

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

March 6, 1987

The meeting of the Senate Public Health, welfare and Safety committee was called to order by Chairman Dorothy Eck on March 6, 1987, at 1 P.M. in Room 325 of the State Capitol.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF HOUSE BILL NO. 536: Rep. Gerry Devlin, District # 25, sponsor H.B. 536 testified that the purpose of the bill is to eliminate the license requirement for a food establishment run by a non-profit organization for less than fourteen days. Counties overall would lose less than \$3000 from their inspection funds, but a lot of these fees are often not collected around the state. He further stated that he had received no objections from restaurants on this bill.

PROPOSERS: James Peterson, DHES, stated that the licenses are issued from his bureau and that they do not object to the bill. It still allows them to maintain good food protection services. Most of the license fees collected are returned to the county to carry out inspections, anyway, although the counties will be receiving less money. Yellowstone Co. will lose the largest amount, about \$400.

DISCUSSION OF H.B. 536: Sen. Hager: Is Yellowstone County aware of this loss of money?

Rep. Devlin: No, I haven't contacted them. But a lot of these fees have not been collected around the state, and that hasn't been enforced.

Rep. Devlin closed by asking for a prompt do pass.

CONSIDERATION OF HOUSE BILL NO. 471: Rep. Paula Darko, District # 2, sponsor of H.B. 471, stated that the purpose of the bill is to give the public accurate information about licensed nutritionists. At the present time there is no way for the public to be sure what kind of credentials a person calling him/herself a nutritionist has. The information of nutrition has doubled in the last ten years, and there are many different kinds people dealing with nutrition through product sales, weight control centers, etc. Dietitians are people who graduate from accredited schools and work with hospitals, institutions, Indian Health, WIC, SRS, education at universities, etc. They would like a regular licensing of their profession. Many jobs go unfilled because of a lack of qualified people. The public again has a right to know that a dietitian/nutritionist is a scientifically trained person.

PROPOSERS: Minkie Medora, Registered Dietitian and head of the Dept. of Nutrition Services at Missoula Community Hospital, stated that many Montanans are being harmed by wrong, unsafe and unproven nutrition information dispensed by persons who are unqualified to provide such services. Her testimony includes documented evidence of wrongdoing in the state. Since Montana has no law that prevents unqualified persons from practicing nutrition counseling, this activity continues to grow. Licensure is needed to restrict the practice of nutrition services to those persons who are qualified to do so, for the protection of the consumer.

The bill is requesting that registered dietitians be called licensed nutritionists because of their training in in-depth nutrition. The bill also defines nutritionists in a clean, legal manner and sets standards of competence by establishing the standard degree, R.D. There are established criteria for an R.D., and it will be a simple procedure for the board to license a person who has completed the criteria.

The bill also defines people who are eligible to practice and defines those who are exempt from the scope of practice section. The people who use nutrition in their work now can continue to do so (i.e. home ec teachers, diet centers, etc), but people who are not licensed nutritionists will not do assessment and counseling (i.e. diagnosis). The bill is a clean practices act, and the amendments clarify these points and do not regulate anyone else from practice.

Those in opposition to the bill have expressed a number of concerns, and a number of their concerns have been listened to and have been clarified in amendments. The opposition campaign has produced much distortion of information and is not based on information contained in the bill. The Montana dietitians have established that it is necessary for them to go through licensing and have spent two years preparing the bill. It is a fair bill, written in simple language. Exhibit # 1.

Jackie O'Palka, Ph.D. at Montana State University, Nutrition, stated that MSU has offered course work in Nutrition since 1909 and graduated its first nutrition extension agent in 1926. The school now trains graduates in four areas of nutrition work, among them registered dietitians. MSU is in the process of reorganizing some of its departments and the nutrition department will fall in a different area than it is now in. The area of nutrition uses scientific methods of investigation to test and prove theories and nutrition scientists test on animals and then people. Upon graduation, those wishing to practice in the field of nutrition are then either registered or licensed.

Cindy Brown, Helena, registered dietitian at St. Peter's Hospital, stated that the public is looking for nutrition advice, and she spends part of her time advising the public, speaking to many groups on nutrition such as pregnant and new mothers, school programs, lung, heart, and diabetic associations, etc. Dietitians keep up with new findings through conferences and journals and try to give advice on information that has been scientifically proven. People often spend their few dollars poorly, loading up on too large a dosage of vitamins and other supplements often producing enlarged livers, heart murmurs, temporary blindness and other ailments as a result. It is wrong to let those not qualified diagnose and prescribe.

Clare Deleclare, extension agent, Great Falls, stated that there are increasing numbers of low income elderly who are victims of unauthorized health food people. For example, two seniors had purchased vitamin food supplements at \$60/month, which didn't really help them. She stated that she also works with professional dietitians in Great Falls and finds them very good at their work. This bill will help Montanans make safer decisions.

Beverly Thompson, Registered Nurse, Great Falls, used an example in her testimony of person in Great Falls being treated by someone claiming to be an expert in nutrition. The patient's medical problems worsened because of injection treatments, and while a licensed nurse could be prosecuted for illegal injections, the Public Health department and law enforcement agencies stated that there was nothing they could do since there are no nutrition laws on the books and the person doing the treatments was not licensed. This bill is to offer the public that sort of protection. Exhibit # 2.

Ken Eden, M.D., Helena, internalist, stated that dietitians are a valuable help in their practice of controlling heart, diabetes, and obesity diseases. Dietitians have expert training in nutrition, far more than doctors. The bill doesn't limit sales; it just gives the consumer a better chance of making an informed decision.

Tony Bastien, Mountain Sun Health Foods, Bozeman, testified that there is a lack of policing in the industry and monitoring within the health food industry. This bill will not affect the the operating or sales of his health food store as it is now managed. However, when unqualified individuals perform nutritional evaluations and dictate dietary programs for their clients that harm their clients, this hurts the credibility of all health food stores and retailers. H.B. 471 will be a positive step toward maintaining the integrity of the health food industry in Montana. Many unqualified individuals have a vested interest in preventing the bill's passage, because they often sell high-priced, worthless supplements and have convinced health food store operators that H.B. 471 will hurt them. His testimony also includes examples of possibly harmful nutritional advice. Exhibit # 3.

Dr. Marianne Guggenheim, M.D., pediatric neurology, stated that she deals with brain-damaged children for whom there is often no treatment, whose parents go to nutrition centers for help and often buy hundreds of dollars worth of vitamin supplements which don't work. She sees children with cerebral palsy being given "brain foods", and the same thing happens to the elderly, also. It is to their utmost benefit to have trained, professional help; and the bill will help to protect a public looking for magical answers.

Jack Mann, Montana Medical Association, stated that the bill is a question of protecting the public and licensing those who have been trained. He has heard of stories of deaths from improper advice and stated that it has taken a number of deaths before he realized that health centers are not qualified to sell nutrition. But there is money to be made in nutrition sales, and that's why people are in the field.

Marcia Herron, Registered Dietitian, Ph.D., University of Montana; Jan Cronquist, Montana Nurses Association, Peggy Newman, Dental Hygienist's Legislative Committee, Les Bramlett, Public Health Services Organization, Carol Mosher, Montana Cattlewomen and MT. Beef Council, Jerome Loendorf, MT. Medical Association all stated their support of H.B. 471.

OPPONENTS TO H.B. 471: George Allen, Montana Retail Association, testified that the bill goes far beyond the licensing of well-qualified people. The bill is actually a freedom of choice and free enterprise issue, and it is anti-business. The fifty health food stores and 3000 consumers who he represents are opposed to this bill. While the other side has attempted to compromise with an amendment that store owners can give general information, store owners must be allowed to talk more about their merchandise; now if he does, he becomes a criminal and the customer loses his freedom of choice. When does a person cross over the line of giving general information to giving specific information? Because of the fear and confusion over the bill, the retail association urges that it be tabled until the next session, while a better compromise bill is being worked out. Exhibit # 5.

Rep. Al Meyers, District # 53, stated that there are no proponents in his district and he opposes the bill on their behalf.

Ron Hauge, Montana Pollen and Herbs, stated that he has worked since 1969 in Public Health in many capacities and is now in the business of manufacturing vitamin and supplemental products which he markets all over the United States. He stated that many people have valuable information about nutrition, not just dietitians. The FDA has to approve products and the legislature should realize the safety of that and also what the distributor can say about a product. What the legislature will do by passing this bill is to simply create a monopoly in one area. The state lacks a qualified academic program and the training must be done out-of-state. The state needs to fund an adequate program. Exhibit # 6.

Michael Bergkamp, accupuncturist and naturopathic physician, Helena, testified that textbooks on nutrition are limited and dated and that good looks at them may tell the truth. The state of health in this country is poor with sugar consumption having risen dramatically in the last twenty years. The record purchases of doughnuts, coffee, and pop substantiate this. Iron consumption is down, as well as other vitamin intake. Far less than half of the population consumes more than 70% of RDA requirements, especially vitamin B-6. Assessment is a problem word in this bill. How much do you decide to recommend if you don't assess. The bill restricts his practice and presents limitations to consumers.

Nancy Aagenes, student, John Bastyr College of Naturopathic Medicine, addressed the issue of qualified people. She takes an extensive list of nutrition courses in preparation to be a naturopathic physician. Exhibit # 7. The bill does not provide for naturopaths to operate and so the bill will affect her profession profoundly and she asked for it to be tabled for two years. Accreditation is an issue that affects the profession currently because the two schools of naturopathic medicine, including John Bastyr College, are not accredited. JBC has achieved candidacy status and that can last for six years. The Northwest Accreditation Association, headed by President Bill Tietz of Montana State University, is considering the school for accreditation now, although there are difficulties with this school achieving accreditation from the northwest organization because it does not meet the standards of being a multi-disciplinary school, which is the type of school they accredit. JBC has added a full department of nutrition in hopes of achieving accreditation from the Northwest Accreditation Association.

Riley Johnson, Montana Health Foods Industry, Shaklee and Amway, stated that in the Helena Telephone Directory there are very few people listed under the title of nutritionist. Perhaps the health food stores may not be affected by this bill and this may be merely a matter of semantics. This bill won't solve any problems for Montana, and other states have rejected this type of legislation because it doesn't really address public health. Exhibit # 8.

Legally the legislature is being asked to broaden the field for a narrow group who want to expand their profession. Today, there are 160 dietitians in Montana and most work in a group setting, and do not go out to the general public. Nutrition is a field where knowledge is constantly growing and evolving, and it goes far beyond what dietitians study in college. He opposes the accreditation qualification requirements and feels that H.B. 471 will not stop growth in the industry. The health food industry in Montana fears what the impact of this bill will do, had no part of its drafting, and suggests that there be a two-year study of the field. They would also like the opportunity to define differences and coordinate an effort over the next two years to solve problems for all.

DISCUSSION OF H.B. 471: Sen. Rassmussen: What does Laughing Water have to say?

Laughing Water: Dietitians should license themselves as such; their profession is well-defined. But many others are trained as nutritionists, not just dietitians, and are qualified to give advice on nutrition, such as Nathan Pritikin and Linus Pauling. The bill is too restrictive, confusing, neither needed nor wanted in the state, and is bad for Montana business.

Sen. Eck: Can someone tell me a little more about the state's educational program.

Jackie O'Palka: Montana State University has a complete 4-year nutritional program and a two-year Master's program. The program now fits under the Department of Home Economics; students are sent out-of-state for their internships because Montana has no large institutions at which they may gain experience.

Sen. Himsl: Are dietitians now registered by a commission?

Rep. Darko: They are registered, but not licensed, by national commission.

Sen. Himsl: Do others have nutrition degrees?

Rep. Darko: Yes, there are several fields which require a background in nutrition, and MSU prepares students for these other occupations, as well. However, dietitians do go through a special field of study.

Sen. Himsl: In the scope of practice section, would you explain No. 7?

Minkie Medorra: Yes, No. 7 explains that food store owners do not do nutrition assessment and counseling, that they will not go to that extent. So that section clarifies the title nutritionist and what they do.

