# WISCONSIN LEGISLATIVE COUNCIL
# STAFF MEMORANDUM

Memo No. 1

TO: MEMBERS OF THE SPECIAL COMMITTEE ON HEALTH CARE ACCESS

FROM: Richard Sweet, Senior Staff Attorney, and Heidi Frechette, Staff Attorney

RE: Potential Recommendations for the Committee's Consideration in the Areas of Educational Programs; Public Health; Licensure, Scope of Practice, and Related Issues; and Other Health Care Access Issues

DATE: November 16, 2010

This Memo summarizes and briefly discusses potential recommendations for the committee's consideration regarding educational programs; public health; licensure, scope of practice, and related issues; and other health care access issues. The Memo incorporates suggestions that have been made at previous meetings of the committee or by follow-up correspondence from committee members or others. It includes suggestions that can be dealt with legislatively, either through draft legislation or recommendations to government agencies or Congress. The Memo is intended only as a starting point for discussion, and committee members should feel free to suggest other items that are not included.

## *EDUCATIONAL PROGRAMS*

### *New Programs*

The following suggestions were made regarding establishment of new educational programs for health care providers:

- **Create a new medical school with a focus on primary care or expand the two existing medical schools in Wisconsin to provide a greater focus on primary care.** The committee may wish to consider legislation to require the two existing medical schools to prepare a report by specified date as to how a new program in those schools could be created and what level of state support would be required. With respect to creation of a new medical school, the committee might consider requiring a state agency, such as the Department of Health Services (DHS) or another agency, to prepare a report that would describe governance, possible sites, and funding for a new medical school, and whether a new medical

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school would be part of the University of Wisconsin (UW) System or would be operated by a private entity, with possible state support.

- **Support creation of a school of osteopathic medicine.** At its two public hearings, the committee received testimony from a nonprofit organization seeking to establish a school of osteopathic medicine, including increased access to primary care from doctors of osteopathy (DOs). However, it was not clear from the testimony what type of support from the Legislature the proposed DO school would be seeking. The committee may wish to discuss funding with respect to start-up costs and possible state capitation rates for Wisconsin residents who attend such a school.

- **Create a dental education outreach facility.** The state could provide incentives, such as bonding authority with a matching grant, similar to 2009 Wisconsin Act 361, which provided $10 million in borrowing to aid in construction of a rural "dental education outreach facility."

***Expansion of Existing Programs and Incentives***

The following suggestions were made to increase the number of health care professionals in the State of Wisconsin by expanding existing incentive programs:

- **Encourage the federal government to lift the freeze on the number of Medicare-supported residency programs.** According to Dr. Erik Stratman from the Marshfield Clinic, the Centers for Medicare and Medicaid Services (CMS) cap the number of residencies they sponsor; however, Marshfield Clinic and Ministry St. Joseph's Hospital expand beyond this cap without reimbursement from the federal government. This freeze makes it difficult to meet the needs of Wisconsin graduates and retain them in the state. Therefore, if more residency opportunities were created in the state, retention of medical school graduates would be more likely since physicians tend to practice in locations where they completed their residencies.

- **Expand rotations and residency programs that: (1) serve rural and innercity areas; and (2) are more likely to produce primary care graduates.** There seemed to be a general consensus among persons speaking at previous committee meetings that there is a shortage of rotations and residencies in innercity and rural settings around the state. According to the Wisconsin Council on Medical Education and Workforce, a decreasing number of medical students are going into primary care. Therefore, one recommendation was to increase the residency slots and rotations in these geographic and practice areas, in addition to expanding the programs discussed in the next bullet point.

- **Expand programs like Wisconsin Academy of Rural Medicine (WARM) and Training in Urban Medicine and Public Health (TRIUMPH) that select medical students based on an increased likelihood of pursuing a career in primary care, especially in rural and urban underserved areas.** According to Dr. Carl Getto, Associate Dean for Hospital Affairs, UW School of Medicine and Public Health, there is a maldistribution of physicians in the state with a surplus in suburban areas and shortages in rural areas and innercity Milwaukee. One way of addressing this problem is to expand existing programs that provide opportunities for medical students to work in rural and urban settings.

