

**2005 DRAFTING REQUEST**

**Assembly Amendment (AA-AB207)**

Received: 06/10/2005

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Christine Sinicki (608) 266-8588**

By/Representing: **Mary Beth George**

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Sinicki@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Delete liability/discipline exemption

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**Instructions:**

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber 06/12/2005	csicilia 06/12/2005		_____			
/1			rschluet 06/13/2005	_____	Inorthro 06/13/2005	Inorthro 06/13/2005	
				_____	mbarman 06/13/2005		

FE Sent For:

<END>

*(Handwritten note in a bubble pointing to the mbarman entry in the Drafting History table)*  
e-mail only  
↳ requested by Mary Beth

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**Topic:**

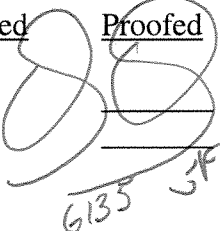
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/?	csundber	↑ gjs 6/12 05					

FE Sent For:

<END>

## Sundberg, Christopher

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**From:** George, Mary Beth  
**Sent:** Friday, June 10, 2005 11:30 AM  
**To:** Sundberg, Christopher  
**Subject:** Amendment requests for AB 207

1) Please redraft committee amendment LRB 0694/1 as a floor amendment to AB 207 (<http://www.legis.state.wi.us/2005/data/AB207-AA3.pdf>)

→ 2) Please redraft AA7 to SA 1 to 2005 AB 67 ([http://folio.legis.state.wi.us/cgi-bin/om\\_isapi.dll?clientID=21906913&infobase=billhist03.nfo&softpage=Browse\\_Frame\\_Pg](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=21906913&infobase=billhist03.nfo&softpage=Browse_Frame_Pg)) (employer posting a notice of employee's refusal), and add that failure to post notice is grounds for disciplinary action.

→ 3) Please draft a new amendment that removes the bill's language exempting employees who refuse on grounds of belief from disciplinary action or legal liability as a result of their actions.

4) Please draft a new amendment that changes the definition of "participate in" to include: "except in the case that refusing to participate in....violates any professional code ethics"

5) Please redraft LRB 3054/4 as a substitute amendment to AB 207.

Please call with questions --- my cell is 576-5191 and you're welcome to call anytime, even over the weekend (I'm assuming you're getting budget amendment drafting requests for next week as well and may be working overtime???)

I'm helping coordinate all the Dem amendments on this bill as well, so if you have questions about any of the others I may be able to help.

Thanks very much.

Mary Beth George  
Office of Rep. Sinicki  
6-8588  
576-5191 (cell)

*What about current law liability exemptions?*



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBa0729/a 1

CTS:.....

In: 6/12/05  
Due: Monday 6/13/05

RMNR  
CS

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT,  
TO 2005 ASSEMBLY BILL 207

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 7: delete the material beginning with "exemption" and ending  
3 with "who" on line 9 and substitute "the right of health care professionals and health  
4 care facility employees to". ✓

5 2. Page 5, line 21: delete lines 21 and 22 and substitute:  
6 "253.09 (title) ~~Abortion refused; no~~ Refusal to participate in certain  
7 practices; liability; no and discrimination restrictions." ✓

8 3. Page 6, line 18: delete the material beginning with "an activity" and ending  
9 with "grounds" on line 19 and substitute "a sterilization procedure or the removal  
10 of a human embryo or fetus." ✓

11 4. Page 8, line 10: delete lines 10 to 12 and substitute "253.09 (2) No hospital  
12 or employee of any hospital shall be liable for any civil damages resulting from a A

1 health care facility is immune from liability for any damage caused by the health care  
2 facility's refusal to perform sterilization procedures or".

3 **5.** Page 10, line 7: delete lines 7 to 17 and substitute:

4 **"441.06 (title) Licensure; refusals to participate in certain practices;**  
5 **civil liability exemption.** 7m

6 **SECTION 16m.** 441.06 (7) (a) of the statutes is created to read:

7 441.06 (7) (a) In this subsection:".

