A Weighty Issue: Dangers and Deceptions of the Weight Loss Industry

An investigative report by the New York City Department of Consumer Affairs

Mark Green
Commissioner
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"Obesity is a complex and frustrating enigma that disillusioned both patients and physicians alike. Sometimes I feel the morbidly obese patient is treated like an abused child -- nobody really cares about them until something tragic happens or until somebody can exploit them."

-- Peter Vash, President, American Society of Bariatric Physicians testifying before the U.S. House of Representatives, May 7, 1990

I. SUMMARY

Americans are big on dieting. Consider:

* The diet industry is a sprawling $33-billion-a-year business with 65 million Americans attempting to lose weight at any given time.¹

* Sixty percent of all women are usually dieting in some form and 18 percent of all adults are constantly dieting.²

* Half of all American women will go on a diet at least two times this year, and some as many as five or six times.³

* Twenty-five percent of all adults in the U.S. are "obese" – 30 percent above their ideal body weight – with 13 percent severely overweight.⁴

Medical experts agree that the best approach for losing weight permanently is slow weight loss and exercise. Nevertheless, one of the fastest growing segments of the diet industry have been quick weight loss centers, and, more recently, over-the-counter meal replacement powders that promise the consumer an easy way to shed pounds fast.

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¹ MarketData Enterprises, a research firm based in Valley Stream, N.Y., that conducted the extensive industry analysis: The U.S. Weight Loss & Diet Control Market¹989.
² MarketData Enterprises ¹bid. ¹bid.
³ Testimony of. C. Wayne Callaway, M.D., Associate Clinical Professor of Medicine, George Washington University and former Vice President, American Board of Nutrition, before the U.S. House of Representatives, Subcommittee on Regulation and Business Opportunities Committee on Small Business, March 26, 1990. Dr. Callaway co-wrote the 1990 federal Dietary Guidelines For Americans, and was a senior advisor for the Dept. of Health and Human Services’ Nutrition Policy Board, which created the Surgeon General’s Report on Nutrition and Health, 1988.
While low calorie regimens may take off weight, an investigation by the New York City Department of Consumer Affairs (DOA) has learned that they can also cause potentially serious health hazards and that weight loss centers fail to explicitly warn potential customers of these hazards. The same is true in advertisements for over-the-counter meal-replacement powders, which fail to warn that misusing the product can be hazardous to one's health or possibly even fatal.

Despite rosy promises of quick weight loss, too often it doesn't work, but it can worsen problems. In one study of 4,026 obese patients who went on the Optifast program, one-fourth dropped out within the first three weeks, and of the majority of those dieters who achieved significant weight loss, only 5 to 10 percent maintained their reduced weights after 18 months. "Most who are fat probably became fatter through the years because of extreme diets," says William Fabrey, founder of the National Association to Advance Fat Acceptance, a self-help organization headquartered in Sacramento, California. Many if not most of its 3,000 overweight members are experienced dieters.

Consumer Affairs researched three segments of the commercial weight loss industry: rapid weight loss programs in which the person fasts on liquid formula, supposedly supervised by physicians and hospitals; commercial meal-replacement powders; and commercial weight loss centers that restrict the diet through regimented meal plans. (This report does not address those seriously obese patients who are hospitalized overnight in their treatment for weight loss.)

DCA staff, posing as potential clients, called or visited 14 weight loss centers that restrict diet. We found:

1. Nine out of ten surveyed centers did not give advance warning or openly discuss the potential safety risks involved in their specific program or of rapid

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5 The Food and Drug Administration's April 1990 Consumer Guide reported the study published in The International Journal of Obesity by Marvin A. Kirschner, M.D.F. of Newark Beth Israel Medical Center, New Jersey, who tracked 4,026 Optifast patients.
weight loss in general, even when directly asked about possible health problems.

- Some weight loss centers attempted to sell their weight loss services to people who did not need them—including the underweight. One 5' 4," 111 pound woman who is considered underweight was told she could lose five pounds, which would have put her statistically at risk for certain medical problems. Another 5' 8," 130 pound woman was told she "could drop" 7 pounds; the fee would cost $100 a pound.

- Some centers are engaged more in quackery than medicine. At one clinic we were even told that gorging on certain foods could speed up the metabolism. Since there is no licensing or registration of diet counselors in New York, anyone can hang up a shingle and call themselves a "diet expert."

- There is little published evidence that people using these programs maintain their weight loss for any significant length of time. It is estimated that 90 percent of all dieters who lose 25 pounds in a diet program regain that weight within two years.

- Rapid weight loss and certain weight loss programs may lead to severe gallstone injuries. Rapid weight loss is thought to reduce the body's bile acid, which allows cholesterol levels to accumulate and form stones, according to medical studies.

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Some weight loss centers subject prospective customers to high pressure sales tactics that verge on harassment. At one center, a sales representative coaxed a 5'8, 144-pound woman, who would not benefit from losing weight, into agreeing she'd appear taller if she lost weight. When the woman didn't sign up, the sales representative called the woman three times to pressure her to join, until told to stop. She then resorted to writing the woman.

Obesity is a serious public health problem. In the past three years in New York City alone, 54 deaths were directly attributed to obesity, according to the New York City Health Department. In most of these cases, morbid obesity (being more than 100 pounds overweight) hindered the body's heart and lung capacity to function properly. "Pulmonary embolism related to venous thrombosis due to morbid obesity" and "cardiac arrest due to chronic obstructive lung diseases due to morbid obesity" were two typical autopsy findings. 8

There are currently no federal regulations to oversee the maze of diet programs out on the market, nor are there any minimum standards for operating such programs. Consumers often mistakenly believe that diet clinics are licensed, but, in fact, they are not regulated by any state or local authority.

To avoid the deceptions and dangers documented in this report, the Department of Consumer Affairs will propose a new New York City Consumer Protection Regulation to:

1) require weight loss centers to post a public notice warning consumers of the potential side effects and health risks associated with quick weight loss (under 800 calories a day) or with a particular program. The notice would also inform consumers that diets exceeding a two-pound-a-week weight loss have not been proven effective, and can result in a poor outcome.

8 Dept. of Consumer Affairs telephone interview with Chih Hwa, the Office of Biostatistics, New York City Department of Health, May 7, 1991.
or in limited long-term success. The notice would have to appear in promotional advertisements and all presentations so that prospective customers would be verbally informed in advance of the possible health risks.

2) require weight loss centers to keep ongoing records of the client drop-out rate to establish long-term data, and to make the figures available to prospective clients.

For people who want to lose weight, programs such as Weight Watchers can be acceptable routes to weight loss, as opposed to crash diets and severe regimens.

II. HEAVY CLIENTS = HEAVY PROFITS

Weight loss centers are big business, generating more than $2.3 billion in total sales, and annually catering to about two million people. 9 There are at least nine major weight loss services with scores of branches in the New York metropolitan region. 10 For consumers, weight loss centers can be very expensive to attend. They charge anywhere from a few hundred to thousands of dollars, depending on the particular program and the length of time the dieter remains on the program. Diet Center’s rates for a 20-pound loss are about $60 a week, totaling $540 for 9 weeks. We found one Diet Center in Manhattan that charged $100 a pound for a 7-pound weight loss with maintenance. At Nutri/System, costs run about $1,064 to lose 20 pounds on a 9 week plan, which includes the weekly purchase of food. With maintenance, it costs about $3,000 for a year. At Optifast, a 16-week program costs about $150 a

10 These include: Weight Watchers International Inc.; Optifast; Medifast; The Diet Center Inc.; United Weight Control Corp.; Nutri/System Inc.; Herbal Life; Dick Gregory Bahamian Diet; Slim Time Weight Loss Center.
week with $50 a week for maintenance. United Weight Control Corp.
costs about $550 a month. But DCA investigators posing as prospective
customers sometimes found they would be offered major bargains by
hesitating to sign up.

