



**ASSEMBLY SUBSTITUTE AMENDMENT 3,
TO ASSEMBLY BILL 139**

May 8, 2013 – Offered by Representatives HEBL, WACHS, SARGENT and BARCA.

- 1 **AN ACT** *to repeal* 448.30 (1); and *to amend* 448.30 (intro.) of the statutes;
2 **relating to:** the duty of physicians to inform patients of treatment options.

Analysis by the Legislative Reference Bureau

Under Wisconsin’s physician informed consent law, a physician who treats a patient has a duty to inform the patient about the availability of all alternate, viable medical modes of treatment and the benefits and risks of those treatments, subject to certain exceptions. A physician who fails to so inform a patient about modes of treatment may be held civilly liable for damages under tort law. The Wisconsin Supreme Court has employed a “reasonable patient standard” to determine whether a physician has fulfilled his or her duty. Under the reasonable patient standard, a physician must disclose information necessary for a reasonable person in the patient’s position to make an intelligent decision with respect to the choices of treatment. The Wisconsin Supreme Court has also held that the duty to inform a patient about alternate modes of treating the patient’s condition includes the duty to inform a patient about alternate modes of diagnosing the patient’s condition.

This substitute amendment instead provides that any physician who treats a patient has a duty to inform the patient about the availability of reasonable alternate medical modes of treatment and the benefits and risks of those treatments, and provides that the “reasonable physician standard” is the standard for informing a patient under the physician informed consent law. The substitute amendment provides that the reasonable physician standard requires the disclosure only of

