

## IN THE MATTER OF

PHYSICIANS WEIGHT LOSS CENTERS  
OF AMERICA, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

*Docket C-3476. Complaint, Dec. 22, 1993--Decision, Dec. 22, 1993*

This consent order prohibits, among other things, the Ohio diet-program companies from misrepresenting the performance or safety of any weight-loss program they offer in the future, and requires them to have scientific data to substantiate future claims they make regarding weight loss and maintenance. In addition, the consent order requires certain disclosures regarding safety and health risks.

*Appearances*

For the Commission: *Michael Milgrom* and *Richard Kelly*.

For the respondents: *Thomas R. Brule*, in-house counsel,  
Akron, OH.

## COMPLAINT

The Federal Trade Commission having reason to believe that Physicians Weight Loss Centers of America, Inc., and Physicians Weight Loss Centers, Inc., (referred to collectively herein as "respondents") have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Physicians Weight Loss Centers of America, Inc. (PWLCA) is an Ohio corporation with its office and principal place of business located at 395 Springside Drive, Akron, Ohio. Respondent Physicians Weight Loss Centers, Inc.

(PWLCI) is an Ohio corporation with its office and principal place of business located at 395 Springside Drive, Akron, Ohio.

PAR. 2. Respondents advertise, offer for sale, sell, and otherwise promote throughout much of the United States weight loss and weight maintenance services and products, and make them available to consumers at their numerous "Physicians Weight Loss Centers" (centers) in many states. These products include "food" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act. Through centers franchised by PWLCA and centers owned by PWLCI, respondents are engaged and have been engaged, in the sale and offering for sale of low-calorie diet (LCD) weight loss programs, very-low-calorie diet (VLCD) weight loss programs and weight maintenance programs to consumers. LCD's are diets providing 800 calories or more per day, designed to cause weight loss. VLCD's are rapid weight-loss modified fasting diets providing less than 800 calories per day requiring medical supervision.

PAR. 3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PAR. 4. Respondents have disseminated, or have caused to be disseminated, advertisements for Physicians Weight Loss Centers services and products, including but not necessarily limited to the attached Exhibits A through N.

PAR. 5. The advertisements referred to in paragraph four, including but not necessarily limited to the attached Exhibits A-G and K, contain the following statements:

A. "I lost 12 and ½ pounds in 21 days, 46 in all!" Louise Conant went from 171 to 125 pounds in 15 weeks. 21 days to results. GUARANTEED! Average weight loss 3 pounds per week.\*

\*Rules of Guarantee are available at every Physicians WEIGHT LOSS Centers. (Exhibit A.)

B. "It Works!"

The diet that's worked for a million people can work for you, too. You'll lose an average of 3 pounds per week -- GUARANTEED.\* Professionally supervised diet with immediate results.

Safe, effective and no injections.

You'll learn eating habits to stay slim.

\* Rules of Guarantee available at Centers.

The weight loss success story for nearly a million people. (Exhibit B.)

C. We guarantee it because it works!

GUARANTEED average weight loss of 3 pounds per week.\*

Professionally supervised diet with immediate results.

Safe, effective and no injections.

You'll learn eating habits to stay slim.

"It works! I lost 15 pounds and 25 inches!" Joyce Johnson.

\* Rules of Guarantee available at all Centers. (Exhibit C.)

D. VOICE OVER: These are real photos of real people who successfully lost weight at Physicians Weight Loss Centers - a million in ten years.

LOUISE CONANT: I lost fifty pounds at Physicians Weight Loss Centers. It works.

VOICE OVER: Our professionally supervised program really works. We guarantee you'll lose an average of three pounds per week, and you'll see immediate results too.

AVA MACK: It works.

VOICE OVER: Play our "It Works" game. It's a 40% to 60% off the weight loss portion of our program not valid with any other offer.

(Transcript of audio portion of television advertisement.) (Exhibit D.)

