AGENDA
9 a.m. Registration and Continental Breakfast
9:30 a.m. Welcome and Introductions—Mark Grapentine, Wisconsin Medical Society Senior Vice President of Government Relations
9:45 a.m. Eric Jensen, Jensen Government Relations, LLC (WSA, WPA, WACEP, WAO) Introduce Rep. Severson
9:50 a.m. Representative Erik Severson, MD
10:05 a.m. Tim Hoven, Hoven Consulting, Inc. Introduce Eric Schutt
10:10 a.m. Eric Schutt, Chief of Staff, Office of Governor Walker
10:25 a.m. Mark Grapentine Introduce Doctor Simons
10:30 a.m. Ken Simons, MD, Chair, Wisconsin Medical Examining Board
10:45 a.m. Chris Rasch, Wisconsin Medical Society Director of State and Federal Relations Introduce Rep. Barca
10:50 a.m. Representative Peter Barca, Assembly Democratic Leader
11:05 a.m. Break
11:15 a.m. Mark Grapentine & Eric Jensen Legislative Issues Briefing
11:40 a.m. Tim Hoven Keys to Effective Advocacy
Noon Lunch
12:35 p.m. Logistics of Capitol Meetings and Morning Wrap-up
12:40 p.m. Depart for the Capitol
1 p.m. All Group Photo—Assembly Chambers
1:15 p.m. Legislative Visits
  • Assembly offices at 1:15 p.m.
  • Senate offices at 2 p.m.

*Reception immediately following visits at DLUX; drop off legislative visit forms.
3 p.m. Reception at DLUX—17 Martin Luther King, Jr. Dr
5 p.m. Conclusion of Doctor Day
Wednesday February 12, 2014

DOCTOR DAY
9 A.M. – 3 P.M.
Overture Center
201 State Street, Madison, WI 53703
Wisconsin Studio Room

RECEPTION
3:00 PM – 5:00 PM
DLUX
117 Martin Luther King Jr Blvd
Madison, WI 53703

DOCTOR DAY CONTACTS FOR ASSISTANCE OR URGENT MATTERS
Mark Grapentine, Wisconsin Medical Society—Cell: 608.575.2514
Tim Hoven, Hoven Consulting, Inc.—Cell: 414.305.2011
Chris Rasch, Wisconsin Medical Society—Cell: 414.469.5333
Advocating on behalf of physicians and patients at the State Capitol is vital to the medical profession. Thank you for joining us.
Worker's Compensation—Fee Schedule

WHAT are the issues?
Every two years unelected representatives from labor unions and business interests bargain to a consensus proposal that changes the state’s worker’s compensation-related statutes and administrative rules. Health care representatives do NOT have a seat at the bargaining table or a vote on the final proposal. Historically, that “agreed-to” legislation essentially has been rubber-stamped by the state legislature, as the product usually is focused on areas of disagreement between labor and management.

This biennium the consensus bill includes provisions that aren’t part of the “give and take” bargaining that is supposed to happen between labor and management. Instead, part of the “compromise” takes square aim at the health care community in an effort to artificially reduce health care costs.

Medicine does not support this legislation, and we are asking that the legislature amend the bill, introduced in the State Legislature as Assembly Bill 711/Senate Bill 550 which would:

• Create a fee schedule for worker’s compensation-related health care based on rates negotiated in the private market, but without the benefits usually obtained in that bargaining, such as volume, prompt pay and electronic processing of claims and payments. (sec. 49)

• Squeeze the mathematical formula used to calculate the maximum allowable charge for a WC health care service from 1.2 standard deviations from the mean to 0.7 standard deviations. (sec. 23)

This is the first time the Labor/Management “agreed-to” product has included such an onerous set of provisions affecting health care.

WHY is it important?
Wisconsin’s workers’ compensation system is a national model, and the health care injured workers receive is delivered more efficiently and effectively than in other states. Injured workers get back on the job faster than in any other state while the cost of that care is less than the national average. Studies show that artificial fee schedules do not control health care costs, due to changes in billing and treatment practices – such intervention into the free market provides a disincentive for providing care efficiently.

