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5510 Research Park Drive
P.O. Box 259038
Madison, WI 53725-9038
608.274.1820 | FAX 608.274.8554 | www.wha.org

TO: Members of the Wisconsin State Legislature

FROM: Kyle O'Brien, Senior Vice President – Government Relations
Matthew Stanford, General Counsel
Ann Zenk, Vice President – Workforce and Clinical Practice

DATE: May 14, 2019

Subject: Co-Sponsor LRB 1737 recognizing Advanced Practice Registered Nurse and Physician Assistant practice in Power of Attorney and Living Will laws

Patients throughout Wisconsin now rely on advanced practice registered nurses (APRNs) and physician assistants (PAs) as primary and specialty care providers that work within care teams in diverse health care settings, including hospitals and clinics. Over the years, as the education and training of APRNs and PAs has evolved, so too has the practice of APRNs and PAs in team-based care delivery settings.

However, in some cases, Wisconsin law has not similarly evolved, creating an unnecessary regulatory bottleneck on Wisconsin's health care workforce, particularly in rural and other areas of the state that heavily rely on care teams that include APRNs and PAs to provide care in their communities.

WHA has worked closely with the legislature on reforms to address these regulatory issues. For example, one such regulatory bottleneck was addressed in 2017 Act 119, bipartisan priority legislation for WHA that provided clarification in Wisconsin's Medicaid statute affirming that orders made by APRNs and PAs have the same validity as orders made by physicians. Similarly, in 2014, WHA worked with a bipartisan group of lawmakers to enact critical reforms to Wisconsin hospital regulations allowing APRNs and PAs to admit patients into a hospital.

WHA is very pleased to have worked with Representatives Snyder and Doyle and Senators Marklein and Ringhand on LRB 1737, a bipartisan update to Wisconsin's Power of Attorney and Living Will (Advanced Directives) statutes to recognize the ability of APRNs and PAs to make professional, medical determinations required under those statutes. Wisconsin's Power of Attorney and Living Will statutes currently provide mechanisms for individuals to express and have health care providers act upon the individual's advanced wishes regarding their health care if the individual becomes incapable of making health care decisions.

This bill removes a regulatory burden impacting individuals that have specified their wishes through a Living Will or health care Power of Attorney instrument, as well as their families and health care providers, by updating those laws to reflect the current licensed scope of practice of the APRN and PA professions. Although their existing licensed scope of practice includes the types of professional, medical decisions made under the Living Will and Power of Attorney statutes, those statutes currently refer only to physicians and have never been updated to recognize the APRN and PA professions. This bill makes those updates to Wisconsin law.

The bill recognizes APRN and PA professions in key provisions of Wisconsin's Living Will and Power of Attorney statutes:

- **Activation of an individual's wishes under the individual's Living Will.** Under current law, an individual's treatment wishes under a living will can only be acted upon following a determination by two physicians that the

individual has a terminal condition or is in a persistent vegetative state. The bill modifies current law to require that the determination be made by one physician plus one physician, PA, or APRN.

- **Activation of an individual's health care Power of Attorney.** Under current law, an individual may create a health care Power of Attorney instrument that authorizes an agent to make health care decisions for the individual should he/she become incapacitated. Also under current law, the agent's authority is only activated under the Power of Attorney document when two physicians or one physician and one psychologist examine the individual and determine that the individual is incapacitated. The bill modifies current law to require that the exam and determination be made by one physician plus one physician, psychologist, nurse practitioner, or PA.
- **Do-not-resuscitate orders.** Under current law and subject to several conditions, a patient can request that his/her attending physician issue a do-not-resuscitate order should the patient have a terminal condition or be in a persistent vegetative state. The bill changes "attending physician" to include PAs and APRNs serving as the "attending health care professional."

Data and analysis in WHA's 2018 Health Care Workforce Report shows that, over the past decade, Physician Assistant employment in Wisconsin hospitals has increased by 143% and Advanced Practice Nurse employment has increased by 150%. These advanced practice providers are an increasingly important part of the care team for patients in hospitals, clinics, health systems, nursing homes and for home health agencies across our state. WHA is pleased to support this targeted and meaningful statutory change that preserves high quality, team-based care in Wisconsin while removing an unnecessary regulatory bottleneck on Wisconsin's health care workforce.

If you have any questions, contact Kyle O'Brien, Senior Vice President Government Relations, at kobrien@wha.org or (608) 274-1820.

*To co-sponsor this legislation, please contact Representative Snyder's office (266-0654) or Senator Marklein's office (266-0703). **The deadline for co-sponsorship is May 23rd, 2019.***