

1023.3 PROFESSIONAL NEGLIGENCE: MEDICAL: DUTY OF PHYSICIAN TO INFORM A PATIENT: CAUSE

Question _____ asks: Was (physician)’s negligence in informing (plaintiff) a cause of (injury) (death) to (plaintiff)? A physician’s negligence is a cause of a patient’s (injury) (death) if the negligence was a substantial factor in producing the patient’s (injury) (death). This question does not ask about “the cause” but rather “a cause.” The reason for this is that there can be more than one cause of (an injury) (a death).

COMMENT

This instruction and comment were approved in 2000 and revised in 2015.

If this instruction is used, then Wis JI-Civil 1500 does not have to be given. If issues such as preexisting conditions or national progression of a condition are involved, see Wis JI-Civil 1023.

Effective Date. This instruction applies to a physician required to inform a patient about modes of treatment on or after December 15, 2013. For informed consent cases based on the failure to properly inform a patient prior to the effective date of Wis. Stat. § 448.30 (2013 Wisconsin Act 111), the following instruction applies:

1023.3 PROFESSIONAL NEGLIGENCE: MEDICAL: INFORMED CONSENT: CAUSE

Question _____ is a cause question. A physician’s failure to disclose necessary information is a cause of a plaintiff’s injury if the failure to inform was a substantial factor in producing the present condition of the plaintiff’s health. This question does not ask about “the cause” but rather “a cause.” The reason for this is that there can be more than one cause of an injury.