WARM was created in 2005 to address the shortage of training opportunities in rural areas. The first class entered its final year this fall. WARM added 25 slots to the UW School of Medicine and Public Health and provides opportunities for students to complete rotations in rural settings. The TRIUMPH program at the UW School of Medicine and Public Health provides similar opportunities for students interested in providing health care to urban populations and to reducing health disparities. The program offers opportunities to work in clinical medicine and community and public health.

- **Protect critical access hospitals (CAH) assessment funds.** This recommendation would protect the funding generated by the CAH assessment that goes to the UW Department of Family Medicine from the CAH assessment to develop new and expanded training opportunities for medical residents in rural Wisconsin. This recommendation would support moneys being used to form collaboration among rural communities to expand on the success of the single Rural Training Track model currently left in Wisconsin (Baraboo).

- **Expand nursing residency programs to include rotations in nursing homes.** The committee discussed the increasing demand for services, including nursing home services, from an aging population. It has been suggest that one way to attract nursing professionals to nursing home positions would be to expand residency opportunities for nursing students. Testimony from the Wisconsin Nurses Association (WNA) indicates that UW-Madison and Edgewood College are developing a pilot project for more residencies in nursing homes.

- **Assure competitive nurse faculty salaries.** According to Marilyn Kaufman, Nursing Program Chair, Lakeshore Technical College, there is a considerable shortage of PhD level nurses and a borderline shortage of Master's level nursing professionals. Ms. Kaufman suggested that the committee take a market-based approach and look at ways to make nurse educators salaries more competitive to attract individuals with advanced nursing degrees to nurse educator positions.

- **Provide distance learning options for graduate education of nurses.** The committee discussed barriers to nurses obtaining advanced degrees. One barrier was the ability to access degree programs especially while working in rural settings. Providing opportunities for distance learning was suggested as one way to lessen these barriers.

***Incentives for Individuals; Loan Forgiveness and Scholarships***

The following suggestions were made as ways to increase the number of health care professionals through incentives to individuals:

- **Expand programs that provide tuition assistance or loan forgiveness for graduates who practice in underserved areas.** According to Dr. Michael Kryda, Chief Executive Officer (CEO) of Ministry St. Joseph's Hospital most new physician graduates enter residency training with debts from undergraduate education and medical school ranging between $75,000-$150,000, and possibly more. The debt load combined with the lower primary care salaries makes it difficult for new physicians to pursue careers in primary care in underserved areas.

The current state loan repayment program provides up to $50,000 of a loan over three years for a physician or dentist, with those professions defined in terms of primary care practice; and with additional supplements available for persons practicing in rural areas. Similar repayments, up to $25,000 over three years, are available for dental hygienists, physician assistants (PAs), nurse-midwives, and nurse practitioners (NPs). The current program is limited by the fixed number of dollars used to fund it.

- **Expand the existing state loan forgiveness program to include pharmacists.** Dr. Michael Brown and Dr. Andrew Traynor, from Concordia University, recommended that the committee consider addressing the shortage of pharmacists in rural areas. They suggested providing incentives to attract and retain pharmacists in rural areas and creating loan forgiveness programs for those who agree to work in rural areas.

- **Increase the number of scholarships and create more loan forgiveness opportunities for nurses to obtain Bachelor's, Master's and Doctorate degrees.**

- **Expand or create loan forgiveness programs for public health professionals.** This would be used to recruit students to train and work in Wisconsin; retain more graduating public health students; and begin to establish the next generation of public health workers in Wisconsin. The program would be available to environmentalists, epidemiologists, registered environmental health professionals, public health educators, public health laboratory workers, public health dental hygienists, public health dentists, public health information systems specialists, public health managers, public health nurses, public health nutritionists, and public health physicians.

