

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2003 SENATE BILL 275**

March 9, 2004 – Offered by COMMITTEE ON HEALTH, CHILDREN, FAMILIES, AGING AND  
LONG TERM CARE.

1     **AN ACT** *to renumber* 446.07; *to amend* 441.001 (3) (a), 441.001 (4) (b), 446.01  
2           (2) (b), 446.02 (2) (b), 446.02 (4), 446.02 (9) (a), 446.03 (intro.), 446.05 (1) and  
3           446.05 (2); *to repeal and recreate* 446.07 (title); and *to create* 446.01 (1k),  
4           446.01 (1L), 446.02 (7s), 446.03 (8), 446.04 (6), (7), (8), (9), (10) and (11), 446.05  
5           (3), 446.05 (4) and 446.07 (2) of the statutes; **relating to:** the definition of the  
6           practice of chiropractic; chiropractic evaluations and treatments;  
7           unprofessional conduct by chiropractors; delegations by chiropractors;  
8           granting rule-making authority, and providing penalties.

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

9           **SECTION 1.** 441.001 (3) (a) of the statutes is amended to read:  
10           441.001 (3) (a) “Practical nursing” means the performance for compensation  
11           of any simple acts in the care of convalescent, subacutely or chronically ill, injured

1 or infirm persons, or of any act or procedure in the care of the more acutely ill, injured  
2 or infirm under the specific direction of a nurse, physician, chiropractor licensed  
3 under ch. 446, podiatrist licensed under ch. 448, dentist licensed under ch. 447 or  
4 optometrist licensed under ch. 449, or under an order of a person who is licensed to  
5 practice medicine, podiatry, dentistry or optometry in another state if that person  
6 prepared the order after examining the patient in that other state and directs that  
7 the order be carried out in this state.

8 **SECTION 2.** 441.001 (4) (b) of the statutes is amended to read:

9 441.001 (4) (b) The execution of procedures and techniques in the treatment  
10 of the sick under the general or special supervision or direction of a physician,  
11 chiropractor licensed under ch. 446, podiatrist licensed under ch. 448, dentist  
12 licensed under ch. 447 or optometrist licensed under ch. 449, or under an order of a  
13 person who is licensed to practice medicine, podiatry, dentistry or optometry in  
14 another state if the person making the order prepared the order after examining the  
15 patient in that other state and directs that the order be carried out in this state.

16 **SECTION 3.** 446.01 (1k) of the statutes is created to read:

17 446.01 (1k) “Patient” means an individual who receives treatment or services  
18 from a chiropractor or who has received treatment or services under the supervision,  
19 direction, or delegation of a chiropractor.

20 **SECTION 4.** 446.01 (1L) of the statutes is created to read:

21 446.01 (1L) “Pattern of conduct” means more than one occurrence.

22 **SECTION 5.** 446.01 (2) (b) of the statutes is amended to read:

23 446.01 (2) (b) To employ or apply chiropractic adjustments, and the principles  
24 or techniques of chiropractic science, that are taught at a chiropractic college or

1 university approved by the Council on Chiropractic Education or its successor, in the  
2 diagnosis, treatment or prevention of any of the conditions described in s. 448.01 (10).

3 **SECTION 6.** 446.02 (2) (b) of the statutes is amended to read:

4 446.02 (2) (b) The examining board shall promulgate rules establishing  
5 educational requirements for obtaining a license under par. (a). The rules shall  
6 require that an application for the license that is received by the department after  
7 June 30, 1998, be accompanied by satisfactory evidence that the applicant has a  
8 bachelor's degree from a college or university accredited by an accrediting body listed  
9 as nationally recognized by the secretary of the federal department of education, and  
10 has graduated from a college or university of chiropractic approved by the examining  
11 board accredited by the Council on Chiropractic Education or its successor.

12 **SECTION 7.** 446.02 (4) of the statutes is amended to read:

13 446.02 (4) The renewal date and renewal fee for all licenses granted by the  
14 examining board are specified under s. 440.08 (2) (a). In an application for renewal,  
15 the applicant shall identify each employee, other than a nurse licensed under ch. 441,  
16 physical therapist licensed under subch. III of ch. 448, or athletic trainer licensed  
17 under subch. VI of ch. 448, to whom clinical work is delegated. If the examining board  
18 has promulgated rules requiring such an employee to complete a training program  
19 or course of instruction to perform the delegated work, the applicant shall also  
20 provide the name, date, and sponsoring organization for the training program or  
21 course of instruction that the employee completed.

