
Legal/Legislative Issues

ANT - ANTITRUST LAWS

ANT-001

Physician Antitrust Relief: The Wisconsin Medical Society continues to support and work toward physician antitrust relief at both the state and federal levels. (HOD, 0405)

DHC - DATA (HEALTH CARE)

DHC-001

Confidentiality of Prescription Information: The Wisconsin Medical Society opposes release of patient-specific prescription information (i.e., name, address) to pharmaceutical companies and other commercial interests without patient consent. (HOD, 0408)

DHC-002

Health Care Data Collection by the State of Wisconsin: The Wisconsin Medical Society supports all groups working on data collection that utilize the following principles:

- Framing the questions that need to be asked about the health care system in Wisconsin.
- Defining the data sets that will answer those questions.
- Estimating the cost of furnishing, compiling and analyzing the data sets. (HOD, 0407)

DHC-003

Fairness in Health Care Laws: The Wisconsin Medical Society supports health care laws that are fair and reasonable. (HOD, 0406)

DHC-004

Wisconsin Health Care Collaborative: The Wisconsin Medical Society (Society) endorses the efforts of the Wisconsin Collaborative for Health Care Quality (WCHCQ) and supports the collection and public reporting by medical groups in Wisconsin of data consistent with the Collaborative's measures. The Society will explore ways to support smaller medical groups in collecting a feasible subset of the data elements endorsed by the WCHCQ.

Characteristics of ideal performance measures should include the following:

- The measures must be evidence-based and broadly accepted within the medical community as valid and reliable indicators.

- The measures must have established standards for satisfactory performance assessment.
- There is the ability to collect the measures in a standardized and reliable way across multiple physicians and sites of care.
- The measure is applicable to a group of patients of sufficient size to provide a reliable estimate of physician performance in caring for patients with that condition.
- Factors include differences among patients prior to medical diagnosis and treatment (i.e. case-mix, severity of illness, comorbidity).
- Factors may also include sociodemographic characteristics that influence patient adherence to treatments.
- Data collection is open to all Wisconsin clinicians.
- Data measures include the full spectrum of care (i.e., preventive, acute, chronic, inpatient, outpatient).
- Data are verified by an independent third party. (HOD, 0407)

DIS - DISCRIMINATION

DIS-002

Civil Unions: The Wisconsin Medical Society opposes efforts to bar any civil union other than heterosexual marriage because of the negative health care effects it may have on our gay and lesbian patients and their families and dependent children, such as

- Hospital visitation privileges;
- Bereavement privileges;
- Giving permission for procedures for minor children in those families;
- Insurance coverage for dependent children in these families. (HOD, 0405)

DIS-003

Benefits of Marriage: The Wisconsin Medical Society requests that the Society's American Medical Association delegation request that AMA evaluate existing data concerning same-sex couples and their dependent children and determine whether there is evidence of health care disparities for these couples and children because of their exclusion from civil marriage. (HOD, 0408)

DPS-DATA (PHYSICIAN SPECIFIC)

DPS-001

Data Collection Law: The Wisconsin Medical Society (Society) will study and act on all appropriate and reasonable means (legislative, legal and educational) to

- Maintain the patient privacy and confidentiality protections written into the data collection law as a result of Society advocacy on behalf of patients and physicians.
- Eliminate the assessment on physicians to fund the out-patient data collection program.
- Support funding the program with general purpose revenue in lieu of health care professional assessments.

- Closely monitor the implementation of this law to ensure that there is appropriate physician involvement and physician input/comment in determining the usefulness of the information collected and how the information will be used.
- Ensure that the law be implemented in a manner that is not administratively burdensome or that does not result in increased costs to patients and physicians.
- Advocate for patients by developing a patient education pamphlet explaining the implementation of the Data Collection Law and its possible consequences. (HOD, 0408)

DPS-002

Resident Assessment Regarding Data Collection: The Wisconsin Medical Society will develop and work to pass legislation to waive the physician assessment fee of Wisconsin Act 231 of 1998 for physicians in training. (HOD, 0408)

DPS-004

Release of Licensure Examination Scores: The Wisconsin Medical Society supports the development of model legislation that would provide for the confidentiality of the results of the medical licensing examination including numerical scores and subtest results. (HOD, 0496) amended (HOD, 0405)