Sen. Himsl: Otherwise there are no prohibitions in practice?

Ms. Medorra: That is correct.

Sen. Eck: Dr. Bergkamp, as a naturopathic physician, what other areas do you get into?

Michael Bergkamp: In our education, we get pre-med requirements, then two more years of science, and physical and clinical diagnosis. This bill takes

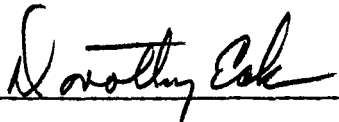
SENATE PUBLIC HEALTH, WELFARE
AND SAFETY COMMITTEE
MARCH 6, 1987
Page 6

Sen. Eck: Are you working toward your own association of accreditation?

Michael Bergkamp: Yes, we are, but we are viewed as threat. Nutrition is a widening field and we offer a choice in health care. Naturopathy provides that and we are one of several groups qualified to work in nutrition.

Rep. Darko, in closing, asked the committee to consider the amendments, including the definition for nutritionist. There has been much misinformation generated and many letters written. There has also been a high-money lobby by the opposition, while the dietitians have raised money through bake-sales for the last two years. The public deserves a truthful label and right to know what they are getting, and she would not have been party to a bill that takes away freedom of choice.

The hearing adjourned at 3:05 P.M.

A handwritten signature in cursive script, reading "Dorothy Eck", is written over a horizontal line.

CHAIRMAN ECK

ROLL CALL

Public Health, Welfare and Safety COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-6-87

NAME	PRESENT	ABSENT	EXCUSED
Dorothy Eck	X		
Bill Norman	X		
Bob Williams	X		
Darryl Meyer	X		
Eleanor Vaughn	X		
Tom Rasmussen	X		
Judy Jacobson	X		
Harry H. "Doc" McLane	X		
Matt Himsl	X		
Tom Hager	X		

Each day attach to minutes.

SENATE

Public Health

COMMITTEE

BILL HB 471

VISITORS' REGISTER

DATE 3/2/87

Please note bill no.

NAME

REPRESENTING

BILL #

(check one)
SUPPORT

OPPOSE

Louanna Wilson	Health Freedom Coalition	HB471		✓
Katy Delano	Self		✓	
Leah Wilson	Self	HB471		✓
Margaret J. Muehl	Self	HB471	✓	
Linda Ryker	Self	HB471	✓	
Nancy Nemitz	Self	HB471		✓
Michael Baykump	Self - Naturopathy	HB471		✓
Dan Thompson	Self	HB471	✓	
Carol Mashey	Mt. Desert Council Mt. Battie Home Mt. Stack flowers	HB471	✓	
Irene Edelfinger	N. N. F. A	HB471		✓
Jay Ballard	Self	HB471		✓
Laurie Boche	Self	HB471		✓
James M. Peterson	DEPT. of HEALTH	HB536	✓	
Nathan Gilm	Self	HB471	✓	
Mag Ellen Holmen	Self	HB471	✓	
Joe Bumboldt	HSCA	HB471	✓	
Melinda Artz	Self	HB471		✓
Janet Huxley	SELF	HB471		✓
Margaret Bues-Muller	Self	HB471		✓
Teddy T. Miller	Self	471		✓
Peggy Newman	Mont. Dental Hygienists Assoc	HB 47	✓	
Janet Saurorice	Self	HB471		✓
Lippy Brown	Self - Naturopathy	HB471		
Lena Mills	Self	HB471	HB	✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

SENATE

Public Health COMMITTEE

BILL 471

VISITORS' REGISTER

DATE 3-6-82

Please note bill no.

(check one)

NAME

REPRESENTING

BILL #

SUPPORT

OPPOSE

Mph Morgan	Self	471		✓
Maurice M. O'Connell	Montana Health Institute of Helena	471		✓
JAMES E. MIKSE JR.	SELF	471		✓
MARK J. Morgan	Holiday Health Food & 9/11	471		✓
Alice Koehler	Self + Holiday Health Food	471		✓
Melvin Koehler	Self	471		✓
Nazyl Anderson	Helena	471	✓	
Jerome Tweed	Self	471		✓
W. Burkhardt	Self	471		✓
Bon Hauge	Montana Roller & Herbs Inc.	471		✓
Danise B. Heerge	Ditto	471		✓
Judith Mortensen	Great Falls Mont	471		✓
Brooke Madigan Eagle	Helena	47		XX
Ira (Kinchman)	Helena			✓
Lee Evans	Helena	471		X
Brett Nelling	E. Helena	471		X
Erma Paulsen	Helena	47	✓	
Riley Johnson	Helena UNFA	471		X
Cindy Brown	Helena	471	✓	
Spence Sapsin	Helena		✓	
J. Lockhart	Helena	471	✓	
Katherine M. Miller	Helena	471		✓
Lucy J. Sato	Helena	471	✓	
Karaleyn Simpson		471	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

SENATE

Public Health COMMITTEE

BILL

2/7/

VISITORS' REGISTER

DATE 3-6-87

Please note bill no.

(check one)

NAME

REPRESENTING

BILL #

SUPPORT

OPPOS

Thomas M. Williams	self	471	✓	
Walt Kuntz	self	471		✓
Mertha M. Nallyan	self	471		✓
India Dupard	self	471		✓
Melanie Cuss	Self	471		✓
Golly Junkermin Poch	MT Dietet Assn	471	✓	
Carolyn Wendell	MT Dietetic Assn	471	✓	
Debbie Byers	MDA	471	X	
Uwe Mary Davis	Mt. Dietetic Assn	471	✓	
Mary M. Mair	MT Dietetic Assn	471	✓	
Jan D. J. J. J.	Exp. Extension Service	471	✓	
Leah J. J. J.	mt. Dietetic Assn	471	✓	
Dorothy M. Brown	MT Diet. Assn	471	✓	
Ruth A. J. J.	MDA	471	✓	
Jan R. J. J.	MDA	471	✓	
Jeann Borch	self	471	✓	
Cheryl J. J.	self	471		✓
CRAIG ADLEY LONG, SR	JBCNM, WANP, AANP	471		✓
NANCY AGENES	SELF	471		✓
Jack M. J. J.	Self	471		✓
Frankie J. J.	W. J. J.	471		✓
George Allen	Mt. Dietetic Assn	471		✓
Jan H. J.	Diet Center	471	✓	
John J. J.	MT. Dietetic Assn	471	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

SENATE

COMMITTEE

BILL 471

VISITORS' REGISTER

DATE 3/6/57

Please note bill no.

(check one)

NAME	REPRESENTING	BILL #	SUPPORT	OPPOS
Hele Ben Koeche	Marble Prod.	471		X
Pat Bollinger, R.N.	self	471	X	
James M. Peterson	SELF	471	X	
Jan Cronquist	Montana Nurses Assoc	471	✓	
Jackie O'Leary	Montana Dietetics Assoc	471	+	
Joanne Shearer	Self	471	X	
Al Mayest	Self	471		X
Ken Ealen	"	471	X	
Paul W. Mckenzie	MMA	471	X	
Jane Eidet	Montana Dietetic Assoc	471	X	
Sally Brown	Great Divide Exchange	471		X
Hazel P. Baker		471		X
Claudette Ross	Self	471		X
Pamela R. Harris	Montana Dietetic Assoc	471	X	
Anne Ahorn	Montana Dietetic Assoc, MSU	471	X	
Julie Wolf	Health Freedom Co.	471		X
Katherine Smith	Health Freedom	471		X
Marta Martiniak	McCommellan	471		X
Marnie Johnson	Self	471		X
Mary Anne Gusselhorn, M.D.	Self	471	X	
Thomas L. Velez	Health Food Shop	471		X
Maria Herrin	University of M.T.	471	X	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

HB 471
LICENSING OF NUTRITIONISTS

In order to protect the health and safety of the public this bill:

- 1. Licenses NUTRITIONISTS**
 - a person who is a Registered Dietitian or has higher qualifications
- 2. Defines NUTRITIONIST**
 - a person who has a B.S. and an M.S. or Ph.D. in nutrition from an accredited college or university
- 3. Defines the practice of NUTRITION**
 - Assessment
 - Counseling
- 4. Ensures that the flow of valid nutrition information and sale of products are not restricted**

SELECTED EXAMPLES OF HARMFUL NUTRITION
PRACTICE IN MONTANA

SENATE HEALTH & WELFARE
EXHIBIT NO. 1
DATE 3-6-87
BILL NO. HB 471

- .. Four year old girl with Celiac Sprue, severe absorption, intolerance to wheat gluten, parents unemployed. Told by health food store to take special bread. Child continued with problems. Local dietitian checked contents of the bread - found it was made with wheat flour.
- .. Adolescent male with testicular cancer. Told by a "nutritionist" to apply Aloe Vera to affected testicle. Patient happened to see physician soon after starting Aloe Vera treatment. Was hospitalized, treated by an oncologist and has been cured.
- .. Adult female with cancer of the ovaries. Was advised to use a special diet. Patient was hospitalized but refused to eat anything other than the "diet". Patient lost 40% and eventually died in the hospital. Due to severe malnutrition, the therapy for cancer was ineffective. Patient could have survived if better nourished.
- .. Three year old boy with osteomyelitis of the L radius. Mother was advised by a "doctor" to give the child nothing but garlic and honey for 2 weeks, and to apply garlic compresses to the affected area. Parents were unemployed, lived in a tar paper shack. The child was admitted to the hospital by court order. The infection had spread very deep by this time. The child was in severe pain and was eventually treated and cured.
- .. Fifty-six year old male with congestive heart failure. Patient had been advised by a physician to consume a very low salt diet. Patient had to be hospitalized three times, the third time he was placed in the ICU with life-threatening edema. This time patient stated he had been advised to use "sea salt" and told that it has no sodium.
- .. Seventy-seven year old lady was advised she should take vitamin supplements. The vitamins were "natural", made by a company in California. The lady brought \$200.00 worth of vitamins. Lady's physician became aware of this and requested the local dietitian to check into her vitamin intake to determine if she really needed them. The lady had 20 different bottles of vitamins, steroids, DNA tablets and RNA tablets. She was taking toxic doses of some vitamins. Most other pills were ineffective.
- .. Patient reported to local dietitian regarding an Aloe Vera product she was advised to take for diabetes. Dietitian called the "nutritionist" who is listed as such in the yellow pages, to inquire about this therapy. Dietitian was told that she recommends Aloe Vera for diabetes, as well as for any other illness. Claimed that aloe Vera also improves digestion. On checking the "nutritionist's" qualifications, it was found she had taken a course in Chemistry and Biology. She also sold her own Aloe Vera for \$14.95 a quart.
- .. Person was advised to buy and use the Herable-life diet from a local dealer. Person developed symptoms of bowel obstruction and was hospitalized. The diet was discontinued and the symptoms cleared. Similar symptoms have been reported in the literature with this diet.
- .. Adult male with chronic lung disease/emphysema was told by a "doctor" to use a special diet. The diet allowed only certain groups of food, and did not allow milk, most fruits and meat. Patient lost weight, became progressively worse, breathing problems increased, person was hospitalized but died 3 weeks after admission.

- DATE 4/3/76
BILL NO. 3-16-76
- .. Adult female diabetic, who also had elevated cholesterol and triglycerides, was advised by a local store to take linseed oil and grapefruit juice to "thin" her blood. The woman checked this out later with a dietitian and was told to discontinue the products.
 - .. Thirty five year old female with uncontrolled Type I diabetes was told by a "doctor" that pure maple syrup was the best thing for her and would reduce her blood sugar levels. He also sold the maple syrup to her for \$36.00 a gallon. Person's sugar levels continued to rise. The woman and her husband are on welfare. Person was referred to a local dietitian, the syrup was stopped.
 - .. Adult female with COPD, chronic emphysema, bronchitis and severe weight loss, went to see a "doctor", was put on a diet of fruit, vegetables and grains only, along with protein powders, 12 different pills including a glandular product imported from New Zealand, made from dead animals. (Very long list of other items.) Patient admitted to hospital with chest pains, continued weight loss. Treated for severe malnutrition.
 - .. High-risk LGA baby with neonatal asphyxia, in foster care, was admitted 10 days after 1st birthday to hospital for fever, coughing and general lethargy. Infant weighed 14 # at age 1 year. Infant was being fed on a "milk free" supplement that was low in calories, protein and calcium. Product was sold by foster mother's father. Infant was treated for 2 weeks and released. Possibility of permanent brain damage is very likely.

