



CHAPTER 11: LEGAL AND ETHICAL RESPONSIBILITIES

Objectives

After completing this section, the health and fitness professional will be able to:

- Understand their scope of practice as it relates to providing nutritional advice to their clients.
- Know when a client should be referred to a qualified health care specialist.
- Develop and provide proper client documentation.

Introduction

The fitness profession has grown in many ways in the past decade, with the number of people exercising increasing significantly. In fact, the number of settings, practitioners, and audiences for health promotion and wellness programs has been expanding rapidly as part of the Healthy People initiatives (1). Wellness experts think that this increase will continue and be reflected in Healthy People 2020, a comprehensive, nationwide health promotion and disease prevention agenda (www.healthypeople.gov). The most recent initiative incorporates feedback from a variety of individuals and groups, and reflects the vision for all people to live long, healthy lives.

Additionally, the cost-effectiveness of worksite wellness programs has been well documented (2, 3, 4, 5), and specialized health promotion journals (i.e., *The Journal of Worksite Health Promotion*, *American Journal*

of Health Studies, and *American Journal of Health Behavior*) have emerged out of the need to communicate wellness programs' effectiveness and research findings.

In parallel, fitness certifications and standards have improved. Health and fitness professionals are working not only for fitness facilities but also for corporate wellness programs, in athletic conditioning, rehabilitation, community outreach, and other exciting environments. Growth is often accompanied by questions regarding qualifications and the need for scope of practice to remain clearly defined.

Although health and fitness professionals are in an excellent position to guide people on making healthful food choices, the boundaries of scope of practice must be clearly established and adhered to in order to protect consumers from misinformation that may adversely affect their health and well-being. For example, a health and fitness professional prescribing a very low-calorie, overly restrictive, or therapeutic diet to treat a medical condition is outside of his or her scope of practice. In fact, there are several documented cases of unqualified individuals harming people by giving improper nutritional advice. Laws exist in almost every state that limit the practice of medical nutrition therapy to licensed or registered dietitians or nutritionists and specific health care professionals. Violation of state licensing laws that regulate medical nutrition therapy (nutrition counseling) can result in prosecution, fines,

or even jail time. This chapter will review the ethics and legal regulations governing nutrition guidance.

It is the responsibility of the fitness professional to stay current with continuing education and research on nutrition so that their recommendations are well supported by current scientific evidence. Personal experience, testimonials, and anecdotes — though interesting and often compelling — should not be the sole basis of any recommendation. When health and fitness professionals are unsure of the answer to a question or whether the question falls outside of their scope of practice, he or she should refer the client to a nutrition professional.

Likewise, nutrition professionals have a scope of practice and specific credentials that define their areas of expertise. It would be equally unethical for a registered dietitian (RD) without a fitness certification to design an exercise program as it would be for a health and fitness professional without a dietetics credential to design specific dietary prescriptions. As noted, regulation of the practice of nutrition is aimed at protecting the health and safety of the public by establishing requirements for education and experience. Licensing and registration of dietitians and defining the scope of practice serves this purpose. The majority of states and the District of Columbia have passed laws to regulate the practice of nutrition, as well as recognize licensed/registered nutritionists and dietitians as food and nutrition experts.

A registered dietitian designation can be used only by dietetics practitioners who are currently authorized by the Commission on Dietetic Registration (CDR), the credentialing organization of the Academy of Nutrition and Dietetics (formerly the American Dietetic Association), the nation's largest organization of food and nutrition professionals. These are legally protected titles. Individuals with these credentials have achieved specific academic and supervised practice requirements, successfully completed a registration examination, and maintained requirements for recertification with ongoing professional education (6).