DPS-006

Bureau of Health Information (BHI) Final Rules on Physician Reporting: The Wisconsin Medical Society supports the following changes in the BHI Phase 5 Rules:

1. The penalty for failure to submit the required information should be reduced from up to \$100 per day to up to \$10 per day.
2. Charge data should not be collected from individual physician offices, but from other sources such as insurers.
3. Notification of individual physicians to report data should be by registered mail. (HOD, 0405)

DPS-007

Collection and Publication of Physician Data by the Bureau of Health Information (BHI): The Wisconsin Medical Society

- Does not oppose the collection and publication of data on physician qualifications and credentials that is already publicly available.
- Strongly opposes collection of charge data from physicians' offices and supports the collection of data from insurance companies as the best and most appropriate source.
- Continues to express its ardent opposition to physician assessments as the funding source for BHI's data collection on physicians. (HOD, 0408)

DRU-DRUGS, REGULATION AND STANDARDIZATION

DRU-001

Guiding Principles on Prescription Drugs: The Wisconsin Medical Society (Society) supports the following policy on prescription drugs:

The Wisconsin Medical Society supports appropriate legislative or regulatory programs that will ensure, to the greatest extent possible, the availability and affordability of prescription drugs for all Wisconsin patients. The following elements should be included in any legislation or regulation:

- The primary focus should be the best interest of patients.
- Allowance for the most efficacious and cost-effective treatment for patients, providing for reasonable formularies with a medically appropriate range of treatment options.
- Patients' needs and ability to pay must be taken into consideration.
- Dealing effectively with the recent sharp escalation in the cost of prescription drugs, which is disproportionately increasing relative to overall cost increases in the health care system.

The Society supports continuing physician education on clinically appropriate, cost-effective prescribing in order to enhance patient access to prescription drugs.

The Task Force on Prescription Drugs will continue to meet in order to evaluate government and private sector solutions to excessive drug costs on the state and national level.

State level solutions could include

- State-funded programs to provide assistance to low income Wisconsin citizens to purchase prescription medications, with potential support from the Wisconsin tobacco settlement dollars.
- Physician and patient education programs on the use of generics.
- Purchasing pools for volume purchasers.
- Medicaid waivers (i.e., State of Vermont pilot).
- Pharmaceutical rebate and discount programs.

Federal level solutions could include

- A Medicare prescription drug benefit.
- Changing the re-importation laws for pharmaceuticals.
- Changing federal price and competition regulations.
- Restriction of direct-to-consumer marketing.
- Other options included in the American Medical Association Council on Medical Service report on Pharmaceutical Spending in the U.S. (BOD, 0301)†

DRU-002

Delays in Approving Medication for Patients: The Wisconsin Medical Society supports a policy requiring managed care organizations to provisionally approve a five-day supply of non-formulary medications, or, alternatively, have an individual available at all hours to review and approve requests for authorization of non-formulary prescriptions. (HOD, 0301)†

DRU-003

Physician Leadership on National Drug Policy: The Wisconsin Medical Society supports that the United States drug policy places a greater emphasis on medical and public health

†Currently under review.

approaches rather than on the criminal justice system and interdiction to reduce illegal drug use. (HOD, 0406)

DRU-005

Use of Opioids for the Treatment of Chronic Pain: The Wisconsin Medical Society supports these five main principles on the use of opioids for the treatment of chronic pain:

1. The management of pain is becoming a higher priority in Wisconsin.
2. Pain is often managed inadequately, despite the ready availability of safe and effective treatments.
3. Current information and experience suggest that many commonly held assumptions need modification.
4. Accepted principles of practice for the prescribing of opioids are needed.
5. Physicians who follow principles of practice for the use of opioids, and patients whom they treat, should not be encumbered by inappropriate scrutiny upon their practice. (HOD, 0406)

DRU-009

Advertising Prescription Drugs: The Wisconsin Medical Society supports the physician-patient relationship as the most appropriate venue for determining the use of prescription drugs and devices and recognizes and supports efforts to control Direct to Consumer Advertising of prescription drugs. (HOD, 0405)