PRODUCTS SOLD IN MONTANA IN STORES

OR BY NUTRITION SALESPERSONS:

- .. Weight loss program - sold out a jewelry store, cost \$84.00 for 30 days supply of tablets. Must be taken in addition to food. Main ingredients are a strong laxative.
- .. Products sold to cure all health problems and reduce weight, by a couple in Montana. Products include liver extracts, spleen extracts, Siberian Ginseng, Bovine Colostrum, Aloe Vera, pollen, placenta extract, testes extract, and numerous other items.
- .. "Certified Nutrition Consultant" promoted use of raw milk only, advised customers to never use pasteurized milk, advised customers not to use milk at all whenever possible. Claimed milk should not be used for any form of heart disease, all allergies, weight loss and that milk in general is worthless.
- .. Cold-press oil is sold in stores that claim that oil sold in regular grocery stores is processed in a way that destroys the polyunsaturated fatty acids. Cold-press oil is a good product but costs a great deal more than regular oils. The statement on regular oils is false.

SUMMARY OF H.B. 471

LICENSING AND REGULATION OF NUTRITIONISTS

Purpose: Many Montanans are being harmed by wrong, unsafe and unproven nutrition information dispensed by persons who are unqualified to provide such services. There is documented evidence of such wrongdoing in the state. Since Montana has no law that prevents unqualified persons from practicing nutrition counseling, this activity continues to grow. Licensure is needed to restrict the practice of nutrition services to those persons who are qualified to do so. Only then will the consumer be protected.

Administration: One member on the Montana Board of Medical Examiners, who will vote only on nutrition issues. The proposed legislation requires that licensing application and renewal fees cover the cost of this licensing and regulation.

Terms protected: Nutritionist and Licensed Nutritionist. A Nutritionist means someone who has a baccalaureate degree and a Masters or Ph.D. in a nutrition related field, from an accredited school. Nutritionists can practice nutrition and can represent themselves as Nutritionists. They are not eligible for licensure because there is no ready and cost free way to monitor their continuing education, as there is for Nutritionists who are registered with the Commission on Dietetic Registration.

Exemptions:

1. Any person from furnishing or disseminating general nutrition information and literature.
2. Any person from marketing and distributing food products and dietary supplements.
3. Teachers and advisors employed by accredited schools and nonprofit agencies.
4. Doctors, nurses and any other persons licensed in this state from engaging in the profession or business for which they are licensed.
5. Students in nutrition completing course requirements.
6. Employees (salaried or contracted) involved with nutrition programs in local, state and federal government.
7. Hospitals and long term care facilities (they operate under existing federal and state statutes and regulations concerning the provision of nutrition care services).

Qualification for Licensure: Minimum baccalaureate degree from an accredited university, 900 hours of clinical training, passage of a national examination, and continuing education.

Reciprocity: Persons with qualifications equivalent or better, moving to Montana from another state.

SENATE HEALTH & WELFARE
EXHIBIT NO. 1
DATE 3-6-87
BILL NO. HB 471

LICENSING AND REGULATION OF NUTRITIONISTS: Why? What? Who?
How? Cost?
Who's Affected?

WHY DO NUTRITIONISTS NEED TO BE LICENSED?

There is documented evidence of Montanans being harmed by wrong, unsafe and unproven nutrition practices, dispensed by persons who are unqualified to provide critical nutrition services.

Montana has no law that prevents unqualified persons from practicing nutrition counseling. Anyone can call themselves a nutritionist, regardless of what kind of training they have. Licensure is needed to restrict the practice of nutrition services to those persons who are qualified. Only then will the consumer be protected and able to identify qualified providers.

WHAT IS THE PRACTICE OF NUTRITION?

Nutrition is a specifically defined science that includes the study of biochemistry, physiology, anatomy and the theory and practice of dietetics. It is a science based on sound research, not on personal philosophy or individual experiences. The science of nutrition evolves as new facts emerge based on documented research.

WHO WILL BE QUALIFIED FOR LICENSURE?

People who are registered by the Commission on Dietetic Registration, which means they have earned a baccalaureate degree in a nutrition related field from an accredited university, have completed at least 900 hours of clinical training, have passed a national examination, and meet continuing education requirements.

WILL PEOPLE BE PUT OUT OF BUSINESS?

No. There is no reason for anyone to go out of business, unless they are in business to harm the public.

Since the intent of the legislation is only to protect the public from unsafe practices, and not to prevent the dissemination of legitimate and appropriate advice and information, the list of exemptions in the bill is a long and important list.

DATE

3-6-87

BILL NO.

HB 3477

Should Nutritionists Be Licensed?

Licensing laws can help assure
that the nutritionist you consult is well qualified.

Tiffin, Ohio, May, 1985. A 66-year-old woman who is overweight and diabetic is found by her doctor to have a fasting-blood-sugar level of 356 (normal is 70 to 110). The woman had been following a diet prescribed at a local diet-counseling clinic by a "nutritionist" who knew she had diabetes. The woman's physician referred her to a registered dietitian (R.D.) who taught her how to follow a calculated diabetic diet. The diet brought her blood-sugar level down to 109. Uncontrolled diabetes can cause serious harm.

Salt Lake City, Utah, January, 1983. A 72-year-old woman was admitted to the hospital because of fever, decreasing consciousness and an extremely high white-blood-cell count. She was diagnosed as having leukemia.

Six months earlier she had sought advice at a local health-food store for her symptoms of fatigue and weakness. When she was admitted to the hospital, she had a bag of various vitamin and mineral supplements with her. The palms of her hands were yellow-orange,

the whites of her eyes were yellow, and her gums were tinged yellow, too. When the doctors looked in her eyes, the area around the optic nerve was swollen. Her spinal fluid had twice the normal pressure. Some of the vitamins she was taking had excessively high amounts of vitamin A and carotene. The doctors traced her symptoms to vitamin A toxicity.

Those are just two of the cases documented by registered dietitians in their recent drive to achieve licensure for themselves and others qualified to practice nutrition counseling, and to restrict use of the word "nutritionist" to licensed practitioners.

"The push for licensure is a direct response to unaccredited nutrition schools that are issuing degrees in nutrition," says Stephen Barrett, M.D., a psychiatrist from Allentown, Pennsylvania, who is an expert on health quackery. "The schools teach unscientific nutrition ideas. People who enroll can go through a brief correspondence course, get a degree and open an office. But they are

unqualified and have no real credentials."

THE VICTIMS

"The interesting thing about it," says Dr. Barrett, "is that most of the people who are victimized are neither stupid nor gullible. They see an advertisement in the Yellow Pages and they have no reason to suspect that there might be anything wrong. They aren't necessarily seeking anything unorthodox or unusual. They think they are going to a qualified nutritionist."

"That's the real issue," he says. "People are misrepresenting their credentials. A six-month correspondence course is not equivalent to five or seven years of full-time training at an accredited university."

"I think the government should make it illegal to represent unorthodox credentials (which are the same as no credentials) and lack of training as equivalent to qualification."

Fifteen states have already passed laws that regulate nutrition professionals to some extent. But licensure isn't limited to R.D.'s (nutritionists certified by the American Dietetic Association's Committee on Dietetic Registration), as you might think. "We recognize that there are legitimate nutritionists who are not R.D.'s," says Michele Mathieu, manager of licensure communications for the American Dietetic Association (ADA), the largest national professional organization of registered dietitians and nutritionists. People who have master's or Ph.D. degrees, from regionally ac-

credited universities, who work in education and research, may be licensed or exempt under these laws, which vary from state to state. So may nutritionists with appropriate academic backgrounds and experience, who will be continuing their education.

Physicians and other health professionals who are already licensed will not be affected.

THE OPPOSITION

Opponents of licensure say that dietitians want to shut down health-food stores and create a monopoly for themselves. Dr. Barrett claims that's not true. "The dietitians want only to define what is nutrition practice and make it illegal to do it if you do not have appropriate training."

Licensure would not restrict nutrition information or keep people from selling products. Health-food-store employees could discuss nutrition and order foods for patients on restricted diets, but they could not counsel.

And that's the crux of the matter. It's one thing for people to voice unscientific, unorthodox nutrition theories. But it's another to allow unqualified practitioners to diagnose and prescribe as if they were properly trained. It's not allowed in other areas of health care and shouldn't be in this case either. If your nutritional health is important to you, why trust it to an unqualified practitioner?

Had the woman with leukemia seen a qualified nutritionist, for example, the outcome may have been different. "A

dietary history would have been taken to find out if she had a nutritionally adequate diet," explains Joan V. Eggert, R.D., M.D., now a resident at the University of Nebraska Medical Center. Dr. Eggert examined the woman with leukemia while on medical rounds at a hospital in Salt Lake City.

"If her diet were adequate, she would

People are misrepresenting their credentials. That's the real issue.

have been referred to a physician for a blood test to rule out anemia because of her symptoms of fatigue and weakness. At that time, the leukemia would have been discovered.

"If her diet were inadequate, it would have been corrected," says Dr. Eggert. "But if she had not improved on her new diet within about two weeks, she would have been referred to a physician."

"That's standard policy for members of the ADA. In this case, the woman was treated with vitamins and other food supplements for six months before she saw a doctor, and that delayed diagnosis of her leukemia. I don't know if she

could have been cured or not, but we are very successful in treating leukemia in the early stages."

WHERE TO GET ADVICE

If you're looking for nutrition counseling, there are ways to locate a competent practitioner.

1. Ask your doctor. Doctors are likely to know who in the area is qualified. Or your doctor may be able to answer your questions directly. Physicians have a basic knowledge of biochemistry and physiology. At the very least, they are unlikely to overlook important symptoms or prescribe a diet or supplement that is harmful.

2. Get thee to an R.D. "An R.D. indicates competence," says Ms. Mathieu. "We have uncovered few cases of people calling themselves R.D.'s who are not." R.D.'s have attained at least a bachelor of science degree with core courses in foods and nutrition, biochemistry and behavioral sciences. They have passed a comprehensive test and must participate regularly in educational programs.

You can call your state or district dietetic association. If you can't find the number, try calling your county home extension agent. That person will know how to get in touch with the dietetic association. Or call your local hospital. "Every hospital is required under federal law to have an R.D. on staff," says Dr. Eggert. "Talk with them and find out who does nutrition consulting in the area who is reputable."



Health Services Corporation of America

Shared Services Corporation of Montana

P.O. Box 5119 • Helena, MT 59604 • 406/442-1911

MEMORANDUM

TO: Montana Legislature
FROM: Les Bramblett, SSCM/HSCA Executive Director
DATE: March 6, 1987
SUBJECT: In support of H.B. 471, Licensing and Regulation of Nutritionists

Who do I represent: Health Services Corporation of America

Job description: I manage a medical group purchasing program, in Montana for 49 facilities. HSCA/AmeriNet negotiates agreements, on behalf of its members, nationwide.

- > Secures the lowest available prices through agreements, such as our food agreement. Based on the various food agreements we have in place, our members purchase approx. 5 to 6 million dollars annually.

Note: I am a business person within the Helena community.

Reasons for supporting the bill:

- > It is a responsible bill in that it should prevent unqualified persons from practicing nutrition counseling.
- > Provide protection to the consumer from individuals that are not qualified to provide responsible nutrition information.

I urge your support of H.B. 471.

Thank you.

3-6-87

HB 471

TESTIMONY OF BEVERLY THOMPSON, R.N. ON HB 471, LICENSING OF NUTRITIONISTS 3-6-87

Madame Chairman.