E. SPOKES: One weight loss program has been a success story for nearly/over a million people. Physicians WEIGHT LOSS Centers. Our proven program gives you immediate results. Our weight loss professionals help you lose every pound you want. And teach you new eating habits to stay slim.

DEBRA : (BY PHONE) Hi:

SPOKES: Hi, Debra. You lost 60 pounds at Physicians WEIGHT LOSS Centers?

DEBRA: I sure did! And 81 inches.

SPOKES: That's terrific!

DEBRA: That's your program. I saw results right away, lost all I wanted by eating regular grocery store food, and I've kept it off for two years now.

SPOKES: Fantastic, Debra. Thanks (SFX: CLICK OF PHONE). Individual weight loss varies, but what Physicians WEIGHT LOSS Centers did for Debra, we can do for you.

(Transcript of radio advertisement.) (Exhibit E.)

F. "EVERY WOMAN SHOULD FEEL LIKE I FEEL." Pam Yancy lost 40 pounds in 12 weeks. "I love myself! After hiding my weight for so long, now I feel great about my looks and success. The physicians, nurses and counselors broke the yo-yo diet cycle for me. I saw results from day one and I know how

to keep the weight off." Love yourself again. Call today for a free weight loss consultation. "It Works!" (Exhibit F.)

G. IT WORKS because of the support and supervision you receive from our professional staff. People who understand the behaviors and attitudes of weight loss nutrition and wellness. Guiding you from short-term weight loss to long-term weight control. "It Works!" (Exhibit G.)

H. "It Works!" "It Works! I lost 55 pounds and 81 inches." Debra Shedd. (Exhibit K.)

PAR. 6. Through the use of the statements contained in the advertisements referred to in paragraph five, including but not necessarily limited to the statements in the advertisements attached as Exhibits A-G and K, respondents have represented, directly or by implication, that:

A. Physicians Weight Loss Centers customers typically are successful in reaching their weight loss goals;

B. Physicians Weight Loss Centers customers typically are successful in maintaining their weight loss achieved under the Physicians Weight Loss Centers diet program; and

C. Physicians Weight Loss Centers customers typically are successful in reaching their weight loss goals and maintaining their weight loss long-term.

PAR. 7. Through the use of the statements contained in the advertisements referred to in paragraph five, including but not necessarily limited to the statements in the advertisements attached as Exhibits A-G and K, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph six, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 8. In truth and in fact, at the time respondents made the representations set forth in paragraph six, they did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, respondents' representation as set forth in paragraph seven was, and is, false and misleading.

PAR. 9. The advertisements referred to in paragraph four, including but not necessarily limited to the attached Exhibits H and I, contain the following statements:

A. Our program has helped over a million people lose weight. We can help you lose 3 pounds per week on average -- guaranteed! (Exhibit H.)

B. Pam Yancy lost 40 pounds in 12 weeks. Average weight loss is 3 lbs. per week. (Exhibit I.)

PAR. 10. Through the use of the statements contained in the advertisements referred to in paragraph nine, including but not necessarily limited to the statements in the advertisements attached as Exhibits H and I, respondents have represented, directly or by implication, that the average rate of weight loss for participants in the advertised Physicians Weight Loss Centers LCD program is three pounds per week.

PAR. 11. Through the use of the statements contained in the advertisements referred to in paragraph nine, including but not necessarily limited to the statements in the advertisements attached as Exhibits H and I, respondents have represented, directly or by implication, that at the time they made the representation set forth in paragraph ten, respondents possessed and relied upon a reasonable basis that substantiated such representation.

PAR. 12. In truth and in fact, at the time respondents made the representation set forth in paragraph ten, they did not possess and rely upon a reasonable basis that substantiated such representation. Therefore, respondents' representation as set forth in paragraph eleven was, and is, false and misleading.

PAR. 13. In the routine course and conduct of their business, respondents have represented during initial sales presentations that consumers will typically reach their desired weight loss goal within the time frame computed for their program by Physicians Weight Loss Centers personnel.