22 **SECTION 8.** 446.02 (7s) of the statutes is created to read:

23 446.02 (7s) A chiropractor shall evaluate each patient to determine whether  
24 the patient has a condition that is treatable by chiropractic means. An evaluation  
25 shall be based on an examination that is appropriate to the patient. In conducting

1 an evaluation, a chiropractor shall utilize chiropractic science, as defined by rule by  
2 the examining board, and the principles of education and training of the chiropractic  
3 profession. A chiropractor shall discontinue treatment by chiropractic means if, at  
4 any time, the chiropractor determines, or reasonably should have determined, that  
5 the patient's condition will not respond to further treatment by chiropractic means,  
6 except that a chiropractor may continue to provide supportive care to a patient.

7 **SECTION 9.** 446.02 (9) (a) of the statutes is amended to read:

8 446.02 **(9)** (a) A student or graduate of a college or university of chiropractic  
9 that is accredited by the Council on Chiropractic Education or its successor who  
10 practices chiropractic, in a program for the clinical training of students and  
11 graduates that is reviewed and approved by the examining board, under the  
12 supervision of a chiropractor who is approved by the examining board to supervise  
13 the clinical training of the student or graduate and who is licensed under this chapter  
14 and is responsible for the student's or graduate's practice in an infirmary, clinic,  
15 hospital or private chiropractic office that is connected or associated for training  
16 purposes with a college or university of chiropractic ~~approved by the examining~~  
17 ~~board~~ that is accredited by the Council on Chiropractic Education or its successor.

18 **SECTION 10.** 446.03 (intro.) of the statutes is amended to read:

19 **446.03 Reprimand; license revocation, limitation or suspension.**  
20 (intro.) The Subject to ss. 446.04 (11) (d) and 446.05 (3), the examining board, by  
21 order, may reprimand a licensee or registrant and may deny, limit, suspend or revoke  
22 any license or certificate of registration if the licensee or registrant:

23 **SECTION 11.** 446.03 (8) of the statutes is created to read:

24 446.03 **(8)** Has violated this chapter or any rule promulgated under this  
25 chapter.

1           **SECTION 12.** 446.04 (6), (7), (8), (9), (10) and (11) of the statutes are created to  
2 read:

3           446.04 **(6)** Billing for chiropractic services that were inappropriate,  
4 unnecessary, or of substandard quality.

5           **(7)** Billing for a service that was not performed. This includes:

6           (a) Billing for a service that was performed by a staff person without the  
7 training required by the laws of this state.

8           (b) A pattern of conduct in which a chiropractor bills a Current Procedural  
9 Terminology Code in a manner inconsistent with the published standards of the  
10 Current Procedural Terminology Code, the Current Procedural Terminology  
11 Assistant, the Wisconsin Chiropractic Association, the American Chiropractic  
12 Association, or the International Chiropractic Association.

13           (c) A pattern of conduct in which a chiropractor bills for a service using a higher  
14 level Current Procedural Terminology Code than the service that was actually  
15 provided to the patient with the intent of obtaining unearned reimbursement.

16           **(8)** Failure to collect a deductible or co-payment required by a patient's insurer.  
17 This subsection does not apply if the chiropractor has made reasonable efforts to  
18 collect the deductible or co-payment or if the patient has financial hardship and the  
19 chiropractor documents the financial hardship.

20           **(9)** Falsifying a claim.

21           **(10)** A pattern of conduct that involves billing for a unit of service that was not  
22 actually performed with the intent of obtaining unearned reimbursement.

23           **(11)** Sexual misconduct. In this subsection, all of the following apply:

24           (a) A chiropractor engages in sexual misconduct if he or she engages in sexual  
25 contact, exposure, or gratification, sexually offensive communication, dating a

1 patient while the patient is under the chiropractor’s professional care or treatment  
2 or within 6 months after the patient has been discharged from care or treatment, or  
3 other sexual behavior with or in the presence of a patient under the chiropractor’s  
4 professional care or treatment and a reasonably prudent chiropractor under similar  
5 conditions and circumstances would find the conduct unprofessional. Consent is not  
6 an issue under this subsection.

