



PATRICK TESTIN

STATE SENATOR

DATE: October 4, 2017
RE: **Testimony on 2017 Senate Bill 385**
TO: Senate Committee on Workforce Development, Military Affairs, and Senior Issues
FROM: Senator Patrick Testin

Thank you Committee members for hearing testimony on Senate Bill 385. This bill is intended to allow physicians to delegate prescribing of a nursing home's therapeutic diet to a certified dietician. We believe this will improve the quality of life for those who live in a nursing home.

As you'll hear from other stakeholders, the Center for Medicare and Medicaid services updated rules to improve public health and enhance long-term care facilities. Within their changes to rule 42, Code of Federal Regulations, physicians now have the ability to hand the responsibility of prescribing therapeutic diets to dieticians. We have introduced Senate Bill 385 to mirror federal language, and streamline the process of prescribing diets to nursing home patients.

One main aspect of long-term care is quality of life. This bill will allow dieticians do their job more effectively and ensures that patients are getting the quality services they deserve. Many physicians aren't on site, and this can lead to delays in responding to necessary changes in diet. Senate Bill 385 will help all those involved with the care of our senior citizens as well as those in long term care, due to a disability.

The Wisconsin Department of Health Services is aware of this discrepancy in our state statute. Additionally, DHS has suggested our bill includes "licensed dieticians," along with "certified dieticians." This change has been addressed in Senate Amendment 1.

This simple bill brings our statutes up to par with federal language and allow for better coverage moving forward.

Thank you for taking the time to hear this important bill.



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WISCONSIN STATE REPRESENTATIVE

41ST ASSEMBLY DISTRICT

Senate Bill 385: Therapeutic Diets in Certain Long-Term Care Facilities
Testimony of State Representative Joan Ballweg
Senate Committee on Workforce Development, Military Affairs and Senior Issues
October 4th, 2017

Thank you, Chair Testin, and members of the Committee on Workforce Development, Military Affairs and Senior Issues for holding this public hearing on SB 385.

Currently in Wisconsin, the Department of Health Services' administrative code (DHS 132 and 134) allows only a physician to order therapeutic diets for persons in nursing homes and modified diets in facilities serving persons with developmental disabilities.

According to the Journal of Clinical Nutrition & Dietetics, therapeutic diets and modified diets are approved by a physician and planned by a dietician to include or exclude certain nutritional components, such as calories, fat, or certain vitamins and minerals, for the purpose of controlling certain life-threatening conditions, such as diabetes, obesity, heart disease, and high blood pressure. These diets are utilized in long-term care facilities as well as facilities serving persons with developmental disabilities. Often, these diets will change based on how a person responds or improves in their condition.

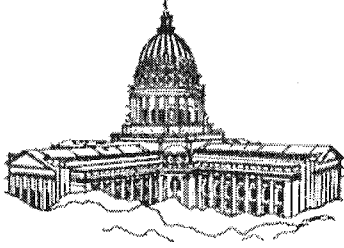
Last year, the Center for Medicare and Medicaid Services (CMS) updated federal regulations to allow physicians to delegate the ability to order therapeutic diets to qualified Registered Dietician Nutritionists.

To comply with the change in federal regulations, SB 385 amends DHS's administrative code to allow attending physicians to delegate prescribing of a nursing home resident's therapeutic diet to a certified dietician and prescribing of a modified diet to a resident of a facility serving persons with developmental disabilities to a certified dietician as well. This change to the administrative code allows for a greater efficiency of response to a resident's changing dietary needs between their physician and dietician.

After consultation with DHS, DSPS, and the Wisconsin Academy of Nutrition and Dietetics, we introduced an amendment that includes licensed dietitians in addition to certified dietitians. This accounts for dietitians that are licensed in other states, but practice in Wisconsin, such as those that live on the borders of Wisconsin.

The Wisconsin Academy of Nutrition and Dietetics, LeadingAge Wisconsin, and the Wisconsin Health Care Association Inc. registered in support of this bill.

Thank you for your consideration of SB 385. I am happy to answer any questions that you may have.



LENA C. TAYLOR

Wisconsin State Senator • 4th District

HERE TO SERVE YOU!

**Testimony of State Senator Lena C. Taylor
Senate Committee on Workforce Development,
Military Affairs and Senior Issues
October 4, 2017**

Good morning, Chairman Testin and Committee Members. I want to thank the Senate Committee on Workforce Development, Military Affairs and Senior Issues for the opportunity to submit written testimony regarding Senate Bill 385.

