

**2007 DRAFTING REQUEST**

**Senate Amendment (SA-SB394)**

Received: **02/04/2008**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Tim Carpenter (608) 266-8535**

By/Representing: **Stuart Ewy**

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

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Carpenter@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Dietitians

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**Instructions:**

See Attached

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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> |
|--------------|------------------------|------------------------|-----------------------|----------------|-----------------------|-----------------------|-----------------|
| /1           | tkuczens<br>02/04/2008 | wjackson<br>02/04/2008 | nnatzke<br>02/06/2008 | _____          | mbarman<br>02/06/2008 | mbarman<br>02/06/2008 |                 |
|              | tkuczens<br>02/06/2008 | kfollett<br>02/06/2008 |                       | _____          |                       |                       |                 |

FE Sent For:

<END>

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| /1           | tkuczens       | 11/5/07<br>2/6  | nwn<br>2/6   | nwn<br>2/6     |                  |                 |                 |

FE Sent For:

<END>

## Kuczenski, Tracy

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**From:** Ewy, Stuart  
**Sent:** Monday, February 04, 2008 2:19 PM  
**To:** Kuczenski, Tracy  
**Subject:** Amendment

Hi Tracy-

Could you please draft this amendment to the dieticians bill, SB 394? The bill will have an executive session on Wed, Feb 6, so let me know if you could do this right away. (If this is not possible, then we can add the amendment on the floor)

Regards,

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

On P 8, in section 448.70 (5) immediately following the last sentence (Such services include nutrition assessment, interventions, reassessment, and follow-up interventions) Please add the sentence: **This provision does not constitute the practice of medicine per 448.01(9).**

## Kuczenski, Tracy

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**From:** Ewy, Stuart  
**Sent:** Tuesday, February 05, 2008 8:44 AM  
**To:** Kuczenski, Tracy  
**Subject:** RE: Amendment to AB 742

Hi Tracy-

Here is the response I received.

OK. But just so we are clear. I guess it doesn't matter where she puts the language. As long as it will pertain to 448.70 (5) and she uses the language "This provision does not constitute the practice of medicine per 448.01(9)." It is important that this language is used as per discussion with WMS, and wherever she puts it refers back to the definition of medical nutrition therapy. If this is the case, then we are okay and I would like to see exactly where it ends up and be able to explain to WMS that it has the same effect no matter where it ends up.

Let me know if this needs responding to.

Thank you,

Stuart

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**From:** Kuczenski, Tracy  
**Sent:** Monday, February 04, 2008 7:41 PM  
**To:** Ewy, Stuart  
**Subject:** RE: Amendment to AB 742

No problem, Stuart -- sorry it took me so long to get this formulated. I'll look forward to word tomorrow.

*Tracy K. Kuczenski*  
*Legislative Attorney*  
*Wisconsin Legislative Reference Bureau*  
*(608) 266-9867*  
*[Tracy.Kuczenski@legis.wisconsin.gov](mailto:Tracy.Kuczenski@legis.wisconsin.gov)*

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**From:** Ewy, Stuart  
**Sent:** Monday, February 04, 2008 5:26 PM  
**To:** Kuczenski, Tracy; Seaholm, Matthew  
**Subject:** RE: Amendment to AB 742

Hi Tracy-

Thank you very much for your work on this. Last minute stuff can be frustrating. I'll let you know what the dieticians say about the amendment,  
Talk to you tomorrow,  
Stuart

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**From:** Kuczenski, Tracy  
**Sent:** Monday, February 04, 2008 4:56 PM  
**To:** Ewy, Stuart; Seaholm, Matthew  
**Subject:** RE: Amendment to AB 742

Stuart and Matt --

The person who answered my email says "this does not create a new exemption". I disagree. The purpose of the proposed language is to say that a person who provides the services outlined in the term, "medical nutrition therapy", does not need a license to practice medicine and surgery as that term is defined under s. 448.01 (9). Under current law, a person who wishes to practice any part of the activities described in the definition medicine and surgery needs a license to

practice medicine and surgery. Therefore, the proposed language exempts dietitians or nutritionists who provide medical nutrition therapy from the requirement to obtain a license to practice medicine and surgery. This is not a problem in and of itself; however, the proposed language does not belong in the definition of medical nutrition therapy.

This is not an uncommon issue in the regulation chapters; we deal with these regulatory boundaries in the manner I proposed.

I believe the constituent is confused by what I am proposing. I believe I can address the constituent's concern with the approach I suggested, and it is an approach used for midwives, nurses, dentists, chiropractors, dental hygienists, optometrists, acupuncturists, etc. Here is a more thorough explanation of what the amendment would do:

The amendment I propose does not exempt persons who are offering "medical nutrition therapy" services from the requirement to obtain a license to practice dietetics or nutrition care services if the person is seeking to practice dietetics or nutrition care services; because "medical nutrition therapy" is included in the definition of "dietetics and nutrition care services", a person **MUST** be licensed as a dietitian or nutritionist to offer medical nutrition therapy.

