



NATIONAL HEALTH FREEDOM ACTION

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Opposition Comments to Amendments to Wisconsin AB440 Licensing of Dietitian Nutritionists

ASSEMBLY AMENDMENT 1 (AA1) TO ASSEMBLY SUBSTITUTE AMENDMENT 1 TO 2009 ASSEMBLY BILL 440		National Comments April 15, 2010
<p>1. Page 5, line 25: delete “(4m)” and substitute “(6m)”.</p>	<p>Technical amendment.</p>	<p>Comment 1. No comment</p>
<p>2. Page 6, line 1: delete “(4m)” “General nonmedical” and substitute “(6m)” “Nonmedical”.</p>	<p>Removal of the term “general” from the definition of “nonmedical” information</p>	<p>Comment 2. The removal of the word “general” is misleading in that it leaves the onerous restrictive definition of “nonmedical nutrition information” in place. A law that out rightly restricts freedom of speech and the provision of truthful and non-misleading information by public citizens is unconstitutional and unacceptable and goes far beyond the purpose of occupational licensing. States must avoid delegating a small group to have the power to define and prohibit free speech in matters of nutrition and health, and whether speech is medical and non-medical, or to be gatekeepers of freedom of speech in this area. The practice of medicine is already defined in statute. A number of states have exemptions from the practice of medicine based on harm thresholds called safe harbor laws. (MN, RI, CA, LA, NM, OK, ID, AZ)</p>

<p>3. Page 6, line 22: delete lines 22 to 24. and</p> <p>4. Page 7, line 1: delete lines 1 and 2 and substitute: “(7) “Nutrition care process” means an integrated and systematic problem solving method consisting of distinct but interrelated and connected steps used to identify, analyze, and address nutrition related problems of an individual or a group and provide safe, quality, and effective nutrition care to that individual or group. The steps of “nutrition care process” are the following:”</p>	<p>Changing the wording of the definition of “nutrition care process” by adding a phrase in the first line that says: <i>“method consisting of distinct but interrelated and connected steps.”</i></p>	<p>Comment 3. and 4. Changing of the wording of nutrition care processes is not helpful to protecting access to independent nutrition care practitioners and other complementary and alternative health care practitioners because it makes the assumption that no other educational institution or program other than dietitian education would use a systematic approach to problem solving relating to nutrition and health. That is false. Many independent practitioners and providers of nutrition information follow problem solving processes included in the bill language and according to their educational programs and training.</p>
<p>5. Page 10, line 7: delete “at the retailer’s establishment or a similar establishment”.</p>	<p>Removes the narrow location parameter of the retailer exemption.</p>	<p>Comment 5. This amendment attempts to repair one segment of language of a retailer exemption in the bill, instead of replacing the poorly written exemption and returning it back to existing exemption law that is already in existence in WI. There is no reason given to create a new retailer exemption in the dietitian law more restrictive than current law, including aggressive language about retail speech parameters that prohibit “non-medical” speech, and parameters that are not in alignment with federal regulations of what a retailer can and cannot say. Current law in WI makes sure that marketers and distributors are exempt if they abide by federal, state, and local laws. The dietitians of WI should not re-write product law and speech parameters. in an exemption that is problematic overall.</p>
<p>6. Page 10, line 8: delete “general”.</p>	<p>Removes the term “general” from the retailers amendment.</p>	<p>Comment 6. See Comment 5.</p>
<p>7. Page 15, line 22: delete “general”.</p>	<p>Removes the term “general” from the requirements for disclosure for all citizens speaking “nonmedical” information.</p>	<p>Comment 7. See Comment 1.</p>

<p>8. Page 16, line 14: delete lines 14 to 18.</p>	<p>Deletes the requirement of citizens providing nonmedical information to obtain a signed acknowledgement from receivers of information and requirements to save the acknowledgement for a period of years.</p>	<p>Comment 8. This amendment leaves in place the unconstitutional parameter of demanding that citizens give out disclosures when providing information to other citizens. This amendment did not go far enough in that it should have deleted the entire onerous disclosure requirement for citizens that are giving information to other citizens. In the United States we have the freedom to speak about health and nutrition and provide information to each other and mandating disclosures for providing information is completely unacceptable in a free society. Telling citizens that their speech should be confined to non-medical, and then telling them that when they do speak they have to give out a disclosure is a complete infringement on free speech.</p>
<p>Amendment #4</p>		
<p>1. Page 10, line 10: after “goods.” insert “In this subsection, “retailer” includes an individual whose remuneration consists solely of commissions, overrides, bonuses, or differentials directly related to sales or other output derived from in person sales to or solicitation of orders from ultimate consumers, primarily in the home.”.</p>		<p>Comment 1. to Amendment #4</p> <p>See Comment 5. above.</p> <p>And this amendment could more appropriately be added to existing current WI law to clarify and expand on “marketer” and “distributor” language in current law.</p>