Many of us have had the occasion to be concerned about the intake of certain foods or nutrients, whether for ourselves or someone entrusted to our care. Right away food allergies spring to mind and our thoughts turn to peanuts or an EpiPen. More of us than ever before understand a meal plan can be a part of the treatment plan for a medical condition. Most often prescribed by a physician and planned by a dietician, our diets have become therapeutic in practice and tailored to fit individualized nutritional needs. When I think of my family and friends, high blood pressure, diabetes, renal failure, or food intolerance have changed the way we prepare meals and plan our family gatherings.

Thankfully, legislation is also becoming tailored as well. In particular, SB 385 allows nutrition experts trained to investigate and establish contributory relationships between nutrients/diet and disease to participate in the timely distribution of care. In offering physicians and facilities the flexibility provided in this legislation, dietary services are more efficient and effective. Therapeutic diet orders and patients' nutrition management no longer need to be delayed due to waiting for the physician to prescribe a diet order. With an ever shrinking workforce, the bill also provides a way to maximize medical staff within an organization.

Reducing the physician's need to sign diet orders will also save money in healthcare costs, streamline the process and potentially help the bottom line for the state's fiscal responsibilities for residents' treatment. In fact in 2014, the Centers for Medicare and Medicaid Services (CMS), when a similar rule change was offered at hospitals, expected to save up to \$459 million annually in hospital costs.

As our family members live longer lives or are unable to make decisions for themselves, we become concerned with their quality of life decisions and choices. SB 385 is a choice we can make that will have an immediate impact on the well-being of our loved ones in nursing homes or with developmental disabilities. I, respectfully, ask for your support for this bill. Thank you for your time.

Senator Lena C. Taylor
4th Senate District

October 4, 2017

SB 385 Testimony

Good Afternoon Chairman Testin and members of the Senate Committee on Workforce Development, Military Affairs and Senior Issues. I'm Valerie Shurley, Clinical Nutrition Manager with Ascension Wisconsin in the Milwaukee area. I manage a team of 20 Registered Dietitians and Dietetic Technicians at two hospitals and several outpatient clinics.

As you know, the Center for Medicare and Medicaid Services (CMS) updated Rule 42 Code of Federal Regulations (CFR) last year to improve the public health and safety of long-term care facilities across the country. Within the new rule physicians are allowed to delegate the ability to order therapeutic diets to qualified RDNs.

Under current law, DHS 132.63 (4) (b) allows only physicians to order therapeutic diets in nursing homes and modified diets in facilities serving persons with developmental disabilities. Since Wisconsin law differs from federal code, it's important for us to make sure our laws reflect the changes that were made at the federal level.

I am a Registered and Certified Dietitian. I have two Masters Degrees. I have an MS in Nutrition and an MBA. Having these two degrees allows me the interesting perspective to see things from both a financial standpoint and a clinical one. In addition to patient care, I think about budget, finances and productivity. By not allowing RDs the ability to write or change diet orders, we lose time, the nurses lose time and most costly, the physician loses time.

Unfortunately, diets don't always get changed. This is not because the physician doesn't agree that it should happen, but because it's not the highest on his or her priority list. It shouldn't be the highest on their priority list. BUT, it's the highest on our priority list. Any delay in changing a diet is ultimately a delay in delivering quality nutrition care to patients.

Prior to taking the National Registration exam, Dietitians are required to have at least a Bachelor's Degree and have completed at least 900 hours of supervised practice through an accredited program. We are the nutrition experts.

The petite elderly lady who drinks Ensure at home and wants it while in a facility, the gentleman who forgot his dentures and needs his meats ground, or the trauma patient who has no appetite and therefore needs his diet liberalized all need diet order changes. The goal in all of these cases is to provide enough nutrition so the patient can heal and get home.

When the physician doesn't know what diet to order or what rate to run the tube feeding at, they consult us. Because physicians are busy, occasionally they make errors and order products we don't have, or they forget to put the diabetic patient on a diabetic diet. When this happens,

the nurse or the kitchen calls us for clarification. Help us cut out the middleman and allow everyone to be more productive.

I stand before you today to ask you to vote for Senate Bill 385 so state code will reflect federal rules and allow physicians to delegate ordering authority for Registered Dietitian Nutritionists. Last year, CMS recognized us as the Nutrition Experts. Patient care is everyone's ultimate goal, and quality nutrition is our number one priority. Senate Bill 385 will allow us to deliver care in a more efficient way while delivering quality nutrition and care.

Thank you for your time and consideration of this bill. I'm happy to answer any questions.