8 7m **6.** Page 11, line 5: delete the material beginning with that line and ending with  
9 B page 15, line 8 and substitute: 7m

10 **"SECTION 19m.** 441.06 (7) (b) of the statutes is created to read:

11 7m 441.06 (7) (b) A person licensed as a registered nurse under this section or as  
12 B a practical nurse under s. 441.10 who, in writing, refuses, or states an intention to  
13 refuse, on moral or religious grounds to participate in a practice of practical or  
14 professional nursing that is related to any of the following may not be required to  
15 participate in the practice: ✓

- 16 1. A sterilization procedure.
- 17 2. An abortion, as defined in s. 253.10 (2) (a).
- 18 3. An experiment or medical procedure that destroys an in vitro human embryo  
19 or uses cells or tissue derived from the destruction of an in vitro human embryo.
- 20 4. An experiment or medical procedure on an in vitro human embryo that is not  
21 related to the beneficial treatment of the in vitro human embryo.
- 22 5. An experiment or medical procedure on a developing child in an artificial  
23 womb, at any stage of development, that is not related to the beneficial treatment of  
24 the developing child.

1           6. A procedure, including a transplant procedure, that uses fetal tissue or  
2 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or  
3 miscarriage.

4           7. Intentionally causing the death of an individual who is not in a terminal  
5 condition, as defined in s. 154.01 (8), by withholding or withdrawing nutrition or  
6 hydration.

7           8. An act that intentionally causes or assists in causing the death of an  
8 individual by assisted suicide, euthanasia, or mercy killing.

9           **SECTION 19n.** 441.06 (7) (c) of the statutes is created to read:

10           441.06 (7) (c) 1. In this paragraph, "damages" do not include noneconomic  
11 damages, as defined in s. 893.55 (4) (a).

12           2. Except for claims that are subject to s. 111.321 or 111.322, a person who is  
13 adversely affected by conduct that is in violation of par. (b) may bring a civil action  
14 for equitable relief, including reinstatement, or damages, or both. An action under  
15 this subdivision may be commenced against the state and any office, department,  
16 independent agency, authority, institution, association, society, or other body in state  
17 government created or authorized to be created by the constitution or any law,  
18 including the legislature and the courts. In an action under this subdivision, the  
19 court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person  
20 who obtains equitable relief, damages, or both. An action under this subdivision  
21 shall be commenced within one year after the cause of action accrues or be barred.

22           **SECTION 26m.** 448.03 (5m) of the statutes is created to read:

23           448.03 (5m) REFUSALS TO PARTICIPATE IN CERTAIN PRACTICES; ACTION FOR DAMAGES.

24           (a) In this subsection:

7m

7m  
B

xx

✓

1           1. “Human embryo” means a human organism that is derived by fertilization,  
2 parthenogenesis, cloning, or any other means from one or more human gametes or  
3 human diploid cells. “Human embryo” includes a zygote but does not include a  
4 human organism at or beyond the stage of development at which the major body  
5 structures are present.

6           2. “In vitro human embryo” means a human embryo, whether cryopreserved  
7 or not, living outside of a woman’s body.

8           3. “Participate in” means to perform; practice; engage in; assist in; recommend;  
9 counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or  
10 devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or  
11 otherwise promote or encourage.

12           (b) A person licensed or certified under this subchapter who, in writing, refuses,  
13 or states an intention to refuse, on moral or religious grounds to participate in a  
14 practice within the scope of his or her license or certification that is related to any  
15 of the following activities may not be required to participate in the practice with  
16 respect to the activity:

17           1. A sterilization procedure.

18           2. An abortion, as defined in s. 253.10 (2) (a).

19           3. An experiment or medical procedure that destroys an in vitro human embryo  
20 or uses cells or tissue derived from the destruction of an in vitro human embryo.

21           4. An experiment or medical procedure on an in vitro human embryo that is not  
22 related to the beneficial treatment of the in vitro human embryo.

23           5. An experiment or medical procedure on a developing child in an artificial  
24 womb, at any stage of development, that is not related to the beneficial treatment of  
25 the developing child.



1           6. A procedure, including a transplant procedure, that uses fetal tissue or  
2 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or  
3 miscarriage.