My name is Beverly Thompson. I am a Registered Nurse with 15 years experience as a critical care nurse in both public and private facilities.

For 3 1/2 years I worked at the Montana Deaconess Medical Center Intensive Care Unit in Great Falls.

While I was working there I learned about a person with asthma and eczema who went to see someone who claimed to be an expert in nutrition.

This person told her that she was allergic to several food stuffs, some of this information he gleaned by looking into her eyes and taking hair samples.

He recommended extensive vitamin/mineral therapy plus dietary restrictions. He sold her a shoe box full of supplements.

Later as her itching became unbearable he injected with her own urine to treat the food allergies and asthma.

As you might guess, this is an extremely dangerous thing to do. The Asthma and Allergy Foundation of America calls this a "Bizarre form of therapy," and warns that it is neither effective nor safe and can produce life-threatening kidney disease.

The victim trusted that the provider was the expert he said he was.

I called the Public Health Department in Great Falls, the Cascade County Attorney, local law enforcement agencies, and the licensing bureau in Helena and they all told me there was nothing they could do about it, since there was no nutrition laws on the books and that the individual injecting the urine was not licensed so there was no way to regulate him.

I was extremely frustrated. Even as a licensed nurse I can not inject anything into anyone's body without a physician's order.

Please protect innocent people like this by making the word nutritionist stand for training and expertise and provide recourse for people who have been harmed.

Thank you.

House Bill 471

Testimony Submitted by:

A.J. (Tony) Bastien, Testifying in Favor of HB 471

A.J. Bastien

Mountain Sun

Natural & Specialty Foods

10 East Main

Bozeman, Montana 59715

Phone: 586-5511 (W), 586-8700 (H)

Testimony Submitted by:

A.J. (Tony) Bastien, Test

A.J. Bastien

Mountain Sun

Natural & Specialty Foods

10 East Main

Bozeman, Montana 59715

Phone: 586-5511 (W), 586

My name is Tony Bastien, I am the owner and operator of Mountain Sun Natural and Specialty Foods in Bozeman which is the third largest health food store in Montana.

I would like to testify in favor of House Bill 471.

I would like to testify

I have owned and operated my health food store since 1981, and I first became concerned with the issues dealt with by House Bill 471 about four years ago when I realized there was a lack of self-policing, and monitoring within the health food industry.

Now, this bill, as it is written will not in any way affect the operation of, or the merchandising capabilities of my store as it is currently managed.

I have discussed this bill with Rick Gomes, owner of the Oak Spoke Health Food Store in Livingston, and with Rick Aldred, buyer for the Good Food Store in Missoula, and we all agree that this bill will not hurt our business.

However, when unqualified individuals perform nutritional evaluations, and dictate dietary programs for their clients, dietary programs that not only harm, but can, in some instances kill their clients.

..... this is what hurts my store, hurts all health food stores and our credibility as health food retailers.

..... credibility, and reputation for working in the public's interest as can be evidenced by recent advances in athletic nutrition and by our nation's awakening to fitness and health.

House Bill 471, will, in my opinion, be a positive step towards maintaining the integrity of the Montana health food industry and that of the individuals we work with, and at the same time, House Bill 471 will also be a positive step towards protecting the public, especially the poor and the elderly.

Reasons why health food retailers oppose this bill:

As I see it, there are unqualified individuals who have a vested interest in preventing this bill's passage, because these individuals act as nutritional consultants and as outlets for high priced, and oftentimes worthless supplements, now these individuals have convinced many health food store owners that House Bill 471 will hurt them, when in fact, it is these unqualified nutritional consultants who are damaging the credibility and the good name of health food stores. I think many health food store owners have been misled into believing that House Bill 471 will actually hurt their business.

Testimony Submitted by A.J. (Tony) Bastien
Page Two

Examples of what I consider to be unqualified nutritional advice: Examples of what I

- A. MSU faculty came into my store looking for eggs from chickens that had ~~already~~ been vaccinated against cancer. Nutritional consultant/practitioner in ~~San Diego~~ San Diego recommended these for his terminally ill wife (cancer) and this ~~person~~ man had been purchasing these eggs for \$48.00 a dozen. (I have never ~~had~~ been heard of an anti-cancer vaccine, for humans or animals).
- B. Young woman came into my store looking for some chlorophyll. A nutri- ~~Woman~~ tional counselor had advised a massive Vitamin A regimen which had, ~~that~~ according to her physician, done irreparable damage to her liver. When I ~~asked~~ asked her, "Why chlorophyll?" she said she had been given this advice by ~~yet~~ another nutritional counselor. Chlorophyll by the way, is another ~~high~~ high source of Vitamin A which could further damage her liver.
- C. Older man came to my store, wanted to sell me some twenty bottles of ~~Schiff~~ Schiff DL-Carnitine amino acid supplements. About \$200.00 at retail. ~~if~~ Nutritional consultant had sold him two cases (24) of these bottles of ~~DL-Carnitine~~ DL-Carnitine as part of an improved diet program, and now this older man ~~needed~~ needed the money, felt he wasn't getting any benefit from the supple- ~~ments~~ ments.
- D. I had a lump on my back, went to a "nutritional consultant" who "read" my ~~eyes~~ eyes and attributed my ailment to a poor diet, and too many "toxins," and ~~recommended~~ recommended a dietary "cleansing" program that included numerous ~~capsuled~~ capsuled herbs which he, of course, was more than willing to sell. Later ~~on~~ on, my physician diagnosed and operated on my lump which turned out to be ~~a~~ a sub-cutaneous infection, one that very well could have caused me to ~~die~~ die, and I mean die, from blood poisoning if it had burst.
- E. My friend Linda Frantz went to a health consultant who, through a few ~~friend~~ friend muscle tests (kinesiology) determined that her parents did not love her, ~~and~~ and that as a result, she suffered numerous nutritional deficiencies, ~~that~~ which required some \$70.00 in supplements to correct, which the consul- ~~tant~~ tant wanted to sell her.
- F. Friend of mine went to a nutritional consultant, who told him his "aura" ~~of~~ of mine was full of holes, etc. On account of his poor eating habits my friend ~~was~~ was put on an extreme "cleansing" diet & supplementation, the ill effects ~~of~~ of which he still feels today, some three years after terminating the ~~rich~~ rich cleansing diet. About a year or so after he had reverted back to his ~~poor~~ "poor" eating habits, he ran into the above mentioned nutritional consul- ~~tant~~ tant who commented on how clean and vibrant his "aura" was.

DATE 3-6-87

BILL PAGE 100 OF 271

3.6.87

AJ. (TONY) BASTIEN
TESTIMONY
H.B. 471

I HAVE RECEIVED MAILINGS FROM OUT OF STATE
INTERESTS (N.N.F.A)

THEY SAY H.B. 471

- ✓ WILL RUN HEALTH FOOD STORES OUT OF BUSINESS. (NOT TRUE)
- ✓ WILL MAKE VITAMINS AND SUPPLEMENTS AVAILABLE BY
PRESCRIPTION ONLY (NOT TRUE)
- ✓ WILL RUN RESTAURANTS OUT OF BUSINESS (NOT TRUE)
- ✓ WILL RUN CHIROPRACTORS OUT OF BUSINESS (NOT TRUE)
- ✓ WILL RUN SHAKLEE, AMWAY, NEOLIFE AND OTHER
INDEPENDENT SUPPLEMENT DISTRIBUTORS OUT OF BUSINESS (NOT TRUE)
- ✓ IS NOT NEEDED. (I THINK IT IS)

MISINFORMED INDIVIDUALS HAVE BEEN PRESSURING ME,
MY STORE AND EMPLOYEES. THEY WANT ME TO WITHDRAW
SUPPORT FOR H.B. 471. THEY HAVE PRESSURED ANOTHER LARGE
STORE IN MONTANA INTO WITHDRAWING SUPPORT FOR THE
BILL. THE INDIVIDUAL IN QUESTION DOES NOT FEEL H.B.
471 WILL HURT HIS BUSINESS.

DO YOU THINK, THAT I AS A HEALTH FOOD STORE OWNER
WOULD SUPPORT LEGISLATION THAT WOULD RUN ME OUT
OF BUSINESS? SENATOR KEATING IS A HERBALIFE
DISTRIBUTOR, SELLS SUPPLEMENTS, SENATOR KEATING WOULD
NOT SPONSOR A BILL THAT WOULD HURT HIS BUSINESS
EITHER. (MY STORE IS IN THE TOP 10% OF STORES
NATIONWIDE, BOTH IN SALES AND SQUARE FOOTAGE.) I WOULD
NOT SUPPORT A BILL THAT WOULD RUN ME OUT OF
BUSINESS. ESPECIALLY WHEN SUPPLEMENTS ACCOUNT FOR 50% OF
MY SALES.....

I SPOKE TO A NEOLIFE DISTRIBUTOR IN BILLINGS, (MARZEE
EDDY) SHE DOES NOT FEEL THIS BILL WILL HURT HER BUSINESS,
BUT HAS BEEN MISINFORMED INTO BELIEVING THAT HB 471
IS THE GROUNDWORK FOR A NATIONAL A.M.A. PLOT TO
MAKE SUPPLEMENTS AVAILABLE BY PRESCRIPTION ONLY.

I FEEL H.B. 471 IS A SINCERE EFFORT ON THE PART OF CONCERNED INDIVIDUALS, (MYSELF INCLUDED) TO PROTECT THE GENERAL PUBLIC, FROM FRAUD, ABUSE AND DECEPTION.

A FRIEND OF MINE TOLD ME LAST NIGHT THAT HE SUPPORTS H.B. 471. HIS SISTER IS A MASSAGE THERAPIST WHO ALSO HAS A NUTRITIONAL CONSULTING SERVICE ON THE SIDE. MY FRIEND SUPPORTS H.B. 471, AND WILL CONTACT HIS SENATORS ACCORDINGLY. HE SUPPORTS H.B. 471 BECAUSE HE DOESN'T WANT HIS SISTER, WELL INTENTIONED AS SHE MAY BE, TO INADVERTENTLY KILL SOMEBODY BY GIVING UNQUALIFIED NUTRITIONAL ADVICE.

PROPONENT FOR H.B.471
LICENSING AND REGULATION OF NUTRITIONISTS

I ASK THIS COMMITTEE TO SUPPORT H.B. 471. I AM VERY CONCERNED THE MISREPRESENTATION AND MISCONCEPTION OF THE ADVERTISING OF THE WORD "NUTRITIONIST".

THIS IS A HEALTH CONSCIOUS SOCIETY THAT SHOULD NOT BE MISLED, BUT MOREOVER IT IS A SOCIETY THAT IS SHOWING UP MORE AND MORE EATING DISORDERS. I HAPPEN TO BE VERY AWARE OF THIS BECAUSE I HAVE A FAMILY MEMBER THAT HAS THE DISEASE, BULEMIA. ALONG WITH THE GORGING AND PURGING, THERE IS A SERIOUS MENTAL AND EMOTIONAL EFFECT, OFTEN SUCIDIAL. WHEN SOMEONE YOU LOVE ENDS UP IN THE HOSPITAL ILL AND SUCIDIAL, FEAR AND CONCERN FOR THIS PERSON'S LIFE GENERATES YOU TO FIND SOME HELP.

WE HAVE BEEN MISLED BY TITLES WHICH HAS NOT ONLY CAUSED US TO USE METHODS THAT WERE NOT OF ANY HELP TO THE PROBLEM AND POSSIBLY HARMFULL BUT THAT INSURANCE WOULD NOT COVER BECAUSE THEY WERE NOT QUALIFIED IN THE FIELD OF NUTRITIONISTS.

ANORIXIA NERVOUSA IS ANOTHER DISEASE THAT IS KILLING MANY. IT IS LITERALLY SELF-STARVATION. THESE PEOPLE NEED QUALIFIED HELP. I HAVE A FRIEND WHOSE DAUGHTER HAS BEEN HOSPITALIZED FOR APPROXIMATELY 10 MONTHS. THEY ARE NOT SURE IF SHE WILL EVER COME HOME. TEENAGERS ESPECIALLY ARE VICTIMS OF "THIN IS IN" AND THE NEWS MEDIA PUSHES THIS IDEA. LOOK AT THE DEXATRIM ADS - OUR KIDS ARE GETTING HOOKED ON THESE TOO.

