
NEW YORK CITY DEPARTMENT
OF
HEALTH and MENTAL HYGIENE
PUBLIC HEARING
ON
TRANS FAT AND CALORIE LABELING PROPOSALS
HEALTH CODES 81.08 and 81.50

125 Worth Street
October 30, 2006
10:00 a.m.

Appearances:

Thomas R. Frieden, M.D., MPH
Chair

Marlon Brewer, M.D.
Board Member

Pamela Brier, MPH
Board Member

Sixto R. Caro, M.D.,
Board Member

Kenneth Popler, Ph.D MBA,
Board Member

Wilfredo Lopez, ESQ.
Counsel

Roslyn Windholz,
Deputy Counsel

Elliott Marcus,
Associate Commissioner

Lynn Silver, M.D.,
Assistant Commissioner

1 THOMAS FRIEDEN: The remarks
2 are not only transcribed,
3 but are reviewed by the
4 entire Board of Health. In addition,
5 the Department of Health responds,
6 analyzes and thinks hard about all of
7 the remarks that are submitted.
8 So without any further notice,
9 I'll now turn it over to Mr. Lopez who
10 is General Counsel of Mental Health and
11 Hygiene.

12 WILFREDO LOPEZ: Thank you and
13 good morning. First, I would like to thank
14 Thomas Frieden.

15 This public hearing is now called to
16 order. Today is Monday, October 30th, and
17 it is approximately five after 10:00. My
18 name is Wilfredo Lopez. I'm Counsel to the
19 Board of Health and General Counsel to the
20 Department of Health and Mental Hygiene.
21 With me today are some members of the Board
22 of Health, Dr. Thomas Frieden, who's the
23 Chair. To his left, Dr. Marlon Brewer, and

1 to his left, Dr. Sixto Caro, and at the end
2 is Dr. Kenneth Popler.
3 We are here today for a public hearing
4 on two proposals, 81.08 and 81.50 of
5 Article 81 of the New York City Health Code.
6 Please note that this hearing does not
7 constitute a formal meeting of the Board
8 of Health. The Board will not be voting
9 on any matter today, nor taking any other
10 action. The purpose is to allow the public
11 to testify or present written comments on
12 the two proposals. Anyone wishing to submit
13 written comments today should give them to
14 the staff of the Secretary of the Board of
15 Health at the table at the vestibule outside
16 of this room.
17 Board members may not be able to
18 stay for the entire hearing, however, as
19 Dr. Frieden indicated. Please be assured that
20 a transcript of this hearing is being taken
21 and a copy of those minutes as well as all
22 written comments submitted today or which
23 have otherwise been submitted as comments

1 to the Department, will be provided to
2 the entire Board of Health for its
3 consideration.
4 Notices of this public hearing along with
5 the actual text of the proposals to amend
6 the Health Code were published in the City
7 Record on September 29th, 2006. The notices
8 advised the public to request a sign-
9 language interpreter or other form of
10 reasonable accommodation for a disability.
11 No such requests were received. Copies of
12 the Notices of Intention are available at
13 the table in the vestibule. Persons wishing
14 to speak at this public hearing were asked
15 to pre-register. I will first call on those
16 of you who pre-registered, and please note as
17 of 5:00 o'clock Friday, October 27th, 70
18 speakers are pre-registered. If someone is
19 not here when his or her turn comes, I will
20 call the next person and later will call the
21 names of those who may have missed their
22 turns. Anyone may also register now at the
23 table in the vestibule if you wish to speak.

1 Such persons will be called after
2 pre-registered speakers. Each speaker will
3 be limited to five minutes. Let me remind
4 you that the purpose of today's meeting is
5 to elicit comments and information to help
6 the Board of Health in determining whether
7 to adopt these proposals or possibly change
8 the proposals. While your testimony can
9 certainly raise questions that you may have
10 about the proposals, please understand that
11 neither the Department, nor the Board members
12 will be responding to comments here today.
13 Laboratories can be accessed on this floor
14 by going past the elevators. For the
15 ladies room, take two right turns, and for the
16 men's room, make two left turns.

17 I'll now call upon Assemblyman
18 Richard Gottfried. Please identify yourself
19 for the record by stating your name, and if
20 you represent an organization please state
21 your title and the name of the organization
22 you represent. Also, please identify which
23 proposal you are commenting on, 81.08 for the

1 trans fat restrictions or 81.50 for the
2 calorie-posting requirement. And please
3 remember that you must limit your remarks
4 to five minutes.

5 Will Assemblyman Richard Gottfried
6 or his representative come to the speaker's
7 table, please. If no one is here for
8 Assemblyman Gottfried, we'll now go to
9 Assemblyman Felix Ortiz.

10 ASSEMBLYMAN FELIX ORTIZ: Thank you
11 and good morning. First, I would like to
12 thank Dr. Frieden. I hope I pronounced it
13 right, and the Board members of the Health
14 Commission.

15 I think this is a historical public
16 hearing and a very first step forward to
17 ensure that the people of the City of
18 New York and the people of the State of
19 New York finally will have an opportunity
20 to make better choices for their healthy
21 lifestyles.

22 Good morning. My name is Assemblyman
23 Felix Ortiz. I represent the 51st Assembly

1 District in Brooklyn. As a state
2 representative, my priority has always been
3 to protect the life and health of all
4 New Yorkers. I have introduced and have
5 sponsored numerous pieces of legislation
6 to address the growing health care issues
7 including childhood obesity, diabetes,
8 anorexia, among others.

9 I have also tried to help bring
10 awareness to consumers so that they can
11 make health care choices for their families.
12 I welcome New York City's effort to improve
13 the health and the well-being of our
14 families and hope you are successful
15 right away.

16 We just found out that Kentucky
17 decided to remove trans fat this morning
18 so I think that you are really right now,
19 Commissioner and the Board, are making a
20 giant and significant impact.

21 Obesity and implications, such as
22 heart disease and diabetes, are serious
23 problems facing New York and America today.

1 We must all join together to solve this
2 problem. We are spending 3.5 billion
3 dollars in Medicaid alone in New York State
4 to treat the result of obesity. That is by
5 far the highest amount in the country. This
6 has also led to a diabetes epidemic which is
7 killing thousands of our citizens and also
8 costing billions of dollars. And these
9 problems are getting worse and are starting
10 at a very early age.

11 Several months ago, the New York City
12 Health Department issued a report that found
13 that by the age of 2 there is one in four
14 chances that a child will be obese if he or
15 she is from a low-income family. Well, let
16 me just point out that this is an issue that
17 just does not impact low-income families; this
18 is an issue that impacts all Americans in
19 this country.

20 When I first came to fight for
21 the Childhood Obesity Prevention Program
22 that finally came to law two years ago
23 in New York City, signed by the Governor,

1 this particular bill took us about five
2 years to get it done. The only way that
3 this bill has managed to pass both houses
4 and signed by the Governor was because I
5 have a wonderful senator from Buffalo who
6 finally came and said to me, "Felix, I would
7 like to sponsor that bill because this is
8 not a Hispanic, African-American or Asian
9 issue by itself. This is also impacting
10 our people in Buffalo." And I will tell
11 you that I literally visited the 62 counties
12 throughout the state. Sixty-two counties to bring
13 awareness about the importance of why we had to
14 talk and address this issue, the childhood
15 obesity that is impacting our children in
16 our schools, in our community, in our
17 neighborhood and in our state. And we
18 need to bring everybody together. I think
19 it's very critical that we need to turn
20 this issue around for the children who
21 will suffer and for the taxpayers who
22 will pay later, including our partners
23 in the business sector. But to turn it

1 around, we need to take some giant steps
2 to prevent the problem from getting worse.
3 For example, food businesses need to provide
4 healthier alternatives that are really
5 healthy for our kids and our families,
6 especially in low-income neighborhoods where
7 healthy foods are hard to find or are very
8 expensive. That is why I strongly urge you
9 to adopt the new proposals, rules prohibiting
10 the use of artificial trans fats and requiring
11 calorie information for certain restaurants
12 in New York City. At least some of the
13 foods our children eat will be improved.
14 I hope that the next step will be banning
15 it across the state and eventually around
16 the country.

17 Each state in USA and every country
18 outside the United States, Mr. Commissioner,
19 you should feel proud that they today are
20 watching what's happening in New York City,
21 and, as a result of that, I wish you the best
22 and I hope that we can count on developing a
23 good collaboration and a good relationship.

1 It's not about partnership; it's about
2 relationship to understand each other better
3 with the private sector to make this happen.
4 Thank you very much.

5 WILFREDO LOPEZ: Thank you.

6 Assemblyman, I would note that your written
7 comments are submitted and will be made part
8 of the record including that part that you
9 didn't get to read.

10 The next speaker is Mr. Peter Vallone
11 from the New York City Council.

12 MR. PETER VALLONE: Thank you. I'll
13 be speaking of proposal 81.08. Let me start
14 off, Commissioner Frieden, and members of the
15 Board, by saying that, again, thank you all,
16 thank you very much.

17 I am proud to be part of a City where
18 our Board of Health cares so much about its
19 people. Let me state first off that I'm no
20 Johnny-Come-Lately to this issue. Before, as
21 you know, Commissioner, we spoke about this
22 before this Board took its unprecedented
23 action and are ready to do some resolutions

1 calling on the food industry to
2 eliminate trans fats and request that a
3 law be drafted banning trans fats.

4 I've held off on that law out of
5 deference to a learning body. You are the
6 experts. I want my law to codify what you
7 do. I will be moving forward eventually
8 because I think we can all agree that the
9 best way to send a message to this country
10 is through a law drafted by its legislation.
11 But again, you are the experts; I want to let
12 you take the lead on this and I will codify
13 what you do here today.

14 Why is the Public Safety chair of City
15 Council leading this fight in the legislature?
16 Because this is a Public Safety issue.
17 Trans fats kill kids; trans fats kill
18 adults. We have a duty and responsibility
19 to protect our citizens. We regulate
20 tobacco; we regulate alcohol to save lives.
21 This is no different.

22 I would like to let you know that
23 you have the full support of our Health

1 Chairs who are over there and our former
2 Health Chair now speaker, Christine Quinn.

3 Ideally, the Federal government
4 should be doing this, but the food industry
5 has so much influence there that Washington has
6 not gotten up off its trans fat filled
7 backside to do anything. It has taken
8 them -- it took them a decade to even get
9 the food industry to list trans fats on its
10 labels. We can't wait for them. It's once
11 again up to us, New York City, to protect
12 our kids and lead the way for the entire
13 nation.

14 By the way, if this is really about
15 choice, as some of the opponents are trying
16 to falsely say it is, why did the opponents
17 fight tooth and nail against putting trans
18 fats on food labels? To give consumers an
19 educated choice as to whether or not they
20 want to eat trans fats because it has
21 nothing to do with choice.

22 Some of the people who oppose this are
23 telling big, fat lies. They cannot only

1 serve Whoppers, they can tell them, too.
2 Rest assured, we will not be slapping
3 ice-cream cones away from any little girls
4 like some of the opponents' ads show. We
5 may, however, be saving those little girls'
6 lives.

7 Federal government may fall for that
8 type of nonsense, but this is New York City.
9 We consider ourselves a little smarter up
10 here. Heck, we banned lead paint 18 years
11 before the Federal government got around to
12 doing it, so we'll once again lead the way.
13 We'll have the same food, the same taste;
14 it will just be less poisonous.

15 I'll be brief, so let me close with
16 this. Because of the chemicals and the
17 additives that are being put in our foods,
18 because of the natural foods that they
19 process into poison food like high-fructose
20 corn syrup, trans fats, obesity, diabetes,
21 and heart disease are at epidemic levels.
22 We are forced to take action. We refuse
23 to let our bodies be dumping grounds for

1 companies looking to make profits.
2 History will report that the fight to save
3 our children, to reclaim our bodies and our
4 health, started right here in New York City
5 with us.

6 Commissioner, members of the Board,
7 I am so proud of you, and I, the City
8 Council, look forward to working together
9 with you to save lives.

10 Again, thank you for everything
11 you're doing, and I completely support you.

12 WILFREDO LOPEZ: Thank you. The
13 next speaker is Kelly D. Brownell.

14 KELLY D. BROWNELL: Thank you for
15 the opportunity to speak before you today.
16 I hope that we all realize the historic
17 nature of these hearings and of these actions
18 that have been proposed in New York City.

19 The issue that comes most frequently
20 to my mind is why not do these things.
21 There is abundant science. The science is
22 fairly clear. This all seems in the spirit of
23 protecting consumer health and well-being, so

1 why in the heck will anybody oppose this? And
2 I would like to take what I think that these
3 arguments are going to be that you are
4 about to hear and address them one by one.

5 By now, the industry has a pretty
6 predictable script in fighting off advances
7 to protect public health, and I think you
8 will hear the script played out today.

9 First of all, you will hear claims
10 that it's hard to do. Well, the entire
11 country of Denmark has gone trans fat free.
12 Famous for its pastries and its desserts,
13 Denmark seems to have survived just fine.
14 Today, KFC is going to announce they're removing
15 of trans fats from all their foods so it can
16 obviously be done.

17 Second, is that somehow the little
18 guy will get hurt, the little guy being
19 small restaurant owners. Well, the little
20 house are what we'll go to when the
21 restaurant industry oppose getting rid
22 of smoking in their places of business.

23 Now, you may remember how hard they
24 fought public awareness to do that, but, in

1 fact, that turned out to be a great benefit
2 for public health, and, in fact, the little guy
3 is not going to be hurt by this.

4 Another thing you'll hear is the
5 moving target that science presents that
6 one day we hear X and the next day we hear
7 Y, and scientists can't agree on anything.
8 Well, in fact, that's not a bite; that is a
9 virtue because if science didn't change, we
10 wouldn't learn as time went on. We'd simply
11 be using leaches to cure people from dreaded
12 diseases, but, in fact, there is a predictable
13 order in the way that science proceeds.

14 First, you have the original evidence.
15 You have other evidence that comes out.

16 Sometimes it supports the initial evidence,
17 sometimes it doesn't. But at some point,
18 you develop a robust amount of science to
19 support public-health action, and I believe
20 we are at the point now where the sciences
21 are robusting on this particular issue.
22 And so the fact that the science changes, is
23 good; it's necessary; it's completely to be
24 expected, and it's not true that scientists

1 don't agree on this.

2 Generally, when cries are raised that
3 scientists don't agree on some issue related
4 to public health, it's mainly industry-funded
5 science that might contradict what otherwise
6 is a pretty robust finding.

7 Second, there will be the claim
8 that consumers are somehow hurt by this.
9 That their choices are being restricted,
10 they won't have the same foods available,
11 they'll have to pay more and the food will
12 taste worse. None of these things really
13 turn out to be the case, and so I believe
14 these are the superficial reasons that
15 appear today.

16 The real reason is that industry
17 wants to be able to do whatever it wants
18 with the food it serves people and doesn't
19 want anybody telling them any different. So I
20 believe that trans fat is a very hard change
21 for the industry to make. They're fighting
22 you getting involved later in other issues
23 related to food supply, which I think is a
24 completely appropriate thing for the health

1 Commissioners to do.

2 And then finally, you'll hear clear cries
3 of freedom, somehow that consumers' choices
4 and freedom are being restricted by this but
5 in fact they're enhanced. Freedom is the
6 opportunity to live in a society where one
7 is free of dangerous things in food, the
8 air, the water. And health officials step in
9 routinely to protect us from these things,
10 and I believe that is the case where freedom
11 is enhanced by this rather than defeated by
12 it.

13 If we look at the real reasons that I
14 believe are behind this, the industry has
15 been tremendously successful in fighting off
16 any Federal legislation, as Mr. Vallone said.
17 They've also been very effective in preventing
18 action at the state level so the local level
19 becomes not only important but absolutely
20 necessary in this fight to improve diet
21 overall. And so this is very much a
22 precedent setting event.

23 I would like to also add an economic
24 concept here of optimal faults. What we
25 hope to do in public health is to set up

1 conditions where the default leaders, that is,
2 when you drink the water, you are by default
3 getting something healthy into your body.
4 You're not given a choice of contaminated
5 water and good water and then expected to
6 make the choice of the good water. You're
7 only given the good water; you're given good
8 air; you're given things like this. This is
9 very, very important in setting up
10 conditions that will help the public health.

11 The industry that will come up and
12 contest these are the same industries as I
13 said that forth the smoking ban in restaurants.
14 They're fighting the state legislation tooth and
15 nail to do anything related to public health
16 and they're also I believe trying to deflate
17 the trans fat action here with the calorie
18 labeling action. These are two very
19 different things.

20 The trans fat action will not do
21 much about the obesity problem. You switch
22 one fat for another, you have some number of
23 calories. That is a health related move.
24 The calorie wave which I think has been
25 lost in the shuffle here because everybody

1 is focused on trans fat is what I believe
2 scares the industry the most. Because what
3 is likely to happen is consumers will have
4 sticker shock when they see the calories in
5 the food they have. That means they'll demand
6 smaller portions, the industries has its
7 profit margins hurt by this and I believe
8 that's what they're fighting.

9 So thank you for considering this.
10 I hope the history is a positive one.

11 WILFREDO LOPEZ: If I may just
12 ask the public to hold off on your
13 applause. Also, I would like to read
14 people's titles as I call them. I did
15 not do that with Dr. Brownell. He is a
16 Professor of Psychology, Epidemiology and
17 Public Health, Director of the Rudd Center
18 for Food Policy and Obesity at Yale
19 University.

20 The next speaker is Dr. Elena Rios,
21 President of the National Hispanic Medical
22 Association. Is Dr. Rios here?

23 The next speaker is Zebulon Taintor,
24 President of the New York County Medical
25 Society.

1 ZEBULON TAINTOR: Good morning. I
2 will try and be very brief. I have here
3 prepared testimony by Dr. Dennis Cage who
4 is a renowned nutritionist, I'm speaking on
5 behalf of all five County Borough medical
6 societies. The President of that group is
7 Kenneth Booker, himself an expert in insulin
8 resistant diabetes so there's a lot of us
9 but it's very simple. We are in favor of those
10 initiatives. We are delighted that these
11 are proceeding. We would very much like to
12 support both the cardiovascular and diabetes
13 initiatives that the Department of Health
14 has undertaken.

15 WILFREDO LOPEZ: Thank you. The next
16 speaker is Amie Hamlin, Executive Director,
17 New York Coalition for Healthy School
18 Lunches.

19 Okay, the next speaker is Stephen L.
20 Joseph, CEO of BanTransFats.com.

21 STEPHEN L. JOSEPH: Good morning.
22 My name is Stephen Joseph. I bring you
23 greetings from my home base of Tiburon
24 California, America's first trans fat free
25 City. We support the proposed trans fat

1 regulation and congratulate the
2 Commissioner, the Board of Health, and the
3 Mayor for this important and enlightened
4 initiative that will make New York America's
5 second trans fat free City.

6 How did we do Project Tiburon to
7 make it trans fat free? We asked all
8 restaurants in Tiburon that were
9 frying with partially hydrogenated cooking
10 oils to switch to trans fat free oils.
11 They all agreed without hesitation, no
12 excuses, no moaning, they just got on with
13 it. The transition happened literally over-
14 night. Not one restaurant owner in Tiburon
15 has had anything negative to say about the
16 change.

17 One Tiburon restaurant fries huge
18 volumes of French fries, chicken and fish
19 for at least 10 hours a day. They've been
20 using the same amount of new oil now for two
21 years. They say the new oil is costing
22 about the same as the partially hydrogenated
23 oil they've previously used because the new
24 oil, while having a slightly higher cost has
25 a longer fry life. That's what's important

1 to restaurant owners, fry life. I eat there
2 often. The food is just as crispy and tasty
3 as any other fried food. It is a myth that
4 food cooked in non-partially hydrogenated
5 oil doesn't taste as good, natural oil
6 tastes better. If trans fat free oils work
7 in Tiburon, they'll work in New York, period.

8 We did project Tiburon because we
9 wanted it to be an inspiration and a model
10 for other cities and towns. After Project
11 Tiburon was adopted in 2004, I was contacted
12 by New York City officials interested in
13 developing a similar program here, and I was
14 very happy to assist.

15 In 2005, New York City launched a
16 comprehensive trans fat education campaign.
17 However, an education campaign could never
18 be expected to produce acceptable results
19 for a City truly committed to solving the
20 trans fat problem. Regulation, however, will
21 guarantee virtual 100% success.

22 To say the restaurant operations all the
23 way up to medium-sized restaurant chains, there
24 are many trans fat free cooking
25 oils on the market today which

1 are used in hundreds of thousands of
2 restaurants across the country. There are
3 also many trans fat free baking shortenings,
4 including the trans fat free Crisco.
5 Availability of trans fat free alternatives
6 is simply not a problem. The large, fast
7 food chains have special issues, but nothing
8 that justifies considering delays in
9 getting the job done.

10 McDonald's announced a change to a
11 trans fat oil in 2002, but it never implemented
12 it. It is now almost 2007. That's an
13 unreasonable delay. When you want to get
14 something done, you set a deadline. New York
15 should say to McDonald's and other chains who
16 haven't made the change yet, "You've had more
17 than enough time. Wendy's, KFC and others
18 have done it so can you. You've got six
19 months to finish the job, no more excuses."
20 Now, if you say that to them, you will
21 galvanize them and they'll succeed.

22 A combination of litigation and
23 proposed regulation galvanized KFC. It
24 works. It will certainly help if there
25 was less negativity and a more cooperative

1 attitude by all concerned. I think that some
2 people have got their priorities wrong.
3 Public health must be the number one
4 priority.

5 Now let's switch hats. I'm
6 also here in my capacity as the CEO of a new
7 company called Frytest.com. Frytest.com
8 is holding a contest to find out which are
9 the best zero trans fat restaurant cooking
10 oils. About 12 companies, including
11 several major manufacturers, will be entering
12 about 18 oils in the contest. The contest
13 will take place at Texas A&M University
14 commencing in December.

15 University personnel will compare
16 the relative fry lives of each oil, and 50
17 consumers will sample French fries cooked in
18 each oil to see which one they like best.
19 The results will be posted on the Frytest.com
20 web site so that restaurant owners
21 nationwide will have mutual verified data
22 comparing available trans fat free oils.
23 The Frytest.com web site will become a great
24 source of information to restaurant
25 owners.

1 One more thing. I was talking
2 earlier about the spirit necessary to make
3 this initiative succeed. We don't need foot
4 dragging and we don't need negativity.

5 There's one person who does have
6 his priorities right and he's here today, and
7 he is the co-owner of Jason's Deli. On
8 his initiative, Jason has removed the
9 partially hydrogenated oil from all of its
10 156 restaurants in 20 states among
11 1.6 million school box lunches per year.

12 Instead of making excuses, he got the
13 job done. That's the spirit that New York
14 needs. I hope that's the spirit we hear
15 today, and I hope some of the people who are
16 coming up here later to try to wreck this
17 proposal start to think with a bit more
18 imagination. Thank you very much.

19 WILFREDO LOPEZ: Next speaker is
20 Joseph Aranha, member of the public. Is
21 Mr. Aranha here?

22 Next speaker is Michael Jacobson,
23 Executive Director, Center for Science in
24 the Public Interest.

25 MICHAEL JACOBSON: Good morning.

1 I greatly appreciate the opportunity to
2 speak at this hearing, and I applaud the
3 Department of Health and Mental Hygiene
4 for its two ground breaking
5 proposals that would make it easier
6 to eat healthfully in this great City.

7 Let me start with the trans fat
8 that is introduced into foods primarily
9 through the use of partially hydrogenated
10 fats. These fats were long thought to be
11 safe, a conclusion affirmed by FDA Advisory
12 Committees in 1976 and 1985.

13 However, in 1990, new research
14 indicated that trans fat adversely affects
15 blood cholesterol levels and increases the
16 risk of heart disease. Since then, studies
17 have shown that trans fat is not only
18 harmful, but gram for gram is the single
19 most harmful fat in the food supply.

20 Trans fat is a problem for the
21 entire nation, but at least you here today
22 can protect the diners in New York City now.

23 About half of partially hydrogenated
24 fats are used for frying. Those uses can

1 easily be replaced using any number of
2 liquid natural oils. Natural oils may cost
3 more per gallon but some restaurants, like
4 Wendy's, find they last longer in the fryer
5 and actually save them money.

6 Partially hydrogenated fats are
7 easy to replace when solid fats are needed,
8 such as in some baked goods. However, in
9 grocery stores where many baked goods are
10 made with partially hydrogenated shortening
11 some brands of the same foods are made with
12 high oleic, granola oil, palm oil, products
13 like trans free Crisco and other trans free
14 shortenings. Those substitutes are trans
15 free and contain less heart damaging
16 saturated plus trans fat than products made
17 with partially hydrogenated oil.

18 It certainly will take time and
19 effort for companies to switch to those
20 less harmful shortenings, and the Health
21 Department should do everything it can to
22 help, through printed materials, the internet,
23 and free advice over the telephone.

24 The nice thing about getting rid of

1 trans fat is that New Yorkers will enjoy
2 improved health without needing to make any
3 effort on their own. Restaurant foods will
4 automatically be healthier, and the switch to
5 healthier oil should save on the order of
6 several hundred lives per year. Of course,
7 New Yorkers would be even better off if
8 trans fat were eliminated from packaged
9 foods, and perhaps the Board of Health can
10 encourage the Food and Drug Administration
11 to take action on that front also.

12 The Health Department's second
13 important proposal would require large
14 chain restaurants to list the calorie
15 contents of their standard items on menus
16 and menu boards.

17 Studies show that three-quarters of
18 people who use nutrition labels on packaged
19 foods, also show that the use
20 of those labels is associated with healthier
21 diets.

22 I'm sure that many McDonald's
23 customers would switch from a large to a
24 small order of fries if they knew that the

1 small contains 300 fewer calories. Many
2 Starbucks customers would change their
3 orders if they were informed that a large
4 white chocolate frappuccino with whipped
5 cream contains 760 calories.

6 Considering that obesity rates in
7 adults have doubled, and in teenagers have
8 tripled over the last 30 years,
9 requiring calories on menu and menu boards
10 is a logical extension of nutritional
11 packaging.

12 Companies say that listing calories
13 simply can't be done. There's no space on
14 menus and menu boards, but they always manage
15 to find space for pictures of those combo
16 meals or the latest marketing campaign or
17 new food items. And they say that there are
18 too many varieties for foods or meals but
19 they themselves have nutrition brochures
20 that provide the nutrient content of their
21 standard items. They say that providing
22 brochures or web sites or posters that
23 provide complete nutrition information would
24 be far more helpful to consumers than simply

1 listing calories on menus. But 20 years
2 ago, McDonald's itself derived at the notion of
3 providing nutrition on packaging because
4 consumers don't see it until after they buy
5 the foods.

6 Listing calories next to each item
7 on menus and menu boards would be feasible,
8 useful, and inexpensive, and the benefit to
9 consumers would be great. I only regret
10 that the proposal doesn't cover more
11 restaurants.

12 And I'd like to leave here a more
13 complete written testimony, and I've left
14 your clerk letters from 300 New Yorkers,
15 members of the Center for Science in the
16 Public Interest, who support both measures.
17 Thank you very much.

18 WILFREDO LOPEZ: Thank you. The next
19 speaker is Fern Gale Estrow, MS, RN, CEN.

20 FERN GALE ESTROW: Good morning. I
21 want to thank Commissioner Frieden and the
22 New York City Department of Health and
23 Mental Hygiene and their Board for taking
24 the initiative to propose important changes
25 to this City's Health Code which are the focus

2 of these hearings.

