptoms of senility can appear with dehydration, and Vitamin B₁₂ and folic acid deficiencies. Eating a well-balanced, nutritious diet along with plenty of fluids can alleviate these symptoms.

Myth: Vitamin supplements are needed by all older people.

Fact: Many older people may need vitamin or mineral pills or tonics even if they eat generally well-balanced, nutritious meals. People who may especially need supplements are those . . .

- With depressed appetites or poor diets
- Who are chronically ill



- Who take particular medicines on a long-term basis
- Who are alcoholic

The best vitamin supplements are those which provide an array of nutrients in levels no greater than 100 percent of the U.S. Recommended Dietary Allowance. Before deciding to take a supplement, discuss the matter with your physician or registered dietitian. See an earlier Health Power on "Vitamins . . . Who Needs Them."

Myth: Laxatives are the best way to promote regularity.

Fact: One reassuring fact that may surprise you is that constipation is scarcely more common for people over 65 than it is for those under 65. It can become a problem, however, if you let it. Here are some tips that may help you.

- First of all, don't be obsessed with regularity. A more relaxed attitude will do wonders for easing the physical tension that can bind you.
- Keep up a routine of brisk exercise, stay active and keep busy.
- Take it easy on laxatives. They should only be used to overcome specific conditions, not for maintenance. Ask your doctor if you can cut them out entirely to prevent laxative dependency.
- Tell your doctor about any pills, tonics or medications you've been taking. They could affect your digestion or regularity.
- Make sure your diet includes at least eight glasses of fluids per day.

Want to increase your fiber?

1. Enjoy deliciously different grains like cornmeal, brown rice, barley, millet, rye, oats, sorghum, whole wheat, and bran. Try adding bran to meatloaf, meatballs, coatings of meat or fish, soups, cereals, stuffings, salad, or even desserts. Try new stoneground flours, wheat berry breads, and whole wheat crackers and croutons.
2. Use raw, steamed, stewed or stir-fried fruits and vegetables with skin or peel.
3. Substitute fresh fruit for juices
4. Serve beans, tofu, legumes, seeds and nuts more often.

Gradually introduce fiber from a variety of sources . . . perhaps over a four week period. Sudden increases may cause gas pain and either diarrhea or constipation. Drinking plenty of fluids is also necessary.

How do you know if you're eating enough fiber? If you have soft, fluffy, easy-to-pass stools, you're getting enough fiber. Fiber stimulates regular rhythmic contraction of your intestine.

Myth: It's impossible to eat and shop well when you live alone.

Fact: You have the opportunity and challenge to enjoy life to its fullest. Eating right and pampering yourself can provide pleasure as well as promote good health. Consider these shopping, cooking and dining tips.

• **Plan to buy just what you need:**

- A loaf of bread. Store half, well-wrapped in the freezer, not the refrigerator which will make it stale.
- A ripe piece of fruit for today and another piece which will ripen in two to three days.
- Small packages of meat. Your Bashas' meat manager will be happy to cut individual chops or steaks or offer small packages of meat or fish for your freezer. Consider making a meatloaf, dividing in single portions and freezing.
- Small cans of vegetables or fruit, even though they may be more expensive, or frozen vegetables in large bags. You can pour out just the size portion you need.

• **Need to replace those "tea and toast" suppers?**

- Cook and freeze for now and later in the month.
- Preplan your menus so you can cook one day a week and stay out of the kitchen the rest of the week.

• **Meet your needs for companionship.**

- Invite a friend or friends for potlucks or an easy dinner from your freezer. Light the candles, dress up and have a ball.
- Invite your neighbors' child for dinner. We'll bet your neighbors would love a quiet, leisurely honeymoon dinner and you can enjoy lavishing attention on your special young friend.
- Form a diner's club with your friends.
- Participate in your community's senior center. Lunches can provide one-third of your nutrient needs and the company is good!

• **Increase variety in menus by keeping your staples in view.**

- Store rice, tapioca, lentils and other dried beans, flour, cornmeal, dry skim milk, cereal or coconut in clear containers. For longer storage, freeze jarred staples for 24 hours to kill any eggs or bugs before storing on your shelf.
- Simplify seasoning for multi uses. Chop an onion all at once and freeze the extra in a small plastic bag. Use minced, dried seasonings instead of fresh parsley or bacon. Or why not start your own herb garden outdoors or on the window sill?

• **Remove the frustration of shopping:**

- Shop with a friend. Visit before you shop; then hurry home to quickly store away frozen or refrigerated foods.



- Bring a pocket magnifying glass to read labels and unit prices on shelf stickers.

- Be assertive! Ask Bashas' staff for assistance in reaching items on the bottom or top shelves, in lifting heavy products, or in bagging your groceries in light loads.

- Handicapped? Bashas' has baskets in some of our stores that attach to your wheelchair. If you would enjoy using one in your store, speak with your store director.

- Shop at quieter times like earlier in the week and weekday mornings.

When alone, pamper yourself by setting a pretty table, reading while you eat, or watching TV or the birds. Know you are important.

**Now you're prepared
for the time of you life!**

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