

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1288/P1dn
TKK:kjf:rs

March 28, 2007

Senator Carpenter:

Please review this draft carefully to ensure that it accomplishes your intent. Although I referenced the materials provided by Joan Pleuss to create this draft, in some cases I retained the language of the current statutes or drafted alternative language where doing so enhanced clarity or conformed to drafting conventions.

I have several comments and questions for your consideration.

1. License required. I added proposed s. 448.71 (1), which prohibits the practice of dietetics without a license. Please let me know if it was your intent to leave this provision out.

2. Use of terms.

a. *Dietitian / nutritionist*. The background materials submitted by Joan Pleuss for this draft use the compound term, dietitian/nutritionist. Are these two separate classifications, or are the terms synonyms? If the terms are synonyms, I recommend using dietitian alone, to simplify subch. V of ch. 448 and any cross-references to dietitians found throughout the statutes. If necessary, we could add the term, "nutritionist" to the definition of dietitian.

If a nutritionist is not the same as a dietitian because the requirements or training of the two differ, I recommend that we define nutritionist separately and outline the licensure requirements separately. As drafted, I used the simple term, dietitian, which is recognized by the ADA.

b. *Nutrition care services*. Similarly, the materials submitted by Joan Pleuss used the term "nutrition care services" both in conjunction with dietetics (as in "A person pursuing a supervised course of study, including internships, leading to a degree or certificate in dietetics and nutrition care services. . .") and as an alternative to dietetics (as in the "[p]ractice of dietetics or nutrition care services includes. . ."). Are the terms synonyms, or do they mean two different things? If they mean two different things, I recommend defining them separately. As drafted, I used the medically recognized term, dietetics, alone throughout the draft in order to avoid confusion. Please let me know if this is a problem.

c. *Nutrition care systems*. Within the definition of dietetics, current s. 448.70 (2) uses the term, "nutrition care systems," and it is incorporated into proposed s.

448.70 (7) (c). This term is not defined. Does it differ from performing nutrition assessment and counseling (at proposed s. 448.70 (7) (a) and (b))? If yes, would it be appropriate to define this term? If it does not differ from performing nutrition assessment and counseling, perhaps we could eliminate proposed s. 448.70 (7) (c)?

d. *Herbs*. The background materials requested the addition of the term "herbs" to s. 448.72 (1) (f). How do herbs differ from dietary or food supplements? I recommend defining the term to avoid confusion.

3. Practice protection. I have several questions on this topic:

a. The proposed changes to s. 448.72 (1) (a) and (b) eliminate the right of certain persons to incorporate dietetics into their professional practice without obtaining a license issued under subch. V of ch. 448.

Under current s. 448.72 (1) (a) and (b), the following persons need not be certified as a dietitian to practice dietetics within the scope of their license, permit, or certificate, so long as the person does not claim to be a dietitian or certified or licensed in a nutrition-related field: persons practicing nursing (ch. 441), chiropractic (ch. 446), or dentistry (ch. 447); all persons licensed under ch. 448; persons practicing optometry (ch. 449), pharmacy (ch. 450), or acupuncture (ch. 451); and nursing home administrators (ch. 456) and persons to whom a practice or procedure is delegated by any of the above.

The proposed draft makes this exception **only** for physicians defined under s. 448.01 (5). Is that your intent?

b. Under current law, dietetic technicians or assistants need not be certified if they are working under the supervision of a certified dietitian. Neither term is defined. Is that acceptable? Are these individuals generally working towards licensure or do they require any formalized training? Does the logic of supervision under the certification scheme apply under the licensing scheme?

c. Is it your intent to allow any of the persons enumerated under s. 448.72 (2) through (6) to practice dietetics without a license? If so, I will need to amend the applicable paragraphs.

d. The minimal changes to s. 448.72 (1) (f) potentially create, perhaps inadvertently, a broad exception to the licensing requirements of subch. V of ch. 448. This paragraph made sense when subch. V of ch. 448 served primarily title-protection purposes. However, as amended by the bill, this paragraph would allow persons who are arguably engaging in the practice of dietetics (see, specifically, that portion of the paragraph allowing a person to explain the use, benefits, and preparation of food, to provide nutritional information about food, and to disseminate literature) to avoid the licensing requirements of this subchapter so long as they do not use certain titles. Is that your intent?

e. Proposed s. 448.72 (1) (g) exempts from licensing requirements persons who provide weight control services so long as the persons providing the services take guidance from certain individuals enumerated at subds. 1. through 3. Persons under subd. 3. are not themselves required to be licensed; is that your intent?

f. *Inconsistent significance of registration with the commission on dietetic registration?*

(1) Under s. 448.80, as amended by the bill, persons who hold a registration with the commission, submit an application form with the department, and pay a fee may be granted a temporary license without meeting any other licensure requirements under s. 448.78 (valid for up to nine months plus one renewal period).

(2) Under s. 448.82 (1), as created by the bill, persons who hold a registration with the registration commission, submit an application form with the department, and pay a fee may be granted a reciprocal license without meeting any other licensure requirements under s. 448.78 (valid for a two-year term).

Do you wish to make any changes to either of these sections?

5. Educational requirements. Please confirm that you want to delete any reference to the subject of the degree a candidate for licensure must receive from an accredited college or university as affected with the changes to s. 448.78 (3) (a).

Similarly, please confirm that you wish to eliminate the qualifications applicable to the *supervisor* of a candidate for licensure under current law. See s. 448.78 (4) (a) to (c), which are repealed by the bill.

6. Compensation as an element of the practice of dietetics. Do you wish to include compensation as an element of the definition of the practice of dietetics? See, for example, s. 453.02 (6) governing the practice of veterinary medicine. If compensation is included as part of the definition, persons who provide gratuitous dietetic services would not fall under the purview of the affiliated credentialing board's regulatory authority.

I look forward to talking with you after you have had an opportunity to review the draft.

Tracy K. Kuczenski
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Kuczenski, Tracy

From: Ewy, Stuart
Sent: Friday, May 25, 2007 2:41 PM
To: Kuczenski, Tracy
Subject: FW: dietitian's licensure bill
Attachments: 5.23;WDA_Resp.Dra#3F6ED5.doc

Hi Tracy-

You had some questions re LRB1288/P1, we recieved the following response from our constituent, Joan Pleuss. If you have any questions or comments, please let me know.

Regards,

G. Stuart Ewy
Chief of Staff
Office of Senator Tim Carpenter
State Capitol 306 S
608.266.8535

From: Pleuss, Joan [mailto:jpleuss@mcw.edu]
Sent: Thursday, May 24, 2007 7:41 AM
To: Sen.Carpenter
Subject: dietitian's licensure bill

Dear Senator Carpenter;

I have attached my responses to the comments and questions that Tracy at Legislative Reference Bureau had in regard to the language in our initial bill for the licensure of dietitians. I have addressed each question as Tracy asked them and catered my responses to her and her comments. Please feel to review the document. I understand that LRB is very busy with the Governor's Budget workload, but if you could send my responses to them at your earliest convenience that would be greatly appreciated. I ask this only because the sooner I get Tracy's additional comments back, the sooner I can address them and get a final product to you to have introduced in the Senate.

Thank you again for agreeing to be lead author of this bill. It is a pleasure, as your constituent, to work with you. If you have any questions or need clarification on the attached responses, do not hesitate to contact me.

Joan Pleuss, RD, MS, CD
2870 S 49 St
Milwaukee, WI 53219
H: 414-327-3766
W: 414-805-7306

5/25/2007

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

March 28, 2007

(5/23/07 WDA Response in Bold Throughout)

Senator Carpenter:

Please review this draft carefully to ensure that it accomplishes your intent. Although I referenced the materials provided by Joan Pleuss to create this draft, in some cases I retained the language of the current statutes or drafted alternative language where doing so enhanced clarity or conformed to drafting conventions.

I have several comments and questions for your consideration.

1. License required. I added proposed s. 448.71 (1), which prohibits the practice of dietetics without a license. Please let me know if it was your intent to leave this provision out.

Tracy: It was not our intent to leave this provision out. We agree with your adding the provision here. ✓

2. Use of terms.

a. *Dietitian/nutritionist*. The background materials submitted by Joan Pleuss for this draft use the compound term, dietitian/nutritionist. Are those two separate classifications, or are the terms synonyms? If the terms are synonyms, I recommend using dietitian alone, to simplify subch. V of ch. 448 and any cross-references to dietitians found throughout the statutes. If necessary, we could add the term, "nutritionist" to the definition of dietitian. ✓

Tracy: Yes, dietitian and nutritionist are synonymous. You may simplify by just using the term "dietitian". And please add "nutritionist" to the definition of dietitian. The term dietitian/nutritionist was used as it reflects our intended credential, LDN, for licensed dietitian/nutritionist. So, if you feel that by simply using "dietitian" and defining "nutritionist" within that we could still protect the title "LDN" then by all means. But our goal is to protect the term "LDN" so whatever way of doing this best is what we are aiming for.