Weight loss programs are divided into three major treatment
categories:

1) Medically-supervised liquid diets: those rapid weight loss programs in
which the patient stops eating and instead drinks a formula-supplement
dispensed by a physician. The dieter may fast on the formula for up to
three months at a time. Optifast, Medifast, and HMR are three such
formula products sold to physicians, hospitals, and clinics.

2) Powdered-formula products that can be purchased over-the-counter
and are typically sold at drug stores and supermarkets. Ultra-Slimfast
and Dynatrim are two popular brands. They are similar to the physician-
dispensed powders, but unlike the medically-supervised programs,
these products are only supposed to replace one or two meals a day.

3) Commercial weight loss centers without medical supervision. In
these programs, the dieter eats solid foods and his/her daily number of
calories is typically restricted through a regimented meal-plan. The
weekly rate of weight loss varies depending on the individual program.
Diet Center, Nutri/System and Jenny Craig are three such popular
programs.

There is huge competition for patient dollars between these rival
approaches and companies. At their height in 1989, the manufacturers
of Optifast and HMR — two physician-sponsored liquid formula
programs — were taking in a combined $600 million a year, controlling
about 75 percent of that market.11 Since the late 1980s, however, sales
have been climbing for over-the-counter diet powders, according to

MarketData Enterprises, a research firm that has extensively analyzed the industry for the past two years.

Citing figures from the trade publication *Chain Drug Review*, MarketData director John La Rosa told us that sales for meal-replacement powders were up 28 percent, totaling $1.3 billion in sales last year. La Rosa also cites Slimfast's own figures, which claim 20 million users.

Sales rely on the high volume of clients who diet at any given time. Diet Center Inc. counts 5 million customers since its inception in 1971: even if many dieters drop out, many more are joining. Nutri/System catered to 300,000 customers every week as of 1990. There are 1,600 Nutri/System centers nationwide: the majority are franchises owned by individual business groups.

In addition to drawing sheer numbers, these programs have been assured the golden opportunity of repeat sales - virtually guaranteed precisely because the majority of dieters don't keep off the weight. Chronic dieters invariably try more than one program.

While the range of services that diet programs offer varies, so do the experience and qualifications of the people who run them. In the liquid diet segment in those medically-supervised programs, the qualifications of the doctors may run the gamut of experience: some weight loss physicians are seasoned physicians with advanced training in nutrition while others may have only received rudimentary nutrition courses at a medical school. Some programs offer nutritional counseling by registered dieticians; others use nonprofessionals such as ex-clients.

Generally, people who sign up to slim down at a weight loss clinic are led to believe they are receiving a health-care service. But in such a commercially-driven atmosphere, too often the center's goal becomes sales, not health. Indeed, in Nutri/System Inc's franchise brochure, "Owning a Nutri/System Franchise," one franchisee was quoted on the brochure stating: "Money is the reason I became a Nutri/System

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12 Testimony of A. Donald McCulloch, *ibid*.; bariatrics is the medical specialty of weight loss.
franchisee. And now I have more money than I ever dreamed I could
make in a lifetime." (see Appendix A)

The drive to make sales may cause some companies to resort to
making false claims. On June 3, 1991, Stanford University and two rival
weight-loss companies filed lawsuits against Nutri/System Inc., charging
the company with false advertising. The ad in question cites a study
published by Healthline magazine, which ranks Nutri/System as No 1.
compared to other well-known weight loss programs. Stanford officials
say the ads mislead readers into thinking the study is based on research
sanctioned by Stanford, which has no official connection either with the
study or with Healthline. 13

The huge growth of this unregulated industry in the past decade
and the rising tide of questionable practices regarding these services
prompted Congressional hearings last year by Representative Ron
Wyden (D.-Ore.), chairman of the House Subcommittee on Regulation,
Business Opportunities and Energy. Wyden warned: "Most commercial
clinics promise fast, safe, easy weight loss. Most experts agree that fast
weight loss is dangerous in and of itself. Further, little research has been
done to show what does and does not work for each individual."14 In
1989, a special Task Force assembled by the Michigan Health Council
warned that the weight loss industry was placing citizens at significant
health risk.

Even diet programs affiliated with physicians and hospitals (those
programs that do not require the patient to be hospitalized) may be more
interested in generating profit than providing quality treatment. Diet-
powder manufacturers producing HMR formula and Medifast, for
example, sell their programs to individual doctors while Optifast is sold
to hospitals. Franchises make a direct appeal to a physician's
entrepreneurial spirit, as shown by the income prospectus circulated by
Medifast Inc. boasting that doctors could make potential earnings of up
to $15,000 a month from a quota of 15 patients on the Medifast plan.15

Issues involving weight Loss Programs, Subcommittee of Regulation, Business
Psychiatrists have also gotten into the sideline business of putting patients on Medifast, another meal replacement fasting plan. Medifast Inc. does not determine whether psychiatrists have any training in nutrition or bariatrics.  

III. HOOKING THE CLIENT

Overweight people are susceptible to sales come-ons because many are often so desperate to lose weight. Their desperation isn't fuelled so much by the fear of health risks from obesity — only one in ten people is dieting for health reasons. Most people make headlong rushes into rash diets for cosmetic purposes given the tremendous stigma attached to being fat in society.

Fat children are teased and ridiculed by their peers. On the bus, in the schoolyard, and the gym class — the fat child cannot escape torment from schoolmates. While most fat children won't suffer the fate of Piggy in "Lord of The Flies," the trauma overweight children suffer is very real. As one 32-year-old Manhattan man, who has battled a lifelong weight problem, recalls:

I was 11-years-old and already extremely self conscious about being overweight, especially while wearing swim trunks in public. In swimming class as we walked down the length of the pool to our positions, I suddenly felt extremely conspicuous and vulnerable as murmurs of my being pregnant and whatnot surrounded me.

By the time the fat child becomes a fat adult, this felt derision has turned psychologically inward. "Slob," "glutton," "fatso"— the words hurt because the fat adult now believes them, blaming him or herself for their medical condition.

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16 Testimony by William Vitale, M.D., Ibid.
17 Dr. C. Wayne Callaway, testimony before U.S. House of Representatives, March 26, 1990.
The daily barrage of commercials and television shows emphasizing thinness as an ideal reinforces the message that overweight people don’t fit into society. From the blitz of media messages, it would appear that only the thin are loved, accepted and respected; that only the slender go on dates, take Caribbean vacations and make good decisions about what bank to use.

In their shame and embarrassment, many overweight people are driven into isolation. Their vulnerability makes them easy targets for diet services promising quick results and an end to their low self esteem. As Rep. Wyden warns, "Desperation for quick weight loss can cause consumers to make bad choices based on scant knowledge." 18

Our national preoccupation with maintaining the ideal body image obsesses even the bone-thin. Today, fashion models are, on average, about 16 percent underweight. 19 Despite the comeback of curves and shapely figures, unrealistic body images are still in vogue. Fashion designers traditionally have used only size "6" and "8" as the standards. At the Fashion Institute of Technology in Manhattan, tomorrow’s leading fashion designers learn that sizes "10" and "12" are in the "plus" range. 20 The obsession to diet starts early. In some schools, up to 80 percent of 10-year-old girls attempt to control their weight by restricting their food intake. 21 People who have developed distorted body images never believe they are at the right weight, even if the scale tells them so. As we will show, some weight loss clinics, rather than challenging people who have distorted body images, will exploit them instead to make a sale.

A variety of psychological methods are used to sell weight loss programs. In the past, scare tactics such as the "Obesity is a Death

20 The Fashion Institute of Technology in Manhattan recently started designing for size 10's and 12's, recognizing them as "plus" sizes.
21 The study, "Disordered Eating Characteristics in Preadolescent Girls," released October 28, 1986 by the University of California, San Francisco, involved nearly 500 girls in grades four through 12 in San Francisco schools. The findings showed that distortion of body image was common among the girls. Fifty-eight percent perceived themselves as overweight, but analysis of height and weight data found only 17 percent actually were. The majority of girls viewed weight loss as a means to improved self-esteem and appearance.
Sentence ad by Optifast were commonly deployed (See Appendix B). United Weight Control Corp., affiliated with the St. Lukes/Roosevelt Hospital Center in Manhattan, has used a telephone marketing strategy for developing rapport with potential clients. The strategy includes using the clients' first name to personalize the call and also advises making a friendly remark in the initial pitch to persuade potential customers into believing that the sales representative is taking a real interest in them.  