OUTCOMES: Data show that in Wisconsin, the period of time an injured worker is away from his or her job is lowest in the country; in fact, the period of disability is half the national average. This benefits the entire system and all of its participants, including the employer.
COST: While prices for some services are higher in Wisconsin compared to other states, the overall cost of medical care provided through the Worker’s Compensation system is lower than average and lower than our neighboring states of Minnesota, Iowa, and Illinois. Wisconsin is also below the national average in overall claims costs.

QUALITY: Wisconsin is ranked consistently among the best states in overall health care quality. The Worker’s Compensation system benefits from our high-quality, volume-based health care system, which is truly a competitive advantage for Wisconsin.

WHO has concerns about the bill?
The four health care liaison groups to the Worker’s Compensation Advisory Committee are all united in opposing the creation of a fee schedule and associated provisions in the bill. Those groups include the Wisconsin Medical Society, the Wisconsin Hospital Association, the Wisconsin Physical Therapy Association and the Wisconsin Chiropractic Association.

WHAT can the State Legislature do?
Preserve Wisconsin’s worker’s compensation success story and remove sections 23 and 49 in the bills. Imposing a government-mandated fee schedule is a perilous gamble for a system working so well. The Legislature should step in to preserve our national success story by removing those items in the “agreed-to” bill that could negatively affect patient access to care. Don’t let the Worker’s Compensation Advisory Committee gamble with a successful system.

Instead, the Labor and Management teams should work with the area of WC that is performing successfully—health care—to improve the system. The business and insurance industries should work with health care in finding ways to reduce costs by improving workers’ safety and preventing injuries in the first place.
Physician Condolence: Improve Communication and Prevent Lawsuits

WHAT are the issues?

Too often, physicians do not have sympathetic and/or frank discussions with a patient or that patient’s family following a negative outcome, often based on policy suggested by an institution’s legal department. Such policies usually are put in place to minimize potential legal liability, as there are concerns that a physician’s statement of apology could be interpreted as an admission of guilt. Physicians also often will accept “blame” for a negative outcome, even if the underlying facts would assign culpability elsewhere – or if there’s any guilt to be assigned in the first place.

While this hesitancy to allow wide-ranging conversations may be understandable, some studies show that timely communication with a patient and/or a patient’s family following an adverse event can greatly reduce the incidence of medical liability lawsuits. State statutes, therefore, should promote timely communication between physicians and patients or patients’ families.

Assembly Bill 120/Senate Bill 129 addresses this problem by protecting statements of “apology, benevolence, compassion, condolence, fault, liability, remorse, responsibility, or sympathy” from being used as evidence if a lawsuit is eventually filed. An amendment to AB 120 makes it clear that after a lawsuit is filed, any statements made during a deposition or other discovery are admissible—but those statements, etc. made following the adverse event and the lawsuit filing could not be used as evidence.

WHY is it important?

Without legal protection, some physicians will hesitate to have a full and frank discussion with a patient/family for fear of providing fodder for a potential lawsuit; ironically, such discussions can help diffuse tension and actually prevent litigation.

That said, a recent analysis of various states’ laws shows that all potential topics of conversation need to be covered in order for the law to work as intended. Otherwise, rather than a frank discussion, physicians might worry about the legal ramifications of their word choice and limit their communication with a patient or patient’s family due to fear of legal exposure.

A recent Health Affairs article, “The Flaws in State ‘Apology’ And ‘Disclosure’ Laws Dilute Their Intended Impact on Malpractice Suits,” analyzes the weaknesses in some statutory constructs that do not go far enough to protect statements of sympathy as
well as responsibility. The article specifically discusses states with laws protecting statements of sympathy or promoting disclosure of an adverse event:

Our analysis reveals that most of these laws have structural weaknesses that may discourage comprehensive disclosures and apologies and weaken the laws’ impact on malpractice suits. Disclosure laws do not require, and most apology laws do not protect, the key information that patients want communicated to them following an unanticipated outcome. Patients view the apology and disclosure processes as inextricably intertwined, seeking not only an expression of sympathy but also information about the nature of the event and why it happened, and how recurrences will be prevented.