If a nutritionist is not the same as a dietitian because the requirements or training of the two differ, I recommend that we define nutritionist separately and outline the license requirements separately. As drafted, I used the simple term, dietitian, which is recognized by the ADA. **Tracy: AGREED, as above.**

SECTION 6

b. *Nutrition care services.* Similarly, the materials submitted by Joan Pleuss used the term “nutrition care services” both in conjunction with dietetics (as in “A person pursuing a supervised course of study, including internships, leading to a degree or certificate in dietetics and nutrition care services...”) and as an alternative to dietetics (as in the “practice of dietetics or nutrition care services includes...”). Are the terms synonyms, or do they mean two different things? If they mean two different things, I recommend defining them separately. As drafted, I used the medically recognized term, dietetics, alone throughout the draft in order to avoid confusion. Please let me know if this is a problem.

Tracy: We would like to consider the term “nutrition care services” synonymous with “dietetics” and would like to list each of them together within the definitions, as follows:

(2) “Dietetics and nutrition care services” means the integration and application of principles derived from the sciences of food, nutrition, management, communication, and biological, physiological, behavioral, and social sciences to achieve and maintain optimal human health.

(3) “Practice of dietetics and nutrition care services” includes, but is not limited to, each of the following:

(i) Assessing the nutrition needs of an individual or group of individuals . . .

Our rationale for this tandem use of terms in the definition is that much of the public neither understands the term “dietetics” nor associates it with nutrition. Our intent is to link the terms to help establish this connection. Texas statute currently uses only “dietetics”, while legislation recently proposed there uses both terms. Michigan’s statute, passed last summer, also uses the two terms as we are proposing above.

c. *Nutrition care systems.* Within the definition of dietetics, current s. 448.70 (2) uses the term, “nutrition care systems,” and it is incorporated into proposed s. 448.70 (7) (c). This term is not defined. Does it differ from performing nutrition assessment and counseling (at proposed s. 448.70 (7) (a) and (b))? If yes, would it be appropriate to define this term? If it does not differ from performing nutrition assessment and counseling, perhaps we could eliminate proposed s. 448.70 (7) (c)?

Tracy: AGREED. You can eliminate s. 448.70 (7)(c).

d. *Herbs.* The background materials requested the addition of the term “herbs” to s. 448.72 (1) (f). How do herbs differ from dietary or food supplements? I recommend defining the term to avoid confusion.

Tracy: WDA has decided to just simplify this by deleting the term “herbs”. We also want to clarify that this wording is found in 448.72 (1)(e). (Just so we are on same

or a note - separate definition for each of the services or certificate in this context

(?)

SECTION 6

working draft). **Further, we would not just like to delete the term “herbs” but replace it with language detailed in our response to your comment on 3 (d) below.**

3. Practice protection. I have several questions on this topic:

a. The proposed changes to s. 448.72 (1) (a) and (b) eliminate the right of certain persons to incorporate dietetics into their professional practice without obtaining a license issued under subch. V of ch. 448.

Under current s. 448.72 (1) (a) and (b), the following persons need not be certified as a dietitian to practice dietetics within the scope of their license, permit, or certificate, so long as the person does not claim to be a dietitian or certified or licensed in a nutrition-relationship field: persons practicing nursing (ch. 441), chiropractic (ch. 446), or dentistry (ch.447); all persons licensed under ch. 448; persons practicing optometry (ch.449), pharmacy (ch.450), or acupuncture (ch.451); and nursing home administrators (ch. 456) and persons to whom a practice or procedure is delegated by any of the above.

The proposed draft makes this exception **only** for physicians defined under s. 448.01 (5). Is that your intent?

Tracy: Yes, it is our intent to make an exception only for physicians. However, we would also like to exempt chiropractors in a very narrow exception. Licensure will not be required of chiropractors who stay within the scope of their nutritional counseling rule and have received their nutritional counseling certificate under Chir 4.05 (1) (d); and to create Chir 5.01 (1) 9f) and (g), 6.02 (31) and chapter Chir 12, relating to nutritional counseling certification.

certificate may be issued to a chiropractor if she submits evidence re: postgraduate study in nutrition. 446.02(2)(c)

b. Under current law, dietetic technicians or assistants need not be certified if they are working under the supervision of a certified dietitian. Neither term is defined. Is that acceptable? Are these individuals generally working towards licensure or do they require any formalized training? Does the logic of supervision under the certification scheme apply under the licensing scheme?

Tracy: Thank you for bringing this to our attention. We’ve consulted with the American Dietetic Association, which maintains “Given the RD’s [registered dietitian’s] supervisory role in patient treatment, licensure of the RD automatically incorporates care provided by the DTR [dietetic technician, registered],” eliminating the need to exempt them within our licensure bill.

confirm in d-note: also eliminated (c) from current law

Therefore, we’d like to remove 448.72 (1) (c) entirely from the bill draft. In other words, we do not wish include an exemption for dietetic technicians or assistants.

We do, however, find it appropriate to accept the dietetic technicians’ use of the DTR credential and the names “dietetic technician,” or “dietetic technician, registered,” and therefore recommend that 448.72 (5) remain part of this bill draft.

SECTION 6

However, as mentioned immediately below, we propose this and other sections be moved to 448.76 Use of titles.

c. Is it your intent to allow any of the persons enumerated under s. 448.72 (2) through (6) to practice dietetics without a license? If so, I will need to amend the applicable paragraphs.

Tracy: No, this is not WDA's intent. Actually, we do not wish to exempt all of these; we want it to read as is written:

"448.72 Applicability. This subchapter does not do any of the following:

...

(2) Prohibit a dietetic student described in sub (1) (b) from using the title "dietitian student" or any other title, letters or designation that clearly indicates his or her status as a student or trainee.

... (6)"

This would likely be clearer if 448.72 were limited to section (1), with current items 448.72 (2) through (6) moved to a more applicable section (e.g., 448.76 Use of titles). ✓

d. The minimal changes to s. 448.72 (1) (f) potentially create, perhaps inadvertently, a broad exception to the licensing requirements of subch. V of ch. 448. This paragraph made sense when subch. V of ch. 448 served primarily title-protection purposes. However, as amended by the bill, this paragraph would allow persons who are arguably engaging in the practice of dietetics (see, specifically, that portion of the paragraph allowing a person to explain the use, benefits, and preparation of food, to provide nutritional information about food, and to disseminate literature) to avoid the licensing requirements of this subchapter so long as they do not sue certain titles. Is that your intent?

Tracy: Our intent is to exempt these folks but with the following language: "(1) a retailer that furnishes free oral or written general nutrition information to a customer on food, food materials, dietary supplements, and other goods sold at the retailer's establishment (2) a person that furnishes free or oral written information on food, food materials, or dietary supplements. We would also like to add new language at this point that addresses False, Misleading, or Deceptive Advertising. We would like this language to be as such: (If there is a current WI Stat addressing this broader issue, we'd prefer that it be referred to instead.) Or if by attaining licensure do you feel that the bill itself provides protection against the following? We do not want to put more in than we need to but are listing the following language so you can more clearly understand our intent.

How do we define retailer?
How do we define customer?
Have to purchase?

do not take 19.
addressed in ch. 100.
reference

SECTION 6

Proposed New Language: (a) A person may not use advertising that is false, misleading, deceptive, or not readily subject to verification.

(b) False, misleading, or deceptive advertising or advertising not readily subject to verification includes advertising that:

(1) makes a material misrepresentation of fact or omits a fact necessary to make the statement as a whole not materially misleading;

(2) makes a representation likely to create an unjustified expectation about the results of a health care service or procedure;

(3) compares a health care professional's services with another health care professional's services unless the comparison can be factually substantiated;

(4) contains a testimonial;

(5) causes confusion or misunderstanding as to the credentials, education, or licensing of a health care professional;

(6) represents that health care insurance deductibles or copayments may be waived or are not applicable to health care services to be provided if the deductibles or copayments are required;

(7) represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or copayments are required;

(8) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient; or

(9) represents in the use of a professional name a title or professional identification that is expressly or commonly reserved to or used by another profession or professional.