PAR. 14. Through the use of the statements described in paragraph thirteen, and others not specifically set forth herein, respondents have represented, directly or by implication, that at the

time they made the representation set forth in paragraph thirteen, respondents possessed and relied upon a reasonable basis that substantiated such representation.

PAR. 15. In truth and in fact, at the time respondents made the representation set forth in paragraph thirteen they did not possess and rely upon a reasonable basis that substantiated such representation. Therefore, respondents' representation as set forth in paragraph fourteen was, and is, false and misleading.

PAR. 16. The advertisements referred to in paragraph four, including but not necessarily limited to the attached Exhibit J, contain the following statements:

Safe, effective and no injections. (Exhibit J.)

PAR. 17. Through the use of the statements contained in the advertisements referred to in paragraph sixteen, including but not necessarily limited to the statements in the advertisement attached as Exhibit J, respondents have represented, directly or by implication, that the Physicians Weight Loss Centers VLCD programs are unqualifiedly free of health risks. Respondents have failed to disclose adequately that physician supervision is required to minimize the potential risk to customers of the development of health complications on very-low-calorie diets. In view of the representation that the Physicians Weight Loss Centers' VLCD program is free of health risks, the disclosure as to the requirement for medical supervision is necessary. Therefore, in light of respondents' failure to disclose, said representation was, and is, misleading.

PAR. 18. The advertisements referred to in paragraph four, including but not necessarily limited to the attached Exhibit H, contain the following statements:

The Weight Loss Experts

Our Physicians, nurses and counselors supervise your complete program. They show you how to eat for healthy weight loss, oversee your progress and well-being, and teach you new eating habits for staying slim. (Exhibit H.)

PAR. 19. Through the use of the statements contained in the advertisement referred to in paragraph eighteen, including but not necessarily limited to the statements in the advertisement attached as Exhibit H, respondents have represented, directly or by implication, that their customers' health will be monitored regularly to ensure that the weight loss that customers experience is free of serious health risks.

PAR. 20. In the routine course and conduct of their business, respondents provide customers on respondents' LCD programs with diet instructions that require said customers, *inter alia*, to come in to a Physicians Weight Loss Center three times per week for monitoring of their progress, including weighing in. In the course of regularly ascertaining weight loss progress, respondents, in some instances, are presented with weight loss results indicating that a customer is losing weight significantly in excess of his or her projected rate of weight loss, which is an indication that the customer may not be consuming all of the calories prescribed by his or her diet instructions. Such conduct could, if not corrected promptly, result in health complications.

PAR. 21. When presented with the weight loss results described in paragraph twenty, respondents on many occasions have not disclosed to the customers that failing to follow the diet instructions and consume all of the calories prescribed could result in health complications. This fact would be material to consumers in their purchase and use decisions regarding the diet program. In light of the representation set forth in paragraph nineteen, and others in advertisements and promotional materials not specifically set forth herein, and in light of respondents' practice of monitoring customers on their LCD programs, said failure to disclose was, and is, a deceptive practice.

PAR. 22. The advertisements referred to in paragraph four, including but not necessarily limited to the attached Exhibits H and L-N, contain the following statements:

- A. WALK INTO THE RIGHT WEIGHT LOSS CENTER, AND YOU'LL SEE AN OBVIOUS DIFFERENCE.

(Picture of man in lab coat with stethoscope.)

At Physicians Weight Loss Centers, a physician is the first step to success. Most plans can't say that. So some of them make wild scary claims about prices instead. Let's weigh the facts. Our physicians, nurses and professional counselors guide you every step of the way . . . . (Exhibit L.)

B. A physician is the first step to weight loss success at Physicians Weight Loss Centers. That's something you won't see on most plans. The physician, along with nurses and professional counselors, guides you to successful weight loss on our high-fiber, low-fat, low cholesterol diet. Call and enroll today. (Exhibit M.)