7 (b) “Contact violation” means any violation of par. (a) that involves physical  
8 contact with a patient under the chiropractor’s professional care or treatment.

9 (c) “Noncontact violation” means any violation of par. (a) that does not involve  
10 physical contact with a patient under the chiropractor’s professional care or  
11 treatment.

12 (d) 1. The examining board shall require a chiropractor who commits a first  
13 noncontact violation under this subsection to attend training approved by the  
14 department regarding sexual misconduct and shall suspend his or her chiropractic  
15 license for not less than 90 days.

16 2. The examining board shall suspend the chiropractic license of a chiropractor  
17 who commits a 2nd noncontact violation or a first contact violation under this  
18 subsection for one year.

19 3. The examining board shall revoke the chiropractic license of a chiropractor  
20 who commits a 3rd noncontact or a 2nd contact violation under this subsection.

21 **SECTION 13.** 446.05 (1) of the statutes is amended to read:

22 **446.05 Procedure for hearings. (1)** Subject to the rules promulgated under  
23 s. 440.03 (1), the examining board may make investigations and conduct hearings  
24 in regard to the conduct of any licensed chiropractor who, it has reason to believe,  
25 violated s. 446.02 ~~or 446.03~~ (1), (6), (7), (7m), or (8) or committed any offense listed

1 in s. 446.03. The person complained against may proceed to review any action of the  
2 examining board under ch. 227.

3 **SECTION 14.** 446.05 (2) of the statutes is amended to read:

4 446.05 (2) ~~Upon~~ Except as provided in subs. (3) and (4), upon application and  
5 satisfactory proof that the cause of such revocation or suspension no longer exists,  
6 the examining board may reinstate any license or registration suspended or revoked  
7 by it. This subsection does not apply to a license or registration that is suspended  
8 under s. 440.13 (2) (c) or that is revoked under s. 440.12.

9 **SECTION 15.** 446.05 (3) of the statutes is created to read:

10 446.05 (3) The examining board shall suspend the license of a chiropractor who  
11 commits a third violation of s. 446.04 (1) to (10) for not less than 6 months.

12 **SECTION 16.** 446.05 (4) of the statutes is created to read:

13 446.05 (4) The examining board shall suspend the license of a chiropractor who  
14 commits a fourth violation of s. 446.04 (1) to (10) for not less than 2 years.

15 **SECTION 17.** 446.07 (title) of the statutes, as affected by 2001 Wisconsin Act  
16 109, is repealed and recreated to read:

17 **446.07 (title) Penalties.**

18 **SECTION 18.** 446.07 of the statutes, as affected by 2001 Wisconsin Act 109, is  
19 renumbered 446.07 (1).

20 **SECTION 19.** 446.07 (2) of the statutes is created to read:

21 446.07 (2) If the examining board finds that a chiropractor is guilty of the  
22 unprofessional conduct specified in s. 446.04 (6), the examining board may assess  
23 against the chiropractor a forfeiture of 3 times the amount that the chiropractor  
24 billed a patient for inappropriate, unnecessary, or substandard chiropractic care or

1 \$5,000, whichever is less. This subsection applies only if the examining board makes  
2 a 2nd or subsequent such finding regarding a chiropractor.

3 **SECTION 20. Initial applicability.**

4 (1) RENEWALS. The treatment of section 446.02 (4) of the statutes first applies  
5 to chiropractors whose licenses expire on January 1, 2007.

6 (2) VIOLATIONS AND OFFENSES. The treatment of sections 446.03 (intro.) and  
7 446.05 (1) of the statutes and the creation of sections 446.03 (8), 446.04 (6), (7), (8),  
8 (9), (10), and (11), and 446.07 (2) of the statutes first apply to violations that occur,  
9 and offenses that are committed, on the effective date of this subsection.

10 (3) LICENSE SUSPENSION.

11 (a) The treatment of section 446.05 (2) of the statutes and the creation of section  
12 446.05 (3) of the statutes first apply to 3rd violations that occur on the effective date  
13 of this paragraph.

14 (b) The treatment of section 446.05 (1) of the statutes and the creation of section  
15 446.05 (4) of the statutes first apply to 4th violations that occur on the effective date  
16 of this paragraph.

17 **SECTION 21. Effective date.**

18 (1) This act takes effect on the first day of the 2nd month beginning after  
19 publication.

20 (END)