In the wake of last year's Congressional hearings and an ongoing Federal Trade Commission investigation of 13 major companies, many ads and telephone marketing efforts have since disappeared. What hasn't disappeared, however, are smooth-talking, over-zealous sales representatives who over-sell and under-inform potential customers checking out the service.

IV. THE HEALTH RISKS OF OBESITY - FROM BEING FAT OR FROM ITS TREATMENT?

34 million people nationwide are more than 20 percent over their ideal body weight: 19 million women are 27.1 percent overweight and 15 million men who are 24.2 percent overweight.  

Physicians generally agree that a person is considered seriously overweight, or "obese," when he or she is 30 percent or more above his or her ideal body weight. This medical problem is linked to many potential health risks including high blood pressure, high cholesterol and other complications that can lead to

22 United Weight Control Corp. Policies and Procedures employee manual's "Telephone Marketing, The Telephone Sales Call, Step 1: Establish Rapport," instructs sales representatives: "... asking and frequently using callers' names will personalize the interaction and reinforce your regard for them as individuals. Establish rapport through a friendly remark to make callers at ease and receptive to what you have to say." Chapter IX, page 2.

23 The National Center for Health Statistics based these figures on medical history questionnaires to families provided by the National Health and Nutrition Examination Survey 1976-1980.
stroke, heart disease and diabetes. Obese people are also more prone to developing gallstones.

But what is less known to consumers is that the treatment of obesity can also result in heart injury, gallbladder injury, and a host of other serious conditions.

Take the case of Fran Watynski, age 39 of Brooklyn, who lost her gallbladder after six months on the Nutri/System program. Watynski said she didn't know she was endangering her health when she signed up to lose 69 pounds at Nutri/System's 2035 Ralph Avenue location in Brooklyn on September 21, 1989. But after subsisting for three months solely on the pre-packaged Nutri/System food, she began to feel ill and complained of stomach and upper chest pains to her Nutri/System counselors. "They [the counselors] said 'don't worry about it'," Watynski recalls. "They walked around in white lab coats, but they never had real doctors there." The counselors instead encouraged her to continue purchasing the supply of meals at $70 a week.

Watynski continued the program and her pain continued unabated. In December, her personal physician performed a sonogram (ultrasound). The test did not reveal any gallstones. By March, however, Watynski wound up in a hospital emergency room. A second sonogram revealed that, within four months, she had developed gallstones. Two months later she underwent surgery to have her gall bladder removed.

Unfortunately, Watynski is not an isolated case, but one of about 30 New York diet victims alleging severe gallbladder injuries from the Nutri/system diet; 25 New Yorkers are suing the company, according to Richard Mcgowan, a New York City attorney with the firm, Rheingold and Mcgowan, investigating the cases. In one of the cases, a 15-year-old Long Island girl had to have her gallbladder removed at the Stony Brook Medical Center after a six-month rapid weight loss of 72 pounds on Nutri/System. In Florida, 72 cases have been filed against Nutri/System, with 100 additional cases due to be filed, all from people on the program who developed severe gallbladder injuries. Robert Fiore, a Miami attorney representing the cases, told us he has received approximately
2,000 calls across the country in the past four years from people who developed severe gallbladder problems while on Nutri/System.24

In the wake of the bad publicity, Nutri/System replied to the gallbladder injury cases in a series of ads last year that state: "Obesity – not dieting – is a major cause of gallbladder disease" (see Appendix C). While it is true that obese people are prone to developing gallstones, there are published studies showing that dieters develop gallstones on diets.25 According to Dr. C. Wayne Callaway, Associate Clinical Professor of Medicine at George Washington University, "heavier people have more cholesterol in their bile. With dieting, the bile acid concentration goes down which allows cholesterol to form stones." The bile acid known as ursodeoxycholic acid is given in medication to help dieters retain their bile acid, Dr. Callaway notes.26

"The reasons for dieters developing gallstones is not yet fully understood and more research is needed," according to Dr. Xavier Pi-Sunyer, director of the Obesity Research Center at St. Lukes/Roosevelt Hospital Center in Manhattan (not affiliated with United Weight Control Corp., also located at the hospital center). "There are some studies that suggest gallstones are more likely to form during the periods when you lose weight. There isn't a lot of data, but that is thought to be related to the increasing saturation of the bile and decreasing constriction of the gallbladder after a meal. There is also some evidence in the literature, although it's not conclusive, that the lower number of calories you're on, the more likely you'll develop gallstones."

The federal Food and Drug Administration (FDA) has also found a correlation between rapid weight loss and the development of gallstones in the obese, according to spokesperson Herman Janiger. The FDA investigated Nutri/System's food product and concluded that the food-

24 The Wall Street Journal article, "Lawsuits May Pound Diet Sellers," March 23, 1990, reported that the controversy generated by the Florida lawsuits could damage the earnings of Nutri/System's rival companies.
25 The Wall Street Journal article, "Lawsuits May Pound Diet Sellers," March 23, 1990, cited the study in the Archives of Internal Medicine, August 1989, which showed that in eight weeks of dieting on a 500 calorie diet, 25 percent of dieters developed gallstones as demonstrated by ultrasound exams of the gallbladder before and after the diet. In contrast, equally overweight individuals who did not diet showed no development of gallstones during that interval.
26 Dept. of Consumer Affairs interview with Dr. Callaway, May 28, 1991.
product, itself, was safe. But the investigation did not include a chemical analysis of the food, which is freeze-dried with additives.

Newspaper reports suggest that Nutri/System's problems really stem from its lack of medical supervision for its dieters. Many people who go on the program are severely overweight and therefore vulnerable to developing gallstones to begin with. Without physicians monitoring them, their symptoms go unchecked.

There has been particular concern with losing weight rapidly on liquid formula diets, which have seen a popular resurgence in recent years. In such diets, a woman typically loses 3 pounds a week and a man 5 pounds a week, cutting their calories to under 800 a day. In the most extreme low calorie diets, the person receives about 400 calories a day, usually in the form of a powdered drink, which is supervised by a doctor who typically monitors the patient once a week.

Weight loss occurs when the output of energy expended by the body exceeds the number of calories the person has available from food. The body uses its own fat reserves, but if weight loss is too rapid, the body will also draw from lean mass; when this happens, muscle and organ tissue is gradually lost. This loss can include the heart, which is a muscle. President of the American Dietetic Association Dr. Nancy Wellman, warns that, "the most significant drawback to these diets is the potential for life-threatening side effects...The loss of body protein – and here we are talking about lean body mass and we are talking about muscle tissue – may affect cardiac function and could be related to heart failure." 29

The health risks associated with low calorie diets have been the subject of debate since the 1970s, after 58 people suddenly died while fasting on liquid formula diets, such as the well-known Cambridge diet. While medical experts agree that current formula diets are better than the old formulas since they are of "higher biological value" (they use higher quality protein like eggwhite or are milk-based, and have

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28 A calorie is defined in the Random House College Dictionary's 1988 edition as a "unit equal to the kilocalorie, used to express the heat output of an organism and the fuel or energy value of food."
carbohydrates and some fat supplemented to meet recommended dietary allowances for vitamins, minerals and electrolytes), what the diet companies themselves do know is that health complications if not fatalities are possible with their diets. It is impossible, however, to know if sudden deaths are still occurring since there is currently no mechanism for tracking diet-related deaths.

United Weight Control Corp., a medically-supervised fasting program affiliated with St. Lukes/Roosevelt Hospital Center in Manhattan, spells out the dangers in the tiny type of an "Informed Consent For Treatment" contract that dieters sign when they embark on the program. It reads:

"Some reports have suggested a relationship between programmed diets and sudden death, probably due to irregularities of the heart. I understand that participation in this weight reduction program may entail a minute risk of fatal heart irregularities." 30

In addition to the potential side effects already mentioned, rapid weight loss can also cause:

* increased uric acid levels in the blood, which can cause or exacerbate gout or uric acid kidney stones

* electrolyte imbalance: excessively low levels of potassium in the blood, which may lead to cardiac arrhythmias

* anemia, characterized by fatigue, lassitude, weakness, pallor, reduced resistance to infection, lowered exercise tolerance and decreased attention span.