Legislation can be ineffective or even counter-productive if it is drafted too narrowly, if health care providers overestimate the protection it offers, or if the resulting disclosures or apologies are interpreted by patients as insincere.

This is why AB 120 is drafted the way it is. When emotions are running strong, that is not the time for a physician to feel a need to choose words cautiously – the discussion needs to be full and frank for the patient or family members to trust what the physician is saying. And in the current lawsuit environment, those conversations will not occur as often as they could without legislative protection.

Finally, it is important to note what the bill does not do. It does nothing to remove the ability of a capable plaintiff’s attorney to utilize current discovery methods and other legal means to explore whether a medical outcome warrants a lawsuit. AB 120 is a well-reasoned bill in the critical area of physician-patient communications, nothing more.
Thank you for your support! This legislation matters to physicians.

ACT 111: Physician Informed Consent
This legislation clarifies Wisconsin's current physician informed consent law by establishing a "reasonable physician standard" that physicians must meet when informing patients about the benefits and risks of potential treatments and procedures. Specifically, physicians will be required to disclose to patients information that reasonable physicians (in the same or similar medical specialties) would know and disclose under the circumstances. The legislation will help curb the practice of defensive medicine and reduce unnecessary and expensive procedures. Representative Jim Ott and Senator Glenn Grothman effectively led the legislation through the Wisconsin State Legislature.

AB 452: Child Psychiatry Consultation Program
This bill creates a consultation line to provide primary care physicians with access to child psychiatrists and other mental health resources in their community. Pediatric primary care physicians are the main providers of health care, including mental health care, to children in Wisconsin. This legislation provides the additional support from child psychiatrists necessary to effectively treat many children, as well as direct parents to community resources that may not be known to the physician or parent. Representative Jim Steineke and Senator Alberta Darling authored companion bills and worked to gather support from their colleagues in their respective houses.

AB 453: HIPAA Harmonization
This legislation aligns state law with federal HIPAA laws to remove barriers to mental health care coordination and patient information sharing between providers. The legislation gives physician access to items helpful to provide the best care: medication monitoring notes and clinical test results, summaries of the patient’s symptoms and diagnosis, summaries of the patient’s functional status and treatment plan, and summaries of the patient’s progress and prognosis – disclosure of all that are allowed currently under federal HIPAA law. This is particularly important when a patient enters an emergency department for treatment. The treating physician will best be able to assess the patient’s needs if access to treatment notes and records is available. The bill was introduced by Representative Erik Severson, who chaired the Speaker’s Task Force on Mental Health, and Senator Leah Vukmir, who authored companion legislation in the Senate.

AB 454: Primary Care and Psychiatry Shortage Grant Program
This legislation provides financial assistance to new physicians completing a Wisconsin-based residency program who agree to practice primary care or psychiatry in one of the state’s rural and/or medically underserved areas. The $1.5 million appropriation will support grants for up to 12 primary care physicians and 12 psychiatrists. Representative Kevin Petersen and Representative Lee Nerison introduced the bill after months of research as part of the Speaker’s Task Force on Mental Health, and Senator Luther Olsen joined the effort by leading the bill through the Wisconsin State Senate.
POLITICS 101: A PHYSICIAN’S GUIDE TO EFFECTIVE POLITICAL PARTICIPATION

Making an impact in politics requires knowledge of the process and the issue. Use the hints and process below to familiarize yourself with the political process and legislative meetings.

When speaking with your legislator or their staff:

1) Check to see if there is a position organized medicine has taken.
   • Many medical societies and associations have policy on most issues.