C. Physicians, nurses, counselors help you lose and keep it off. (Exhibit N.)

D. The Weight Loss Experts. Our Physicians, nurses and counselors supervise your complete program. They show you how to eat for healthy weight loss, oversee your progress and well-being, and teach you new eating habits for staying slim. (Exhibit H.)

PAR. 23. Through the use of the statements contained in the advertisements referred to in paragraph twenty-two, including but not necessarily limited to the statements in the advertisements attached as Exhibits H and L-N, respondents have represented, directly or by implication, that customers participating in the advertised diet programs are actively supervised by the center physicians throughout the diet program.

PAR. 24. In truth and in fact, customers participating in the advertised diet programs are not actively supervised by the center physicians throughout the diet program. Therefore, respondents' representation as set forth in paragraph twenty-three was, and is, false and misleading.

PAR. 25. The advertisements referred to in paragraph four, including but not necessarily limited to the attached Exhibits A and K, contain the following statements:

A. If we guaranteed weight loss results in 21 days, would you spend \$60? (Exhibit A.)

B. \$99 FOR ALL THE WEIGHT YOU CAN LOSE\*  
Offer expires June 25, 1993

\* Rules of guarantee available at all centers. (Exhibit K.)

PAR. 26. Through the use of the statements contained in the advertisements referred to in paragraph twenty-five, including but



not necessarily limited to the statements in the advertisements attached as Exhibits A and K, respondents have represented, directly or by implication, that the advertised price is the only cost associated with losing weight on the advertised Physicians Weight Loss Centers programs.

PAR. 27. In advertising the price of the Physicians Weight Loss Centers programs, respondents fail to disclose adequately to consumers the existence and amount of all mandatory expenses associated with participation in the programs. In light of respondents' representation as set forth in paragraph twenty-six that the advertised price represents the only cost associated with the Physicians Weight Loss Centers programs, said failure to disclose was, and is, a deceptive practice.

PAR. 28. In providing advertisements and promotional materials such as those referred to in paragraph four to their individual franchised centers for the purpose of inducing consumers to purchase their weight loss services and products, respondent PWLCA has furnished the means and instrumentalities to those centers to engage in the acts and practices alleged in paragraphs five through twenty-seven.

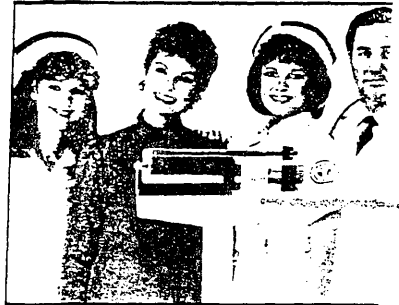
PAR. 29. The acts and practices of respondents as alleged in this Complaint constitute deceptive acts or practices in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

# Physicians WEIGHT LOSS Centers

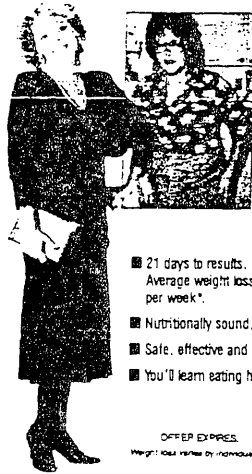
## If we guaranteed weight loss results in 21 days, would you spend \$60?

Introducing the

# GUARANTEED Success PLAN



Call Now For Your FREE Weight Loss Consultation  
Open Mon.-Fri. 9 a.m. - 7:30 p.m.



"I lost 12 1/2 pounds in 21 days, 46 in all!"

Louise Conant went from 177 to 125 pounds in 15 weeks.

- 21 days to results. **GUARANTEED!** Average weight loss 3 pounds per week\*.
- Nutritionally sound, real food diet.
- Safe, effective and no injections.
- You'll learn eating habits to stay slim.

OFFER EXPRESSES

Weight loss varies by individual.