End Proposed New Language.

e. Proposed s. 448.72 (1) (g) exempts from licensing requirements persons who provide weight control services so long as the persons providing the services take guidance from certain individuals enumerated at subs. 1. through 3. Persons under subd. 3. are not themselves required to be licensed; is that your intent?

Tracy: Yes, this is WDA's intent. But we would like to change our exemption language to the following: " Provided that the persons involved in presenting a general program of instruction adhere to a general program of instruction for weight control approved in writing by a licensed dietitian, a physician licensed to practice medicine or surgery or osteopathic medicine or surgery, a dietitian licensed in another state that the board considers to have substantially equivalent licensure requirements as this state, or a registered dietitian." Further, unlicensed persons in weight control services may use none of the titles referred to in 448.76."

f. *Inconsistent significance of registration with the commission on dietetic registration?*

(1) Under s. 448.80, as amended by the bill, persons who hold a registration with the commission, submit an application form with the department, and pay a fee may be granted a temporary license without meeting any other licensure requirements under s. 448.78 (valid for up to nine months plus a one renewal period).

(2) Under s. 448.82 (1), as created by the bill, persons who hold a registration with the registration commission, submit an application form with the department, and pay a fee may be granted a reciprocal license without meeting any other licensure requirements under s. 448.78 (valid for a two-year term).

Do you wish to make any changes to either of these sections?

Tracy: In regard to (1) yes we need to make changes. Please change wording of 448.8 to: "... who satisfies the requirements under s.448.78 (1) through (4) and submits a letter verifying registration eligibility status with the Commission on Dietetic Registration..." In other words Tracy, those applying for a temporary license must satisfy all requirements except pass CDR's RD exam. This allows RD-eligible dietitians to begin practice before they pass their exam-provided they pass it within 9 months of applying for temporary license. With the current online system for taking exams, this gives new dietitians ample opportunities to re-take the exam if they fail on first attempt.

Tracy: In regard to (2) in your comments above, we do not see any need for a change. It is WDA's intent to indefinitely allow RD's moving into Wisconsin to attain licensure after meeting the notification and proof of RD eligibility to get licensed in Wisconsin.

SECTION 6

5. Educational requirements. Please confirm that you want to delete any reference to the subject of the degree a candidate for licensure must receive from an accredited college or university as affected with the changes to s. 448.78 (3) (a).

Similarly, please confirm that you wish to eliminate the qualifications applicable to the *supervisor* of a candidate for licensure under current law. See s. 448.78 (4) (a) to (c), which are repealed by the bill.

Tracy: in regard to education please use following language: “ As per 448.78(3), receives a minimum of a Baccalaureate Degree granted by a US regionally accredited degree granting institution in the US, or foreign equivalent, and completes a Didactic (academic) Program in Dietetics (DPD) accredited/approved by the American Dietetic Association’s Commission on Accreditation for Dietetics Education (CADE).

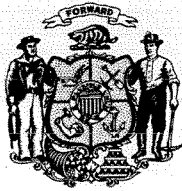
Tracy: In regard to the second part of your comment above: Yes, we wish to eliminate the qualifications applicable to the supervisor of a candidate for licensure under current law (s.448.78 (4)(a) to (c)). Defined supervisor qualifications are implicit with a CADE-approved supervised practice program, specified as a requirement in section 448.78 (4) of bill draft. ✓

6. Compensation as an element of the practice of dietetics. Do you wish to include compensation as an element of the definition of the practice of dietetics? See, for example, s. 453.02 (6) governing the practice of veterinary medicine. If compensation is included as part of the definition, persons who provide gratuitous dietetic services would not fall under the purview of the affiliated credentialing board’s regulatory authority. ✓

Tracy: No, WDA does not wish to include compensation as an element. For the interest of public safety we would like to assure that Dietitians providing gratuitous services are indeed licensed and would still fall under purview of affiliated credentialing board.

I look forward to talking with you after you have had an opportunity to review the draft.

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-8967
E-mail: tracy.kuczenski@legis.wisconsin.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1288/P1

TKK:kjf:js

2 note
insert

7/18/07

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 **AN ACT to repeal** 448.72 (1) (b), 448.78 (3) (c) and 448.78 (4) (a), (b) and (c); **to**
2 **renumber** 448.70 (1); **to renumber and amend** 448.70 (1m), 448.76 (title),
3 448.76, 448.78 (4) (intro.) and 448.82; **to amend** 15.406 (2) (a), 146.81 (1) (em),
4 146.89 (1) (r), 146.997 (1) (d) 6., 252.14 (1) (ar) 4m., 446.02 (6m), 448.70 (2),
5 448.72 (1) (intro.), 448.72 (1) (c) and (d), 448.72 (1) (f), 448.72 (4) to (5), 448.74
6 (intro.), 448.74 (1), 448.74 (2), 448.78 (intro.), 448.78 (1), 448.78 (3) (a), 448.78
7 (3) (b), 448.78 (5), 448.80, 448.84 (1), 448.86, 448.87 (2) (intro.) and (a), 450.10
8 (3) (a) 5m., 632.895 (1) (b) 5. b. and 655.45 (1m); **to repeal and recreate** 448.72
9 (1) (a); and **to create** 448.70 (1d), 448.70 (5) to (8), 448.71 (1), 448.72 (1) (g),
10 448.74 (1g) and (1r), 448.82 (1) and 448.86 (3) of the statutes; **relating to:**
11 licensure of dietitians.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 15.406 (2) (a) of the statutes is amended to read:

2 15.406 (2) (a) Three dietitians who are ~~certified~~ licensed under subch. V of ch.
3 448.

4 SECTION 2. 146.81 (1) (em) of the statutes is amended to read:

5 146.81 (1) (em) A dietitian ~~certified~~ licensed under subch. V of ch. 448.

6 SECTION 3. 146.89 (1) (r) of the statutes is amended to read:

7 146.89 (1) (r) "Volunteer health care provider" means an individual who is
8 licensed as a physician under ch. 448, dentist or dental hygienist under ch. 447,
9 registered nurse, practical nurse, or nurse-midwife under ch. 441, optometrist
10 under ch. 449, or physician assistant under ch. 448, who is ~~certified~~ licensed as a
11 dietitian under subch. V of ch. 448, or who is a nurse practitioner, as defined in s.
12 255.06 (1) (d), and who receives no income from the practice of that health care
13 profession or who receives no income from the practice of that health care profession
14 when providing services at the nonprofit agency or school specified under sub. (3).

15 SECTION 4. 146.997 (1) (d) 6. of the statutes is amended to read:

16 146.997 (1) (d) 6. A ~~dietician-certified~~ dietitian licensed under subch. V of ch.
17 448.

18 SECTION 5. 252.14 (1) (ar) 4m. of the statutes is amended to read:

19 252.14 (1) (ar) 4m. A dietitian ~~certified~~ licensed under subch. V of ch. 448.

20 SECTION 6. 446.02 (6m) of the statutes is amended to read:

1 446.02 (6m) No chiropractor may provide counsel, direction, guidance, advice,
2 or a recommendation to a patient regarding the health effects of vitamins, herbs, or
3 nutritional supplements unless the chiropractor has been issued a certificate under
4 sub. (2) (c). This subsection does not apply to a chiropractor licensed under this
5 chapter who is ~~certified~~ licensed as a dietician under subch. V of ch. 448.

6 SECTION 7. 448.70 (1) of the statutes is renumbered 448.70 (1g).

7 SECTION 8. 448.70 (1d) of the statutes is created to read:

8 448.70 (1d) "Accreditation commission" means the commission on
9 accreditation for dietetics education of the American Dietetic Association or its
10 successor.

11 SECTION 9. 448.70 (1m) of the statutes is renumbered 448.70 (4) and amended
12 to read:

13 448.70 (4) "Certified Licensed dietitian" means an individual who is certified
14 licensed as a dietitian under this subchapter.

15 SECTION 10. 448.70 (2) of the statutes is amended to read:

16 448.70 (2) "Dietetics" ^{and nutrition care services} means the integration and application of principles of
17 derived from the sciences of nutritional science nutrition, biochemistry, food science
18 management, physiology, food systems management, and the behavioral science and
19 social science sciences in order to achieve or maintain the health of an individual or
20 group of individuals. "~~Dietetics~~" ~~includes assessing the nutritional needs of an~~
21 ~~individual or group of individuals and determining available resources and~~
22 ~~constraints in meeting those nutritional needs; establishing priorities, goals and~~
23 ~~objectives that meet those nutritional needs and are consistent with available~~
24 ~~resources and constraints; providing nutrition counseling; or developing,~~
25 ~~implementing and managing nutritional care systems.~~

Insert 4-1

1 SECTION 11. 448.70 (5) to (8) of the statutes are created to read:

2 448.70 (5) "Nutrition counseling" means integrating information from a
3 nutritional assessment with information about relevant socioeconomic or cultural
4 characteristics of an individual or group of individuals in order to assist the
5 individual or group of individuals with appropriate nutritional intake.