3 I am Fern Gale Estrow, a Registered
4 Dietician who formerly ran corporate dining
5 rooms in consultation with food service
6 operations in another career. Currently, I'm a
7 Nutrition Consultant working predominantly
8 in the New York City area with Head Start
9 programs and low income communities.

10 As a food service operator I ran both
11 food operations locally and nationally. My
12 background is important as my testimony will
13 address the populations I currently work
14 with and some of the questions and concerns
15 that have been raised over the past few
16 weeks.

17 I would like to acknowledge while I
18 am not speaking on behalf of any of these
19 organizations, I am an active member of the
20 New York City Food Network, New York City
21 Nutrition Education Network, the American
22 Dietetic Association and providing nutrition.
23 I would like to go on record as supporting
24 these amendments.

1 Statistics associated with New York
2 City's Head Start population are known to
3 those who work in the community. There was
4 a study conducted by our Health Department
5 and the Agency for Children Services in
6 October of 2004. Height and weight data was
7 collected for over 16,000 Hispanic children
8 in New York City and it reflected that 27%
9 of our children were obese. In addition,
10 15% were overweight. About one in four Head
11 Start children is obese at age 2, by age
12 4 almost one in three. This means that
13 more than 40% of our Head Start children are
14 overweight or obese and others such as
15 African-American children, are at greatest
16 risk.

17 Health conditions associated with
18 weight include diabetes and heart disease
19 and many other conditions that many of you
20 will hear about through the course of the
21 day.

22 The Hispanic and African American
23 population suffer disproportionately from this
24 this and several other conditions mentioned.

1 Diabetes now affects three-quarters
2 of a million New Yorkers, and indicated an
3 increase of diabetes amongst children.
4 There was a time when Type II diabetes was
5 the reference. It is the current
6 reference. That was because we had to
7 change it from the term adult onset diabetes
8 because it does apply to children.

9 Having menus with calorie information
10 easily accessible prior to purchase is
11 important for the public to make informed
12 decisions. I also believe it is important
13 to point out the technology access issue.
14 Low income populations,
15 some of those at greatest risk,
16 are the least likely to have
17 active computer based information which is
18 where many companies know the information
19 is available.

20 It is also these communities that
21 we have the highest density of fast food
22 outlets operated by companies with an
23 internet presence. Putting this data on a
24 wrapper or at the bottom of the fast food

1 cart is not sufficient.

2 The argument offered by some of these
3 fast food industries is that standardized
4 recipes would be required to provide
5 information. If a company is posting this
6 information for the public, they should have
7 used trans fat recipes to begin with.

8 In addition, I assure you the sector of
9 that and the bottom line for a food
10 service establishment with multiple outlets,
11 standardization is the way to go, simply
12 based on production controls.

13 As for the fear that companies will
14 defraud this information to the public based
15 on this amendment, I would suggest they would
16 not want to be associated with that level of
17 negative publicity.

18 With regard to trans fat, the
19 mandatory removal of harmful artificial
20 trans fat is to accept that it's in the
21 interest of the health of all New York City
22 citizens and again potentially impact the most
23 vulnerable, our children.

1 Please note I work with the emergency
2 food system and am a former Chair of the
3 Hunger and Environmental Nutrition Council of
4 the American Dietetics Association.

5 While I do not speak for this group,
6 my involvement speaks to my awareness of the
7 complex relationship between food resources
8 and the industry providers, including
9 restaurants, sidewalk vendors, schools,
10 Day Cares, Head Start programs and emergency
11 food providers is critical.

12 I have heard concern spread that shelters
13 from establishments will be dumped on the
14 emergency food community. Much
15 has been the case, in part are no longer
16 acceptable, such as low carbs. In this
17 instance, we are talking about a dangerous
18 substance that should not be permitted in
19 the emergency food systems. Food companies
20 have known for a long time that partially
21 hydrogenated oils are unsafe and are working
22 to replace these with more acceptable
23 alternatives. I have provided documentation to

1 this effect. I also heard a suggestion that
2 food companies may not provide the good food
3 unless the emergency food community would accept
4 the bad food. Again, I'm suggesting that
5 negative publicity and that they do not want
6 their tax write-off removed.

7 It is appropriate for our government
8 and our food companies to use -- it is
9 inappropriate for them to use our low income
10 population as a dumping ground. It is my
11 hope the UFD will take this opportunity to
12 address this right now. I thank you, and I
13 support these proposals.

14 WILFREDO LOPEZ: Thank you. I have been
15 asked to make an announcement. There are a lot
16 of people who cannot get into the room who may
17 want to speak, so we would ask that all staff
18 who have not been directed to be here by
19 their supervisors, should leave and make
20 room for the public. Thank you.

21 The next speaker is E. Charles Hunt,
22 Executive Vice President, New York State
23 Restaurant Association.

24 CHARLES HUNT: Good morning. I'm

1 Charles Hunt. I'm the Executive Vice
2 President of the New York City Chapter of
3 the New York State Restaurant Association.

4 I wish to speak on both proposals.
5 I am here to discuss the efforts that are
6 taking place in New York City's 24,000
7 food service establishments to eliminate
8 artificial trans fats and underscore our
9 desire to work with the City on this issue.
10 I am also here to lay out some of our
11 concerns about the Board of Health's
12 proposed ban on trans fats as well as
13 the menu labeling proposal.

14 Both are measures we think, while
15 well-intentioned, will unfortunately not
16 achieve the health benefits sought by the
17 Board. I am particularly concerned that
18 the lack of education on this issue among the
19 City's restaurants coupled with significant
20 fines are a recipe for disaster that could be
21 devastating for New York City's restaurants,
22 the City's largest private sector employer
23 of over 200,000 food service workers.

24 I think we can agree that the outcome

1 of that Board of Health and the New York City
2 Restaurant Association seeks is the same, to
3 see a move away from trans fats in oils and
4 products consumed in restaurants. However,
5 the challenges and potential unintended
6 consequences of the proposal to ban trans
7 fats in the time span of 18 months have not
8 been fully thought out.

9 Many people may wonder why trans
10 fats are being used in the first place.
11 To briefly explain, several years ago
12 medical opinion pointed to concerns over
13 saturated fats like butter and lard and
14 the need for more healthy alternatives.
15 As a result, many restaurants substituted
16 partially hydrogenated vegetable oil and
17 other alternatives containing trans fats in
18 oils, margarines, shortenings in prepared
19 foods.

20 Now that science has progressed
21 and the medical community is telling us
22 that trans fat has negative health effects,
23 restaurateurs have been looking for
24 alternatives. But this cannot be

1 accomplished overnight or even in
2 18 months. In fact, the reason all
3 restaurants have not switched to trans
4 fat-free options is that there simply are
5 not enough suitable trans fat free products
6 and oils on the market today.

7 This is truly a farm-to-table issue.
8 It takes time to develop, plant, harvest and
9 process new alternative crops and test new
10 oils. Because of this supply problem, if an
11 18 month timetable were enacted, many of the
12 City's restaurateurs would have no choice
13 but to switch to oils high in unhealthy
14 saturated fats, a move opposed by experts as
15 a backward step for public health. As the
16 Chair of the American Heart Association's
17 Nutrition Committee concluded, "Consumers
18 should avoid increasing their intake of
19 saturated fat in an effort to minimize trans
20 fat." A ban would mean exactly that for
21 consumers. Many restaurateurs would be
22 forced to use alternatives like palm oil
23 which is high in saturated fats.

24 In addition to serving customers,

1 New York's restaurants are customers, too.
2 We buy from food manufacturers before
3 preparing many products in our kitchens.
4 But many of the foods we prepare depend upon to
5 serve our customers, from French fries to
6 pastries and baked goods, contain trans
7 fats. And while great strides are being
8 made to provide more trans fat free oils
9 and foods, there simply will not be enough
10 supply available in the next year and a
11 half to supply all of New York City's
12 24,000 restaurants.

13 The Department of Health clearly
14 has not considered the impact to the small
15 businesses of New York City, the small
16 restaurants that are the backbone of many
17 communities within our city. The small
18 family owned independent operators who
19 have the fewest resources will be hit the
20 hardest, facing dramatic changes to their
21 menus, their pricing and their business
22 models.

23 This ban threatens popular dishes
24 and affordable menus, all of which are

1 critical to economic survival in a business
2 where the typical profit margin is about
3 three cents on every dollar spent by their
4 customers.

5 The City's ethnic restaurateurs
6 who provide such an extraordinary range
7 of dishes from around the world would
8 be particularly impacted. While it is
9 relatively easy to find trans fat-free
10 substitutes for some foods, many classic
11 New York and ethnic dishes are more
12 difficult to prepare in this way, whether
13 it's cannoli, eclairs, egg rolls or
14 fresh-baked cookies.

15 Ironically, the outreach and
16 education by the Board of Health has been
17 almost nonexistent. In a City where small
18 businesses and tourism are so critically
19 important, it is my understanding that no
20 economic impact study of this proposed ban
21 has been undertaken by the City.

22 Far from helping restaurateurs figure
23 out how to move away from trans fats, just a
24 letter and a brochure were mailed out last

1 year mentioning the voluntary ban which the
2 Department now opposes. And in a survey of
3 my members, only a few reported that they
4 had been contacted by the Department of Health
5 inspector in any way on this issue.

6 To my knowledge, nothing has been
7 communicated to New York's
8 restaurateurs in terms of practical advice
9 from any of the City's health inspectors
10 when visiting restaurants. Yet, the
11 Department could now impose hefty fines for
12 restaurateurs found in breach of this ban.
13 I am here to tell you that a fine is not an
14 educational process. The City needs to get
15 serious about working with, not against its
16 restaurateurs to achieve this goal that we
17 share in common. I am here today to ask you
18 to sit down with us and start that
19 conversation.

20 Moving to the menu labeling issue,
21 I would first like to point out that the
22 remarkable efforts that have been made by
23 many of the City's restaurants and chain
24 restaurants in the past few years to provide

1 more nutrition information to customers on
2 the web, in brochures, posters, tray liners
3 and in other forms.

4 May I continue just a few more
5 minutes?

6 WILFREDO LOPEZ: We really do have
7 a lot of speakers. If you have your written
8 testimony please submit it and it will be
9 incorporated in the record and provided
10 to the Board.

11 CHARLES HUNT: Yes, I have submitted
12 my written testimony. I just would like to
13 say that our industry wants to work with the
14 Board to do what is in the best interest of
15 our customers' health, the City's economy
16 and our restaurants. We look forward to the
17 opportunity to establish an ongoing dialogue
18 with the Board of Health toward a shared
19 goal of providing restaurant customers with
20 information so that they can make positive
21 nutrition and lifestyle choices.

22 Thank you for the opportunity to
23 speak.

24 WILFREDO LOPEZ: Thank you. The next

1 speaker is Peter H. Kostmayer, President,
2 Citizens for New York City. Is Mr. Kostmayer
3 here? If not, the next speaker is Joel Berg,
4 Executive Director, New York City Coalition
5 Against Hunger.

6 JOEL BERG: Good morning. I'm Joel
7 Berg. I'm Executive Director of the
8 New York City Coalition Against Hunger. We
9 represent the more than 1,200 soup kitchens
10 and food pantries in New York City and
11 more than 1.2 million New Yorkers who are
12 forced to rely on these agencies.

13 My testimony offers a bit more
14 detail, written testimony, but basically has
15 three themes. One, we generally support the
16 ban on trans fat and the improved labeling.
17 Two, those are only small drops in the
18 bucket compared to the broad public health
19 measures that need to be taken to reduce
20 obesity and to reduce hunger in New York
21 City. And related to that, if food isn't
22 acceptable or isn't affordable, we're
23 creating a two-tiered system where better
24 healthier foods are only available to the

1 wealthy, not for the more than 1.8 million
2 New Yorkers living below the poverty line.
3 And three, we have very grave concerns about
4 how this is going to impact emergency food
5 systems in New York. And let me go through
6 each of those one by one very briefly.

7 We support the ban. I won't go
8 over all the reasons that so many much more
9 accomplished public health experts have given
10 except that we are often critical of the City.
11 For instance, on food stamps we want to know why
12 370,000 fewer people are getting food stamps
13 today in New York City than 10 years ago
14 and that's hundreds of millions of dollars
15 that could be and should be used to better
16 purchase nutritious foods. So that when we
17 put in our support for the mayor, a lot of
18 people were shocked, and I got a lot of angry
19 e-mails from people telling us what are you,
20 engaging in any state? You've deprived us free
21 choice. And I think the key point that
22 needs to be made over and over again is, if
23 you don't know something, you can't make an
24 informed choice. If the information isn't

1 available whether trans fats are in your
2 food, you are not making an informed choice.
3 And by the way, if you're served food at a
4 food pantry or soup kitchen you have no
5 choice whatsoever.

6 I have a little crop today on the
7 importance of broader nutrition labeling.
8 These were all bought within two blocks of
9 my office on Beaver Street two blocks from
10 here. One claims to have one portion; one
11 claims to have two portions, one claims to
12 have five portions. They are all nearly
13 identical to the naked eye. By the way,
14 none of them have trans fats and all of
15 them were delicious.

16 My point is we need a much broader
17 effort in the City to have labeling, to have
18 choice, to have affordability. We're about
19 to put out a study that shows that fresh
20 produce, whole grains, are what's available
21 in low income neighborhoods and less
22 affordable in low income neighborhoods. So
23 again, if you're taking things out of the market
24 and increasing prices what's going to happen

1 to all these people eating at restaurants?
2 And so that is a really critical note to
3 point out over and over again, we need more
4 users of food stamps. WIC utilization is
5 far below the national average in New York
6 City. Participation in the school breakfast
7 program, are the mere great things to make
8 university program. 80% of the kids are
9 eligible for school breakfast in New York
10 City do not get it. So again you use this
11 form to strongly support speaker Christine
12 Quinn's call for the city office of food
13 policy that will really coordinate these
14 issues. That's 90% of a high profile stance
15 for taking trans fats out of restaurants
16 but again there are 1.2 million low income
17 New Yorkers who the Federal government
18 not us, unreliable advocates, the Federal
19 government describes as food-insecure. The
20 Mayor says there is no one starving in New York
21 City, that's true. But according to the
22 Federal government, there are people choosing
23 between food and rent. There are people
24 buying less nutrition, more fattening, less

1 expensive food for their families. There
2 are kids going to school nonprepared to do
3 well on tests or focused because they don't
4 have enough food. So again the point is
5 look at this in the broader picture.

6 Again pantries and kitchens most are
7 run in New York City by unpaid volunteers.
8 My reading of the regulation, it would cover
9 soup kitchens but not food pantries.
10 A little crazy if you are a volunteer
11 organization. About half the agencies in
12 New York City are food pantries, roughly
13 half are soup kitchens that will be covered
14 and roughly a quarter have both. So imagine
15 you are a volunteer-run soup kitchen and
16 food pantry and you have one already
17 paperwork nightmare and you have a physical
18 quarantine nightmare as a volunteer-run
19 agency coming up with separate storage room for
20 the food you can use in these soup kitchens,
21 but not in your food pantries.

22 I know other people are going
23 to speak from hunger groups about the
24 difficulty of accepting donated food.

1 The reality is that the pantries and
2 kitchens in New York City today do not
3 have enough food to meet the growing need.

4 According to a survey our group did
5 last year, nearly half, 47%, had to turn away
6 New Yorkers because they were running out
7 of food currently. We urge, of course, the
8 City, the State, the Federal government, to
9 increase uses of Federal nutrition
10 assistance program so people don't have to
11 go to pantries and kitchens, but when they
12 do, the money has got to be there. There can
13 not be continued proposals to cut these
14 programs at the state level funding for soup
15 kitchens and food pantries, and the Hip Now
16 Program is two million dollars less. We
17 need more funding to make sure that agencies
18 that have to take out the trans fat don't
19 have to make more people go hungry.
20 Thank you for your time.

21 WILFREDO LOPEZ: Thank you. The
22 next speaker is Lori Tansman, Nutritional
23 Coordinator, Mount Sinai Hospital.

24 LORI TANSMAN: Good morning. I

1 want to address the two proposals from
2 the perspective of public health policy.

3 When it comes to public health,
4 there are two opposing theories, minimal
5 documented interference and social justice
6 philosophy. This refers to the fact that
7 society may share in the responsibility for
8 a person's health. In this situation, the
9 government is that society.

10 The mission of public health is to
11 assure conditions in which people can be
12 healthy. To assure this requires policies
13 that do result in government intervention
14 such as the recent actions by the FDA
15 regarding the spinach scare with E-coli.

16 As per Dr. Sarah Edelstein in her
17 textbook which she edited, Nutrition and
18 Public Health, we want the government to
19 ensure that our food supply is safe, yet
20 we also want the freedom to purchase
21 unhealthful food.

22 In regard to the trans fat ban in
23 food service establishments, consumers do
24 not essentially have the freedom to make

1 unhealthful choices because many of them
2 are not even aware that they are making
3 unhealthful choice. There are many ways
4 that trans fats are used in food preparation
5 unbeknownst to the consumer.

6 I have personally witnessed the use
7 of large amounts of partially hydrogenated
8 fat that was added to the dish in which a
9 frozen half of spring chicken was being
10 broiled. The chicken was indeed being
11 broiled as indicated on the menu but was
12 also being fried as it was being cooked in
13 large amounts of fat at high temperatures.
14 But the innocent consumer had no idea of
15 this and so was unknowingly going to be
16 consuming large amounts of unhealthy trans
17 fats.

18 With the approval of this, ban
19 consumers will be protected from the
20 unknowing consumption of such an unhealthful
21 food ingredient. In this way, the
22 government, that is, the New York City
23 government, is interfering to assure a safe
24 food supply. But if this ban is going to

1 have a successful impact on the public
2 health and assure safe food supply, then it
3 must also include that the fats that will be
4 used in place of the trans fat be healthful
5 fats or neutral fats, not other unhealthful
6 fats such as many saturated fats.

7 In regard to the second proposal,
8 this is an outstanding step by the New York
9 City government in helping the public to
10 be an educated consumer, yet allowing that
11 consumer the freedom to make what might
12 be an unhealthy food choice if that consumer
13 has a significant weight problem and a
14 particular menu item is especially
15 calorically dense.

16 The next step will be in requiring
17 all restaurants to make available the
18 caloric amount of their menu items. This
19 would be a wonderful government initiative
20 to help in directing the pandemic of
21 obesity.

22 Now, this is really just an innocent
23 turkey sandwich. It's a great healthful
24 choice. Can you guess how many calories are

1 in it? It's five ounces of turkey breast,
2 two slices of rye bread; 396 calories which
3 is fine, but, you know, the person says well,
4 you know, I had this low calorie turkey
5 sandwich not knowing how many calories are
6 in here so you know what, I can treat myself
7 to maybe a piece of cake for dessert or maybe
8 I'll treat myself to the French fries and
9 thereby, you put the calorie content of that
10 lunch way over a thousand calories. Thank you.

11 WILFREDO LOPEZ: Thank you. It is
12 now 11:00 o'clock, and at the end of each
13 hour I will try to recall those who missed
14 their turn. So is Richard Gottfried or his
15 representative here? If not, Dr. Elena
16 Rios, President of the National Hispanic
17 Medical Association.

18 ELENA RIOS: Mr. Frieden and
19 members of the Health Board,
20 and Dr. Caro whom I was just presented to
21 this weekend.

22 I am honored to join you today. I
23 am Dr. Elena Rios, President and CEO of the
24 National Hispanic Medical Association, a

1 non-profit association representing over
2 36,000 licensed Hispanic physicians in the
3 United States.

4 The mission of NHMA is to improve
5 the health of Hispanics and other
6 underserved. Our foundation, the National
7 Hispanic Health Foundation, which directs
8 research and national Hispanic health
9 professionals through the scholarship
10 program, is affiliated with the Robert F.
11 Wagner, Graduate School of Public Service,
12 New York University.

13 Hispanics are the largest ethnic
14 group in the United States, a number of
15 40 million people or 14% of the U.S.
16 population. Hispanics are a young
17 population with less access to health care
18 services due to being the group with the
19 largest proportion of black and health
20 insurance, least educational attainment,
21 high poverty rates, living in areas that
22 are medically underserved, and having few
23 Hispanics in the health work force and little
24 information in Spanish who are targeted to our

1 community.

2 I am here today to support the
3 proposals of the New York City Health
4 Department to faze out artificial trans
5 fats and to increase calorie information
6 at point of purchase in restaurant in
7 New York City because we believe policies
8 that will change our environment, encourage
9 the public to make better nutrition
10 decisions will lead to decreased heart
11 disease and obesity in our society.

13 ELENA RIOS: NHMA has partnered
14 with the U.S. Department of Health and Human
15 Services, the Clinton Foundation, the
16 American Heart Association, and the Robert
17 Wood Johnson Foundation in a campaign where
18 NHMA doctors tell students and parents and
19 teachers in our middle schools to change
20 their nutrition habits in New York,
21 California, and Texas, the states with the
22 largest Hispanic populations in our country.

23 Heart disease is the major cause of
24 death in our country and obesity has been

1 recognized by the Center for Disease Control
2 and Prevention this year as a disease with
3 the greatest potential to lead to mortality
4 from chronic diseases in our country
5 surpassing smoking tobacco.

6 There are several societal factors
7 since the 1950s from the start of the TV
8 dinners, fast food restaurants, women
9 working, schools purchasing foods and
10 beverages outside of government lunch
11 programs, et cetera, that have contributed
12 to the rise of these diseases, and obesity
13 especially is an epidemic in our current
14 generation.

15 This is the first generation where
16 parents will be burying their children with
17 chronic diseases seen earlier and earlier.
18 Not only are Hispanics afflicted with higher
19 rates of obesity and heart disease in the
20 general population, since they are a younger
21 population, the rates of increase are greater
22 for children and adolescents in our
23 communities. Hispanics and other poor
24 minority populations will become afflicted

1 with greater rates, all of chronic diseases,
2 diabetes, heart disease, et cetera.

3 Higher health costs will be shifted
4 to our clinics and our hospitals and there
5 will be lowering of quality life and
6 premature death. In some way the National
7 Hispanic Medical Association supports the
8 proposals of the New York City Department
9 of Health and Mental Hygiene for restaurants
10 to have partial take-out of artificial trans
11 fats and the point of purchase for calorie
12 labeling because these efforts will assist
13 in decreasing heart disease and obesity and
14 reverse the trend of premature death for all
15 Americans. Thank you.

16 WILFREDO LOPEZ: Thank you. The next
17 speaker who missed her turn was Amie Hamlin;
18 is she here? If not, the next one was Joseph
19 Aranha; okay. Then the next one was
20 Peter Kostmayer.

21 Okay, then we'll go to our next
22 registered speaker, John R. Whipple,
23 President, National Counsel of Chain
24 Restaurants. Mr. Whipple here? Okay.

1 Sheila Cohn Weiss, National
2 Restaurant Association.

3 SHEILA COHN WEISS: Good morning.
4 My name is Sheila Weiss. I'm a registered
5 Dietician and the Director of Nutrition
6 Policy of the National Restaurant
7 Association.

8 I would like to thank the New York
9 City Department of Health and Mental Hygiene
10 for this opportunity to testify before you
11 regarding the Notice of Intention to add
12 81.08 and 81.50 to Article 81 of the health
13 code.

14 Due to the strict time constraints on
15 the oral testimony, a full testimony on each
16 proposal is available for your information.
17 In addition, detailed written comments have
18 been submitted by our organization.

19 As a national organization, we have
20 many members who operate within the City, and
21 the concerns reflected in this comment apply
22 to all restaurant operators. The diversity
23 of our membership and the substantial impact
24 of the proposals prompts every segment of

1 our broad industry to urge that these
2 proposals be permanently withdrawn.

3 The issue of banning trans fats is
4 not an effective means of improving the
5 overall health of New Yorkers. This
6 proposal takes a very narrow approach to
7 a much larger health issue. It does not
8 propose a meaningful solution and may prove
9 to be misleading to both restaurants and
10 consumers. The City of New York should
11 focus on the larger health issue at hand
12 and work to educate its citizens and
13 business communities on the important
14 aspects of leading a healthy lifestyle.

15 Prematurely making switches in
16 product formulation can lead to unintended
17 consequences.

18 One major issue that some restaurants
19 are facing is that of the supply of trans
20 fat free oils. There simply is not
21 currently enough oil available for some
22 restaurant chains. It will be a matter of
23 years before the crop supply is adequate to
24 produce enough trans fats free oil for some

1 restaurant chains.

2 Due to a decreased supply of substitute
3 oils some restaurants will have no choice
4 but to revert to higher saturated fat oils.
5 This is not a good solution. Public health
6 officials consistently warn that consumers
7 should avoid increasing their intake of
8 saturated fat in an effort to minimize
9 trans fat. The two kinds of fats must be
10 considered together.

11 We don't believe the solution for
12 New York City is to simply follow Denmark's
13 lead where food service companies have
14 simply substituted palm oil for partially
15 hydrogenated vegetable oil. We believe
16 that it is important for you to find better
17 longer-term solution and ensure that we are
18 all fully informed about the science behind
19 them.

20 New York City restaurants may not
21 have a foundation for nutritional analysis
22 to even care that they have a trans
23 fat issue or not. If the information is
24 available, maybe the vendors are relying on

1 computer modeling at best, and this is a
2 very expensive validation process for most
3 suppliers to do actual testing.

4 Nutrition testing of a finished
5 product is very costly if the owners would
6 even think or have an idea that they would
7 need this review. City regulators would then
8 have to validate their own.

10 (TAPE 1 ENDS HERE*****)

11 Many of our nation's restaurants, as
12 shown in this mornings news and in the last
13 few weeks, have been successful in switching
14 to trans fat free oils. Others are still
15 exploring trans fat alternatives but this
16 is not a switch that can happen immediately.

17 In some cases it can take years for
18 a restaurant company to find appropriate
19 alternatives as shown in the last few weeks.
20 These companies that have successfully
21 switched have been doing research for as
22 many as two years.

23 Many of these restaurants have been
24 doing a great deal of testing with their

1 frying oils. It becomes a matter of taste,
2 quality, and shelf life.

3 While we applaud the New York City
4 Health Department in its efforts to address
5 the growing obesity issue affecting
6 Americans, we believe that simply posting
7 calorie information on menus and menu boards
8 will not advance the goals underlying the
9 challenges being taken up by the Department
10 and, therefore, is not supported by the
11 National Restaurant Association.

12 The restaurant industry is already
13 providing consumers with more comprehensive
14 information. The proposal penalizes
15 restaurant change to already lead the way
16 in providing nutrition information and
17 education on healthy lifestyles to our
18 customers and provide this disincentive
19 for other restaurateurs to provide this
20 nutrition information.

21 Our industry has been successful
22 because we've listened to our millions of
23 customers and responded to their needs.
24 For those customers who want information,

1 many restaurant chains already provide
2 comprehensive nutrition information, and
3 that's more than just calories, in
4 brochures, tray liners, posters, web sites,
5 computer vestibules on-site. We are
6 committed to providing -- thank you
7 again and look forward to working with the
8 members of the State restaurant partners.

9 WILFREDO LOPEZ: Thank you. I was
10 remiss earlier in not introducing Ms. Pam
11 Brier, a member of the Board of Health who
12 has joined us.

13 The next speaker is Carol Horowitz,
14 M.D., MPH, Mount Sinai School of Medicine.

15 CAROL HOROWITZ: Good morning.
16 I'm a primary care doctor, researcher
17 of Mount Sinai School of Medicine.

18 Before I begin I'd like to ask the
19 calorie labeling law be clarified to specify
20 what will be posted for combination meals.