EXHIBIT A

\*For the weight loss portion of the program. Physician's consultation and evaluation, and nutritional supplements, as required, are included in the \$60 fee. Other programs available. Rules of guarantee are available at every Physicians WEIGHT LOSS Centers.

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### Physicians WEIGHT LOSS Centers.



With you every day, every pound of the way.<sup>SM</sup>

The Physicians Weight Loss Centers program is available at each Center a minimum of one evening per week. ©1987 Physicians WEIGHT LOSS Centers of America, Inc. All rights reserved.

EXHIBIT B

**Physicians WEIGHT LOSS Centers.**

*"It Works!"*

**The diet that's worked for a million people can work for you, too.**

- You'll lose an average of 3 pounds per week — **GUARANTEED\***.
- Professionally supervised diet with immediate results.
- Safe, effective and no injections.
- You'll learn eating habits to stay slim.

\*Weight loss varies by individual.

**The weight loss success story for nearly a million people.**

**Call now for a FREE consultation!**  
 9 a.m. - 7:30 p.m.

**Physicians WEIGHT LOSS Centers**

**We guarantee it because it works!**



**FREE weight loss analysis**  
 Come in for a free, no-obligation weight loss consultation now and you'll get:

- FREE blood pressure and pulse rate check
- FREE body fat analysis
- FREE figure analysis



Weight individual

- GUARANTEED** average weight loss of 3 pounds per week.\*
- Professionally supervised diet with immediate results.
- Safe, effective and no injections.
- You'll learn eating habits to stay slim.

"It works! I lost 15 pounds and 25 inches!"  
 Joyce Johnson

\*Rules of Guarantee available at all Centers

**The weight loss success story for nearly a million people**

**Call now for a FREE consultation!**  
 Open Mon.-Fri. 9 a.m.-7:30 p.m.

**OPTIONAL SPECIALS**  
 Have your local paper insert the special you choose into the ad.

**ENROLL NOW AND KEEP IT OFF FOR A YEAR FREE!**

Enroll in our full service Weight Loss program now, and once you reach your ideal weight we'll give you one year of our specially designed Weight Maintenance program FREE.

OFFER EXPIRES:  
 Not valid with any other offer.  
 Not valid with any other offer.

**21 DAYS FOR \$60**  
 for the weight loss portion of the program.

OFFER EXPIRES:  
 Physician's consultation and evaluation and Nutritional Supplements at regular prices. Not valid with any other offer. Other programs available.

**2 FOR 1**  
 or **50% off**  
 the weight loss portion of the program.

OFFER EXPIRES:  
 Physician's consultation and evaluation and Nutritional Supplements at regular prices. Not valid with any other offer.

**\$79 for 30**

Complaint

116 F.T.C.

## EXHIBIT D

RADIO-TV MONITORING SERVICE, INC. 3408 WISCONSIN AVENUE, N.W. * WASHINGTON, D.C. 20016 * 244-1901	
PROGRAM:  COMMERCIAL	DATE:  MARCH 14, 1990
STATION OR NETWORK:  WRC-TV	TIME:  7:20 AM

## PHYSICIANS WEIGHT LOSS CENTER AD

VOICEDOVER: These are real photos of real people who successfully lost weight at Physicians Weight Loss Centers - a million in ten years.

LOUISE CONANT: I lost fifty pounds at Physicians Weight Loss Centers. It works.

VOICEDOVER: Our professionally supervised program really works. We guarantee you'll lose an average of three pounds per week, and you'll see immediate results too.

AVA MACK: It works.

VOICEDOVER: Play our "It Works" game. It's a 40% to 60% off the weight loss portion of our program not valid with any other offer.