Many registered dietitians also have graduate degrees in human nutrition or public health. However, although a practitioner can have both credentials, a master's degree does not allow the practice of nutrition in states that license, certify, and/or register dietitians and nutritionists. Beyond the RD credential, dietitians can also have a Board Certified Specialist in Sports Dietetics (CSSD) credential, developed by the CDR. Board-certified specialists in sports dietetics are:

- Registered dietitians with a minimum of 2 years professional practice experience.
- RDs who have demonstrated career experience in sports dietetics practice.
- Specialists in sports nutrition qualified to deliver medical nutrition therapy.
- Nationally certified by the Commission on Dietetic Registration as a CSSD.
- Many hold exercise and/or athletic training credentials (NASM, NATA, etc.).
- Most are members of Sports, Cardiovascular, and Wellness Nutrition (SCAN), one of the largest dietetic practice groups of the Academy of Nutrition and Dietetics.
- Most possess postgraduate degrees (master's, doctorate).

Specialists in sports dietetics are qualified to provide safe, effective, evidence-based nutrition services that include assessment, nutrition diagnosis, intervention, counseling, and follow-up evaluation for health and performance for athletes, sports organizations, and physically active individuals and groups.

There are other credentials in the field of dietetics — some credible and many questionable — and regulations differ from state to state. Forty-seven states have laws that regulate the profession of dietetics and nutrition. The regulations fall into the following categories: licensure, statutory certification, or registration. States that license dietitians and nutritionists (LD, LDN) prohibit nonlicensed individuals from providing nutrition counseling. Nonlicensed practitioners may be subject to prosecution for practicing without a license.

Certification limits the use of particular titles (dietitian, nutritionist) to individuals who have met established requirements. Some states address the difference indirectly by delineating the difference between dietetics and other forms of nutrition counseling, while others equate dietetics to nutrition practice. This notable lack of uniformity adds to the confusion.

In a study by Hunt et al (7) on the skills and competencies of RDs practicing in wellness settings, a survey showed that 20% of registered dietitians work in fitness facilities. Although this number is growing, most fitness facilities do not offer on-premises sessions with a dietitian or nutritionist. In practical terms, this means that most members and clients will rely on the fitness staff to provide sound information on nutrition. The questions remain: Should health and fitness professionals give out nutrition advice, and if so, where should they start and stop? Do fitness professionals believe they should be counseling members and clients in nutrition?

In 1997, the American College of Sports Medicine (ACSM), the Academy of Nutrition and Dietetics, and the International Food Information Council (IFIC) commissioned The Gallup Organization to conduct telephone interviews of ACSM and IFIC to determine attitudes on nutrition and physical activity (8). The poll indicated that most dietetics professionals (64%) reported that they provide advice and guidance to their clients regarding the importance of physical activity. Similarly, 7 of 10 (70%) physical activity professionals reported giving their clients advice and guidance on the role of healthful eating.

According to the survey, fitness professionals reported being more confident in their abilities to provide nutritional advice than dietetic professionals were about their abilities to provide guidance regarding exercise and physical activity. Twenty-four percent of fitness professionals said they think they understand enough about nutrition to provide all the information their clients need, compared with only 14% of dietetic professionals who stated they know enough to provide

all the information their clients need on exercise and physical activity (9).

According to the survey, only 1 in 4 personal training clients are referred to a nutrition professional. When asked why they did not make referrals to RDs, fitness professionals gave the following reasons: Their clients did not need a dietitian; they did not know anyone in the dietetics profession to whom they could refer clients; there was no one convenient to their geographic area; or their clients could not afford the service. In fact, according to *IDEA Fitness Journal* (10), 26% of personal trainers use nutritional analysis software, 70% provide nutritional assessment, and 75% provide nutritional coaching — practices that should be reserved to the scope of practice of licensed and registered dietitians and nutritionists. Interestingly, 19% (1 in 5) of fitness professionals said their clients' misinformation was an obstacle to providing credible information.

This challenge is reflected in other professionals as well. Physicians, who do not always have extensive coursework in nutrition, may dispense nutrition advice. Medical professionals agree that nutrition plays an instrumental role in numerous chronic conditions, such as heart disease, diabetes, and cancer. Physicians and other medical professionals are often called upon to provide nutritional guidance and therapy concerning disease and disease prevention. However, some reports suggest that nutrition education for physicians remains inadequate (11, 12). Even psychologists, often with little nutrition training, give out nutrition advice. How should a health and fitness professional sort through this complicated situation?