21 In my research, I partnered with
22 Harlem leaders to conduct research and
23 develop programs to improve health. The
24 East Harlem Diabetes Center of Excellence and

1 the East Harlem Partnership for Diabetes
2 Prevention are using this community-based
3 research model to begin to tackle the
4 diabetes and obesity epidemic in East
5 Harlem.

6 We believe that having calories
7 posted on menus in places that already make
8 calorie amounts public could help people
9 make informed choices and could help in the
10 struggle to prevent and treat diabetes and
11 obesity. We know people grossly
12 underestimate the calories in less healthy
13 meal items. We know that people given
14 nutrition information choose lower calorie
15 foods. No one makes them change; just
16 giving information gives people the option
17 of using the information to make food
18 choices.

19 We have learned lessons from our
20 research in East Harlem that apply to much
21 of our city. The best way to describe
22 East Harlem is to compare it to the adjacent
23 upper east side. These two communities
24 are separated by only one city block, but

1 differences in health make it seem like
2 they're separated by an ocean.

3 East Harlem is the most obese
4 community in New York City; upper east side
5 is the least obese. East Harlem has the
6 highest rate of diabetes in New York City;
7 Upper East Side has the lowest.

8 What accounts for these differences
9 in health? In addition to large
10 socioeconomic differences, our research
11 reveals several important factors. East
12 Harlem food stores have less healthy foods
13 than those in the upper east side. Fast
14 food venues are pervasive in East Harlem.
15 One in seven restaurants in East Harlem
16 fast food venues versus only about one in
17 25 on the upper east side.

18 One of the top three barriers East
19 Harlem adults say prevent them from eating
20 healthy is difficulty finding healthy fast
21 foods. We have a new community-based peer
22 lead program that has resulted in people
23 losing weight and keeping weight off. And
24 our research revealed that the participants

1 find learning to read labels particularly
2 helpful.

3 While East Harlem stores may not have
4 all the healthy food choice that upper east
5 side stores have, people are now researching
6 their choices and making better ones at those
7 same stores. When they ask us about how
8 to eat healthier fast food in take-out
9 places, should we tell them to avoid those
10 food venues? We don't, and we don't think we
11 should. We advocate providing information
12 about these foods just as people have
13 information about the foods they buy in
14 stores because food manufacturers are
15 mandated to have an interest about the labels
16 on food items. Yes, most large chains do make
17 information about nutrition public. But in
18 our current digitally divided world, those
19 with the most financial and educational
20 resources also have the easiest access to
21 this information.

23 If this information is out there why
24 can't it be in the restaurant easy to read

1 and understand for everyone? What is the
2 downside of posting a calorie content next
3 to the price of foods? Is it likely to make
4 people stop buying fast foods? Why should
5 it? They're inexpensive; people like it; and
6 it is so convenient and many venues do want the
7 lower calorie option.

8 Would a burger business owner's menus
9 and menu boards regularly change to include
10 new prices and new items? Calories could be
11 incorporated with those changes. Would
12 everyone want or use all the information? No.
13 But not everyone uses the information that's on
14 menus now or reads the labels mandated on
15 food items and stores, but some people would
16 use it. Think about it and have an
17 opportunity to use it.

18 If I see that I have the choice of
19 two extra large sodas that cost the same
20 amount, but if I chose diet soda, it would
21 save me 800 calories, I might choose the
22 diet soda. Remember, turning 100 calories
23 a day results in losing about 10 pounds a
24 year. And if restaurants saw people

1 prioritizing lower calorie foods or people
2 began to ask for more low calorie options,
3 they could expand their business to
4 accommodate their patrons just as they
5 change their menus to reflect other food
6 trends.

7 One in two Latino children born this
8 decade will have diabetes as adults, and
9 nearly one in two African-American children
10 face the same fate. We know weight loss
11 can prevent diabetes and help people with
12 diabetes live longer. If we don't act now,
13 generations after us will wonder why we sat
14 back and watched the diabetes and obesity
15 epidemic and the poor health that comes
16 with them spread through our city. What are
17 we waiting for? Thank you.

18 WILFREDO LOPEZ: Thank you. Next
19 speaker is Walter Willett, M.D., Nutritional
20 Epidemiology from Harvard School.

21 Oh, I'm sorry. I inadvertently
22 skipped someone, so - that's all right.
 I'll call Sharon Akabas
23 next. I apologize. Dr. Willett.

24 WALTER WILLETT: Thank you very much.

1 I do want to thank the New York City Health
2 Department for providing this opportunity to
3 comment on the proposed restriction of trans
4 fatty acids in serving public places.

5 Our research group at Harvard School
6 of Public Health has been investigating the
7 health effects of trans fatty acids since
8 the late 1970s when the potential for harm
9 came to our attention. This concern was
10 based on the fact that trans fatty acids are
11 similar to but not exactly the same as the
12 natural non-essential fatty acids and thus
13 they could compete with essential fatty
14 acids that play a critical role in cell
15 structure and function. Also, trans fats are
16 by far the most abundant artificial chemical
17 in our food supply. Also during the last
18 century, the increase in trans fatty acids as
19 quoted give rise to coronary heart disease
20 and other major illnesses. That's not proof
21 but at least reason to be concerned and
22 investigate this further.

23 Since 1980 we have examined intake
24 of trans fatty acids in relation to the

1 incidents of major health outcomes including
2 coronary heart disease in several large
3 populations that include over 200 adults of men
4 and women across the United States. We have
5 found that persons who consume greater
6 amounts of trans fatty acids have higher
7 risks of coronary heart disease, a finding
8 that has been confirmed by investigators
9 elsewhere in many different countries.

10 We and others have provided what is
11 now firm evidence that trans fatty acids
12 have adverse effects on blood cholesterol
13 fractions and inflammatory factors and
14 that they also inhibit the lining clogging
15 of arteries. Together, these findings have
16 provide a compelling evidence that trans
17 fatty acids contribute importantly to
18 development of coronary heart disease in
19 the United States.

20 My colleague, Dr. Wilson Farley, will
21 describe in detail the number of cases that
22 are likely to be prevented by reducing trans
23 fatty acids in our food supply, and those
24 numbers are enlarged.

1 In addition, to the effects on rates
2 of coronary heart disease, we have found that
3 trans fatty acids predict greater risk Type
4 2 diabetes. And my colleague Dr. Margaret
5 Morrison, has found those who consume more trans
6 fatty acids have a higher risk of Alzheimer's
7 Disease. These other adverse effects of
8 trans fats are probably related to the poor
9 inflammatory effects of trans fatty acids.

10 So the point is that there's likely
11 to be a much larger benefit, much
12 broader benefit in health than just the
13 reduction of coronary heart disease by the
14 proposed ruling.

15 Also, we have seen in several studies
16 that intake of trans fatty acids is related
17 to weight gain more strongly than any other
18 specific dietary factor, and this has
19 recently been confirmed in a five-year
20 feeding study among monkeys.

21 So interestingly, it appears that
22 there is not a complete independence of the
23 proposed ruling on labeling of calories in
24 foods, but that trans fat reduction is also

1 likely to still have an important
2 contribution to the reduction of overweight
3 and obesity.

4 In summary, the restrictions on
5 use of trans fatty acids by restaurants
6 proposed by the New York City Department
7 of Health will have major benefits for the
8 residents of New York and those of us who
9 visit here. Because this is an issue of
10 food safety, this restriction is absolutely
11 appropriate for the Department of Health,
12 just in the same way that the Department
13 would restrict the addition of arsenic to
14 food if it was knowingly being adulterated
15 in this way.

16 My colleagues and I applaud the
17 Department for taking this very important
18 step forward.

19 I also wanted to comment briefly on
20 some of the previous speakers. Specifically,
21 it's hard to be very sympathetic for the
22 New York Restaurant Association or the
23 National Restaurant Association about the
24 need for more time in doing this on a

1 voluntary basis.

2 I have given talks to groups in the
3 food industry for the last five or six
4 years their work. There have been some
5 progressive restaurateurs and food producers
6 who are interested in reducing eliminating trans
7 fats. In one of the obstacles that I did
8 run into was that people in the food
9 production industry, farmers, are basically
10 saying they would like to be able to plant
11 more oils that would be appropriate
12 replacements for partially hydrogenated
13 vegetable oils but they wouldn't have any
14 guarantee or any assurance that those new
15 oils will be purchased. They need a strong
16 signal from the food industry that there
17 was a market and that's exactly why this
18 legislation is important.

19 There is a need for a very strong
20 signal to the suppliers so that they will
21 make sure that trans free products and oils
22 that can be used for trans free products are
23 available. Actually, probably just there's
24 not enough food supply if the whole country

1 were to go trans fat free but from everything
2 I understand there will be a lot more
3 available next year, certainly enough for
4 New York to be trans free. Thank you.

5 WILFREDO LOPEZ: Thank you. The person
6 I skipped over inadvertently, Sharon Akabas.
7 Ms. Akabas?

8 Okay, the next speaker is
9 Aine Duggan, Vice President, Food Bank
10 of New York City.

11 AINE DUGGAN: Good morning. I'm
12 Aine Duggan, Vice President for Government
13 Relations with the Food Bank of New York
14 City, and I want tot hank you for the
15 Opportunity to present testimony this morning.
16 I have submitted a written testimony and I'll
17 just keep these comments pretty brief.

18 The Food Bank of New York City is
19 what might be described as the hub of the
20 emergency food program system in New York
21 and I talk to explain why we're sitting
22 here this morning to say that we're a little
23 bit concerned about implementation of trans
24 fat ban at the soup kitchen level.

1 I should first explain how the
2 emergency food program assistance
3 works in New York City. I believe there
4 are a very few people in the City in fact
5 who realize the intricacies of the system.
6 The Food Bank supplies most of the food to
7 approximately 1,200 programs throughout the
8 City. Those are primarily soup kitchens and
9 food pantries, but also include senior
10 centers and we have programs and other
11 community centers.

12 The vast majority of the food that we
13 supply actually comes from national sources.
14 Most of the food is supplied by USDA's
15 emergency food assistance program, which is
16 commonly known as TEFAP, and then the second
17 biggest supplier of food is private
18 donations.

19 The New York City Emergency Food
20 Assistance Program, which is administered by
21 HRA, only accounts for 19% which is currently
22 less than a fifth of the entire food that is
23 distributed by the Food Bank. And then the
24 State also supplies food through a program

1 called Hunger Prevention and Nutritious
2 Assistance Program, but again, it's a very
3 tiny percentage of people involved in
4 distribution.

5 The Food Bank, in fact, only controls
6 8.5% of the purchasing for all of the food
7 distributed in New York City. So we only
8 have it in our power to control whether or
9 not trans fat is supplied in the food chain
10 to that 8.5%. We cannot control the rest. We
11 expect that the City's HRH Division will
12 actually be in compliance with the ban.
13 However, we cannot expect that USDA or that
14 the private donors will be in compliance
15 with the ban and, therefore, we see a problem
16 and we're hoping that you can help us fix
17 that problem.

18 The vast majority of soup kitchens
19 and food pantries and other emergency food
20 programs are operated by volunteers.
21 In fact, 90% of the programs rely on
22 volunteers. So we're not talking about
23 establishments that have the wherewithal
24 or the capacity to monitor labels as food

1 is coming in. In fact, they don't have
2 enough food to supply to the lines of people
3 that are turning up on their doors day in
4 and day out, and they are not in a position
5 to turn away food, neither is the Food Bank
6 and here is the reason why:

7 The donated food which comes to the
8 Food Bank is in fact the supplier of most
9 of the nutritious food that comes into the
10 emergency food system in New York. Most
11 of the fresh food, that is fresh vegetables,
12 fruit, meat, fish and other protein comes
13 through private donations.

14 Government food provides mostly
15 shelf stable food and only 1% of it can
16 be described as fresh food. Therefore, we
17 can't turn away the fresh food, and in order
18 to turn away the bad food, we would in fact
19 have to turn away all the mixed
20 assortments. You don't get a choice with
21 donated food. It comes into the City in
22 mixed assortments which you have to accept
23 before you even know what the trailers
24 contain. So it would be, as you can imagine

1 yourself, irresponsible of an establishment
2 like the Food Bank currently who is
3 desperately needed in the City.

4 The other point is this: Currently,
5 government food only accounts for 63% of
6 all emergency food program food in the City.
7 Now that's down 15% in the last five years
8 alone. Donated food is constantly
9 increasing because the demand is constantly
10 increasing and government funding for
11 emergency food has been flat for the better
12 part of the decade.

13 Last year Food Bank was able to
14 increase the supply of fresh food into the
15 network by record numbers 11,000,000
16 pounds of fresh food that is fruit and
17 vegetables were distributed to emergency
18 food programs. It's up 242% in the last
19 three years alone. So there is an amount
20 of work that happens in the emergency food
21 program system as it stands to increase the
22 nutrition of New Yorkers at risk of hunger.
23 In fact, it is part of the Food Bank's
24 mission to improve the nutritional intake

1 of New Yorkers at risk of hunger.

2 Our biggest concern with the trans
3 fat ban is that it may in fact impede some
4 of that work because something else that
5 donated food contains is what's described as
6 "dumped food." In other words, food that
7 nobody else wants which is influenced by
8 market trends.

9 When restaurants and indeed when
10 grocery stores are not accepting trans fat
11 food the manufacturers who of course are
12 not influenced by the ban will
13 continue to put trans fat food into the
14 emergency food program system. That's why
15 we'd like to see a ban on trans fat food
16 at the source level rather than just
17 distribution.

18 We'd also like to see a ban on
19 other foods that are unhealthy and hurt
20 the population of people that we serve
21 including high fructose corn syrup and
22 salt in particular but I imagine that's
23 work for another day.

24 So, in conclusion, I would like to

1 thank you again for the opportunity to
2 testify, and I encourage you to work with
3 us in the testimony that we've provided.
4 Thank you.

5 WILFREDO LOPEZ: Thank you. The next
6 speaker is Dariush Mozaffarian, Professor,
7 Harvard School of Public Health.

8 DARIUSH MOZAFFARIAN: Thank you very
9 much. I'd like to thank the New York City
10 Department of Health for the opportunity to
11 speak and for the pretty close approximation
12 of my name as well.

13 I'm not a Cardiologist at the Harvard
14 Medical School. I'm an Epidemiologist at
15 the Harvard School of Public Health and I'm
16 here to focus a little bit on the science
17 and that's in contrast to the couple of
18 restaurant representatives that will speak
19 to not only as little science but any
20 science in their statements but in fact,
21 had statements that were contrary to the
22 facts such as the fact that the suggestion
23 that Denmark has increased saturated fat in
24 reducing trans fat which simply has not

1 happened yet.

2 So the harmful effects of trans fats
3 on blood cholesterol measures are clearly
4 established. Trans fats increase the bad
5 LDL cholesterol and decrease the good HDL
6 cholesterol, and that has not been seen for
7 any other nutrient.

8 Studies in humans also show harmful
9 effects on several other important risk
10 factors. Trans fats increase inflammation
11 in the body. Inflammation is a potent risk
12 factor of cardiovascular disease, diabetes,
13 obesity and other diseases. Trans fats also
14 worsen the health of the endothelium, the
15 lining of the blood vessels, which is so
16 important for good cardiovascular health.

17 Studies in primates have shown that
18 trans fat acids cause weight gain, abdominal
19 fat by making the cause of abdominal fat
20 which is the most metabolic consequence, and
21 trans fats also worsen insulin resistance in
22 primate studies.

23 Based on these powerful adverse
24 effects of trans fats on risk factors, one

1 would predict powerful harmful effects of
2 trans fats on disease outcomes, and indeed
3 this is exactly what we're seeing.

4 In large studies involving more than
5 140,000 participants, trans fat consumption
6 is consistently associated with higher risk
7 of coronary heart disease. Importantly,
8 the risk is seen at very low levels of
9 consumption and in a range of
10 populations and cultures, including
11 states in the U.S., Europe, Australia and
12 Central America.

13 When we combined the evidence, there
14 was 23% higher risk of coronary heart
15 disease for each 2% of calories from trans
16 fats. This is staggering. 2% of calories on
17 a typical 2,000 calorie diet is 40 calories.
18 So calorie for calorie trans fats are the
19 most harmful nutrient in our diet. This
20 blood level risk is much higher than for
21 any other nutrient including saturated fat.
22 And as an analogy, statins which are one of the
23 most powerful medications for reducing heart
24 disease risk, reduce risk about 25%. So

1 40 calories of trans fats blanks out the
2 effect of the most powerful medication that
3 we have.

4 Now based on this evidence we calculated
5 estimates of the impact of trans fat
6 consumption on coronary heart disease
7 risk in the United States. But the most
8 conservative estimates based only on effects
9 of trans fats from total cholesterol are that 6%
10 of heart attacks in New York City and in the
11 U.S. are due to the consumption of artificial
12 trans fats. In New York City this would
13 correspond to about 1,200 deaths from heart
14 disease each year and that's the most
15 conservative estimate. This is a remarkably
16 high percentage given that heart attacks
17 are the number one cause of death in our
18 country.

19 Importantly, the 6% is almost
20 certainly an underestimate because it is
21 based only on total cholesterol and HDL, and
22 trans fats have many other harmful effects
23 and other risk factors. Based on what we've
24 seen between trans fat consumption and risk

1 in human studies, which would better account
2 for the total effect, up to 22% of heart
3 attacks may be due to consumption of
4 artificial trans fats. Whether the true
5 effect is 6% or as high as 22%, artificial
6 trans fats are a dangerous additive in our
7 food supply. They have no nutritional
8 value. They have great potential for harm.
9 They can easily be replaced by natural fats
10 and oils without any changes in food, taste,
11 price or availability. The strength of the
12 evidence and the magnitude of the effect for
13 the health risk of trans fats are greater
14 than for other food contaminants and
15 pesticide residues which are already
16 appropriately regulated to very low levels.

17 As a matter of food safety, I strongly
18 support the New York City initiative to
19 eliminate the use of artificial trans fats
20 by restaurants. Thank you.

21 WILFREDO LOPEZ: Thank you. The next
22 speaker is Howard Weintraub of the American
23 College of Cardiology.

24 HOWARD WEINTRAUB: Thank you very

1 much. I'm Howard Weintraub, Co-Director of
2 the Lipid Unit at NYU. I'm also here to
3 represent the Cardiac Prevention Committee
4 at the American College of Cardiology, chaired
5 by Roger Blumenthal. I thank the City for
6 the opportunity to speak.

7 The proposal by the New York City
8 Department of Health and Mental Hygiene to
9 restrict service of foods containing
10 artificial trans fats in all New York City
11 restaurants may prove to be an important
12 step to the prevention of the leading cause
13 of death in New York City and throughout
14 the country, mainly coronary heart disease.
15 The American College of Cardiology, the ACC
16 applaud this proposal as it supports
17 measures to inform and advocate for health
18 food choices.

19 CHD is the leading cause of death in
20 the United States and claims more lives each
21 year than the four leading causes of death
22 combined. CHD is also the leading cause of
23 death in those individuals with diabetes.

24 As a matter of fact, if I can quote

1 Dr. Joslyn, he informed us that diabetes forms
2 from an excess of fat and from an excess of
3 fat, diabetics perish.

4 There is clear scientific evidence
5 with the association between the intake of
6 trans fats and the risk of coronary heart
7 disease through elevating LDL, the bad
8 cholesterol, and lowering HDL, the good
9 cholesterol. In fact, we now believe that
10 trans fats may be even more dangerous than
11 saturated fats. Further, replacement of
12 trans fats with heart healthy alternatives
13 appears to reduce CHD events.

14 I should remind you of some data that
15 came out of one of my favorite medical
16 journals, The New York Times. In January of
17 this year they informed us that there were
18 125 million people in our country with
19 elevated levels of LDL, 65 million people
20 with high blood pressure, 50 million people
21 who are essentially studying to become
22 diabetics, those with the cardiometabolic
23 syndrome. And then a number that many
24 people were surprised about 21 million

1 people who have diabetes and 8 million
2 people who have it and don't know about it.

3 It is these kinds of fats that place
4 people with the metabolic syndrome recipient
5 risk of developing a disease that makes
6 cancer look like a picnic. If you develop
7 cancer, cancer will play with you in a very
8 bad way, and over a year or two your fate
9 will be decided. However, with diabetes in
10 the first year or two it just starts to get
11 going. And after five or ten years, you're
12 willing to make a deal with the devil,
13 however, usually there's no one to broker
14 this affair. And at that point, it becomes
15 important to try and prevent this because
16 once you get down that road, it becomes
17 nearly an impossibility.

18 Another problem comes that many
19 more people are eating out as evidenced by
20 the daily food dollars spent and the total
21 calories consumed in restaurants. You go on
22 the internet, you will find out very easily
23 that a Big Mac with cheese, one of the staples,
24 704 calories, 593 calories without the

1 cheese, 610 calories with the super-size
2 fries which we've become use to and another
3 200 for the regular coke, 16 ounces. If
4 you take all that together you buy and largely
5 consume the caloric expenditure that we
6 should have in one meal, and for many people
7 this is a snack. So it's understandable as
8 to why we are becoming a group that looks
9 like Mr. Potato Head and we are starting to
10 have problems where physicians can recognize
11 their patients at risk by which part of the
12 anatomy enters the office first.

13 As much as I hate to say it, in
14 lectures that we did to other physicians,
15 this is the tact that we have to take
16 because so many times we are dealing with
17 this in a very down-tone and physicians
18 become intimidated.

19 Problems are that Americans are
20 consuming so many other calories not
21 prepared in the home, and, as a result, so
22 many more opportunities are there to make
23 food choices in situations where food is
24 not personally prepared with heart health

1 in mind. In addition, more people are
2 becoming concerned about the content of
3 their foods as evidenced by the increased
4 sales of food that contain no trans fats.

5 The replacement of trans fats with
6 healthier alternatives such as poly-and
7 monounsaturated fats known to lower LDL
8 cholesterol and raise the good cholesterol
9 HDL, can easily be accomplished without
10 negative effects on food taste or quality.
11 We should provide food that contains no or
12 minimal trans fats to the public. At the
13 same time you can take a step towards the
14 goal of preventing chronic debilitating
15 diseases that none of you would wish on
16 anybody, such as cardiovascular diseases,
17 stroke, vascular disease and heart
18 attacks and the nemesis of all that, mainly
19 diabetes.

20 There has also been increasing
21 awareness on the rising epidemic of obesity
22 in our country, as this, too, can contribute
23 to increased risks from cardiovascular
24 disease and diabetes.

1 A suggestion has been made to
2 encourage restaurants that already offer
3 nutritional information to make this
4 important data more easily accessible to
5 their patrons. Many people have said that
6 they've looked for calorie content on the
7 foods they purchase and this may
8 influence exactly what they eat. While
9 this may only apply to a small number of
10 establishments, we must take every step
11 possible to encourage caloric restriction.

12 For the many elderly patients we
13 see each day at our offices cutting out as
14 little as 100 calories a day can influence
15 significantly long-term weight loss with
16 dramatic benefits on their cardiovascular
17 status.

18 And if you think that twelve pounds a
19 month does not account for too much, if you
20 look at many of the studies that have been
21 done and published recently, as little as
22 eight or ten pounds can have a profound
23 effect on the metabolic consequences and

1 eventual cardiovascular risk.

2 In closing which is what I have to do,
3 I'd like to thank you for the opportunity to
4 speak and I hope you make the right choice.
5 Thank you.

6 WILFREDO LOPEZ: Thank you. Next
7 speaker Audrey Silk, Founder of New York
8 City C.L.A.S.H.

9 AUDREY SILK: Good afternoon. Though
10 I am the founder of a smokers' rights group
11 based in New York City we have always argued
12 that our position is less about smoking and
13 more about the loss of civil liberties, the
14 encroachment of the nanny state,
15 infringement on private property rights, and
16 all things of that nature, including now this
17 proposal to ban trans fat.

18 Many take the position that this
19 proposal is "finally going too far."
20 Smoking bans are not a unique or different
21 animal. It was the allowance and tolerance
22 and even the welcoming of them that puts us
23 in the position we're in now. It is one and

1 the same. That's where many seem to go
2 wrong. The slippery slope doesn't start now,
3 as many have said. It started then and we
4 have been screaming for years that food will
5 be next.

6 In August of 2005, I, personally,
7 warned Chuck Hunt of the New York City
8 Chapter of the Restaurant Association that
9 he shouldn't be so agreeable to Health
10 Commissioner's Frieden's request to
11 voluntarily eliminate trans fats because
12 when no one volunteers, he will mandate it
13 by law.

14 We have begged everyone to get over
15 the blind belief that the smoking bans are
16 to protect nonsmokers from the alleged
17 harm of second-hand smoke. The
18 anti-smoking crusaders have said all along
19 that their goal is a smoke-free society and
20 that bans are a way to modify the legal
21 behavior they don't approve of to
22 de-normalize smoking.

23 Simply put, smoking bans are to "save
24 people from themselves," the exact same way

1 this trans fat ban is to save people from
2 themselves. When the smoking bans were
3 accepted that was the green light to the
4 health police that the public would offer
5 little resistance to their controlling other
6 areas of our lives for our own good. Not
7 only that, indeed you are applying the same
8 brand of junk science to do it.

9 Your premises on both the role of
10 public health and the extraordinary and singular
11 "danger" of trans fat are sorrily mistaken.
12 For openers, your job is not to make sure
13 that our "dining" is "healthy." And by the
14 way "healthy" according to whom?

15 Almost annually, the government has
16 seemed to change its mind about what's a
17 "healthy diet." Bad enough that the public
18 has been led and misled with a shifting
19 kaleidoscope of false do's and don'ts which
20 at least we've been able to take with a
21 grain of salt, but now you apparently want
22 to cram them down our throats.

23 Your second presumption is more
24 alarming. You invent for public health

1 a role and a power that it's never
2 historically had and never ought to have,
3 and imperially inform us that you're charged
4 with preventing chronic diseases through
5 approaches that may address individual
6 behavior. No, you're not. You just made
7 that up. And we'll thank you for keeping
8 your paws off our "individual behavior"
9 as well as what you call our "community"
10 environment. That's not public health,
11 that's social engineering. Eliminating
12 choice and coercing behavior is not The
13 American way.

14 As for trans fats themselves, you
15 overestimate their associative connection
16 to disease, and similarly their percentage
17 in the average diet.

18 According to the National Academy
19 of Science, the DHHS, the National Heart,
20 Lung and Blood Institute, and even the FDA,
21 "trans fats are on a par with saturated
22 fats." No better, no worse. And
23 inconveniently, there's this:

24 "Americans eat four times as much

1 saturated fat as trans fat" according to the
2 New York Times, though the FDA itself says
3 the ratio is far greater, five to one.

4 An overload of trans or saturated
5 fats may raise cholesterol in some people,
6 which may or may not be one of the over 300
7 known or suspected contributors to heart disease.
8 And yes, it's your job to tell that fairly
9 and squarely to the public. But in any
10 case, pretending that a plate of french
11 fries is a bullet to the heart let alone
12 "toxic poison" analogous to lead is just
13 sheer hyperbole.

14 Finally, as you know, trans fats
15 occur naturally in foods eaten much more
16 frequently than fries, where they're also
17 accompanied by saturated fats. And since
18 your lust for engineering is apparently
19 unrestrained, it's really a no-brainer that
20 next you'll be attempting to banish eggs
21 benedict and mandate perhaps by cubic
22 centimeters, the portion-size of a steak.
23 And in the course of improving the food
24 environment which has to include stores,

1 what aside from the Commerce Clause, which
2 is recently scorned anyway, would stop you
3 from controlling what we buy in the market?
4 Any job worth doing is worth doing well.