(END)

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Complaint

EXHIBIT E-1



**COPY** "Shedd" Radio (JPW-0104-A/1) 6/6/89

SPOKES: (NEED TWO VERSIONS MADE)	One weight loss program has been a success story for nearly/over a million people. Physicians WEIGHT LOSS Centers. Our proven program gives you immediate results. Our weight loss professionals help you lose every pound you want. And teach you new eating habits, <del>to help you lose weight</del> .
DEBRA:	(BY PHONE) HI!
SPOKES:	Hi, Debra. You lost 60 pounds at Physicians WEIGHT LOSS Centers?
DEBRA:	I sure did! And 81 inches.
SPOKES:	That's terrific!
DEBRA:	That's your program. I saw results right away, lost all I wanted by eating regular grocery store food, and I've kept it off for two years now.
SPOKES:	Fantastic, Debra. Thanks. (SFX: CLICK OF PHONE)

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Complaint

116 F.T.C.

EXHIBIT E-2



COPY

Individual weight loss varies, but what Physicians WEIGHT  
LOSS Centers did for Debra, we can do for you.

(TAG)

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Complaint

EXHIBIT F

**"EVERY WOMAN SHOULD FEEL LIKE I FEEL!"**  
 Pam Yancy lost 40 pounds in 12 weeks.  
 Here are 40 tips to help you lose weight and more...  
 1. Eat less fat. 2. Eat less sugar. 3. Eat less salt. 4. Eat less starch. 5. Eat less bread. 6. Eat less pasta. 7. Eat less rice. 8. Eat less cereal. 9. Eat less fruit. 10. Eat less nuts. 11. Eat less seeds. 12. Eat less beans. 13. Eat less lentils. 14. Eat less chickpeas. 15. Eat less soybeans. 16. Eat less tofu. 17. Eat less tempeh. 18. Eat less miso. 19. Eat less soy sauce. 20. Eat less soy lecithin. 21. Eat less soy protein. 22. Eat less soy oil. 23. Eat less soy flour. 24. Eat less soy milk. 25. Eat less soy yogurt. 26. Eat less soy cheese. 27. Eat less soy butter. 28. Eat less soy margarine. 29. Eat less soy shortening. 30. Eat less soy lard. 31. Eat less soy tallow. 32. Eat less soy ghee. 33. Eat less soy schmaltz. 34. Eat less soy suet. 35. Eat less soy lard. 36. Eat less soy tallow. 37. Eat less soy ghee. 38. Eat less soy schmaltz. 39. Eat less soy suet. 40. Eat less soy lard.

**Physicians WEIGHT LOSS Centers.**

**SAVE 40-80% ON A NEW YOU FOR THE NEW YEAR!**  
 It's time to start your new year with a new you. At Physicians Weight Loss Centers, we offer a variety of weight loss programs to help you reach your goals. Our programs are designed to help you lose weight safely and effectively. We offer a variety of services, including medical supervision, nutritional counseling, and behavioral therapy. We also offer a variety of weight loss products, including supplements and medications. We are committed to helping you achieve your weight loss goals. Call today for more information.

**Physicians WEIGHT LOSS Centers.**

**Physicians Weight Loss Centers, Inc. - 1999**



EXHIBIT G

**Physicians WEIGHT LOSS Centers.**

**\$88 WEIGHT LOSS SPECIAL\***

*IT WORKS* because of the support and supervision you receive from our professional staff. People who understand the behaviors and attitudes of weight loss nutrition and wellness. Guiding you from short-term weight loss to long-term weight control. *"It Works!"*

