

COLORADO DEPARTMENT OF REGULATORY AGENCIES  
OFFICE OF POLICY AND RESEARCH

# DIETITIANS

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## 2001 SUNRISE REVIEW



# STATE OF COLORADO

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Bill Owens  
Governor

October 15, 2001

Members of the Colorado General Assembly  
c/o the Office of Legislative Legal Services  
State Capitol Building  
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado Department of Regulatory Agencies has completed its evaluation of the sunrise application for regulation of dietitians and is pleased to submit this written report. The report is submitted pursuant to §24-34-104.1, Colorado Revised Statutes (C.R.S.), which provides that the Department of Regulatory Agencies shall conduct an analysis and evaluation of proposed regulation to determine whether the public needs, and would benefit from, the regulation.

The report discusses the question of whether there is a need for the regulation in order to protect the public from potential harm, whether regulation would serve to mitigate the potential harm, and whether the public can be adequately protected by other means in a more cost-effective manner.

Sincerely,

A handwritten signature in black ink that reads "M. Michael Cooke". The signature is written in a cursive style with a large, stylized "M" and "C".

M. Michael Cooke  
Executive Director

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## **The Sunrise Process**

### Background

Colorado law, §24-34-104.1, Colorado Revised Statutes (C.R.S.), requires that individuals or groups proposing legislation to regulate any occupation or profession first submit information to the Department of Regulatory Agencies (DORA) for the purposes of a sunrise review. The intent of the law is to impose regulation on occupations and professions only when it is necessary to protect the public health, safety or welfare. DORA must prepare a report evaluating the justification for regulation based upon the criteria contained in the sunrise statute:

(I) Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(II) Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence; and

(III) Whether the public can be adequately protected by other means in a more cost-effective manner.

Any professional or occupational group or organization, any individual, or any other interested party may submit an application for the regulation of an unregulated occupation or profession. Applications must be accompanied by supporting signatures and must include a description of the proposed regulation and justification for such regulation. Applications received by July 1 must have a review completed by DORA by October 15 of the year following the year of submission.

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## Methodology

The Department of Regulatory Agencies (DORA) has completed its evaluation of the proposal for regulation of Registered Dietitians. During the sunrise review process, DORA performed a literature search, contacted and interviewed the applicant, reviewed licensure laws in other states, conducted interviews of administrators of those programs, interviewed other groups of nutritional practitioners, and contacted the Colorado Medical Society. In order to determine the number and types of complaints filed against dietitians in Colorado, DORA contacted representatives of the Denver District Attorney's Office, the Denver/Boulder Better Business Bureau, the Office of the Attorney General Consumer Protection Section, the Colorado Board of Medical Examiners, and the Governor's Advocacy Office. To better understand the practice of medical nutrition therapy, the author of this report visited Registered Dietitians in a diabetic clinic at Rose Medical Center, the Eating Disorder Program at Children's Hospital, the Intensive Care Unit at Presbyterian/St. Luke's Medical Center, and the HIV/AIDS Clinic at the Denver Health Medical Center.

A report entitled *The Role of Nutrition in Maintaining Health in the Nation's Elderly: Evaluating Coverage of Nutrition Services for the Medicare Population* authored by the Institute of Medicine was reviewed along with other documents provided by the applicant. Previous submissions of documentation and literature were also reviewed for this 2001 sunrise review.

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## ***Proposal for Regulation***

The Colorado Dietetic Association (CDA), an affiliate of the American Dietetic Association (ADA), has submitted a sunrise application to the Department of Regulatory Agencies (DORA) for review in accordance with the provisions of §24-34-104.1, C.R.S. The application identifies state licensure of Registered Dietitians as the appropriate level of regulation to protect the public.

The occupational group seeking regulation is comprised of Registered Dietitians and nutrition professionals with a Master's or Doctoral degree in a nutrition-based field from a college or university accredited by a regional accrediting agency recognized by the Council on Postsecondary Accreditation and the U.S. Department of Education. The term Registered Dietitian signifies that the Commission on Dietetic Registration has certified a professional to practice competently in the field of nutrition and dietetics.

The applicant contends that the overall quality of nutrition care for Coloradans would improve under their regulatory proposal because consumers would then have a means of identifying appropriately trained nutrition professionals. Furthermore according to the applicant, there is a potential for harm to the public when unregulated nutrition professionals are hired and practice in reputable health care institutions.

The applicant argues that the state should license Registered Dietitians because they are uniquely involved in the health care team by working closely with physicians and nurses in carrying out medical nutrition therapy orders. The applicant further argues that the citizens of Colorado deserve to know which individuals have the educational background and experience to provide sound nutritional therapies, especially for the sick population.

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CDA asserts “regulation would not prevent other practitioners from providing basic nutrition education and advice to the general public.” The applicant further states “regulation would identify for the public which professional would be qualified to provided medical nutrition therapy, nutrition for diseased states and for more complex normal nutritional issues such as nutrition in pregnancy, and nutrition in special populations such as young children or the elderly who may have mental or physical conditions which affect their basic nutritional needs and their ability to utilize food normally.” Under this proposal non-licensed practitioners could not use the protected titles, terms, and abbreviations that include licensed dietitian, L.D., dietitian, registered dietitian, R.D., RD, certified dietitian, C.D., or any other facsimile implying or indicating that a person is a licensed dietitian.

The regulatory scheme as envisioned is similar to existing legislation in other states. The following components would characterize the program:

- Licensing program for medical nutrition therapists administered by the Division of Registrations located within the Department of Regulatory Agencies;
- Establishment of minimum education standards that include completion of a bachelor’s, master’s, or doctoral degree in human nutrition, foods and nutrition, dietetics, nutrition education, food systems management, or public health nutrition from a college or university accredited by a regional accrediting agency recognized by the Council on Postsecondary Accreditation and the U.S. Department of Education;
- Completion of not less than 900 hours of planned, continuous, pre-professional work experience in nutrition/dietetic practice under the supervision of a nutritionist/dietitian licensed in Colorado or another state or by a Registered Dietitian certified through the Commission on Dietetic Registration.

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CDA previously submitted sunrise applications in 1985, 1989, 1990, and 1993. The 1985 sunrise application proposed “certification” but referred to it as licensure in the application. This “certification” would include defining the qualifications and educational requirements for persons using the terms dietitian, nutritionist, licensed dietitian or L.D. CDA recommended that the Colorado Board of Medical Examiners be responsible for the regulatory program.

In the 1989 sunrise application, six additional titles were added to the list of protected titles and a board was recommended to issue certificates, set standards of practice, and handle complaints. The applicant proposed that the board be empowered to discipline certified practitioners and enjoin uncertified practitioners from using restricted titles or from engaging in practices not acceptable to the board. This proposal recommended that the board adopt the standards of the American Dietetic Association.

The 1990 and 1993 proposals for regulation requested that the legislature regulate both dietitians and nutritionists in Colorado by passing a law which would restrict the use of the following 14 terms: licensed dietitian, L.D, licensed nutritionist, L.N., nutritionist, N., dietitian, D., certified dietitian, C.D., certified nutritionist, C.N., nutrition counselor, and nutrition consultant. Under this proposal the indicated titles would be reserved for those persons who possess certain educational, experiential, and examination requirements. A grandfathering clause was recommended that would provide for a specified time certain individuals would be certified. In all four sunrise reports, the Department of Regulatory Agencies recommended against a regulatory program for dietitians.

The sunrise application asks the question “If the occupational group is a former applicant re-submitting a sunrise application, please introduce updated information that will substantiate the request for regulation.” The applicant submitted the following information:

- Course requirements for undergraduate Didactic Program in Dietetics, Dietetic Internship, and Coordinate Dietetic Program;
- Non-accredited nutrition programs in Colorado;
- Other state regulatory laws for nutrition practitioners;



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- A study by the Committee on Nutrition Services for Medicare Beneficiaries of the Institute of Medicine Food & Nutrition Board entitled *The Cost of Medical Nutrition Therapy Coverage*;
  - Four new case studies documenting harm and potential harm to high-risk individuals receiving inappropriate medical nutrition therapy.

### Profile of the Profession

The 2000-2001 *Occupational Outlook Handbook* prepared by the U.S. Bureau of Labor Statistics defines dietitians and nutritionists as individuals who plan food and nutrition programs and supervise the preparation and serving of meals. Dietitians and nutritionists help prevent and treat illnesses by promoting healthy eating habits, scientifically evaluating clients' diets, and suggesting diet modifications.

The applicant further defines the primary functions of Registered Dietitians (RD) as:

- The provision of medical nutrition therapy is the use of specific nutrition services to treat an illness, injury, or condition involving the assessment of the nutritional status of the client and preparing a treatment program. Treatment may include the use of specialized nutrition supplements including the provision of enteral (tube feeding) and parenteral (intravenous (IV) feeding) nutrition support for critically ill individuals;
- Facilitating dietary change by providing direct personal counseling to allow a client with specific nutritional needs to establish priorities and goals to meet individual nutritional needs;
- Developing, implementing, and managing nutrition care systems in public and private healthcare institutions;
- Conducting research.

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Dietitians primarily work as part of a health care team in providing medical nutrition therapy to individuals in hospitals, long-term care facilities, clinics, outpatient treatment centers, and home health settings. Other client groups using the services of Registered Dietitians include community health centers, federal programs such as community-based senior feeding and nutrition education programs, foodservice systems, sports nutrition and corporate wellness programs, pharmaceutical companies, county health departments, public health agencies, hotels and restaurants, and prisons and correctional institutions. Other dietitians are independent practitioners or employed by universities.

Registered Dietitians may work as clinical dietitians, community dietitians, management dietitians, and consultant dietitians.

*Clinical dietitians* provide nutritional services for patients in institutions such as hospitals and nursing homes. They assess patients' nutritional needs, develop and implement nutrition programs, and evaluate and report the results. They also confer with doctors and other health care professionals in order to coordinate medical and nutritional needs. Some clinical dietitians specialize in the management of overweight patients, care of the critically ill, or of renal (kidney) and diabetic patients. In addition, clinical dietitians in nursing homes, small hospitals, or correctional facilities may also manage the food service department.