* Fibrosis of vital organs: an abnormal increase in fibrous connective tissue in the organs may occur with repeated attempts at weight loss using starvation methods.

* menstrual irregularities

* constipation

* dry skin

* temporary skin rash

* dizziness upon sudden standing

* unusual pressure in the nerve of the leg which can lead to numbness or loss of muscle power

* emotional stress, agitation, excessive anxiety or depression
* overeating
* dehydration
* hair loss (usually temporary)
* inability to maintain long-term weight loss

Some people repeatedly lose and regain their weight, called "Weight Cycling" or the "Yo Yo Syndrome." Medical authorities say that this can cause a person's body to physiologically resist further weight loss. Despite the fact many chronic dieters suffer this fasting/feasting syndrome, no attempts have been made to discern the health risks attributed to obesity from those attributed to weight cycling, according to eating-disorder specialist David Garner, a professor of psychiatry at Michigan State University. 32

In light of the medical evidence, is rapid weight loss safe? The American Dietetic Association (ADA) says that for some seriously overweight people, the benefits of a very low calorie diet might be worth the risks. These health benefits include reduced cholesterol levels, lowered blood pressure, and improved breathing in those with pulmonary problems. 33

In a published statement, the ADA notes: "Very low calorie diets are safe when properly administered in an appropriate clinical or outpatient setting. Potential clients must be adequately warned of limitations and risks involved with the VLCD." In light of the risks, the American Dietetic Association advises that only people more than 30 percent overweight should attempt losing weight fast, and only under strict medical supervision. 34

The ADA offers more criteria for rapid weight loss eligibility:

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33 ADA, Obesity & Health, March 1990.
* Patients should be free from medical conditions such as active cancer, insulin-dependent diabetes mellitus, hepatic disease, renal failure, cardiac dysfunction, or severe psychological disturbances.
* Infants, children, adolescents, pregnant women and elderly persons should be excluded.
* Candidates should be carefully evaluated by several members of the health care team including physician, nutrition professionals and a behavior therapist.35

V. FINDINGS: SIDE EFFECTS NOT DISCLOSED BY WEIGHT LOSS CENTERS

Although weight loss centers know of the health risks associated with major weight loss, they typically do not warn the person in advance or openly discuss the dangers with potential customers. In many programs, the consumer remains unaware of the potential side effects until he or she starts the program. At that time the consumer may be asked to sign the "Informed Consent" form that discloses potential health problems that could arise.36 The majority of weight loss centers did not warn DCA investigators about possible health problems from their programs, even when asked.

1 In a telephone conversation May 6 with an Optifast center at Flushing Hospital Medical Center at 45th Avenue, Queens, the sales representative told an undercover DCA "dieter" that there

35 American Dietetic Association, ibid.
36 In federal testimony last year at the Congressional hearings, William Rush, senior vice president of Sandoz Nutrition Corp., corporate parent of Optifast, Inc., admitted that patients learn of potential risks at the time they sign up for the program. "...patients are informed at the time that they begin the program in a process of informed consent about the kinds of usual temporary side effects, the possibility of gallstones developing."
were no potentially adverse side effects to the program for someone needing to lose 50 pounds.
"There's medical supervision throughout the program," she said. "We make sure you're kept healthy on the supplement. We've had great success." When prodded about possible gallstone problems, however, the sales representative responded: "The gallbladder situation is something that most people do have. We all have a certain amount of gallstones or whatever. The doctors will monitor you. We really haven't had a problem with gallstones. Actually the people who have developed gallstones had them before they came into the program. But it could happen. You could have gallstones that were undetected or very small."

When asked on April 15 about any health problems associated with the fast for a person needing to lose 60 pounds, the spokesperson at an Optifast center located at the Staten Island Metabolic Association replied: "None that we know of, and any of the minor effects that you might encounter are minor—completely minor."

On April 16, at a United Weight Control Corp., a liquid diet program at St. Lukes/Roosevelt Hospital Center, the sales representative initially denied any potential health risks linked with very low calorie diets. When prodded, however, she mentioned the possibility of "temporary hair loss" and "cold intolerance."

In a telephone conversation on April 11 at an Optifast center at 70th Street and Park Avenue, a DCA staff member was told that the program is "perfectly safe—especially the one [with the meal included]." The DCA person said she had to lose 20 pounds.

On May 8, at the Slim Time Weight Loss program at 19 West 34th St., a DCA staff member was told he was 18 pounds overweight and could lose 3 pounds—a week on the program. This rate of weight loss for people less than 30 percent over their ideal body weight is considered inappropriate and unhealthy by medical
authorities. Furthermore, the sales representative failed to determine if the staffer's weight was muscle or fat. No measurements were taken. In fact, the male DCA staff member, who is 5'9" and weighed 178 pounds, regularly works out and has a heavy musculature. People with leaner body mass have a tendency to lose more muscle than fat on a rapid weight loss program. But this potential risk was never discussed.

On April 13, at a Nutri/System center located at 110 West 86 Street, the sales representative failed to acknowledge any potential health risks, despite a written warning about the health risks of the program included on a health history form that the DCA staffer was required to sign before the sales pitch began. The sales representative promised that "It's absolutely safe," and reminded us of the necessity of being truthful when filling out the health history form to screen out potential problems. In a follow-up call on April 16th, the sales representative again denied any problems until prodded, when she disclosed a single incident concerning a person who entered into the program with a "kidney stone."

On May 1, at an in-person visit to an Nutri/System Center at 505 Eighth Avenue, the sales representative said there were no side effects and that the program was "absolutely safe."

On April 16th, a Medifast program at 68-60 Austin St., Forest Hills was one of the only centers to openly acknowledge health risks from fast weight loss. When a DCA staffer asked about possible side effects of the program, the physician in charge candidly addressed the potential health risk of gallstones. He said that there is medication to prevent gallstones from developing and that patients are monitored closely for this specific problem.

On May 14th, at a Medifast program called The American Institute For Nutrition and Diet, at 213-14 Union Turnpike, Bayside, the
sales representative said, when asked, that when and if any problems occurred, the doctor can change the diet to consist of more calories a day or put the person on a solid food program. The subject was dropped, until we raised concerns about gallbladder problems. The sales representative downplayed the problem of gallstones, saying that very few have had this condition.

VI. FINDINGS = EVEN CORRECT-WEIGHTED PEOPLE WERE TOLD TO SIGN UP

Rapid weight loss is totally inappropriate for consumers needing to lose only 10 or 20 pounds. Quick weight loss centers are supposed to weed out the moderately overweight, because their bodies could lose too much lean body mass – muscle tissue – on a drastically reduced diet. According to Dr. Theodore Van Itallie writing in the Journal of the American Medical Association:

As previously noted, mildly obese individuals lose more lean body mass (per kilogram of weight loss) in response to severe caloric restriction than do the severely obese. Large losses of lean mass in dieters can have disastrous consequences, including disturbance of cardiac function and damage to other organs. The majority of severely obese individuals appear to be at least partly protected against such events by their large fat stores and superior nitrogen retention, as well as by their significantly increased lean mass relative to the less obese.37

Dr. Van Itallie is the chief medical advisor at United Weight Control Corp., affiliated with St. Lukes/Roosevelt Hospital Center. Although he warned against rapid weight loss for the moderately overweight, a DCA staffer 20 pounds overweight was not rejected from

the United Weight Control Corp. orientation on April 16. The sales representative said a person needing to lose 15 or 20 pounds would initially be put on a 600 calorie diet that could be increased to 1,300 calories over the course of the 10 week "core" phase of the diet.