5 And finally, really, the very language
6 of this law shows the bloodlessness and
7 joylessness in the Health Department's
8 sterile and medicinal view of life. Food
9 isn't medicine. And yet, with a stroke of
10 your bureaucratic pens, you manage to reduce
11 the whole playground of eating, noshing,
12 snacking, dining, feasting, to the clinical
13 concept of "food intake" and restaurants,
14 delis, bistros, cafes, to the food
15 environment.

16 Your approach to public health shows
17 contempt for the public, contempt for the
18 marketplace, contempt to the principles of
19 autonomy and choice. Our bodies aren't yet
20 the property of the State, nor yet the City.
21 Thank you for your time. Nice to see you
22 guys. Thank you.

23 WILFREDO LOPEZ: Thank you. Next
24 speaker Ina Pinkney, Chief and Owner of Ina's

1 in Chicago.

2 INA PINKNEY: Good morning. I was
3 born in Brooklyn. I gave up baseball
4 the day the Dodgers last entrance and still
5 carry a grudge and I'm really sorry about
6 the mess.

7 I opened my first restaurant in 1991.
8 As an early adopter it was no smoking then.
9 My decision to operate a smoke-free
10 restaurant was really an easy decision.
11 When I put on the chef's jacket every
12 morning it is symbolic of my commitment
13 to serve safe and healthy food in a safe
14 and healthy environment. And despite my
15 personal commitment to always do the right
16 thing, I am still regulated each day by the
17 Building Department, the Fire Department
18 and the Health Department and I welcome
19 regulations and I welcome oversight. It is
20 a level playing field for me and for all of
21 the other restaurants in Chicago and so we
22 welcome the inspectors, we like this. We
23 are accountable and so are they.

24 Almost two years ago after reading

1 about the health detriments of trans fat
2 oils, I switched to Asoyia, a soy oil that I
3 got from a small co-op in Iowa. I even
4 asked the farmers to put it in small bottles
5 because we, as restaurant owners, get it in
6 jugs, 35 pounds, and I put it on my counter
7 in small bottles, and they absolutely flew
8 off the shelves with my customers who
9 appreciate it and who became so much more
10 aware of the health benefits.

11 So I produce a newsletter each and
12 every month and I wrote about the Asoyia
13 oil, the trans fat free Soya oil and we were
14 really put on the map for that.

15 In my never ending quest to get
16 better performance and better taste this
17 summer I switched to Nutra-ClearNT and the
18 response was even greater. As a matter of
19 fact, I use it in all of my applications,
20 my pancake batters. I use it for saute
21 and I even use it in my carrot cake.

22 Winning the "best fried chicken" in
23 Chicago contest didn't hurt. It brought the
24 benefits of this healthy oil to the public

1 and that dish now generates 28% of my dinner
2 business, mostly from people who had to give
3 up fried food years ago. Well, now they
4 don't have to do that anymore. With natural
5 chicken and trans fat free oil we really do
6 a great job.

7 Three weeks ago I invited the best
8 chefs in Chicago to my house for a fried
9 chicken night and there are now twelve
10 converts. And as my Angelo has said when
11 you know better, you do better.

12 Now lets talk about the economics.
13 The Restaurant Association, and by the way,
14 I resigned my membership in the Illinois
15 Restaurant Association because of their
16 stand on smoking which I didn't approve of
17 and their stand on non-trans fats. So I am
18 now a non-member. But the economics are
19 clear. They claim that ethnic restaurants,
20 the mom and pop restaurants will suffer. In
21 my case, the mom restaurant will suffer and
22 that is just not the case. These oils,
23 trans fat free oils, cost between 10 and 30%
24 more and last 75% longer. So deadly oil can

1 cost \$20 and the good stuff \$29 and the
2 deadly oil you have to throw out every two
3 days and the healthy oil lasts a week.
4 Count it, do the math.

5 The research about the dangers of
6 secondhand smoke was not accepted for a
7 long time. Now we have the research about
8 trans fat free oils with the fix readily
9 available and accessible immediately.

10 Manufactures are responding quickly
11 by planting more acreage and we need to
12 respond just as quickly and pass
13 legislation. This is a historic
14 opportunity that will impact the healthy well-
15 being of the citizens of New York and when it
16 begins for New York we will follow.

17 Chicago is now embroiled in this.
18 I am here speaking for me, for Chicago. I
19 am going to take all of this back and keep
20 fighting because I don't know how many
21 snow flakes it takes to break a branch but
22 I intend to be one of those snow flakes.
23 Thank you.

24 WILFREDO LOPEZ: Thank you.

1 Leslie Meenan; okay. Mark S. Inzetta, Vice
2 President and Assistant Counsel for Wendy's.

3 MARK INZETTA: Good morning,
4 Mr. Commissioner, Mr. Lopez, distinguished
5 members of the Board of Health.

6 My name is Mark Inzetta, Assistant
7 General Counsel, Vice President and Chief
8 Officer Compliance officer for Wendy's
9 International. The last title means it's my
10 job to make sure we follow the law, one of
11 the reasons I am here today.

12 We offer comments today on the
13 proposal regarding menu labeling,
14 notwithstanding what we consider the
15 discriminatory nature of the proposal when
16 we apply it to the select few restaurants.
17 We are in complete agreement with the
18 Department that restaurant customers
19 deserve information about the ingredients,
20 nutritional profile, as well as the allergens
21 contained in the foods that they eat.

22 We have provided this information to
23 our customers for decades. We exceed what
24 is currently required in all jurisdictions,

1 and we have no objections to providing
2 information in our stores. For years, we
3 have provided nutritional brochures. We
4 have also instituted a portion of our web
5 site in which customers can examine and follow
6 the nutritional information of the food that
7 they might consider and build their own
8 menu item from there.

9 We have recently this past year begun
10 to introduce in our restaurants the poster
11 that you see in front of me. This provides
12 all of the information that would be
13 necessary for a consumer to make an informed
14 choice on any menu item that they might take
15 off of the menu. We believe this is a much
16 more effective way on our part of educating
17 our customers so they make the informed
18 decisions that they need to make. It
19 contains obviously much more than caloric
20 information. For customers, caloric
21 information is only one item that they
22 need to consider in making informed choices.
23 Certainly, there are items which are lower
24 calories, but may be higher in fat or contain
25 allergens or other products, or other

2 ingredients rather, which may not be
3 in the best interest of that particular
4 consumer.

5 As well, we ask the Board to
6 consider that these fixed postings inside
7 our stores are far superior to what it is
8 this particular regulation would require.
9 These are going up in easily accessible
10 areas so that persons can give time and
11 consideration necessary in order that they
12 make proper menu choices.

13 As well, with our 800 line, our
14 consumer calls are managed by on-staff
15 registered dietitians when particular food
16 questions come up, and we make available
17 very detailed nutrition information as I
18 indicated on our web site.

19 We believe this is far more than
20 the vast majority of American restaurants
21 to provide and continue to improve our
22 communications with our customers in this
23 regard. We are not interested in hiding
24 anything. We think it's important for our
25 customers to know exactly what is in the

2 food that they eat.

3 What concerns us here about this
4 proposal is it would not apply to all
5 New York City restaurants and, in fact, would
6 apply to only a select few. Inexplicably,
7 companies that refuse to make any nutrition
8 information available would be entirely
9 exempt from this regulation. Not only do
10 we think this is unfair, but it's
11 counter-intuitive to what we believe to be
12 the scapegoat of the Department of Health
13 of increasing consumer education and
14 therefore, creates an incentive for
15 businesses which do not provide this
16 information to not provide it in the future.
17 In fact, some restaurants may consider
18 taking out the information if this proposal
19 were to pass.

20 So if the goal is to empower
21 New Yorkers to make better informed choices
22 when dining out, this proposal, in fairness,
23 should apply to all food service outlets in
24 the City instead of arbitrarily applying it
25 to just a small segment of restaurants.

2 As such it's impossible for us to
3 believe that this was meant to apply to
4 anyone but our own segment of the restaurant
5 industry. Other jurisdictions have
6 considered similar measures like this and
7 have seen what it is that restaurants such
8 as ours provides and have accepted that as
9 complete and full information necessary for
10 the public in order for them to make
11 informed choices.

12 To illustrate the compliance
13 challenge that we would face if this
14 proposal went through, we've also developed
15 some sample menu boards. One of the things
16 Mr. Thomas used to say was that you can get
17 your hamburgers made at Wendy's in
18 approximately 256 combinations.

19 Apparently, I'm out of time. Just
20 a portion of those 256 combinations would
21 require our menu board to look something
22 like this.

23 WILFREDO LOPEZ: Thank you. The next
24 speaker is Florence M. Rice. Ms. Rice is Vice
25 President, I'm sorry, President of the

2 Harlem Consumer Education Counsel.

3 FLORENCE RICE: Good morning, and
4 thank you for the opportunity to be able
5 to talk to you. I'm not a health person
6 but over the years, I have seen how our
7 children have become so obese, so in 1981,
8 I spoke about it, so I'm glad that I'm here
9 and support what you're doing.

10 As President of the Harlem Consumer
11 Education Counsel and a resident of New York
12 City, I will support the Health and Mental
13 Hygiene's recommendation to the limits of
14 trans fat in restaurant food and to reprise
15 certain restaurants to this count of
16 calories on the menus.

17 Trans fat promotes heart disease
18 killing roughly 60,000 Americans each year.
19 Many restaurant food contains far too much
20 especially in low-income communities, Trans
21 fats. A three-piece extra crispy combo meal
22 with drumsticks, two thighs, potato wedge
23 and biscuit at KFC contains a staggering 15
24 grams of trans fat. The American Heart

1 Association recommends that people eat no
2 more than two grams of trans fat per day.
3 People have gotten so used to having
4 nutritious information on packaged foods
5 and grocery stores and have a right to
6 know what's in their food. In restaurants
7 without clear, easy to find nutrition
8 information it is difficult to make informed
9 choices at restaurants otherwise, how can
10 you know what kind of fish sandwich has 50%
11 more calories than the roast beef sandwich
12 or that a small chocolate milkshake at
13 McDonald's has more calories than a Big Mac?

14 The Department of Health's
15 recommendation to both limit trans fat in
16 restaurant foods and to require calorie
17 exposure on menus. In certain restaurants
18 that is an excellent step toward helping
19 New Yorkers watch their weight, which in
20 my community people are so obese, it is sad.
21 They can reduce their chances of getting heart
22 disease. Please support these important
23 health measures.

24 I'm deeply, deeply concerned. It's

1 not the obesity, but in my community, what
2 upsets me is the fact that today obese,
3 especially African-Americans are not able
4 to obtain jobs because they are so obese,
5 and this has been happening over the years.

6 There is another company that I was
7 deeply concerned with many, many years
8 ago, in 1981 when the Amsterdam News wrote
9 the article but I'm deeply concerned with
10 what has happened because again African
11 Americans are suffering. They don't hire
12 right in my family that I know. So I'm
13 speaking about something that I know. They
14 eat in restaurants; they feed their children
15 in restaurants.

16 I did a survey just with little
17 children, and I won't call the name of the
18 formula that I was concerned with, but it's
19 very, very important because in our
20 community, poor people, I'll use the word
21 poor people, have become very obese, and
22 this just didn't happen yesterday. Much of
23 it happened in the very early years, and
24 I said that I'm no health person, but I did

1 it out of concern of just seeing my
2 community become so obese. So I thank you
3 just for being here and being able for you
4 to hear these few words.

5 WILFREDO LOPEZ: Thank you. It is
6 now almost 12:00 o'clock, so I will call the
7 names of those who may have missed your turn
8 earlier.

9 Is the representative of
10 Richard Gottfried here? Richard Gottfried
11 is a New York State Assembly Member and
12 Chair of the Assembly Health Committee.

13 I guess you are representing
14 Mr. Gottfried?

15 MICHAEL KAPLAN: Yes.

16 WILFREDO LOPEZ: Could you
17 introduce yourself.

18 MICHAEL KAPLAN: Good afternoon. My
19 name is Michael Kaplan. I'm here on behalf
20 of Assemblyman Richard Gottfried.

21 My name is Richard A. Gottfried.
22 I represent the 75th Assembly District in
23 Manhattan and I chair the Assembly Committees
24 on health. I appreciate this opportunity

1 to present this testimony. I regret that
2 I have to be in Albany today and cannot
3 appear before you in person.

4 I congratulate Commissioner Thomas
5 Frieden for his leadership in proposing the
6 regulations on trans fats and menu items and
7 I urge the Board of Health to approve them.
8 Heart disease and obesity are a major public
9 health problem and they do not have to be.
10 We have the ability and moral obligation to
11 help reduce the epidemic and save lives.

12 These proposals are important steps
13 in this life-saving effort. These proposals
14 are in keeping with the fascination of the
15 public health including the distinguished
16 history of the leadership constituting the
17 Health Department and Board of Health.

18 Obesity is a such a sensitive subject
19 in our society and many proposals have
20 obviously struck a nerve. It is no longer
21 that these proposals have been the target
22 of attacks and wisecracks. The earlier
23 proposals were to protect us from bad
24 elements and similar reactions, but today

1 the public overwhelmingly supports them,
2 trans fat.

3 One proposal would effectively
4 faze out artificial trans fats mainly
5 partially hydrogenated vegetable oil in food
6 preparation in food service establishments.
7 After six months they would apply to cooking
8 oil, shortening and margarine. After
9 18 months it would apply to all food service
10 except food served in the original
11 manufacturers' sealed package.

12 Trans fat is much more dangerous than
 other fats
15 and food. It raises the LDL, bad
16 cholesterol and lowers the HDL, good
17 cholesterol. Trans fat has no safe level and
18 no nutritional value.

19 The Center for Science in the public
20 interest reports that scientific estimates
21 done in New York City alone, trans fats kill
22 up to 1,500 people per year. It can easily
23 be replaced in food preparation by other
24 ingredients that taste as well, work as well,

1 at essentially the same cost.

2 Several restaurant chains and leading
3 restaurants have already sought to use
4 trans fat and
5 are doing fine. Sylvia's serves its world
6 famous soul food without using trans fat and
7 any restaurant can easily comply with this
8 proposed rule.

9 Customers have no way of knowing what
10 they're eating or served contains trans
11 fats. Packaged foods bought in stores is
12 now labeled with trans fat content so
13 customers can make choices, not so in
14 restaurants. In 1960 the Board of Health
15 was in the forefront of lead in paint in
16 protecting consumers from eating food prepared
17 in the presence of rats and other vermin.

18 The government consensus which
19 considered many cancer ingredients trans
20 fat regulation is a fitting step in this
21 tradition. While trans fat is more
22 dangerous than other fat it does not mean
23 that other fat is safe to consume in excess.
24 It is important to make sure the public does
not misunderstand the complaint against

1 trans fat. This makes the other proposed
2 regulation relating to calorie information
3 on menus especially important.

4 Consumer lack of information is a
5 serious factor in the efforts to prevent
6 the epidemic of overweight and obesity.
7 Most people would not think that a six-inch
8 tuna Subway has 530 calories much more than
9 290 calories in a roast beef sub. Most
10 people would be surprised to learn that a
11 McDonald's Big Mac has 560 calories but a
12 McDonald's large shake has more than twice
13 that, 1,150 calories, more than half the
14 recommended daily calorie of intake for an
15 adult.

16 With packaged foods sold in stores or
17 cooked food at home consumers want and can
18 know the ingredient and determine calorie
19 content of their food. But that is not the
20 case of food served in restaurants. Calorie
21 count produce extraordinarily higher than
22 most people with saturated fats. But the
23 proposed regulation by the calorie count can
24 be displayed on menus and menu boards. But

1 not only in restaurants that are already
2 making calorie boards and web sites or
3 otherwise.

4 Without information being
5 displayed, a consumer must do the research
6 and get information before ordering. It is
7 important not only to make the information
8 easily available to consumers, but also to
9 put it in front of them when they are
10 thinking about their food choices.

11 Complying with these regulations
12 will be easier to restaurants that are
13 subject to it and not those that are already
14 making the information available through
15 some form to the public.

16 I strongly support the proposal and
17 I understand the Department's reasons for
18 limiting applicability. However, I am
19 concerned in some restaurants where chains
20 that now make caloric information available
21 might be able to stop doing so. Whoever is
22 to avoid being subject to the new
23 regulation. Also, large chain restaurants
24 that do not make their calorie information

1 available can easily do so can easily do so.
2 Therefore, I urge the
3 Department and the Board to be open in the
4 future for expanding this Health Code
5 regulation. Of course, much more needs
6 to be done to prevent the epidemics of
7 overweight and obesity and the grave health
8 problems that comes with heart disease and
9 diabetes.

10 Most of what we eat is not covered by
11 proposed regulations. We need to build on
12 what the Department of Education has done
13 to improve what has been served and sold in
14 schools. We need to educate and persuade
15 parents and children to overcome the power of
16 advertising culture, and we also need to get
17 people to exercise more.

18 These proposed regulations are
19 important steps in the right direction.
20 They'll improve health in New Yorkers and
21 prolong a safe life. I urge the Board of
22 Health to stand firmly with
23 Commissioner Frieden to improve these
24 regulations and then to move on to further

1 efforts. Thank you very much.

2 WILFREDO LOPEZ: Thank you. The next
3 person who missed their turn during the last
4 hour John R. Whipple. Is Mr. Whipple here?

5 Then Sharon Akabas. Ms. Akabas is an
6 M.D., Associate Director, Institute of Human
7 Nutrition, Columbia Presbyterian Medical
8 Center.

9 SHARON AKABAS: Thank you. I
10 appreciate the honor indeed. But I have a
11 Ph.D, and I apologize for my lateness.

12 My name is Dr. Sharon Akabas. I'm
13 the Associate Director of the Institute of
14 Human Nutrition at Columbia University and
15 today I'm also proud to represent the Mammoth
16 School of Public Health and fully support
17 the written testimony already submitted by
18 Dean Alan Rosenfeld. My comments are meant
19 to augment those that Dr. Richard Devonbaum,
20 who also submitted testimony. He is the
21 Director of Institute of Human Nutrition
22 and thank you for this opportunity.

23 First, I support the addition of
24 Section 81.08 the Article of the New York

1 City Health Code. The health risks of trans
2 fats are well-documented and after extensive
3 review by these two medicine and other
4 agencies, it's been recommended that they be
5 replaced by healthier substitutes and be
6 in the food supply in amounts as low as
7 possible.

8 In most packaged foods trans fats
9 have been eliminated but about one third of
10 American's daily calories comes from
11 restaurants. If trans fats are available
12 in restaurant food this still may represent
13 significant amounts of fat consumed each
14 day.

18 So I was trying to convey that the
19 current rates of trans fat consumptions are
20 lower due to the elimination of packaged
21 foods and to partial elimination of
22 restaurant foods in response to voluntary
23 removal. This reduction has prompted some
24 people to say that mandatory ban is no longer

1 necessary and that the public risk due to trans
2 fats is minimal. I disagree with this.
3 I support current legislation.

4 As you are aware, certain countries
5 have completely eliminated trans
6 fats. The adverse effects to food quality
7 or cost, replacement of trans fats and the City
8 restaurant is not only desirable
9 but fully feasible. Once this
10 change is made, we would have to
11 alert the public. Otherwise we risk the idea
12 that these revamped fries are actually a
13 healthy food. Also legislation to eliminate
14 trans fats from restaurants though very
15 important to the general health of the
16 public will not necessarily impact obesity
17 and even greater threat to public health.
18 There are in addition to Section 81.08 I
19 support Section 81.50. You already heard
20 about the traumatic rise and worrisome
21 increase about diets well documented.

1 It is now not uncommon to have a ten year
2 old child to present adult onset diabetes.
3 The legislation to require food services
4 establishments that they make available
5 calorie content of items on the menu
6 board and menus is an important
7 piece in the public health partnership with
8 the private sector that will be required to
9 stop this type of the obesity epidemic. Many
10 incentives occurring along the way, more
11 healthy choices and posting of this
12 information should assist in those choices.

13 Though I support this legislation
14 and the acknowledgement of the importance
15 of obesity as a public health issue, I
16 think it's also important to acknowledge
17 the potential draw-backs of this legislation.

18 The main draw-backs include one,
19 the intervention will incur an insufficient
20 ability to monitor and, two, people will not
21 know how to integrate their information into

1 their purchasing decisions.

2 I'll expand briefly on each of these.

3 One, the intervention will occur with
4 insufficient ability to accept the
5 things now. The purchasing behavior before
6 and after the intervention will be recorded,
7 but the information proprietary and unlikely
8 to be made available to the public sector.

9 A few studies have shown nutrition
10 information on packaged food can affect
11 purchasing practice, but there are a few data
12 on whether or not this will hold true for
13 those most susceptible to poor food choices
14 in a restaurant setting. Two, people will not
15 know how to integrate the information into
16 their purchasing decisions. We know that
17 the information is insufficient to change
18 behavior.

19 I wholeheartedly support this concept,
20 but I imagine myself in a fast food
21 restaurant with my three young children in
22 tow. They're hungry and agitated and I'm trying
23 to order. How do I put into context the

1 different caloric values? For my 3 year old,
2 I'll add up the value of a hamburger, french
3 fries and a drink but what should the total
4 be? Should it be a third of her daily
5 value? What is her total daily value?
6 Should it be half of her six year old
7 brother's daily value.

8 So I believe we run the risk of
9 putting more personal responsibility on
10 the people for whom they're already at the
11 greatest disadvantage. And what I suggest
12 is to ensure that we are in fact
13 achieving goals, helping people make more
14 healthful choices we should assess the
15 implementation. We should work with
16 individuals who are not currently making
17 these choices to understand what factors
18 are contributing to making less healthful
19 choices. We need to hear from and learn
20 more from the mothers who are still buying
21 the large fries for their children and
22 for the person with Type 2 diabetes who's
23 consuming one day's worth of calories in one
24 sitting.

1 Despite these concerns, I fully
2 support this legislation. It has the
3 potential of initiating important public-
4 private sector dialogue and partnerships
5 which will be critical to our future
6 attempt to stop the obesity epidemic.
7 The kind of initiatives that the Department
8 of Health has undertaken in bodegas and to
9 increase physical activity throughout
10 the City are also critical to making more
11 healthy options available to the community.
12 Too often the environment and food
13 choices undermine the best of intentions.
14 Thank you very much.

15 WILFREDO LOPEZ: Thank you. Okay,
16 considering that the mike was not working, I
17 let the time go over, so lets not make that a
18 habit. Now we will resume with the list.
19 The next speaker is Janet Oberndorfer.
20 Ms. Oberndorfer is a Certified Business
21 Home Economist.

22 JANET OBERNDORFER: My name is
23 Janet Oberndorfer. I'm a Graduate Home
24 Economist in private practice, Communications
25 Consultant. My entire career now exceeding

1 40 years has been spent in the American food
2 industry and the promotion of its products
3 and the understanding of its business by the
4 general public.

5 The study of the attributes of food
6 products for human consumption, together with
7 continuing ed activities has been a center-
8 piece of my training. I conduct meetings,
9 transact business and enjoy meals in
10 restaurants throughout the boroughs.

11 As a qualified professional, I am very
12 concerned about the state of health of the
13 New York City populous. Of course, everyone
14 who lives anywhere in the country and has
15 attained majority has the right to make
16 whatever food choices he or she wants.
17 However, it has been estimated that
18 98 million of us, roughly 1/3 of the current
19 population has been deemed to be overweight
20 or obese.

21 In addition, many New Yorkers are
22 subject to various catastrophic health
23 conditions such as cardiovascular disease,
24 clogged arteries and so forth. I

1 recognize there may be other contributing
2 factors yet these conditions do not have to
3 occur. They put the lives of those
4 individuals at risk. These circumstances
5 are expensive for the individual and for the
6 New York City social structure which must
7 respond.

8 I firmly believe New Yorkers should
9 revise their food choices and then make poor
10 choices because they do not have enough
11 nutrition information, or they may have
12 forgotten the information, or the wisest
13 choices simply are not available.

14 Irrespective of the circumstances, a
15 campaign for healthier eating should start
16 now. I think better choices need to be
17 available and consciously offered. However,
18 with maturity comes the understanding that
19 occasionally, it is permissible to make less
20 nutritious menu and food selections, but
21 certainly not continuously because that's
22 all that's out there.

23 Addressing the State of New York food
24 choices when eating out in restaurants would

1 not be dramatically different than the
2 circumstance which was experienced when the
3 tobacco industry was confronted with and
4 forced to admit that the deleterious effects
5 of smoking on one's health.

6 Who would have ever imagined the major
7 players in the tobacco industry now are
8 developing resources for training the ill
9 advisability of taking up smoking.

10 In this writer's estimation, this is
11 more than a paradox. So it is with the food
12 industry. Products which taste good but are
13 of questionable nutritional value proliferate
14 throughout the country. Food companies and
15 restaurants are virtually free to offer for sale
16 anything they want, but there is no reason in
17 the world for them to do so at the eater's
18 risk. Food products offered for sale should
19 meet standards of high sanitary quality, be
20 nutritionally adequate and monetarily
21 valuable. If I can wave my wand, that's what
22 I would want.

23 There are a number of initiatives
24 the institutional food industry can take to

1 comply with this legislation when hopefully
2 it is adopted. I call upon the
3 institutional food industry to mount a
4 massive marketing and media campaign to
5 the New York public, its customers, to
6 educate them as to the nutrition of food
7 menu choices. If the tobacco industry can
8 do it, then surely the institutional food
9 industry can do it. Such a marketing effort
10 can only be regarded as an action of
11 integrity.

12 America's fascination on romance with
13 food is something more than simply fuel
14 with which to nourish the body, could be
15 better channeled and take its rightful
16 place if vending machines in schools were
17 filled with healthy choices, if the drive
18 to super-size portions was abandoned. If
19 contests to see who can eat more than two
20 weeks worth of empty calories in one sitting
21 was abandoned, and if the Institutional Food
22 Industry was to creatively revise its
23 formula and ingredients for preparing
24 dishes offered for sale in retail

1 establishments.

2 Interest in this opportunity has
3 already triggered well-known organizations
4 to do the right thing. Joining other
5 organizations such as Wendy's, Craft Food,
6 Ruby Tuesday. It was reported that Walt Disney
7 will ban trans fats in restaurants located in
8 it's theme parks.

9 WILFREDO LOPEZ: Thank you.

10 JANET OBERNDORFER: Thank you.

11 WILFREDO LOPEZ: If you can submit
12 the rest of your testimony.

13 JANET OBERNDORFER: Yes sir, I have.

14 WILFREDO LOPEZ: There was one other
15 person who had missed her turn in the last
16 hour that I neglected to call back so, if
17 she's here; Leslie Meenan.

18 So the next speaker is
19 Jim Lesczynski. Mr. Lesczynski, okay.
20 Joshua Rosenthal, Founder and Director,
21 Institute for Integrative Nutrition.

22 JOSHUA ROSENTHAL: Distinguished
23 members of the Department of Health, lately,
24 there's been a lot in the news about health

1 and nutrition; Alarming obesity rates, junk
2 food in the classrooms, prescription and
3 health care costs spiraling, millions of
4 Americans without health insurance, and
5 people going bankrupt over family health
6 crises even when they do have health
7 insurance.

