



## 1995 ASSEMBLY BILL 299

April 8, 1995 - Introduced by Representatives URBAN, KLUSMAN, KUNICKI, ROBSON, ALBERS, CARPENTER, JOHNSRUD, BOCK, HANDRICK, PLOMBON, F. LASEE, ZUKOWSKI, WIRCH, KREIBICH, DOBYNS, GOETSCH, RYBA, SILBAUGH, LORGE, HAHN, HOVEN, GARD, SERATTI, FOTI, BRANDEMUEHL, OTT, LEHMAN, REYNOLDS, OWENS, BALDUS, LA FAVE, LADWIG, PORTER, SKINDRUD, MUSSER, GROTHMAN, POWERS, GRONEMUS, OLSEN, CULLEN, BOYLE and TRAVIS, cosponsored by Senators FARROW, SCHULTZ, MOEN, A. LASEE, JAUCH, PETAK, WINEKE, ZIEN, DECKER, GEORGE, BRESKE and BURKE. Referred to Committee on Health.

1     **AN ACT to amend** 446.03 (6), 446.03 (7) and 632.87 (3) (b) 1.; and **to create**  
2             446.025, 446.03 (8) and 632.87 (3) (bd), (bp) and (bt) of the statutes; **relating**  
3             **to:** qualifications of chiropractors who provide independent evaluations for  
4             insurers, procedures for conducting independent evaluations for insurers and  
5             granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

Under current law, an insurer may not restrict or terminate coverage under a policy, plan or contract covering treatment by a licensed chiropractor within the scope of the practice of chiropractic except on the basis of an independent evaluation of the chiropractic treatment. An independent evaluation must be provided by a licensed chiropractor or a peer review committee that includes a licensed chiropractor. Current law does not specify the qualifications that a chiropractor must have in order to provide independent evaluations, nor does current law provide for procedures that a chiropractor must follow when providing an independent evaluation. Current law also does not allow for any further review of the findings or recommendation of an independent evaluation.

This bill establishes qualifications that a chiropractor must have in order to provide independent evaluations that an insurer will use as a basis for restricting or terminating chiropractic coverage. A chiropractor must be certified by the chiropractic examining board (board) to provide independent evaluations, must get at least 50% of his or her income from the private practice of chiropractic and must be a member of a state or national chiropractic association. The board is authorized to promulgate rules establishing the education and experience requirements that a chiropractor must satisfy to be certified to provide independent evaluations. The board is also authorized to promulgate rules to establish a certification procedure and a procedure to determine, each year, whether a chiropractor is still qualified to

provide independent evaluations. The bill establishes procedures that a chiropractor must follow when providing an independent evaluation, and allows the board to discipline a chiropractor for engaging in unprofessional conduct when providing an independent evaluation. The bill also prohibits a chiropractor who provides an independent evaluation from being compensated by an insurer based on the percentage of the dollar amount by which an insurance claim is reduced as a result of the chiropractor's independent evaluation. Finally, the bill creates a procedure for a chiropractor whose treatment is being evaluated to have an expert review the independent evaluation so that the expert can give an opinion on the necessity of the treatment being evaluated. Under the bill, the expert who conducts the review must satisfy the same requirements as are established for a chiropractor who provides independent evaluations, and must also have practiced chiropractic for at least 10 years, must have completed at least 300 hours of course work sponsored by a school approved by a council on chiropractic education, and must be eligible to take an examination administered by the board or council of the professional association that governs his or her practice specialty. The bill also authorizes the board to promulgate rules concerning the expert review procedure and the certification of expert reviewers.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 446.025 of the statutes is created to read:

2           **446.025    Certification and duties of providers of independent**  
3 **evaluations; reviews of independent evaluations. (1)** In this section:

4           (a) "Chiropractor" means a person licensed to practice chiropractic under this  
5 chapter.

6           (b) "Independent evaluation" means an examination or evaluation by or  
7 recommendation of a chiropractor or a peer review committee under s. 632.87 (3) (b)  
8 1.

9           (c) "Patient" means a person whose treatment by a chiropractor is the subject  
10 of an independent evaluation.

1 (d) "Treating chiropractor" means a chiropractor who is treating a patient and  
2 whose treatment of the patient is the subject of an independent evaluation.

3 (2) No chiropractor may provide an independent evaluation to an insurer  
4 unless he or she satisfies all of the following requirements:

5 (a) The chiropractor is certified to provide independent evaluations under sub.  
6 (4) (b).

7 (b) At least 50% of the chiropractor's Wisconsin adjusted gross income, as  
8 defined in s. 71.01 (13), in the chiropractor's most recent taxable year is from the  
9 private practice of chiropractic by the chiropractor. This paragraph does not apply  
10 to a chiropractor who has a physical disability.

11 (c) The chiropractor is a member in good standing of a state or national  
12 chiropractic association.

13 (3) No peer review committee may provide an independent evaluation to an  
14 insurer unless the committee includes a chiropractor who satisfies the requirements  
15 under sub. (2).

16 (4) The examining board shall promulgate rules establishing all of the  
17 following:

18 (a) The education and experience requirements that a chiropractor must meet  
19 to be qualified to provide an independent evaluation.

20 (b) A procedure for certifying that a chiropractor meets the education and  
21 experience requirements established by the rules promulgated under par. (a). The  
22 procedure shall include an annual examination of a chiropractor who is certified to  
23 provide independent evaluations to determine whether he or she satisfies the  
24 education and experience requirements established by the rules promulgated under  
25 par. (a).

1 (c) A procedure to determine, at least once each year, whether a chiropractor  
2 satisfies the requirements under sub. (2) (b) and (c).

