TO: Senate Committee on Health and Human Services  
Senator Leah Vukmir, Chair

FROM: Mark Grapentine, JD  
Senior Vice President - Government and Legal Affairs

DATE: April 1, 2015

RE: Opposition to Senate Bill 46 - Intoxicated Co-sleeping

On behalf of more than 12,500 members statewide, the Wisconsin Medical Society thanks the Senate Health and Human Services committee for this opportunity to share our opposition to Senate Bill 46, which criminalizes intoxicated co-sleeping. The Society’s Council on Legislation (COL) discussed last session’s version of this legislation at its December 5, 2014 meeting, recommending that our Board of Directors oppose the bill. The Board approved that recommendation on January 31, 2015. The COL on February 13, 2015 reviewed the updated bill language that became Senate Bill 46, voting to maintain its opposition.

The Society Opposes Interference with the Patient-Physician Relationship

Ideally patients and physicians build a trusting relationship allowing for full and frank conversations about the full variety of health care topics. This relationship is built on trust often developed over many years, where both parties are comfortable sharing information pertinent with each health care visit. Whenever outside entities—including government—attempt to insert themselves into the patient-physician conversation, that vital trust is threatened.

Senate Bill 46 inserts government mandates into expecting patients’ meetings with their physicians. The Society believes the mandates in the bill for physicians to share certain information at certain times unnecessarily intrudes into the patient-physician relationship.

Any sudden unexpected death of an infant is tragic. Harm to an infant due to co-sleeping, intoxicated or otherwise, is avoidable. Physicians join with others in desiring and working toward zero such deaths or injuries every year. The legislation before the committee, while well-intended, creates mandates of questionable efficacy. Pregnant moms, future fathers and their physicians should discuss pregnancy, birthing and post-birth issues on their own terms—not based on an agenda set by a government body.

Physicians often lament that current requirements related to electronic medical records distract from face-to-face interaction with patients. SB 46 exacerbates this problem by not only mandating specific topics of conversation, but requiring a physician to present a form to the patient acknowledging that the forced conversation has occurred. Evidence of the conversation and the presentation of the form must then be entered into the patient’s record. These procedural and administrative mandates add to the health care professional’s burden with no data or evidence to justify them.
Criminalization Effects are Not Known - and May Not be Beneficial Overall

It is unclear how creating a new felony for harm due to intoxicated co-sleeping will prevent these tragic injuries and deaths from happening. While the bill may make it easier for district attorneys to bring criminal charges following harm to a child, we have not yet found data supporting how this alone will reduce the number of children harmed or injured by intoxicated co-sleeping.

Instead, the potential unintended consequences of criminalization could offset any gains from deterrence. Fear of arrest could cause adults to delay summoning medical assistance for a child that has been injured. And if an adult brings an injured child to an urgent care clinic or hospital’s emergency department, that adult may not be fully forthcoming about how the injuries happened, making diagnosis more difficult and potentially delaying needed treatment.

The Society respectfully opposes Senate Bill 46 for the aforementioned reasons. Thank you for considering our opinions. As always, please feel free to contact the Society on this and other proposed health care policy.