

Health Promotion Program Legal Updates

Webinar Q&A: June 17, 2020

The following questions were submitted during WELCOA's *Health Promotion Program Legal Updates* webinar session that aired on **June 17, 2020**. To help further educate yourself in legal compliance with your wellness program, please review this list of attendee inquiries and the responses provided by presenter and health law attorney, Barbara Zabawa.

****Please note: The responses provided below do NOT constitute legal advice and should not be used as such. Readers should retain legal counsel to obtain definitive answers. The responses below are for educational purposes only.**

1. What are your thoughts on a Health Coach also a dietitian providing suggestions for calorie counting specifics and weight loss?

As long as this falls under "general" nutrition education (see slide #12 for an example) – it should be fine.

2. If I am a wellness coordinator connected to the HR department and am a certified Integrative Health Coach who would like to provide coaching services to our employees, would I need to separate from the HR department for any reason?

That depends on your corporate policy on allowing employees to do "side hustles." If there is no policy, I would of course get permission, but I would also consider whether coaching employees with whom you have a working relationship would result in any conflicts of interest. You might find yourself having to fire or discipline one of your coaching clients, which may be awkward at best.

3. As a health coach, I bring resources such as recipes, exercise ideas, stress management handouts- is this out of my scope of practice to offer these resources/handouts during a coaching session?

Example with exercise ideas: General guidelines – such as those provided in the US PA Guidelines (see slide #9) is fine. Setting up an "individualized" exercise prescription would not be – this needs to be performed by an exercise professional who has knowledge/skills in health/medical screening, fitness assessments, and designing/delivering an exercise program based on the individual's health/fitness status.

See: ICHWC – Competencies of H/W coaches (more specific than scope of practice definition on slide #15).

<http://www.ncchwc.org/wp-content/uploads/2015/03/JTA-ICHWC-Feb-1-2017.pdf> (see item K-10 under Knowledge).

4. If you are a dietitian and acting as a health coach why can you not give dietary advice more in the scope of practice as an RDN? You said they had to be kept separate?

Keeping your dietitian practice and your health coach practice separate becomes important if you expand your practice outside the state in which you are licensed/registered as a dietitian. If you do not have a license to practice dietetics in another state, then you shouldn't be practicing dietetics in that state and instead providing health coaching services, which can be done across state lines, as long as you do not engage in the unlicensed practice of some other profession (including dietetics in that state).

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Q&A responses provided by
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Health Promotion Program Legal Updates (Continued)

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Some additional information from JoAnn Eickhoff-Shemek... Clarification on keeping a licensed practice separate from a health/wellness coaching practice: Example...

An organization or employer offers “nutrition coaching” that is provided by licensed dietitians. The question is what does this nutrition coaching entail?

- A) The nutrition coach/licensed dietitian provides “individual” assessments, counseling, etc. — practices similar to what the Ohio statute specifies (see slide #11)
- B) The nutrition coach/licensed dietitian provides “general” education – practices similar to what the Ohio statute specifies (see slide #12) – however, the general nutrition information may be more in depth than what a non-licensed health/wellness coach can provide given the licensed dietitian has more expertise on the topic than a typical health/wellness coach. If they provide “individualized” nutritional advice (see slide #11 for examples) – they are likely practicing dietetics.

In option A, the nutrition coach is likely practicing dietetics as specified in the state statute – and can only practice in his/her state(s) where licensed.

In option B, the nutrition coach is practicing as a health/wellness coach with additional expertise in nutrition than a typical health/wellness coach.

Organizations/employers that offer “nutrition coaching” may want to offer both option A and B when providing nutrition coaching and then promote/market each accordingly. Obviously, a higher fee would be charged for Option A.

NOTE: If all “nutrition coaching” provided reflects Option A – then maybe a different title should be used such as “Nutrition Coaching and Dietary Counseling” vs. nutrition coaching (which is vague).

Remember: Courts will analyze the **conduct** of the coach (what they are doing/providing) to determine if the nutrition coach is practicing dietetics.



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