



OHIO BOARD OF DIETETICS

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BULLETIN #6 “PRODUCT SALES EXEMPTION”

The purpose of this bulletin is to inform persons involved in the sale, promotion, or explanation of the sale of food, food materials or dietary supplements of the pertinent regulations regarding the dietitian licensure law. The statutory provision for the exemption is stated in The Laws and Rules Governing the Practice of Dietetics in the State of Ohio, sections 4759.10 (H) and (I) of the Ohio Revised Code, and is referred to as the product sales exemption.

Section 4759.10 of the Revised Code provides in part as follows:

“Sections 4759.01 to 4759.09 of the Revised Code do not apply to:

- (H) **Provided that the persons involved in the sale, promotion, or explanation of the sale of food, food materials, or dietary supplements do not violate division (B) of section 4759.02 of the Revised Code, the sale of food, food materials, or dietary supplements and the marketing and distribution of food, food materials, or dietary supplements and the promotion or explanation of the use of food, food materials, or dietary supplements provided that the promotion or explanation does not violate chapter 1345. of the Revised Code.**

- (I) **A person who offers dietary supplements for sale and who makes the following statements about the product if the statements are consistent with the dietary supplement’s label or labeling:**
 - (1) **Claim a benefit related to a classical nutrient deficiency disease and disclose the prevalence of the disease in the United States;**
 - (2) **Describe the role of a nutrient or dietary ingredient intended to affect the structure or function of the human body;**
 - (3) **Characterize the documented mechanism in which a nutrient or dietary ingredient acts to maintain the structure or function of the human body;**
 - (4) **Describe general well-being from the consumption or a nutrient or dietary ingredient.”**

TO BE IN COMPLIANCE WITH THE EXEMPTION, ALL CRITERIA MUST BE MET:

The first criterion is that the person may not violate Division **4759.02 (B)** of the Revised Code. That section of the law and rule 4759-2-01 (K) prohibits anyone who is not a licensed dietitian from using the title “Dietitian” or any other title, designation, or abbreviation tending to indicate that the person is practicing dietetics, including titles “Nutritionist” and “Nutrition Counselor”.

The second criterion is that the person may not engage in the practice of dietetics beyond the sale, promotion or explanation of the products being sold.

The third criterion is that the person may not violate Chapter 1345 of the Revised Code. That chapter sets forth Ohio’s Consumer Protection Act, which prohibits deceptive, unfair and unconscionable sales practices in consumer transactions.

The fourth criterion is that the person may not make statements about dietary supplements which are not consistent with those allowed on the dietary supplement's label or labeling. For purposes of 4759.10 (I) of the Revised Code, "consistent with" means in agreement with that which is on the label or written in the product manufacturer literature.

Compliance with the product sales exemption does not exclude one from freely disseminating literature, or from providing general non-medical nutrition information as described in rule 4759-2-01(M) OAC.

If you have questions or need a copy of **The Laws and Rules Governing the Practice of dietetics in the State of Ohio.**, please contact the Ohio Board of Dietetics: ph. (614) 466-3291; fax. (614) 728-0723.

This bulletin is not to be interpreted as being all-inclusive or exclusive. Violations reported to the Board will be reviewed on a case by case basis.