Senate Bill 385 Testimony

10/4/2017

Good Morning members of the Senate Committee on Workforce Development, Military Affairs and Senior Issues. My name is Tracey Elmes and I work as a Clinical Registered Dietitian at St. Mary's Care Center, a 184 bed skilled nursing facility here in Madison serving residents with short term rehab, long term and dementia care needs. I also am a Consultant Registered Dietitian at Skaalen Nursing and Rehabilitation Center in Stoughton. I have over 25 years of experience as a registered dietitian. I completed my undergraduate degree at Miami University in Oxford, Ohio and Dietetic Internship and Master's Degree in Clinical Nutrition at Rush University Medical Center in Chicago. I spent the early part of my career as a critical care/nutrition support dietitian for a level 1 trauma center, Illinois Masonic Medical Center and was an Assistant Professor at Loyola University. Upon relocating to Madison, Wisconsin, I returned to my roots in Geriatrics, as my Master's Thesis involved the nutritional status of persons with Alzheimer's disease.

Last year I was thrilled when CMS included in Mega Rule (Rule 42 CFR) Phase 1 Requirements of Participation: Food and Nutrition 483.60: allowance of physicians to delegate to a registered or licensed dietitian the task of prescribing a resident's diet as allowed by state law. I am equally thrilled to testify before you here today about the importance of Senate Bill 385 to codify state and federal law. As a RDN working in long term care, I would like to share with you the daily impact the delegation of writing therapeutic diets would bring to facilities and residents.

Residents are admitted to my facility from various locations including hospitals, other long term care or rehab facilities and home. These locations may be in Madison or across the country. Other long term care facilities and hospitals may use different terminology or "names" for therapeutic diets. This often leads to time and resources spent clarifying diet orders upon admission or during admission after physician visits. Effective transitions in care are important in maintaining quality of care and improved outcomes. At our facility, we have been able to implement policies and processes to best diminish the impact of therapeutic diet orders that do not match our approved therapeutic diet orders. However, at times, clarification orders are needed and result in a delay of appropriate nutrition care. Most long term care facilities have limited access to physicians and nurse practitioners which lead to this delay. Allowing the RDN, whose education and training best qualifies them, to write these therapeutic diet orders would reduce, if not eliminate this delay. This delay may increase the risk for malnutrition and hospital readmissions.

I would like to share with you a few every day examples of the impact the delay in receiving orders for a therapeutic diet from a physician has on a resident's nutritional care. A resident is admitted to a long term care facility following a colectomy (colon resection). The diet order is Low fiber. A low fiber diet is a temporary diet following this type of surgery. The goal is to slowly reintroduce fiber to the diet, as fiber has numerous benefits to the GI tract and body as a whole. After a week post op, then another several days in a long term care facility, I recommended to remove the low fiber order and add fiber back into the diet. A call was placed to the resident's primary care physician, who called back two days later to ask me to get the order from the surgeon. A call was then placed to the surgery clinic and a nurse from that clinic needed to discuss with the surgeon and a few more days passed to receive the

order. Meanwhile, the resident is preparing to discharge . While an integral part of recovery, advancing the diet was not progressing. It would be optimal to assess the tolerance of advancing this diet while still at the long term facility completing other aspects of rehab.

Another common example involves residents receiving hemodialysis. Poor nutritional status in residents receiving hemodialysis has been linked to increased hospitalizations and morbidity/mortality rates (Hopper 2008). Therapeutic diets are often part of the treatment plan to decrease or increase certain substances in the diet. Examples include an increased protein need and a decreased need for phosphorus. These diets are best assessed and reassessed by the RDN , often using laboratory values. A resident may have a diet order for low phosphorus diet but the resident does not have good protein intake . The resident prefers and directs protein choices such as dairy and peanut butter, which are considered high in phosphorus. The RDN is best equipped to review blood phosphorus levels, and when appropriate, removing the phosphorus restriction from the diet order to allow for the best opportunity for optimal protein intake. A delay in receiving this order is a delay in receiving optimal protein intake.

This bill is simple but important because state code must also allow physicians to delegate ordering authority for RDNs. I hope I have illustrated how this has been issue at my place of employment and needs to be addressed. I whole-heartedly support SB 385 because it will empower RDNs to effectively do our job by providing nutrition therapy and assistance to vulnerable residents of long-term care facilities and nursing homes.

Thank you again for allowing me the chance to testify in support of SB 385. As a dedicated registered dietitian and someone with first-hand experience in the profession, I ask you to support this bill. I'm happy to answer any questions at this time.