WE NEED TO KNOW WHO OUR PROFESSIONALS ARE.

Leona Williams
Helena, Mt.



Montana Nurses' Association

2001 ELEVENTH AVENUE

(406) 442-6710

P.O. BOX 5718 • HELENA, MONTANA 59604

SENATE HEALTH & WELFARE
EXHIBIT NO. 4
DATE 3-6-87
BILL NO. HB 471

HB 471

Madame Chair, Committee Members, I am Jan Cronquist, speaking in support of HB 471, on behalf of both myself, as a nutritionist and on behalf of the Montana Nurses' Association (MNA).

From my standpoint as someone who has worked in a fairly technical area of nutrition and from the perspective of nurses, who work closely with nutritionists, we recognize it as a science in which advances are constantly being made. Those who are well-prepared academically are in the best position to understand these advances and to incorporate them so as to provide optimal nutritional assessment and counseling. For this reason, we urge your support of HB 471.

Respectfully submitted,

Jan Cronquist
Montana Nurses' Association
March 6, 1987



American Heart Association

Montana Affiliate, Inc.

February 27, 1987

The Honorable Mike Walker
Montana State Senate
Capitol
Helena, Montana 59620

Dear Senator Walker:

As Executive Director of the Montana Heart Association, and on behalf of its 56 member board of directors, I request your support of House Bill No. 471.

The cardiovascular diseases kill almost double the number of Montanans than all other causes combined. Proper nutrition has been proven to be important in the prevention of certain heart problems and we therefore feel it necessary that persons providing nutritional advice to the general public be properly qualified and licensed.

Thank you for your consideration of this bill which is definitely geared to maintaining the best possible nutritional guidance to the people of our state.

Sincerely,

A handwritten signature in cursive script, reading "Madelyn L. Moore".

MADELYN L. MOORE
Executive Director

MLM/gh

2-27-87
Dear Sir,
This bill was sent
to Mr. Hays & Mr. Thayer as
back to go on later --
Edie



MONTANA AFFILIATE, INC.

SENATE HEALTH & WELFARE
RE

EXHIBIT NO

DATE 3-6-87

BILL NO. HB 471

600 Central Plaza

• Box 2411

• Great Falls, Montana 59403

• (406) 761-0908

March 3, 1987

Gene Thayer, Chairman
Business & Industry Committee
Montana State Legislation
Capitol Building
Helena, Mt. 59620

Dear Mr. Thayer.....

I would like to ask your support of House Bill #471 which would license qualified nutritionists in the State of Montana.

People with diabetes must follow a diet and medication regimen. In order to do this, they must work with an educational team that includes their physician and nutritionist. For this reason, nutrition, which is a science, needs to be practiced by qualified persons with proper credentials.

Your consideration of this House Bill #471 would make it possible for the 22,000 people with diabetes in Montana to live in a safer market place.

Sincerely,

bz

(Ms) Stanlee A. Dull
Executive Director
ADA, Montana Affiliate



Executive Office
P.O. Box 440
34 West Sixth
Helena, MT 59624
Phone (406) 442-3388

SENATE HEALTH & WELFARE
EXHIBIT 5
DATE 3-6-87
BILL NO. HB 471

TESTIMONY

HB 471

Madam Chairman and Members of the Committee,

For the record, I am George Allen, representing the Montana Retail Association. I am here today in strong OPPOSITION to HB 471.

We represent approximately 1200 retail stores. Included in our membership is approximately 50 health food stores. On behalf of our membership, and on behalf of approximately 3,000 Montana consumers, we would like to present you with petitions of those who all feel HB 471 restricts their freedom of choice.

HB 471 is a health issue, it is a freedom of choice issue. It is an anti-business issue. It is a free enterprise issue.

Where does this Bill come from? What does it do? The Bill comes from a small vocal group who is well organized and financed. Yet it is opposed by literally thousands and thousands of Montana citizens. What does this Bill do? It protects the turf of a select few individuals and gives that group an economic advantage at the expense of others.

I want to thank representative Darkow and others for working so hard in trying to amend this Bill to make it acceptable to both sides. Unfortunately, that seems to be an impossible task.

HB 471 says only a licensed nutritionist can give counseling and/or specific information regarding a persons' nutritional needs.

In Section 6 there has been an attempt to put exclusions in that would satisfy our objections, but it doesn't. It says "that a store owner can give general nutritional information just as long as they don't say that they are a dietician or a nutritionist". I'd like to call your attention to the word "general", and ask a question. How can a store owner sell his product by giving general information only? And when does a person cross over the line from giving general information to specific information?

HB 471 allows the store owner to put his merchandise up for sale, but will not allow him to sell it. I have been in the retail business for over 30 years, and I know for a fact that if the store owner is not allowed to suggest and sell his merchandise, he will not succeed. HB 471 ties the hands of a retailer, and prevents him from staying in business.

Let's assume for just a moment that a lady has been going to a health food store for the past 20 years. During that time, she has developed trust and confidence in the advice and counseling that she has received from the store owner. Now let's assume that HB 471 passes in its present form; the store owner becomes a criminal for continuing to do something that he and his customer has been perfectly happy in doing for the past 20 years, and the customer has lost some of his/her freedom of choice. I'd like to have you explain to me where you draw the line between giving information, selling your merchandise, giving advice, or counseling. Each one of these needs to be clearly spelled out, so that the store owner would know when he is breaking the law.

The person who owns a health food store has been painted in the light of an irresponsible merchant. Someone who is threatening the health and welfare of the public. May I suggest the opposite is true. These are responsible men and women, creating jobs, and paying taxes.

There is a lot of confusion, there is a lot of fear, there is a lot of suspicion about this Bill. It would be my recommendation that you table this Bill for this session, let the two parties sit down together, work out a compromise, and come in the next session with a Bill that would be acceptable to all parties involved.

In closing, let me emphasize that there are 50 health food stores along with 3,000 consumers who have signed these petitions who feel that HB 471 takes away their freedom of choice, and they strongly urge you to kill this Bill.

Madam Chairman, I would like at this point to ask everyone in the audience who is opposed to this Bill if they would please stand.

As you can see, there are far too many to be able to testify on this Bill, and we therefore would like to call on the following persons:

Representative Al Meyers
Ron Hauge
Art Kautzman

Nancy Aagenes
Riley Johnson
Laughing Water

Thank you for your attention.

Sincerely,



George Allen

Exec. V.P., Montana Retail Association

"DIETITIANS" ARE NOT "NUTRITIONISTS"

Whereas in other states - indeed, for 50 years in this country - the dietitians have been satisfied with only one name, they now want two: "dietitian" and "nutritionist".

After thirty bites at the apple, the dietitians still have not shown that they are entitled to exclusive use of the term "nutritionist". Twenty other states have declined to insert the word "nutritionist". They all had good reason. Those states are: Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Missouri, New Jersey, New York, New Mexico, Oregon, Rhode Island and Utah.

"Dietitians" are a subgroup of "nutritionists". Nutrition and dietetics are separate academic disciplines in graduate institutions. It is for good reason that the "American Dietetic Association" has been so named for almost half a century. Indeed, in a recent publication used by the ADA entitled "Glossary, Accreditation Manual for Hospitals, 1985 (Joint Commission on Accreditation of Hospitals)", there is a definition for "dietitian, qualified", but none for "nutritionist".

Most significantly, the term "nutritionist" does not have an established limitation. It is an evolving term whose parameters will doubtless be established within the next decade as more health subspecialties evolve.

It is crucial to re-emphasize that while some dietitians may also be called nutritionists, they are not the only people who can be so labelled. It is wrong to foreclose at this date a title which may very well -- and probably will -- become available to many others in the near future.

The worst alternative would be to establish a definition of "nutritionist" which is the same as "dietitian". It would be as if nurses decided to take on the exclusive use of the title "paramedics" ten years ago, preventing the evolution of a crucial health subspecialty. We would also note that the State of Michigan, in a December, 1984 governmental study, recommended a moratorium on the licensure of all new health subspecialties in part for the reasons stated above. New Jersey has followed suit on all licensure because of fiscal implications.

The dietitians have testified throughout the country that all groups other than themselves are incapable of providing nutritional information. They accuse all opposing groups, including NNFA, of claiming that there are freedom of speech or consumer choice issues involved "instead of the consumer protection issue" they claim it is. In their "Summary" submitted to this legislature, the dietitians claim that the purpose of this licensing bill is to protect against "wrong, unsafe and unproven nutrition information."

NNFA believes in playing straight. The dietitians want licensure so that they can: (a) get third-party medical insurance reimbursement; and (b) get more professional prestige and shed the image of menu-planners. We are not against this, but why must they pretend a different issue is at stake? The President of the American Dietetic Association herself admitted this and concluded that licensure was bad:

"Those in the profession who have examined honestly the true purpose served by licensure have acknowledged quickly that those professional groups which seek licensure are motivated primarily by the anticipated benefit to members of the profession. Yet, the purported purpose of licensing is to protect the public."

"Although the stated purpose of licensure is to benefit the public, few pleas for licensure have come from the public. ...Practitioners also observe that licensing increases the potential for third-party payment for professionals..."

Journal of the American Dietetic Association
Vol. 84, No. 4 (April, 1984) page 455.

This is particularly true when there are only 190 dietitians in the entire State of Montana.

The ADA also notes that licensing won't necessarily work:

"[T]he assurance of competence at entry level is certainly not guaranteed, because licensure examinations are generally designed not to measure competence of examinees but to test basic knowledge."

"Higher incomes for professionals have resulted also accompanied by an increased cost of services to consumers."

Ibid, page 454.

In this case, a person licensed "under any other law" [Sec. 6(3)] is exempted. This is hardly protection for the public.

The public does want to choose its source of nutrition. And health food businesses provide a source where the quality and value of nutritional supplements can be discussed. The public also wants access to lecturers on nutrition who are not necessarily dietitians, including people such as Nobel Laureate Linus Pauling.

It is no fairer to shut out all other nutritional information sources than it is to say that only licensed mechanics can talk to car customers. Although licensed mechanics may be the only people permitted to fix cars in professional settings, it does not mean that people should not have access to information from magazines and automobile salesmen regarding car performance and statistics.

John Bastyr College

SENATE HEALTH & WELFARE

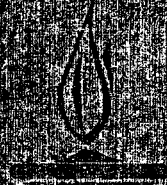
EXHIBIT NO. 7

DATE 3-6-89

BILL NO. HB-471

Catalog

Volume 5
1984 - 1986
Published January 1985



JOHN
BASTYR
COLLEGE OF
NATUROPATHIC
MEDICINE

VIS MEDICATRIX NATURAE

AMERICAN ASSOCIATION OF NATUROPATHIC PHYSICIANS

P.O. Box 5086 • New Haven, CT 06526-0386

OUTLINE OF ORGANIZATIONAL STRUCTURE

The American Association of Naturopathic Physicians is a federation of its constituent state associations and societies. Each individual regular AANP member must meet at least two of the following three requirements:

1. N.D. degree from an AANP approved naturopathic medical college.
2. Licensure to practice naturopathic medicine in a state with a Board of Examiners recognized by the AANP.
3. Active membership in a constituent state naturopathic association or society recognized by the AANP.

The format of a federation will strengthen the state associations while the AANP addresses itself to issues on the national level.

The governing body of the AANP is the House of Delegates. Delegates are elected by constituent state associations, each association electing at least one delegate, and an additional delegate for every ten AANP members in their jurisdiction. In addition, each recognized Specialty Society, and each College and Student Association may send one delegate. The House of Delegates meets at least annually and elects a President, Vice President and Board of Trustees that will transact business between meetings of the House.