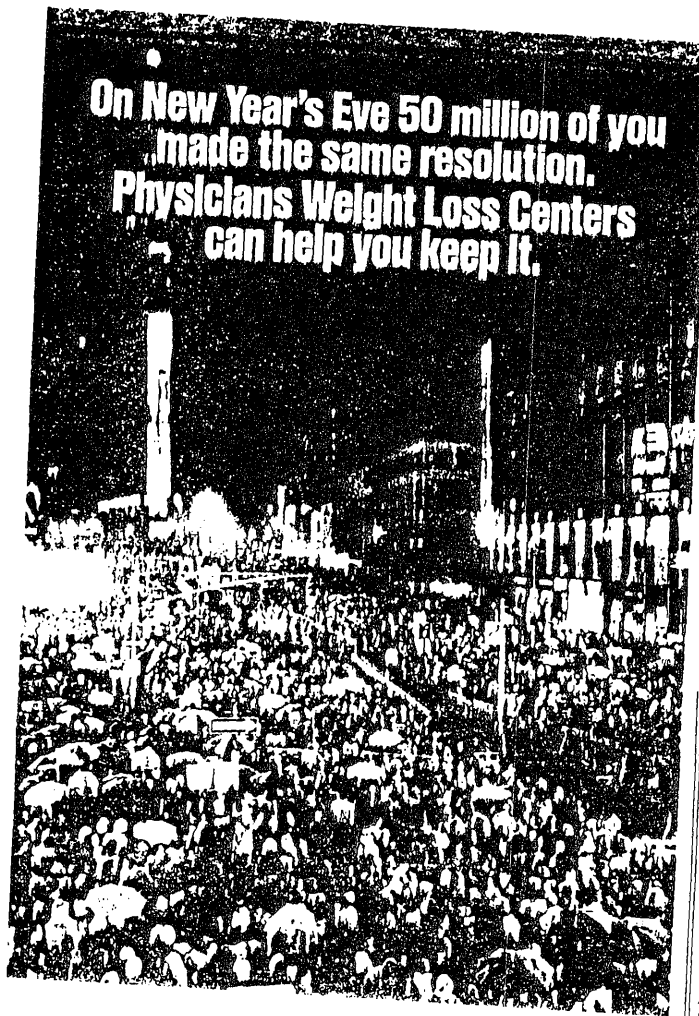
**OFFER EXPIRES:**  
\*\$88 for 8 weeks of the weight loss process of the program. Price on a consultation and evaluation and 1st Annual Supplemental program per \$110 added with any other offer.

**Call now for a FREE Consultation**  
 Open Mon. - Fri. 9 a.m. - 7:30 p.m.



 **Physicians WEIGHT LOSS Centers.**

The Physician is available in each Center a minimum of one evening per week.  
 © 1988 Copyright Physicians WEIGHT LOSS Centers of America, Inc. Tel. (800) 426-1433



**On New Year's Eve 50 million of you  
made the same resolution.  
Physicians Weight Loss Centers  
can help you keep it.**

**Physicians  
WEIGHT LOSS  
Centers; the right  
weight loss plan  
for the 1990's.**

Our program has helped over a million people lose weight. We can help you lose 10 pounds per week on average - guaranteed!

But as health experts know, an ideal weight loss plan should give you more than health. More energy. More life.

Our high fiber, low fat plan can help you lower cholesterol, improve overall health and feel great.

**The Weight Loss Experts.**

Our fitness, nurses, and counselors supervise your complete program. They show you how to eat for healthy weight loss, measure your progress, and will bring you back to your eating habits for staying slim.

All on a low fat, high fiber diet. No diet. No meals of powdered drinks, but real meats, bread, cheese, fruits and vegetables. Low fat. A lifetime - not just a diet.

**Our diet works! Ask the people who know.**

I used to take naps in the afternoon. Since I lost 10 pounds, I eat on time. Rosemary Lantz

I used to take 4 kinds of blood pressure medicine. My doctor cut out 1 of them after I lost 25 pounds. Mike Habick

Losing 10 pounds gives me the energy to be part of my kids' activities. Susan Kluge

**Our professionally supervised diet program meets guidelines established by:**

- The American Dietetic Association
- American Heart Association
- American Psychiatric Association

**Save 40-80% when you keep your New Year's promise.**

Because 100% of our customers succeed, we offer all the weight loss programs at our price. You can't lose weight if you don't eat right. Our diet is the only one that can help you lose weight. Call for a free trial and information. Act now. Offer ends 1/31/90.