In the hard times of the current recession, some weight loss centers even seek to profit from even the underweight, by coaxing them to sign up. Here's what happened to five normal weight DCA staffers when they visited popular weight loss centers.

A. Told to Drop Beneath Ideal Weight To "Feel Better About Yourself" At The Cost of $100-A-Pound.

On April 30th, a sales representative from a Diet Center at 156 Fifth Avenue told a 5' 8" DCA staff member weighing 130 pounds that she was five pounds overweight, and could afford to lose 7 pounds. This advice ran counter to DCA staffer's personal physician who confirmed that she was already at her ideal weight and that she didn't need to lose any more weight. Moreover, the 7-pound loss would have put her several pounds beneath the ideal target weight even on the sales representative's own chart. The cost of the program: $100 a pound, or a total of $710 with maintenance. When the DCA staffer declined to sign up, the sales representative resorted to a very high pressure sell, repeatedly telling the DCA staffer that she would feel better about herself if she "got going" with the program. The sales representative then offered reduced payments as a further incentive to sign up.

B. Underweight Person Given Special Discount To Lose More Weight.

On May 2, a sales representative from Nutri/System at 211 East 43rd St. introduced herself to a female 5' 4" DCA staff member weighing 111 pounds and asked: "Why are you here? You look so thin." The DCA staffer claimed she had gained 7 pounds last year and wanted to lose weight to fit into her summer clothes. The sales representative did not challenge DCA staffer's claim that she needed to lose weight, but instead took her height, age, wrist size, hours per week of physical activity, and
weighed her. This information was entered into the computer. Noticing that the DCA staffer was already five percent below her ideal weight of 116 pounds—according to the chart—the sales representative continued: "I can allow you to lose five percent of your ideal weight, which means you can lose five pounds." Nutri/System's advice ran counter to DCA staffer's personal physician, who suggested that she gain weight, after an exam determined that she was a few pounds underweight.

According to obesity specialist, Dr. Callaway, if the DCA staffer were to drop any more weight she would statistically be at risk for menstrual irregularities and osteoporosis.

Nutri/System's own computer showed that the 5-pound weight loss would have put her ten pounds under the program's recommended weight. When the DCA staffer declined to sign up, the sales representative offered to reduce the program price from $400 to $300, but only if the DCA staffer signed up by 2 p.m. on the following day. As the staffer got ready to leave the Nutri/System office, the sales representative turned to her and said, "It doesn't matter what the charts say. You know what your ideal weight is, what feels good for you. If that's the weight that feels right for you, you should go for it."

C. Finds Her Fit But Tells Her To Diet Anyway.

On May 1, a sales representative at Nutri/System's 505 8th Avenue location told a 5' 8" DCA staff member weighing 144 pounds that she was 17 pounds overweight, even though the sales representative noted more than once that she looked "athletic," even "Olympic," that her eating habits seemed "disciplined" and healthy, and that she looked good enough to "be a representative of Nutri/System."

The Nutri/System sales pitch that follows is the type employed to persuade both fat and thin people to sign up. The prospective customer is asked to compare before and after pictures of a person who had lost weight on the Nutri/System program:

Sales Rep: "What do you notice that's different in the second picture?"
DCA Staffer: "The woman appears to be taller in the second picture. Maybe the photographer is taking the picture at a different angle."
Sales Rep: "Yes, and what else is different about her?"
DCA Staffer: "Well, her posture appears to be different."
Sales Rep: "What else? Would you like to appear taller?"
DCA Staffer: "Yes"

Later, this Nutri/System representative called the DCA staffer three times to pressure her to join until the staffer told the representative to stop calling. Afterward, on May 14, our investigator received a letter from the sales representative offering an additional $200 savings if she would join.

D. Tells Him To Lose 18 Pounds – Of Muscle.

On May 8, a male DCA staffer – 5'9" and 178 pounds – visited the Slim Time Weight Loss Center on 19 West 34th Street, and was told he should lose 18 pounds. No measurements (other than weight) were taken to determine if the DCA staffer's weight was fat or muscle. In his case, muscle would have been lost: he regularly works out and has a heavy musculature.

E. Tells Him to Ignore Ideal Weight Chart To Lose 8 Pounds.

On May 31, a male DCA staffer – 5'11" and 142 pounds – visited Diet Center at 132 Nassau St., and claimed he had gained weight and couldn't fit into his clothes. Instead of turning him away because he would not benefit from losing weight, the sales representative told him he could lose 8 pounds in two weeks. This was 12 pounds lower than the ideal weight on the representative's own chart. The sales representative told the DCA staffer to ignore the chart because "your clothes let you know what's right."

That amount of weight loss would have put the DCA staffer underweight at 134 pounds. That rate of weight loss is considered dangerous because he could lose muscle.

To their credit and the public's health, two rapid weight loss clinics rejected outright the above DCA staff members as too thin for their weight loss programs. These were an Optifast center at New York
There is growing concern among medical authorities that moderately or slightly overweight people are crash dieting on over-the-counter diet powders to lose weight fast. These formulas, such as the popular Ultra Slim Fast and Dynatrim, can be dangerous if they are not used in conjunction with solid food on a daily basis. People relying solely on the drink to supply their total daily intake of calories and nutrition may seriously be jeopardizing their health. As stated earlier, very low calorie diets require close medical monitoring, and even with monitoring, there are some serious risks involved.

VII. TRAINED OR UNTRAINED WEIGHT LOSS PRACTITIONERS.

Besides the safety problems with certain diets, another shortcoming of weight loss centers is that some diet practitioners aren't really diet specialists at all. Bona fide weight loss experts are physicians that receive advanced training in nutrition at one of the nation's 50 accredited nutrition training programs.

Regular M.D.s are generally not qualified to practice weight loss treatment because the majority of physicians do not have adequate training in nutrition, according to the Association of American Medical Colleges in 1984. 38

Last year's Congressional hearings documented that diet companies have no tracking mechanism to ensure that doctors selling their product are qualified or can provide quality care. It is left up to the individual physician, who may or may not have training as a weight loss specialist.

In non-physician programs, the terms "diet expert" or "counselor" do not necessarily mean the person is either a professional or experienced in weight loss treatment. New York does not require weight loss personnel to be licensed; literally anyone can open a clinic and call themselves a counselor. Some programs' practitioners, such as those at Nutri/System, get a one week crash course. For the consumer, there is little way of knowing beforehand if a program is run by rank amateurs or professionals, unless one asks about the practitioner's qualifications.

Here's a sampling of some of the scientific quackery our staff experienced:

At a Slim Time Weight Loss Center at 19 West 34th St., the sales representative claimed that the secret of permanent weight loss was in filling the stomach on a specific combination of foods that would increase the body's metabolic rate by forcing the stomach to digest the extra quantity of food quicker. A male DCA staff member was told he could lose 18 pounds through this method. Medical specialists in the field, however, assert this scientific-sounding claim is nothing more than quackery. They say there is no specific combination of foods nor high quantity of foods that can speed up the metabolism.

At a Diet Center at 132 Nassau St. on April 16th, a sales representative told us that their maintenance program would help "close up" the fat cells. In her words: "You can close them up - you can never get rid of them." This statement is partly true and partly false. It is true that people who develop fat cells as children can never get rid of them. But contrary to what the Diet Center representative said, these fat cells can never "close up." Medical diet experts say that fat cells don't close. The cells shrink down a little, but people who were overweight as children have a harder time maintaining weight loss because they have an overly large number of fat cells.

The lack of minimum standards for regulating weight loss centers allows every shade of medical treatment ranging from the good to the
awful. One program may offer real help while another may provide nothing more than token care.

This was the case of David Kiley, a 28-year-old who has both covered the industry as a writer for *Adweek* and experienced it firsthand as chronic dieter who is about 100 pounds overweight. Kiley's experience at two branches of United Weight Control Corp. shows how widely the quality of medical care can vary.