The Board of Trustees has nine members, 3 elected each year, each with a 3-year term, with no more than 3 from any given state. The President, Vice President and Immediate Past President are ex-officio Board members, and the President serves as Chair of the Board.

The term of office of the President and Vice President is 2 years. The Vice President is the Speaker of the House and becomes President-Elect after a vote of confidence at the end of one year in office.

From its membership, the Board appoints the Chairperson of its five major departments:

1. Council on Education. (*Responsible for accreditation of colleges of naturopathic medicine. Supercedes CNME.*)
2. Department of Business Affairs. (*Fiscal control, group health and professional liability insurance, conventions.*)
3. Department of Professional Affairs. (*Membership: individual and constituent associations and societies, credentials, ethics, national directory; Constitution and By-laws.*)
4. Department of Public Affairs. (*Public relations, media exposure, corporate and public sponsorship program, affiliation with other like-minded organizations, newsletter.*)
5. Department of Government/Legal Affairs. (*Legislative initiatives, aid states in upgrading practice acts and introducing new acts in new states, legal clearinghouse, relationship to federal government.*)

The Board also appoints an Executive Director, a Controller and Journal Editor. In addition, there is currently a Special Task Force on National Board Examinations headed by AANP Board members. The Task Force will develop a uniform examination to be used and recognized by all state licensing boards.

The Scientific Assembly is an annual convocation of the AANP members for the presentation of educational subjects pertaining to naturopathic medicine.

The annual convention and meeting of the House of Delegates, the Board and the Scientific Assembly is in October of each year.

The Officers and Trustees are:

President:

James Sensenig, N.D., New Haven, Connecticut

Vice President:

to be elected

Trustee and Chair of the Council on Education:

Joseph Pizzorno, N.D., Seattle, Washington

Trustee and Chair of the Department of Business Affairs:

Enrico Liva, R.Ph., N.D., Middletown, Connecticut

Trustee and Chair of the Department of Professional Affairs:

Allen Gamble, N.D., Bend, Oregon

Steven Dubey, N.D., Kauai, Hawaii

Trustee and Chair of the Department of Public Affairs:

Michael Cronin, N.D., Phoenix, Arizona

Trustee and Chair of the Department of Government/Legal Affairs:

Jared Zeff, N.D., Los Angeles, California

Molly Fleming, N.D., New Haven, Connecticut

Trustee and Chair of the Special Task Force on National Board Examinations:

Edwin Hoffman-Smith, Ph.D., N.D., Portland, Oregon

Cordell Logan, Ph.D., N.D., West Jordan, Utah

Past Presidents:

Dr. Bernard Stueber, N.D., Past President of ANMA; resides in Lynnwood, California

Dr. Irvin H. Miller, N.D., Past President of NAMP; resides in Tacoma, Washington

A quarterly newsletter will provide needed communication to the profession and facilitate dialogue with the public. A journal is also planned.

The following state naturopathic medical associations and societies are charter constituent members of the AANP. (Other state associations are encouraged to apply for constituent status.):

Arizona Naturopathic Medical Association

Connecticut Society of Naturopathic Physicians

Hawaii Society of Naturopathic Physicians

Oregon Association of Naturopathic Physicians

Utah Association of Naturopathic Physicians

Washington Association of Naturopathic Physicians

The following naturopathic medical colleges are approved by the AANP:

The John Bastyr College, Seattle, Washington

The National College of Naturopathic Medicine, Portland, Oregon

The following state licenses are recognized by the AANP: Arizona, Connecticut, Hawaii, Oregon, Utah and Washington.

Associate, student and sponsor memberships are available for those individuals ineligible for regular membership. Details will be provided on request.

Amendment to HB 471, white copy:

1. Page 7, line 24
Following: "nutritionist;"
Strike: "or"
2. Page 8, line 4
Following: "nutritionist"
Insert: ", or"

(10) a naturopathic doctor from engaging in the practice of dietetics when it is incidental to the practice of his profession. For the purpose of (this act), a naturopathic doctor is defined as a person who meets at least two of the following three requirements:

- (a) N.D. degree from a naturopathic medical college approved by the Council on Naturopathic Medical Education and the American Association of Naturopathic Physicians (AANP).
- (b) licensure to practice naturopathic medicine in a state with a Board of Examiners recognized by the AANP.
- (c) Active membership a Montana state naturopathic association recognized by the AANP.

FACT SHEET ON HB 471

Prepared by: J. Riley Johnson

Representing the Health Food Service Industries and Independent Businesses in Montana

FACT: Montana's Legislature passed a Dietician Licensure bill in 1983.

COMMENT: The Dieticians requested the 1983 bill and now say it is not enough. Are we standardizing the profession or expanding it for economic gain? No has said why the present law isn't working? In fact, the original HB 471 did NOT abolish the present bill...the multitude of amendments did.

FACT: 26 other states have addressed this issue of licensure of dieticians and/or nutritionists and all have turned it down. Virginia, New York, and Washington have done indepth studies and still rejected it.

COMMENT: Why? What have these states learned that we have not had time to learn?

FACT: Montana's Universities do not give a degree in Dietetics.

COMMENT: If it is such a public health problem in Montana, why have the Universities abandon the degree? Must we go outside Montana to fill the major demand for dieticians (and subsequent salaries) that this bill could create?

FACT: The proposed HB 471 exempts many people and professions without regard to their training or effect on the public health of Montana.

COMMENT: Why? A math teacher/football coach can counsel his youth on good diet and nutrition without any training at all. A doctor without any nutritional training can counsel his patients. A state agency employee without any nutritional training can counsel and set standards for our children and elderly. Are we creating a maze of loopholes? Is public health the issue....or is it the elevation of a profession to dominate a market?

FACT: The bill has "quietly" been introduced and pushed by an organized special interest with money. The little people who have to work have had not input. There is fear out there. They fear loss of jobs...loss of of business...and loss of wages.

COMMENT: Why has there been such a one-sided lobby effort? Have you heard from back home on this bill?

FACT: The original bill (HB 471) was a shadow of the present bill.

COMMENT: HB 471 has been broadened to the point where an elite few will dictate an industry's standards and qualifications....without that industry's input. What is the need? What is the rush?

FACT: Speaker Bob Marks, voting against this bill, said the bill does not prevent the distribution of any information or products that proponents claim are menacing public health.

COMMENT: Then what is this bill doing? Is it really a public health bill? Or is it an expansion

State of New York
SEN. HEALTH & WELFARE
EX. 106-87
DATE 8
BILL NO. 113471

CONCLUSION

Dietitians and nutritionists have been practicing their profession without licensure for a long time. Undernutrition and malnutrition in our society are increasing public health problems which require the expertise of dietitians who are trained to deal with specialized problems. Yet, the imposition of the stringent controls of a licensing system for dietitians and nutritionists, or for any other occupational group, can only be justified by evidence of the fact that to permit the field to operate without licensure has created or would now create some hazard to the public health or safety.

Even when an analysis of need shows that there are compelling reasons to regulate an occupation, it does not necessarily follow that licensure is the most appropriate mechanism for doing so. Government should provide only the minimum level of regulation. Licensure restricts the scope of practice so that it becomes illegal for anyone other than the licensed individuals to provide the services in question. That is why licensure should be used only as the remedy of last resort.

The issue is whether it would be useful to accomplish a limited definition through licensure laws and certification laws, rather than through the A.D.A. registration. Unless more compelling justification emerges through the hearings on this issue or through additional study, a licensure system to define the scope of practice of dietitian and nutritionists should be approached very cautiously.

PART IV: SUMMARY OF FINDINGS AND RECOMMENDATIONS DATE 3-6-87

BILL NO. HB 47

The Council on Health Regulatory Boards makes the following findings and recommendations based on its study of the need to regulate dietitians and nutritionists.

1. The Council finds, using its formal criteria for evaluating the need to regulate a health occupation, that there is currently no need for state regulation of dietitians and/or nutritionists in Virginia, and recommends that no regulation be implemented by the General Assembly at this time.
2. The Council finds that much dietary and nutrition information and advertising of services is available and distributed freely in the media, through many types of businesses and educational programs, as well as by dietitians and nutritionists. Much popular information is conflicting or questionable, contributing to risk for harm to the public. Appropriate disclosure of information about services is necessary for the public to make informed choices in seeking and selecting dietary and nutrition services, but occupational regulation (licensure, certification, or registration) is not the preferred means to the end of appropriate disclosure.

The General Assembly may wish to consider amendments to the Consumer Protection Act regarding disclosure of information to consumers, perhaps by requiring that disclosure statements include the education and training of the practitioner; a description of the proposed treatment and anticipated outcomes; financial arrangements and requirements; lists of acts of unprofessional conduct; disclosure of the client's right to refuse any part of the treatment; and complete disclosure of the limits of any confidentiality provisions.

3. The Council finds that dietitians and nutritionists practice in a wide diversity of settings--from laboratories to weight control businesses--and that no single set of standards for education and training for all dietitians and nutritionists exists. Professional associations and private credentialing organizations serving dietitians and nutritionists may establish training standards and bring research findings into clinical practice. These associations and organizations should encourage the initial and continuing competence of their memberships.
4. The Council finds that existing mechanisms for reducing risk for harm to the public are working. The Office of Consumer Affairs, the State Board of Medicine, and other health regulatory boards are enforcing existing statutes and regulations that reduce risk for harm from dietitians and nutritionists. These agencies, along with Chambers of Commerce, Better Business Bureaus, and other agencies and organizations are available for the public to make inquiries and complaints regarding harm from dietitians and nutritionists.

1. THAT SB 3109 and 3451 NOT BE ENACTED INTO STATE LAW.
2. THAT IF THE LEGISLATURE IS FAVORABLE TO SB 3109, CONSIDERATION BE GIVEN TO CONCERNS ADDRESSED IN THE SHCC STAFF REPORT REGARDING SECTIONS 5(4), 5(8)(b), 8(1), and 11.
3. THAT IF THE LEGISLATURE IS FAVORABLE TO SB 3451, CONSIDERATION BE GIVEN TO NARROWING THE DEFINITION OF DIETETICS, APPLYING REGISTRATION TO INDIVIDUAL PRACTITIONERS (NOT CORPORATIONS), AND FINDING A SUBSTITUTE FOR "REGISTERED" IN THE PRACTITIONERS' TITLE.

FINDINGS

1. The applicant groups did not provide documentation to lead us to the conclusion that unregulated practice in the dietary field is clearly harming or endangering the health, safety, or welfare of the public.

The applicant groups defined the problem as "experts" giving faulty dietary advice and as "sharp business practices." The applicant groups did not document the prevalence of these problems and the extent of harm they are causing the citizens of Washington state. In every occupation, including highly regulated ones, there are incidents of abuses.

2. The alternatives of licensing dietitians and/or registering all who provide dietary advice for a fee are unacceptable.

The scope of dietary practice defined in SB 3109 is so broad that it would be illegal for anyone except a licensed dietitian or one approved by a licensed dietitian to provide information about nutrition in the context of preventive health care, whether or not the "expert" were receiving a fee for doing so. We believe this unduly restricts the flow of information among people and would be difficult to administer. While registration would inhibit abuse by placing all practitioners under a discipline accountable to the Department of Licensing, we are not convinced the abuse is so prevalent as to require this.

3. Benefit to the public of licensing and/or registering dietetic practitioners would be minimal.

Since most dietitians are registered by their professional organization, the consumer already has a means to identify competent ones. Additionally, 60% of dietitians are employed by institutions which are also regulated regarding the quality of their staff. The public now identifies competence in other "diet counselors" in the same manner as it identifies other practitioners - by comparison of charges, recommendations from friends, observed results, etc. We believe this practice should continue unless extensive abuse to the public health and safety become known. Restricting the entry into the profession of those who may provide dietary information may leave out valuable, effective trainers who, for whatever reason, do not qualify for licensing. The reduced number of those who do qualify for licensing would result in increased cost to the consumer and decreased accessibility to the services.