3 (5) A chiropractor providing an independent evaluation shall do all of the  
4 following:

5 (a) Record all information gathered during the independent evaluation on a  
6 standard form prescribed by the examining board.

7 (c) Provide, to the treating chiropractor and to all other chiropractors who are  
8 treating the patient whose treatment is the subject of the independent evaluation,  
9 a written statement that contains all of the following:

10 1. The name and address of the chiropractor providing the independent  
11 evaluation.

12 2. A statement that he or she is providing an independent evaluation under s.  
13 632.87 (3) (b) 1.

14 3. The name of the treating chiropractor.

15 4. The name of the patient.

16 (d) Provide a copy of the report of the independent evaluation to the treating  
17 chiropractor and to all other chiropractors who are treating the patient. The copy of  
18 the report provided under this paragraph shall include a list of the records and  
19 documents reviewed as part of the independent evaluation by the chiropractor  
20 providing the independent evaluation.

21 (e) Comply with the requirements of s. 632.87 (3) (bd), if applicable.

22 (6) The examining board shall promulgate rules establishing a procedure for  
23 expert review of independent evaluations under s. 632.87 (3) (bt) and a procedure for  
24 certifying persons to conduct expert reviews. No person may be certified under this

1 subsection to conduct expert reviews under s. 632.87 (3) (bt) unless he or she meets  
2 all of the following requirements:

3 (a) He or she is a chiropractor licensed under this chapter.

4 (b) He or she satisfies all of the requirements under sub. (2).

5 (c) He or she has practiced chiropractic for at least 10 years at the time that he  
6 or she applies for certification as an expert reviewer.

7 (d) He or she has, since graduation from a school of chiropractic, completed at  
8 least 300 hours of course work sponsored by a school approved by a council on  
9 chiropractic education.

10 (e) He or she is eligible to take an examination administered by the board or  
11 council of the professional association that governs his or her practice specialty.

12 **SECTION 2.** 446.03 (6) of the statutes is amended to read:

13 446.03 (6) Has continued practice, knowingly having an infectious or  
14 contagious disease; or

15 **SECTION 3.** 446.03 (7) of the statutes is amended to read:

16 446.03 (7) ~~If the applicant or registrant maintains~~ Maintains a professional  
17 connection or association with any other person continuing to violate this chapter  
18 after 10 days' notice in writing by the department; ~~or~~

19 **SECTION 4.** 446.03 (8) of the statutes is created to read:

20 446.03 (8) Acted in an unprofessional manner while providing an examination,  
21 evaluation or recommendation under s. 632.87 (3) (b) 1.

22 **SECTION 5.** 632.87 (3) (b) 1. of the statutes is amended to read:

23 632.87 (3) (b) 1. Restrict or terminate coverage for the treatment of a condition  
24 or a complaint by a licensed chiropractor within the scope of the chiropractor's  
25 professional license on the basis of other than an examination or evaluation by or a

1 recommendation of a licensed chiropractor who satisfies the requirements under s.  
2 446.025 (2) or a peer review committee that includes a licensed chiropractor who  
3 satisfies the requirements under s. 446.025 (2). An examination, evaluation or  
4 recommendation under this subdivision shall be provided in accordance with par.  
5 (bd) and s. 446.025 (5).

6 **SECTION 6.** 632.87 (3) (bd), (bp) and (bt) of the statutes are created to read:

7 632.87 (3) (bd) If an examination, evaluation or recommendation under par. (b)  
8 1. requires a physical examination of the patient whose treatment is the subject of  
9 the examination, evaluation or recommendation, the chiropractor who conducts the  
10 examination or evaluation or gives the recommendation shall be within a reasonable  
11 proximity to the chiropractor whose treatment of the patient is the subject of the  
12 examination, evaluation or recommendation.

13 (bp) 1. In this paragraph, "claim" means an insured's claim for coverage, under  
14 a policy, plan or contract covering diagnosis and treatment of a condition or  
15 complaint by a licensed chiropractor within the scope of the chiropractor's  
16 professional license, the restriction or termination of which coverage is the subject  
17 of an examination, evaluation or recommendation under par. (b) 1.

18 2. A chiropractor who conducts an examination or evaluation or who gives a  
19 recommendation under par. (b) 1. may not be compensated by an insurer based on  
20 a percentage of the dollar amount by which a claim is reduced as a result of the  
21 examination, evaluation or recommendation.

22 (bt) 1. A chiropractor whose treatment of a patient is the subject of an  
23 examination, evaluation or recommendation under par. (b) 1. may request an expert  
24 review of the examination, evaluation or recommendation by a chiropractor who is  
25 qualified to conduct an expert review under s. 446.025 (6). The chiropractor who

1 conducts an expert review under this paragraph shall issue a written opinion on the  
2 necessity of the treatment being provided by the chiropractor who is seeking the  
3 expert review.

4 2. The chiropractor who seeks the expert review under this paragraph shall pay  
5 the cost of the expert review if the expert review affirms the conclusions of the  
6 evaluation or examination or concurs in the recommendation under par. (b) 1. The  
7 insurer shall pay the cost of the expert review if the expert review rejects the  
8 conclusions of the evaluation or examination or rejects the recommendation under  
9 par. (b) 1.

10 3. An expert review under this paragraph shall be conducted in accordance  
11 with the rules promulgated under s. 446.025 (6). No person may conduct expert  
12 reviews under this paragraph unless he or she is certified under s. 446.025 (6).

13 **SECTION 7. Nonstatutory provisions.**

14 (1) The chiropractic examining board shall submit in proposed form the rules  
15 required under section 446.025 (4) and (6) of the statutes, as created by this act, to  
16 the legislative council staff under section 227.15 (1) of the statutes no later than the  
17 first day of the 7th month beginning after the effective date of this subsection.

18 (END)