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Who Should Dish Up Nutrition Advice?

A Michigan-based food-service startup is struggling to understand what's legal now that state law requires nutritionists and dieticians to be licensed

by [David E. Gumpert](#)

Since launching a venture last fall to provide cooking instruction, and food shopping and dinner-preparation services to busy families, Julie Kowalski has been busily doing what any entrepreneur in her situation would—trying to obtain customers. Now that the Troy (Mich.) company she and a partner started, Forget Perfect NOW, is finally starting to show some positive results—its next four cooking classes are filled at 25 participants each—Kowalski has had to hire a lawyer to determine whether her company's services will still be legal come July 1.

That's because a new Michigan law—enacted last summer after 30 years of pressure from the [Michigan Dietetic Association](#) (MDA)—beginning this summer makes it illegal for individuals who aren't licensed as nutritionists and dieticians to dispense advice about nutrition.

To become licensed, individuals will be required to have a Bachelor of Science degree in nutrition or dietetics, have interned for 900 hours, and have passed a test developed by an affiliate of the MDA's parent, the [American Dietetic Association](#) (ADA), a national association of dietetic professionals.

Rewriting the Rules

This presents problems for Kowalski. Not only is she self-taught and, as a 50-year-old entrepreneur, not in a position to rush out and obtain a new Bachelor's degree, she's also in philosophic disagreement with the MDA and ADA about dietary approaches. She especially bristles at such policies as its approval of pasta consumption as a way to encourage low-fat diets, and its sanctioning of artificial sweeteners and other processed food.

Kowalski encourages her clients to consume organic produce and proteins such as grass-fed beef for what she feels is its beneficial saturated fat. "People who come to my cooking classes are going into their cupboards and throwing away processed foods and substituting real foods," she says. "Will I no longer be able to encourage people to do that?"

The answer to that question probably will become clearer over the next few months, as Michigan Governor Jennifer Granholm appoints a seven-person commission to oversee the licensing process and more clearly define the rules of what is and isn't allowed by those in the diet and nutrition business in Michigan.

Nutritional Misinformation

Battles like the one being fought in Michigan aren't unusual, and though they tend to take place below the public radar, they're monitored closely by associations that represent professionals, and stand to gain or lose members depending on the outcome. The stakes often extend beyond association enrollment. Becoming licensed gives professionals such as acupuncturists, naturopaths, massage therapists, and dieticians public recognition as serious providers, and, equally important, the legitimacy to charge higher fees and sometimes even to qualify for coverage by insurance companies.

Because licensing tends to open the marketplace for different categories of health-care providers, the "haves" often fight against the "have-nots," which explains why medical doctors have long fought against the licensing of other practitioners, such as naturopaths and acupuncturists.

But within an arena in which professional approaches and training can vary widely—from nutrition to massage—such official recognition can create friction among professionals. The pro-regulation professionals argue that state involvement helps "protect" consumers from unscrupulous providers. "The safety of the residents of Michigan is at risk due to unqualified persons giving nutrition misinformation," the MDA stated in testimony supporting the legislation.

Levels of Recognition

The dissenters say regulation restricts competition and gives preference to certain philosophies or techniques in areas where there is genuine disagreement, such as nutrition. [The Coalition for Natural Health](#), a national organization that monitors licensing efforts around the country, says "help is on the way" in Michigan in the form of proposed legislation that will make the legislation passed last year more flexible in enabling nutritionists to disseminate health information.

Because of all the friction, states vary the levels of recognition accorded to certain health professionals such as dieticians and nutritionists. While 46 states have enacted laws regulating nutritionists and dieticians, some take the less restrictive certification or registration approaches. Certification restricts the use of a title like "certified nutritionist" to individuals who meet defined standards, but doesn't restrict the services that professionals can provide, as licensing does. And registration only requires practitioners to sign up with the state.

For an entrepreneur like Kowalski, the current situation is a little like being in suspended animation. While she doesn't know how the final regulations will come out, she fears a precedent has already been established with the official recognition of ADA training and

protocol. She says she engages four different nutritionists who have certification under non-ADA-sanctioned programs. "Are they [the MDA] implying that such people aren't qualified?" she asks.

Protection vs. Limitation

The MDA, for its part, is inconsistent in what it says will and won't be sanctioned under the upcoming licensing regulations. In literature it has distributed about the "myth" of dietetics licensure, it states companies selling nutrition products won't be affected and "individuals and groups may also conduct classes and share information."

But in response to a description of some of the "coaching" services and cooking classes Kowalski's company provides, Charity Simkins, the MDA's at-large director of legislation for state issues, says, "We strongly urge them to join our association." If not, "They're going to have to have the supervision of registered dietitians." She allows, though, that, "There's going to be a gray area...that the [registration] board is going to have to make determinations about."

Kowalski, for her part, expects to become actively involved in trying "to influence the final outcome" and tries to take heart from the legislation's stated intent that the licensure board, "Shall not promulgate rules under this section that diminish competition or exceed the minimum level of regulation necessary to protect the public."

This seems, then, another example of the emerging struggle in public health today: protecting the public vs. providing freedom of choice. Too often, regulators invoke the battle cry of protection in order to limit consumer options.

*[David E. Gumpert](#) covers business/health issues and also writes the biweekly *What Entrepreneurs Need to Know* column.*

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