- **Increase state capitation rates for Wisconsin residents who attend the Medical College of Wisconsin to pre-2003 level ($10,091).**

- **Increase the number of PAs in Wisconsin through loan forgiveness and scholarship programs.**

- **Increase incentives for students from health professional shortage areas (HPSAs) or medically underserved areas (MUAs).** Incentives to increase the proportion of medical students at Wisconsin medical schools who had the majority of their K-12 education in an area currently classified as a HPSA or MUA as they are substantially more likely to return to such communities to practice.

## ***PUBLIC HEALTH SERVICES***

The following suggestions were made regarding public health services:

- **Modify the statutory requirements for local health departments to be consistent with standards of the Public Health Accreditation Board (PHAB) relating to community health improvement processes and plans.** Specific language suggested by the Wisconsin Public Health Association (WPHA) and the Wisconsin Association of Local Health Departments and Boards (WALHDAB) would require local health departments to conduct and disseminate assessments focused on population health status and specified public health

issues facing the community, as well as developing public health plans that include a comprehensive planning process resulting in a community health improvement plan. In addition, the local health departments would assess health care capacity and access to health care services, identify gaps, and implement strategies to improve access to health care services.

- **Establish a segregated Public Health Trust Fund.** Under the suggestion by WPHA/WALHDAB, the Fund would receive money through adjusting the tax rate on products that are known to contribute to the state's greatest public health priorities. The Fund would be used to directly address the state's health priorities. The new funds would be divided between state and local government and would be used to address priority health problems identified through community assessment, such as alcohol abuse, obesity, and health disparities.

## ***LICENSURE, SCOPE OF PRACTICE, AND RELATED ISSUES***

The following suggestions were made regarding licensure, scope of practice, and related issues with regard to various health care providers:

- **Allow pharmacists to give vaccines to persons under 18 years of age.** Current statutes provide that a pharmacist may not administer a vaccine unless he or she has successfully completed 12 hours in a course of study and training, approved by the American Council on Pharmaceutical Education or the Pharmacy Examining Board, in vaccination storage, protocols, administration technique, emergency procedures, and record keeping, and satisfied requirements regarding liability insurance. However, the statutes provide that a pharmacist may not administer a vaccine to a person who is under the age of 18. [s. 450.035 (2), Stats.]

- **Allow physicians to supervise more than two PAs.** The statutes define the term "physician assistant" as a person licensed by the Medical Examining Board (MEB) to provide medical care with physician supervision and direction. PAs may not be self-employed. Rules of the MEB provide that no physician may concurrently supervise more than two PAs unless the physician submits a written plan for the supervision of more than two PAs and the MEB approves the plan. [s. Med 8.10 (1), Wis. Adm. Code.]

- **Modify the statutes relating to communicable diseases, Department of Transportation (DOT) licensure, and other statutes to include references to PAs.** 2009 Senate Bill 698 would have modified various statutes, primarily in the areas of communicable diseases and DOT licensure, that refer primarily to physicians and advanced practice nurse prescribers (APNPs) to include references to PAs. That bill was introduced late in the legislative session and failed to pass.

- **Modify the statutes dealing with dental interns and residents to allow for more practice settings than are allowed for under the current statutes.** Current statutes provide that no license to practice dentistry is required for certain persons who do not engage in the private practice of dentistry and do not have an office outside the institution in which he or she is appointed or employed. These include a dental intern who is appointed by a hospital located in Wisconsin, if the hospital is accredited for dental internship training and the internship

does not exceed one year. In addition, current law applies to a dental resident who is appointed by a hospital located in Wisconsin for a second or subsequent year of advanced study of dental science if the hospital is accredited for dental residency training. It has been suggested that these statutes be amended to delete the requirement that the hospital be "located in this state" and to add community health centers as a location at which a dental internship or residency may occur.

