



Wisconsin Medical Society

Your Doctor. Your Health.

TO: Members, Assembly Committee on Health and Healthcare Reform
Representative Leah Vukmir, Chairperson

FROM: Mark Grapentine, JD – Senior Vice President, Government Relations
Jeremy Levin – Government Relations Specialist

DATE: November 20, 2007

RE: Opposition to Assembly Bill 497 - Advanced Practice Nurse Expansion Act

On behalf of the more than 11,000 members of the Wisconsin Medical Society, thank you for this opportunity to testify on Assembly Bill 497, which includes a provision allowing certified advanced practice nurse prescribers (APNPs) to diagnose an illness or injury.

The Society's opposition lies with Section 5 of the bill, which would create a new element of an APNP's scope of practice: the ability to make a general diagnosis of a veteran's injury or illness. While this legislation is well-intentioned in its goal to help alleviate a health care provider shortage, the Society does not believe that our current shortage necessitates legislation that allows for APNPs to exceed their current scope of practice limits, as determined by the Board of Nursing, by expanding to allow for the "diagnosis" of a physical or mental health problem. AB 497 could be interpreted to grant APNPs authority to perform a medical diagnosis, which state statutes and various administrative code provisions place squarely in the physicians' realm.

Section 5 of the bill defines how a "health care provider" may determine an "illness" or "injury" of a physical or mental health problem through making a diagnosis. This portion of the bill relates to Department of Veteran Affairs (DVA) assistance programs. As is stated in the Legislative Reference Bureau's analysis, "By rule, DVA has defined an illness or injury as a physical or mental health problem that is diagnosed by a physician, dentist, optometrist, or audiologist." The bill seeks to expand the ability to diagnose to APNPs. It is worthwhile to note that this assistance program offers veterans a health care aid or a subsistence aid. Under Administrative Code VA 2.01 (1)(L) "Health care" means dental care, dentures, hearing care, and vision care."

State statutes very carefully manage which health care professional can make which kind of diagnosis. For example, the Medical Practices Act – chapter 448 of the statutes – defines the "Practice of medicine and surgery" as:

- (a) To examine into the fact, condition or cause of human health or disease, or to treat, operate, prescribe or advise for the same, by means of any means or instrumentality.
- (b) To apply principles or techniques of medical sciences in the diagnosis or prevention of any conditions described in par. (a)...

In comparison, the enabling nursing statutes – contained in ch. 441 – do not contain such broad discretion, and clearly state that any medical acts can be provided only upon a physician’s delegation (and then only when there are protocols or written or verbal orders – see N 6.03(2)(a)). The Nursing administrative code – specifically N 6.02(8) – also has a special definition for “Nursing diagnosis”:

“Nursing diagnosis” means a judgment made by an R.N. following a nursing assessment of a patient’s actual or potential health needs for the purpose of establishing a nursing care plan.

Other references to diagnoses in the statutes contain similar specific titles (i.e. “chiropractic diagnosis” in s. 460.01(4)) or limiting language (s. 448.50(1r), definition of “diagnosis” for physician therapists specifically excludes “medical diagnosis”).

APNPs have additional opportunities to provide additional patient care, as detailed in N 8 of the Administrative Code, but not to provide a general medical diagnosis. This follows the state’s general stance for non-physician practices; by rule, an APNP must limit his or her practice to certain actions and to areas of his or her competence, as established by education, training or experience (Admin. Code N 8.06 and N 8.10). Nowhere in statutes or administrative code is an APNP allowed to make the type of medical diagnosis that section 5 can be interpreted to create.

The Society believes the bill’s good intentions in this area could be better accomplished through rule changes to VA 2, which is the model for AB 497’s section 5. Rather than create new stand-alone statutory language that could result in unintended consequences, we suggest exploring administrative code changes to integrate the potential for APNP expertise into efforts to assist needy veterans.

Thank you again for the opportunity to provide this testimony. If you have any further questions or need additional information, please feel free to contact Mark Grapentine at markg@wismed.org or Jeremy Levin at jeremyl@wismed.org. Both can be reached at (608) 442.3800.