6 (6) "Nutritional assessment" means the evaluation of biochemical,
7 anthropometric, physical, and dietary data pertaining to an individual or group of
8 individuals to determine the nutrient needs of the individual or group of individuals.

Insert 4-9

9 (7) "Practice of dietetics" ^{and nutrition care services} means one or more of the following but does not
10 include the retail sale of food products or vitamins:

11 (a) To perform nutritional assessment or nutrition counseling, including for the
12 purpose of managing disease.

13 (b) To establish priorities, goals, and objectives that meet nutritional needs of
14 an individual or group of individuals in a manner consistent with available resources
15 and constraints.

16 ~~(c) To develop, implement, and manage nutrition care systems.~~

17 (d) To evaluate, adjust, and improve standards of quality in dietetics.

18 (8) "Registration commission" means the commission on dietetic registration
19 of the American Dietetic Association or its successor.

20 SECTION 12. 448.71 (1) of the statutes is created to read:

21 448.71 (1) Except as provided in s. 448.72, no person may practice dietetics
22 unless the person is licensed as a dietician under this subchapter.

and nutrition care services

Insert 4-23

23 SECTION 13. 448.72 (1) (intro.) of the statutes is amended to read:
24 448.72 (1) (intro.) Require a certificate license under this subchapter for any
25 of the following:

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SECTION 14. 448.72 (1) (a) of the statutes is repealed and recreated to read:

448.72 (1) (a) A physician as defined in s. 448.01 (5).

SECTION 15. 448.72 (1) ^(c) (b) of the statutes is repealed.

SECTION 16. 448.72 (1) ^(c) (c) and ^(d) (d) of the statutes ^{is} are amended to read:

448.72 (1) (c) A person pursuing a supervised course of study, including internships, leading to a degree or certificate in dietetics from an accredited educational program accredited by the accreditation commission ~~or an educational program approved by the affiliated credentialing board.~~

(d) A dietetic technician or assistant who is working under the supervision of a certified licensed dietitian.

SECTION 17. 448.72 (1) (f) of the statutes is amended to read:

448.72 (1) (f) A person who markets or distributes food, food materials, herbs, or dietary or food supplements; who explains the use, benefits, or preparation of food, food materials, herbs, or dietary or food supplements; who furnishes nutritional information on food, food materials, herbs, or dietary or food supplements; or who disseminates nutritional information or literature, if the person ~~does not use the title "dietitian" or "certified dietitian" and the person~~ complies with applicable s. 448.71 (2) and federal, state and local laws applicable to the marketing and distribution of food, food materials, herbs, or dietary or food supplements.

SECTION 18. 448.72 (1) (g) of the statutes is created to read:

448.72 (1) (g) A person who provides services through a weight control program to an individual or group of individuals, if the program has been reviewed by, consultation to the person who provides services regarding the program is available

1 from, and no program change is initiated without the prior approval of, one of the
2 following:

3 1. A licensed dietitian.

4 (c) 2. A person who is licensed ~~or certified~~ ^{as a dietitian} under the laws of another state which
5 has licensure ~~or certification~~ requirements that the affiliated credentialing board
6 determines to be substantially equivalent to the licensure requirements under s.
7 448.78.

8 (d) 3. A person who is registered as a dietitian with the registration commission.

9 SECTION 19. 448.72 (4) to (5) of the statutes are amended to read:

10 448.72 (4) Prohibit an individual who is registered as a dietitian with the
11 ~~registration commission on dietetic registration of the American Dietetic Association~~
12 from using the title "dietitian" or "registered dietitian" ~~or the initials, "R.D."~~.

13 (5) Prohibit an individual who is registered as a dietetic technician with the
14 ~~registration commission on dietetic registration of the American Dietetic Association~~
15 from using the title "dietetic technician" or, "dietetic technician registered"
16 ~~registered," or the initials, "D.T.R."~~.

17 SECTION 20. 448.74 (intro.) of the statutes is amended to read:

18 448.74 Duties of affiliated credentialing board. (intro.) The affiliated
19 credentialing board shall promulgate rules that ~~do all~~ establish each of the following:

20 SECTION 21. 448.74 (1) of the statutes is amended to read:

21 448.74 (1) ~~Establish criteria~~ Criteria for the approval of educational programs
22 and training under s. 448.78 (3) and (4).

23 SECTION 22. 448.74 (1g) and (1r) of the statutes are created to read:

24 448.74 (1g) Standards for acceptable examination performance by an
25 applicant for licensure as a dietitian.

1 (1r) Continuing education requirements for licensed dietitians applying to
2 renew a license under s. 448.86 (3) that substantially conform to the continuing
3 professional education requirements established by the registration commission.

4 SECTION 23. 448.74 (2) of the statutes is amended to read:

5 448.74 (2) ~~Establish a code of ethics~~ Standards of practice to govern the
6 professional conduct of ~~certified~~ licensed dietitians, ~~including a code of ethics.~~

7 SECTION 24. 448.76 (title) of the statutes is renumbered 448.71 (title) and
8 amended to read:

9 **448.71 (title) Use License required; use of titles.**

10 SECTION 25. 448.76 of the statutes is renumbered 448.71 (2) and amended to
11 read:

12 448.71 (2) Except as provided in s. 448.72 (1) (e) and (2) to (6), ~~a no person who~~
13 ~~is not a certified dietitian may not designate himself or herself as a dietitian, claim~~
14 ~~to provide dietetic services or use or assume the title, "dietitian," "certified dietitian,"~~
15 ~~or "licensed dietitian"; append to the person's name the letters "L.D.," or use any title~~
16 ~~or initials that represent or may tend to represent the person as certified or licensed~~
17 ~~as a dietitian or as certified or licensed in a nutrition-related field.~~

18 SECTION 26. 448.78 (intro.) of the statutes is amended to read:

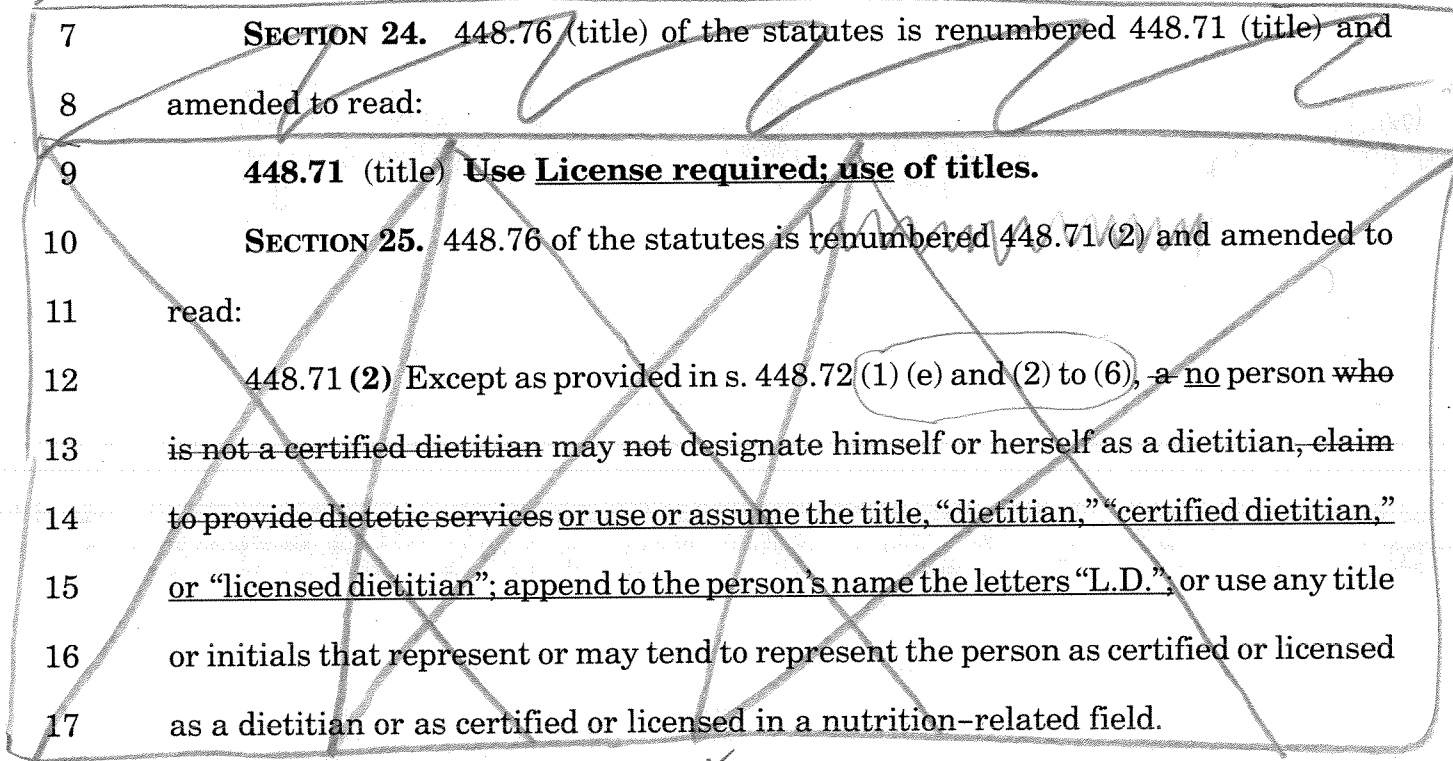
19 **448.78 Certification Licensure of dietitians.** (intro.) The affiliated
20 credentialing board shall grant a ~~certificate~~ license as a dietitian to an individual
21 who does all of the following:

22 SECTION 27. 448.78 (1) of the statutes is amended to read:

23 448.78 (1) Submits an application for the ~~certificate~~ license to the department
24 on a form provided by the department.

25 SECTION 28. 448.78 (3) (a) of the statutes is amended to read:

Insert 7-7



1 448.78 (3) (a) Received a bachelor's, master's or doctoral degree in human
 2 ~~nutrition, nutrition education, food and nutrition, dietetics or food systems~~
 3 ~~management from a~~ an academic program that meets accreditation standards
 4 established by the accreditation commission at a college or university that is
 5 regionally accredited, ~~as determined by the affiliated credentialing board, by the~~
 6 accreditation commission and that is located in a state or territory of the United
 7 States.

8 **SECTION 29.** 448.78 (3) (b) of the statutes is amended to read:

9 9 448.78 (3) (b) Received a bachelor's, master's ² or doctoral degree in human
 10 ~~nutrition, nutrition education, food and nutrition, dietetics or food systems~~
 11 ~~management from a program~~ at a college or university that is not located in a state
 12 or territory of the United States if the affiliated credentialing board determines that
 13 the program is substantially equivalent to a program under par. (a).

14 **SECTION 30.** 448.78 (3) (c) of the statutes is repealed.

15 **SECTION 31.** 448.78 (4) (intro.) of the statutes is renumbered 448.78 (4) and
 16 amended to read:

17 448.78 (4) Submits evidence satisfactory to the affiliated credentialing board
 18 that he or she has completed a supervised practice program accredited by the
 19 accreditation commission with at least 900 supervised practice hours of dietetics
 20 ~~practice in any state or territory of the United States under the supervision of any~~
 21 of the following:

22 **SECTION 32.** 448.78 (4) (a), (b) and (c) of the statutes are repealed.

23 **SECTION 33.** 448.78 (5) of the statutes is amended to read:

24 448.78 (5) Passes the registration examination for dietitians established by the
 25 registration commission on dietetic registration of the American dietetic association,

Insert
8-8

1 or passes an equivalent examination approved by the affiliated credentialing board,
2 and held under s. 448.84, to determine fitness to practice dietetics.

3 SECTION 34. 448.80 of the statutes is amended to read:

4 **448.80 Temporary certificate license.** Upon application and payment of
5 the fee specified in s. 440.05 (6), the affiliated credentialing board may grant a
6 temporary dietitian certificate license to an individual who satisfies the
7 requirements under s. 448.78 (1) to (4) and (2) and has submitted an application to
8 take the next available examination under s. 448.84 submits a letter verifying that
9 the individual is registered with the registration commission. A temporary
10 certificate license granted under this section is valid for a period designated by the
11 affiliated credentialing board, not to exceed 9 months, and may be renewed once by
12 the affiliated credentialing board.

13 SECTION 35. 448.82 of the statutes is renumbered 448.82 (intro.) and amended
14 to read:

15 **448.82 Reciprocal certificate license.** (intro.) Upon application and
16 payment of the fee specified in s. 440.05 (2), the affiliated credentialing board shall
17 grant a dietitian certificate license to an the following:

18 (2) An individual who holds a similar certificate or license issued by in another
19 state or territory of the United States if the affiliated credentialing board determines
20 that the requirements for receiving the certificate or license in the other state or
21 territory are substantially equivalent to the requirements under s. 448.78.

22 SECTION 36. 448.82 (1) of the statutes is created to read:

23 448.82 (1) An individual who is registered with the registration commission.

24 SECTION 37. 448.84 (1) of the statutes is amended to read:

1 448.84 (1) The affiliated credentialing board shall conduct or arrange for
2 examinations for ~~dietitian certification~~ licensure at least semiannually and at times
3 and places determined by the affiliated credentialing board, and shall provide public
4 notice of each examination at least 90 days before the date of the examination.

Insert
10-5

5 **SECTION 38.** 448.86 of the statutes is amended to read:

6 **448.86 Issuance of certificate license; expiration and renewal.** (1) The
7 department shall issue a certificate license to each individual who is certified
8 licensed under this subchapter.

9 (2) The renewal dates for certificates licenses granted under this subchapter,
10 other than temporary certificates licenses granted under s. 448.80, are specified
11 under s. 440.08 (2) (a). Renewal applications shall be submitted to the department
12 on a form provided by the department and shall include the renewal fee specified in
13 s. 440.08 (2) (a).

14 **SECTION 39.** 448.86 (3) of the statutes is created to read:

15 448.86 (3) An applicant for renewal of a license granted under this subchapter
16 shall be registered with the registration commission and shall provide proof of
17 registration and satisfactory completion of continuing education requirements
18 established by rule under s. 448.74 (1r).

19 **SECTION 40.** 448.87 (2) (intro.) and (a) of the statutes are amended to read:

20 448.87 (2) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
21 affiliated credentialing board may reprimand a certified licensed dietitian or deny,
22 limit, suspend or revoke a certificate license granted under this subchapter if it finds
23 that the applicant or certified licensed dietitian has done any of the following:

24 (a) Made a material misstatement in an application for a certificate license or
25 for renewal of a certificate license.

Insert
11-1

1 SECTION 41. 450.10 (3) (a) 5m. of the statutes is amended to read:

2 450.10 (3) (a) 5m. A dietitian ~~certified~~ licensed under subch. V of ch. 448.

3 SECTION 42. 632.895 (1) (b) 5. b. of the statutes is amended to read:

4 632.895 (1) (b) 5. b. A dietitian ~~certified~~ licensed under subch. V of ch. 448, if
5 the nutrition counseling is provided on or after July 1, 1995.

6 SECTION 43. 655.45 (1m) of the statutes is amended to read:

7 655.45 (1m) For the quarter beginning on July 1, 1995, and for each quarter
8 thereafter, the director of state courts shall file reports complying with sub. (2) with
9 the dietitians affiliated credentialing board regarding health care providers ~~certified~~
10 licensed by the dietitians affiliated credentialing board.

11 SECTION 44. **Nonstatutory provisions.**

12 (1) EXEMPTION FROM CERTAIN LICENSURE REQUIREMENTS. Notwithstanding
13 section 448.78 (3) to (5) of the statutes, as affected by this act, the dietitians affiliated
14 credentialing board may grant a license under section 448.78 of the statutes to a
15 person who no later than the first day of the 13th month beginning after the effective
16 date of this act provides sufficient evidence to the dietitians affiliated credentialing
17 board that the person holds a valid certificate from the dietitians affiliated
18 credentialing board or is currently registered as a registered dietician with the
19 commission on dietetic registration of the American Dietetic Association.

20 (END)

D-Note

1 **Insert 4-1**

2 **SECTION 1.** 448.70 (3) of the statutes is amended to read:

3 448.70 (3) "Dietitian" means an individual who practices dietetics and
4 nutrition care services. *plain*

History: 1993 a. 443.

5 **Insert 4-9**

6 ~~**SECTION 2.** 448.70 (7) of the statutes is created to read:~~

7 ~~448.70 (7) "Nutritionist" means a dietitian.~~

8 **Insert 4-23**

9 **SECTION 3.** 448.72 (intro.) and (1) (intro.) of the statutes are consolidated,
10 renumbered 448.72 (intro.) and amended to read:

11 **448.72 Applicability.** (intro.) This subchapter does not do any of the following: *stroke space*

History: 1993 a. 443; 1997 a. 75.