- **Create a Dental Hygiene Examining Board.** Currently, dentists and dental hygienists are licensed by the Dentistry Examining Board. That board consists of six dentists, three dental hygienists, and two public members.

- **Repeal the statutory list of settings or circumstances in which a dental hygienist may practice.** Under current statutes, a dental hygienist may practice dental hygiene or perform remediable procedures only as an employee or as an independent contractor and only as follows: (1) in a dental office; (2) for a school board or a governing body of a private school; (3) for a school for the education of dentists or dental hygienists; (4) for various specified health-related or correctional facilities; (5) for a local health department; (6) for a charitable institution open to the public or to members of a religious sect or order; (7) for a nonprofit home health care agency; or (8) for a nonprofit dental care program serving primarily indigent, economically disadvantaged, or migrant worker populations. [s. 447.06 (2) (a), Stats.] This suggestion would eliminate that list and cross-references to the list in other parts of the statutes.

- **Repeal the statutes dealing with dental supervision of dental hygienists and replace them with a requirement regarding referral and consultation.** Under current law, a dental hygienist may practice under five of the eight circumstances described in the previous paragraph only: (1) if authorized by a dentist who is present in the facility; or (2) if a dentist is not present in the facility, if other conditions are met (e.g., there is a written or oral prescription and the dentist has examined the patient at least once during the preceding 12 months). These requirements do not apply to a dental hygienist practicing for a school board or governing body of a private school, for a school for the education of dentists or dental hygienists, or for a local health department. [s. 447.06 (2) (b) and (c), Stats.] Under this recommendation, these requirements would be repealed and any agency providing services through a dental hygienist volunteer, employee, or independent contractor, or any dental hygienist practicing as an independent contractor, must maintain written documentation regarding medical and dental referral and consultation for patients with conditions outside the scope of practice of dental hygiene. An exception would be provided for the three types of circumstances for which dental supervision is not currently required.

- **Assure Medical Assistance (MA) reimbursement for dental hygiene services.** This recommendation would involve working with the state DHS and the federal CMS to create or modify billing codes specifically for dental hygienists to allow reimbursement.

- **Support the development of an Advanced Dental Hygiene Practitioner (ADHP) license.** An ADHP would be a mid-level provider of dental hygiene services. This recommendation could be accomplished through a statutory change that specifies the requirements for ADHPs or by requiring the Dentistry Examining Board (or the Dental Hygiene Examining Board, if a

previous recommendation is adopted) to specify certification requirements for ADHPs through administrative rules.

- **Make other miscellaneous changes to the statutes dealing with dental hygienists.** This recommendation would involve modifying a portion of the definition "dental hygiene" in the statutes, a portion of which includes "(c)onducting a substantive medical or dental history interview or preliminary examination of a dental patient's oral cavity or surrounding structures, including the preparation of a case history or recording of clinical findings." The recommendation would involve deletion of the word "preliminary" and insertion of a provision regarding presenting the case history and recording of clinical findings to the patient. [s. 447.01 (3) (d), Stats.] In addition, the recommendation would modify the requirement that a hygienist may practice only as an employee or independent contractor by also adding references to volunteers.

- **Eliminate scope of practice barriers for nurses.** Eliminate any state laws which prohibit nurses from performing tasks for which they have adequate training.

- **Allow persons covered under health plans to be reimbursed for care by any health care provider who: (1) is in the area served by the plan; (2) provides care covered by the plan; and (3) agrees to the same terms and conditions of participation as other covered providers.** This recommendation was made with respect to optometrists. A similar statute exists for pharmacists. Under current s. 628.36 (2m), Stats., a health maintenance organization (HMO), limited service health organization, or preferred provider plan (PPP) that provides coverage of pharmaceutical services when performed by one or more pharmacists who are selected by the organization or plan, but are not full-salaried employees or partners, must provide an annual period of at least 30 days during which any pharmacist may elect to participate in the organization or plan as a selected provider for at least one year. [Also see s. 185.93 (3), Stats.]