NASM-certified personal trainers possess a fundamental knowledge of the human body, physiology, anatomy, and the basics of nutrition. Many have also completed continuing education to better understand the relationship between nutrition and physical performance. According to the Academy of Nutrition and Dietetics, "If a health and fitness professional does not hold a recognized nutrition credential, they can provide general, non-medical nutrition information" (6).

Evidence-based general information can be very helpful and provide a great deal of freedom to talk about nutrition and educate clients about healthy food choices (for example, the difference between unsaturated and saturated fats). Nutrition counseling to treat medical conditions should be avoided because this is out of the scope of practice for those who do not have the proper credentials. However, as noted, laws vary by state, so it is important for fitness professionals to contact a state regulatory agency to determine the laws and guidelines that are pertinent to their workplace.

If health and fitness professionals want more information about nutrition, they can locate qualified CEU providers or take courses at accredited universities that offer degrees in nutrition. A bachelor's degree in nutrition requires four years of full-time study, but many universities and community colleges allow students to take single courses. Health and fitness professionals also have a wealth of information at their fingertips (legally and ethically) in the publicly available domains, such as www.choosemyplate.gov, and health.gov/dietaryguidelines.

Use the Tools

Using nutrition facts panels and referencing the Dietary Guidelines for Americans are excellent ways to provide nutrition guidance that is well supported by science and public health authorities.

Although these guidance tools will be exceptionally useful the majority of the time, there will be situations that are outside of a health and fitness professional's scope of practice. Legal and ethical experts say the best way to begin managing these situations is to ask a few basic questions: Could this person be better helped by someone with more (or different) expertise? Does this person's nutrition concern fall outside the realm (physically and/or psychologically) of a healthy individual? Do I feel any discomfort with my ability to help this person? If the answer is "yes" to any of these questions, it is the health and fitness professional's ethical responsibility to refer that person to a licensed or registered dietetics professional.

An excellent resource for finding a registered dietitian who is geographically close to the member is the Academy of Nutrition and Dietetics' "Find a Registered Dietitian" referral service at www.eatright.org/iframe/findrd.aspx. At this website, clients can input their ZIP code and select a location range (1- to 100-mile radius) to find conveniently located nutrition professionals. The search can also be narrowed by type of service (i.e., individual, group, or programs/workshops), as well as by specialty, such as sports nutrition and weight control. Health and fitness professionals should also access this database to identify RDs to whom they can refer clients. Health and fitness professionals should request a brief phone meeting, or preferably a face-to-face meeting, by way of introduction. The more complete and reliable the network of health professionals, the better the service being provided to the client. Additionally, for cross-networking purposes, many RDs can serve as a valuable client referral source as well.

Eating Disorders

Eating disorders are psychological diseases with potential medical and nutritional complications. They are also the most lethal of all the mental health disorders, associated with significant morbidity and mortality (13). If a health and fitness professional suspects an eating disorder, including a burdening emotional discomfort from body image or weight-related issues, the client should be referred to an eating disorder specialist. Unlike making a referral to a nutrition professional, making a referral to a psychiatric professional can be sensitive and difficult. The person will very often deny or become defensive about the problem, and the health and fitness professional risks alienating the person, losing the individual as a client, or both. Often health and fitness professionals will refer the person to a licensed/registered dietitian or nutritionist, and then the dietitian must refer to a psychiatric professional to assume diagnostic responsibility. Although dietitians and nutritionists with experience in this area are often part of treatment teams, their code of ethics directs them to ensure the person is also receiving qualified psychological care. Health and fitness professionals

should be familiar with their facility’s policy for this type of intervention. If the health and fitness professional is a sole practitioner, he or she should make several referrals to qualified therapists and document these referrals.