DRU-010

Increased Standards For Pharmaceutical Approval: The Wisconsin Medical Society supports increased standards for FDA approval of new pharmaceuticals, requiring clinical trials that demonstrate the effectiveness and safety of these drugs in comparison to standard therapy, active controls and placebos. (HOD, 0405)

DRU-011

Direct-To-Consumer Advertising: The Wisconsin Medical Society supports efforts to control Direct to Consumer Advertising of prescription drugs and American Medical Association actions to strengthen federal efforts to more effectively regulate such advertising. (HOD, 0405)

GAM-GAMBLING

GAM-001

Internet Gambling: The Wisconsin Medical Society believes that Internet gambling should be prohibited in Wisconsin and supports Wisconsin legislation prohibiting it. (HOD, 0405)

GAM-002

Oppose Expansion of Casino Gambling in Wisconsin: The Wisconsin Medical Society opposes the expansion of casino gaming in Wisconsin and supports a moratorium on additional casinos due to the dangers of gambling addiction and the cost to society. (HOD, 0404)

IMP-IMPAIRED PHYSICIANS

IMP-001

Procedures for Assistance in Resolving Impairment Situations: The Wisconsin Medical

Society maintains the Statewide Physician Health Program (SPHP), which provides compassionate assistance to physicians suffering from any condition that may progress to impairment. These conditions include chemical dependency, psychiatric illness, senility, behavioral disorders and physical impairment. SPHP conducts physician interventions, provides referrals for appropriate evaluation/treatment, and offers counsel to Wisconsin physician groups and hospitals regarding local problems. (HOD, 0405)

IMP-002

Reporting Impaired, Incompetent or Unethical Colleagues: The Wisconsin Medical Society believes it is imperative that physicians continue their long history of assisting authorities by reporting impaired, incompetent and unethical colleagues. Physicians should make such reports to the appropriate entity or entities, which may be one or more of the following: Medical Examining Board, Statewide Physician Health Program, law enforcement authorities, hospital peer review committees, management staff of the facility or organization.

While such reporting is important, it is also important to keep in mind that allegations are very different from findings of fact.

Physicians should support:

- Observation of the principles of due process during disciplinary hearings or other procedures involving physician participants at all levels;
- Maintaining the confidentiality of the reporting physician, to the extent possible within the constraints of the law, by entities engaged in review of physician behavior; and
- Laws that provide immunity to those who report impaired, incompetent or unethical conduct.

The medical profession should make known its commitment to protect the public from incompetent, impaired or unethical physicians by better communicating its efforts and initiatives at maintaining high ethical standards and quality assurance. (HOD, 0407)

LIA-LIABILITY AND MALPRACTICE ISSUES

LIA-001

Reviewer's Responsibility: The Wisconsin Medical Society believes that whenever a patient's care or medication is reviewed and denial of payment for treatment or approval of a prescribed medication is made, the reviewer's name, title, final decision and rationale for the decision should be documented. The patient and the patient's physician should be notified in writing and the right to appeal the decision should be preserved. (HOD, 0406)

LIA-002

Medical Liability Insurance Coverage and Telemedicine: The Wisconsin Medical Society believes:

1. An out-of-state physician practicing telemedicine over state lines into Wisconsin should be required to carry primary medical liability insurance of \$1,000,000/\$3,000,000 with a company licensed to do business in Wisconsin.
2. An out-of-state physician, whose principal place of practice is not Wisconsin, practicing telemedicine over states lines into Wisconsin, should also be required to carry PCF coverage. The PCF should determine the appropriate assessment and exemptions.

3. The Medical Examining Board should seek proof of medical liability insurance coverage during the licensure application process for telemedicine practitioners. (HOD, 0406)

LIA-004

Wrongful Birth: The Wisconsin Medical Society supports legislation that would prohibit action or suits against a physician based on the claim that, but for the act or omission of the physician, a person would not have been born alive but would have been aborted. (HOD, 0405)

LIA-005

Reporting of Low Level Settlements: The Wisconsin Medical Society will support legislation to exempt settlements of less than \$30,000 from being reported to the Medical Examining Board. (HOD, 0405)

LIA-007

Medical Liability in a Managed Care Environment: The Wisconsin Medical Society supports legislation to prohibit managed care entities from inserting language in their contracts with physicians that hold the managed care organization harmless if harm befalls a patient as a result of the acts or omissions of the managed care organization. (HOD, 0405)