At a United Weight Control Corp. program in Roseland, New Jersey (now defunct), Kiley said he received individualized attention and quality treatment from the physicians and nurses monitoring the program. But he said his confidence in his medical care was badly shaken when he was later transferred to a sister affiliate at St. Luke's/Roosevelt Hospital Center in Manhattan. "Three nurses were chatting among themselves about personal things while they were taking my blood," Kiley recalls, "and because no one was paying attention, they missed the vein in my arm. It hurt like hell." Kiley's confidence eroded further that day when he told the program's weight loss physician about a rash on his midsection. Like many overweight people who experience skin irritations due to clothing, Kiley's skin had become irritated by a belt he had been wearing. Because the problem was related to his weight, Kiley told the doctor, who would not help him, but responded: "See a dermatologist." Kiley, who entered the program believing he was paying for medical care related to weight problems, dropped out that day.

Kiley also sought out the services of an Optifast program, where he fared no better. At the Edison, New Jersey Optifast branch, he attended group meetings to learn about nutrition. "The woman was leading a discussion on what to do to make summer more comfortable," Kiley relates. "The woman suggested that we stay in air conditioning to stay as cool as possible. I went to four years of college to find that out? The discussion did not get any deeper than that." Kiley dropped out of that program too, without losing weight.

We interviewed three nurses from St. Luke's/Roosevelt Hospital Center who worked at the United Weight Control Corp. program there in the late 1980s. They each separately confirmed that the hospital management took an "assembly-line oriented" approach to the medical
monitoring of patients. As one nurse put it: "The majority were rushed through there like cattle. We were under pressure not to talk. It is very hard to draw somebody's blood like that under pressure. These people were getting stuck every other week. It's very difficult to find their veins." The nurse added however, that "for those people in a high risk category, it was helpful." Another nurse said, "They treated everyone really poorly. If you ran out of money, they wouldn't let you continue."

The three nurses said they left the program disheartened by the lack of quality treatment the patients were receiving.

Nearly all weight loss centers offer some form of nutritional counseling and behavior modification in their program's approach to weight loss. But until regulations are established creating minimum standards, the consumer has virtually no way of knowing whether their choice of a clinic will result in good or worthless treatment.

VIII. KEEPING THE WEIGHT OFF: A TEMPORARY DISAPPEARING ACT?

Studies show that most dieters regain their weight. There is a lack of demonstrated long-term benefits of very low calorie diets. Sales representatives typically lead consumers to expect that their program will succeed on a long-term basis even if others have failed. But in reality, no weight loss program can guarantee long-term success because programs do not monitor past clients on an ongoing basis. One may argue that keeping track of past clients isn't necessary; if the client faithfully follows the program, he or she will learn how to maintain their weight loss. But research shows that very low calorie diets fail because of the body's own physiological adaptation to a reduced caloric intake - not because the dieter returns to bad eating habits.
Dr. C. Wayne Callaway says that when a person reduces on a very low calorie diet — which is a form of semi-starvation — three things happen:

1) In the first few weeks, water is lost, which is followed by salt and water retention, leading to what is called "starvation edema."

2) With semi-starvation, the resting metabolic rate — the number of calories burned at rest — declines. The body adapts to burn less calories because the person is eating less. If, for example, someone is eating 2,000 calories, that's what their metabolism is geared at. If they reduce their caloric intake to 1,000 calories, their metabolism rate slows to protect the body from starvation. If that person increases their caloric intake even slightly over 1,000 calories, they're going to gain weight because their body is geared to the lower metabolism, and also because of water retention.

3) Under-eating leads to over-eating. Human and animal studies show that food suppresses the appetite in a person who has been adequately fed but stimulates the appetite in someone who has been under-eating.  

According to Dr. Callaway, as much as two-thirds of the early weight loss on very low calorie diet regimens is due to water loss. "The dieter, of course, thinks the diet is working well," he notes.

Nowhere was the failure to maintain weight loss more dramatic than in the saga played out on national television of talk-show host Oprah Winfrey, who lost 67 pounds by fasting for four months on Optifast, then subsequently regained most of her weight over the course of the next two years. In a November 1990 show entitled, "Pain of Regain," Winfrey swore off dieting forever. She said she had blamed herself for regaining weight. But the craving for food following prolonged deprivation is reported by many dieters. Medical research, as noted above, suggests that the craving takes place because the body responds to severe food deprivation by overeating.

A plan for long-term maintenance is nearly always stressed by the weight loss centers. What is not discussed, however, is that studies have

40 C. Wayne Callaway, M.D., ibid.
shown that the majority of overweight people who lose weight regain it back within a few years. This has led the Michigan Department of Public Health to conclude: "No responsible program will guarantee that weight loss and maintenance will be successful."

In studies of fat people who go on very low calorie diets, the results for long-term maintenance are very poor, according to Dr. Ernst Drenick, an obesity researcher with the Veterans Administration Medical Center in Los Angeles, who tracked 100 morbidly obese men and found that nearly all regained their weight following a severe diet.

Weight loss centers often claim their success lies in helping the client change their behavior for life. They offer behavior modification classes to help the dieter learn, for example, what emotional cues trigger overeating. But the fact remains: there are no long-term studies to back up the claim that behavior modification works over the long haul, according to the American Medical Association's Council on Scientific Affairs. The findings of one five-year follow-up of 36 individuals who participated in a behavioral program for obesity showed a typical pattern of regaining all the weight lost during treatment.41

Diet programs will argue that their own studies show the weight loss is maintained. What the programs do not so readily indicate is that the studies are not long-term. Most only gauge the dieter a year or less after the weight loss, according to Dr. Callaway. Medical authorities say a year is not long enough to determine if the program has really worked or not, and may only indicate one phase in a weight cycling pattern.

There are a number of hypotheses for why maintenance doesn't work. According to one theory, people are genetically predisposed to a certain pre-set weight level, which their body will strive to attain no matter what.

The role that fat cells play is also under consideration by researchers. It is known that people who were fat as children have more fat cells as adults than do those who were thin children. The impact of the fat cells may contribute to the never-ending struggle chronic dieters face to maintain their ideal weight.

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Another school of thought focuses on overeating as an emotional disorder, triggered by stress or other emotional cues. For some sufferers, the urge to overeat has all the hallmarks of an addiction. A food addict may be armed with knowledge about nutrition and may know behavioral modification techniques that diet programs teach—such as going for a walk rather than turning to food under stress. But all the knowledge proves futile when the person feels the compulsion to overeat.

Obesity researcher Dr. Ernst Drenick believes that the uncontrollable urge to overeat is harder to conquer than any other type of addiction, including alcohol and hard drugs. "You don't need to have drugs—no matter how long you go without food, you always have to return to it," Drenick explains. "The trigger for eating always occurs."

Food may be used as an emotional comfort and a way of alleviating anxiety. There is some physical evidence to support the feeling of relief that occurs during overeating. Studies show that the consumption of carbohydrates triggers the release of the chemical, serotonin, in the brain which acts as a natural sedative.

Some overeaters follow gorging by purging. The person induces vomit or uses laxatives or diuretics. This emotional disorder, only recently recognized, is known as bulimia.

IX. WHAT WORKS

While more research needs to be done to understand the complexities behind overweight and overeating, it is generally recognized that slow, steady weight loss along with exercise increases the likelihood for long-term success, rather than severe dieting.

There is disagreement over what constitutes a safe rate of weight loss. Some physicians recommended no more than a two-pounds-a-week. The National Council Against Health Fraud, a national nonprofit health agency, recommends that a person not lose more than one percent of their total body weight per week. For example, a 200-pound
person could lose two pounds a week, or a 150-pound person, 1.5 pounds a week. The 1990 federal Dietary Guidelines For Americans encourages no more than a half-pound to one-pound a week weight loss. A half-pound a week weight loss can be achieved if a person cuts out 200 calories a day from their normal daily caloric intake. For a one-pound a week loss, a person would need to cut 500 calories a day from their daily intake. If a person, for example, eats 2,000 calories a day and wants to lose one pound in one week, they'd cut their daily calories to 1,500 a day. 42

What is clear from our study is that consumers need to use reliable sources who employ objective methods to determine a person's healthy weight.

