

**2013 Assembly Bill 139 (LRB -2058)**

An Act to repeal 448.30 (1); to amend 448.30 (intro.); and to create 448.30 (7) of the statutes; relating to: the duty of physicians to inform patients of treatment options. (FE)

**2013**

04-05.	A.	Introduced by Representatives <b>J. Ott, Severson, Czaja, Jacque, Brooks, Strachota, Marklein, A. Ott, Kestell, Murphy, Stroebel, Nygren, Bies, Ballweg, Stone, T. Larson, Endsley and LeMahieu</b> ; cosponsored by Senators <b>Grothman, Vukmir, Farrow, Cowles, Tiffany, Olsen, Darling, Moulton and Lasee</b> .	104
04-05.	A.	Read first time and referred to Committee on Judiciary	104
04-09.	A.	Senator Schultz added as a cosponsor	106
04-10.	A.	Fiscal estimate received	
04-11.	A.	Public hearing held	
04-16.	A.	Representative Craig added as a coauthor	117
04-23.	A.	Assembly Substitute Amendment 1 offered by Representative Wachs ( <b>LRB s0038</b> )	129
04-25.	A.	Executive action taken	
05-01.	A.	Report passage recommended by Committee on Judiciary, Ayes 6, Noes 2	137
05-01.	A.	Referred to Committee on Rules	137
05-02.	A.	Placed on calendar 5-8-2013 by Committee on Rules	
05-07.	A.	Assembly Amendment 1 offered by Representative J. Ott ( <b>LRB a0351</b> )	145
05-07.	A.	Assembly Amendment 2 offered by Representative Wachs ( <b>LRB a0356</b> )	145
05-07.	A.	Assembly Substitute Amendment 2 offered by Representatives Goyke, Hebl, Wachs, Genrich, C. Taylor, Bewley and Sargent ( <b>LRB s0046</b> )	145
05-07.	A.	Made a special order of business at 1:03 PM on 5-8-2013 pursuant to Assembly Resolution 9	152
05-08.	A.	Assembly Substitute Amendment 3 offered by Representatives Hebl, Wachs, Sargent and Barca ( <b>LRB s0049</b> )	154
05-08.	A.	Read a second time	159
05-08.	A.	Assembly Substitute Amendment 2 placed after Assembly Substitute Amendment 3	159
05-08.	A.	Assembly Substitute Amendment 2 laid on table, Ayes 58, Noes 38	159
05-08.	A.	Assembly Substitute Amendment 3 laid on table, Ayes 58, Noes 38	159
05-08.	A.	Assembly Amendment 1 <b>adopted</b>	159
05-08.	A.	Assembly Amendment 2 withdrawn and returned to author	159
05-08.	A.	Ordered to a third reading	159
05-08.	A.	Rules suspended	159
05-08.	A.	Read a third time and <b>passed</b> , Ayes 65, Noes 31	159
05-08.	A.	Ordered immediately messaged	160
05-09.	S.	Received from Assembly	215
05-10.	S.	Read first time and referred to committee on Judiciary and Labor	218
10-08.	S.	Senate Amendment 1 offered by Senator Grothman ( <b>LRB a0916</b> )	392
10-09.	S.	Executive action taken	
10-10.	S.	Report adoption of Senate Amendment 1 recommended by Committee on Judiciary and Labor, Ayes 5, Noes 0	405
10-10.	S.	Report concurrence as amended recommended by Committee on Judiciary and Labor, Ayes 3, Noes 2	405
10-10.	S.	Available for scheduling	
10-14.	S.	Public hearing requirement waived by committee on Senate Organization, pursuant to Senate Rule 18 (1m), Ayes 5, Noes 0	414
10-14.	S.	Placed on calendar 10-15-2013 pursuant to Senate Rule 18(1)	414
10-15.	S.	Read a second time	424
10-15.	S.	Senate Amendment 1 <b>adopted</b>	424
10-15.	S.	Ordered to a third reading	424
10-15.	S.	Rules suspended	424
10-15.	S.	Read a third time and <b>concurred in</b>	424
10-15.	S.	Ordered immediately messaged	425
10-16.	A.	Received from Senate amended and concurred in as amended (Senate amendment 1 adopted)	364
10-22.	A.	Referred to committee on Rules	383
10-31.	A.	Placed on calendar 11-5-2013 by Committee on Rules	
11-05.	A.	Senate Amendment 1 <b>concurred in</b>	
11-05.	A.	Action ordered immediately messaged	