LIA-008

Access to Medical Malpractice Database: The Wisconsin Medical Society supports omitting specific provider identification from medical malpractice data on closed claims released to designated parties in the appropriate specialty society or regulatory body. (HOD, 0406)

LIA-011

Reporting Malpractice Settlements to the National Practitioner Data Bank: The Wisconsin Medical Society supports the position that only malpractice settlements by insurance carriers in excess of \$30,000 be required to be reported to the National Practitioner Data Bank and the State Licensing Boards. (HOD, 0406)

LIA-012

Improvements to the Medical Professional Liability System: The Wisconsin Medical Society continues to support efforts to develop improvements to the current medical professional liability insurance system. (HOD, 0404)

LIA-013

Immunity From Medical Malpractice Actions for Charitable and Civic Work: The Wisconsin Medical Society supports development of legislation that would provide immunity from medical malpractice actions for all physicians who volunteer to help at charitable clinics and programs, and those who are involved in legitimate medical and public health work for state, county and local civic purposes. (HOD, 0403)*

LIA-014

Changes in Effectiveness of Medical Mediation Panels: The Wisconsin Medical Society supports an effective mediation panel system. (HOD, 0408)

*Currently under five-year policy review.

LIA-015

Legislative Priorities for Medical Liability Reform: The Wisconsin Medical Society recognizes the following priorities for medical liability reform:

- Alternative approaches to birth-related injuries.
- Broader financing mechanisms.
- Reduction of physicians' liability exposure.
- Changes to the claims handling process.
- Reform of the current tort system. (BOD, 0301)†

LIA-017

Risk Management Courses: The Wisconsin Medical Society supports the continuation and the development of courses of instruction and other resources on medical professional liability risk management by PIC-Wisconsin and other medical liability insurance companies. (HOD, 0406)

LIA-019

Application of Liability Limits for State-Employed Physicians to all Physicians: The Wisconsin Medical Society supports applying the elements of the state system of liability coverage and statute of limitations presently in effect for state-employed physicians to all Wisconsin physicians. These parameters have been shown to contain overall malpractice costs while providing adequate protection for patients. The Society proposes they be the models for changes in the private sector liability system. (HOD, 0406)

LIA-020

Settlement of Frivolous Suits: The Wisconsin Medical Society believes that medical liability insurance companies should

- Not settle malpractice actions against physicians for reasons of fiscal expedience.
- Aggressively pursue appropriate legal counteractions against those plaintiffs and/or their attorneys who commence, use or continue frivolous actions. (HOD, 0405)

LIA-021

Expert Testimony in Medical Liability Actions: The Wisconsin Medical Society urges all physicians to make themselves available to review medical liability claims and, when appropriate, testify in liability actions. (HOD, 0405)

LIA-022

Mediation of Medical Liability Claims: The Wisconsin Medical Society supports mandatory pre-trial mediation to reduce the number of frivolous medical liability lawsuits. (HOD, 0406)

LIA-023

End-of-Life Drug and Pain Treatment: The Wisconsin Medical Society opposes legal actions against physicians who prescribe opiates and other controlled substances to patients with terminal illness according to standard medical practice. (HOD, 0408)

†Currently under review.

LIA-024

Physician Support Program: The Wisconsin Medical Society supports

- The Physician Support Program, developed to address concerns physicians may have about psychological pressures emanating from malpractice claims.
- Publicizing the availability of the program to the membership on a regular basis.
- Making the program available to physicians who are threatened with malpractice suits as well as those who have been formally named in a suit. (HOD, 0404)

LIA-025

Pap Smear Screening: The Wisconsin Medical Society supports the following guidelines for review of pap smears in the context of potential litigation:

The pap smear is the most effective cancer screening test in medical history and has been associated with a significant decrease in the death rate due to a prevalent cancer in the United States. If the pap smear is to continue as an effective cancer screening procedure, it must remain widely accessible and reasonably priced for all women, including those with low incomes and those at high risk.

It must be recognized that the pap smear is a screening test that involves subjective interpretation by screening cytologists of the 50,000-100,000 cells that are present on a typical pap smear. Even the best laboratories have an irreducible false negative rate. Although rescreening can reduce this rate, zero-error performance can never be attained as the result of many factors, but particularly due to both the subjectivity involved in making diagnostic determinations in many difficult cases and because of inherent imprecision in the process of specimen collection.