March 3, 1987

NFIB
J. Riley Johnson
22 W. 6th Ave
Helena, MT 59601

RE: Bill #471

Dear Mr. Johnson:

I just recently heard about the above bill that has already passed the House of Representatives, yet, I was uninformed about it by a newspaper or any other media.

Do we in Montana really have a public health problem? If so, then I would be the first one to advocate further regulation. But, if all the facts were adequately presented would we find the long-range results of passage of this bill could possibly create further economic hazards in our state?

According to a major van lines 160,000 left Montana in 1986. This was the highest loss rate of any state in the Union. Do we know yet the potential loss rate of jobs and businesses if this bill becomes a law?

I own a natural food dessert shop and I am concerned that I may be the next one to leave the state looking for employment. I personally know dozens of people in the nutritional supplement business, will their jobs be affected detrimentally?

Why has "hurry" been the message behind the passage of this bill without methodically assessing the potential economic effects on our fine state. A thorough study should be made along these lines before it should ever be considered for a vote.

Very sincerely,

Maryann Gillispie

Mary Ann Gillispie
Nature's Best Desserts
2812 Brooks St
Missoula, MT 59801
549-BEST

COUNCIL FOR RESPONSIBLE NUTRITION

2100 M Street, N.W., Suite 602
Washington, D.C. 20037
(202) 872-1488

POSITION ON ADA LICENSURE AND ENTITLEMENT ACTS

The Council for Responsible Nutrition is a trade association of nutritional supplement manufacturers dedicated to improving the health of the American public through responsible nutrition, including the appropriate use of nutritional supplements.

1. The Council for Responsible Nutrition (CRN) shares the American Dietetic Association's concern about the quality of nutrition information provided to the public.

CRN believes that anyone who provides nutrition information should be accountable for its truthfulness and accuracy. Further, CRN believes that no person should falsely represent his or her level of training or expertise in the field of nutrition. Graduation from a "diploma mill" should not qualify any person to claim standing as a nutritionist or dietitian.

2. The Council for Responsible Nutrition (CRN) supports the dietetic profession's desire to enhance its visibility, its professional standing, and its role in the health care community.

The more than 40,000 dietitians in the United States are a key resource in efforts to improve public awareness of the importance of nutrition in diet and health. Although dietitians have traditionally been primarily involved in institutional settings, dietitians are beginning to expand their interest and involvement to include the areas of public nutrition and nutrition education.

3. CRN could support a title act establishing an official title (such as licensed dietitian) and requiring that only qualified persons be allowed to use the title.

However, CRN opposes efforts to expand the protected titles beyond those incorporating the word "dietitian." In some states, dietitians have attempted to establish exclusive rights to terms such as nutritionist, nutrition counselor, nutrition consultant, nutrition specialist, diet counselor, diet consultant, diet advisor, weight counselor, and weight specialist. CRN believes these terms go beyond the scope of practice to which dietitians can possibly assert a unique claim. (In some states nutritionists have proposed their own title acts, or have added a nutritionist's title provision to the dietitian's title act. CRN does not oppose the right of nutritionists to protect their professional title. However, the definition of "nutritionist" should not be so broad as to have the effect of preventing other responsible parties from providing general nutrition information, as discussed further in Item 5 below.)

4. As an alternative to a title act, CRN could support a licensure act, establishing an official title and setting up a licensing board to regulate the profession, provided the definition of the scope of practice is not exclusionary.

CRN recognizes that dietitians have every right to define their own scope of practice as broadly as is justified by the actual activities of its membership; however, the ADA is not justified in reserving to itself areas of practice which in fact constitute a small proportion of dietetic practice. Any effort to do so would infringe wrongly on the rights of other professionals and informed persons to share nutrition information.

It should also be noted that many observers question whether licensure is in the public interest. In a recent article, a past president of ADA, Marilyn Maschke, wrote that licensure "does not guarantee competence at entry level in a profession" and that licensure has historically resulted in higher incomes for professionals and higher costs to consumers.¹ She noted that "the primary push in favor of licensure has come from practitioners. Although the stated purpose of licensure is to benefit the public, few pleas for licensure have come from the public."¹ She added that consumers "have learned that licensing may add to the cost of services while not assuring quality."¹ At least 36 states have passed sunset legislation intended to phase out licensure laws that do not demonstrate their ability to ensure professional accountability, according to Maschke.

CRN understands that one of the objects of the licensure effort is to prepare the ground for expanded third-party reimbursement for dietetic services. CRN supports activities that increase public support for nutritional interventions and, in concept, CRN could also support increased third-party reimbursement for nutrition services, including dietetic counseling. Some observers, however, have questioned whether expanded areas of third-party reimbursement are desirable, given the importance of controlling health care costs. The 1984 Study Commission on Dietetics noted that ADA had put a "top priority" on obtaining third-party reimbursement for dietetic services.² The Study Commission expressed pessimism about the prospects for such reimbursement, since public policy is moving away from "fee-for-service" payments and toward new patterns of payment designed to lower health care costs.

5. CRN could not support any licensure act or scope of practice act which had the objective of preventing all persons other than dietitians from providing nutrition information.

A. The education and training of dietitians is not sufficiently unique to justify excluding all other potential providers of nutrition information and counseling. According to a 1981 ADA membership survey, over half of dietitians have only a bachelor's degree, and only 5 percent have doctoral degrees.² Many other health professionals and educated laypersons have equivalent levels of scientific training and/or nutrition training. Many non-dietitians function effectively in a wide variety of federal, state, and private nutrition programs.

B. Even in clinical settings, dietitians are not the only professionals qualified to give nutrition support. The 1984 Study Commission on Dietetics observed that there was an increase in interest in clinical nutrition and that the "growth of the field has attracted other qualified professionals; to some extent, physicians, pharmacists, nurses, and others have become competitors of dietitians."² As cost-cutting measures, some of these professionals in some health care settings are taking over tasks previously performed by dietitians. Nevertheless, the Study Commission concluded that "dietitians should regard these advances as opportunities rather than as occasions for concern," and recommended that the dietetic profession should not try to "erect barriers to prevent others from entering."² CRN believes the interest of all health professionals in the area of nutrition should be welcomed and encouraged. In the words of the 1984 Study Commission on Dietetics, "The ADA has devoted much time and energy to definition and identification of the 'unique role' of the dietitian. Perhaps these attempts are justified for legal reasons in the movement toward state licensure. But in the long run, such efforts are self-defeating."²

Some of the state licensure bills have dealt with the problem of competing professional groups by defining the field of dietetics very broadly and then exempting a long laundry list of professionals and employees from coverage, including the following: federal, state, and local employees; members and employees of the Armed Forces, the Public Health Service, or the Veterans Administration; employees of the mental health system or the social services departments; licensed physicians, nurses, dentists, chiropractors, dental hygienists; MDs, PhDs, members of the American Institute of Nutrition, members of the Federation of American Societies of Experimental Biology; and people with equivalent training. It seems clear to CRN that the definition of the scope of practice is too broad when it is necessary to exempt more people than are included in its coverage.

C. Dietitians are clearly not the only people qualified to provide general nutrition information for the public, and indeed the 1984 Study Commission on Dietetics observed that "dietitians are not widely recognized by the public as those qualified by education and training to provide the necessary expertise in the field."² The number of other professionals and educated lay persons who currently offer valuable nutrition information to the public far outnumbers the number of dietitians who are involved in nutrition counseling for the general public. According to a 1981 ADA membership census, 65 percent of dietitians are involved in the areas of clinical dietetics or food service.² Only 10 percent of dietitians are involved in community nutrition and only 4 percent in nutrition education.² Other professionals, laypersons, and organizations intimately involved in providing general nutrition information to the public include nutrition educators, home economists, athletic coaches, health spa employees, agriculture extension agents, WIC aides, Red Cross nutrition instructors, consumer advocates, supermarket nutrition advisors, developers of employee health programs, health food store personnel, weight loss clinics and

instructors, restaurant operators, food advertisers, newspaper and magazine food editors, the La Leche league, the YMCA and YWCA, food scientists, cooking instructors, TOPS, Weight Watchers, the Feingold organizations, and teachers of adult education classes. These people, as well as dietitians, have access to an enormous body of published literature on health and nutrition, as well as a large and growing supply of computer software which is uniquely designed to analyze dietary nutrient intake and in some cases even offer computerized advice about the foods that are lacking in the diet or the nutrients that may be in short supply. The time has passed when dietitians might have claimed unique expertise in the area of dietary analysis and computation of nutrient intake, let alone more general advice on foods, food groups, the overall relationship between diet and health, the importance of concepts such as nutrient density, and the modifications in food choices that will lead to diets lower in fat, higher in fiber, or more balanced in nutrient intake.

CRN believes that the licensure legislation should not exclude people and groups such as those enumerated above from providing nutrition information. In some states, licensure acts which appeared to interfere unduly with ordinary commercial activities relating to the sale of nutrition products have been amended to make it clear that the legislation does not interfere with these legitimate business practices. CRN believes it would be preferable to draft legislation in such a way that caveats are not required; but if that is not politically feasible, the CRN would support exemption language such as the New Jersey example cited below. In addition to the exemption language, it may be desirable for legislation to include a clarifying statement of intent such as the New York example cited below.

Example from the New Jersey bill. "Nothing in this Act shall be construed to prohibit any person who does not hold himself out to be a dietitian or nutritionist from furnishing general nutritional information as to the use of food, food materials, or dietary supplements or from engaging in the explanation and education of customers as to the use of foods or food products including dietary supplements in connection with the marketing and distribution of those products or the rendering of any service."

Statement of Intent, from the New York draft. The intent of the legislation is to "insure the continued viability of legitimate health spas, weight control programs, and health food stores and restaurants," while at the same time identifying professionals "who, in a traditional private practice setting, may provide therapeutic nutritional services to both the acute and chronically ill."

6. CRN recognizes the desirability of making all persons accountable for the accuracy and rationality of the nutrition advice they may provide to the general public or to individuals, but CRN is persuaded that accountability is not achieved by silencing large categories of people.

The 1984 Study Commission on Dietetics recognized the desire of dietitians to protect the public from unqualified "nutritionists," but it recommended that this problem

"should be approached in a positive or assertive, rather than in a negative or defensive, fashion. The emphasis of dietetics should be on moving ahead with more dynamic and expanded roles, based on scientific expertise, rather than on attempts to protect present functions so that others may not engage in them."² CRN recognizes that one of the goals of the licensure effort is to protect the public from unqualified practitioners, but care must be taken to distinguish between professional issues regarding qualifications and education and freedom of speech issues regarding the right to espouse controversial views.

7. CRN strongly opposes any attempt to use the licensure acts as vehicles for enacting unrelated provisions regarding the formulation and promotion of dietary supplements of vitamins and minerals.

In some state bills, provisions have been included that would have limited the formulation of dietary supplements to some set percentage of the U.S. RDA of vitamins and minerals or that would assert that all nutrition advice must be based on the U.S. RDA. Such provisions are not germane to the licensing effort which should deal with qualifications and education, not with the formulation of products or the orthodoxy of nutritional beliefs.

Conclusion: The Council for Responsible Nutrition is a trade association of nutritional supplement manufacturers and is committed to efforts to enhance the health of the American public through improved nutrition, including the appropriate use of nutritional supplements. CRN is convinced that more attention should be paid to the role of nutrition in preventing disease, in promoting health, and in aiding recovery following disease or injury. CRN shares the concern of the dietetic profession about the need to assure the accountability of those who provide nutrition advice. The specific legislative provisions the CRN could and could not support are summarized below:

- A. CRN could support an entitlement act for dietitians, provided the title is one which includes the word "dietitian." CRN could not support including the term "nutritionist" among the titles reserved for dietitians. However, CRN is not opposed to related entitlement acts protecting the rights of nutritionists.
- B. As an alternative to an entitlement act, CRN could support a licensure act, provided the definition of the scope of practice is not exclusionary.
- C. CRN opposes any attempt to reserve to any discipline the exclusive right to provide nutrition information and advice.
- D. CRN opposes any attempt to use the licensure legislation as a vehicle for enacting unrelated provisions regarding the formulation and promotion of nutritional supplements.