There are four major techniques that weight loss specialists use to evaluate the amount of excess fat on a person:

1) electrical impedance - an electrical current that calculates the amount of body water, which determines the amount of body fat.

2) the Body Mass Index, a calculation that correlates a person's height and weight to a specific number; if the number is above 28 as determined on the BMI graph, the person is considered overweight, and at risk for developing medical complications linked to obesity, according to the 1985 National Institutes of Health report on "Health Implications of Obesity." 43 The Body Mass Index, however, is not useful for body builders, professional athletes and others with heavy musculatures, because it does not distinguish between body fat and lean body tissue. 44

3) caliper measurements that test skinfold thickness to discern what percentage of fat a person is carrying on their body.

4) underwater measurements that correlate excess fat to the displacement of water.

A major controversy continues over the major weight tables currently in use for establishing a person's desirable weight. These include the two versions of the Metropolitan Life Insurance Height and Weight tables, from 1959 and from 1983, and the Dietary Guidelines for

42 Dr C. Wayne Callaway, interview with Department of Consumer Affairs.
43 "A New Tool For the Bariatrician," Herman M. Frankel, M.D., The Bariatrician
Americans issued last year by the United States Departments of Agriculture and Health and Human Services. The upper and lower weight limits differ between these tables. The controversy is over whether the tables – based on height, weight, frame size and sex – are too narrow a guide considering a person's age, and also whether the weight ranges are too rigid or too lenient.

The new dietary guidelines suggest higher weights, especially for people age 35 and older. For example a man or woman 6 ft. tall can weigh between 155-199 lbs, compared to the upper limit of 168 lbs for a medium framed man established by the 1959 Metropolitan table.

In the American Journal of Clinical Nutrition's May editorial, "New weight guidelines for Americans: justified or injudicious?," the authors argue against the new higher weights recommended in the new guidelines. They call for the government to immediately "cease the circulation of the current recommendations and compose a new committee qualified to consider guidelines for recommended weights."45

The authors believe the 1959 Metropolitan Table, which set the lowest weights, is probably the most accurate.46

One of the biggest limitations of the Metropolitan tables, however, is that they do not account for how much of the weight is fat – as opposed to muscle and bone – and also do not take into account where the fat is located. Another problem, which is less common, is that being too thin is associated with osteoporosis (bone loss) in women and greater risk of early death in both women and men.47

According to the dietary guidelines, there are three criteria for establishing a healthy weight:

45 The editorial was written by Walter C. Willett, Meir Stampfer, JoAnn Manson, and Theodore Van Itallie.
46 Their argument against the new weight tables is being rebutted by Dr. C. Wayne Callaway in the upcoming July issue of The American Journal of Clinical Nutrition. He responds that an individual must meet all three criteria for a healthy weight as outlined by the dietary guidelines. "The table of suggested weights for adults is not meant to be interpreted in isolation from the other two criteria," he says.
1) whether the person's weight is within the acceptable range for a person's height and age, as established by the Dietary Guideline's healthy weight table.

2) where the fat is located -- excess fat in the abdomen is believed to be of greater health risk than that in the hips and thighs.

3) whether the person has a special medical condition, such as diabetes or high blood pressure, which indicates a need to lose weight.

A person needs to meet all three criteria to establish their healthy weight. For example, if a person's weight is in the acceptable range, but he or she has a fat stomach, a weight reduction program should be undertaken.

People who chronically overeat need to find out what is triggering their behavior. Some food addicts have been helped to curb their overeating with the self-help program, Overeaters Anonymous (OA). It is based on the Alcoholics Anonymous program, in which sufferers meet regularly in a private setting to discuss their lives and support each other in their efforts to conquer their addiction. Other "emotional eaters" have benefited from psychotherapy, where the emotional problems underlying the compulsive need to overeat can be tackled.

For those overweight people looking for a way to get off the dieting merry-go-round, and accept themselves as they are, the National Association to Advance Fat Acceptance, headquartered in Sacramento, California, may be helpful. This self-help group has about 800 members in the New York region.

Exercise, along with a moderate diet plan, is considered one of the most effective routes to permanent weight loss. Exercise, after all, expends calories. Before embarking on any exercise program, however, it is important to be evaluated by a doctor.

Programs like Weight Watchers have succeeded for many. Dieters in such programs learn how to eat for life. They learn portion control, how to establish a balanced diet using regular foods, and how to be flexible in their diet. Such programs may offer group support, all at a modest fee.
Michigan has proposed legislation to regulate dangerous practices in the weight loss industry (House Bill 4430). The proposed bill requiring weight loss providers to post notices informing consumers that ultra low calorie diets may have poor outcomes and limited success. Consumers would also have to sign a similar notice before the service was provided. 48 The state Department of Public Health also supports developing a consensus within the medical community to set minimum standards for obesity treatment, and issued recommendations for obesity treatment standards this February.49

Diet powder supplements should be required to have warning labels disclosing the possible health effects of using the product. The Food and Drug Administration has the authority to control food products under the 1938 Federal Food, Drug and Cosmetic (FD&C) Act. It says that a food is considered a drug if therapeutic claims are made for it.50

But until and if the federal government takes corrective action, the Department of Consumer Affairs will be formally proposing a new Consumer Protection Regulation to help avoid the dangers and deceptions, often built into this industry.

First, the regulation will enhance consumer safety by requiring weight loss providers to disclose the health risks and adverse side effects of rapid weight loss in promotional material, advertisements, and in oral presentations. The same warning would also be conspicuously posted in the weight loss centers. The notice would additionally contain a statement saying that weight loss exceeding two pounds - a - week has not been proven effective for long-term weight reduction.

Second, the proposed regulation will require weight loss centers to establish ongoing records of their clients' drop-out rates. This track-record would be made available to prospective customers, thus enabling them to better select programs, based on an informed choice. This provision would increase the centers' accountability to the public and make weight loss providers more responsible for the outcome of the person's diet, rather than blaming the failure on the dieter.

Beyond such a first-ever legally required affirmative disclosure, the National Council Against Health Fraud warns that consumers need to beware of any program that implies dramatic rapid weight loss. The Council also warns against:

* Programs that promote extremely low calorie diets – those below 800 calories – unless under the supervision of competent medical experts.

* Salespeople misrepresented as "counselors" supposedly qualified to give guidance in nutrition and or general health. Even if adequately trained, such "counselors" would still be objectionable because of the obvious conflict-of-interest that exists when providers profit directly from the products they recommend and sell.

* Programs that require large sums of money at the start or require that clients sign a contract for expensive, long-term programs. Programs should be on a pay-as-you-go basis.

* Programs that fail to inform clients about the risks associated with weight loss in general, or a specific program being promoted.

The problem of obesity is a complicated area of health that requires more research to be more fully understood. Research needs to focus specifically on how to help dieters achieve long-term weight loss. Furthermore, the health problems that may result from repeated episodes of weight loss and regain need to be far better addressed by the medical community. Physicians and psychotherapists also need to become fully aware of the health and emotional difficulties that may arise from obesity and its treatment. Until then, a local rule requiring disclosure of key information by weight loss centers can help empower consumers to know when they should embrace or avoid diet programs.
Owning a Nutri/System Franchise.

Owning your own business is a goal you probably set for yourself a long time ago. Knowing you are your own boss is an exhilarating feeling. So is the prospect of earning more potential income for yourself, instead of for a corporation in which you have no personal stake. At this point, you have reviewed several franchise opportunities and are beginning to narrow your search for a business. Clearly, you want the challenge that can only come from being an entrepreneur.

You should be aware that Nutri/System offers the most comprehensive weight loss program available. You may even have a friend or relative who has successfully lost weight on our program. If you are like many prospective Nutri/System franchisees, you are aware of the enormous profit potential in the weight loss industry.

But do you really have what it takes to be a successful Nutri/System franchisee? For starters, ask yourself some of these self-assessment questions:

- Do you get excited about managing people?
- Does being involved with sales and marketing challenge you?
- Are you motivated to "getting the job done?"
- Do you thrive on owning a multifaceted business?