*Community dietitians* counsel individuals and groups on nutritional practices designed to prevent disease and promote good health. Working in places such as public health clinics, home health agencies, and health maintenance organizations, they evaluate individual needs, develop nutritional care plans, and instruct individuals and their families. Dietitians working in home health agencies provide instruction on grocery shopping and food preparation to the elderly, individuals with special needs, and children.

*Management dietitians* oversee large-scale meal planning and preparation in health care facilities, company cafeterias, prisons, and schools. They hire, train, and direct other dietitians and food service workers; budget for and purchase food, equipment, and supplies; enforce sanitary and safety regulations; and prepare records and reports.

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*Consultant dietitians* work under contract with health care facilities or in their own private practice. They perform nutrition screenings for their clients, and offer advice on diet-related concerns such as weight loss or cholesterol reduction. Some work for wellness programs, sports teams, supermarkets, and other nutrition-related businesses. They may consult with food service managers, providing expertise in sanitation, safety procedures, menu development, budgeting, and planning.

Within the health care team, supervision of the patient's overall care is the responsibility of the physician, although the Registered Dietitian is responsible for the nutrition management of the patient. Such therapies may include administration of feedings and hydration through a tube accessing the patient's digestive tract directly or IV nutrition therapy administration where nutrition is administered directly into a vein through an IV access.

### Education

As of 2001, there were 234 bachelor's and master's degree programs approved by the ADA's Commission on Accreditation for Dietetics Education (CADE). Colorado State University and the University of Northern Colorado offer undergraduate and advanced degrees in dietetic education. In addition, dietetic internships are offered at Penrose St. Francis Medical Center in Colorado Springs, Colorado State University, Tri-County Health Department in Englewood, and at the University of Northern Colorado in Greeley.

There are currently two types of programs accredited by CADE: Didactic and Coordinated Program. The Didactic Program in Dietetics option offered at 234 universities is approved under the Standards of Education as meeting academic requirements leading to at least a bachelor's degree. The 51 CADE-Coordinated Programs combine academic and supervised practice experience in a 4 to 5 year program. This option requires completion of 900 hours of supervised practice experience, either in one of the 225 CADE-accredited internships or in one of the 25 CADE-approved pre-professional practice programs. Internships and pre-professional practice programs may be full-time programs lasting 9 to 12 months, or part-time programs lasting two years. Students interested in research, advanced clinical positions, or public health may need a graduate degree.

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### Associations

The organization that represents Registered Dietitians is the American Dietetic Association (ADA). The ADA has nearly 70,000 members and is the largest group of food and nutrition professionals in the nation. It is open to those who meet academic and experience requirements established by the association. Approximately 75 percent are Registered Dietitians (RD). Members include clinical and community dietetics professionals, consultants, food service managers, educators, researchers, dietetic technicians, and students.

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## **Summary of Current Regulation**

### **The Colorado Regulatory Environment**

There are a range of nutrition practitioners in addition to Registered Dietitians currently practicing in Colorado using the titles registered dietetic technicians, certified dietary managers, home economists, certified nutritionists, and other non-specified nutritionists. A registered dietetic technician is recognized as having successfully completed a two-year associate degree from a program that meets the educational and experiential standards established by the Commission on Dietetic Registration. Dietetic technicians usually work in health care facilities and are under the supervision of a registered dietitian. Certified dietary managers manage the food service systems in long-term care and other healthcare facilities and have completed a two-year associate degree in a program that meets the requirements of the Dietary Managers Association. Home economists generally serve in County Cooperative Extension Services in Colorado and may provide general food and nutrition information and education to groups, individuals, and families.

The Colorado Dietetic Association (CDA) has 1,158 members, 853 of whom are Registered Dietitians. There are an additional 273 Registered Dietitians in Colorado who are not members of the American Dietetic Association (ADA) or CDA. Additionally, there are 100-200 professionals (master's and/or doctoral-level nutritionists) in Colorado who are not Registered Dietitians, but who exceed the standards of education required by the Commission on Dietetic Registration (CDR). According to the ADA, the term "Registered Dietitian" or the initials "RD" signify a person who has been certified by the Commission on Dietetic Registration (CDR) of the American Commission for Health Certifying Agencies. There is no single association in Colorado that represents nutritionists who are not Registered Dietitians.

Additionally, there are individuals with various experience and educational backgrounds who provide counseling and education in private practice, at weight loss clinics, health clubs and health food stores.

Although Colorado citizens are free to make their own choices about nutrition, Colorado law provides some protection or remedy in specific, harmful instances. Aside from a direct action in civil courts, Colorado consumers are protected by the following:

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### Colorado Consumer Protection Act

Falsely representing the use or benefits of products or services through any medium of communication violates the Colorado Consumer Protection Act (§6-1-101, et seq., C.R.S.). Foods including vitamins and supplements are products or goods (§6-1-105(e), C.R.S.). Such violations also include falsely representing oneself as a “[“dietitian,” “dietician,” “certified dietitian,” “certified dietician,” “C.D.,” or “D”]” unless an individual has attained specific educational requirements, and experience or holds a certificate of a registered dietitian [§6-1-707 (E)(III)(b)(I), C.R.S.].

The applicant argues that the use and enforcement of this law is limited because District Attorneys’ offices in Colorado lack the resources to take sufficient action to assist the consumer regarding this law. We agree with the applicant that title protection is a limited form of regulation and we believe that the General Assembly crafted it that way because there was no identified need for a full regulatory program. In addition, there has never been a complaint filed with the Office of the Attorney General Consumer Protection Section regarding dietitians.

### Colorado Cancer Cure Control Act

Any treatment of cancer not recognized by the Board of Health is prohibited by the Colorado Cancer Cure Control Act (§12-30-101 et seq., C.R.S.). It is unlawful for any person other than a licensed physician, licensed osteopath, or licensed dentist to diagnose, treat, or prescribe the treatment of cancer. The applicant maintains that this law only addresses the diagnosis and treatment of cancer. It does not address the myriad of other conditions or illnesses for which nutrition services may be provided. If the General Assembly sees fit to pass similar legislation concerning other diseases, they will do so if the need arises. There is no evidence that similar legislation needs to be passed.

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### Regulation of Health Professionals in the Department of Regulatory Agencies, Division of Registrations

Evidence submitted as part of this review notes three cases out of eight of nutritional harm that involved a licensed health care professional. The regulatory board that has licensed the practitioner in question has jurisdiction to investigate these cases and determine whether disciplinary action should be imposed.

### *Regulation in Other States*

Forty-one states currently enforce laws that regulate dietitians and nutrition counselors. Thirty states require licensure, seven states have enacted title protection, and four states have mandated a certification program. Besides Colorado, the eight states without regulation are Arizona, Michigan, Nevada, New Jersey, Pennsylvania, South Carolina, Virginia, and Wyoming. It is clear that Colorado is in the minority. However, it must be noted that most of these states do not go through the rigorous review of sunrise applications that Colorado undertakes.

Many states rely on the American Dietetic Association (ADA) for standards in their acts. Numerous references to the ADA can be found throughout most of the acts. In fact, California has essentially delegated the licensing and complaint handling function to the ADA and its California affiliate. One common theme of existing state dietitian's laws is that they provide an element of title protection. In many cases, these laws grandfathered in existing dietitians and other nutritional practitioners.

To ascertain information regarding regulation in other states, the Department of Regulatory Agencies contacted all 41 administrators by e-mail, facsimile, or telephone requesting information on the type of regulatory program, number of dietitians currently regulated, date law was enacted, number and nature of complaints filed, and number and type of disciplinary actions. Of the 41 states contacted, 31 states responded to the inquiry. Of the 31 responses, three states did not have information available on complaints and/or disciplinary actions and another three states had recently enacted legislation and had not issued licenses. When the disciplinary activity of the remaining 25 regulating states is reviewed, 16

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states reported having never imposed any discipline of licensees. Another seven states reported disciplining less than three licensees in the history of the legislation or in the last five years.

One state, Ohio, reported receiving an average of 110 new cases each year which is significantly greater than any other state regulatory program. This law is a practice act that prevents practice of “dietetics” without an Ohio license. In addition to its licensing and disciplinary authority, the Board has jurisdiction to investigate unlicensed practitioners. Since Ohio’s law is clearly the most active in the country, the Ohio Board’s complaint experience is worth reviewing. According to the board administrator, there have been 141 new cases in 2001. Over one-half of these cases focus on the unlicensed practice of dietetics. Of the remaining cases, 52 are concerned with expired licenses, six concern impairment, one deals with moral character, and six involve the continuing education requirement. Only one disciplinary action deals with standard of practice.

Enforcement of the standard state regulation of this industry is made difficult by vague language found in many statutes. For example, in Maine, the law provides that, “a person may not practice dietetics or hold himself out to be a dietitian. . . unless he is licensed in accordance with this chapter.” The law further defines “dietetics” [(32 § 9902(4))] as, “the professional discipline of assessing the nutritional needs of an individual, including recognition of the effects of the individual’s physical condition and economic circumstances, and the applying of scientific principles of nutrition to prescribing means to ensure the individuals proper nourishment and care.” Having set this standard, the law then exempts (32 § 9915), “persons giving general nutrition related information,” and “persons who market and distribute food, food materials, or dietary supplements or any person who engages in the explanation of the use of those products or preparation of those products.” It is particularly difficult to differentiate between services provided by a dietitian in private practice and “nutritional information” distributed by vitamin salespersons or health food store employees.

Table 1 on the following pages outlines the type of state regulatory schemes that are currently in effect, and it summarizes the volume and nature of complaint activity that each state board has encountered.



