



7750 Montpelier Road
Laurel, Maryland 20723
www.muoh.edu
410-888-9048

Health Care Workshop, Project No. P13-71207: Testimony Examining Health Care Competition

Patricia Schultheiss & Karen Goldman
Office of Policy Planning
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington DC 20580

Dear FTC:

Thank you for this opportunity to testify on Health Care Competition to help you to better understand the competitive dynamics in the field of Dietetics and Nutrition. Nationally the regulations are a mess and favor Registered Dietitians over other qualified Nutrition Professionals, many of whom hold higher academic credentials and expertise. It is a field that certainly needs some scrutiny and advocacy on behalf of consumers. Current state and national laws favor one trade group of nutritionists and unnecessarily restrict the ability of thousands of qualified nutritionists from practicing in many states. As such, these overly-restrictive professional regulations restrict competition and access to nutrition services.

In a time where obesity, diabetes, cardiovascular disease, auto-immune, and mental health diseases are rising exponentially, it serves the public to have broader access to qualified nutrition professionals, not less. Yet each year on national and state levels, legislation is proposed that aims to limit licensure and access even more.

Maryland University of Integrative Nutrition

I am writing on behalf of the 274 current students and 46 graduates of the MS in Nutrition and Integrative Health Program at Maryland University of Integrative Health. We are accredited by the Middle States Commission on Higher Education, the institutional accrediting agency for colleges and universities in the Mid-Atlantic region of the United States.

Licensing of nutritionists varies from state to state. Each year, the Academy of Nutrition and Dietetics finds legislative sponsors to submit monopoly, dietitian only bills. In the past three years, restrictive legislation has been blocked or amended in 13 states by dedicated non-RD nutrition professionals, our registered dietitian colleagues, and consumers. Honestly, it's exhausting and important work.

FTC oversight on this hodge-podge of state regulations would smooth the profession and clarify how to serve the public best.

As current state laws stand, Registered Dietitians with BS degrees and Dietetic Assistants with certificates may be licensed in 17 states where our graduates with master's degrees may not practice. In another 16 states, only Registered Dietitians may be licensed and be eligible for insurance reimbursement while our graduates can practice but not participate in third party reimbursement. Our graduates may be licensed on an equal tier with Registered Dietitians in 12 states currently. Only 11 states currently do not have any licensing for nutrition professionals. (Source: www.nutritionadvocacy.org) This affects nutritionists from being able to work legally or on equal footing in many states.

This is clearly a case where the Academy of Dietetics and Nutrition (formerly the American Dietetic Association) existed long before other nutrition certification boards and got to the "party" first. The field has matured, there are other qualified national certification boards for the field of nutrition; yet state laws do not reflect the changes in the field.

This affects who will be hired for jobs. Physicians and institutions would rather hire health professionals whose services are reimbursable. This gives competitive advantage to dietitians over other qualified nutritionists.

Board Certification of Nutritionists: Regulation and Competition in the Field

In addition to Registered Dietitians, there are other qualified nutrition professionals, including: (See Table 1 for Comparison of Nutrition Board Certification Requirements for RD's, CCN's, and CNS's.)

Board Certification	Certifying Institution	Level of Education
Certified Nutrition Specialists (CNS)	Certification Board for Nutrition Specialists www.cbns.org	MS or PhD, 1000 hours of internship
Certified Clinical Nutritionist (CCN)	Clinical Nutrition Certification Board www.cncb.org	BS or higher (matches RD standards), & post graduate training course.
Diplomate of the American Clinical Board of Nutrition (DACBN)	American Clinical Board of Nutrition www.abcn.org	Licensed health care provider with a minimum of 300 hours of specialized post graduate training in nutrition
Certified in Holistic Nutrition	National Association of Nutrition Professionals	Graduate from a nutrition program approved by NANP, 500 internship hours

The Academy of Nutrition and Dietetics (AND) continues to aggressively train state boards to lobby on their behalf, and to limit competition from “unqualified competitors”. *Attached you will find the AND House of Delegates Backgrounder, Fall 2011. It gives a clear picture of how AND leadership feels about non-RD nutrition professionals and competition.*

To read more about what others have published about AND's activities, please go to <http://nutritionadvocacy.org/resources/media-coverage>

Health and Human Services

Currently in Medicare/Medicaid standards coverage for nutrition services is provided for people who have chronic kidney disease, have had a recent kidney transplant, or who have diabetes. There is language written into this standard that includes dietitians and other qualified nutrition professionals.