The finding of a false negative pap smear is not necessarily evidence of practice below the standard of care. Whether a false negative smear is the result of negligence must be judged not only on the basis of the individual result, but also in context of overall laboratory performance on pap smears.

The diagnosis, atypical cells of undetermined significance, represents a poorly defined entity with poor inter- and intra-observer reproducibility. Therefore, disputed case of atypical cells of undetermined significance are not likely to represent reasonable groups of allegations of practice below the standard of care.

Pap smear slides assessed for possible litigation should be reviewed without knowledge of clinical outcome. This review should simulate the normal screening situation as closely as possible. This may be accomplished as a screening process including the contested case as one of a number of pap smears representing a variety of disease states. Review with knowledge of subsequent development of carcinoma biases the objectivity of the review and does not reflect standard practice.

A court reviewing the qualifications proffered by physician-witnesses should consider or utilize these prerequisite criteria:

- The physician maintains a current and unrestricted license to practice medicine in his/her state of practice.

- The physician is certified by the appropriate ABMS specialty or subspecialty board.

The standard of care should be that of the reasonable and prudent practitioner. Courts should recognize that a false negative result is not sufficient proof of negligence. Rather, they should look to whether overall pap smear practices of the laboratory meet the standard of care.

Compensation of the physician-witness should reasonably reflect the time and effort expended by the witness in preparation, depositions and trial. Compensation of a physician-witness contingent on the outcome introduces the possibility of bias and should not be permitted. (HOD, 0404)

LIA-026

Resident Malpractice Issues: The Wisconsin Medical Society supports that the monetary cap for non-economic damage claims for medical malpractice and that the Injured Patients and Families Compensation Fund also apply to unlicensed medical residents involved in an ACGME accredited training programs. (HOD, 0405)

LIA-027

Physician Protection Regarding Admission of Fault: The Wisconsin Medical Society supports legislation providing legal protection to physicians regarding statements of apology, sympathy, and fault made to patients and their families during discussions of unanticipated adverse outcomes, whether or not due to medical error. (HOD, 0405)

LIA-028

Extension of Malpractice Exemption for Charity Care: The Wisconsin Medical Society supports providing malpractice immunity for all prearranged charity care, regardless of where the pro bono services are provided. (HOD, 0406)

LIA-029

Enactment of Reasonable Contingency Fee Limits in Malpractice Actions: The Wisconsin Medical Society supports reasonable limits on attorney fees in medical liability actions utilizing strict sliding fee scales, as already enacted in some other states, in order to ensure that injured patients receive the greatest amount possible of their medical liability settlements. Provisions within the sliding fee scales would not allow for either the court nor the client to pay the attorneys more than the scale directs. (HOD, 0406)

LIA-030

Primary Legislative Priority of the Wisconsin Medical Society: The Wisconsin Medical Society affirms that medical liability reform should remain a legislative priority. (HOD, 0406)

PTE-PROPERTY TAX EXEMPTIONS

PTE-001

Tax-Exempt Status: The Wisconsin Medical Society believes that the tax exempt status afforded various organizations be limited to what was originally intended and also provides that if tax exempt organizations expand and diversify into businesses that are not normally tax exempt, that they be subject to the same taxation, regulation and rules that govern other competitive businesses. (HOD, 0408)

SCO-SCOPE OF PRACTICE

SCO-001

Scope of Practice: The Wisconsin Medical Society (Society) believes that health care professionals should work as partners in health care within the limitations of each profession's legal scope of practice. The Society also recognizes that the practice of medicine and other health care professions are dynamic disciplines. Enhancements in technology, advances in science, improvements in education and training and changes in health care delivery may necessitate changes in the scopes of practice for non-physician health care professions. In evaluating whether a change or expansion in a non-physician health care profession's scope of practice is necessary and appropriate, the Society will, at a minimum, evaluate answers to the following questions:

1. Are members of the profession appropriately educated, trained and experienced in the actions, treatments, responsibilities or procedures for which authority is sought to ensure that if the profession's scope is changed as proposed the care patients receive :
 - a. Is competent and of high quality.
 - b. Adheres to accepted or reasonable standards of patient safety.
2. Has a genuine patient-care need been identified sufficiently to justify the degree of changes requested to the profession's scope of practice?
3. Are corresponding changes to the profession's liability insurance requirements necessary to ensure that patients may be adequately compensated in situations of professional malpractice?
4. Will the changes proposed have a negative impact on the cost of or access to health care?
5. Are the proposed changes unambiguous so that
 - a. Patients may easily understand the limits of the profession's legal authority and practice.
 - b. Members of the profession may not expand the scope of professional practice without appropriate legislative action.

When these criteria are met, the Society will work to ensure that proposed changes to non-physician health care professional practice acts and regulations accomplish their stated intentions, and if they do, the Society will not oppose such changes. (HOD, 0302)†

SCO-002

Regulation of Telemedicine: The Wisconsin Medical Society (Society) supports the following principles governing the regulation of telemedicine:

1. In order to protect the quality of the health care provided to Wisconsin residents and to provide for adequate redress of negligence claims, the practice of telemedicine should be regulated by the state of Wisconsin. In order for a physician to practice telemedicine into Wisconsin, that physician should be required to first secure a full license to practice medicine and surgery in Wisconsin.
2. For the purposes of licensure to practice telemedicine in this state, and except as specified below, telemedicine shall be defined as follows.

†Currently under review.

Telemedicine is the practice of medicine between a physician who is located outside of this state and a patient within this state. Telemedicine includes either the rendering of a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient, or the treatment of that patient by that physician. It does not matter by what means, electronic or otherwise, the physician communicates or obtains information about the patient or renders opinions or treatment.

3. For the purposes of licensure to practice medicine in Wisconsin, telemedicine does not include the following:
 - a. A physician who engages in the practice of medicine across state lines in an emergency.
 - b. Occasional consultation or demonstration by electronic or other means by licensed physicians of other jurisdictions with licensed physicians of this state unless there exists an ongoing, regular, or contractual arrangement for providing these consultations or opinions.
 - c. The practice of medicine between a physician and patient that occurs via electronic means across state lines that is a minor component of an ongoing physician-patient relationship between that physician and that patient that routinely occurs in the state in which that physician is located.
 - d. A physician in another state who, as an employee or agent of a corporation, provides occupational consultative services, excluding services provided within a physician/patient relationship, involving the employees of that corporation in this state.
 - e. The acts of medical specialists located in other jurisdictions who provide episodic consultations to physicians located in this state who practice in the same specialty.

It is the Society's position that it is in the best interest of the patient that, in any telemedical physician-patient relationship, a physician licensed in Wisconsin should retain control and remain responsible for the provision of care for the patient. (BOD, 0407)

SCO-003

Licensing of Hyperbaric Chambers in Wisconsin: The Wisconsin Medical Society supports establishing licensing requirements and minimal regulations for the operation and maintenance of hyperbaric chambers within the state. (HOD, 0406)

SCO-005

Approach to Specific Clinical Situation: The Wisconsin Medical Society generally opposes any legislation that would either prescribe or proscribe a particular medical or surgical approach to any specific clinical situation. (HOD, 0405)

SCO-007

Statutory Dependent Prescribing Authority for Physician Assistants: The Wisconsin Medical Society (Society) supports legislative initiatives that support statutory dependent prescribing authority for physician assistants, but opposes any effort on the part of the Wisconsin Academy of Physician Assistants to become independent. (HOD, 0408)

SCO-010

Scope of Practice for Physician Assistants and Nurse Practitioners: The report of the

American Medical Association (AMA) Board of Trustees on physician assistants and nurse practitioners, as amended and adopted at the 1995 Annual Meeting of the AMA House of Delegates, was accepted as Wisconsin Medical Society policy. The report offered the following guidelines for the roles and responsibilities of physician assistants and nurse practitioners:

Model Guidelines for Physician/Nurse Practitioner Integrated Practice

The physician is responsible for the supervision of nurse practitioners and other advanced practice nurses in all settings. While the Wisconsin nurse practice act and administrative rules provide for “the execution of procedures and techniques in the treatment of the sick under the general or special supervision of a physician” (Wis. Stat. sec. 441.114.), advanced practice nurses and nurse practitioners who have qualified for and received a certificate to prescribe can prescribe on an independent basis. This may affect the physician’s responsibility for the supervision of nurse practitioners in all practice settings.

The physician is responsible for managing the health care of patients in all practice settings.

Independent prescribing authority for advanced practice nurses may affect the physician’s responsibility for managing the health care of patients in all practice settings. Advanced practice nurses, including nurse practitioners, with independent prescribing authority are required to collaborate with at least one physician, but the administrative rules with regard to prescribing loosely define collaboration and the definition does not require physician supervision of the advanced practice nurse with prescribing authority.

Health care services delivered in an integrated practice must be within the scope of each practitioner’s professional license, as defined by state law.

In an integrated practice with a nurse practitioner, the physician is responsible for supervising and coordinating care and, with the appropriate input of the nurse practitioner, ensuring the quality of health care provided to patients.

Independent prescribing authority for advanced practice nurses may affect the physician’s responsibility for supervising and coordinating care. Advanced practice nurses, including nurse practitioners, with independent prescribing authority are required to collaborate with at least one physician, but the administrative rules with regard to prescribing loosely define collaboration and the definition does not require physician supervision of the advanced practice nurse with prescribing authority.

The extent of involvement by the nurse practitioner in initial assessment, and implementation of treatment will depend on the complexity and acuity of the patients’ condition as determined by the supervising/collaborating physician.

The role of the nurse practitioner in the delivery of care in an integrated practice should be defined through mutually agreed upon written practice protocols, job descriptions, and written contracts.

These practice protocols should delineate the appropriate involvement of the two professionals in the care of patients, based on the complexity and acuity of the patients’ condition.

At least one physician in the integrated practice must be immediately available at all times for supervision and consultation when needed by the nurse practitioner.

Patients are to be made clearly aware at all times whether they are being cared for by a physician or a nurse practitioner.

In an integrated practice, there should be a professional and courteous relationship between physician and nurse practitioner, with mutual acknowledgment of, and respect for each other's contributions to patient care.

Physicians and nurse practitioners should review and document, on a regular basis, the care of all patients with whom the nurse practitioner is involved. Physicians and nurse practitioners must work closely enough together to become fully conversant with each other's practice patterns.

Suggested Guidelines for Physician/Physician Assistant Practice

The physician is responsible for managing the health care of all patients in all settings.

Health care services delivered by physicians and physician assistants must be within the scope of each practitioner's authorized practice as defined by state law.

The physician is ultimately responsible for coordinating and managing the care of patients, and with the appropriate input of the physician assistant, ensuring the quality of health care provided to patients.

The physician is responsible for the supervision of the physician assistant in all settings.

The role of the physician assistant in the delivery of care should be defined through mutually agreed upon guidelines that are developed by the physician and the physician assistant and based on the physician's delegatory style.

The physician must be available for consultation with the physician assistant at all times either in person or through telecommunication systems or other means.

The extent of the involvement by the physician assistant in the assessment and implementation of treatment will depend on the complexity and acuity of the patient's condition and the training and experience and preparation of the physician assistant, as adjudged by the physician.

Patients should be made clearly aware at all times whether they are being cared for by a physician or a physician assistant.

The physician and physician assistant together should review all delegated patient services on a regular basis, as well as the mutually agreed upon guidelines for practice.

The physician is responsible for clarifying and familiarizing the physician assistant with his/her supervising methods and style of delegating patient care. (HOD, 0405)

SCO-012

Mandating Insurance Coverage for Acupuncture Treatment: The Wisconsin Medical Society opposes mandating insurance coverage for the diagnosis and treatment of a condition by an acupuncturist. (HOD, 0406)

SCO-014

Laser Surgery: The Wisconsin Medical Society believes that laser surgery should be performed only by individuals licensed to practice medicine and surgery, or by those categories of

practitioners currently licensed by the state to perform surgical services. (HOD, 0406)

SCO-015

Electrodiagnostic Medicine: The Wisconsin Medical Society affirms that performing needle electromyography is the practice of medicine, and work to discourage other non-physician health care professionals from expanding their scope of practice to include performing needle electromyography.

The Wisconsin Medical Society works to discourage physicians from interpreting needle electromyographic studies that they did not actually perform, through methods including CPT coding modifiers to create a distinction between needle EMGs performed by a physician and those performed by another provider, even if later interpreted by a physician, and discouraging reimbursement for needle electromyography that was not actually performed by a physician. (HOD, 0406)

TOR-TORT REFORM

TOR-001

Legislative Action in IPFCF Changes: The Wisconsin Medical Society supports the following positions in regard to the Injured Patients and Family Compensation Fund (IPFCF):

- Only named fund participants are responsible for the base insurance awards in IPFCF settlements of a case;
- Participation in the IPFCF should be mandatory;
- Rate relativity changes which have been determined to be actuarially justified over a period of at least two consecutive years by the consulting actuary and by the IPFCF Board of Governors. (HOD, 0406)

TOR-005

Malpractice Reform: The Wisconsin Medical Society supports the following principles in regard to medical malpractice:

- A reasonable cap on non-economic damages;
- Educating the public of the added cost to health care imposed by medical malpractice costs;
- Maintain the concept of comparative negligence, but replace joint and several liability with a determination of the defendant's obligation to pay based on the proportion of damages his or her negligence is found to bear to the actual injury, not on ability to pay as a 'deep pocket' defendant;
- The elimination of punitive damages except in cases of intentional torts;
- The prohibition of double recovery in compensation for an injury;
- The court in which a civil tort action is conducted shall review and approve the amount of every contingency fee paid as being reasonable to the circumstances;
- Maintaining the IPFCF threshold at a reasonable level;
- Supporting loss prevention measures;
- Support the requirement that claimant attorneys must file certificates of merit;
- Support the establishment of uniform and reasonable statute of limitations,
- Support prohibiting indemnitors from settling claims without the consent of

the insured. (HOD 0407)

TOR-006

Wisconsin Injured Patients and Families Compensation Fund (IPFCF): The Wisconsin Medical Society believes in maintaining the existing basic structure of the IPFCF but also has the following recommendations:

1. Tort reform is a key system modification essential to stabilize medical liability premiums and awards and should be strongly supported. Specifically, a cap on non-economic damages, a statute of limitations shortened to two years and a system of periodic payments should be supported. In addition, the IPFCF Board should re-evaluate the value and acceptability of some form of panel system for resolution of disputes.
2. The IPFCF Board should evaluate inequities and inconsistencies in Fund cost and access to Fund coverage. Specifically, the Board should examine the following areas from a fairness, a social impact and an actuarial perspective:
 - a. The availability and cost of Fund coverage to part time and temporary practitioners.
 - b. The discount provided to certain classes of health care professional (example: Medical College of Wisconsin physicians).
 - c. The applicability of mandatory Fund coverage to currently ineligible classes of health care professionals.
 - d. The availability and cost of Fund coverage for governmental entities or their employees.
 - e. The justification for the number of fee categories.
 - f. The availability and cost of Fund coverage for those health care professionals covered by Fund corporate coverage but who are not individually assessed.
 - g. Coverage of non-physician health care professionals by the Fund.
3. The IPFCF Board should evaluate the benefits and adverse implications of making changes to the current fund structure, specifically
 - a. Change in primary coverage level.
 - b. Caps on Fund coverage.
4. The IPFCF Board should seek regular participant input about the administrative effectiveness and responsiveness of the Fund, including its relationship with other insurers.
5. Sufficient financial and support resources should be provided to enable the Fund to meet and anticipate its needs and expectations including participants and recipients. (HOD, 0403)*

TOR-012

IPFCF: The Wisconsin Medical Society supports the idea that the Injured Patients and Families Compensation Fund, including any net worth of the Fund, is held in irrevocable trust for the sole benefit of patients and families who are proper claimants of the Fund and physicians and other health care professionals participating in the Fund.

Moneys collected for the Fund should not be used for any other purpose of the state. The Fund is established to curb the rising costs of health care by financing part of the liability incurred by physicians and other health care professionals as a result of medical malpractice

*Currently under five-year policy review.

claims and to ensure that proper claims are satisfied.

The Society opposes any action or legislation, which threatens to destabilize the medical malpractice climate in the State of Wisconsin, as that climate currently benefits our citizens' access to medical care. (HOD, 0405)