Table 1  
Summary of State Regulatory Programs

State	Date Law Enacted	Number of Dietitians	Type of Regulatory Program	Number of Complaints	Nature of Complaints	Disciplinary Actions
AL	1989	859	Licensure	100 since enactment of law	Mostly consist of persons without a license advertising or using term "nutritionist" A few involved weight loss programs.	None
AK	2000	102	Title Protection	Few	Fees and licensing requirements	None
AR*	1989		Licensure			
CA	1982		Title Protection based on ADA Registration	Not applicable		Not applicable
CT	1994	472	Title Protection Voluntary "Certified Dietitian/Nutritionist"	None		None
DE	1994	105	Certification	None		None
FL	1988	2700	Licensure	1997-2000 Dietitians (62) 1997-2000 Nutrition Counselors (31)	Not available Not available	1997-2000 Dietitians (13) 1997-2000 Nutrition Counselors (10)
GA	1984	1,493	Licensure	Board Administrator reported information is not available		Board Administrator reported information is not available
HI	2000		Licensure	No information available New board		
ID	1995	300	Licensure	1	Unlicensed Practice	None
IL*	1991		Licensure			1996-2001 (None) (Information obtained from Web site)
IN	1994	1,100	Title Protection	None		None
IA	1985	862	Licensure	37-45	Negligence, Ethics, Practicing w/expired license, Recordkeeping	2
KA	1991	700	Licensure	2	Non-licensed persons	None
KY	1994	942	Licensure	Board Administrator reported information is not available		Board Administrator reported information is not available

\* States not responding to inquiry.

State	Date Law Enacted	Number of Dietitians	Type of Regulatory Program	Number of Complaints	Nature of Complaints	Disciplinary Actions
LA	1987	981	Licensure	10/15 per year	Holding themselves out as a dietitian; ethics; fraud	2
ME	1985	246	Licensure	Not available		1 in 2001
MD*	1994		Licensure			
MA	1999	700	Licensure	No information available – Program began implementation 2001		
MN	1994	923	Licensure	9	Standard of care, Unlicensed practice	None
MS	1986	532	Licensure	20	Unlicensed Practice	None
MO*	1999		Licensure			
MT	1987	199	Licensure	12	Billing practices	None
NE*	1995		Licensure			
NH	2001	No information available – New board				
NM*	1997		Licensure			
NY	1992	5,300	Title Protection with discipline	36	Various	Criminal conviction resulting in a stayed suspension (1)
NC*	1991					
ND	1986	270	Licensure	None		None
OH	1987	3,100	Licensure	1994-2000 (795 new cases)	Unlicensed practice, expired licenses, impairment, didn't meet CE requirements.	1994-2000 (287)
OK	1984	637	Licensure	1	False and Misleading Claims	Revocation (1)
OR	1989	351	Licensure	Few	Illegal use of "L.D."	Fine imposed (1)
RI	1991	325	Licensure	Not available	Not available	None within last 10 years
SD*	1996		Licensure			
TN*	1987		Licensure			
TX*	1983					
UT	1986	405	Title Protection	Not available	Not available	Forging a Certification (1)
VT	1993	78	Title Protection	None		None
WA	1988	1200	Voluntary Certification Program	1995-2001 (2)	Not available	None
WI*	1994		"Certified Dietitian"			
WV	1996	315	Licensure	6	Use of title and fraud	None

\* States not responding to inquiry.

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A review of other states' sunset reviews or audits regarding the practice of dietitians depicts a profession where the need for regulation is questioned. Performance audits of dietitian regulations in West Virginia and Hawaii were reviewed for this report and the summaries follow.

The *1999 West Virginia Preliminary Performance Review of the Board of Licensed Dietitians* found that the board has never received a complaint against a licensee and, therefore, has never disciplined a licensee. The report's primary finding was that the board provides no demonstrable net benefit to West Virginia's public. Furthermore, it stated that discontinuing regulation of dietitians would have no unfavorable effect on the West Virginia public because no harm had been demonstrated in West Virginia or nationwide. However, representatives from the board along with members of the West Virginia Dietetic Association testified at a joint interim committee to continue the regulatory program. The Legislature voted to continue the regulation of dietitians and established the primary scope of practice as the provision of medical nutrition therapy.

The 1995 review by the Hawaii Office of the Auditor, *Sunrise Analysis of Two Proposals to Regulate Nutritionists*, found that regulation would bring unsure benefits and found few substantiated incidents of "nutrition practitioners" harming the public. In addition, the report stated that evidence from testimony and interviews was anecdotal. However on July 31, 2000, a bill to license dietitians became law after much consideration by the Governor to veto the bill.

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## **Analysis and Recommendation**

The sunrise criteria are very clear and specific regarding justification for the creation of a new regulatory program. The burden is upon the applicant to document through the application process that the occupation or profession being considered meets all three criteria.

### **Public Harm**

The first sunrise criterion asks:

*Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument.*

The applicant argues that the use of inappropriate or ineffective techniques in assessing nutritional status and in providing medical nutrition therapy may cause a variety of problems, including increased complications of the disease or condition, development of a new problem, or it may cause the client to delay seeking appropriate attention for the condition. Furthermore, the applicant states that dietary prescriptions, if given improperly, may result in significant nutritional deficiencies or toxicity among high-risk populations.

To support their claim that regulation of dietitians in Colorado is needed to protect the public, the applicant provided the eight following case studies (four are new to the 2001 Sunrise) regarding actual or potential harm to Colorado citizens. The case studies below contain “case notes” that are submitted by the author and are found after every case in bold type. In reviewing these case studies, it is important to note the following:

1. No Registered Dietitian is implicated as causing harm in any of the cases;
2. In each case, the patient freely sought out the advice, service, or product offered by the practitioner in question.

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## **Case 1**

**Patient:** 35 year old pregnant woman in first trimester (5' 9", 230 lbs.)

**Year of Incident:** 2000

**Complaints Presented to Practitioner in Question:** Avoid excessive weight gain during pregnancy

**Practitioner/Salesperson:** "Certified Nutritionist"

**Treatment Prescribed:**

- Menu provided for 5-6 small meals daily
- Increase fiber intake
- Eliminate tap water
- Eliminate processed foods as much as possible
- CANDIDA PLAN for 2 weeks, then re-evaluate
- Supplements including acidophilus/bifidus, etc.

The diet was deficient in energy (calories), Calcium, Iron, Vitamin C and Vitamin E, and potentially toxic in Vitamin A. Vitamin A toxicity during pregnancy, especially in the first trimester has been shown to cause a high incidence of spontaneous abortions and birth defects.

**Monetary Cost:** \$140 for 2 counseling sessions

**Results:** Patient experienced nausea, dizziness, and faintness while following the diet.

**Case Notes:** In this case, no physical damage apparently resulted from the treatment. Therefore, it would be difficult for the patient to make a claim against the practitioner, since most cases require that harm has been committed. According to a letter from the practitioner to the patient, the practitioner maintains that she recommended that the patient consult with her physician regarding her symptoms. The patient in this case suffered minimal economic harm. No diagnosis was performed and all of the information given and treatments prescribed are not dangerous unless engaged in excess.

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## **Case 2**

**Patient:** Six-month old infant

**Year of Incident:** 2000

**Complaints Presented to Practitioner in Question:** Dilated cardiomyopathy, tube feedings, oral aversions:

**Practitioner/Salesperson:** Nutrition practitioner in private practice (no degree in nutrition or related field).

**Treatment Prescribed:** Multiple herbal remedies were prescribed by using an electrodiagnostic device to determine which homeopathic remedies the infant child should take. Infant required supplemental tube feeding to meet basic nutritional needs, but the practitioner did not address this.

**Monetary Cost:** Charges incurred for the remedies and herbs recommended.

**Results:** A Registered Dietitian from the Children's Hospital intervened and informed the family that the therapy was inappropriate.

**Case Notes:** This is an appropriate incident to refer to the Board of Medical Examiners to determine whether the practitioner in using the electrodiagnostic device violated the Colorado Medical Practice Act by practicing medicine without a license. The Act in §12-36-106, C.R.S. defines the practice of medicine to include suggestion, recommendation, diagnosing or prescribing for the treatment or prevention of disease.

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### **Case 3**

**Patient:** Middle-aged male

**Year of Incident:** Spring 2000

**Complaints Presented to Practitioner in Question:** Cancer patient on chemotherapy on tube feedings because of poor oral intake

**Practitioner/Salesperson:** Nutrition practitioner in private practice

**Treatment Prescribed:** Multiple herbal and vitamin/mineral supplements. Patient told to discontinue tube feedings.

**Monetary Cost:** Charges incurred for the herbs and other supplements recommended and for nutrition counseling session.  
**RESULTS:** Weight loss and increased intolerance of oral intake.

**Case Notes:** This would be an appropriate complaint to submit to the Office of the Attorney General Consumer Protection Section for further investigation regarding whether the practitioner violated the Colorado Cancer Cure Control Act, §12-30-107, C.R.S. It is unlawful for any person other than a licensed physician, licensed osteopath or licensed dentist to diagnose, treat, or prescribe for the treatment of cancer. In addition, it is unlawful for any individual, to willfully and falsely represent a device, substance, or treatment as being of value in the treatment, alleviation, or cure of cancer.

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#### **Case 4**

**Patient:** Pregnant female enrolled in WIC Supplemental Nutrition Program

**Year of Incident:** 2000

**Complaints Presented to Practitioner in Question:** Heartburn during pregnancy.

**Practitioner/Salesperson:** Certified-Nurse Midwife

**Treatment Prescribed:** Alfalfa as a liver strengthener to help with clotting factors and to increase hemoglobin value in blood. Papaya enzyme to help with heartburn and indigestion.

**Monetary Cost:** \$15-20/month on recommended herbal supplements.

**Results:** Financial burden for ineffective and unnecessary treatment. Heartburn was not resolved and hemoglobin value was never low to begin with.

**Case Notes:** The practitioner in this case is indicated to be a certified-nurse midwife. Therefore, the Board of Nursing that has licensed the practitioner in question already has jurisdiction to investigate this type of complaint. In addition, there was no evidence of physical harm resulting from the treatment, although financial harm appears to have been done to the patient.



