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**TO: Members of the Senate Committee on Health**

**FROM: Matthew Stanford, General Counsel  
Kyle O'Brien, Senior Vice President, Government Relations**

**DATE: July 28, 2021**

**RE: WHA Testimony on SB 394 – For information only – APRN Modernization Act**

Patients throughout Wisconsin rely on advanced practice registered nurses (APRNs) as primary and specialty care providers that work within hospitals, clinics, and other health care settings. Over the years, as the education and training of advanced practice nurses has evolved so too has the practice of advanced practice nurses. Unfortunately, in many cases, both state and federal law has often lagged behind modern APRN practice, and in many cases state and federal law have evolved inconsistently.

Hospitals face under-appreciated, but quite significant compliance challenges unique to APRN practice. Not only must hospitals navigate Wisconsin's Chapter 441 professional licensure provisions impacting APRN practice, but also state and federal facility licensure regulations, state and federal Medicare and Medicaid payment requirements, private payor requirements, and other laws impacting care capable of being delivered by APRNs. And against that regulatory complexity, hospitals and health systems continually strive to utilize all of their health care workforce – physicians, advanced practice clinicians, and other professionals – at each of their professional “top-of-license” to provide accessible, efficient, high quality care to Wisconsin's communities.

To help navigate the challenging and highly complex regulatory environment impacting care delivery by APRNs, WHA has offered multiple education programs focusing on legal and practical considerations for APRN care delivery in hospitals and clinics. A key goal of such education has been to help reduce confusion and misunderstanding regarding current practice laws and authority, including nuances between supervision, collaboration, and collaborative agreements.

In addition to WHA's education efforts to mitigate regulatory complexity, WHA has also supported, and in some cases championed, multiple legislative and rulemaking efforts to remove regulatory barriers to advanced practice nursing and physician assistant practice that are no longer consistent with the modern education, training, and experience of those professions. For example:

- In 2005, WHA strongly supported Wisconsin's CRNA “opt out” status which continues to enable Certified Registered Nurse Anesthetists (CRNAs) and their hospitals to bill Medicare for anesthesia services provided by CRNAs without physician supervision. That critical policy continues today.
- Over the past 15 years, WHA has supported several federal regulatory changes ultimately enacted by the federal Centers for Medicaid and Medicare Services (CMS) that recognize overlapping practice authority of APRNs and physicians, thus enabling APRNs to have hospital privileges and perform services in hospitals previously limited to physicians.
- In 2013, WHA championed enacted, bipartisan legislation that removed outdated state hospital regulations that limited hospital privileges for APRNs.
- In 2017, WHA championed enacted, bipartisan legislation clarifying that Wisconsin's Medicaid program recognizes medical orders issued by APRNs.

- In 2019, WHA championed enacted, bipartisan legislation enabling APRNs to perform competency examinations to help families activate a patient’s power of attorney wishes.
- In 2019 and again this year, WHA supported bipartisan legislation enacted earlier this year that modernized the licensing and scope of practice of physician assistants to recognize their modern education, training, and experience.
- Just this year, WHA championed changes to DHS 75 substance use disorder certification rulemaking to recognize the modern practice of APRNs and physician assistants.

WHA has prioritized addressing regulatory complexity regarding APRN practice because it impacts not only APRNs, the hospitals and clinics they work in, and our patients, but in many cases adds unnecessary regulatory burden on physicians. As one example, concerns from physicians regarding the need for physicians to co-sign orders issued under the scope of practice of an APRN helped lead to Medicaid changes clarifying overlapping practice authority between physicians and APRNs to issue medical orders. WHA’s member physicians have also expressed frustrations with having to perform clinical tasks that are within the scope of practice of an APRN but that require physician action due to outdated regulatory provisions that refer only to physicians. Such concerns, for example, led to changes recognizing the ability of APRN’s in Wisconsin’s power of attorney statute. Similarly, impacts on physician administrative tasks and documentation burden – including documentation of a collaborative relationship - has been a key consideration in WHA’s evaluation of the APRN Modernization Act.

With that backdrop, WHA appreciates the APRN Coalition continuing to work with WHA to make some additional technical improvements to the APRN Modernization Act, including improving technical clarity in the bill, such as that licensed APRN practice will not require physician supervision or a written collaborative agreement, reducing regulatory complexity, preserving the freedom of hospitals, clinics, and others to establish their own higher standards of practice within their organizations, placing the responsibility and burden of licensure oversight fully on the board of nursing and not on individual physicians, ensuring timelines for implementing the new APRN license are reasonable and provide meaningful opportunity for public comment, and preserving certified registered nurse anesthetists’ long standing ability in Wisconsin to provide and be reimbursed for anesthesia services performed without physician supervision.