

Wisconsin Medical Society
Your Doctor. Your Health.

Capitol Update: Politics and Policy

Mark M. Grapentine, JD
Wisconsin Medical Society
November 5, 2013

*Milwaukee Gynecological Society
University Club of Milwaukee*

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What's Covered

- State: what's happened so far
- State: what's happening now
- Federal update


Q & A at any time!

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2013-14 Biennium: Major Items

2013 Act 37

- Mandated ultrasounds
 - patient's choice; heartbeat
- Mandated oral explanation
 - inc. number, location, etc.
- Display, describe images
 - inc. features, organs, etc.




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2013-14 Biennium: Major Items

2013 Act 37

- Penalty: \$1k - \$10k
- Father/G'parent can bring a claim for damages
- Admitting privileges required – w/in 30 miles




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2013-14 Biennium: Major Items

In the Courts

- PPOW suing in Federal Court
- Western District: Preliminary Injunction
- Trial: Nov. 25
- Society joins *amicus* at 7th Cir.




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2013-14 Biennium: Major Items

Jandre v. IPFCF (2012)

- Informed Consent requirements
- 3-1-3 decision
- Jury: No negligence in diagnosis/jury awards \$2M
- Danger: strict liability for missed diagnosis
- Society, WHA, WI-ACEP




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2013-14 Biennium: *Jandre*

Evolution of Informed Consent

- Common Law - Battery
- *Scaria* (1975) - disclosing risks
- *Martin* (1995) – lack of facility capability for possible conditions
- *Bubb* (2009) – similar diagnosis/stroke experience; Court finds for II, option of more tests for condition



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2013-14 Biennium: *Jandre*

448.30 Information on alternate modes of treatment.
Any physician who treats a patient shall inform the patient about the availability of all alternate, viable medical modes of treatment and about the benefits and risks of these treatments. The physician's duty to inform the patient under this section does not require disclosure of:

- (1) Information beyond what a reasonably well-qualified physician in a similar medical classification would know.
- (2) Detailed technical information that in all probability a patient would not understand.
- (3) Risks apparent or known to the patient.
- (4) Extremely remote possibilities that might falsely or detrimentally alarm the patient.
- (5) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.
- (6) Information in cases where the patient is incapable of consenting.

History: 1981 c. 375.

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2013-14 Biennium: *Jandre (AB 139)*

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

Section 2. 448.30 (1) of the statutes is repealed.

Section 3. 448.30 (7) of the statutes is created to read:

448.30 (7) 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.

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2013-14 Biennium: *Jandre*

AB 139
Assembly passage:
65-31 (57 R, 8 D)
May 8, 2013



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2013-14 Biennium: *Jandre (Senate)*

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

Section 2. 448.30 (1) of the statutes is repealed.

Section 3. 448.30 (7) of the statutes is created to read:

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

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2013-14 Biennium: *Jandre*

AB 139
Senate passage:
Voice Vote
October 15, 2013
Assembly Concurr:
November 5, 2013



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2013-14 Biennium: *More normal?*



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2013-14 Biennium: *More normal?*




June 16, 2011

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2013-14 Biennium: Liability

Physician Condolence Bill
(AB 120, SB 129)

- End “Wall of Silence”
- Protect statements of condolence, sympathy, etc.
- “Strong” version of bill
- Rep. Severson/Sen. Vukmir



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2013-14 Biennium: Other Legislation

- AB 160: wrongful death of unborn child
- AB 217: sex-selective abortions
- AB 224: sale/use of fetal body parts



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2013-14 Biennium: Other Legislation

- Worker’s Compensation
- Flu vaccine/employment
 - AB 247: 8 cosponsors
- Raw Milk
 - SB 236/AB 287
- Scope: Dentists, PTs, etc.
- Speaker’s Task Forces



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2013-14 Biennium: MEB



- MED 10: unprofessional conduct
- MED 8: PA supervision
- License qualification
- Committee: discipline guidelines

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2013-14 Biennium: MEB



MED 10

- Unprofessional Conduct
- Wrong-site Surgery
- Patient Abandonment

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2013-14 Biennium: MEB




MED 8 – PAs

Physician to physician assistant ratio. No physician may supervise more than 4 on duty physician assistants at any time unless a written plan to do so has been submitted to and approved by the board . . .

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2013-14 Biennium: MEB



MED 8 – PAs

Issuing written prescription orders for drugs provided the physician assistant has had and initial and at least annual thereafter, review of the physician assistant's prescriptive practices by a physician providing supervision. Such reviews shall be documented in writing, signed by the reviewing physician and physician assistant and made available to the Board for inspection upon reasonable request.

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2013-14 Biennium: MEB



MED 8 – PAs

IDENTIFYING SUPERVISING PHYSICIAN. The physician providing supervision must be readily identifiable by the physician assistant through procedures commonly employed in the physician assistant's practice.

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2013-14 Biennium: MEB



Legislation


- Resident Educational License

Discipline Guidelines

- Specific range of sanctions listed for specific violations

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2013-14 Biennium: Mental Health TF



- Child Psych Consultation
– AB 452/SB 359
- Mental Health Coordination
– AB 453/SB 360
- Primary/Psych Shortage
– AB 454/SB 366

2013-14 Biennium: H.O.P.E.



- Good Samaritan Law for 911
– AB 447/SB 350
- Photo IDs for Drug pick-up
– AB 445/SB 353
- Disposal of Unneeded Drugs
– AB 448/SB 351
- Increased access to Naloxone
– AB 446/SB 352

Federal Update

Sustainable Growth Rate

- 24 percent cut: 1.1.14
- H.R. 2810
 - Passed E&C 51-0
 - 0.5% increase 2014-18
 - 2019: Pay for Quality
 - Medicare Data



Federal Update

Implementing the ACA

- Exchanges online: Oct. 1
- Exchanges live: 1.1.14

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Contact Information

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