8 Most New Yorkers are too busy with
9 life to realize that there is a major health
10 crisis happening right as we speak. Yet,
11 when our volunteers set up the web site
12 TransFatFreeNYC.org, two weeks ago, over
13 700 people responded with letters to the
14 Board of Health regarding the banning of trans
15 fats in New York City and in support of
16 Article 81.08.

17 America is in trouble in the area of
18 food, diet, and nutrition. American people
19 spend more money per capita by far than any
20 other country in the world, and yet, every
21 year, people's health continues to
22 deteriorate.

23 I find it fascinating that countries
24 like China and Cuba have the exact same life

1 expectancy as we do in America even though
2 they spend so little money on health care.
3 In my opinion, it all boils down to food,
4 diet, and lifestyle.

5 In very busy people, most New Yorkers
6 never notice that our Federal government
7 cause food manufacturers to list trans fat
8 on the labels. But they did, and the reason
9 they did it was because trans fats are very
10 dangerous. They reduce good cholesterol,
11 increase bad cholesterol. It's the perfect
12 food for increasing heart disease in
13 America. But these requirements do not
14 apply to restaurants and so trans fats
15 continue to lurk unbeknownst to most people
16 in the restaurant. And people take
17 themselves and their family out not
18 knowing that they are harming them. We all
19 eat in restaurants. I do, you do, we all
20 do.

21 Now, I'm a fairly well-educated
22 person in the area of nutrition, but even for
23 me, it never occurred to me that when I went
24 out to order some fried eggs that I was

1 vehemently getting a heavy dose of trans fat
2 because most of the oil used or
3 available are trans fat, and if I didn't
4 know that, who's going to know that. People
5 are innocently making themselves sick
6 without knowing it.

7 With the recent E-coli problems with
8 spinach, once the danger was known, once the
9 danger was cleared, the government stepped
10 in to take it off the shelves. They didn't
11 say, "Well, let's allow Americans to decide
12 what to do." There was a cost of millions of
13 dollars but hundreds of lives were saved.

14 Last week, I heard a radio broadcaster
15 say that if a country like Iran was selling
16 trans fats to the United States and you
17 looked at the statistics of how many
18 Americans were being killed, we would declare
19 war. But for some reason, we allow our
20 domestic corporations to continue to affect
21 our food with this product.

22 Any related disease is the number
23 one cause of preventable death in America.
24 New Yorkers don't wake up every morning and

1 say, "How am I going to make myself sick? How
2 am I going to make myself be overweight?" In
3 a recent survey, three out of four Americans say
4 they want healthier foods in restaurants.

5 This legislation is not a minute too
6 soon. Childhood obesity in America and
7 diabetes is at an all time high. Our
8 experts say that life expectancy of today's
9 six year olds may be lower than that of our
10 parents. And I have a special guest who
11 will speak to this issue, Morgan Carmine.

12 MORGAN CARMINE: Hello, my name is
13 Morgan Carmine and I live in New York City.
14 My mom and I and a bunch of other people at
15 my school work really hard to get rid of all
16 trans fats from our lunch program.

17 Last year my school got rid of all
18 trans fats in health foods and that really
19 helps. Now I wish New York City can get rid
20 of all the trans fats in the restaurants. I
21 do not understand that if you know that
22 trans fats are bad for people, why do people
23 still serve it in restaurants? It's really
24 scary to read because I can't see it. They

1 blend it into the food. That is bad for my
2 heart. I'm just a kid. If grown-ups like
3 these don't look out for kids like me, how
4 will the kids of New York City grow up
5 healthy? Please protect us so we don't
6 have to go to the hospital and have other
7 problems when we grow up. It's really
8 important to me. Thank you.

9 WILFREDO LOPEZ: Thank you. The
10 next speaker is Anna Lappe, Author and
11 Public Speaker.

12 ANNA LAPPE: Good afternoon. I'd
13 just like to thank the young girl for
14 speaking. My name is Anna Lappe and I'm the
 co-author of "Hope's Edge, the
17 Next Diet for a Small Planet" and " Grub, Ideas
18 for an Urban Organic Kitchen. And I speak here
19 this morning as a concerned eater.

20 I also speak today from the vantage
21 point of having just finished traveling the
22 country and 42 cities talking to thousands of
23 people about food health and the choices we
24 make about the food we eat.

1 Across the country, what I've been
2 hearing is that more and more people are
3 expressing deep concerns about the impact
4 of our highly processed diet and our
5 environment on our bodies. For most of
6 us the figures of diet related illnesses are
7 not a distraction. They afflict friends and
8 families, neighbors and colleagues. So I am
9 pleased to return to New York City and to
10 commend the New York City Board of Health
11 for the leadership you are taking to the two
12 proposals on the table, banning trans fats
13 and posting calorie information on fast food
14 menu boards.

15 I want to add my voice to the support
16 for both of these proposals and specifically
17 say a few words about the proposed ban on
18 trans fats.

19 As many others today have already
20 stressed, the health concerns of trans fats
21 are by now well-documented. There is no
22 longer cause for a debate. This isn't to
23 say, though, that there is no debate.

24 Industry backed campaigns are still

1 trying to confuse the public. On one
2 industry backed web site called
3 Trans Fats Facts, I read this quote:

4 "Trans fats have been a staple in
5 the American diet for decades, and during
6 that time, American life expectancy has
7 seen dramatic increases. In fact, it
8 recently reached a record high."

9 I guess the authors of this web site
10 missed the specific lesson on causality.
11 But despite this kind of industry spin, the
12 evidence is certainly in. And there is
13 growing awareness that the use of trans
14 fats is one of the aspects of our highly
15 processed diets that is reeking havoc on
16 our health.

17 As Dr. Walter Willett
18 noted and mentioned today, trans fats are
19 responsible for thousands of
20 premature deaths annually. Obviously, you
21 know this, thus the recommendation. So if
22 the facts are in, if we know that trans fats
23 are bad for us, what's the resistance to
24 this kind of policy action? One of the

1 complaints from the food industry is that
2 this policy approach is big brother back.

3 In a recent Fox news article, the
4 question was posed this way, Should the
5 government regulate what we eat? But
6 that's actually not a question that this
7 resolution really should raise. Sure the
8 government shouldn't dictate whether any of
9 us can eat a crispy-cream donut. But the
10 government most certainly should protect its
11 citizens from unnecessary added ingredients
12 in our food which are invisible to us, which
13 are undetectable to our tongues, and which
14 harm us. The government should also most
15 certainly protect children who are even less
16 exempt to the informed choices about the
17 foods they eat.

18 Indeed, that is precisely what we
19 expect our government to do. When we find
20 out about contaminants in food that cause
21 harm, take, E-coli 015787 for instance, we
22 expect the government to step in and step in
23 fast on the side of public health.

24 In a similar way, this trans fat ban

1 isn't regulating what we can or can't eat.
2 It is simply helping rid our food system in
3 this City of one unnecessary ingredient
4 that has been shown to cause thousands of
5 premature deaths a year.

6 This resolution, in fact, is far
7 from the draconian big-brother move. It's
8 government taking leadership to protect the
9 public health. So the question isn't should
10 the government regulate what we eat, but
11 should the government protect us from harm?
12 And the answer is yes.

13 A corollary argument, I've heard of the
14 big brother one. Is that such a ban,
15 choice, or it's against freedom; whereas one
16 commentator, it's a push to legally prevent
17 individuals from having a french fry their
18 way. But how many New Yorkers or anyone
19 else in this country for that matter ask
20 for trans fats, or even knows when they're
21 eating it? The consumer didn't demand trans
22 fats. The process was invented to increase the
23 shelf-life of food products to increase
24 profitability for the food industry.

1 Real choice and real freedom means
2 being able to eat out without worrying that
3 the choice will be harmful to our health.
4 This policy will help all New Yorkers do
5 just that. Thank you.

6 WILFREDO LOPEZ: The next speaker
7 Christopher Sell; Mr. Sell?

8 Geysil Arroyo, Project Coordinator,
9 Institute for Urban Family Health.

10 GEYSIL ARROYO: Good afternoon.
11 Thank you for the opportunity to testify on
12 this important issue.

13 My name is Geysil Arroyo, and I'm the
14 Project Coordinator for a program operated
15 by the Institute for Urban Health Family called
16 Bronx Healthy Hearts.

17 The institute is a non-profit
18 organization that provides comprehensive
19 primary care for medically underserved
20 communities in Manhattan and the Bronx.
21 For the past three years, Bronx Healthy
22 Hearts has worked with restaurants in the
23 southwest Bronx to help them promote and
24 increase their healthier menu options.

1 There is no doubt that obesity is
2 the fastest growing cause of disease and
3 death in this country, and heart disease
4 is the number one cause of death among
5 New Yorkers.

6 While there are many reasons that
7 can explain this, one major contributing
8 factor is the food New Yorkers consume
9 at restaurants on a daily basis. Many
10 New Yorkers of all socio-economic groups
11 eat out, and while many of them think that
12 the food they're eating is healthy and
13 tasty, maybe are not aware that many
14 restaurants use oils and margarines that
15 contains trans fats to prepare their dishes.

16 At the Institute for Urban
17 Family Health, we applauded the trans
18 fat educational campaign lead by the
19 Department of Health last year.

20 We also supported the research
21 efforts the Department of Health engaged in
22 to ensure that the current trans fat proposal is
23 feasible for restaurant operators including
24 being cost neutral in the long run.

1 Through our experience working with
2 small ethnic restaurants in the southwest
3 Bronx we recognize the challenges owners and
4 cooks face to prepare meals their customers
5 expect while also paying attention to the
6 healthfulness of the meal.

7 For example, some of the restaurants
8 are now cooking their rice and beans without
9 any lard. We have been impressed with the
10 dedication many restaurant owners have
11 demonstrated to improving the heart health
12 of the community they serve.

13 We strongly encourage the
14 Department of Health to assist restaurants
15 and distributors through the transition to
16 cooking without trans fats by continuing the
17 trans fat educational campaign during the
18 phase out period and beyond, and perhaps by
19 temporarily discounting prices for trans
20 fats free oils and products.

21 We believe the trans fat proposal is
22 important to the health of our City and hope
23 that the Department of Health will engage
24 all restaurants as partners to ensure a

1 successful transition across the board.

2 On the proposal to require
3 restaurants to list calorie information on
4 menus and menu boards, the Institute for
5 Urban Family Health agrees that this is an
6 effective way to help customers make calorie
7 comparisons between different foods and
8 various serving sizes.

9 At the same time, we recommend
10 that the Department of Health lead a
11 concurrent educational campaign to ensure
12 that consumers understand what a calorie is,
13 what constitutes a perfect caloric intake,
14 and where consumers can find resources
15 that address related questions they may
16 have, and also provide a bigger picture
17 about healthy eating.

18 The Institute for Urban Family Health
19 strongly supports legislation that bans
20 trans fats in restaurants and requires
 restaurants to list caloric content
21 on menus and menu boards.

22 We hope that the panel today will also
23 support this proposal to protect the health
24 and lives of New Yorkers. Thank you very

1 much.

2 WILFREDO LOPEZ: Thank you. Next
3 speaker is Diane Hes. Ms. Hes is an M.D.,
4 Clinical Assistant Professor of Pediatrics,
5 New York Methodist Hospital.

6 DIANE HES: Hi, good afternoon. I
7 would like to thank my colleagues who talked
8 about the peer-review research about the
9 dangers of trans fats, and I want to talk a
10 little about the reality of what we see in
11 our practices every day with children in
12 New York City.

13 I have done a specialty in bariatric
14 medicine which until now was never a
15 specialty in pediatrics because a handful
16 of doctors who are now specializing in this
17 cause, cardiologists and endocrinologists
18 are overwhelmed with the number of children
19 who are obese in our clinics.

20 A recent study in New York City
21 showed that 35% of third and fifth graders
22 are obese, which is body mass index greater
23 than 95 percentile. And as one of the
24 former speakers said that this a generation

1 of children who will not outlive their
2 parents because of health problems caused by
3 obesity.

4 In the Methodist Hospital in Brooklyn,
5 we have established a pediatric weight
6 management center and I also run a Be-Fit
7 program which is a free program for children
8 in the Prospect Park YMCA in Brooklyn for
9 overweight children who can come and participate
10 in health education programs and learn about
11 how to read labels. They learn about portion
12 distortion, and they learn about exercise.

13 Unfortunately, due to limited
14 funding, we can only take care of twenty
15 children every six months in these programs.
16 Just so that you get an idea, I'm the
17 only doctor who does this in my hospital
18 and there's a wait of two to three months
19 for children to come to see me.

20 Obesity is not a billable diagnosis
21 in Medicaid plans, and the hospital absorbs
22 the cost for each child I see and all the
23 blood tests that we do.

24 In part, the commercial plans, about

1 one third of the commercial health plans in
2 New York recognize obesity as a diagnosis
3 and the other children who have commercial
4 plans that don't recognize obesity, I still
5 see them on my own and do not get paid.

6 Most doctors in New York City do
7 not have this liberty because they are not in
8 an academic center and they do not have grant
9 funding. So you can only imagine why doctors
10 are overwhelmed and pediatricians are
11 overwhelmed by the burden of obesity.

12 Doctors have one visit. After the
13 age of four, children come one time a year.
14 Doctors have to give shots, anticipatory
15 guidance, and then they have to start to talk
16 about the dangers of trans fats, increased
17 physical activity, and dangers of sugary
18 foods.

19 So you can imagine how hard it is
20 especially with the language barriers that
21 we see in our clinics, about fifty different
22 languages a day, and we have to educate
23 these parents about what the dangers of
24 trans fats are.

1 That's why I think this proposal will
2 help us greatly because at least I will know
3 that when my patients leave my office they
4 will not be exposed to the trans fats in the
5 fast foods. And I can't tell you how many
6 times a day I hear that "If you're good for
7 your shots, you'll get French fries when we
8 leave."

9 In the United States, between the ages
10 of 7 to 9 months, the most common vegetable
11 eaten by children are the orange vegetables,
12 the sweet potato, the carrots, the squash.
13 By the age of 19 to 24 months, the most
14 common vegetable eaten by children in the
15 United States is a french fry.

16 And this is a result of marketing
17 to parents and children, especially the lower
18 income families. They have the dollar food
19 menus. And how can parents make an educated
20 choice when things like the educational
21 channels of PBS and Discovery Kids are
22 sponsored by these fast food companies who
23 have a commercial or an advertisement every
24 15 to 20 minutes while their children are

1 watching these educational channels where
2 they're supposed to be learning?

3 I see children suffer from multiple
4 complications from obesity. I have kids who
5 come to me, they need a letter because they
6 can't walk the stairs in their elementary
7 school to go up to the second floor so they
8 want an elevator because they are so obese.
9 They want a letter to use the elevator.

10 I have about twenty teens that I take
11 care of who are morbidly obese, who don't
12 go to school because of panic attacks
13 because they're huge, because they are so
14 fat and they're in home-schooling programs.

15 It is my job and the jobs of these
16 other pediatricians to try to tackle these
17 problems in such a short, limited amount of
18 time. And I believe that by changing these
19 laws and eliminating the trans fats,
20 especially in fast foods, and listing the
21 calories, you will help us and our children
22 have a better future. Thank you.

23 WILFREDO LOPEZ: Thank you.

24 Our next speaker is Alvin Strelnick.

1 Okay, Andrew Racine. Dr. Racine is an
2 M.D., Ph.D., New York Chapters 2 and 3 of
3 the American Academy of Pediatrics.

4 ANDREW RACINE: Commissioner
5 Friedman, members of the Board, I'm honored
6 to be here this morning representing the
7 American Academy of Pediatrics, an
8 organization founded in 1930, which today
9 represent about 60,000 practicing
10 pediatricians who work in the United States
11 dedicated to promoting the optimal health,
12 physical health, mental health, and social
13 health of all infants, children, adolescents
14 and adults.

15 In Chapters 2 and 3 of District II of
16 the American Academy, we take seriously our
17 obligations as clinicians not only to counsel
18 our patients when they come to see us in
19 our office settings, but to advocate for them
20 in a public arena. It's that obligation
21 that brings me here today before you this
22 morning.

23 The American Academy enthusiastically
24 supports the proposed amendments of

1 Article 81 of the New York City Health Code
2 that's recently being proposed by the
3 New York City Department of Health and
4 Mental Hygiene. These two proposals are one
5 restricting the sale and distribution of
6 foods containing artificial trans fats, and
7 the other requiring the posting of caloric
8 information at the time of purchase, are
9 both important public health initiatives
10 that will have desirable consequences for
11 the health of all New York City residents.

12 As we noted in the written
13 comments to the Commissioner, trans fats
14 are known to be linked with development of
15 cardiovascular heart disease in adults.
16 But what is less appreciated is that the
17 precursors for this condition begin very
18 early in childhood at a time when food
19 consumption is first being formed.

20 Disturbing research that was
21 reported in the Journal of American Dietetic
22 Association was just quoted by Dr. Hes, which
23 in 2004, it indicated that not only did the
24 19 to 24 month old toddlers have french

1 fries as the single most commonly consumed
2 vegetable, but 10% of them are consuming no
3 green vegetables at all; 60% of them are
4 consuming no fruit whatsoever; and fully 60%
5 are being fed baked desserts.

6 Since the vast majority of trans
7 fats are found in commercially prepared
8 fried and baked goods, these eating patterns
9 predispose even very young children to the
10 ingestion of trans fats as regular elements
11 of their diet.

12 A sound approach to the threat posed
13 by these conditions should combine regular
14 dietary counseling as part of routine
15 primary care in the office setting with
16 innovative public health interventions that
17 promote healthy eating patterns.

18 As professionals who interact every
19 day with parents concerned about their
20 children's health, we recognize the
21 importance of both of these strategies, and
22 applaud the New York City Department of
23 Health and Mental Hygiene in its efforts to
24 have food service establishments restrict

1 the amount of trans fats included in the
2 foods they sell. There are health
3 substitutes for these substances that
4 are equally flavorful, easily obtained,
5 and as economical. By restricting foods
6 containing trans fats, the Department will
7 have taken a historic step in the direction
8 of improving the cardiovascular health of
9 all New Yorkers.

10 The second proposed amendment to the
11 New York City Health Code, Amendment 81.50,
12 is equally important to the health of
13 children and receives our unqualified
14 support as well. Epidemiological evidence
15 from longitudinal studies indicates that
16 overweight and excess caloric intake among
17 other risk factors track from childhood to
18 adult life.

19 Moreover, the twin epidemics of
20 obesity and Type 2 diabetes are becoming
21 increasingly severe over time in the young
22 pediatric age group, particularly in areas
23 such as New York City where recent estimates
24 indicate that one-fifth of kindergarteners

1 are obese.

2 As with the issue of trans fat
3 consumption, we believe that addressing the
4 problem of excess caloric intake in the
5 pediatric population must be a multi-pronged
6 approach. As has recently been expressed in
7 a Policy Statement from the American Academy
8 of Pediatrics, when addressing a primary
9 prevention approach to nutrition:

10 "Education, with the support of the
11 health care community, combined with health
12 policy and environmental change to support
13 optimal nutrition and physical activity, are
14 essential to this health strategy."

15 Parents routinely struggle when
16 trying to resist the effects of
17 well-financed, food-related messages in print
18 and electronic media that daily attempt to
19 influence their children's food purchases.
20 A recent report in the New England Journal
21 of Medicine indicated that American children
22 are exposed to approximately 40,000
23 food-related advertisements per year, 72%
24 of which are for candy, cereal, and fast

1 food.

2 What's more, the Institute of
3 Medicine believes that these messages are
4 successful in shaping product preferences
5 and eating habits.

6 Any aid that we can provide
7 beleaguered parents to help guide their
8 choice of foods toward more nutritious
9 alternatives constitutes an important public
10 health intervention. If parents and young
11 people are to be able to make wise decisions
12 concerning which foods to consume while
13 dining out, it's imperative that they be
14 provided accurate information about the
15 caloric content of foods at the time they
16 are making their decisions about what to
17 buy.

18 Such information, clearly displayed
19 at the time of purchase, will, when combined
20 with the messages conveyed at primary care
21 visits, enable parents and their children to
22 moderate their intake of high calorie items
23 containing large quantities of fats and
24 carbohydrates. Mandated labeling of the

1 type proposed by this amendment brings more,
2 not less information into the marketplace,
3 thereby helping to promote more
4 well-informed food choices.

5 The American Academy of Pediatrics
6 endorses a vigorous governmental role in
7 addressing public health issues. We agree
8 with the Institute of Medicine's recent
9 report that invokes a role for government
10 at all levels, and Chapters 2 and 3 of
11 District II have historically recognized
12 the vital contributions of the New York City
13 Department of Health and Mental Hygiene in
14 promoting the health of New York City
15 residents through a variety of critical
16 activities. The two proposed amendments to
17 the New York City Health Code are very much
18 in keeping with this rich tradition, and we
19 are pleased to join with the Department in
20 support of their adoption. Thank you.

21 WILFREDO LOPEZ: Thank you. Next speaker
22 Annmarie Colbin. Ms. Colbin has a Ph.D and is
23 the Author of "Food and Healing", and founder of
24 the Natural Gourmet Institute for Health and

1 Culinary Arts.

2 ANNEMARIE COLBIN: Good afternoon.

3 Thank you very much for including me in your
4 speakers' list.

5 My name is Annemarie Colbin and I'm
6 here to speak for the Natural Gourmet
7 Institute for Health and Culinary Arts, of
8 which I am the founder. The Natural Gourmet
9 is the oldest natural foods cooking school
10 in the country. We will be 30 years old in
11 2007, and have been teaching people to cook
12 and eat healthful food all these years.

13 I'm here to talk about regulating the
14 presence of trans fats in restaurant food
15 which is amendment to 81.08. I'd like to briefly
16 address two points. Number one is the
17 issue of fats in food and cooking. Number
18 two is the issue of banning unhealthy
19 ingredients in food.

20 Regarding the issue of fats, we, at
21 the Natural Gourmet, support the science that
22 has determined that artificially produced
23 trans fatty acids are deleterious to the
24 health of the public. We agree with the

1 concerns about the presence of trans fats
2 in the food supply. Teachers at the Natural
3 Gourmet have never used and never will use
4 artificial or hydrogenated fats with trans
5 fatty acids in them or even those without.

6 While we agree that trans fats
7 are unhealthy, the classification of
8 monounsaturated fats and polyunsaturated
9 fats as good fats, and trans fats and
10 saturated fats as bad fats is misleading.
11 It appears to be based entirely on their
12 presumed effects on serum cholesterol.

13 According to our information, most
14 of the oils rich in polyunsaturated fatty
15 acids, such as corn, soybean, safflower,
16 sunflower, canola and cottonseed, should not
17 be consumed in large quantity as they
18 contain significant amounts of the Omega 6
19 fatty acid and linoleic acid. Especially
20 cottonseed should be avoided, for cotton is
21 not considered a food crop and is sprayed
22 extensively.

23 These oils are processed at very high
24 temperatures and pressures which not only

1 can create some trans fat, but also destroy
2 the beneficial properties of the oil. They
3 become rancid easily from exposure to light,
4 oxygen, and heat, and so become a source of
5 free radicals.

6 Although the linoleic Omega 6 found
7 in the plant oils is an essential nutrient,
8 an excess of it has been shown in several
9 studies to promote cancer and heart disease.
10 The other essential fatty acid, the Omega 3
11 or linolenic acid, is required for good brain
12 function as well as cardiovascular health.
13 Omega 3s are found in fatty fish, walnuts,
14 flaxseeds, and other foods.

15 Many researchers estimate that the
16 ideal ratio of Omega 6 to Omega 3 should
17 be one to three parts Omega 6 to one part
18 Omega 3, but the ratio for modern Americans
19 is closer to 20 to 50% parts Omega 6 to one
20 part Omega 3. This can lead to chronic
21 inflammation, decreased blood circulation,
22 and increased blood clotting. Furthermore,
23 these liquid plant oils don't produce the
24 same culinary effects as solid fats.

1 For the cook, saturated fats, those
2 solid at room temperature, fulfill a certain
3 culinary purpose of texture and flavor.
4 Traditional saturated fats, such as butter,
5 palm oil, and coconut oil, fell out of favor
6 with the cholesterol scares. They were
7 replaced with hydrogenated fats which are
8 the ones containing the trans fatty acids,
9 which, in fact, are polyunsaturated fats
10 that have been saturated artificially. Now
11 that it has been found that the imitation
12 replacement is damaging, what shall it be
13 replaced with? It's easy for non-cooks to
14 tell cooks what to cook with. But a cake
15 made with oil is not the same in any way as
16 a cake made with butter or even shortening.

17 Natural saturated fats are more
18 stable than trans fats or unsaturated fats
19 and have been used for cooking since humans
20 began cooking with fat. They have many
21 benefits, including anti-microbial properties
22 and the effect of raising protective HDL
23 cholesterol. Traditional coconut and palm
24 oils which are saturated are used traditionally

1 by several populations that boast much lower
2 rates of chronic diseases and, thus, plaguing
3 Americans today.

4 If saturated fats were useless or
5 harmful, why would breast milk provide an
6 abundance of saturated fatty acids, such as
7 butyric, caproic, caprylic, lauric and other
8 fatty acids? After all, breast milk is
9 designed to ensure the growth, brain
10 development, and survival of children. So
11 perhaps it's time to go back to natural
12 saturated fats from healthy animals and
13 from plants.

14 Replacing hydrogenated fats with
15 others that have been chemically manipulated
16 to be solid at room temperature, even if
17 they contain no trans fats or at least no
18 measurable amounts, is a double-edged sword.
19 It took over 50 years to figure out that
20 trans fats are dangerous. Will it take us
21 long to find out what the problems are with
22 their replacements? Have any studies been
23 done to see if they have bad effects in the
24 very long run?

1 We, of the Natural Gourmet, support the
2 use of natural, traditional fats, be they
3 mono or polyunsaturated or saturated. I
4 guess I'm done. Thank you.

5 WILFREDO LOPEZ: Thank you. Please leave
6 the rest of your comments. Thank you. Next
7 speaker, Rick Burman. Mr. Burman is the
8 Executive Director of The Center for
9 Consumer Freedom. Okay.

10 Next speaker, Stephen Hanson.
11 Mr. Hanson? Next, Chris Giarraputo,
12 Corporate Executive Chef, B.R. Guest.

13 CHRIS GIARRAPUTO: Good afternoon.
14 My name is Chris Giarraputo. I'm a
15 Corporate Executive Chef for B.R. Guest
16 restaurants. We're a 14-unit, multi-concept
17 restaurant group here in New York City.
18 We have Dos Caminos, Mexican, Ruby Foo's
19 Asian Blue Water Grill/Blue Fin, just to
20 give you an idea of the assortment of types
21 of restaurants that we operate.

22 Dr. Frieden approached us about a
23 year ago to explore eliminating trans fats

1 from our restaurants, and over the course of
2 the last year, B.R. Guest has equally found
3 products that are equal or superior in
4 quality to products that contain trans fats.
5 We found replacements for such items as
6 solid shortening used in baking, cooking
7 oils, and peanut butter.

8 Restaurants similar to us shouldn't
9 have any problem finding products that are
10 trans fat free. We cook basically from
11 scratch and use real foods and natural
12 products. Trans fat products are inventions
13 of food laboratories that were developed in
14 the '50s and '60s, not foods that our
15 grandparents used and our great grandparents
16 used. If we stuck to the products our
17 grandparents used, we would stay trans fat
18 free.

19 Since this proposal has been made,
20 more and more of our distributors are
21 stocking trans fat free alternatives and
22 prices are coming down. Just looking at
23 advertisements in food-related magazines and

1 reading labels in supermarkets will show you
2 the heightened awareness in the food
3 processing industry and the strong pressure
4 in the marketplace to replace trans fats in
5 processed foods with natural trans fat free
6 oils.