- **Modify current statutes that relate to health plan coverage of optometrists' services to prohibit discrimination in reimbursement levels with regard to those services.** Current statutes provide that no HMO or PPP that provides vision care services or procedures within the scope of practice of optometry may do any of the following: (1) fail to provide covered persons with a listing of participating vision care providers, including participating optometrists; (2) fail to provide covered persons the opportunity to choose optometrists from the listing for services that are within the scope of optometry; (3) fail to include as participating providers optometrists in sufficient numbers to meet the demand of persons covered by the HMO or PPP; or (4) when vision care services or procedures are deemed appropriate by the HMO or PPP, restrict a covered person from obtaining covered vision care services or procedures that are within the scope of practice of optometry from participating optometrists solely on the basis that the providers are optometrists. [s. 632.87 (2m), Stats.]

- **Increase reciprocal recognition of license for experienced health professionals.** An ARRA Multi-State Task Force (WI, IL, IN, IA, KS, MI, MN, MO, NE, SD) is seeking a collaborative process to develop an interstate licensure portability program. This could follow a simplification process that DRL took of obtaining a Wisconsin license for physicians already licensed in Minnesota.

- **Consolidate all licensure and certification of health professionals into DRL.** Also, look to simplify process of obtaining a Wisconsin license. For example, Certified Nurse Assistants licensed in Iowa could be used in southwest Wisconsin, but have not been unable to readily gain certification by DHS.

- **Enable the licensure of foreign-trained professionals.** Make sure all health professions allow for this flexibility.

## ***OTHER HEALTH CARE ACCESS RECOMMENDATIONS***

The following additional suggestions were made regarding health care access:

- **Increase the MA reimbursement rate for dental services.** A suggestion was made at a previous committee meeting that increasing the MA reimbursement rate for dental services would provide greater access to dental care services by MA recipients.

- **Develop a new patient advocacy structure to assist patients.** This suggestion from ABC for Health would involve health benefits counselors, health care navigators, provision of legal services, and outreach educators. The proposal would be funded by HMOs and enrollee contributions.

- **Use a fee-for-service approach for MA.** A suggestion was made at the committee's Milwaukee meeting that an approach used by a private sector health clinic not to accept insurance should be expanded to include MA recipients. Under this approach, the providers accept only cash or credit cards as payment for health care services.

- **Provide funding for school-based dental programs, including funding for mobile dental equipment.**

- **Modify reimbursement systems to make primary care more attractive for graduates and reward primary care physicians who work with PAs and NPs.** The area in which the state would have influence over reimbursement would be primarily MA and BadgerCare. It is unclear if changes could be made in private sector reimbursement.

- **Integrate primary care into mental health programs.** As with the previous potential recommendation, the state's area of influence with regard to this recommendation might be in MA. The state, through MA and BadgerCare, provides reimbursement to various HMOs and community health centers.

- **Collect workforce data for all health care providers, similar to what is currently done for nurses.** This recommendation would involve collecting workforce information from health care providers who are licensed by examining boards or affiliated credentialing boards in the Department of Regulation and Licensing (DRL) at the time of licensure. The survey requirement for nurses was established by 2009 Wisconsin Act 28 (the 2009 Biennial Budget Act) and each nurse was required to pay a biennial nursing workforce fee of $4.

- **Ensure that health care providers are made aware of federal and state laws regarding sign language interpreters.** If the committee decides to pursue this potential recommendation, it could decide whether to include materials regarding sign language **interpreters** with licensure materials. In the alternative, the committee might decide to include this type of information with other materials sent to health care providers through the MA program.

- **Conduct a workforce survey for all health professions at time of license application and assure capacity to use data to forecast our workforce supply and demand.** There was a Nurse Workforce Survey requirement in 2009 Wisconsin Act 28 (2009 Biennial Budget Act). DRL and the Department of Workforce Development worked together to collect, disseminate, and forecast information on Wisconsin's nursing workforce. This should be expanded to all health professions and collected biennially.

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