

State of Wisconsin



2013 Senate Bill 518

Date of enactment: **April 23, 2014**
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2013 WISCONSIN ACT 345

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

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

SECTION 1. 446.02 (11) of the statutes is created to read:

446.02 (11) The examining board shall promulgate rules implementing s. 446.08.

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

446.08 Informed consent. Any chiropractor who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable chiropractor standard is the standard for informing a patient under this section. The reasonable chiropractor standard requires disclosure only of information that a reasonable chiropractor would know and disclose under the circumstances. The chiropractor's duty to inform the patient under this section does not require disclosure of any of the following:

- (1) Detailed technical information that in all probability a patient would not understand.
- (2) Risks apparent or known to the patient.
- (3) Extremely remote possibilities that might falsely or detrimentally alarm the patient.
- (4) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.

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

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

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

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

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

447.40 Informed consent. Any dentist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable dentist standard is the standard for informing a patient under this section. The reasonable dentist standard requires disclosure only of information that a reasonable dentist would know and disclose under the circumstances. The dentist's duty to inform the patient under this section does not require disclosure of any of the following:

- (1) Detailed technical information that in all probability a patient would not understand.
- (2) Risks apparent or known to the patient.
- (3) Extremely remote possibilities that might falsely or detrimentally alarm the patient.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

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

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

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

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

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

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

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

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

448.697 Informed consent. Any podiatrist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable podiatrist standard is the standard for informing a patient under this section. The reasonable podiatrist standard requires disclosure only of information that a reasonable podiatrist would know and disclose under the circumstances. The podiatrist's duty to inform the patient under this section does not require disclosure of any of the following:

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

(2) Risks apparent or known to the patient.

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

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

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

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

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

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

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

(b) Risks apparent or known to the patient.

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

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

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

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

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

SECTION 9. Initial applicability.

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

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

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

(4) The treatment of section 449.25 (1) of the statutes first applies to an optometrist required to inform a patient about modes of treatment on the effective date of this subsection.