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## **Case 5**

**Patient:** 29-year old male

**Year of Incident:** 1988 – Case also submitted for 1993 Sunrise Review.

**Complaints Presented to Practitioner in Question:** Renal insufficiency and high blood pressure. Patient moved to Colorado from Florida to have this special treatment to avoid dialysis.

**Practitioner/Salesperson:** Non-credentialed in private practice

**Treatment Prescribed:** Lab analysis including blood work was performed. Recommended macrobiotic diet, including foods high in potassium and phosphorus.

**Monetary Cost:** Unknown

**Results:** Potential harm could have resulted from a high potassium and phosphorus diet that could result in hyperkalemia. Patient became ill and was hospitalized in a chronic dialysis unit.

**Case Notes:** This is an appropriate incident to refer to the Board of Medical Examiners to determine whether the practitioner violated the Colorado Medical Practice Act by practicing medicine without a license. In this case, the patient was clearly suffering from a renal insufficiency and high blood pressure and had moved to Colorado from Florida to take special treatment to avoid dialysis. The practitioner is reported to have been informed that the patient had a serious medical problem. The Colorado Board of Medical Examiners already has jurisdiction over this type of violation. The Colorado Medical Practice Act, §12-36-106, C.R.S. defines the practice of medicine to include suggestion, recommendation, diagnosing or prescribing for the treatment or prevention of disease.

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## **Case 6**

**Patient:** 7-year old female

**Year of Incident:** Not provided – Case also submitted for 1993 Sunrise Review.

**Complaints Presented to Practitioner in Question:** Strep throat 7 times in 7 months

**Practitioner/Salesperson:** Licensed health care practitioner

**Treatment Prescribed:** Needed to build patient's immune system (diagnosed patient without an office visit). Recommended an extensive vitamin therapy program including Vitamins, C, A, D, E, B-1, B-2, calcium lactate, and Thymex.

**Monetary Cost:** Unknown

**Results:** Patient followed therapy and experienced complete hair loss on arms, legs, and scalp; 50% hair loss from eyebrows.

**Case Notes:** The practitioner in this case is indicated to be a licensed health care provider. Therefore, the regulatory board that has licensed the practitioner in question already has jurisdiction to investigate this kind of complaint.

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## **Case 7**

**Patient:** Adult male

**Year of Incident:** Not provided – Case also submitted for 1993 Sunrise Review.

**Complaints Presented to Practitioner in Question:** Kidney failure – on kidney dialysis treatments

**Practitioner/Salesperson:** Non-credentialed nutritionist in private practice

**Treatment Prescribed:** Used hair analysis to diagnose aluminum toxicity. Prescribed a special diet to cure renal failure in addition to numerous supplements like Chlorophyll, core-level kidney, Livah-liver cleaners, and vitamin C, B-complex with licorice root.

**Monetary Cost:** Unknown

**Potential Harm:** Chlorophyll has no known nutritive or therapeutic value. Core-level kidney has potential for vitamin and/or mineral toxicities. Excessive B-complex may cause niacin toxicity and genuine licorice can cause potassium loss and retention of water and salt. Livah has no known nutritive value.

**Results:** Patient followed therapy as prescribed and continued to believe “special diet” may cure his renal failure, which could be fatal if he discontinued his kidney dialysis treatments.

**Case Notes:** It would be appropriate to refer this case to the Board of Medical Examiners because the practitioner was allegedly diagnosing and prescribing remedies to the patient.

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### **Case 8**

**Patient:** 12-year old male

**Year of Incident:** Not provided – Case also submitted for 1993 Sunrise Review.

**Complaints Presented to Practitioner in Question:** Type 1 diabetes (Juvenile Diabetes)

**Practitioner/Salesperson:** Licensed health care practitioner

**Treatment Prescribed:** Acupuncture and Applied Kinesiology performed which determined that the patient had allergies to animal fats, wheat, milk, and peanuts that caused elevated blood sugars. Recommended a diet excluding all of the abovementioned foods. Prescribed daily vitamin supplements and monthly acupuncture and applied kinesiology treatments.

**Monetary Cost:** Unknown

**Results:** Patient's Hemoglobin A1C (a lab value indicating 3-month average of blood sugar control) was 13 indicating poor diabetic control (normal value is less than 7).

**Case Notes:** Because the practitioner in question was a licensed health care practitioner, a complaint to the licensing board in question would be appropriate. If the activity is beyond the scope of practice of the practitioner, the licensee would be disciplined.

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### Need for Regulation

The second sunrise criterion asks:

*Whether the public needs, and can be reasonably expected to benefit from an assurance of initial and continuing professional or occupational competence.*

Few individuals offer dietetic services to the public directly. In 1997, the American Dietetic Association performed a survey (*Report on the 1997 Membership Database*) on diversity of job settings and practice areas in dietetics. This study reported that only 3.4% of dietitians were in private practice offering their services directly to the public. Hospitals or other health care providers employed 59.4% of dietitians; 19.8% worked for public health programs or in educational facilities; 8.7% were consultants to health care facilities and other organizations; and 8.8% worked for organizations, nonprofit and for profit. The data regarding employment settings and type of employers for respondents is illustrated in Table 2.

Table 2

1997 Employment Setting Statistics  
Primary Position

Type of Setting	Percentage of Respondents
Hospital (inpatient/acute care)	34.6%
Clinic or ambulatory care center	10.5%
Extended care facility	10.9%
HMO, Physician or Other Care Provider	2.0%
Home Care	1.4%
Community/Public Health Program	11.2%
School Foodservice	3.2%
College or University Faculty	5.4%
Private Practice (primarily individual client counseling)	3.4%
Consultation Primarily to Health Care Facilities	6.7%
Consultation Primarily to Other Organizations	2.0%
Other for-profit Organizations	4.5%
Other nonprofit Organizations	4.3%

Source: American Dietetic Association

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Many mechanisms are already in place to protect the public in matters of nutrition. As evidence in the table above, over 50% of dietitians work for organizations such as hospitals, clinics, and extended care facilities that evaluate their qualifications before hiring. During the sunrise process, the author of this report interviewed several clinical nutrition managers in major hospitals in the Denver Metro Area. They all stated that only Registered Dietitians are, in fact, hired by their respective hospitals to perform medical nutrition therapy. The proposed regulation would not significantly affect the practice of medical nutrition therapy in large health facilities for they already employ Registered Dietitians with the credentials that would be necessary under a licensing scheme.

Furthermore, some employers' hiring standards are enhanced by federal provisions for certain facilities receiving federal monies. According to 42 CFR 483.35 Dietary Services, Requirements for States and Long Term Care Facilities, skilled nursing facilities participating in Medicare must meet certain specific requirements. A staffing requirement exists that the facility must employ a qualified dietitian either full-time, part-time, or on a consultant basis to provide dietary services. The requirements define a qualified dietitian as "one who is qualified based upon either registration by the Commission on Dietetic Registration of the American Dietetic Association, or on the basis of education, training, or experience in identification of dietary needs, planning, and implementation of dietary programs."

#### Results of Regulation in Other States Do Not Support the Argument to Regulate in Colorado

When the complaint activity of regulating states is reviewed, most states report a low complaint activity and few if any disciplinary actions. However, while many state regulators express the legitimate view that the application process "weeds out" previous offenders and unskilled, uncredentialed individuals from the dietitian base, the limited complaint and disciplinary activity nevertheless questions whether dietitians are capable professionals who avoid complaints by practicing their occupation at the level for which their education and credentials have prepared them.

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The model used most commonly by states to define the training and experience required for licensure of nutrition professionals is the Registered Dietitian model. The American Dietetic Association's Commission on Dietetic Registration makes its registration examination available to states that are developing licensure laws, and many existing licensure laws specifically require the RD internship and examination.

Many licensure laws restrict rather than expand the pool of qualified professionals available to meet the needs of the public. To what extent should states go in protecting consumers against the results of their own decisions? Is the proven or threatened harm from the unregulated practice of dietetics so great that the state must impose restrictions?

### *Alternatives to Regulation*

The third sunrise criterion asks:

*Whether the public can be adequately protected by other means in a more cost-effective manner.*

### Opposition to Regulation

During the Sunrise Review process, the Department of Regulatory Agencies (DORA) made every effort to elicit information and comments from all interested parties. Several opponents of licensure for dietitians responded to the sunrise application by submitting opposition papers and letters to DORA. The summaries of their responses follow. The full-text of these letters may be found in Appendix A of this report.

#### *Vitamin Cottage Natural Grocers*

This letter was submitted by the nutrition coordinator for Vitamin Cottage Natural Grocers. Vitamin Cottage employs eight Certified Nutritionists (CNs) throughout their 14 locations in Colorado. The CNs offer the following to customers:

- Advice and instruction on diet and help create a health eating plan;

- 
- Comprehensive review of supplement program for balance and adequacy;
  - Education on nutrition-related problems;
  - Referrals to holistic practitioners;
  - Educational advice and materials on various nutrition topics;
  - Researched answers regarding new information on nutrition.

In their letter responding to the sunrise application, the Vitamin Cottage stated “A monopoly should not be allowed for just one type of nutrition professional to disseminate health information. When the true desire of the professional is to motivate, educate, and inspire others about health and their education is well-founded, it is a benefit to our community.”

“Depriving Colorado residents of the quality services proved by CNs at Vitamin Cottage and throughout the state would be a disservice. We at Vitamin Cottage stand behind our CNs and the role they play in our stores and in the health food industry. Allowing this legislation to pass would only prohibit further education for the general public of desperately needed information surrounding lifestyle and nutrition.”

*Accrediting Commission of the Distance Education and Training Council*

The Distance Education and Training Council (DETC) of Washington, DC is an accrediting agency recognized by the U.S. Department of Education and the Council for Higher Education Accreditation (CHEA). DETC is a nonprofit educational association and serves as a clearinghouse of information for the distance study/correspondence field as well as sponsoring a nationally recognized accrediting agency, the Accrediting Commission of the Distance Education and Training Council. Presently, more than 70 distance education institutions are accredited by the Accrediting Commission of DETC.