Documentation

Regardless of the area of consultation (fitness, nutrition, weight management, or handling a suspected eating disorder), health and fitness professionals should document their transactions and client participation. If there is ever a question about the health and fitness professional’s expertise or conduct, a detailed record might be required. In the case in which the client has a network of health professionals working together, excellent documentation to help coordinate these relationships is extremely helpful.

The SOAP note is a standardized format that is used by most health professionals. SOAP is an acronym for subjective, objective, assessment, and plan. In the subjective note, the client’s current condition is recorded in narrative form in the client’s own words. The objective portion of the note includes objective findings that can be measured (weight, body fat, or the results of fitness tests). The assessment is a quick summary, putting together the subjective and the objective components. The plan details the course of action, which details what the health and fitness professional plans to do next. See Table 11.1 for an example SOAP note.

Addressing potential health risks by having a client fill out a Physical Activity Readiness Questionnaire (PAR-Q) is equally important and should be included in the documentation (Table 11.2). If a person answers “yes” to any of the questions, additional questions

Table 11.1 Example SOAP Note

S	Subjective
	The new client complains that it feels “too hard” when he walks on the treadmill at 3.0 mph, and he reports it takes awhile to get his breath back.
O	Objective
	After completing the 3-minute step test, the client scored in the “fair” range. This indicates the client should start with low-intensity cardiorespiratory exercise (i.e., 65% of HR max).
A	Assessment
	When the client walks on the treadmill at 3.5 mph, his HR is well within predicted ranges. It may be that he has a high perception of effort because he is a new exerciser and not used to the feeling of cardiorespiratory exertion.
P	Plan
	This client must be started at the stabilization level, and we will use only low-intensity cardiorespiratory exercise to build an aerobic base. We will use perceived exertion and HR monitoring to guide the cardiorespiratory portion of our sessions. I have explained to the client that it may take several months to progress to higher intensities, and that he should communicate to me everything he is experiencing during and after the exercise session.

Table 11.2 Sample PAR-Q

Questions	Yes	No
1. Has your doctor ever said that you have a heart condition and that you should only perform physical activity recommended by a doctor?	<input type="checkbox"/>	<input type="checkbox"/>
2. Do you feel pain in your chest when you perform physical activity?	<input type="checkbox"/>	<input type="checkbox"/>
3. In the past month, have you had chest pain when you were not performing any physical activity?	<input type="checkbox"/>	<input type="checkbox"/>
4. Do you lose your balance because of dizziness, or do you ever lose consciousness?	<input type="checkbox"/>	<input type="checkbox"/>
5. Do you have a bone or joint problem that could be made worse by a change in your physical activity?	<input type="checkbox"/>	<input type="checkbox"/>
6. Is your doctor currently prescribing any medication for your blood pressure or for a heart condition?	<input type="checkbox"/>	<input type="checkbox"/>
7. Do you know of any other reason why you should not engage in physical activity?	<input type="checkbox"/>	<input type="checkbox"/>
Adapted from Canadian Society for Exercise Physiology, www.csep.ca		

should be asked, and a physician should be consulted before a program begins.

All documentation must be kept private and confidential. Should a client want information to be released to an authorized party (i.e., another health professional, another trainer, or members of the client's family), the request must be provided by the client in writing.

Summary

Discussion with both fitness and nutrition professionals underscores how receptive these wellness providers are to linking nutrition and physical activity for optimal health. According to the ACSM/AND/IFIC survey, perceived obstacles to helping consumers achieve this link can be better overcome through the combined and collaborative efforts of those involved in both of these professions, in part by making each other aware of their respective resources. Partnerships among interested organizations can help further this effort and help all groups achieve the common goal of helping people adopt more healthful lifestyles.

Health and fitness professionals must comply with all legal and ethical obligations, obey all laws, and accept responsibility for their actions. They must document all communication, and maintain accurate and truthful records. Additionally, in the arena of weight control, health and fitness professionals must be prudent and vigilant about their scope of practice, which includes making referrals to a qualified professional when there is any doubt about their own qualifications. Eating disorders require an elevated awareness because of their high risk and high prevalence in fitness and weight loss environments.

References

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