



2013 SENATE BILL 518

1 **AN ACT** *to renumber and amend* 448.695 (1); and *to create* 446.02 (11), 446.08,
2 447.02 (2) (f), 447.40, 448.695 (1) (b), 448.697 and 449.25 of the statutes;
3 **relating to:** a duty of podiatrists, chiropractors, dentists, and optometrists to
4 inform patients of treatment options and granting rule-making authority.

Analysis by the Legislative Reference Bureau

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

5 **SECTION 1.** 446.02 (11) of the statutes is created to read:
6 446.02 (11) The examining board shall promulgate rules implementing s.
7 446.08.

8 **SECTION 2.** 446.08 of the statutes is created to read:

9 **446.08 Informed consent.** Any chiropractor who treats a patient shall inform
10 the patient about the availability of reasonable alternate modes of treatment and

SENATE BILL 518**SECTION 2**

1 about the benefits and risks of these treatments. The reasonable chiropractor
2 standard is the standard for informing a patient under this section. The reasonable
3 chiropractor standard requires disclosure only of information that a reasonable
4 chiropractor would know and disclose under the circumstances. The chiropractor's
5 duty to inform the patient under this section does not require disclosure of any of the
6 following:

7 (1) Detailed technical information that in all probability a patient would not
8 understand.

9 (2) Risks apparent or known to the patient.

10 (3) Extremely remote possibilities that might falsely or detrimentally alarm
11 the patient.

12 (4) Information in emergencies where failure to provide treatment would be
13 more harmful to the patient than treatment.

14 (5) Information in cases where the patient is incapable of consenting.

15 (6) Information about alternate modes of treatment for any condition the
16 chiropractor has not included in his or her diagnosis at the time the chiropractor
17 informs the patient.

18 **SECTION 3.** 447.02 (2) (f) of the statutes is created to read:

19 447.02 (2) (f) Provisions implementing s. 447.40.

20 **SECTION 4.** 447.40 of the statutes is created to read:

21 **447.40 Informed consent.** Any dentist who treats a patient shall inform the
22 patient about the availability of reasonable alternate modes of treatment and about
23 the benefits and risks of these treatments. The reasonable dentist standard is the
24 standard for informing a patient under this section. The reasonable dentist standard
25 requires disclosure only of information that a reasonable dentist would know and

SENATE BILL 518

1 disclose under the circumstances. The dentist’s duty to inform the patient under this
2 section does not require disclosure of any of the following:

3 (1) Detailed technical information that in all probability a patient would not
4 understand.

5 (2) Risks apparent or known to the patient.

6 (3) Extremely remote possibilities that might falsely or detrimentally alarm
7 the patient.

8 (4) Information in emergencies where failure to provide treatment would be
9 more harmful to the patient than treatment.

10 (5) Information in cases where the patient is incapable of consenting.

11 (6) Information about alternate modes of treatment for any condition the
12 dentist has not included in his or her diagnosis at the time the dentist informs the
13 patient.

14 **SECTION 5.** 448.695 (1) of the statutes is renumbered 448.695 (1) (intro.) and
15 amended to read:

16 448.695 (1) (intro.) The affiliated credentialing board shall promulgate all of
17 the following rules defining:

18 (a) Rules defining the acts or attempted acts of commission or omission that
19 constitute unprofessional conduct under s. 448.60 (5).

20 **SECTION 6.** 448.695 (1) (b) of the statutes is created to read:

21 448.695 (1) (b) Rules implementing s. 448.697.

22 **SECTION 7.** 448.697 of the statutes is created to read:

23 **448.697 Informed consent.** Any podiatrist who treats a patient shall inform
24 the patient about the availability of reasonable alternate modes of treatment and
25 about the benefits and risks of these treatments. The reasonable podiatrist standard

SENATE BILL 518**SECTION 7**

1 is the standard for informing a patient under this section. The reasonable podiatrist
2 standard requires disclosure only of information that a reasonable podiatrist would
3 know and disclose under the circumstances. The podiatrist's duty to inform the
4 patient under this section does not require disclosure of any of the following:

5 (1) Detailed technical information that in all probability a patient would not
6 understand.

7 (2) Risks apparent or known to the patient.

8 (3) Extremely remote possibilities that might falsely or detrimentally alarm
9 the patient.

10 (4) Information in emergencies where failure to provide treatment would be
11 more harmful to the patient than treatment.

12 (5) Information in cases where the patient is incapable of consenting.

13 (6) Information about alternate modes of treatment for any condition the
14 podiatrist has not included in his or her diagnosis at the time the podiatrist informs
15 the patient.

16 **SECTION 8.** 449.25 of the statutes is created to read:

17 **449.25 Informed consent.** (1) Any optometrist who treats a patient shall
18 inform the patient about the availability of reasonable alternate modes of treatment
19 and about the benefits and risks of these treatments. The reasonable optometrist
20 standard is the standard for informing a patient under this section. The reasonable
21 optometrist standard requires disclosure only of information that a reasonable
22 optometrist would know and disclose under the circumstances. The optometrist's
23 duty to inform the patient under this section does not require disclosure of any of the
24 following:

SENATE BILL 518

1 (a) Detailed technical information that in all probability a patient would not
2 understand.

3 (b) Risks apparent or known to the patient.

4 (c) Extremely remote possibilities that might falsely or detrimentally alarm the
5 patient.

6 (d) Information in emergencies where failure to provide treatment would be
7 more harmful to the patient than treatment.

8 (e) Information in cases where the patient is incapable of consenting.

9 (f) Information about alternate modes of treatment for any condition the
10 optometrist has not included in his or her diagnosis at the time the optometrist
11 informs the patient.

12 **(2)** The examining board shall promulgate rules implementing sub. (1).

13 **SECTION 9. Initial applicability.**

14 (1) The treatment of section 446.08 of the statutes first applies to a chiropractor
15 required to inform a patient about modes of treatment on the effective date of this
16 subsection.

17 (2) The treatment of section 447.40 of the statutes first applies to a dentist
18 required to inform a patient about modes of treatment on the effective date of this
19 subsection.

20 (3) The treatment of section 448.697 of the statutes first applies to a podiatrist
21 required to inform a patient about modes of treatment on the effective date of this
22 subsection.