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The Executive Secretary of DETC submitted a four page letter in opposition to the application for the proposed regulation of dietitians. DETC listed the following three reasons for their opposition:

1. The application has serious factual misstatements in it and provides a mischaracterization of a legitimate, accredited educational provider that is a good corporate citizen of Colorado;
2. The application proposes discriminatory treatment of graduates of accredited institutions that would interfere with these graduates' ability to make a livelihood;
3. The applicant fails to acknowledge current trends in education and in the federally recognized status of national accreditation.

*American Health Science University*

The American Health Science University offers the program that leads to the title Certified Nutritionist (CN). Students must meet standards of performance, including passing a certification exam in nutritional science and maintaining a code of ethics monitored by the Certified Nutritionists International Board of Standards (CNIBS). AHSU is accredited by a national agency recognized by the U.S. Secretary of Education and the Council for Higher Education.

In response to the application by the Colorado Dietetic Association for licensure, the American Health Science University (AHSU) opposes the proposal based on the following grounds:

1. The proposal contains numerous factual errors and misstatements regarding AHSU and its graduates;
2. The proposed legislation would exclude non-dietitians from the practice of nutrition assessment and counseling, and would therefore interfere with many legitimate practitioners' ability to earn a living;

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3. Such legislation would effectively limit the freedom of Colorado consumers to choose among various qualified professionals involved in nutrition counseling, including Certified Nutritionists;
  4. The purposed legislation would harm American Health Science University (located in Aurora, Colorado), a nationally accredited educational institution chartered and regulated by the Colorado Department of Higher Education.

Furthermore, AHSU contends that the right of consumers to seek objective nutritional advice from a variety of practitioners would be severely compromised by the proposed legislation.

#### Alternatives to Regulation

There do exist alternatives to regulation that are cost-effective means to protect the health, safety, and welfare of the public. As mentioned earlier in this report, Colorado statutes protect the public from consumer fraud, incompetent or illegal medical practice, and unlawful cancer treatment. In addition to statutory remedies, the following entities offer private credentialing and guidelines.

#### *Commission on Dietetic Registration (CDR)*

The Commission on Dietetic Registration (CDR) is the credentialing agency for the American Dietetic Association. The CDR establishes and enforces standards for certification and the code of ethics by issuing credentials to individuals who meet these standards. The CDR has sole and independent authority in all matters pertaining to certification including but, not limited to standard setting, establishment of fees, finances, and administration.

CDR awards the Registered Dietitian credential to those who pass a certification exam after completing their academic coursework and supervised experience.

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More than 75,000 dietitians and dietetic technicians across the country and the world have taken CDR exams over the past several decades. CDR currently awards five separate and distinct credentials: Registered Dietitian (RD), Dietetic Technician, Board Certified Specialist in Renal Nutrition, Board Certified Specialist in Pediatric Nutrition, and Fellow of the American Dietetic Association.

The Commission's certification programs are fully accredited by the National Commission for Certifying Agencies (NCCA), the accrediting arm of the National Organization for Competency Assurance (NOCA) based in Washington, D.C.

Registered Dietitians are food and nutrition experts who have met the following criteria to earn the RD credential:

- Completed a minimum of a bachelor's degree at a US regionally accredited university or college and course work approved by the Commission on Accreditation for Dietetics Education (CADE);
- Completed a CADE accredited or approved supervised practice program (typically 6-12 months) at a healthcare facility, community agency, or a foodservice corporation, or combined with undergraduate or graduate studies;
- Passed a national examination administered by the CDR;
- Completed continuing professional educational requirements to maintain registration;
- Accrued 75 hours of approved continuing professional education every five years.

#### *American Dietetic Association Code of Ethics*

As noted previously in this report, the American Dietetic Association (ADA) is the profession's national association that serves as a source of education, research, and responsiveness to practitioner needs. As also previously noted, the Commission on Dietetic Registration (CDR) is the national voluntary credentialing agency that administers the examinations which all regulating states require their licensees to pass to obtain legal credentialing. In addition, the ADA and CDR have adopted a voluntary, enforceable Code of Ethics.

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The enforcement process for the Code of Ethics establishes a system to address complaints about members and credentialed practitioners from peers or the public. This process begins with a written complaint that must contain the basis of the complainant's knowledge of these activities, contact information of all persons involved, and the particular cite of the Code of Ethics. Next, the chair of the Ethics Committee reviews that complaint to determine whether an ethics question is involved. If it is determined that there was an alleged violation of the Code of Ethics, the respondent (person against whom the complaint is made) is notified and has 30 days to respond. The Ethics Commission has broad discretion to determine whether they should dismiss the complaint, request additional information, resolve the case through educational activities, or hold a hearing. The final decision may include mandatory continuing education in designated areas, supervised practice, or appropriate remedial action. The results of a hearing may include an acquittal, probation, suspension, or expulsion from the ADA.

#### *American Health Science University*

To earn the title Certified Nutritionist (CN), a student must meet standards of performance, including passing a certification exam in nutritional science and maintaining a code of ethics monitored by the Certified Nutritionists International Board of Standards (CNIBS). The program is offered by the American Health Science University (AHSU).

The American Health Science University is an accredited member of the Distance Education and Training Council (DETC). The accrediting commission of DETC is a recognized member of the Commission on Recognition of Postsecondary Accreditation and is listed by the U.S. Department of Education as a nationally recognized accrediting agency.

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AHSU is a distance learning institution that prepares and administers independent study courses in nutrition science and nutrition counseling for adult students in the United States and abroad. The six-course Certified Nutritionist (CN) program includes ten proctored midterms and final examinations and two practicum studies. The six courses are depicted in Table 3.

Table 3

AHSU Certified Nutritionist Coursework

Course 1	Health and Wellness Survey
Course 2	Anatomy and Physiology
Course 3	Normal Nutrition
Course 4	Advanced Nutrition with Clinical Applications
Course 5	Nutrition Therapy
Course 6	Nutrition Assessment and Counseling

Students are required to take courses sequentially every four months and have up to 24 months to complete the program for certification, plus three months to complete the Certification Exam. Students without degrees in nutrition or the health sciences must complete a 150 hours internship.

CNs work directly with clients to improve their nutritional status and overall health by assessing and analyzing needs, developing nutritional plans, educating, advising, counseling and monitoring and supporting their efforts.

*Nutrition Therapy Institute of Colorado*

Graduates from the Nutrition Therapy Institute of Colorado receive a Certificate of Completion as a Nutrition Therapist. Begun in 1999, NTIC's Nutrition Therapist Program is a nine-month program that includes nine courses and offers 400 hours of training. As part of the 400-hour program, students are required to complete an independent study.

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Courses provide information on the physiological mechanisms of nutrients, basic nutrition therapies to maintain or reestablish health, and special topics to enhance the practical application of nutrition therapy. There is an emphasis on the vital role nutrition plays in prevention. The program content is depicted in Table 4.

Table 4

NTIC Nutrition Therapist Program Content

Basic Biochemistry and Cellular Metabolism
Anatomy and Physiology for the Nutritionist
Introduction to Nutrients: The Building Blocks
Clinical Nutrition
Food and Diet Therapy
Digestion and Detoxification
Health and Disease
Life Cycle Nutrition
Body Typing
Independent Study/Foundations in Research
Three-day Nutrition Retreat/Intensive

*Joint Commission on Accreditation of Healthcare Organizations (JCAHO)*

The Joint Commission on Accreditation of Healthcare Organizations is an organization whose purpose is to set standards for health care organizations. The JCAHO, through established standards, accredits hospitals, long-term care, and home health care agencies that voluntarily seek such accreditation, thus guiding and regulating operations of these providers. The JCAHO accrediting standards include requirements for health care organizations as a whole and each of their key service departments, including dietitians.

JCAHO does not require hospitals to use Registered Dietitians. Rather, the requirements state that dietitians be “qualified” and leaves each institution with a wide range of discretion in defining that term. However, hospitals and large organizations typically use individuals who have the CDR private certification.

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Consistent with JCAHO guidelines, dietitians work with other members of the patient care team, including physicians, nurses, pharmacists, speech therapists and others in both patient care and education. This collaboration enables a more comprehensive approach to patient care.

*American Society for Parenteral and Enteral Nutrition  
(A.S.P.E.N.)*

The American Society for Parenteral and Enteral Nutrition is a professional society of physicians, nurses, dietitians, pharmacists, and nutritionists who promote quality patient care, education, and research in the field of nutrition and metabolic support in all health care settings. A.S.P.E.N. developed general guidelines for Registered Dietitians in the provision of specialized nutrition support.

*Conclusion*

Given the data submitted and obtained during this review, and that the unregulated practice of Registered Dietitians and nutritionists has not resulted in significant harm to Colorado consumers, this sunrise review contends that regulation of this profession is not necessary. Dietitians failed to submit compelling evidence of public harm that satisfies the burden of proving that regulation is necessary to protect the public health, safety, or welfare.

The submitted examples of “nutritional mismanagement” embraced situations in which consumers voluntarily sought advice or purchased products. The amount of harm visited upon the public was very small when considered in light of the number of choices that consumers make about their nutritional needs. Where harm did occur, the public already possessed remedies under civil law and existing practice acts, such as the Colorado Cancer Cure Control Act and the Colorado Medical Practice Act.

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As discussed in the Opposition to Regulation section of this report, the proposal by the applicant may limit Colorado consumers' choice of nutrition practitioners. The applicant purports that "non-licensed practitioners would not be precluded from practicing in the field of nutrition and dietetics altogether. However, those who do not meet the minimum standards of training and education for licensure would be precluded from practicing in the realm of Medical Nutrition Therapy – i.e. with diseased and high-risk populations."

The report identifies a number of groups that would be classified as "high risk" or "diseased" under the proposed legislation. These groups include pregnant women and young children and the elderly with mental or physical conditions that affect their basic nutritional needs. Furthermore, Medical Nutrition Therapy as defined by the applicant includes assessment of the nutritional status of the client and treatment that includes diet therapy, theory based nutrition counseling, and/or the use of specialized nutrition supplements including the provision of enteral and parenteral nutrition support.