4           7. Intentionally causing the death of an individual who is not in a terminal  
5 condition, as defined in s. 154.01 (8), by withholding or withdrawing nutrition or  
6 hydration.

7           8. An act that intentionally causes or assists in causing the death of an  
8 individual by assisted suicide, euthanasia, or mercy killing.

9           (c) 1. In this paragraph, “damages” do not include noneconomic damages, as  
10 defined in s. 893.55 (4) (a).

11           2. Except for claims that are subject to s. 111.321 or 111.322, a person who is  
12 adversely affected by conduct that is in violation of par. (b) may bring a civil action  
13 for equitable relief, including reinstatement, or damages, or both. An action under  
14 this subdivision may be commenced against the state and any office, department,  
15 independent agency, authority, institution, association, society, or other body in state  
16 government created or authorized to be created by the constitution or any law,  
17 including the legislature and the courts. In an action under this subdivision, the  
18 court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person  
19 who obtains equitable relief, damages, or both. An action under this subdivision  
20 shall be commenced within one year after the cause of action accrues or be barred.”.

21           7. Page 15, line 23: delete lines 23 to 25 and substitute:

22           “(2) A person licensed as a pharmacist under this chapter who, in writing,  
23 refuses, or states an intention to refuse, on moral or religious grounds to participate

1 in a practice of pharmacy that is related to any of the following activities may not be  
2 required to participate in the practice with respect to the activity:".

3 **8.** Page 16, line 19: delete the material beginning with that line and ending  
4 with page 17, line 12 and substitute:

5 **(3)** (a) In this subsection, "damages" do not include noneconomic damages, as  
6 defined in s. 893.55 (4) (a). TT

7 (b) Except for claims that are subject to s. 111.321 or 111.322, a person who is  
8 adversely affected by conduct that is in violation of sub. (2) may bring a civil action  
9 for equitable relief, including reinstatement, or damages, or both. An action under  
10 this paragraph may be commenced against the state and any office, department,  
11 independent agency, authority, institution, association, society, or other body in state  
12 government created or authorized to be created by the constitution or any law,  
13 including the legislature and the courts. In an action under this paragraph, the court  
14 shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person who  
15 obtains equitable relief, damages, or both. An action under this paragraph shall be  
16 commenced within one year after the cause of action accrues or be barred." 2m

17 **9.** Page 17, line 15: delete the material beginning with "(7)," and ending with  
18 "8." on line 18 and substitute "(7) (a), (b), and (c), and 448.03 (5m) (title), (a) 1. to 3.,  
19 (b) 1. to 8., and (c) 1. and 2." 2

20 (END) 7m

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa0729/1dn

CTS:f:....

gs

Representative Sinicki:

This amendment deletes the provisions of the bill that exempt medical professionals and certain employees from liability and discipline as a result of refusing to participate in certain practices. I have assumed that you intended to preserve current law that protects certain medical professionals from liability and discipline as a result of refusing to participate in a sterilization procedure or in the removal of an embryo or fetus.

Please note that this amendment may be considered nongermane under Assembly Rule 54 (1) as relating to a different subject or intending to accomplish a different purpose than the bill. Assembly Rule 54 (1) provides that generally the assembly may not consider an amendment that relates to a different subject or is intended to accomplish a different purpose than that of the original proposal or that would require a substantially different relating clause from the relating clause of the original proposal. Because this amendment eliminates the discipline and liability exemptions created in the bill, it was necessary for the amendment to alter the relating clause of the bill.

Please contact me if you have any questions.

Christopher T. Sundberg  
Legislative Attorney  
Phone: (608) 266-9739  
E-mail: christopher.sundberg@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa0729/1dn  
CTS:cjs:rs

June 13, 2005

Representative Sinicki:

This amendment deletes the provisions of the bill that exempt medical professionals and certain employees from liability and discipline as a result of refusing to participate in certain practices. I have assumed that you intended to preserve current law that protects certain medical professionals from liability and discipline as a result of refusing to participate in a sterilization procedure or in the removal of an embryo or fetus.

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