7 Processed food manufacturers that
8 still haven't caught on to the need to go to
9 non-hydrogenated oils containing no trans
10 fats will feel even more pressure because of
11 the proposal the Board of Health is
12 considering, and it will go a long way to
13 educating manufacturers, distributors, and
14 consumers alike.

15 I just want to thank the Board for
16 allowing me to speak, and I hope that the
17 proposal gets passed. Thank you.

18 WILFREDO LOPEZ: Thank you very much next
19 speaker is Moqbul Hossain, President, Best of
20 Tandoor Corporation. Not here, okay.

21 Next, Maria Martins-Lopes, M.D.,
22 Senior Vice President and Chief Medical
23 Officer of GHI.

24 MARIA MARTINS-LOPES: Good afternoon.

1 My name is Maria Lopes. I'm senior VP and
2 Chief Medical Officer of Group Health
3 Incorporated. Thank you for permitting me
4 to speak in favor of the proposed amendment.

5 GHI has a long history of caring for
6 the health needs of New York City by
7 providing health coverage and administrative
8 services for more than 2.6 million people.

9 While individuals, employers, and
10 their health plans can do much to promote
11 healthy lifestyles, there's also a role for
12 government. And in our modern society, and
13 particularly in a large urban environment
14 such as New York with thousands of dining
15 options, government can assist with
16 educating the public and setting standards
17 that limit the population's risk of exposure
18 to foods and substances that are harmful.

19 Prevention of a condition is always
20 preferable to treating someone once they
21 have the disease. This includes actions
22 such as the one being proposed today to
23 remove trans fats from the City's food
24 service establishments.

1 We've known for decades that
2 consumption of trans fatty acids might be
3 contributing to the significant increase
4 in coronary heart disease, and studies have
5 shown that trans fats have adverse effects
6 on the lipid profile, as my colleague
7 mentioned before, raising LDL, the bad
8 cholesterol, and decreasing HDL cholesterol.

9 According to published articles from
10 many sources, including Harvard School of
11 Public Health, removal of trans fats from
12 the industrial diet could prevent tens of
13 thousands of heart attacks and cardiac
14 deaths each year in the U.S.

15 In New York State, cardiovascular
16 disease is the leading cause of death,
17 killing more than 70,000 residents each
18 year, and for every person who dies from a
19 heart attack or angina, 18 live with these
20 conditions. For every person who dies
21 from a stroke, seven people cope with the
22 consequences of a non-fatal event. Many
23 of these survivors become disabled and can no
24 longer lead productive lives. They also

1 are at risk for additional events, and these
2 numbers are increasing as the epidemic of
3 heart disease and stroke continues.

4 The increase in cardiovascular disease is
5 anticipated to worsen given the growing
6 obesity epidemic in the U.S. with two-thirds
7 of American adults being overweight half of
8 these are obese, and 15% of children between
9 ages 6 and 19, and 10% of children between
10 ages 2 and 5 already overweight.
11 Disparity of obesity, diabetes, and heart
12 disease are even more pronounced among
13 Hispanic and African-American New Yorkers.
14 GHI applauds the Department's efforts to
15 educate the public about healthy, nutritional
16 choices to improve the health status of the
17 population.

18 Finally, I want to comment briefly on
19 the Department's proposal to require certain
20 restaurants to post calorie information
21 regarding their food items on sign boards
22 and menus where it can be reviewed before
23 people order. GHI is pleased to see that
24 this requirement is limited to those chain

1 restaurants that have the capacity to
2 produce the information. Often, these
3 restaurants already have portion controlled
4 serving sizes and already provide calorie
5 and nutritional information, but not in
6 places where it can easily be visible prior
7 to ordering.

8 Again, thank you for letting me speak
9 in support of these proposals.

10 WILFREDO LOPEZ: Thank you. It is
11 now almost 1:00 o'clock and I'd like to
12 remind the public that the hearing was
13 originally scheduled to take place from
14 10:00 to 1:00 p.m. The Board members, I
15 don't think, will be able to stay much
16 longer. We will continue with this hearing
17 so that everybody who wants to speak can get
18 their comments on the record.

19 In keeping with what we've been doing,
20 we'll call the people who missed their turn
21 during the last hour, and I will turn the meeting
22 over to Roslyn Windholz, Deputy General
23 Counsel.

24 So the first speaker who missed

1 his turn during the last hour was
2 Jim Lesczynski. The next was
3 Christopher Sell; Alvin Strelnick;
4 Rick Burman.

5 Dr. Strelnick is here. He's a
6 doctor at Montefiore Medical Hospital and
7 Albert Einstein College of Medicine.

8 ALVIN STRELNICK: Thank you for the
9 opportunity to speak in support of the
10 New York City Department of Health and
11 Mental Hygiene's proposed elimination of
12 partially hydrogenated oils from commercial
13 kitchens and restaurants so that New York
14 City consumers may purchase foods and food
15 products free of industrially reproduced
16 trans fat.

17 My name is Alvin Strelnick. I am
18 trained as a family physician at Montefiore
19 Medical Center in the Bronx and
20 practice family and community medicine since
21 1975. I'm a professor of Family and Social
22 Medicine at the Albert Einstein College of
23 Medicine where I direct Hispanics in our
24 excellence and Minority Health Disparity

1 Center, known by its acronym, Bronx Creed.

2 My remarks are based largely on the
3 recent scientific review in the medical
4 literature entitled "Trans Fat Fatty Acids
5 and Cardiovascular Disease" published in the
6 April 13th, 2006 issue of the New England
7 Journal of Medicine, written by authors from
8 the Netherlands and the Harvard School of
9 Public Health.

10 As you know, trans fats are formed
11 from vegetable oil during their pressure
12 hydrogenation into semi-solid fats produced
13 for margarines, official cooking and food
14 manufacturing to prolong shelf life,
15 stabilize good frying oils, and enhance the
16 power of ability of baked goods and sweets.
17 Trans fats increase the risk of heart
18 attacks and strokes through at least three
19 different and well-documented mechanisms.
20 They increase high density lipoprotein HDL
21 as the good cholesterol and increase low
22 density lipoproteins or bad cholesterol
23 triglyceride and other lipoproteins that
24 promote systemic inflammation and they cause

1 endothelial dysfunction, and that is they
2 interfere with the cells that lie in the
3 body's blood vessels.

4 A quote from the New England Journal
5 of Medicine "On a per calorie basis trans
6 fats appear to increase the risk of
7 cardiovascular disease more than any other
8 macronutrient that brings a substantial increase
9 risk at low levels of consumption, 1 to 3% of total
10 energy intake. 2% increase in energy intake
11 from trans fatty acids was associated with a
12 23% increase in the incidents of
13 cardiovascular disease, heart attacks, and
14 strokes. The evidence of trans fat for
15 contribution to sudden death and diabetes is
16 less well-documented.

17 Since January 1st, 2006, the U.S.
18 Food and Drug Administration has required
19 nutrition labels for all conventional foods
20 in cooked foods/trans fats, as well as
21 cholesterol or unsaturated fats and total
22 fats following its 2005 Dietary
23 Guidelines Advisory Committee's
24 recommendation to eliminate consumption of

1 trans fats to below 1% of calorie intake.
2 U.S. Department of Agriculture made
3 eliminating trans fat intake a key
4 element to this huge pyramid guidelines.

5 In 2004, Denmark placed a 2% limit on
6 trans fats and essentially eliminated the
7 use of partially hydrogenated vegetable oils
8 which will replace unsaturated fatty acids,
9 tropical saturated oils and fully
10 hydrogenated vegetable oils without
11 increasing consumption of saturated fats.

12 Both government and the industry
13 agree that these changes did not officially
14 alter the quality, cost, or availability of
15 food including the french fries and chicken
16 nuggets of U.S. fast food chains. Canada is
17 considering following the Danish model.

18 In Norway, Finland and the Netherlands
19 cooperative efforts between government
20 and the food industry have resulted in
21 substantial reduction in consumption of
22 trans fats, again without increasing cost or
23 reduction in the quality or availability of
24 foods.

1 In the United States, fast food
2 Frito Lays and Wendy's, and as of this
3 morning, Kentucky Fried Chicken, have also
4 already voluntarily reduced to eliminating
5 trans fat from their products.

6 The authors of the New England
7 Journal of Medicine article estimated that
8 near elimination of trans fats from the
9 American diet can considerably prevent
10 72,000 or 6%, to 228,000 or 19%, of the
11 1.2 million heart attacks, strokes, and
12 deaths from cardiovascular disease each
13 year. The article's senior author,
14 Walter C. Willett, M.D., Ph.D, who was
15 on the testimony list of the Harvard
16 School of Public Health, calculated a trans
17 fat ban would mean 500 fewer deaths from
18 cardiovascular disease in New York City
19 each year.

20 The New York City Department of
21 Health and Mental Hygiene first tried the
22 voluntary program to achieve these goals
23 in reducing and eliminating trans fats
24 from the City's restaurants and commercial

1 kitchens, but this failed to move the
2 industry. Consumers do not have labels to
3 read to determine whether trans fats are in
4 their french fries, chicken nuggets, or a
5 morning muffin. They have no real choices.

6 For a modest cost, New York City can
7 save lives now by eliminating the
8 unnecessary risky chemical from our diet and
9 benefit those living in low income
10 communities like the south
11 Bronx where most rely on fast foods
12 because they're the only restaurants
13 in their neighborhood. Thank you.

14 ROSLYN WINDHOLZ: Okay, Rick Burman;
15 Stephen Hanson; Moqbul Hassain; Sal Fichera?

16 SAL FICHERA: Commissioner,
17 Dr. Frieden and the Department of Health as
18 well as anyone interested in freedom of
19 choice. This is such a vital issue and I am
20 very pleased that we have the opportunity to
21 speak here today. After all, the banning of
22 trans fats is not at all about the increase
23 of costs for businesses or control by the
24 government. Instead, it's about freedom

1 of choice, the freedom to avoid toxic
2 substances that don't belong in food. It's
3 about having the freedom to eat and live
4 more healthfully.

5 As an exercise physiologist, public
6 speaker, and author, I spend each day studying,
7 researching, and teaching principles for
8 living a longer, stronger life. I've
9 appeared on TV channels like CNN, Dateline
10 and NBC addressing a variety of issues that
11 concern health.

12 Today, I'm here to speak about life,
13 the life of our citizens, life of our
14 economy, our culture, because our culture
15 today is being threatened. We are at war.

16 Billions of dollars are being spent
17 each year and hundreds of thousands of lives
18 are being lost, and I'm not talking about
19 the war in Iraq and Afghanistan. I'm
20 talking about a war right here within our
21 own boundaries, not in the form of bullets
22 and bombs, but in the form of glitzy
23 advertising and misleading information.
24 Nationally speaking, we are losing 300,000

1 American lives prematurely due to obesity
2 alone and overweight. This is costing us
3 118 billion dollars.

4 Now, from what I understand, the
5 National Restaurant Association has a few
6 concerns about this proposal. They believe
7 it is a violation of rights. But anyone who
8 steps outside to have dinner at a restaurant
9 if there's trans fats in their foods, is being
10 violated. None of my clients asked for it
11 and every time I teach my clients to eat
12 healthy, they take two steps back again.
13 They commented that this is based merely on
14 a computer model. That's false as has been
15 mentioned several times before.

16 Denmark, for example, in 2004, made it
17 illegal for any foods to have more than 2%
18 trans fats, and the results, first of all,
19 consumers didn't even know the difference.
20 The fries are still crispy; the chicken is
21 still tasty.

22 Another result, the Danish
23 cardiovascular disease has fallen by 20%
24 over the last five years. In countries that

1 aren't making an effort in food, like Hungary
2 and Bulgaria, their heart disease rates have
3 continued to rise.

4 Another statement made earlier by
5 someone from the health establishment, from
6 the restaurant establishment, was that
7 saturated fats and trans fats are the same.
8 They're not. When you eat trans fats it
9 elevates bad cholesterol. Not only does it
10 elevate the bad cholesterol it lowers the
11 good as well. That does not happen with
12 saturated fats. And please don't
13 misunderstand me. If you had to
14 pick your poison it is a chemical.
15 It is not a food but a chemical, a toxin. It
16 does not belong in food. This is not at all
17 a question of freedom of choosing foods but
18 I choose to keep poisons, toxins, drugs,
19 anything outside of my own food. So for the
20 National Restaurant Association I ask which
21 matters more shelf life or life itself?

22 I support Dr. Frieden in this ban. I
23 think that we need to realize that there are
24

1 many factors involved when we're dealing
2 with heart disease but it all starts with
3 one step at a time. And this is a big step
4 because once again, I suggest that we all
5 vote, we all strive to have the freedom to
6 choose what is in our foods.

7 And so I want to thank the Department
8 of Health and Dr. Frieden for addressing
9 this critical issue. We have no choice. We
10 have a very serious crisis and if we don't
11 start making changes our health care system
12 will collapse. So let's start now and lets
13 take trans fats from our foods. Thank you.

14 ROSLYN WINDHOLZ: Next speaker we
15 have is Paul Kligfield, M.D, President of
16 the New York State Chapter of the American
17 College of Cardiology.

18 PAUL KLIGFIELD: My name is
19 Paul Kligfield and I'm going to speak today as
20 the President of the New York State Chapter of
21 the American College of Cardiology and also
22 as President-Elect of our educational
23 affiliate, the New York Cardiological
24 Society. I represent most clinical and

1 academic cardiologists in New York City and
2 New York State.

3 At a recent meeting of our State Council
4 the New York State Chapter of the American
5 College of Cardiology endorsed the
6 initiatives of the New York City Department
7 of Health and Mental Hygiene regarding the
8 phasing out of artificial trans fats and the
9 listing of calorie content on menus in
10 New York City. We applaud the leadership
11 demonstrated by the Department in ensuring
12 the health of New Yorkers.

13 To be brief, I'm not going to restate
14 the issues regarding the dangers of trans
15 fats, but summarize this by saying that the
16 use of trans fat oils in food served in
17 restaurants constitutes a major risk and
18 also an unnecessary risk to the health of
19 New Yorkers.

20 Most of the trans fats in our diets
21 is found in industrially produced trans fats
22 used in frying, baking, and in processed
23 foods. We note the particular dependence of
24 children and working New Yorkers on

1 commercially available food products during
2 daily life. Experiences in other settings that
3 you've heard suggests that trans fats can be
4 replaced with heart healthier alternatives without
5 significant effects on taste or cost of
6 preparation. It is, therefore, in the best
7 health interests of all New Yorkers that the
8 Department of Health amendment of Article 81
9 of the Health Code be adopted to restrict
10 our food service establishments from using
11 trans fats products.

12 For similar reasons, we also endorse
13 the labeling of calorie content of foods on
14 menus to help limit the impact of diabetes
15 and obesity on the mortality and morbidity
16 of New Yorkers by providing informed food
17 choices in restaurants. We believe it is in
18 the best health interests of all New Yorkers
19 that the Department of Health amendment of
20 Article 81 of the Health Code be adopted to
21 list caloric content of foods.

22 And with regards to both amendments,
23 we recognize the importance of the food service
24 industry's commitment to change in the best

1 interests of the population of New York. We
2 look forward to solution of some of the
3 problems that we've heard discussed here today
4 that might impede implementation of these
5 resolutions, and we will be happy as a group
6 to assist the Department, the food industry,
7 and our citizens in any way that will
8 facilitate better health for all
9 New Yorkers. Thank you.

10 ROSLYN WINDHOLZ: Kate Mackenzie,
11 Director of Food and Nutrition at FoodChange.

12 KATE MACKENZIE: Good afternoon. My
13 name is Kate Mackenzie. I am the Director
14 of Food and Nutrition at FoodChange. I am
15 also a registered dietitian. FoodChange is
16 a 26 year old non-profit organization in
17 New York City that strives to improve lives
18 through nutrition, education, and financial
19 empowerment. We do this in schools
20 primarily through our schools
21 health initiatives which is served to change
22 the food that is served in New York City
23 schools, our community kitchen in
24 West Harlem and community organizations

1 throughout the City.

2 Thank you for holding this hearing
3 to not only provide public comment about the
4 two proposed amendments to the New York City
5 Health Code, but also for allowing the
6 community to request recommendations for
7 implementation.

8 FoodChange fully supports making
9 calorie information known to consumers.
10 This information is already widely available,
11 but it is not easily accessible. Typically,
12 such information is available via our web site
13 or occasionally in a small print brochure if
14 requested.

15 The increasing rates of overweight
16 and obesity presents a significant threat to
17 the current and future public health of the
18 city. While food choices clearly are not
19 the only cause for these conditions, they
20 are a large contributor.

21 Providing consumers with calorie
22 information about food choices can lead to
23 an informed choice. Think to yourself, how
24 many times have you eaten out in the last

1 week? The majority of New Yorkers get at
2 least a third, if not more, of their
3 calories from food eaten away from home.
4 Even when we think we know the nutritional
5 value, including calories of the foods we
6 choose, the reality is we don't. As a
7 result, too many people are consuming too
8 many calories and without adequate energy
9 expenditure. This leads to weight gain.
10 One pound of weight gain is equal to an
11 excess of 3,500 calories. It sounds like a
12 lot, but when you consider that a large soda
13 contains as many as 600 calories, you can
14 see that it isn't hard for the excess
15 calories to add up.

16 Providing this service to New Yorkers
17 is a significant approach to reducing rates
18 of overweight and obesity. When paired with
19 strong nutrition education, this amendment
20 has the potential to transform the long-term
21 health of many New Yorkers.

22 To this point, nutrition education
23 alone has not been an overwhelmingly
24 effective means of informing food choice,

1 primarily because the food environment has
2 not allowed for health promoting choices.
3 Clearly, displaying calorie content will
4 enhance the food environment in restaurants
5 so consumers can more easily make these
6 informed choices.

7 Section 81.50 of the Health Code
8 would restrict New York City food service
9 establishments from using artificial trans
10 fats, with the exception of foods served in
11 the manufacturers' original sealed packages.
12 Again, FoodChange offers its full support of
13 this amendment. The evidence is clear and
14 sound that consumption of trans fat not only
15 increases LDL cholesterol, but decreases HDL
16 levels. This, in turn, increases the risk of
17 heart disease.

18 It's important to note that trans fat
19 can feasibly be replaced with alternative
20 items. The Health Department should be
21 commended for implementing their Trans Fat
22 Education Campaign, which aimed to
23 encourage food service establishments to
24 voluntarily switch to trans fat free oils

1 and shortenings. Because of the campaign's
2 limited success, the Department is taking
3 the next necessary step toward eliminating
4 artificial trans fats from the City.

5 Removing trans fats will lower the
6 risk of disease for anyone who eats out in
7 New York City, and that's just about
8 everyone, but especially for people who are
9 dependent on inexpensive and highly
10 processed food. Lower disease rates, in
11 turn, will likely lower medical costs to the
12 City associated with nutrition-related
13 disease risk factors.

14 In addition to our support for
15 Section 81.50, FoodChange encourages the
16 Board of Health to take special
17 consideration about implementation in free
18 feeding programs, particularly within the
19 emergency food system.

20 It's well-known that soup kitchens in
21 particular are, in fact, not "emergency sources"
22 of food for their recipients, but rather
23 they are regular and they are necessary.
24 These food service establishments obtain

1 their funding through City Emergency Food
2 Assistance Program dollars, State, HPNAP
3 dollars, and Federal Emergency Food
4 Assistance Program dollars, TEFAP dollars,
5 in addition to very needy donations.
6 Technically, food coming into soup kitchens
7 from each of these sources would have to be
8 artificial trans fat free. This idea and
9 its potential reality is brilliant, yet its
10 practicality is slim at best. However, if
11 it's accomplished, New York City could
12 revolutionize the emergency food system of
13 the country by slowing the influx of foods
14 of poor nutritional value into this system
15 which feeds vulnerable consumers.

16 Given that soup kitchens generally
17 don't have enough food to meet their demand,
18 FoodChange strongly encourages the Board of
19 Health to consider the repercussions of
20 further limiting this food supply.

21 Again, FoodChange offers its full
22 support to these amendments. Thank you.

23 ROSLYN WINDHOLZ: Dr. Ruth Kava,
24 Director of Nutrition, American Council on

1 Science and Health.

2 RUTH KAVA: Thank you very much for
3 having me speak. I am a representative of
4 the American Council on Science and Health
5 in New York City, a public health consortium
6 that is directed by approximately 350
7 leading scientists and physicians, and I
8 really want to speak very briefly to the
9 issue of the amendment to restrict the
10 New York City food service establishments
11 from providing foods containing trans fatty
12 acids that are produced by artificially
13 hydrogenated vegetable oils.

14 This proposed ban is predicated on
15 the assumption that doing this ban will
16 significantly decrease the consumption of
17 these fats by food service patrons, and that
18 this decreased consumption will have a
19 discernible health benefit, in particular
20 a decrease in heart disease. It is the
21 position of the American Council on Science
22 and Health however, that the scientific data
23 do not strongly support such a health
24 benefit.

1 As of 2003, the FDA estimated that
2 the average intake of trans fats by
3 Americans contributed about 2.6% of total
4 calories and since that time, especially
5 since labeling requirements that went into
6 effect this January, food manufacturers have
7 been required to list trans fats on their
8 food labels, and the amount of these fats in
9 foods has been declining. Although some
10 media reports attribute unique detrimental
11 health effects to trans fats, in fact, the
12 strongest evidence indicates that they are
13 similar to saturated fats in their health
14 effects. That is, they increase blood
15 levels of LDL, the bad cholesterol which is
16 in turn linked to an increased risk of heart
17 disease.

18 There is some evidence, by no means
19 conclusive, that TFAs also decrease the
20 blood levels of HDL or good cholesterol.
21 But the data suggesting that this is the
22 case are not robust. Only at high levels of
23 consumption have trans fats been seen to
24 have such an effect, not at the levels that

1 are commonly consumed by Americans.

2 Because of these effects of blood
3 lipids LDL increases and possible HDL
4 decreases, it is logical to assume that
5 further decreasing the amounts of trans fats
6 consumed will have an effect on the
7 prevalence of deaths from heart disease.
8 But there are no data actually demonstrating
9 that the effect on blood lipids actually
10 translates into an effect on heart disease.
11 All we have are widely varying estimates.

12 The FDA has estimated that nationwide,
13 they could prevent something like 120 deaths
14 a year, and epidemiologists' reports have gone
15 as high as 200,000, so you have quite a
16 range of possibilities.

17 As has been mentioned, before Denmark
18 has limited the amount of trans fats allowed
19 in their foods, but again, we don't know yet
20 if their replacement of trans fats with
21 other fats has had a beneficial effect on
22 the population's health. And when I say
23 that, I mean we don't have any peer-reviewed
24 published studies yet that follow the health

1 of the people. Since then, trans fats were
2 banned and we may not know this for a number
3 of years yet.

4 To a great extent, any health effects
5 of minimizing trans fats from our foods and
6 diets will depend on the nature of their
7 replacements. If they are replaced with
8 highly saturated fats, which are known to
9 also raise LDL cholesterol, the effect may
10 not be beneficial. There are other proposed
11 replacements, but again, we don't know the
12 health effects of all of them. Let us not
13 forget that the reason we now have as much
14 trans fats in our diets as we did in the past, a
15 few years ago, food manufacturers and purveyors
16 were encouraged to substitute them for more
17 highly saturated animal fats because trans
18 fats were thought to pose a greater health
19 risk. Now, how do we know that number 1,
20 further reduction in trans fats will be
21 beneficial or 2, their replacements would be
22 any better in terms of the blood lipid
23 levels and heart health?

24 Although the proposed ban on the

1 use of trans fats by New York City food
2 establishments sounds like a health-
3 promoting step, in fact, the science to
4 support such a move is not yet robust,
5 and such a ban is, in our opinion, both
6 coercive and premature.

7 We have just finished and posted on
8 our web site a report on trans fatty acids
9 and heart disease which can be accessed by
10 any one at www.ACSH.org in which we reviewed
11 the scientific underpinning of the health
12 effects of trans fats. Thank you.

13 ROSLYN WINDHOLZ: Dr. Elizabeth
14 Whelan. Melissa Rodin-Ramirez.
15 Dr. Theodore Strange.

16 Fay Cesarano, Director of Nutrition.
17 Catherine Abate, President and CEO,
18 Community Health Care Network.

19 CATHERINE ABATE: Yes. Thank you
20 very much. My name is Catherine Abate.
21 I'm President and CEO of Community
22 Health Care Network and I want to thank
23 the Commissioner of the Department of
24 Health in fostering these initiatives.

1 We've waited these hours and submitted
2 these testimonies because we believe this
3 is a very important matter that affects our
4 patients.

5 Community Health Care Network has
6 been in existence for 25 years, serving
7 some of the poorest and most underserved
8 communities in New York City for the five
9 boroughs. We provide primary care, mental
10 health, and social services.

11 We support these initiatives and we'd
12 like to speak, although we haven't gotten an
13 informed consent from our patients, but we
14 think we safely can speak for the thousands
15 of patients we serve, and we overwhelmingly
16 support these initiatives for three reasons.

17 One, we believe it will not only
18 increase general awareness to our patients
19 of what they're eating, it will increase
20 their health literacy and their ability to
21 make healthier decisions in their life.
22 The ban of trans fats, of course, will improve
23 their health outcome. And third, we're
24 uniquely positioned in supporting this

1 initiative because our patients are the
2 very persons who will benefit from these
3 proposals.

4 The individuals we see are by and
5 large uninsured or underinsured. They're
6 the working poor; they are the homeless.
7 90% of the people we see are at or below the
8 Federal poverty level and they come from
9 communities where the epidemic of obesity,
10 heart disease, and diabetes is rampant. And
11 the communities they live in, oftentimes
12 supermarkets that offer a variety of
13 affordable health foods are not available
14 therefore, they rely more and more on
15 fast foods for a quick meal and thereby,
16 consume low cost, high caloric foods
17 saturated in trans fat.

18 So let me just end before I turn this
19 over to our Director of Nutrition, that we
20 support this, but we also recognize that
21 these initiatives are not a total solution,
22 but they are an important step.

23 And I invite you, Commissioner,
24 to think about building allies within

1 government itself. It should not be up
2 to health providers and the Department of
3 Health to promote a public health campaign.
4 And some day I envision a government in
5 New York City where every agency who reaches
6 out to their own constituents in that agency
7 have their own health messages coordinated
8 by the Commissioner, so there are teachable
9 moments throughout the day, throughout
10 government, in every work of every agency
11 to reach out and be part of this effort.

12 And also, I want to include the
13 agencies they contract with in the private
14 and not-for-profit sector. In a coordinated
15 way, we could increase public health
16 messages and in a public health campaign.

17 FAY CESARANO: Hi, everyone. My
18 name is Fay Cesarano and I'm a registered
19 dietitian and a certified diabetes educator.

20 In more than 15 years of experience
21 in the field of nutrition, health patients
22 face the challenges of fighting
23 nutrition-related diseases on a daily basis.
24 Of all the thousands of patients we service,

1 there is not one who is not in need of or
2 would not benefit from nutrition
3 intervention. Of particular concern to
4 us are our children who generally come from
5 underserviced, low income communities that
6 are inundated with fast food restaurants
7 that serve high calorie, overly processed
8 foods. Being exposed to trans fats and
9 non-nutrient dense foods from an early
10 age puts them at even greater risk with
11 developing nutrition-related problems as
12 they get older.