By basing training requirements on the RD model and by failing to distinguish between dietitians and nutritionists whose training and expertise are not necessarily similar, the proposed licensure law fails to recognize legitimately trained nutritionists unless they are also RDs. Licensure of RDs may have a significant impact on the ability of legitimately trained nutrition professionals to pursue their careers. Colorado's current environment accommodates the diversity of qualified nutrition professionals, which is in the interest of both the public and the professions.

***Recommendation - The General Assembly should not license or otherwise regulate dietitians.***



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## **Appendix A – Letters in Opposition to Regulation of Dietitians**

***Decision Associates International***  
3665 S. Ceylon Way, Aurora Colorado, 80013  
303.617.3159 E-mail petekm@aol.com

August 16, 2001

**To the Attention of:** Zoe Henry, Consultant to the Office of Policy and Research,  
State of Colorado.

**From :** Peter K. Moskowitz, Ph.D., FACHE

**Reference :** Joint Legislative Sunrise and Sunset Review Committee Report  
concerning regulation of Dietitians in the State of Colorado filed by the Colorado Dietetic  
Association.

It has been my pleasure to work with a number of Dietitians in my 20 + year career as a healthcare administrator in medical centers and other healthcare entities. I have gained the greatest respect and admiration for the dedication and hard work many dietitians have contributed to the health and wellbeing of patients and staff. As a parent of children in local schools I have known excellent school cafeteria food service manager dietitians. I have also seen the great transition that healthcare has undergone over the last 15 years in the areas of marketing, management, staffing, morbidity and mortality, patient and employee privacy, research and pharmaceutical products. These transitional times have changed the patient management environment exponentially since the post World War II era. While errors in the hospital have provoked major efforts to clean up the bad image, nutritionist have had little or no role in these hospital based tragedies committed by licensed, registered or board certified professional. Unfortunately these stellar qualifications still have not totally eliminate unfortunate mistakes or always removed the rotten apple in the barrel.

Since research is rampant and technology has touched nearly every element of care, many professionals are having a difficult time keeping up with the widespread technological advancements. I have been deeply impressed with dietitians who have gone the extra mile to meet the information challenge and equip themselves with the tools necessary to keep up with new information. The multidisciplinary body of knowledge impacting, health, nutrition and diets, i.e., biology, botany, agriculture, environment, biochemistry, inorganic chemistry, biotechnology, physiology, pharmacy, dermatology, internal medicine, immunology, dentistry, exercise physiology, psychology, psychiatry etc., etc., are clearly not the sole domain of any one discipline. Some dietitians have recognized this. These dietitians have sought out to learn more about what affects optimal health and have gone beyond the dietitian school education that has prepare them best for filling physician directed diets. In their search some have found American Health Science University, a certification and graduate level university program that allows bachelors degreed students to follow their educational goals in a setting that is responsive to their work schedule. I have seen a number of medical doctors, osteopaths, nurses, pharmacists

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and other medical professionals who seek out American Health Science University and other institutions to meet their higher educational needs from institutions recognized and approved by the United States Department of Education, and the Council for Distance Education and Training.

I don't know how many professionals seek out a school for dietitians to further expand their knowledge in the area of health, nutrition, wellness and health promotion and be willing to undergo 900 hours of bachelors degreed dietitian supervised training for the privilege of addressing nutritional concerns with clients? These would be interesting statistics.

I am unclear as to how rational it is in the name of cost effectiveness, in this "age of cost containment", to require each professional who wants to provide nutritional counseling to make a referral to a dietitian?

From the arguments presented in the Sunrise Review Application of 2001, I do not see how dietitians would be conserving for Colorado residents any resources by requiring all nutritional information for promoting optimal health be funneled by referral to affiliates of the American Dietetic Association. This model looks neither entrepreneurially efficient, cost effective or patient centered and clearly would not serve Coloradoans very well. I am grateful for Dr. James Johnston, Ph.D., and other educators like him who have had the vision and foresight to open up the domain of nutrition education, because he understood so early on, the importance and impact that nutrition has on the health of the American population. Dr. Johnston started the National Institute of Nutritional Education over 25 years ago. Now, he offers both Certification and Masters Degree programs meeting rigorous higher education standards. The fundamental question on this issue is, who has been best served and protected in the area of health, wellness and nutrition?

If we use outcome in the area of cost, health and dietary habits as a criteria for evaluation the success or failure of a professional organization in affecting their alleged function and purpose, in this country, the report card does not look good. For example, poor diet and nutrition have been linked to 41% higher annual health care cost (Data on 6000 Workers Dramatize Financial Toll of High-Risk Behaviors, "Employee Health & Fitness 17, no.7 (1995):73-76. ) The quality of nutrition, diets, health and wellness is questioned and evaluated now daily in this richest of countries. This wheel may need fixing, but not by restricting access to the solution.

The area of nutrition is vital to the survival of the specie, since the environment is fundamental to the integrity of the food supply, but to put all these dimension under the sole control and limitations of a one association in one dimensional and is not only unhealthy physically and socially, but also economically, and an attempt to politically force Restraint of Trade by legislation. In the long run, will this protect those it intends to protect? I would say no.

Sincerely,

Peter K. Moskowitz, Ph.D., FACHE



## American Health Science University

and National Institute of Nutritional Education - NINE

"Providing Educational Solutions For Life's Most Precious Quality - Good Health"

Ms. Zoe Sherry Henry  
Office of Policy and Research  
State of Colorado  
1560 Broadway, suite 1540  
Denver, CO  
80202

August 8, 2001

Dear Ms. Henry:

I am writing in response to the recent Colorado Dietetics Association proposal. As a representative of American Health Science University and the Certified Nutritionist community, I feel compelled to vigorously oppose this proposal on the following grounds:

- The proposal contains numerous factual errors and misstatements regarding the American Health Science University and its graduates.
- The proposed legislation would exclude non-dietitians from the practice of nutrition assessment and counseling, and would therefore interfere with many legitimate practitioners' ability to earn a living.
- Such legislation would effectively limit the freedom of Colorado consumers to choose among various qualified professionals involved in nutrition counseling, including Certified Nutritionists.
- The proposed legislation would harm American Health Science University (located in Aurora), a nationally accredited educational institution chartered and regulated by the Colorado Department of Higher Education.

### Factual Errors and Misstatements

The CDA proposal is poorly researched and contains many inaccurate and disparaging statements about American Health Science University, Certified Nutritionists and other practitioners in the nutrition field. For example, the proposal contains the following statements:

*"Registered Dietitians are the only professional group specifically educated and trained to serve the public's interest by interpreting scientific knowledge about food and nutrition and application of knowledge to promote optimal nutrition in the population and in individuals with specific nutritional needs."*

This statement is both arrogant and untrue. There are a number of professional groups with extensive education and training in the field of nutrition assessment and counseling. Many of these professionals are licensed or registered in various states under a scope of practice that includes nutrition assessment and counseling. These groups include Certified Nutritionists, Naturopathic Physicians, Chiropractic Physicians, Acupuncturists, Certified Nurse Midwives and others.

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*“There is also a group of professionals outside the traditional health occupational groups who use the title of nutritionist or ‘Certified Nutritionist’ and claim to provide services similar to Registered Dietitians. The programs which train these individuals are not accredited by nationally recognized accreditation agencies such as the North Central Board of Colleges and Secondary Schools nor by national professional organizations such as the American Dietetic Association, and fall extremely short of the education and training required to become a Registered Dietitian. The risk lies with the public’s perception that ‘certification’ means that the provider is qualified to provide safe and efficacious nutritional care. This group is especially a risk to vulnerable groups such as the critically ill (i.e. persons with AIDS or cancer), those with chronic diseases (i.e. persons with diabetes, heart disease, kidney failure, arthritis or intractable gastrointestinal problems), and high risk populations such as pregnant women, the elderly and very young children.”*

The claim that the Certified Nutritionist program is unaccredited is simply false (this is just one example of the total lack of research in the CDA proposal). In fact, AHSU maintains the highest standard of accreditation and validation available to a distance education university. AHSU is accredited by a national agency recognized by the US Secretary of Education and the Council for Higher Education. We also take issue with the implication that Certified Nutritionists prey upon vulnerable groups and provide the public with unsafe and ineffective nutrition advice.

*“Colorado has become an increasingly popular destination for non-qualified or incompetent [nutrition] practitioners, where they may practice freely without fear of legal action from the state...there are a growing number of non-accredited postsecondary programs available in Colorado, which provide some sort of ‘degree’ or ‘certification’ in the field of nutrition. Such institutions include the National Institute of Nutritional Education, which provides the ‘Certified Nutritionist’ diploma upon completion of just six science and nutrition courses...Additionally, the ‘CN’ designation is awarded simply upon completion of course work, and does not require that a standardized exam be taken.”*

Again, the statement that the Certified Nutritionist program is unaccredited is false. The AHSU program awards a certificate recognized by the US Department of Education (not a diploma). Also, all Certified Nutritionists are required to pass a number of proctored midterm and final exams, as well as a rigorous five-hour comprehensive examination (also proctored), before they are awarded the CN® designation. We dispute the claim that Colorado has become home to an increasing number of non-accredited postsecondary programs in nutrition. Although it is true that there are a number of non-accredited nutrition programs in the United States, we are aware of only one non-accredited nutrition program in the Denver area.

*“You will not find ‘Certified Nutritionists’ or ‘Nutrition Therapy Practitioners’ employed in traditional healthcare settings – rather you will find most of these types of graduates are employed in private practice, where the risk to the public is even greater.”*

The CDA offers a single example of “harm or potential harm” caused by a Certified Nutritionist to support this statement. AHSU is familiar with the case cited in the proposal, and in actuality the situation could be more accurately represented as a difference of opinion between a CN® and a RD. In fact, the case was evaluated by an individual with a Ph.D. in nutrition and a Registered Nurse, both of whom sided with the CN®.