References

1. Haschke, Marilyn B., RD. "President's Page: Licensure for dietitians: The issue in context." *Journal of the American Dietetic Association* 84:454-455 (April 1984).
2. "A new look at the profession of dietetics. Final report of the 1984 Study Commission on Dietetics: Summary and recommendations." *Journal of the American Dietetic Association* 84:1052-1063 (September 1984).

For further information on the Council for Responsible Nutrition or this position statement, please contact:

*J. B. Cordaro, President
Council for Responsible Nutrition
2100 M Street N.W., Suite 602
Washington, D.C. 20037
(202) 872-1488*

September 1985

Shaklee Corporation

Shaklee Terraces
444 Market Street
San Francisco, CA 94111

Telephone 415 954-3000

February 27, 1987

The Honorable Dorothy Eck
Chairman, Public Health, Welfare & Safety Committee
Montana State Senate
State Capitol
Helena, Montana 59620

Dear Senator Eck:

I have reviewed House Bill 471 and I have some concerns with the bill as it is presently written.

Shaklee as you may know, is a direct selling company that markets its nutritional, household and personal care products in the home through hundreds of thousands of small businessmen and women. As a major manufacturer of vitamins and food supplements, we are dedicated to enhancing the health of the public through responsible nutrition, including the appropriate use of nutrient supplementation.

Shaklee supports the concept of licensing dietitians and nutritionists, however, we want to assure that in doing so you do not limit an individual's ability to market nutritional products including dietary supplements and to provide general nutritional information. Shaklee Corporation has several Registered Dietitians and Nutritionists as well as other health professionals on our Science & Technology staff and they perform a needed role in the development of our products and literature.

Although House Bill 471 as originally drafted was directed at the licensure of dietitians, the bill has been substantially amended to license instead nutritionists which has broaden the impact of the legislation considerably. Shaklee is not opposed to a licensure procedure for nutritionists but we are concerned with this bill which very broadly defines "Dietetic - Nutrition practice" in Section 2(5)(7) and in Section 3 and then limits these activities to only those who are licensed.

Although several states are reviewing licensure bills no state has passed such broad and limiting legislation such as this. There has been a consistent recognition that licensure legislation of this type promotes the economic advantage of a single professional group to the disadvantage of others. In fact three states, New York, Virginia and Washington conducted studies as to the need for licensure and all three concluded that the primary motivation was economic and that the health and safety of the public was not in jeopardy since documented abuses were minimal.

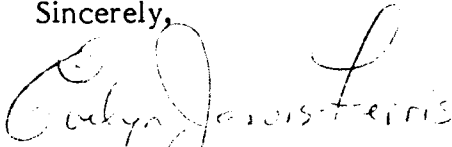
Shaklee Corporation

The Honorable Dorothy Eck
February 27, 1987
Page 2

Dietitians and nutritionists as defined in this bill are not the only people qualified to provide general nutritional information and counseling to the public. Other professionals, lay persons and organizations involved in providing general nutrition information and some counseling include home economists, athletic coaches, health spa employees, agriculture extension agents, Red Cross nutrition instructors, consumer advocates, supermarket nutrition advisors, developers of employee health programs, weight loss clinics and distributors of food supplements. Given such a broad definition it is questionable as to whether or not these activities fall in under "nutritional counseling" and assessment.

I recommend that House Bill 471 be amended to provide for a licensure procedure and not limit the more general practice of nutrition to just one professional group. I have enclosed a copy of the Maryland Public Law licensing nutritionists which accomplishes this.

Sincerely,



Evelyn Jarvis-Ferris
Director, Government Relations

EJF:kjk
Enclosures

cc: Members of the Public Health Committee

Senate Testimony
Opposing HB 471

submitted by **Laughing Water**, March 6, 1987

SENATE HEALTH & WELFARE

EXHIBIT NO.

DATE

BILL NO.

To the Senate Public Health Committee:

I am the organizer of the Health Freedom Coalition, which represents health food retailers and consumers, health professionals (including doctors and chiropractors as well as alternative practitioners) and others who are opposed to HB 471.

I have been a health food retailer for 11 years, and as you can see from my biographical notes, I have a very active lifelong interest in health and human potential. I have had an excellent education, including a degree from MIT, and have earned some of the highest academic honors in addition to having personally explored many approaches to nutrition and health.

Although I am sympathetic to the positive purposes of HB 471, I have many objections to the bill itself. These are outlined below:

The bill's definition of nutritionists is wrong. The qualifications defined by the bill exclude many respected nutritionists, including not only a large number of individuals holding advanced degrees from accredited institutions, but additionally, individuals whose training is either from unaccredited institutions or who are self-taught.

Among those nutritionists with degrees from accredited institutions would be biochemists, such as Dr. Jeffrey Bland, one of the nation's most respected biochemical nutritionists who has actually taught many M.D.s. Another would be those with degrees in the behavioral sciences, such as Alexander Schauss, who is employed by the World Health Organization and lectures at Oxford.

One of the most famous of the self-taught nutritionists is the late Nathan Pritikin, whose efforts revolutionized our understanding and treatment of heart disease through diet. He has been eulogized by former Senator George McGovern, who headed the Senate Select Committee on Nutrition, and Dr. William Castelli, M.D., who conducted the famous Framingham Heart Study.

The dictionary defines nutritionists as specialists in the study of nutrition. Since nutrition is an extraordinarily complex field, it embraces many different academic disciplines that may allow for specialization in nutrition. The breakthrough research in nutrition is being done in "a variety of fields, such as clinical immunology, cell biology, nutritional biochemistry and exercise physiology," according to Jeffrey Bland, whose letter is enclosed.

HB 471 seems deliberately set up to restrict the title "nutritionist" to dietitians, who represent only one segment of the nutrition field—and a rather extreme segment at that. It would make much more sense to let the dietitians, who wrote and support the bill, to regulate themselves as *dietitians* rather than to license *nutritionists*, which is not a term they have historically used. Dietitians are an easily defined professional group; nutritionists are not.

It's too restrictive. The bill makes it illegal for most individuals to furnish nutritional assessment or counseling, which are common activities of health

food store personnel, parents and many other individuals. Exemptions allow for the furnishing of *general nutrition information*, but ~~these exemptions do not allow the furnishing of specific information (whatever that means) or assessment or advice.~~

SENATE HEALTH & WELFARE

EXHIBIT #0

DATE 3-6-87

BILL NO. 123471

It's bad for Montana businesses. It's questionable whether salespeople could offer the assessment and advice normally entailed in selling nutritional products. Because of the unclarity of the bill's language, it could destroy the health food industry in Montana, along with naturopathy and other low-risk, low-technology methods of health enhancement. Growers and manufacturers would also be impacted because so many new food, supplement and herbal products are being introduced on the market, and many of the raw ingredients either are or can be produced in Montana.

It's confusing. Many lawyers and legislators are convinced the bill restricts nothing except the word *nutritionist*. But the dietitians wrote the bill to restrict the *practice* of nutrition, regardless of what you call yourself. If the bill can be so popularly interpreted either way it should be defeated for unclarity.

It's not needed. There has been no public demand for the bill, and evidence of harm is lacking. Cases cited fall under the medical licensing laws, labeling laws or fraud laws. For the purpose of identifying people the dietitians consider qualified, the dietitians already have a title act that identifies registered dietitians to the public.

It's not wanted. As the Montana legislative watchdog for the National Nutritional Foods Association and Montana board member of the Northwest Nutritional Foods Association, I can assure you that the health food industry and health food consumers are nearly unanimous in their opposition to HB 471.

Our petition campaign has been raising 1,000 signatures per week; the total now stands at 3,000. The dietitians have no apparent support from the general public, which prefers freedom of choice.

I have even received a petition from a student who is studying dietetics and asked not to be identified for fear of reprisals.

Laughing Water: Biographical Notes

SENATE BILL NO. 9

EXHIBIT NO.

DATE

3-6-87

BILL NO.

HB 477

Academic history and honors

- National Science Foundation Mathematics Training Program, Rutgers University, 1966 (for high school students).
- National Merit Scholarship, 1967.
- Presidential Scholarship, 1967 (awarded to 121 American high school seniors honored at the White House).
- S.B. in Humanities and Science, Massachusetts Institute of Technology, 1971. Concentration in Philosophy and Psychology.
- Elected to Phi Beta Kappa, 1971.
- Graduate study in Cognitive Psychology at the University of Illinois (Champaign-Urbana), 1971-1972, as a Dahlenbach Fellow. Straight-A's.
- Graduate study in Comparative (East-West) Psychology at the California Institute of Asian Studies, 1973-1975.

Vocational experience

- Research Assistant, Bell Telephone Laboratories Batteries Division, summer 1967.
- Research Assistant, MIT Psychology Department, Psycholinguistics Section, 1969-1971.
- Translator, 1970-1971. Russian-to-English translation of *Weather Forecasting as a Problem of Physics* published by the MIT Press.
- Clerk and trainer, Earthworks Natural Foods, 1973.
- Part-time watchman and assistant, Saints Christian Funeral Home, Oakland, California, 1974.
- Owner-manager, the Real Food Store, Helena, Montana, 1975-present.
- With wife, co-owner and manager of the Feathered Pipe Ranch, Helena, Montana, 1976-present.
- Nutrition lecturer, 1976-present. Taught for college credit through the Holistic Life University (San Francisco) and served as guest lecturer at Carroll College.
- Bookkeeper and Treasurer, Feathered Pipe Foundation, 1981-present.
- Independent microcomputer software developer and consultant, 1981-present.

Other accomplishments and interests

- High school varsity wrestler and distance runner, captain of track team. College cross-country and indoor track. Boston Marathon finisher, 1968-1971. Sponsor and competitor in Mt. Helena Run, 1985.
- Student of yoga from age 13.
- Student of Buddhism since 1971, including 30-day intensive meditation in 1974 under the guidance of the Ven. Chogyam Trungpa Rinpoche.
- Nationally published poet.
- Participant in many seminars and conferences on nutrition, health and human potential at the Feathered Pipe Ranch and elsewhere since 1971. Organizer of lectures by internationally known nutritionists in Helena.
- Montana representative on the board of the Northwest Nutritional Foods Association.

NAME: Jerome Tweedy DATE: _____

ADDRESS: Box 218 Emigrant, Montana

PHONE: _____

REPRESENTING WHOM? THE CAUSE OF FREEDOM

APPEARING ON WHICH PROPOSAL: 471

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: AMERICA'S FREEDOM IS BEING FRODED AS

THE AMA AND OTHER SPECIAL INTEREST GROUPS

ARE GIVEN LICENSE TO DICTATE WHAT IS GOOD FOR

ALL OR OTHER PARTS OF LIFE WHO DO NOT SHARE

IN THE SYSTEMS OF NUTRITION, EVEN THAT WHICH IS TAUGHT

IN COLLEGES AND UNIVERSITY. DIFFERING POINTS OF VIEW

OF CHIROPRACTIC, NATUROPATHIC, WHOLISTIC HEALTH

AND HEALTH FOOD STORES MAY DIFFER AND DO DIFFER

FROM ~~THE~~ THAT WHICH EVEN IS CURRENTLY TAUGHT.

TO LICENSE ONE GROUP TO DICTATE THE VALUES TO

A WIDE GROUP THAT HAVE DIFFERENT VIEW POINTS.

AMERICA'S GREATEST VALUE AS CONTAINED IN THE

CONSTITUTION AND BILL OF RIGHTS IS "FREEDOM" ~~AND~~ OUR

GOD GIVEN RIGHTS OF FREEDOM OF CHOICE ARE BEING ASSAULTED

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

ON MANY LEVELS BY SPECIAL INTEREST GROUPS.

NAME: _____ DATE: 3-6-87

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: Day Committee, _____

I really resented all the hearsay
and Anecdotal information given by the
Dietitians presented. If they are going to
be scientists let it begin in the testimony

India Supera
2409 Colorado Gulch
Helena, MT 59601

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.