2) Identify yourself.
   • “I’m a physician who.”
     (The fact that you’re a physician moves you to the front of the line on many issues so be sure to men-
     tion it!)
   • “I practice medicine in ...”
     “I see ____ number of patients each week/month”

3) Explain your relationship to the issue.
   • “I am a member of the __________...”
   • “As a physician, I see patients who...”
   • “As a specialist in the field of...”

4) Ask to speak to the staff member who handles health policy issues.
   • Legislators are tied up in many meetings. So build a relationship with the staff and the legislator so they
     know you when you call. You can request a call from the legislator if you meet with staff.

5) Be prepared.
   • Jot down some notes before calling or meeting, so you get your point across, being as specific as you
     can. Reference talking points.

       Be specific.
   • Give the bill number if you know it or identify the subject area.

       Basic facts and arguments.
   • Legislators are busy, so distill your argument down to the most basic facts and arguments.

       Clearly state your position and reasoning.
   • Perhaps you support an entire bill or maybe you are against a single amendment. Back up your claim
     with facts and personal experience.
Be reasonable.
• Don’t bully. Threats and yelling are sure ways to be ignored or dismissed.
• Legislators are human, too. Don’t expect the impossible and remember, they are just one of many in the Capitol.

6) Ask for a response.
Make specific requests.
• “Please let me know your views.”
• “...get back to me before my meeting on...”

7) Check back with the person you talked with.
• Ask what’s happening! Follow the progress of your issue as it winds through the political process.

8) What not to say!
• “You’re wrong.” (even if you think they are)
• Do not talk about contributions when in the Capitol or on the phone when talking about issues!
• “If you vote for this bill, I’ll be sure some money finds its way into your campaign fund.” (this is a bribe)
• “I supported your opponent.” or “I didn’t vote for you.” or “I’d never vote for you.”
• “I’m in the opposite party as you.” or “I only give money to Democrats.” (and you’re talking to a Republican)
• “If you don’t change your mind, give me one good reason to vote for you next time around.” (this is a threat)

9) Comments to look out for.
• “I want everyone to pull together.”
• “That will cost a lot of money.”
• “It doesn’t have a lot of support from my colleagues.”
• “There are no co-sponsors in the other house.”
• “This issue is very controversial.”
• “You will have a tough time getting it passed this session.”

10) The Rules to Remember Are
• Don’t be discouraged! It often takes a few tries to ‘educate’ your legislator.
• Remember: often the most important function of contacting your legislator is simply the fact that you did—regardless of her/his response.

11) Say Thank You for their time
FOLLOW-UP REPORT

Your name: ____________________________________________________________

Name of Legislator: ____________________________________________________

Name(s) of person(s) met with (legislator or staff): __________________________

Name of person(s) from Doctor Day with you: ________________________________

What is the position of the Legislator on the issue?

**Issue 1:** ____________________________________________________________

- ☐ Supports Society's position
- ☐ Leans toward Society's position
- ☐ Unknown
- ☐ Leans against Society's position
- ☐ Against Society's position

_Legislator’s main concerns about this issue: ________________________________

**Issue 2:** ____________________________________________________________

- ☐ Supports Society's position
- ☐ Leans toward Society's position
- ☐ Unknown
- ☐ Leans against Society's position
- ☐ Against Society's position

_Legislator’s main concerns about this issue: ________________________________

**Issue 3:** ____________________________________________________________

- ☐ Supports Society's position
- ☐ Leans toward Society's position
- ☐ Unknown
- ☐ Leans against Society's position
- ☐ Against Society's position

_Legislator’s main concerns about this issue: ________________________________

**Issue 4:** ____________________________________________________________

- ☐ Supports Society's position
- ☐ Leans toward Society's position
- ☐ Unknown
- ☐ Leans against Society's position
- ☐ Against Society's position

_Legislator’s main concerns about this issue: ________________________________

What are the legislator’s main concerns on the issue(s)?

Follow-up needed from Doctor Day staff:

- ☐ Call from staff
- ☐ Additional information
- ☐ None
- ☐ Other