Nor does the amendment I am proposing exempt persons from the requirement to obtain a license to practice medicine and surgery under subchapter II of ch. 448 if that person is seeking to practice medicine and surgery.

The amendment I propose exempts persons from the requirement to obtain a license to practice medicine and surgery **IF AND ONLY IF** the person is:

1. licensed to practice dietetics and nutrition care services
- AND
2. practicing dietetics and nutrition care services (which services include medical nutrition therapy).

Please let me know how you would like me to proceed.

Tracy

*Tracy K. Kuczenski*  
*Legislative Attorney*  
*Wisconsin Legislative Reference Bureau*  
*(608) 266-9867*  
[Tracy.Kuczenski@legis.wisconsin.gov](mailto:Tracy.Kuczenski@legis.wisconsin.gov)

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**From:** Ewy, Stuart  
**Sent:** Monday, February 04, 2008 3:17 PM  
**To:** Kuczenski, Tracy; Seaholm, Matthew  
**Subject:** RE: Amendment to AB 742

Hi Tracy:

Here is the response to your suggestion. Let me know what you think.:

No. Not good. We are not seeking an exemption for these folks to be able to practice medicine and surgery under 448. Drafter is way misunderstanding the issue.

The issue is that the Med Society just wanted a misnomer on the term "medical". We do not want to remove the term as it is vital to "medical nutrition therapy" term. They just want this clarified that it does not constitute practice of medicine so that no others are confused by this. It is not a "substantive exemption". It is to clarify the term. I think it fits fine immediately following definition of medical nutrition therapy at 448.70 (5) which it is meant to clarify. However if she wishes to place somewhere else in bill and refer to 448.70(5) then this would probably do as well. But prefer it there if possible, and this does not create a new exemption nor does it say that those practicing medical nutrition therapy do not need a dietitian license or medical license. They will still need a license under this bill, but do not practice medicine. Does this make sense?

Stuart

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**From:** Kuczenski, Tracy  
**Sent:** Monday, February 04, 2008 2:59 PM  
**To:** Seaholm, Matthew; Ewy, Stuart

**Subject:** RE: Amendment to AB 742

Hi Stuart and Matt -

The person making the request to amend the bill has asked for the new language to go in the definition of "medical nutrition therapy", but the proposed amendment language is a substantive exemption from the practice of medicine and surgery. So, I don't think p. 8, line 4 is where the proposed amendment language should be placed.

Instead, I am going to insert, on page 6 after line 13, an amendment to s. 448.03 (2) (a) which will exempt persons who are licensed and practicing dietetics and nutrition care services from the requirement to obtain a license under Subchapter II of ch. 448 (which requires persons to obtain a license to practice medicine and surgery).

Okay?

*Tracy K. Kuczenski*  
*Legislative Attorney*  
*Wisconsin Legislative Reference Bureau*  
*(608) 266-9867*  
*[Tracy.Kuczenski@legis.wisconsin.gov](mailto:Tracy.Kuczenski@legis.wisconsin.gov)*

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**From:** Seaholm, Matthew  
**Sent:** Monday, February 04, 2008 1:50 PM  
**To:** Kuczenski, Tracy  
**Subject:** Amendment to AB 742

Hi Tracy,

Could you please draft a simple amendment to AB 742 (LRB 3872) that does the following:

**On P 8, in section 448.70 (5) immediately following the last sentence (Such services include nutrition assessment,**

**interventions, reassessment, and follow-up interventions) Please add the sentence: This provision does not constitute the practice of medicine per 448.01(9).**

The bill will be having a hearing tomorrow so if that is possible to do, we would like it by then. If not, that is ok. Let me know if you have any questions.

Thanks,

***Matt***

*Matt Seaholm*  
*Office of Rep. Terry Moulton*  
*Wisconsin's 68th Assembly District*  
*(608) 266-9172*

## Kuczenski, Tracy

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**From:** Ewy, Stuart  
**Sent:** Wednesday, February 06, 2008 2:43 PM  
**To:** Kuczenski, Tracy  
**Subject:** Amendment

Hi Tracy-

As we discussed, please prepare an amendment to SB 394 that replaces the word "Medical" with "Dietetic and". The phrases on page 8 would then read: "dietetic and nutrition therapy" instead of "medical nutrition therapy"

The exec session on this bill is now scheduled for tomorrow, Thursday, at Noon.

Your help and advice on this issue has been very much appreciated.

If you need to reach me this afternoon, my cell is 608.358.1558

Regards,

G. Stuart Ewy  
Office of Sen. Tim Carpenter



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRBa1191/1

TKK: *kgf*

**SENATE AMENDMENT ,  
TO 2007 SENATE BILL 394**

*in 2/6/08  
wanted 2/7/08 for  
(before) a noon hearing*

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

2 **1.** Page 8, line 1: delete "Medical nutrition therapy" and substitute "Dietetic  
3 and nutrition therapy".

4 **2.** Page 8, line 19: delete "medical nutrition therapy" and substitute "dietetic  
5 and nutrition therapy".

6 (END)