12 ~~(1) (intro.) Require require a certificate license under this subchapter for any~~
13 of the following:

History: 1993 a. 443; 1997 a. 75.

14 **SECTION 4.** 448.72 (1) (a), (b) and (c) of the statutes are repealed.

15 **SECTION 5.** 448.72 (1) (d) of the statutes is renumbered 448.72 (9) and amended
16 to read:

17 448.72 (9) A dietetic technician or assistant who is working under the
18 supervision of a certified licensed dietitian.

History: 1993 a. 443; 1997 a. 75.

19 **SECTION 6.** 448.72 (1) (e) of the statutes is renumbered 448.72 (10) and
20 amended to read:

21 448.72 (10) A dietitian who is serving in the U.S. armed forces, as defined in
22 s. 40.02 (57m), or in the commissioned corps of the federal public health service or

1 is employed by the U.S. veterans administration, and who is engaged in the practice
2 of dietetics and nutrition care services as part of that service or employment.

3 History: 1993 a. 443; 1997 a. 75.

3 SECTION 7. 448.72 (1) (f) of the statutes is repealed.

4 SECTION 8. 448.72 (2) of the statutes is renumbered 448.76 (2) and amended
5 to read:

6 448.76 (2) Prohibit ~~a~~ A dietetic student described in sub. (1) (e) from using may
7 use the title "dietitian student" or any other title, letters, or designation that clearly
8 indicates his or her status as a student or trainee.

9 History: 1993 a. 443; 1997 a. 75.

9 SECTION 9. 448.72 (3) of the statutes is renumbered 448.76 (3) and amended

10 to read:

11 448.76 (3) Prohibit an An individual described in sub. (1) (e) from using s.
12 448.72 (10) may use the title "dietitian" or any letters or designation that represents
13 or may tend to represent the individual as a dietitian, if the title, letters, or
14 designation is used only in the course of the individual's service or employment.

15 History: 1993 a. 443; 1997 a. 75.

15 SECTION 10. 448.72 (4) of the statutes is renumbered 448.76 (4) and amended

16 to read:

17 448.76 (4) Prohibit an An individual who is registered as a dietitian with the
18 registration commission on dietetic registration of the American Dietetic Association
19 from using may use the title "dietitian" or "registered dietitian" or the initials, "R.D.".

20 History: 1993 a. 443; 1997 a. 75.

20 SECTION 11. 448.72 (5) of the statutes is renumbered 448.76 (5) and amended

21 to read:

22 448.76 (5) Prohibit an An individual who is registered as a dietetic technician
23 with the registration commission on dietetic registration of the American Dietetic

1 ~~Association from using~~ may use the title "dietetic technician" or, "dietetic technician
2 ~~registered" registered,~~ or the initials, "D.T.R." ⁾

3 History: 1993 a. 443; 1997 a. 75.

3 **SECTION 12.** 448.72 (6) of the statutes is renumbered 448.76 (6) and amended
4 to read:

5 448.76 (6) ~~Prohibit an~~ An individual ~~from using~~ may use the title "dietitian",
6 "licensed dietitian" or "certified dietitian" if the person is licensed or certified as a
7 dietitian under the laws of another state which has licensure or certification
8 requirements that the affiliated credentialing board determines to be substantially
9 equivalent to the requirements under s. 448.78.

10 History: 1993 a. 443; 1997 a. 75.

10 **SECTION 13.** 448.72 (7) and (8) of the statutes are created to read:

11 448.72 (7) A physician as defined in s. 448.01 (5).

12 (8) A person who is lawfully practicing within the scope of a license granted
13 under ch. 446 who satisfies the requirements of s. 446.02 (2) (c).

14 **SECTION 14.** 448.72 (11) of the statutes is created to read:

15 448.72 (11) (a) A retailer that furnishes free oral or written general nutrition
16 information to a customer about food, food materials, dietary supplements, and other
17 goods sold at the retailer's establishment in connection with the marketing and
18 distribution of those goods at the retailer's establishment.

19 (b) A person that furnishes free oral or written information on food, food
20 materials, or dietary supplements.

21 **SECTION 15.** 448.72 (12) of the statutes is created to read:

22 448.72 (12) A person who provides weight control services to an individual or
23 group of individuals, provided the person complies with s. 448.76 and presents a

1 general program of instruction for weight control that has been approved in writing
2 by one of the following:

3 (a) A person licensed under this subchapter.

4 (b) A physician as defined in s. 448.01 (5).

5 **Insert 7-7**

6 **SECTION 16.** 448.76 of the statutes is renumbered 448.76 (1) and amended to
7 read:

8 448.76 **Use of titles.** (1) Except as provided in s. 448.72 (1) ~~(e)~~ (10) and
9 subsections (2) to (6), a person who is not ~~a certified~~ licensed as a dietitian may not
10 designate himself or herself as a dietitian, ~~claim to provide dietetic services; use or~~
11 assume the title, "dietitian," "certified dietitian," "licensed dietitian," "nutritionist,"
12 "certified nutritionist," or "licensed nutritionist"; append to the person's name the
13 letters "L.D.;" or use any title or initials that represent or may tend to represent the
14 person as certified or licensed as a dietitian or as certified or licensed in a
15 nutrition-related field.

16 History: 1993 a. 443; 1997 a. 75.

16 **Insert 8-8**

17 **SECTION 17.** 448.78 (3) (a) of the statutes is amended to read:

18 448.78 (3) (a) Received a bachelor's, master's, or doctoral degree in human
19 nutrition, ~~nutrition education, food and nutrition, dietetics or food systems~~
20 ~~management from a program at~~ granted by a college or university that is regionally
21 accredited, as determined by the affiliated credentialing board, by the accreditation
22 commission and that is located in a state or territory of the United States, and

1 successfully completed an educational program in dietetics approved by the
2 accreditation commission.

History: 1993 a. 443.

3 **Insert 10-5**

4 **SECTION 18.** 448.84 (2) of the statutes is amended to read:

5 448.84 (2) Examinations held under sub. (1) shall consist of written or oral
6 tests, or both, requiring applicants to demonstrate minimum competency in subjects
7 substantially related to the practice of dietetics and nutrition care services.

History: 1993 a. 443.

8 **Insert 11-1**

9 **SECTION 19.** 448.87 (2) (b) of the statutes is amended to read:

10 448.87 (2) (b) Subject to ss. 111.321, 111.322 and 111.335, been convicted of an
11 offense the circumstances of which substantially relate to the practice of dietetics
12 and nutrition care services.

History: 1993 a. 443; 1999 a 180 s. 55.

13 **SECTION 20.** 448.87 (2) (e) of the statutes is amended to read:

14 448.87 (2) (e) Subject to ss. 111.321, 111.322 and 111.34, practiced dietetics and
15 nutrition care services while his or her ability to practice was impaired by alcohol or
16 other drugs.

History: 1993 a. 443; 1999 a 180 s. 55.

17 **SECTION 21.** 448.87 (2) (g) of the statutes is amended to read:

18 448.87 (2) (g) Engaged in conduct while practicing dietetics and nutrition care
19 services which evidences a lack of knowledge or ability to apply professional
20 principles or skills.

History: 1993 a. 443; 1999 a 180 s. 55.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1288/P1dn ²
TKK:kjf:ts ✓

Date

Senator Carpenter:

Please review this draft carefully to ensure that I have made all of the changes requested in Joan Pleuss' May 24 e-mail correspondence. Per Ms. Pleuss' recommendation, I did move those portions of s. 448.72 governing use of titles to s. 448.76. However, please note that I did not follow Ms. Pleuss' recommendations on the following changes to sections 448.78 (3) (a) and (b) for the following reasons:

1. Ms. Pleuss requested that I replace "bachelor's, masters or doctoral degree" with "at minimum a baccalaureate degree."

a. The language, "at minimum," may be interpreted to grant the affiliated credentialing board with the power to impose additional requirements upon a candidate for licensure. Was that your intent?

b. Because "baccalaureate" is synonymous with "bachelor's," I chose to retain "bachelor's," which is a more familiar, user-friendly term. Please let me know if this is a problem.

2. Ms. Pleuss requested that I use the phrase, "didactic program in dietetics." I substituted the term, "educational," for "didactic." The term, "didactic," is not used anywhere else in the statutes; "educational" is a more familiar, user-friendly term. Please let me know if this is a problem.