13 It saddens me to report that it is
14 not uncommon for our pediatricians to refer
15 patients as young as 9 and 10 years old for
16 medical nutrition therapy secondary to
17 obesity, elevated cholesterol levels, and
18 pre-diabetes.

19 No matter the economic costs of
20 phasing out trans fats, the health and human
21 costs would be even greater. In our
22 health centers, patients who report regular
23 consumption of foods high in trans fats
24 consistently have more health problems, such

1 as overweight, pre-diabetes, elevated
2 cholesterol levels, and borderline
3 hypertension, which is left unattended in
4 developing the costly and chronic medical
5 condition.

6 Our goal at Community Health Care
7 Network is not only to treat
8 nutrition-related conditions, but to prevent
9 illness through education and information as
10 well.

11 ROSLYN WINDHOLZ: Thank you.

12 Earl Ellis. Trishann Williams.

13 Trishann Williams is a Community
14 Board Five member.

15 TRISHANN WILLIAMS: Hello. My name
16 is Trishann Williams, and I am here on behalf
17 of Manhattan Community Board Five.

18 At the regularly scheduled monthly
19 meeting of Community Board Five on Thursday,
20 October 12th, 2006, the Board passed the
21 following letter by a vote of 17 in favor,
22 16 opposed, 0 abstention:

23 Manhattan Community Board Five,
24 representing Midtown Manhattan, would like

1 to thank you for the opportunity to comment
2 on two proposed Health Department
3 initiatives.

4 The first would require New York City
5 restaurant owners to substitute trans fat
6 oils for other healthier oils such as olive,
7 canola, safflower, or grapeseed. While
8 Community Board Five agrees that restaurants
9 should limit the amount of trans fat, we
10 are uncomfortable with mandating the removal
11 of such trans fat oils.

12 Community Board Five is concerned
13 that enforcement of the current proposal
14 as is will be difficult and costly.
15 Additionally, it would be problematic for
16 health inspectors to ensure that trans fat
17 oils were not present in restaurant foods.

18 Community Board Five instead favors
19 a campaign aimed at continued education of
20 restaurant owners and their consumers about
21 the dangers of trans fat oils. We recommend
22 requiring restaurant owners to indicate the
23 presence of trans fat oils in foods through
24 a visible and easily recognizable symbol

1 placed near the item on a menu. This symbol
2 would serve the purpose of educating
3 consumers about the presence of trans fat
4 oils and allow them to make an informed
5 choice as to whether or not to consume the
6 item.

7 The second proposed initiative will
8 require restaurants that currently display
9 the calorie contents of food and drink items
10 to now display these calorie contents on
11 menus and menu boards.

12 We are concerned that this may place
13 an unfair burden on restaurant owners who
14 may incur significant costs in order to
15 upgrade menus and menu boards to provide
16 this new mandated information.

17 Furthermore, we are concerned about
18 the imposition that this new initiative may
19 place upon smaller restaurants that may
20 have variable or changing menu items on a
21 frequent basis.

22 Community Board Five prefers a pilot
23 program that targets the larger chain
24 restaurants such as McDonald's and Starbucks.

1 We believe that this pilot program should
2 require all restaurants at a certain seating
3 capacity, volume of service and/or with
4 multiple locations, to display calorie
5 information on menus and menu boards.
6 Important information on the favorable
7 and/or unfavorable impact of the legislation
8 and costs should be gathered and assessed at
9 completion.

10 Community Board Five does not want to
11 burden smaller restaurants that are already
12 seeking to educate their consumers through
13 their voluntary provision of nutritional
14 information with additional mandated
15 requirements.

16 Manhattan Community Board Five
17 appreciates and recognizes your commitment
18 to the health and well-being of all
19 New Yorkers and we thank you once again for
20 the opportunity to comment on both these
21 important health measures. Thank you very
22 much.

23 ROSLYN WINDHOLZ: Thank you. At this
24 point, I just want to say we apologize for

1 the cold. I've just been told that there's
2 some pipe work being done, so hopefully, it's
3 only temporary.

4 Okay, moving on. Russell Coco, member
5 of the public.

6 RUSSELL COCO: Thank you very much to
7 the Department of Health and Mental Hygiene,
8 and thanks to New York City for putting the
9 spotlight on trans fat.

10 I'm from Boma, Texas and excuse the
11 twang. I am co-owner of Jason's Deli.
12 It's 150 store deli chain in 20 states, and
13 we eliminated trans fat completely from our
14 menu a year and a half ago. We had 47
15 ingredients that affected 80 menu items and
16 five years ago, I realized that I could not
17 eat in my own restaurant and did not want to
18 serve partially hydrogenated oils to my
19 customers. We have a large family base.
20 We have a lot of children that eat with us
21 and I couldn't consciously serve the product
22 any longer, so we embarked on eliminating
23 trans fat 100% from our menu, and it took us
24 two years. At that point, this was five

1 years ago, and it was difficult at that
2 point to find manufacturers that produced
3 anything that was trans fat free but we
4 challenged our suppliers and said, "You are no
5 longer going to be one of our vendors if you
6 don't get it out," and a number of them did,
7 some didn't.

8 I have a list of suppliers who
9 eliminated trans fat and I saw two of them
10 at the National Restaurant Show last year,
11 and I went to their booth and I said, "You're
12 advertising no trans fat and they said yes,
13 thanks to you at Jason's Deli." So it was a
14 little thing but it was important enough
15 that they wanted to remain a supplier of
16 ours.

17 We've been in business thirty years.
18 We started with heart healthy items in the
19 80s and we believe that the restaurant
20 industry is making excuses if they think
21 that trans fat cannot be eliminated. Some
22 testimonies I heard today made my blood boil
23 because it's hogwash, excuse the language because
24 if you are serious about eliminating

1 partially hydrogenated oils from your menu
2 it can be done. Again, there's more
3 availability today.

4 We had fun with it. We had food
5 schools for our 5,000 employees. We taught
6 trans fat classes. We had employees submit
7 recipes and we started calling ourselves
8 trans fat freedom. We had trans fat
9 freedom. We rewarded employees for
10 submitting recipes that we used on our menu.
11 So there is no excuse again and again that
12 the restaurant industry cannot get serious
13 about eliminating trans fats. It's a lot
14 easier than these gentlemen said it was.

15 We have test stores. We tested the
16 product on our customers. They noticed no
17 difference. In fact, you're using better
18 products when you're eliminating partially
19 hydrogenated oil. The taste is better. The
20 cost was minimal. It was mostly in
21 research and testing, that's where most of
22 our costs occurred, but as far as our food
23 costs, it was very minimal. So it's doable
24 and the restaurant industry needs to realize

1 that and take a stand. We have to move
2 forward. If there aren't going to be
3 guidelines by government agencies, it's
4 up to us, and I challenge my fellow
5 restaurateurs to do something.

6 We've got to get serious about
7 portion sizes. We're guilty of it; we're
8 not perfect, but we're working on it. We've
9 got to get serious about styrofoam. We've
10 got to get serious about aerosols. We've
11 got to get serious about high fructose corn
12 syrup, but we take a step at a time, and the
13 first step for us was partially hydrogenated
14 oils.

15 So again, I'm here to finish, but I
16 would like to say this. I would like to say
17 this to fellow restaurateurs, call me. We
18 have a web site, JasonsDeli.com. I'll be
19 glad to help anyone in the industry
20 eliminate partially hydrogenated oils.

21 We are all in this together, and if we
22 are going to save the planet, we have to
23 take it a step at a time and eliminate trans
24 fats. Trans fat freedom. Thank you.

1 ROSLYN WINDHOLZ: Thank you.

2 Marcy Benstock, member of the public.

3 MARCY BENSTOCK: Good afternoon. My
4 name is Marcy Benstock, and I strongly
5 support the Department's proposals to phase
6 out trans fats and require calorie labeling.
7 But the rule could actually harm public
8 health unless the Board of Health also
9 requires restaurants to provide information
10 on which specific cooking oils and
11 shortening they use. Otherwise, if
12 restaurants replace trans fats with edible
13 oils that come from nuts and seeds and don't
14 disclose that, there will be an increase in
15 allergic reactions, emergency room visits,
16 coma and death for diners who are allergic
17 to nuts and seeds and the cooking oils
18 extracted from them.

19 Many diners have true food allergies
20 to the oils that come from nuts and seeds,
21 including canola which is rapeseed,
22 cottonseed, safflower, sesame, and sunflower
23 oils, almond and walnut oils, and others.

24 There's no cure for food allergies.

1 Strict avoidance is the only means to
2 prevent potentially serious reaction, but
3 people with allergies can't avoid
4 ingredients like nuts, seeds, and seed oils
5 unless the ingredients are honestly
6 disclosed.

7 Allergic patients have very strong
8 incentives to act on ingredient
9 information if restaurants are required to
10 provide it. Within minutes or hours of
11 eating seed oils, for example, allergic
12 patients will vomit or suffer from hives,
13 shortness of breath, et cetera. More severe
14 reactions can lead to loss of consciousness,
15 asphyxiation, shock or death.

16 Estimates of the percentage of adults
17 or children with food allergies are based on
18 gross underreporting. Anaphylaxis is
19 systemic shock which can result in death.
20 There is no code for the diagnosis of
21 food-induced anaphylaxis in the
22 International Classification of Diseases as
23 of '92. Few allergy sufferers even go to
24 allergists, much less report their

1 symptoms to any recordkeeping agency. Thus,
2 guesstimates of the prevalence of the
3 problem are sure to be understated.

4 Sesame-seed allergy is a good example
5 of the regulatory deficiencies for this
6 gross underreporting in the
7 United States. The European Commission and
8 Canada have both added sesame to the list of
9 major food allergens for food labeling
10 purposes, even though the U.S. Congress and
11 FDA have shied away from this appropriate
12 step. Studies have shown that sesame was
13 the second leading cause of anaphylaxis in
14 Israeli children and the fourth most common
15 cause of allergic reactions to foods in
16 Australian children.

17 Claims that most food allergies stem
18 only from the ingredients subject to current
19 FDA labeling regulations do not have any
20 adequate foundation. Similarly, the claim
21 that low levels of certain allergens doesn't
22 present a problem just isn't true. Even
23 trace amounts of sesame, for example, can
24 unleash life-threatening reactions.

1 There's been an explosion in food
2 allergies in recent years. The New York
3 Department of Health and the Board of Health
4 need to address this better than they have
5 so far. Most allergy-related fatalities now
6 occur in eating establishments. Allergenic
7 oils were a relatively rare problem until
8 the 1970s because of the old standards. Corn
9 and olive oil and butter and lard were the
10 ones that were used. Then there was an
11 explosion because of food industry changes.
12 Anaphylaxis and other reactions have
13 skyrocketed. Restaurant disclosure is now
14 absolutely essential. McDonald's already
15 has a handout listing all the ingredients in
16 their foods, and this is incredibly helpful as
17 well as being a great selling-point for food
18 allergy patients.

19 Epipens in restaurants were sometimes
20 proposed, but that's not a good enough
21 answer. Epipens can be lifesavers when
22 someone has an anaphylactic reaction to
23 food, but epipens can't always save you
24 once a food allergen has been ingested. A

1 1992 study reported on six fatal and seven
2 near-fatal cases of food-induced anaphylaxis
3 in 13 children and adolescents who had to be
4 admitted to an intensive care unit for
5 intubation, mechanical ventilation, and
6 vasopressor support. While all of those
7 subjects were given epinephrine, seven died
8 anyway. Three of the seven who died seemed
9 to get better at first and then they died.
10 The history of mild reactions doesn't preclude
11 the possibility of a future severe reaction.

12 Also, food allergies tend to get
13 worse with every exposure. And finally, the
14 administration of too much epinephrine can
15 precipitate hypertension and cardiac
16 arrhythmias.

17 The Department's web site says,
18 "Assuring safe and healthy dining options is
19 a public health priority," along with
20 preventing "dangerous and preventable risks
21 to restaurant goers." That's as it should
22 be. I urge you not to push allergic diners
23 out of the frying pan and into the fire,
24 however, with these proposals. These

1 require, at a minimum, the disclosure of the
2 specific nut and seed oils used in food
3 preparation in restaurants.

4 There are references and written
5 statements which I'll give to you.

6 ROSLYN WINDHOLZ: You can submit
7 them. Thank you very much.

8 MARCY BENSTOCK: Thank you.

9 ROSLYN WINDHOLZ: At this point,
10 I'm going to be joined by some Department of
11 Health's personnel. This man at the table
12 is Elliott Marcus, Associate Commissioner of
13 the Bureau of Food Safety and Community
14 Sanitation, and Dr. Lynn Silver,
15 Commissioner for the Bureau of Disease
16 Prevention and Health Promotion.

17 Moving on, Cesar Vasquez.
18 Dr. Lisa Young, Ph.D., R.D., Nutritionist
19 and Author of "The Portion Teller," Adjunct
20 Faculty at NYU.

21 LISA YOUNG: Good afternoon.
22 I'm Lisa Young, a nutritionist in private
23 practice, author of "The Portion Teller" and
24 user-friendly weight loss guide, and adjunct

1 professor at NYU.

2 I am in support of New York City's
3 proposal to require chain restaurants to
4 display the calorie content of standard food
5 items on menu boards. Restaurants should
6 post calorie information in a manner that is
7 easy for consumers to read and use as part
8 of their purchasing decisions. Without
9 clear, easy to use nutrition information,
10 it's difficult to make informed choices
11 while eating out. Because Americans are
12 eating out more today than ever before,
13 restaurant labeling regulations would give
14 the citizens of New York City the important
15 information to help them eat well and take
16 responsibility for their own health.

17 Obesity is currently a major public
18 health concern in New York City and it is
19 associated with an increased risk for a
20 variety of medical conditions. It is caused
21 by an imbalance of energy intake, which is
22 calories in, and energy expenditure,
23 calories out. People tend to eat more
24 calories when they eat out than when they

1 eat at home.

2 Posting the calorie content of food
3 directly on the menu boards is an excellent
4 idea as it would enable consumers to see how
5 many calories are in the food they're
6 planning to buy and eat. Few people have
7 a clue how many calories are in foods that
8 are prepared by restaurants.

9 In a study that I conducted with
10 colleagues at New York University and the
11 Center for Science in the Public Interest,
12 we found that not even trained nutritionists
13 were able to determine the calories in
14 restaurant meals. Without knowing how much
15 a food weighs and how a food is prepared, it
16 is virtually impossible to correctly
17 estimate its calorie count.

18 Particularly problematic is the fact
19 that portion sizes have ballooned in recent
20 years, and these large portions are providing
21 consumers with many more calories. While
22 conducting research on portion sizes, I
23 found that the increase in the prevalent of
24 obesity has occurred in parallel to an

1 increase in the portion sizes of foods
2 consumed away from home, suggesting that
3 larger portions might be contributing to the
4 obesity epidemic.

5 Portions offered by fast food chains,
6 for example, are often two to five times
7 larger than their original size and have
8 increased since the 1970s.

9 Posting calories on menu boards would
10 enable consumers to compare the calorie
11 count of food portions available in several
12 sizes such as french fries and soda, at fast
13 food chains. While it seems obvious, the
14 large portions contain more calories than
15 small portions.

16 As a nutritionist counseling
17 overweight individuals, I have found a huge
18 disconnect between how hard it is for people
19 to relate the size of a food to its calorie
20 count. For example, while this soda, an
21 8 ounce soda contains 100 calories, people
22 are shocked to hear that the 64 ounce Double
23 Gulp at Seven-Eleven is eight times the size is
24 nearly 800 calories.

1 If restaurants would post calories
2 of foods, it would educate consumers on the
3 relationship between portion sizes and
4 calories and perhaps encourage them to
5 purchase smaller sizes.

6 Finally, the portion distortion
7 problem becomes compounded for families that
8 have mixed dishes because consumers rarely
9 have a clue what ingredients goes into each
10 dish.

11 Consider Burger King's newest
12 edition, the BK stacker sandwich, available
13 in four sizes. The larger size, called the
14 quad, contains four patties, four slices of
15 cheese, eight slices of bacon, a bun, and a
16 special sauce. Who would forget that it
17 contains a thousand calories, half the
18 calories recommended for an entire day for
19 certain segments of the population. Only by
20 posting such information would consumers
21 have a clue and perhaps begin to scale back.

22 Thank you for allowing me to speak,
23 and thank you for the proposals.

24 ROSLYN WINDHOLZ: Thank you. At this

1 point, we're just going to adjourn for two
2 minutes so we can get our next stenographer
3 over here.

4 (Brief recess was held at 2:00 p.m.)

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MS. WINDHOLZ: So this part we're just going to go back and see if anybody that was not here when we initially called their number -- their name has arrived. Peter Kostmayer, President, Citizens for New York City.

MR. SCOTT CODEY: Can I testify on his behalf? They told me I could.

MS. WINDHOLZ: Just come to the desk and identify yourself.

MR. SCOTT CODEY: My name is Scott Codey. I'm with the Citizens for NYC. I apologize on behalf of Peter Kostmayer that he couldn't be here today, and I will submit the written testimony.

Citizens for NYC is an organization that has been around for about 30 years, and what we do is we help small scale community groups address problems in their own community. What we've seen in recent years is that a growing number of community groups have come to us for help in getting access to fresh affordable nutritious produce, and as a result of that, we

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developed a program where we helped

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community groups start instituting farmer's

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markets, start CSA's, start buying healthy

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food products all for the service of

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helping grass roots community groups

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define problems at the local level, and

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then develop strategies to address them,

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and citizen activism can go a long way in a

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healthy democracy, but it cannot be the

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full story. A healthy democracy also

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requires sound public policy, and for that

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reason, Citizens for NYC strongly supports

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this particular proposal.

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This issue has, this issue is very

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important in New York City and for that

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reason these community groups have defined

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this as a major problem. We are helping

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these community groups solve the problems

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at the local level, and this proposal is an

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important and easy measure to pursue the

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same ultimate objective which is promoting

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a healthy community in New York City by

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creating access to safe, healthy food for

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people who eat in restaurants. So we

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2 commend the administration, Mayor Bloomberg
3 as well as Health Commissioner Frieden for
4 their leadership on this, and we encourage
5 the panel to support this proposal.

6 Thank you.

7 MS. WINDHOLZ: Thank you.

8 Melissa Rodin-Ramirez. Dr. Theodore
9 Strange, with Staten Island University
10 Hospital.

11 DR. THEODORE STRANGE: Good
12 afternoon. My name is Dr. Theodore
13 Strange, and I'm the Associate Chairman of
14 Medicine at Staten Island University
15 Hospital.

16 We commend the City Department of
17 Health and the Bloomberg Administration in
18 the proposal of this limitation of trans
19 fatty acids as something that's very
20 important to the community.

21 As we all now, the instances of heart
22 disease in New York City is clearly the
23 number one killer. In Staten Island the
24 presence of heart disease is one of the
25 highest of any county in the state of New

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2 York. We have an obligation both as health
3 professionals and as a Department of Health
4 in terms of looking after our citizens in
5 the city, the state and the country in
6 terms of allowing the proper education so
7 that the proper decisions can be made in
8 terms of their health care, whether that be
9 with smoking cessation in the past with
10 other carcinogens that have been found in
11 our food products. Clearly that has been
12 noted well in the literature and as most of
13 us practice medicine in society today,
14 evidence based medicine clearly supports or
15 doesn't support the use of the partially
16 hydrogenated vegetable oils, because while
17 there clearly are alternatives there that
18 are safe, that are inexpensive, and that do
19 not cause, pose the same risks in terms of
20 the cholesterol healthy L -- increase the
21 HDLR and the facts in the instance of heart
22 disease that this group of food products
23 does.

24 There were articles in the New
25 England Journal of Medicine, there have

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2 been studies from many other countries,
3 Denmark and Canada, it has been stated that
4 clearly have shown that by using
5 alternative products - using alternative
6 products that are as inexpensive, that
7 continue to provide the taste and quality
8 and that clearly do not have these effects
9 is the only way to really educate and to
10 prevent, or to help to prevent this
11 devastating disease, this group of diseases
12 called heart disease.

13 As physicians we see daily in our
14 practices, strokes, coronary disease
15 causing major heart attacks, people going
16 for bypass surgery and the like that not
17 only cause a tremendous burden on the
18 health care system itself, but pose a
19 tremendous burden on society in general,
20 just in terms of work time lost,
21 rehabilitation and all the things that go
22 along with the tertiary care that needs to
23 then be provided once patients have already
24 gone on to have their significant heart
25 disease.

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So we at Staten Island University Hospital, and I think the physicians community in general strongly support this amendment which will limit the use of these products in the food establishments. I think that safety first is always our primary concern and goal as patient advocates, which we are as physicians, as you are as the Department of Health, and therefore we again strongly support this bill.

Thank you.

MS. WINDHOLZ: Thank you.

Earl Ellis. Cesar Vasquez. Louisa Sanchez, Citizen's Committee for Children.

MS. DANIELLE MARCHEON: I'm mostly here in place of someone else.

MS. WINDHOLZ: Okay, who are you with? You should indicate your affiliation if any.

MS. DANIELLE MARCHEON: Good morning. My name is Danielle Marcheon, and I'm the government physician's associate at Citizens Committee for Children of New York, CCC.

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CCC is an independent multi-issue child advocacy organization that works to make sure that every New York City child is healthy, housed, educated and safe. Thank you for this opportunity to testify.

CCC is here today to encourage the New York City Board of Health to approve two amendments to the New York City Health Code that will go a long way in helping children, adolescents and families live healthier lives.

For many children and families, access to affordable, nutritious food is a difficult challenge, and meals prepared outside the home are often more readily accessible and are frequently consumed by New Yorkers. The proposal will require disclosure of calorie information on restaurant menus or menu boards and will help parents to make better food choices that will improve their children's nutrition, reduce obesity, and promote lifelong healthy diet and life-style.

Close to a quarter or 470,000 New

1
2 York City children are obese, increasing the
3 likelihood that they will develop chronic
4 conditions, such as diabetes later in
5 life. With obesity rates in the city more
6 than double the national average, it is
7 critical that the Board of Health adopt
8 this proposal. The proposal to phase out
9 artificial trans fats from restaurants and
10 other food service establishments in the
11 City will also help our children live
12 longer, healthier lives. Though the health
13 effects of this proposal may not be evident
14 until later in life, the phasing out of
15 artificial trans fat will help determine
16 our children's health in the future.
17 Artificial trans fats are worse than any
18 other natural fats, lack nutritional
19 value and are easily replaceable. New
20 Yorkers and their families should not be
21 forced to unknowingly consume trans fats
22 when dining out.

23 Together these amendments will help
24 control both the obesity epidemic and
25 reduce the risk of cardiovascular disease

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2 in New York City.

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Thank you.

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MS. WINDHOLZ: Thank you.

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Cathy Nonas, Director of the
Diabetes and Obesity Programs at North
General Hospital.

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MS. CATHY NONAS: Thank you all for
elongating this time so we could all
speak. I actually have one short thing.
As a representative of North General
Hospital in Harlem, we are in support of
both proposals, but I'm here to speak on
one proposal, on proposal 81.08 on trans
fats. We have a teenage group of
kids in our hospital who tried to
lose weight and live a healthy
life-style, and their ages are from 13 to
18, and they wrote this letter to you which
I'm going to read.

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"We are told that our generation was supposed to be the longest living generation so far, but this isn't the case. Instead trans fats and other technology have shortened our lives and increased our health risk at a young age.

Each year heart disease is becoming more common in children. If we take trans fats out of the foods we enjoy, we decrease the risk of high cholesterol and heart disease. By taking the lead, New York will show that they care about our generation and the future of other generations to come.

Everyone talks about changing the environment, but no one does anything. We work hard to make our lives healthier by increasing our physical activity, by eating more fruits and vegetables, and reducing our fats despite advertising that promotes the opposite, but we still enjoy our french fries, just in smaller sizes. By reducing trans fats, New York will show us that they're working hard to help us, and that

1

2 french fries will still be part of a
3 healthy life-style."

4 Thank you.

5 MS. WINDHOLZ: Thank you.

6 Ellen Fried, Chair at the New York
7 City Nutrition Education Network.

8 MS. ELLEN FRIED: Good afternoon.

9 As you just stated, my name is Ellen
10 Fried. I'm an attorney and a food policy
11 educator as well as an adjunct professor at
12 NYU, and I'm speaking here today as chair
13 of the public policy working group of the
14 New York City Nutrition Education Network
15 known as NYCNEN.

16 Founded in 1998, NYCNEN is a
17 collaborative network of individual
18 nutrition professionals and educators and
19 50 plus organizations in New York City.
20 Members may be tax supported, voluntary,
21 for profit or not for profit, and include
22 representatives from health centers,
23 emergency food providers, agricultural
24 organizations, advocacy groups, academic
25 programs, government agencies, nutrition

1

2 education programs, and private
3 consultants.

4

5 What all members of NCYNEN have in
6 common is their mission to improve the food
7 and nutrition environment for a healthy New
8 York City. We've submitted written
9 testimony today, but what I will do is
10 highlight what's unique to NYCENEN members,
11 and I don't want to be remiss and also want
12 to put into the testimony that we'd
13 like to thank Commissioner Frieden and
14 the New York City Department of Health and
15 Mental Hygiene for taking the initiative to
16 propose important changes in the City's
17 food supply.

18

19 NCYNEN supports both amendments to
20 Article 81 of the New York City Health
21 Code, since the proposals are actions which
22 members agree will improve New Yorkers'
23 health. The mandatory removal of harmful,
24 artificial trans fats especially from fast
25 food chains, takes the guesswork and most
importantly the harmful ingredient out of
eating out.

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As nutrition and food educators, NCYNEN members are particularly concerned with populations, adults and children alike, who are most at risk for nutrition related diseases. Removing trans fats will lower the risk of disease for anyone who eats out in New York City, but especially for people who are dependent on inexpensive and highly processed foods.

The Department's proposals will have a positive, far-reaching effect to nutrition educators who will be able to urge New Yorkers to follow the City's lead and acknowledge that trans fats are unhealthy. Building upon the City's proposals, educators can more easily discourage the use of products that contain trans fats, and encourage the use of alternatives with equivalent taste and **(inaudible)**. Nutrition educators can also emphasize the importance of moderating calorie intake with the aid of specific calorie count for popular standardized fast food menu items conspicuously posted and

1

2 readily available at the point of
3 purchase.

4

5 The changes in the proposed
6 amendments is a significant step forward to
7 combating the dual threats of obesity and
8 other diet related chronic diseases.

8

9 Specifically, NYCEN supports the inclusion
10 of free feeding programs in the ban on
11 artificial trans fat. The populations that
12 rely on free feeding programs from
13 Headstart programs to soup kitchens are
14 often at risk for nutrition related
15 diseases. The removal of harmful fats from
16 these food sources is likely to have a
17 positive health effect.

17

18 Providing consumers with the basic
19 calorie information they need, in plain
20 sight, at the point of purchase, by clear
21 and conspicuous posts on menu boards at
22 their use, the readily available calorie
23 information, will finally provide consumers
24 with the tools to make informed food
25 choices at the time and place, the
information can actually influence their

1
2 decision making. And to focus on
3 restaurant chains with standardized menu
4 items, many adults and children frequent
5 these restaurants several times a week, the
6 simultaneous removal of trans fats from
7 products coupled with the posting of actual
8 calorie counts, acts to counter typical
9 consumer assumptions that trans fat free
10 also means reduced calorie. This is also
11 important because of typical market
12 campaigns to increase consumptions of value
13 meals and other pricing strategies.