*9MB*

2013

ENROLLED BILL

13en A B- 139

ADOPTED DOCUMENTS:

Orig     Engr     SubAmdt

13-2058 / 2

Amendments to above (if none, write "NONE"):

AA1 — a. 0351/1

SA1 — a. 0916/1

Corrections - show date (if none, write "NONE"):

NONE

Topic

Rel

11-6-13

Date

*J. Schille*

Enrolling Drafter



## 2013 ASSEMBLY BILL 139

April 5, 2013 – Introduced by Representatives J. OTT, SEVERSON, CZAJA, JACQUE, BROOKS, STRACHOTA, MARKLEIN, A. OTT, KESTELL, MURPHY, STROEBEL, NYGREN, BIES, BALLWEG, STONE, T. LARSON, ENDSLEY and LEMAHIEU, cosponsored by Senators GROTHMAN, VUKMIR, FARROW, COWLES, TIFFANY, OLSEN, DARLING, MOULTON and LASEE. Referred to Committee on Judiciary.

1     **AN ACT to repeal** 448.30 (1); **to amend** 448.30 (intro.); and **to create** 448.30 (7)  
2             of the statutes; **relating to:** the duty of physicians to inform patients of  
3             treatment options.

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### *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 bill 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 bill provides that the reasonable physician standard requires the disclosure only of information that a reasonable physician in

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the same or a similar medical specialty would know and disclose under the circumstances. The bill also provides that the physician’s duty does not require the disclosure of information about alternate medical modes of treatment for conditions that the physician does not believe the patient has at the time the physician informs the patient.

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

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

1           **SECTION 1.** 448.30 (intro.) of the statutes is amended to read:

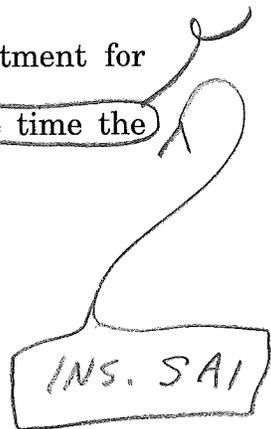
2           **448.30   Information on alternate modes of treatment Informed**  
3           **consent.** (intro.) Any physician who treats a patient shall inform the patient about  
4           the availability of all reasonable alternate, ~~viable~~ medical modes of treatment and  
5           about the benefits and risks of these treatments. The reasonable physician standard  
6           is the standard for informing a patient under this section. The reasonable physician  
7           standard requires disclosure only of information that a reasonable physician in the  
8           same or a similar medical specialty would know and disclose under the  
9           circumstances. The physician’s duty to inform the patient under this section does not  
10          require disclosure of:

11           **SECTION 2.** 448.30 (1) of the statutes is repealed.

12           **SECTION 3.** 448.30 (7) of the statutes is created to read:

13           448.30 (7) Information about alternate medical modes of treatment for  
14          conditions that the physician does not believe the patient has at the time the  
15          physician informs the patient.

16           **SECTION 4. Initial applicability.**



**ASSEMBLY BILL 139**

INS.  
AAI

1

(1) This act first applies to a cause of action that accrues on the effective date  
of this subsection.

2

3

**(END)**



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRBa0351/1  
MED:jld:rs

**ASSEMBLY AMENDMENT 1,  
TO ASSEMBLY BILL 139**

May 7, 2013 – Offered by Representative J. OTT.

AAI

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 1: delete “a cause of action that accrues” and substitute “a  
3 physician required to inform a patient about modes of treatment”.

4 (END)



**SENATE AMENDMENT 1,  
TO ASSEMBLY BILL 139**

October 8, 2013 – Offered by Senator GROTHMAN.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 14: delete that line and substitute “any condition the physician  
3 has not included in his or her diagnosis at the time the”.

4

(END)

SAI