If all you are looking for is another job, Nutri/System is definitely not for you. If you are seeking a simple investment that will "take care of itself," you probably should look elsewhere. If you are looking for an easy way to set up a child or relative in business, Nutri/System is not appropriate.

Owning a Nutri/System franchise is not for dilettantes or dreamers. It is for high energy doers. If you want the challenges and rewards of owning your own business, earning the income that justifies your talents and making your own business decisions, then Nutri/System is the business opportunity for you. Being a Nutri/System franchisee is being part of the nation's largest network of professionally supervised weight loss centers. What a combination! Nutri/System's exciting track record and your talents as a Nutri/System franchisee.
That's because obesity is a disease. Sometimes, a fatal disease. Carrying an extra 50 pounds or more, day in and day out, can take years off your life. It can also contribute to heart disease, hypertension, diabetes, and cancer.

If you've tried everything and still can't lose weight and keep it off, you have one last appeal. The Optifast® Program. The proven medical treatment for the disease of obesity.

The Optifast Program is multidisciplinary, with expert medical, behavioral, and nutritional care. That's why The Optifast Program works. But it takes commitment on your part.

Take the first step. Decide that you want to beat obesity once and for all. Then come to one of the free, convenient Optifast orientations affiliated with a hospital near you. You see, obesity doesn't have to kill you. Because with The Optifast Program, obesity is a treatable disease.

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Appendix C

HOW CAN I BE SURE NUTRI/SYSTEM IS SAFE?

Consider these facts:

1. The Nutri/System® Weight Loss Program was designed to meet accepted principles of nutrition, health, and fitness for dieting. And through continuing research at some of the nation’s leading and most prestigious universities — as well as a constant review of the scientific literature related to weight loss and weight control — the Nutri/System Program is continually improved and refined to keep pace with the rapidly expanding knowledge in the nutritional and behavioral sciences.

2. Because of widespread and continuing misunderstanding about the relationship of gallbladder disease and weight loss, Nutri/System has commissioned two separate independent studies of the scientific literature on the subject. The first review, conducted by Edward R. Annis, M.D., confirms that obesity — not dieting — is a major cause of gallbladder disease. The second review is expected to be completed in January 1991. Nutri/System will continue to conduct relevant research in the vital areas of nutrition, health, and fitness, and will make these findings available to the public.

To receive a copy of the study, write:

Nutri/System Studies
P.O. Box 1525
Blue Bell, PA 19422-2332

3. During the past 20 years, some 3,000,000 adults have lost weight successfully on the Nutri/System Weight Loss Program. Among them, countless physicians and dieticians. These healthier, happier Americans know that the best approach to weight loss and weight control includes the essential elements of: (a) nutritionally-balanced diet, (b) behavior modification, (c) physical activity, and (d) maintenance.

At Nutri/System, these essential elements — plus 1100-1500 calorie per-day meal plans of real foods, including lean meats, poultry, cereals, breads, fruits, vegetables, and skim milk — are provided to you with personal service, our hallmark for 20 years.

If you would like further information about Nutri/System, please call us at this toll-free number: 1-800-321-THIN(TM).

1. See "#1 in a Series: What's All This Talk About Diets and Gallbladder Disease?"
2. Edward R. Annis, M.D., is former head of surgery at Mercy Hospital in Miami, Florida. Dr. Annis' position on gallbladder disease is the subject of "#3 in a Series: What's All This Talk About Diets and Gallbladder Disease?"
4. These calorie levels are based on daily averages for Nutri/System foods and grocery foods consumed during the weight-loss phase of the Nutri/System Program, and may vary according to an individual/customer's nutritional needs and taste preferences.
APPENDIX D: QUESTIONS TO ASK BEFORE SIGNING UP

1. Is this diet safe? What kinds of health problems can develop during this diet?
2. Do I get a refund if I drop out?
3. How much does the program cost in its entirety?
4. What are my chances for keeping the weight off permanently on this type of program?
5. Will you help me keep the weight off past the paid maintenance phase of your program?

We also suggest the following consumer guidelines to help protect dieters on weight loss programs:

* To avoid being lured into a diet by scientific-sounding hocus pocus, consumers should use only registered dieticians and those physicians who have a specialty in nutrition.

* Before you sign on the dotted line, ask your physician or a qualified diet expert for their independent evaluation of any program you are considering.

* To file a complaint about a weight loss center, contact the state Attorney General’s office at (212) 341-2345 or the New York City Department of Consumer Affairs at (212) 487-4444.

* For a copy of the Dietary Guidelines For Americans, contact the National Institutes of Health, Room 10 A 24, Building 31, Bethesda, MD 20892.
APPENDIX E: SYNOPSIS OF SURVEYED PROGRAMS

* United Weight Control Corp. headquartered in Manhattan, N.Y. A fasting program for rapid weight loss, physician-supervised; the patient consumes a powdered formula mixed with liquid five times a day, providing about 600 calories a day. A modified version, which includes solid food and a higher intake of calories, is also offered.

* Optifast manufactured by Sandoz Nutrition Inc., of Minneapolis, Minnesota. A fasting program for rapid weight loss; physician-supervised; patient consumes a powdered formula mixed with liquid five times a day, providing about 440 calories a day. A modified version, which includes solid food and a higher intake of daily calories, is also available.

* Medifast manufactured by Jason Pharmaceuticals, Inc., of Owings Mills, Maryland. A fasting program for rapid weight loss; physician-supervised; patient consumes powdered formula mixed with liquid 5 times a day, providing about 450 calories a day. A modified version, which includes solid food and a higher intake of daily calories, is also available.

* Nutri/System Inc. headquartered in Blue Bell, Pennsylvania. Meal-plan of pre-packaged, freeze-dried foods sold exclusively by Nutri/System Inc. The client receives about 1,200 to 1,500 calories a day. There is no medical supervision on this program.

* The Diet Center Inc. headquartered in Pittsburgh, Pennsylvania. Meal-plan in which women get 945 calories a day and men get about 1300. The diet restricts the number of carbohydrates and is supplemented by vitamin pills. There is no medical supervision on this program.

* Slim Time Weight Loss Center headquartered in Manhattan, New York. A meal plan that is supposed to speed up the metabolism through the combination and quantity of certain foods. No information available on the daily caloric intake. There is no medical supervision on this program.
Other major reports and petitions since January, 1990 by the Advocacy Division of the New York City Department of Consumer Affairs.

• Petition to the New York State Public Service Commission Advocating Prohibition of Directory Assistance Charges (April 1990), $2.00

• Home Equity Loans: You Can’t Tell a Loan by its Advertisements and All About Home Equity Loans (May 1990), $5.00

• Petition to the Federal Trade Commission On Cigarette Advertising Targeted at Children (May 1990), $4.00

• Travel Agents: Don’t Leave Home Without Checking More Than One (July 1990), $2.00

• Flights of Fancy: A Report on Deception in Airfare Ads (Summer 1990), $5.00

• Crisis and Solution: How A Decade of Federal Neglect Contributed to Today’s Oil Crisis (August 1990), $4.00

• Caveat Caller: Alternative Pay-Phone Abuses in New York City (September 1990), $5.00

• Ranking Banking: The 1990 Consumers Bank Scorecard (November 1990), $5.00

• Don’t Bank on Ads: A Review of Bank Advertising and Promotional Literature (December 1990), $5.00

• An Investigation of Hidden Pay Phone Charges (January 1991), $4.00

• Credit Card Rates: What Went Up Isn’t Coming Back Down (February 1991), $2.00

• Environmental Policy, Deceptive Advertising, and Degradability Claims (Policy Paper for issuance of violations, March 1991), $1.00

• The Poor Pay More...for Less, Part 1: Grocery Shopping (April 1991), $5.00.

• Making a Killing on AIDS: Home Health Care and Pentamidine (May 1991), $5.00

• Supermarket Survey on Misleading Cholesterol Claims (May 1991), $3.00.

Copies of these documents can be obtained by writing to the Communications Division, New York City Department of Consumer Affairs, 42 Broadway, New York, New York 10004. Please enclose a check made out to the Department of Consumer Affairs.