In 2013, Treat and Reduce Obesity Act of 2013, HR 2415 was introduced to amend the Social Security Act to add Obesity Counseling as a Medicare benefit.. This would help many people, yet the only nutritionists mentioned in this bill are dietitians. No reference is made for “other qualified nutritionists”. Title 42 already names other nutrition professionals as qualified providers, and guarantees Medicare recipients the right to choose from among named, qualified providers. Leaving out highly qualified nutrition professionals who are trained and credentialed but not as dietitians would unnecessarily limit resources to address obesity contrary to the intention of the bill. It would also have a financial impact by using regulation to give competitive advantage to members of a single private association which in no way represents the profession as a whole.

The Academy of Dietetics and Nutrition advocates expansion of HHS services to also include hypertension and cancer. We’d like to see it also include services for children with special needs. Yet when it does, we certainly hope to see a broad scope of nutritionists included in the statute.

Professional Regulation and Licensing

Dietitians and other qualified nutritionists are trained to work as part of the primary health care team, to assess lifestyle and dietary intake, to interpret laboratory results, and to utilize all of these to develop personalized, programs to move people towards their health goals.

Licensing of dietitians and nutritionists helps to distinguish them from health coaches, and nutrition educators.

Simultaneously, it’s important protect everyone’s rights to provide health and nutrition information. Many trained nutrition coaches, personal trainers, drug- and alcohol counselors, social workers, nurses and others also provide nutritional assessment and advice in their work. Eating and food are not the domain of any one profession. And there is virtually no evidence of harm by non-licensed people giving nutrition advice.

My personal story: How a PhD, CCN was denied a nutrition license in North Carolina.

These laws can hurt well qualified nutritionists. I know. I was denied a license and sent “cease and desist” letters in 2003 and 2011 by the North Carolina Board of Dietetics/Nutrition.

I lived in Asheville, NC for 8 years and practiced as a Clinical Nutritionist in a medical clinic and in private practice. I hold a PhD in nutrition from a regionally accredited university (2001), a MS degree in Nutrition from Donsbach University, a vocational college (1979), and a BA in English from Colgate University (1975). At the time I applied for licensure in 2003 I also held and currently hold a board certification as a Clinical Nutritionist through the Clinical Nutrition Certification Board. I was denied a license and appealed. The final letter from the board stated that I was denied because I did not have communication skills or food services on my educational transcripts and because I held a degree in “Clinical Nutrition” and that the board licenses people who have degrees in “Human Nutrition”. At the time, I sought council and was incorrectly told that as long as I didn’t call myself a “nutritionist” I could continue to work.

I reapplied in 2011 after receiving a second “cease and desist” letter from the board. I was denied a license again, although at that time I had received an additional board certification in Holistic Nutrition. After a meeting with the board’s executive director, Charla Burill, the board’s attorney, two board members who said nothing except hello and goodbye, and my own attorney for over 2 hours, it became apparent that the most stringent interpretation of the rules would be enacted. They had written new rules and now I would need over a year of bachelor’s level courses to meet their requirements.

So even though I’d been in clinical practice for over 30 years and hold a doctorate in the field, I was unable to continue earning my livelihood as a nutritionist in North Carolina. My business employed 5 people, provided benefits to full time employees, and paid taxes. I left the state.

I spoke with an attorney, Jonathan Amord, about bringing this trade violation to the FTC. He advised me that because national laws held this as precedent, that the FTC would not be interested.

My story is not unique. Jim LaValle, R.PH, MS, CCN was fined by the Ohio Board of Dietetics and sued the board for the right to practice. Jessica Stamm, MS, CCN was forced out of Iowa and when she moved Hawaii was threatened by monopoly legislation in 2012. A couple of years ago a nutritionist with a master's degree who had worked in Chicago for 20 years was fined over \$10,000 and forced to move out of the state. These are not isolated instances. As the attorney for the board in North Carolina said to let me know that what they did wasn't personal, "We do this all the time."

It's important to me that NONE of the graduates of our program or any other qualified nutrition professional be denied a license or insurance reimbursement because of a system that restricts trade. Opening federal and state standards to include ALL qualified nutritionists will lower costs, improve quality of care, and give more choice to consumers.

Thank you listening to my words and for this opportunity. I see a hopeful possibility for change.

Sincere regards,

Liz Lipski, PhD, CCN, CNS, LDN
Director of Academic Development
Nutrition & Integrative Health Programs
LLipski@muoh.edu
410-888-9048 x 6687 cell: