

2017–2018 Legislative Biennium Advocacy Summary

State and federal policymakers often look to the Wisconsin Medical Society as a trusted source for health policy information and inspiration. As the state's largest organization of physicians, the Society's policy stances are rooted in facts and data rather than political ideology. The breadth of the Society's advocacy manifests itself in the actions of all three branches of government, helping to shape legislation, administrative rules and judicial opinions.

STATE LEGISLATION

The 2017-2018 State Biennial Session saw more 2,000 bills introduced, with 367 becoming law. The Society examines every bill introduced to determine its potential effects on Wisconsin physicians and their patients.

Society-Supported Bills That Became Law

Heroin, Opiate Prevention and Education (HOPE) Agenda laws: January 2017 Special Session

- *January Special Session Assembly Bill 1 (Act 29)* – Allows properly trained school personnel to administer an opioid antagonist if someone on school grounds is overdosing. Also applies to residence hall directors at University of Wisconsin (UW) System schools, technical colleges and private colleges.
- *January Special Session Assembly Bill 2 (Act 32)* – Adds funding for the State Department of Justice's Treatment and Diversion (TAD) grants for counties offering alternatives to incarceration for certain drug-related crimes.
- *January Special Session Assembly Bill 3 (Act 33)* – Expands the Good Samaritan/911 call immunity law to include limited prosecution immunity for the person overdosing.
- *January Special Session Assembly Bill 4 (Act 25)* – Requires a prescription for purchasing certain Schedule V controlled substances, such as codeine cough syrups.
- *January Special Session Assembly Bill 5 (Act 34)* – Extends the state's involuntary commitment law for intoxicated persons determined to be a danger to themselves/others to include those with drug dependence.
- *January Special Session Assembly Bill 6 (Act 30)* – Creates a recovery charter high school pilot for up to 15 students, providing a setting where high school-aged students can receive long-term addiction treatment without needing to leave school grounds.
- *January Special Session Assembly Bill 7 (Act 26)* – Provides funding to expand support for hospital graduate medical training programs to include addiction medicine or addiction psychiatry fellowships.
- *January Special Session Assembly Bill 8 (Act 27)* – Expands the number of regional treatment facilities in rural and underserved, high-need areas from three to five or six.
- *January Special Session Assembly Bill 9 (Act 28)* – Creates an addiction medicine consultation program (modeled after the successful Child Psychiatry Consultation Program), allowing peer-to-peer physician consultation on addiction treatment.
- *January Special Session Assembly Bill 11 (Act 31)* – Enhances student access to trained counselors in schools by providing funding for training and support for school district staff on the Screening, Brief Intervention, and Referral to Treatment (SBIRT) program.



HOPE Agenda: Regular Session

Assembly Bill 907 (Act 262) – One of two additional HOPE Agenda bills that passed later in the biennium, Act 262 focuses on expanding opioid and addiction education and training.

Fentanyl Analogs

(Act 60) Assembly Bill 335 – Wisconsin's Controlled Substances Board (CSB) often plays "catch-up" in scheduling new drugs, as small chemical variations to drugs such as fentanyl can make a substance fall outside of the list of illegal drugs law enforcement relies upon. Society and CSB member Tim Westlake, MD, helped create new state law allowing law enforcement to pursue cases involving fentanyl modification.

Medicaid Coverage Clarification

(Act 119) Assembly Bill 529 – The Society collaborated with various other health care organizations on this bill clarifying that Medicaid covers certain services provided by non-physician members of the health care team. Ensuring that health care practices can be properly reimbursed for the services they provide via laws like this one often don't get much attention, but are essential to prevent difficulties that can arise when dealing with government payors.

"Social Host" – Underage Alcohol

(Act 126) Senate Bill 202 – This law eliminates a loophole highlighted in a Wisconsin Supreme Court decision related to hosting parties where underage drinking occurs. Under that decision (*Nichols v. Progressive Northern Ins. Co.*, [2008 WI 20](#)), the court ruled that the law banning such parties on a "premises" owned or controlled by an adult referred only to a location with an alcohol license. The new law expands the definition to include property where an adult either knowingly permits or fails to act when aware of underage drinking.

Use of Epinephrine Auto-Injectors

(Act 133) Assembly Bill 96 – This law expands who can legally possess and administer an epinephrine auto-injectors (EpiPen) when it is believed someone is experiencing anaphylaxis. The law also provides "Good Samaritan"-type liability protection for those administering the EpiPen to another and the prescriber or pharmacist who makes the injector available.

Enhanced Nurse Licensure Compact

(Act 135) Senate Bill 417 – Under this law, Wisconsin adopted an updated version of the multistate nursing compact. Failure to do so could have made it less attractive for nurses to get licensed in Wisconsin – potentially harming the already-stressed nursing workforce situation.

Lead Service Line Replacements

(Act 137) Senate Bill 48 – Wisconsin still faces areas where lead is a problem in water service lines. This law, the "Leading on Lead Act," creates a process allowing a water utility or a government entity to provide grants, loans or both to a property owner replacing a service line that contains lead.

Wisconsin Healthcare Stability Plan

(Act 138) Senate Bill 770 – The Wisconsin Healthcare Stability Plan (WIHSP) will establish a reinsurance program for individuals receiving coverage through Wisconsin's health insurance exchanges. It is estimated that if approved by the federal government as part of a section 1332 waiver, the plan will decrease premiums paid in 2019 by an average of 10.1 percent.

Transferring a Patient for Emergency Detention

(Act 140) Assembly Bill 538 – This law bars the transfer of a patient from a hospital Emergency Department to another facility for emergency detention unless medical staff determine that the transfer is medically appropriate.

Dextromethorphan Purchase/Sales

(Act 160) Assembly Bill 681 – Aimed at curbing the number of youth who potentially misuse certain cough syrups, this law restricts the sale of medicines containing dextromethorphan to minors without a prescription. The new law matches the Society's policy in this area.

Medicaid Intensive Care Coordination Program

(Act 279) Assembly Bill 871 – This new law incentivizes programs aimed at reducing unnecessary Emergency Department (ED) visits for Medicaid patients. Both Aurora Health Care and Ascension Wisconsin have programs coordinating efforts across their health care teams to provide focused care to Medicaid patients that helps reduce the number of unnecessary trips to the ED for care. The new law

requires the state's Department of Health Services to create a program providing reimbursement to entities accomplishing similar improvements.

Prescription Eyedrops Refills

(Act 305) Assembly Bill 876 — This law requires health plans to authorize early refills of prescription eyedrops, helping to ensure that patients can continue important treatments when they run out of prescribed product. The Society assisted the Wisconsin Academy of Ophthalmology in promoting the bill, which will allow for refills after 75 percent of the prescription's time has elapsed. The new law takes effect in August 2018.

Visiting Team Physician Licensing

(Act 341) Assembly Bill 766 – Sometimes an athletic team physician may not have a license to practice medicine from a state their athletic team is visiting for competition. This creates a situation of possible professional liability risk. The Society and the University of Wisconsin School of Medicine and Public Health partnered on passage of the new law, which creates a limited license exemption for these traveling physicians.

Society-Influenced Bills That Became Law

Many bills become law in a different form than originally introduced following the Society's influence. Sometimes the alterations are simple tweaks to improve the proposal; other times bills are significantly amended to remove concerns.

Prescription Order Extensions

(Act 19) Assembly Bill 125 – This law allows a pharmacist to continue dispensing drugs that are part of a patient's consistent drug therapy program when the prescribing physician isn't immediately available and a refill is needed. The new authority is limited to drugs that are essential to the patient's life or the lack of which would result in undesirable health consequences.

“Right to Try” Experimental Drugs

(Act 165) Senate Bill 84 – The Society opposed the original version of this legislation, which would allow access to investigational drugs outside of federal Food and Drug Administration (FDA) requirements. The Society proposed amending the bill to match action taken on a federal version of the proposal – ensuring patients are incentivized to participate in true clinical

trials and that any data gleaned from “right to try” access are reported to the FDA. The bill eventually was amended per the Society's suggestions before reaching the Governor's desk.

Chiropractic Services (Youth Sports Physicals)

(Act 180) Assembly Bill 260 – The Wisconsin Chiropractic Association proposed omnibus legislation in a variety of areas, including a mandate that schools, technical colleges and University of Wisconsin System two-year colleges accept preparticipation sports physicals conducted by a chiropractor. The Society and a large group of health care organizations opposed that portion of the bill, which eventually was excised in the State Senate before final passage of the remainder of the bill.

Society-Opposed Bills That Did Not Become Law

Worker's Compensation Fee Schedule

Senate Bill 665 (no Assembly bill) – Once again, this session the Worker's Compensation Advisory Council – comprised of representatives from the state's labor and business communities – proposed a fee schedule for worker's compensation health care services. Wisconsin's injured workers receive superb health care, allowing faster return to work and greater patient satisfaction than the national average. Joining forces with hospital, physical therapy and chiropractor organizations, the Society helped defeat the proposal's progress. The bill received a committee hearing but no vote; the Assembly did not introduce a companion bill.

Medical School Funding and Abortion Education for Residents

Assembly Bill 206/Senate Bill 154 – This proposal would have barred any University of Wisconsin (UW) System employee or employee of UW Hospitals and Clinics Authority from performing abortions, providing or receiving training in abortions outside of a hospital, and from performing any services at a private facility where abortions are performed. The Society agreed with the UW that such a law would endanger accreditation of the UW School of Medicine and Public Health's OB/GYN residency training program, and therefore potentially exacerbate the physician shortage in Wisconsin. The Assembly bill did not make it out of committee; the Senate version did not receive a floor vote.

“Right to Carry” Firearms

Assembly Bill 247/Senate Bill 169 – This bill – also known as “Constitutional Carry” – would have eliminated the need to have a concealed carry license in order to legally carry a concealed firearm. Society policy does not support such a proposal. While the Senate version made it through committee on a party-line vote, its Assembly companion did not receive a committee public hearing.

Advanced Practice Nursing Omnibus Bill

Assembly Bill 568/Senate Bill 497 – Much of this proposal involved retitling various advanced nursing professions to match language used in many other states. While that part of the bill was acceptable, one specific element was not: removing the current statutory requirement that certified nurse midwives have a documented collaborative agreement with a physician trained in obstetrics. Discussions the Society had with nursing advocacy organizations about this change did not result in a viable compromise, and the nursing entities chose to not support amending the bill removing the midwife item. Neither bill received a committee hearing.

Pharmacists/Pharmacy Students Administering Vaccines

Assembly Bill 680/Senate Bill 576 – This bill added to the ability of pharmacists and pharmacy students to administer vaccines. While expansion of vaccination availability is undoubtedly positive, the proposal lacked a critical element: a requirement that the pharmacist/pharmacy student ensure that the vaccine administration would be entered in the Wisconsin Immunization Registry (WIR). The Society opposed the bill due to this deficiency. The Assembly bill received a contentious public hearing while the Senate companion never progressed past introduction.

Video Recordings of Surgeries

Assembly Bill 863 (no Senate companion) – This bill would have required facilities performing surgical services involving general anesthesia to offer patients the option of having surgical procedures and discharge instructions videotaped. While videotaping surgical procedures can have educational value, that arrangement often occurs only when all parties agree to the videotaping, not when one side demands it. Only six of 132 state legislators sponsored the bill – a very low number – and the bill never received a committee hearing.

Complementary and Alternative Health Care

Assembly Bill 864/Senate Bill 678 – This bill would have granted complementary and alternative health care (CAHC) practices the status of having their own chapter in the state statutes. While requiring CAHC practitioners to provide clients with certain informed consent disclosures, the proposal would have declared that a CAHC practitioner does not violate prohibitions for engaging in the practice of medicine, pharmacy, etc., unless the practitioner performs a service that is specifically outlawed in the bill. Neither bill received a committee hearing.

Society-Opposed Bill That Passed

Prohibition on Covering Abortion Services

(Act 191) Assembly Bill 128 – This law bars the state of Wisconsin’s Group Insurance Board (GIB) from entering into any health care contract that includes coverage for abortion services. The Society opposed the bill, instead supporting the GIB’s ability to consider all legal medical services when deciding what scope of coverage would best serve its participants. Despite the Society’s opposition and **no registered support** from health care organizations, the bill passed both legislative houses and was signed into law.

Biennial Budget

2017-2019 Biennial State Budget

(Act 59) Assembly Bill 64 – While it passed more than two months after the start of the biennium, the 2017-2019 biennial state budget bill included the following Society-supported elements:

- An additional \$866 million for Medicaid “costs to continue.” The budget overall spends more than \$20 billion on Medicaid over the biennium.
- Doubling funding for the child psychiatry consultation program from \$500,000 to \$1 million per year.
- Changing the state’s birth defects registry program from patient “opt in” to patient “opt out,” which aligns Wisconsin with most states and will foster better data collection and greater availability for federal funding related to birth defects.
- Language clarifying two important aspects of the requirement to review Wisconsin’s Enhanced Prescription Drug Monitoring Program (ePDMP). The budget bill clarified the ability of a practitioner’s agent to perform a required ePDMP information review before a prescription is issued.

Other Bills of Note

The Society will often communicate with public officials and/or their staff on proposals where the Society takes a neutral position, such as the following:

Dense Breast Tissue Notification

(Act 201) Assembly Bill 653 – This law adds on to a federal law requirement related to providing a summary of results to a patient following a mammogram. Under Act 201, the patient is determined to have dense breast tissue, the information to the patient also must include certain information about dense breast tissue. The Society consulted with the Wisconsin Radiological Society, who worked closely with the Assembly author of the bill to help shape the basic language to be used when crafting the required information.

Advisory Council on PANS/PANDAS

(Assembly Bill 638/Senate Bill 535) – This bill required the state's Department of Health Services to create a council to advise DHS on pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections (PANDAS) and pediatric acute-onset neuropsychiatric syndrome (PANS). When originally introduced, this council was tasked with creating practice guidelines for diagnosis and treatment of PANS/PANDAS and creating a network of "volunteer experts" on diagnosis and treatment. The Society objected to these provisions as potential government interference in the practice of medicine; the author amended the bill to remove references to diagnosis and treatment. The bill passed the full State Assembly but failed to get a committee hearing in the State Senate.