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### **Restriction of the practice of legitimate professionals**

The CDA proposal claims that “non-licensed practitioners would not be precluded from practicing in the field of nutrition and dietetics altogether.” However, we have serious concerns about the scope of practice that would be left open to non-dietitians under the proposed legislation. The proposal states “... those who do not meet the minimum standards of training and education for licensure would be precluded from practicing in the realm of Medical Nutrition Therapy – i.e. with diseased and high risk populations.” The proposal goes on to identify a number of groups that would be classified as “high risk” or “diseased” under the proposed legislation. These groups include pregnant women, young children and the elderly, as well as individuals suffering from such common conditions as irritable bowel syndrome, constipation and diarrhea, type II diabetes, obesity, dental caries and periodontal disease, anemia, osteoporosis, food allergies and intolerances and premenstrual syndrome.

One way or another, most every person who seeks nutrition counseling could be classified as “high risk” or “diseased”, including most of the individuals who currently seek nutrition services from Certified Nutritionists and other practitioners. In fact, it is unlikely that a totally “healthy” person would seek the services of any nutrition professional. Many of the “high risk” and “disease” conditions described above are addressed effectively and safely by Certified Nutritionists in Colorado every day. We suspect that the CDA claim that non-licensed practitioners could continue to practice under the proposed legislation is a disingenuous attempt to deflect attention from the CDA’s intent to eliminate or severely limit its competition with this new regulation.

### **Limitation of Colorado consumers’ choice of nutrition practitioners**

Although the CDA claims that dietitians are the only practitioners capable of providing Coloradoans with “safe and efficacious” nutritional advice, we believe that the right of consumers to seek objective nutritional advice from a variety of practitioners would be severely compromised by the proposed legislation. To bar consumers from seeking the nutritional advice of legitimate practitioners such as Certified Nutritionists would be a serious disservice to Coloradoans interested in making the best possible dietary choices for themselves and their families.

Far from being the objective interpreters of scientific literature that they claim to be, Registered Dietitians generally offer a narrow perspective on diet and nutrition that is clearly influenced by powerful interests in the US food industry. Educational programs endorsed by the American Dietetic Association emphasize standard US government recommendations with regard to dietary planning and nutrient requirements such as the USDA Food Guide Pyramid and the Recommended Dietary Allowances to the exclusion of all other perspectives (even those that are supported by scientific research). Dietitians are offered very little formal preparation related to nutrition practices that have become widespread today, including vitamin and mineral supplementation, use of herbal remedies, and “alternative” dietary choices (e.g., avoidance of food additives, vegetarianism, fasting, juicing, moderate carbohydrate diets, etc.)

Various interest groups that fund the American Dietetic Association (including major food additive corporations, pharmaceutical companies, the meat and dairy boards and major fast food chains) heavily influence what little exposure dietetics students and practitioners are given to these alternatives. For example, the primary sponsor of the 2000 American Dietetic Association national conference (held in Denver) was *Equal*, a major manufacturer and distributor of the

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artificial sweetener aspartame. The conference packet included piles of literature, samples and recipes extolling the nutritional virtues of various products, including artificial sweeteners, fat substitutes, fast foods, convenience foods, infant formulas and candies. This situation cannot help but compromise the objectivity of the American Dietetic Association and individual dietitians. In fact, it is not unheard of for the American Dietetic Association to discipline individual dietitians who speak out about the dangers of food additives or the benefits of herbal supplementation and other dietary “alternatives”.

In 1997, consumers spent \$12.8 billion dollars on nutrition supplements. Clearly there is a need for nutrition experts who can offer Coloradoans sound advice and assistance with regard to supplements and other dietary alternatives. Registered Dietitians generally do not have an educational background that prepares them to offer clients this type of assistance, and often they communicate a hostile attitude toward supplementation. This is a dangerous state of affairs because consumers learn to avoid telling their health care providers about various supplements and herbs that they are using (in order to avoid an unfavorable response). This lack of communication can lead to catastrophic interactions with pharmaceutical drugs or anesthetic agents.

In contrast, the Certified Nutritionist program offers objective coverage of an extremely wide range of nutrition topics, preparing our graduates to answer the questions that today’s consumer is asking. In fact, the Certified Nutritionist program was created in order to fill the void left by traditional dietetic education. Students in our program are required to read several conventional nutrition textbooks (written by registered dietitians) as well as a number of recently released *research-based* publications on alternatives such as vitamin/mineral supplementation, botanical medicine, fasting, vegetarianism, detoxification, and others. Students in our program are taught to use scientific and medical research databases and credible Internet sites in order to keep their knowledge in the field of nutrition up-to-date, and are required to engage in continuing education each year.

### **Harm to American Health Science University**

American Health Science University (AHSU), formerly the National Institute of Nutritional Education, was founded in 1980 in an effort to fill the gap left by conventional nutrition and dietetics educational programs. Over 200 students are currently enrolled in our distance education nutrition programs; a number of these students are Colorado residents. AHSU is a good corporate citizen of the state of Colorado, and maintains the highest standard of accreditation and validation available to a distance education university. We are accredited by the nationally-recognized Distance Education and Training council, our courses are validated by the American Council on Education, and our programs are chartered and regulated by the Colorado Department of Higher Education.

We are shocked and angered by the attacks made by the CDA on our reputation and the reputation of our students and graduates. It is especially disturbing that these attacks are based on sloppy research, misrepresentation of the facts, and a single dubious case of “harm” caused by a Certified Nutritionist. We believe that the legislation proposed by the CDA represents an effort to interfere with fair competition among various legitimate professional groups, and that implementation of such a regulation would seriously impair our graduates’ ability to earn a livelihood in the state of Colorado.

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We encourage the Office of Policy and Research to seriously evaluate the implications of the proposed legislation. We believe that implementation of the regulations suggested by the CDA would arbitrarily and unfairly exclude a large number of legitimate professionals from the practice of nutrition counseling, and would seriously compromise Colorado consumers' ability to choose among a variety of providers of nutrition care. We are prepared to answer any questions you may have, and would be happy to provide additional materials to support our position. Thank you for offering us the opportunity to comment on this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Horner".

Kristen E. Horner, M.A., CN  
Director of Education

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## Vitamin Cottage

12612 W. Alameda Parkway  
Lakewood, CO 80228

August 10, 2001

Office of Policy and Research  
1560 Broadway, suite 1540  
Denver, CO 80202

Dear Zoe Sherry Henry:

I am writing on behalf of the Vitamin Cottage Natural Grocers in response to the proposed legislation by the Colorado Dietetic Association (CDA).

We have eight Certified Nutritionists (CNs) on staff at Vitamin Cottage throughout our 14 locations. Our goal is to have a CN or Nutritionist at each store. I would like to explain the functions our CNs serve at Vitamin Cottage and detail what the Colorado community would lose if this proposed legislation was passed.

1. **Education.** Education is one of our main goals. We understand that knowledge is power. The CNs are able to provide well-researched and credible information to our customers on how food and nutrients impact health. This allows the customers to have a better understanding of how they can achieve optimal health.
2. **In-the-aisle assistance.** Since our CNs are "on-the-floor" they act as an information resource for customers as well as employees. It is important to make sure customers understand the supplements they are purchasing.
3. **Spread the "good-news" of health.** The foundation of wellness is *nutrition*. CNs can assist customers in finding their nutrient needs. This is accomplished through store and community activities as well as free lectures in the Vitamin Cottage lecture hall often presented by a CN.
4. **Holistic approach.** CNs are educated to provide more of an alternative to the mainstream way of thinking about health. Our philosophy at Vitamin Cottage is that the body is the greatest healer. If you give the body what it needs it will heal itself. Providing this perspective to our customers allows them to take responsibility for their health and supports them in their quest for maximum wellness.
5. **Outstanding Customer Service.** The CNs are an essential part of the customer service experience that separates Vitamin Cottage from our competitors. Taking them away could hurt a competitive advantage of a Colorado company.

We strongly believe in continued education. Just as health is a dynamic process, so is education. Our CNs are continually kept "up-to-date" on credible research so they can pass on the most reliable health information possible. A monopoly should not be allowed for just one type of nutrition professional to disseminate health information. When the true desire of the professional is to motivate, educate, and inspire others about health and their education is well-founded, it is a benefit to our community.

Depriving Colorado residents of the quality services provided by CNs at Vitamin Cottage and throughout the state would be a disservice. We at Vitamin Cottage stand behind our CNs and the role they play in our stores and in the health food industry. Allowing this legislation to pass would only prohibit further education for the general public of desperately needed information surrounding lifestyle and nutrition.

Please feel free to contact me if I can be of any further assistance.

Sincerely,

Jennifer Allbritton, CN  
Nutrition Coordinator for Vitamin Cottage Natural Grocers  
303-986-4600 ext. 156



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# ACCREDITING COMMISSION OF THE DISTANCE EDUCATION AND TRAINING COUNCIL

1601 18th Street, NW • Washington, DC 20009-2529 • (202) 234-5100 • fax (202) 332-1386 • web site <http://www.detc.org>



August 9, 2001

WILLIAM B. COTTINGHAM, CHAIR  
PRESIDENT EMERITUS  
GMI ENGINEERING & MANAGEMENT INSTITUTE

THOMAS R. STUART, VICE CHAIR  
PRESIDENT  
ART INSTRUCTION SCHOOLS

DOROTHY C. FENWICK  
EXECUTIVE DIRECTOR EMERITUS  
COMMISSION ON RECOGNITION OF  
POSTSECONDARY ACCREDITATION

ROBERT J. GODFREY  
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TRUCK MARKETING INSTITUTE

JAN M. LARSON  
MANAGING PARTNER  
PRICEWATERHOUSECOOPERS

MARIANNE EVANS MOUNT  
EXECUTIVE VICE PRESIDENT  
THE CATHOLIC DISTANCE UNIVERSITY

HENRY A. SPILLE  
VICE PRESIDENT (RETIRED)  
AMERICAN COUNCIL ON EDUCATION

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MICHAEL P. LAMBERT  
EXECUTIVE SECRETARY

SALLY R. WELCH  
ASSISTANT SECRETARY

SUSAN M. REILLY  
ACCREDITING COORDINATOR

Ms. Zoe Sherry Henry  
Office of Policy and Research  
State of Colorado  
1560 Broadway, Suite 1540  
Denver, CO 80202

Dear Ms. Henry:

We are writing to you to **oppose** the application for the proposed regulations for registering dietitians that has been filed by Colorado Dietetic Association.