I have three follow-up questions regarding this second draft:

1. Herbs. At the bottom of page two of Joan Pleuss' May 24 e-mail correspondence and attachment, there is a note indicating that "We also want to clarify that this wording is found in 448.72 (1) (e)." I'm confused by this clarification. The statutory cite Ms. Pleuss refers to makes a dietitian serving in the U.S. armed forces exempt from the licensing requirements of this subchapter. Please advise.

2. Exemption from licensing for persons who furnish certain information. The e-mail correspondence and attachment from Joan Pleuss, dated May 24, proposes replacing current s. 448.72 (1) (f) with language applicable to "retailers" and "persons". I have some concerns about the proposed alternative language. Please let me know if you would like to retain the proposed language, return to the language from the /P1, or find some middle ground.

a. The proposed language exempts from licensure retailers that furnish free oral or written general nutrition information to a customer about food, food materials, or dietary supplements sold at that retailer's establishment.

i. Do you wish to define retailer? Would a restaurant or concession stand that furnishes nutrition information about its menu items be included?

ii. What is "general nutrition information"? Would it include how to prepare a recipe?

iii. May the retailer furnish free oral or written information about items not sold at the establishment?

iv. Why must the information be free? What if a person pays for a cooking class at a restaurant or a kitchen goods store where general nutrition information about food and food materials is necessarily part of the discussion?

v. Conversely, must there be a purchase in order for the exemption to apply? The use of the word, customer, may suggest that a purchase must be made, but the person may not actually buy anything at the retail establishment after receiving the information.

b. The proposed language exempts from licensure a person that furnishes free oral or written information about food, food materials, or dietary supplements.

i. I am concerned that there may be confusion between the furnishing of this information and the furnishing of information in a nutritional assessment, which is a regulated activity.

ii. Was it your intent that information about general nutrition be included in this information about food, food materials, or dietary supplements? If so, the concern under b.i., above, becomes more of a concern.

iii. In order to be subject to the exemption, must the information be free? What about a person that charges a fee for meal preparation (a personal chef or a caterer, for example) who also furnishes information about food with the meal?

3. Trade regulation. The May 24 e-mail correspondence and attachment also asks about including broad language governing false, misleading, or deceptive advertising. The proposed language regulates marketing and trade practices, which are addressed in Chapter 100 of the statutes and are enforced by the Department of Agriculture, Trade and Consumer Protection. See, in particular, ss. 100.18 and 100.183.

Do you wish to supplement current law? If you have additional questions about trade regulation, Chris Sundberg in our office, who drafts in trade regulation, can answer those questions for you. His direct line is 266-9739.

If you are comfortable with the changes in this draft, I will prepare an analysis for an introducible draft. I look forward to hearing from you after you have had an opportunity to review this draft.

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1288/P2dn
TKK:kjf:nwn

July 19, 2007

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Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

Kuczenski, Tracy

From: Ewy, Stuart
Sent: Tuesday, August 07, 2007 2:54 PM
To: Kuczenski, Tracy
Subject: FW: Dietitians Licensure Bill: Response for LRB

Attachments: 8.6.07.Edits to Bill.doc; LRBresp;8.6.07.doc



8.6.07.Edits to Bill.doc (31 K...
LRBresp;8.6.07.doc (33 KB)

Hi Tracy-

Here are some more comments from Joan Pleuss on the preliminary draft.

Let me know if you have any questions or comments.

Regards,

G. Stuart Ewy
Chief of Staff
Office of Senator Tim Carpenter
State Capitol 306 S
608.266.8535

-----Original Message-----

From: Pleuss, Joan [mailto:jpleuss@mcw.edu]
Sent: Tuesday, August 07, 2007 2:00 PM
To: Sen.Carpenter
Subject: Dietitians Licensure Bill: Response for LRB

Dear Senator Carpenter:

Please find attached two documents for the dietitian's licensure bill that are now ready for LRB:

- 1) LRB Response (8/6/07) - This is the response to Tracy's (the LRB drafter) comments and questions of 7/19/07.
- 2) The 8/6/07 version of additional edits to the preliminary draft of our licensure bill (i.e., the preliminary bill draft which accompanied the drafter's 7/19/07 comments and questions).

I am requesting that these two documents be forwarded to the LRB for their review and response.

The Wisconsin Dietetic Association and I are extremely grateful for your assistance in advancing this bill.

If you have any questions or concerns, I will be happy to try to answer them. I will be out of the office the remainder of the week, but you can reach me by cell phone at 414-333-8667. I will be able to check my email on Friday.

Sincerely,
Joan Pleuss

Joan Pleuss, RD, MS, CDE, CD

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

LRB-1288/P2dn
TKK:kjf:nwn

July 19, 2007

(8/6/07 WDA Response in Bold Throughout)

Senator Carpenter:

Please review this draft carefully to ensure that I have made all of the changes requested in Joan Pleuss' May 24 e-mail correspondence. Per Ms. Pleuss' recommendation, I did move those portions of s. 448.72 governing use of titles to s. 448.76. However, please note that I did not follow Ms. Pleuss' recommendations on the following changes to s. 448.78 (3) (a) and (b) for the following reasons:

1. Ms. Pleuss requested that I replace "bachelor's, masters or doctoral degree" with "at minimum a baccalaureate degree."

a. The language, "at minimum," may be interpreted to grant the affiliated credentialing board with the power to impose additional requirements upon a candidate for licensure. Was that your intent? **Our intent is not to give the board the power to impose additional requirements at a later date; therefore, dismiss this request and leave as "bachelor's, master's or doctoral degree".**

b. Because "baccalaureate" is synonymous with "bachelor's," I chose to retain "bachelor's," which is a more familiar, user-friendly term. Please let me know if this is a problem. **This is not a problem.**

2. Ms. Pleuss requested that I use the phrase, "didactic program in dietetics." I substituted the term, "educational," for "didactic." The term, "didactic," is not used anywhere else in the statutes; "educational" is a more familiar, user-friendly term. Please let me know if this is a problem.

a. **The academic program approved by the accreditation commission (i.e., American Dietetic Association's Commission on Accreditation for Dietetic Education) must be referred to as a "didactic program in dietetics". This could be clarified for the lay public by using "(academic)" or "(educational)" following the term, "didactic."**

b. **We note that "the accreditation commission" has been previously defined as "the commission on accreditation for dietetics education of the American Dietetic Association or its successor" in 448.70 (1d).**

c. **As a compromise, please consider the following language (changed to present**

tense to parallel 448.78 (1) & (2)):

✓ 448.78 (3) (a) Possesses a bachelor's, master's or doctoral degree granted by a U.S. regionally accredited college or university and completes a didactic (educational) program in dietetics accredited by the accreditation commission.

✓ d. It appears as though 448.78 (2) was inadvertently omitted from most recent preliminary bill draft. Please add back as: "Pays the fee specified in s. 440.05 (1)."

No need to amend -

I have three follow-up questions regarding this second draft:

1. Herbs. At the bottom of page two of Joan Pleuss' May 24 e-mail correspondence and attachment, there is a note indicating that "We also want to clarify that this wording is found in 448.72 (1) (e)." I'm confused by this clarification. The statutory cite Ms. Pleuss refers to makes a dietitian serving in the U.S. armed forces exempt from the licensing requirements of this subchapter. Please advise.

✓ Please disregard. The confusion was caused by differences in numbering between your draft and ours.

✓ Regarding 448.72, however, we've noted that the current preliminary bill draft still includes an exemption for dietetic technicians (now identified as 448.72 (9)). As per our 5/24/07 request, please delete this exemption entirely.

2. Exemption from licensing for persons who furnish certain information. The e-mail correspondence and attachment from Joan Pleuss, dated May 24, proposes replacing current s. 448.72 (1) (f) with language applicable to "retailers" and "persons." I have some concerns about the proposed alternative language. Please let me know if you would like to retain the proposed language, return to the language from the /P1, or find some middle ground.

- 2 -

- LRB-1288/P2dn
TKK:kjf:nwn

a. The proposed language exempts from licensure retailers that furnish free oral or written general nutrition information to a customer about food, food materials, or dietary supplements sold at that retailer's establishment.

i. Do you wish to define retailer? Would a restaurant or concession stand that furnishes nutrition information about its menu items be included?