14 NYCEN wishes to applaud the bold
15 and necessary steps being proposed by the
16 Department and its leadership in banning a
17 harmful substance from the food supply.
18 Indeed other cities and states have already
19 been encouraged to follow New York City's
20 lead in taking action to protect and
21 improve the nutritional health of its
22 citizens.

23 Thank you.

24 MS. WINDHOLZ: Thank you.

25 Frank Capaci. Jennifer Araujo. Amy

1

2 Schwartz. Lori Mosca, Dr. Lori Mosca,
3 Director of Preventive Cardiology at New
4 York Presbyterian.

5 MS. LORI MOSCA: Thank you very
6 much.

7 Dr. Lori Mosca, and I'm here as the
8 representative and immediate past chair of
9 the American Society for Preventive
10 Cardiology, and it's a pleasure to speak to
11 you from my heart about the heart.

12 As a physician that specializes in
13 preventive cardiology and as a
14 cardiovascular epidemiologist, I am acutely
15 aware of both the impact on patients and
16 society due to the burden of cardiovascular
17 disease. Many of you may not be aware that
18 New York City really has an opportunity
19 right now to serve as a microcosm for not
20 only the problem of cardiovascular disease,
21 but also the solution.

22 The world has undergone what we call
23 an epidemiologic transition. As we have
24 moved into a more industrialized society,
25 our health problems have transitioned from

1

2 one of nutritional deficiency and
3 infectious diseases to one of nutritional
4 excess and chronic diseases, and this
5 proposal which I strongly support, as does
6 the American Society of Preventive
7 Cardiology, is an opportunity to really
8 keep the epidemic at bay.

9

10 There's no argument you've heard
11 wonderful testimony that artificial trans
12 fat is a contributor to cardiovascular
13 disease. Part of the issue I believe is
14 the potential burden that this is gonna
15 cause in the short term, and I'd like to
16 think of this problem as a short term pain
17 for a long-term gain. Yes, there will be
18 some burdens that we will suffer in making
19 changes as I see with every patient in my
20 clinic, and of course as a society, but
21 this will work. We have evidence that this
22 will work. In fact, a study published this
23 month in the leading journal of the
24 American Heart Association and Cardiology
25 circulation published a study in Pueblo,
Colorado that after the smoking ban was

1
2 enforced there, there was a 40 percent
3 reduction in hospitalizations due to heart
4 attacks. This is gonna translate into
5 benefits for humans, for their families,
6 but also for the restaurants and
7 entrepreneurs that have to buy health care
8 premiums, and pay for the long-term health
9 care cost associated with cardiovascular
10 disease.

11 When I counsel my patients, I tell
12 them that life-style change is difficult,
13 and environmental change is perhaps even
14 more difficult because we have to make the
15 decision collectively; but as I tell my
16 patients an old Turkish proverb, no matter
17 how far you've gone down the wrong path,
18 turn back, if it's the right thing to do,
19 it will be hard to do, but we will all
20 benefit from living in a healthier society.

21 Thank you very much.

22 MS. WINDHOLZ: Thank you.

23 Dr. Wanda McCoy, Chief Medical
24 Officer for Morris Heights Health Center.

25 DR. WANDA MCCOY: Good afternoon.

1

2

As the Chief Medical Officer of Morris

3

Heights Health Center, a practicing

4

pediatrician, and as a representative of

5

the entire staff of the center, I am happy

6

to testify at this public forum in full

7

support of the proposals put forth by the

8

New York City Department of Health

9

specifically to partially phase out

10

artificial trans fats in food preparation in

11

all food establishments. This is an

12

excellent way to have an impact on the

13

whole population of the City of New York.

14

Morris Heights Health Center's main and

15

oldest site is situated in the southwest

16

Bronx, and has been delivering

17

comprehensive primary and specialty care to

18

Morris Heights and its surrounding

19

communities for the last 25 years.

20

As you all are aware, especially

21

after the recent release of the health

22

profiles of New York, the Bronx has some of

23

the highest rates of diabetes, heart

24

disease and obesity in the city and in the

25

state. In fact, poor communities all

1
2 across the city are besieged by many
3 environmental factors that lead to poor
4 health options not the least of which is
5 food service establishments that primarily
6 serve items that are high in fat with high
7 calorie counts that are often fried. Fresh
8 fruits and vegetables are not usually
9 available or affordable as choices or part
10 of the meal.

11 Our community residents spend a
12 large amount of their limited income and
13 dollars on prepared foods outside of the
14 home, and our community is no different
15 than most other poor communities that are
16 surrounded by the typical fast food
17 establishments and other restaurants that
18 unfortunately offer choices that are not
19 heart healthy. Many of our community
20 residents and patients are already at an
21 increased risk for diabetes secondary to
22 genetic and family history.

23 These proposals, if approved, will
24 be a boost to the armor and terrain that we
25 have to help our fellow New Yorkers live

1

2 healthier lives and make more informed
3 choices.

4

5 We've heard about analogies of
6 smoking, lead based paint, requiring car
7 manufacturers to develop appropriate seat
8 restraints and passing a law mandating the
9 use of seat belts and car seats have saved
10 countless lives in ways that counseling and
11 education one on one in the office setting
could never do.

12

13 It is staggering to see the rate of
14 obesity in our practice over the last
15 several years, especially in infants,
16 children and adolescents, and we as
17 practitioners and educators often feel
18 helpless in our ability to make a
19 difference given the variables that we
face.

20

21 The second proposal which would
22 ensure prominent displays of the calorie
23 content of all items on the menu in certain
24 restaurants will undoubtedly inform choices
25 and educate consumers. Just as people
comparison shop for the best prices on

1

2 items that are clearly labeled, so too will
3 individuals comparison shop for meal
4 choices when they are informed about the
5 amount of calories.

6

7 We desperately need a multi prong
8 collaborative approach to effectively turn
9 the tide on the rising epidemic of obesity
10 and diabetes. Health care providers,
11 educators, politicians, community based
12 organizations, business leaders,

13

14 and others have to strategize together.
15 Morris Heights Health Center on its part
16 will continue education and counseling
17 efforts to the community on issues of
18 diabetes, heart disease and obesity in the
19 perils of trans fat.

20

21 We applaud Dr. Frieden, Commissioner
22 of Health, and the Department of Health and
23 Mental Hygiene and his staff for making
24 this proposal.

25

MS. WINDHOLZ: Thank you.

26

27 Sandy Solomon, CEO, President,
28 Director of R and D Sweet Street Desserts.

29

MS. SANDY SOLOMON: Thank you for

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2 giving me the opportunity to speak today.

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My name is Sandy Solomon, and I am president, founder of Sweet Street Desserts, tongue twister. We're a Pennsylvania based company. We manufacture gourmet desserts, I'm also director of R and D, of research and development. We employ 750 people, and we distribute across North America, Europe and also Asia.

I traveled here today from Reading to speak because I feel that there is some misunderstanding about trans fats that needs clarification. After listening to 65 people speak, I realize it truly is.

There's an oversimplification, it has to do with the FDA mandated trans fat labeling which does not separate artificially and naturally occurring trans fats in labels. All the labels that are on products, not just prepackaged products, but a cheesecake such as this that you see up and down the streets of New York, we must label our cheesecakes and by the portion. In that label, all trans fats

1

2 are collected, the ones that naturally
3 occur in dairy also.

4

I want you to also understand that
5 my company is committed to removing
6 artificially created trans fats from our
7 products, and I can proudly say that we do
8 today use no artificial trans fats other
9 than that manufactured in flour. However,
10 it still does not mean that our product is
11 labeled and says, no -- trans fat free.

12

When the new ruling was proposed in
13 New York, it was clearly and specifically
14 meant to prevent the use of artificially
15 created trans fats in foods, and when the
16 FDA passed labeling requirements, I believe
17 they let New York have a specific focus.
18 For instance, on their website March, '04
19 and updated on January, '06, they stated a
20 similar definition to New York, defining
21 trans fats and hydrogenated fats adding
22 almost as an afterthought that small
23 amounts appear in animal based products.
24 They then went on to demonstrate the trans
25 fat content of butter and margarine using a

1

2 one tablespoon measure. A one tablespoon
3 of margarine contains three grams of trans
4 fat, one tablespoon of butter contains zero
5 trans fat.

6 They also label cheese in a package,
7 one ounce of cheese contains no trans fat,
8 but when you put the cheese on a small
9 prepared pizza, you'd have an excess of one
10 to one and a half trans fats. So these are
11 naturally occurring trans fats.

12 So what does that do to
13 manufacturers such as I, to the dairy
14 industry of New York, and to the
15 cheesecakes that you see up and down the
16 streets of New York.

17 I'm going to sort of take you
18 through a little bit of a process so you
19 understand that, and here's a little label
20 to show what the FDA has on their site.
21 So, I'm going to take an example, our big
22 cheese brulee, this product contains one and
23 a half grams of trans fats. Artificial
24 trans fat, we cannot figure out where
25 the .03 of a gram comes from at this point

1

2 but from someplace but we have one and a
3 half grams of trans fats in our product,
4 and that will appear on our label like
5 this, as mandated by the FDA.

6

So, where do we go from there, well
7 the dilemma is, how does your inspector
8 translate or interpret the label. I have
9 to remind you, most of the cheesecakes
10 served in New York or any other
11 cheesecakes, and I can show you pictures of
12 our products, beautiful, high quality
13 products, cheesecakes, you know, I mean,
14 things that we love to indulge in, you
15 know, they come from companies such as us.
16 There are new markets to markets that
17 contain no trans fat, so we can use them,
18 but we can't get the cream cheese out of
19 the cheesecake. We can't get the whip
20 cream out of whip cream.

21

So how do they go in, how does
22 somebody go in and look at the cheesecake
23 label and distinguish, do they have to read
24 the fine print because the standard .5 gram
25 of trans fat does not hold, or will it just

1

2 mean because the purveyors are fearful of a
3 fine.

4

Can I finish the argument because it
5 really is an original argument.

6

MS. WINDHOLZ: Well, you know we
7 have been sticking to the time frame and
8 the comments will still be -- we will take
9 them.

10

MS. SANDY SOLOMON: Well, let me
11 just try to finish this off.

12

I feel that un-educated customers
13 will be forced to stop using pre-made
14 products because they are going to be
15 afraid of being fined.

16

I, until last week, or two weeks
17 ago, could not understand that though we
18 took all the trans fats out of our
19 products, we could not find out why a
20 little lemon bar had trans fats in it, and
21 we found finally through the instance of
22 baking, we did our nutritional analysis, we
23 finally found out that butter had too much
24 trans fat.

25

So, if we took our product and

1

2 changed to palm oil, we would, we could
3 inch down the trans fats. I mean this was,
4 you know, amazing what happens with
5 packaged cheesecakes, with oils, with, you
6 know, with dough.

7

8 How do people know that, it does
9 not, I mean I have a chart here --

10

11 MS. WINDHOLZ: Ms. Solomon, I'm
12 going to have to stop you because there
13 have been obviously people have been
14 waiting here for a really very long time.
15 You can submit your comments, but
16 everybody's been sticking to the time
17 frame.

18

19 MS. SANDY SOLOMON: Okay. Can I say
20 one more thing?

21

22 MS. WINDHOLZ: No, no, I'm stopping
23 you.

24

25 MS. SANDY SOLOMON: Can I just say
one more thing?

26

27 Denmark managed to label their
28 products and exempt dairy containing
29 products from the labeling, and I think
30 that before **you** -- **you** need to understand

1

2 how the FDA might separate the trans fats
3 from labels.

4

 MS. WINDHOLZ: Okay. Okay. I'm
5 going to call the next speaker.

6

 MS. SANDY SOLOMON: Okay. Thank
7 you. Anyway.

8

 MS. WINDHOLZ: Thank you.

9

 Anthony Marzuillo. Dr. Jerome
10 Tolbert, with the Greater New York City and
11 National Volunteer American Diabetes
12 Association.

13

 DR. JEROME TOLBERT: Good evening.

14

 I want to thank the board first for

15

 allowing me to be able to present on behalf

16

 of the American Diabetes Association.

17

 I'm an endocrinologist here in New

18

 York City. I practice endocrinology. I'm

19

 also a local and national volunteer for the

20

 American Diabetes Association. The

21

 American Diabetes Association certainly

22

 wholeheartedly supports both of these

23

 proposals, and personally I support them as

24

 well.

25

 As an endocrinologist, I'm really on

1

2 the front lines of trying to make a
3 difference in terms of what we are seeing,
4 diabetes, early premature cardiovascular
5 deaths. Let me just give you a couple of
6 examples.

7

I was sitting in my office one
8 day -- I do a lot of lecturing around the
9 country -- I got a call from a member
10 practitioner who said, Dr. Tolbert, I have
11 this young man sitting in front of me, he
12 weighs 170 pounds, what am I going to do.

13

My initial response was, you know,
14 don't make him angry but, you know, it's
15 the kind of thing that we are lost. I mean
16 I could hear in his voice the frustration
17 of having this young man whom he knew was
18 headed down this slippery slope towards
19 diabetes or cardiovascular complications,
20 and that sort of thing, and I ended up
21 sending him to a cardiovascular
22 endocrinologist up at Columbia
23 Presbyterian.

24

In my church one day, someone came
25 up to me, a parishioner came up to me, and

1

2 said, you know -- this was during the
3 holidays -- I lost one of my niece --
4 nephews from a heart attack, he was in his
5 20s, in his 20s, he died of a heart attack,
6 you know, and it just really brought tears
7 to my eyes.

8

9 I was sitting down one day with a
10 pathologist, and some other health care
11 professionals, and the pathologist, as we
12 were talking said, you know, I see, when I
13 do autopsies, I have all these cases of
14 young women and men in their 20s and 30s
15 who die from heart attacks, and this makes
16 it very real to me, because we've heard
17 today -- we understand what the statistics
18 are -- but when you hear from someone who
19 is sitting at that autopsy table, doing
20 these procedures on real people that
21 really makes it real, and we really
22 understand what's really going on. It's
23 very frightening.

24

25 We know about the children, we know
26 that we have an epidemic of, of, of this
27 disease but let me just point out

1
2 something, this obesity issue is real but
3 before someone becomes diabetic, for
4 example, we know that they come with
5 metabolic syndrome in most cases, and it's
6 a very silent type of thing, you know this
7 atherosclerotic process is taking place,
8 and we know that it's about ten to 12 years
9 before that certain glucose goes up before
10 we make the diagnosis of diabetes, that
11 this atherosclerotic process is taking
12 place, heart disease is taking place, and
13 that's the reason you have a lot of people
14 who die suddenly of cardiovascular disease
15 who had no clue that they had this
16 disease. This disease starts early. If
17 you go back and look at autopsies from
18 children who are killed in accidents, from
19 Vietnam war and other wars, you will see
20 that atherosclerosis exists already. So we
21 know that this process takes place very,
22 very early but it's very frustrating
23 because how -- what tools do we have.

24 Let's go to the diabetes prevention
25 program, and you've heard some of this

1

2 information before, this is a program that
3 took prediabetics who are overweight, and
4 they said, okay, we want you to lose seven
5 percent of your body weight, and control
6 your calories, exercise for 30 minutes a
7 day, and 58 percent of those prediabetics
8 did not develop diabetes, and that was a
9 tremendous revelation to us because people
10 who needed to lose a lot of weight lost a
11 little bit of weight but this, this new
12 edition syndrome that takes place over this
13 period of time was decreased where people
14 responded better in terms of their, of
15 lowering their cardiovascular risk.

16 The American Diabetes Association is
17 clearly on board with you with these
18 proposals, and there are a number of
19 programs, one is called, Make the Link,
20 because we need to really make this
21 awareness that there is this link between
22 heart disease and diabetes because a lot of
23 people don't know, a lot of women don't
24 know that heart disease is the leading
25 cause of death, and we need to make sure

1

2 that they understand that but when it comes
3 down to life-style changes, it's one of the
4 most difficult tasks that we have, getting
5 people to eat properly because if they
6 don't know that these trans fat and these
7 calories are there, then it's more
8 difficult for them.

9

 So, we support this proposal and
10 hopefully this will be a part of our
11 landscape in the future.

12

 Thank you.

13

MS. WINDHOLZ: Thank you.

14

 Afroz Haseez. Blaine Becker,
15 Director of Communications and Marketing
16 with the Hartman Group.

17

 MR. BLAINE BECKER: Good afternoon.
18 As an experienced consumer researcher with
19 keen interests in public policy matters, we
20 at the Hartman Group would like to share
21 our insight perspective on proposal 81.50,
22 Article 81 of New York City Health Code. A
23 written copy of our entire commentary in
24 response to the proposed changes to
25 Article 81 has been provided to the

1

2 Secretary to the Board of Health.

3

4 Our motivation for entering this
5 dialogue was prompted in large part by one
6 of the critical documents supporting the
7 bill of changes to Article 81, the Keystone
8 forum on away from home foods.

9

10 Specifically the Keystone document
11 observes, "much of the existing data and
12 information about consumer eating behavior
13 and attitudes is either not specific to
14 away from home foods, not sufficiently
15 timely or not publicly available, thus the
16 research generally ultimately augments
17 publicly available knowledge and more
18 continual development of consumer
19 programs."

20

21 In fact, for the past ten years the
22 Hartman Group has been immersed alongside
23 consumers, in studying their behavior in away
24 from home food settings at a variety of
25 quick service restaurants and food service
establishments.

26

27 During this time period, our
28 research teams comprised of THB cultural

1

2

anthropology and sociology have been

3

studying consumer behavior using

4

quantitative, qualitative methodology with

5

regard to obesity, calorie intake, food

6

labels and, nutrition information in restaurant

7

behavior.

8

With regard to the numerous heart

9

disease publications, we in the U.S. have

10

been teaching our consumers how to eat,

11

simply with our food labels, nutritional

12

guidelines, and build an evermore elaborate

13

food service for the better part of 30

14

years now, and according to all that, the

15

obesity problem is only getting worse.

16

While they have nearly advanced us to

17

believe that healthy nutrition information

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should be readily available and while

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interested in certain aspects of

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information, our efforts suggest consumers

21

are unable to translate such information

22

into effective weight management

23

strategies.

24

The vast majority of consumers we

25

studied demographically failed to act on

1

2 health or nutrition information on any
3 consistent basis to derive desirable weight
4 management outcomes. Because of the social
5 nature of food preferences and eating
6 habits, consumers find it very difficult to
7 act upon nutrition information with any
8 consistent regularity.

9

10 What we know from our behavioral
11 research is that few, if any, consumers are
12 ever likely to rely on nutrition
13 information when making a menu selection.
14 When presented with nutrition information
15 in a variety of formats ranging from menu
16 boards to pamphlets to receipts, trade
17 liners, napkins and food packaging, we
18 found no evidence that the information in
19 question would lead to different outcomes,
20 that is effectively change the eating
21 behavior in neither the short term nor the
22 long-term.

23

24 If there is one constant thing
25 uniting all of our research on consumer's
eating behavior away from home it is this,
any interest in trying to adhere to weight

1

2 management practices by eating better or in
3 a more nutritionally sound manner, all that
4 disappears once the consumer leaves the
5 confines of the household or workplace.

6

7 Our conclusion had nothing to do
8 with the lack of available nutritionally
9 sound options on restaurant menus or lack
10 of available nutrition information.

11

12 Instead we find that consumers abandoned
13 almost all interest in weight management
14 practices, such as label reading, making
15 healthier choices when dining out because
16 of a powerful cultural tendency to view the
17 home or workplace as a site of regulatory
18 behavior, and the restaurant as a site of
19 indulgent celebratory behavior.

20

21 In addition, virtually no consumer
22 we've interviewed in our study for weight
23 management thought it was appropriate to
24 blame food manufacturers and restaurants
25 for one, their own weight problems; for
two, the obesity epidemic in general.

Based on a research analysis with the

Hartman Group, the state requires that they

1

2 display calorie count in bold typefaced
3 next to menu preparations on menu boards.
4 Results, as we just discussed, would have
5 little effect in changing the eating
6 behavior, it may exacerbate the problem
7 altogether.

8

9 Changing eating behavior is a very
10 complex life-style issue, largely a social
11 and cultural issue, and people by their
12 very nature will say one thing in a survey,
13 and we know from research, alongside of
14 them in their homes, in their kitchens, and
15 in the restaurants, know they will do
16 something different entirely. Perhaps the
17 time has come maybe to consider to donate
18 less energy to what's in our food to what
19 it is we eat and look more carefully at how
20 and why we eat.

21

22 Thank you for allowing me to share
23 our views.

24

25 MS. WINDHOLZ: Thank you.
26 Morgan Carmen. Denine Madunn.
27 Virginia Schaffina.

28

29 MS. VIRGINIA SCHAFFINO: Thank you

1

2 for the opportunity to speak. My name is
3 Virginia Schaffina, double F, and I'm here
4 to speak on behalf of myself and Dr. Marion
5 Nessel, Professor of NYU Department of
6 Nutrition and Public Health, and it's a
7 pleasure to appear before the Board.

8

9 We commend the Department for its
10 proposal to amend New York City's Health
11 Code to require calorie labeling by certain
12 food service establishments. We strongly
13 support this proposal and applaud the
14 Department for a much needed step in
15 addressing the high rates of obesity and
16 overweight that effect more than half of
17 New York City residents.

18

19 Heart disease, strokes, cancer,
20 diabetes are all preventable diseases that
21 are associated with overweight and
22 obesity. Such diseases may be reduced in
23 part by combating the high risk of
24 overweight and obesity in New York.

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26 Providing New Yorkers with the knowledge to
27 make informed food choices is a necessary
28 component of a broader strategy to improve

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2 the health of City residents. We urge the
3 board to approve the proposal for the
4 following reasons:

5 First, consumers need accurate
6 information to make informed choices. The
7 absence of readily available information
8 about calories at the point of purchase
9 effects consumer's ability to make informed
10 decisions leading to inadvertent
11 consumption of excess calories. Consumers
12 have inadequate information to support
13 healthy choices of foods that comprise one
14 third of their daily caloric intake. This
15 constitutes a significant environmental
16 barrier to healthy food choices, and this
17 is exacerbated by the fact that consumers
18 can be misguided by the clutter of
19 advertisement, marketing messages and
20 techniques, weight loss and weight
21 management claims to which they are
22 exposed.

23 Also an indicative fact is value
24 marketing from over-consumption of foods
25 through pricing incentives to buy larger

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2 portions of meals. Buying larger portions
3 for a few extra cents can seem like a
4 bargain that justifies over-consumption of
5 calories. Point of purchase calorie
6 information could engage consumers by
7 providing them the ability to compare
8 options, and make more thoughtful decisions
9 before they order. Although some
10 restaurants voluntarily offer some
11 nutritional information, in most places the
12 information is difficult for consumers to
13 find and use.

14 Second, calorie labeling is a sound
15 public health approach to the obesity
16 epidemic and its consequences. It has been
17 firmly established that overweight and
18 obesity constitute a major public health
19 care threat to physical and economic health.
20 As the number of overweight and obese
21 people continues to rise, so will the rates
22 of morbidity, mortality and related medical
23 treatment and costs. Whereas the financial
24 concept will be -- can, can quantify a
25 person's life or quality of life is

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2 invaluable.

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Although obesity has no single cause or solution, dietary improvement can help reduce diseases. Because the present food environment promotes over-consumption of junk foods, active and direct intervention is needed to help customers make informed choices. Requiring food service establishments to post calorie information at the point of purchase directly addresses the environmental factor that contributes to consumer behavior. Point of purchase calorie information removes the need for guesswork, it also reveals the real value of certain meals, and that the trade-off between the price and an unhealthy weight.

Although obesity affects people of all races and backgrounds, in New York City, disproportionately high rates affect low income people. Because low income neighborhoods contain larger numbers of fast food establishments, the Department's proposal is likely to have an especially

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2 large impact in areas where it is needed
3 the most.

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Third, the narrow retainer
5 regulations pose a low burden for the food
6 service establishments. The proposal only
7 applies, to ten percent of the
8 food service establishments in the City.
9 These already have occurred in response to
10 determining the nutritional contents of
11 their meals.

12

In addition, the restaurants are
13 asked to display only calorie information.

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Providing calorie information alone should
15 have a significant impact on consumer behavior
16 by making it clear that larger portions do
17 have more calories.

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The proposal managed to serve as an
19 impetus for change both for consumer
20 behavior and ultimately for the quality and
21 the quantity of foods offered away from the
22 home. The Board's favorable decision on
23 this urgent issue will constitute an
24 important precedent on public health
25 strategy to control and prevent obesity and

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2 to set the stage for change at the state
3 and national level. Mandatory calorie
4 labeling is a risk communication strategy
5 analogous to any other public health
6 approach that encourages behavioral change,
7 such as banning cigarette smoking in public
8 indoor establishments.

9

New York City should not have to
10 wait until overweight and obesity surpass
11 tobacco smoking as the number one
12 contributor to death in America. So, thank
13 you for your time.

14

MS. WINDHOLZ: Thank you.

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At this point, it's 3:00, so I'm
16 going to call over the names of the
17 individuals who were not here when we
18 called them last, Frank Capaci. Jennifer
19 Araujo. Amy Schwartz. Anthony Marzuillo.
20 Afroz Haseez. Is Martina Navoli here?
21 Richard Lipsky. Nancy -- and I'm sorry I
22 can't read the handwriting here -- Pleejer,
23 with Manhattan Chamber of Commerce. Luis
24 Nunez. Alfredo Cassons with Hispanic
25 Chambers.

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Okay. At this point we're going to hold on just for two minutes, and I'll be right back.

(Brief recess was taken.)

I'm just going to call a couple more of the names to make sure that they haven't shown up, Amie Hamlin. Joseph Aranha. John Whipple. Leslie Meenan. Jim Lesczynski. Claudia -- difficult to read the handwriting but -- Claudia Luddy. Donna Tinnerello.

MS. DONNA TINNERELLO: Thank you. My name is Donna Tinnerello, and I'm a registered dietician. I'm in private practice, and I'm representing myself but as a registered dietician living and working in the City of New York, I support the proposed legislation under Article 81 of the New York City Health Code.

ADA, The American Diabetic Association, supports both of these amendments and has expressed an additional opinion involving saturated fats as well as trans fats. Foods containing artificial trans

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2 fats, artificial trans fats serves no
3 purpose in the food supply, and can be
4 easily replaced by a healthier fat that is
5 trans free.

6 ADA supports the reduction of trans
7 fats intake, and advises that it not be
8 replaced with saturated fats. We do not
9 want to replace one bad fat with the
10 other. There are healthy fats that do not
11 cause disease. Food manufacturers are
12 already using them, and restaurants can as
13 well. Fats have an essential role in the
14 diet for life and normal body functions,
15 and should never be fully eliminated.

16 On calorie labeling, nutrition
17 education of the public is essential for
18 promoting a healthy New York. Calorie
19 information in restaurants will support
20 this goal.

21 Registered dietitians can better
22 educate our clients when and what to eat if
23 the information is readily available to us
24 and to the public.

25 Thank you.

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MS. WINDHOLZ: Thank you.

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Okay. Our final scheduled speaker is Tanazio Frazier with Holcomb L. Rucker High School.

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COMMISSIONER FRIEDEN: I think that brings us to the close of the hearing.

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I just want to thank the remaining people who are here for all of their patience, and all of the members of the public who testified. We will be carefully reviewing all the testimony that was received, as well as the testimony that was submitted in writing, and the Department will take into consideration all of the views expressed here. Thank you all very much. This hearing is now closed.

(Time noted 3:05 p.m.)