We are opposed to the application for these reasons:

1. The application has serious factual misstatements in it and provides a mischaracterization of a legitimate, accredited educational provider that is a good corporate citizen of Colorado.
2. It proposes discriminatory treatment of graduates of accredited institutions that would interfere with these graduates' ability to make a livelihood.
3. It fails to acknowledge current trends in education and in the federally recognized status of national accreditation.

The proposed application would, in our view, damage good, legitimate accredited institutions by attempting to confine the ability for a graduate of nutrition program to get a license in Colorado to an arbitrarily select class of institutions accredited by non-governmental associations.

To our thinking, learning is learning, regardless of the institutional setting, the media used to learn, or the source of accreditation. To restrict the ability to secure a license to a preferred form of accreditation is not fair to the graduates of legitimate institutions that fall outside of the scope of the "preferred provider of accreditation."

Colorado is being asked to make a major public policy decision that would have the unacceptable consequence of creating an exclusive "closed shop" of licensed practitioners based solely on the decisions of an arbitrarily selected class of non-governmental accrediting bodies.

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We entreat the State of Colorado to think seriously about the unfair and arbitrary regulation it is being asked to enact, which is contrary to Colorado's historic record of stimulating competition and creating a level playing field for competing interests.

*"Some accrediting agencies are better than other agencies"* is what the petition implies, but no evidence is offered to justify this position. There is no justification we can possibly conceive of that justifies excluding an entire class of seven federally recognized "national" accrediting agencies. In light of recent national policy decisions to ensure equity among recognized accrediting bodies by the higher education community, the CDA is proposing at best an archaic proposition and at worst a predatory economic practice.

At the outset, it may be useful to recall that there are three kinds of accrediting agencies: Specialized (those who accredit programs in a discipline like teaching), National (those who accredit institutions in all the states) and Regional (those who accredit within a defined geographic region). DETC is a "national institutional" agency. Neither the U.S. Secretary of Education nor the Council for Higher Education Accreditation makes a distinction between agencies in terms of ranking one above the other, as the CDA has elected to do in its application.

### **The Factual Errors**

There are factual errors in the application which merit attention:

1. The application refers to the Council on Postsecondary Accreditation, which has been defunct since 1996. The new non-governmental association which gives national recognition to accrediting bodies is the Council for Higher Education Accreditation (CHEA). DETC was recognized by COPA from 1975 to 1996 and currently recognized by CHEA. See [www.chea.org](http://www.chea.org)
2. The application states that "dietitians" are recognized as "qualified experts to provide medical nutrition therapy" and implies that 42 different states have this phrasing in their respective state laws. We question if "medical" is an accurate word to describe what is really in the various state laws. While there may be others, we are given to understand that only the state of Nebraska uses the phrase "medical nutritional therapist" in its law.
3. The application provides "further evidence" for its case by asserting that "... there are a growing number of non-accredited postsecondary programs available in Colorado." We question the use of the phrase "growing number." While it is true that there are a handful of unaccredited distance education courses in nutrition scattered across the nation, and some of them are indeed suspect, there is, to the best of our knowledge, only one unaccredited institution teaching nutrition that is located in the state. The implication that Colorado is being swamped with unaccredited nutrition schools is not credible to us.
4. The application needlessly defames an accredited member of the Distance Education and Training Council, calling it "non accredited." The American Health Science University, formerly called the National Institute for Nutrition Education, is in fact now—and has been since 1996--accredited by the DETC. DETC enjoys the same national recognitions as any regional accrediting body: both the U.S. Secretary of Education and the Council for Higher Education Accreditation give national recognition to DETC. To call NINE/AHSU "non accredited" is simply not true. Further, the application mischaracterizes the educational purposes of AHSU. It does not train dietitians, it trains "nutritionists."

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5. DETC accredits distinguished educational institutions worldwide, and in Colorado it accredits the College for Financial Planning, ISIM University, the U.S. Open University, among others. DETC also accredits the Western Governors University, which until last year had a presence in Aurora.

### **The Restraint on Nationally Accredited Institutions**

The application, by limiting the ability to register to only those graduates of regionally accredited institutions, unfairly limits free and open competition for no defensible reason.

This restraint would make it impossible for a graduate of any DETC—or other nationally accredited institution—to become a licensed dietitian in Colorado, should any of our institutions ever elect to offer programs in dietetics. There are seven major recognized “national” accrediting bodies—which includes DETC—accrediting over 3,500 institutions, which in turn enroll nearly 5 million students. While we do not know how many offer programs of dietetics or nutrition, the proposed regulation, if adopted, would set a bad example for disenfranchising the nationally accredited schools in other areas that may be subject to state licensure.

This restraint on the graduates of nationally recognized institutions is not justified:

1. DETC enjoys the same national recognitions—CHEA and U.S. Department of Education—as any regional agency.
2. DETC, unlike the regional agencies, does a specific program-by-program review by qualified subject matter experts of every program offered by an institution. These reviewers are professors from regionally accredited universities.
3. DETC accreditation is accepted by the State of Colorado’s Commission on Higher Education in lieu of state licensure for degree granting institutions. If DETC is acceptable to the Colorado CHE, why can it not be accepted in this case?

We do not see any compelling reason for Colorado to accept *only* regional accreditation. If anything, DETC accreditation provides a more focused, specific review of the curricula and should give the Colorado more comfort in accepting graduates of DETC.

### **Current Trends in Equal Treatment of National Accreditation**

The application is clearly prejudicial to the equal treatment of nationally accredited institutions. And this prejudice flies in the face of current attempts by the U. S. Department of Education and higher education community to secure equal treatment for all recognized accrediting bodies:

1. CHEA has released its *Transfer and the Public Interest*, which states in one key part: “...transfer decisions are not made solely on the source of accreditation...” This policy’s intent is to gain equality of treatment for nationally accredited institutions in the credit transfer area. It also serves notice that CHEA does not tolerate separate and unequal treatment of the national accreditors that it recognizes. The policy has been endorsed by all the regional accrediting bodies

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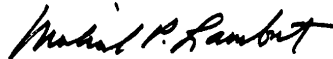
as well as the six presidentially-based higher education associations, including the American Council on Education.

2. The U. S. Department of Education has held 3 public hearings over the past 18 months on the problems faced by students of nationally accredited schools transferring their credits to regionally accredited schools. The U. S. Department of Justice has likewise looked into this area, and continues to monitor developments. It investigated one regional accrediting body for its credit transfer policies and has obtained a consent decree from another specialized agency for alleged anti-trust practices. Historically, some non-governmental groups are not above engaging in anti-competitive practice, as you probably well know.

We were surprised by the position taken in the application of the Colorado Dietetic Association in light of the great progress on equal treatment of all recognized agencies being made on the national level. We have the utmost respect for our colleagues, but find their application sadly lacking in fairness.

We urge you to give serious thought to our comments. We are ready to answer any questions you may have, and thank you for the opportunity to comment.

Sincerely yours,



Michael P. Lambert  
Executive Secretary

Enclosures

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## **NUTRITION THERAPY INSTITUTE OF COLORADO, INC.**

**1574 York Street, Suite 100**

**Denver, CO 80206**

**303-399-1451**

August 20, 2001

Zoe Henry  
Office of Policy and Research  
Department of Regulatory Agencies  
1560 Broadway, Suite 1550  
Denver, CO 80202

Dear Ms. Henry,

In response to the Sunrise Review Application regarding the regulation of Registered Dietitians in the State of Colorado, and in representation of the Nutrition Therapy Institute of Colorado, Inc, (NTIC) I would like to bring to bear some pertinent information:

- ◆ The Application bases the need for regulation in the area of nutrition on the incidences of deaths of thousands of people every year due to medical error. We are not practicing medicine and make no medical claims of any sort, but rather our graduates counsel members of the general public in how they can enhance health or reduce risks of contracting disease by improving their nutrient intake. There are no cases of any person being harmed by any graduate of our Institution.
- ◆ The Institute trains graduates to work with members of the general public, not to serve the special high risk needs of those in hospitals or institutions, hence the content of our training is different from that of Registered Dietitians. In fact the information presented in our classes includes a variety of sources including, but not limited to, information published by members of the American Dietetic Association.
- ◆ The need for people trained to deliver competent help to those members of the general public in need of dietary counseling is tremendous. The interest and education level of the public in the area of nutrition is growing daily and hence the demand for individual counseling. The number of Registered Dietitians in private practice in the State of Colorado is limited. There is enough demand for nutritional counseling for all persons competently trained in the field. At the same time, if as stated in the Application, the overall cost of health care is driven down by effective nutrition counseling, why limit the availability of such a service?
- ◆ The citizens of Colorado deserve to be in the position to make choices regarding the health professionals they patronize, based on need for specific service and affordability. No one group of any specific education and orientation should have the exclusive right to deliver

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nutrition services to the public. If, as stated in the Application, the credentials and titles in this field are confusing, then it is the responsibility of all practitioners to make clear their educational background, the strengths of their skills and their limitations. Indeed, the public deserves integral accountability.

- ◆ NTIC offers a unique educational opportunity--an in-class practical hands-on approach to training for those who wish to contribute to the nutritional aspect of preventive health care in Colorado. The Institute offers an intensive nine month course where students have the opportunity to learn nutritional information which can be directly applicable to those members of the population who wish to enhance physical performance as well as those who are confronted with compromised health. The Institute stresses the importance of building overall strength of body systems through appropriate nutrients in all cases.
- ◆ The training serves the career needs of students from a wide variety of backgrounds, including those already in the health care field who wish to augment their skills, as well as those making career changes. It is geared to help students maximize employability.

Thank you for your time and kind consideration.

Sincerely,



Char Leberer  
Director