We would prefer not to define retailer.

ii. What is "general nutrition information"? Would it include how to prepare a recipe?
Rather than define "general nutrition information", consider following this term

with “related to these products in connection with the marketing or distribution [of these products]” (from SC’s statute) as follows:

✓ “(1) a retailer that furnishes oral or written general nutrition information related to food, food materials, dietary supplements, and other goods sold at or outside of the retailer’s establishment in connection with the marketing and distribution of those goods, (2) a person that furnishes oral or written general nutrition information on food, food materials, or dietary supplements related to the marketing of these products, provided that the person is not practicing dietetics as per s. 448.70 (8).”

iii. May the retailer furnish free oral or written information about items not sold at the establishment? **Certainly.**

iv. Why must the information be free? What if a person pays for a cooking class at a restaurant or a kitchen goods store where general nutrition information about food and food materials is necessarily part of the discussion?

Good point; remove “free” from the language.

v. Conversely, must there be a purchase in order for the exemption to apply? The use of the word, customer, may suggest that a purchase must be made, but the person may not actually buy anything at the retail establishment after receiving the information.

Would this language be improved by simply removing “to a customer”?

b. The proposed language exempts from licensure a person that furnishes free oral or written information about food, food materials, or dietary supplements.

i. I am concerned that there may be confusion between the furnishing of this information and the furnishing of information in a nutritional assessment, which is a regulated activity.

✓ **Proposal: Insert “general nutrition” before “information”, so it reads, “. . . person that furnishes oral or written general nutrition information on food, food materials, or dietary supplements. . . .”**

ii. Was it your intent that information about general nutrition be included in this information about food, food materials, or dietary supplements? If so, the concern under b. i., above, becomes more of a concern.

✓ **Tracy, is your concern adequately addressed in item 2.a.ii. above?**

iii. In order to be subject to the exemption, must the information be free? What about a person that charges a fee for meal preparation (a personal chef or a caterer, for example) who also furnishes information about food with the meal?

✓ **Need not be free; delete the term “free”.**

3. Trade regulation. The May 24 e-mail correspondence and attachment also asks about including broad language governing false, misleading, or deceptive advertising. The proposed language regulates marketing and trade practices, which are addressed in

Chapter 100 of the statutes and are enforced by the Department of Agriculture, Trade and Consumer Protection. See, in particular, ss. 100.18 and 100.183.

✓ **Tracy, please disregard language proposal re: false, misleading, or deceptive advertising due to fact that current statutes (100.18 and 110.183) already address this.**

Do you wish to supplement current law? If you have additional questions about trade regulation, Chris Sundberg in our office, who drafts in trade regulation, can answer those questions for you. His direct line is 266-9739.

✓ **We have no further questions or need to supplement current law. We do have additional edits, however, which are itemized in a second document, "8.6.07.Edits to Bill.doc".**

If you are comfortable with the changes in this draft, I will prepare an analysis for an introducible draft. I look forward to hearing from you after you have had an opportunity to review this draft.

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail:
tracy.kuczenski@legis.wisconsin.gov

Additional Licensure Bill Edits

August 6, 2007

Handwritten note: "PDI has not met with group yet"

Page 3, line 5: Change misspelled "dietician" to "dietitian".

Pg. 3, line 13: 448.70 (4) should read **verbatim**:

"Licensed dietitian/nutritionist (L.D.N.) means an individual who is licensed as a dietitian under this subchapter.

No - cannot we

Handwritten note: "can do this, but all references in bill will be to 'companion terms' words"

Pg. 3, line 16: 448.70 (2), the definition of dietetics and nutrition care services, must be changed to read **verbatim**:

"Dietetics and nutrition care services" means the integration and application of principles derived from the sciences of food, nutrition, management, communication, and biological, physiological, behavioral, and social sciences to achieve and maintain optimal human health.

Pg. 4: Delete 448.70 (5), (6), and (8) and replace **verbatim** with scope of practice language previously requested:

Handwritten note: "but does not include retail..."

Handwritten note: "other suggestions? of similar activities covered with practice"

"Practice of dietetics and nutrition care services" includes, but is not limited to, each of the following:

448.70(7)

- (a) Assessing the nutrition needs of an individual or group of individuals based upon biochemical, anthropometric, physical, and dietary data; determining the resources and constraints to meet the nutrition needs of that individual or group of individuals; and recommending proper nutrition intake to satisfy those needs.
- (b) Establishing priorities, goals, and objectives to meet the nutrition needs of the individual or group of individuals based on available resources and constraints.
- (c) Providing nutrition counseling regarding health and disease.
- (d) Evaluating, adjusting, and maintaining standards of quality in dietetics and nutrition care services.
- (e) Providing medical nutrition therapy.

Page 4: Create subchapters (*correct wording, Jason??*) within 448.70 to read (as originally requested):

448.70(5)

- **"Medical nutrition therapy" means nutritional diagnostic, therapy, and counseling services provided by a licensed dietitian for the purpose of managing disease. Such**

services include, but are not limited to: nutrition assessment, interventions, reassessment, and follow-up instruction.

- **“Dietetics and nutrition care services” do not include the retail sale of food products or vitamins.**

Page 5, line 2: Change misspelled “dietician” to “dietitian”.

Page 5, line 9: Do not repeal but revise slightly to include that which was previously 448.72 (1) (c), to read:

A person pursuing a supervised course of study, including internships, leading to a degree or certificate in dietetics and nutrition care services from an educational program accredited by the accreditation commission.

Page 5, line 12: Delete entire exemption for dietetic technicians and assistants (448.72 (9)).

Page 5, line 23: Add back reference to description of the dietetic student (previously in sub. (1)(c)).

Page 6: Create 448.76 (7) to read:

448.76 (7) An individual with a temporary license under s. 448.80 shall use the title “registry eligible dietitian”, which is not to be abbreviated or capitalized.

Page 7, line 2: Amend draft language to read as follows:

(g) A person who is lawfully practicing within the scope of a license granted under ch. 446 and who satisfies the requirement of s.446.02 (2) (c), as long that person remains within the scope set forth in 446.02 (2) (c).

Page 7, line 5: Please refer to proposed language for retailers and persons furnishing written or oral information in WDA response to drafter’s comments/questions of 7/19/07.

Page 8, line 15: Add reference to newly created 448.76 (7), such that this first line reads:

448.76 (1) Except as provided in s. 448.72 (10) and subs (2) to (7), a

Page 8, line 16 – 19: Amend draft wording to reflect original requested language, to read:

. . . herself as a dietitian; use or assume the title “dietitian,” “certified dietitian,” “licensed dietitian,” “nutritionist,” “certified nutritionist,” “licensed nutritionist,” “dietitian/nutritionist,” “certified dietitian/nutritionist,” “licensed dietitian/nutritionist,” “nutrition consultant” or “nutritional consultant”; append to the person’s name the letters, “L.D.,” “L.N.” or “L.D.N.”; or

There is no "scope" under this section.

created on p. 8-22

Microstate Department of Health

Page 9, line 10: As stated in reply to drafter's 7/19/07 comments/questions, the academic program approved by the accreditation commission (i.e., American Dietetic Association's Commission on Accreditation for Dietetic Education, as previously defined) must be referred to as a "didactic program in dietetics". This could be clarified for the lay public by using "(academic)" or "(educational)" following the term, "didactic." Please amend as follows:

✓ **448.78 (3) (a) Possesses a bachelor's, master's or doctoral degree granted by a U.S. regionally accredited college or university and completes a didactic (educational) program in dietetics accredited by the accreditation commission.**

Page 9, lines 13 – 17: Amend 448.78 (3) (b) to read:

by whom?
✓ **448.78 (3) (b) Possesses a bachelor's, master's, or doctoral degree from a college or university that is not located in a state or territory of the United States if their academic degree is validated as equivalent to a degree conferred by a U.S. regionally accredited college or university in the United States and the affiliated credentialing board determines that the program is substantially equivalent to a program under par. (a).**

✓ Page 10, lines 12 & 13: Amend end of sentence in draft to read **verbatim**:

... submits a letter from the registration commission verifying registration eligibility status.

✓ Page 11, lines 4 – 11: The exam required for licensure (or certification) of dietitians is that administered nearly daily at test centers nationwide by the American Dietetic Association. These test centers are widely available at multiple sites within Wisconsin. Amend 448.84 (1) and (2) as follows (note changes in bold):

✓ **448.84 (1) The affiliated credentialing board shall conduct or contract for administration of examinations for dietitian licensure at least semiannually at locations within the state of Wisconsin and shall provide public notice of each examination at least 90 days before the date of the examination.**

✓ **448.84 (2) Examinations held under sub. (1) shall consist of written or oral tests, or both, requiring applicants to demonstrate minimum competency in subjects substantially related to the practice of dietetics and nutrition care services.**

✓ Page 13, line 12: Change misspelled "dietician" to "dietitian".