

2009 DRAFTING REQUEST

Bill

Received: 11/25/2009

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Pat Kreitlow (608) 266-7511

By/Representing: Jeff Buhrandt

This file may be shown to any legislator: NO

Drafter: tdodge

May Contact: Rep. Richards
DHS - Denise Webb, Faith Russell

Adl. Drafters:

Subject: Health - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Sen.Kreitlow@legis.wisconsin.gov

Carbon copy (CC:) to: tamara.dodge@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Health information exchange corporation

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 01/06/2010	bkraft 01/07/2010		_____			
/P1			phenry 01/08/2010	_____	sbasford 01/08/2010		
/P2	tdodge 01/29/2010	bkraft 02/01/2010	jfrantze 02/02/2010	_____	lparisi 02/02/2010		S&L

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/1	tdodge 02/12/2010	kfollett 02/12/2010	mduchek 02/12/2010	_____	sbasford 02/12/2010		S&L
/2	tdodge 02/15/2010	bkraft 02/15/2010	rschluet 02/16/2010	_____	lparisi 02/16/2010	lparisi 02/25/2010	

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1 PZ bjk 1/29

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/?	tdodge	/PI bjk' n	pk	pk			

FE Sent For:

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DRAFT

DATE: December XX, 2009

FROM: Wisconsin Department of Health Services

TO: Wisconsin Legislative Reference Bureau

SUBJECT: Request for Draft Legislation

*Per 12/8 meeting:
Can communicate with
DHS. Send draft
to Jeff Kostelic in Rep.
Richard's office &
Denise Webb and Faith
Russell directly.*

Purpose of Legislation: To create and designate a not-for-profit corporation with a multi-disciplinary public-private board of directors as the single authority responsible for governing, developing, implementing (including provisioning of technical HIE services directly or through third parties), and financing statewide electronic health information exchange (HIE) in Wisconsin and across the state's borders to enable the efficient, appropriate, and secure flow of information to optimize decisions for health.

Suggested Title: Wisconsin Relay of Electronic Data (WIRED) for Health or Wisconsin Health Information Exchange Authority (WHIEA)

General or Special Law affected, if known:

Date Required:

1. Organization of corporation:

- a. The corporation will have up to a 15-member board and will consist of the following members:
 - i. The state health officer (ex-officio position, no term limit).
 - ii. The Wisconsin Medicaid director (ex-officio position, no term limit).
 - iii. The state chief information officer (ex-officio position, no term limit).
 - iv. The following members will be appointed initially by the governor to serve for 2 years and subsequently replaced or continue based on the policies and procedures adopted by the corporation:
 - 1) One representative from a commercial health insurer or health plan.
 - 2) One representative from a patient or consumer advocacy organization.
 - 3) Two representatives from hospitals or integrated delivery network, one urban and one rural.
 - 4) Two current or recently practicing physicians, one from large group practice (defined as > 20 physicians) and one from solo or small group practice.
 - 5) One representative of the business community.
 - 6) One representative of pharmacies.
 - 7) One representative of laboratories.

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- 8) One representative of higher education, from a health-services discipline.
 - 9) One representative of health information/quality organizations.
- b. Provide that the officers of the board (chairperson, vice chairperson, treasurer, and secretary) of the board be selected by the board from among the board's membership to serve a 1-year term. The executive committee may hire and executive director who is not a member of the board and serves at the pleasure of the board, hire employees, and engage in contracts for services.
 - c. Provide that the board initially establish the following five committees of the board: governance, finance and audit, legal and policy, standards and architecture, and communications, marketing, and education.
 - d. Provide that 8 members of the board constitute a quorum for the purpose of conducting business and exercising its powers; and action may be taken by the Board upon an affirmative vote of a majority of members.
 - e. Provide that board members are not entitled to compensation for performing their duties and that they may be reimbursed by the corporation for actual and necessary expenses incurred while performing their duties, such as travel.
 - f. Provide that a cause of action may not arise against and a civil liability may not be imposed on board members and the executive director for any act or omission in performance unless it is proven to constitute willful misconduct.

2. Powers of the corporation:

- a. Adopt, amend, and repeal bylaws, policies, and procedures to govern its proceedings and carry out its duties.
- b. Create or eliminate advisory and standing committees as necessary to conduct its business.
- c. Revise term limits of officers and board members (except ex-officio positions) and add additional positions to the board.
- d. Employ, appoint, engage, compensate, transfer, or discharge personnel.
- e. Make or enter into contracts, including contracts for legal and accounting services
- f. Request appropriations.
- g. Conduct fundraising activities and accept gifts, grants, and assistance funds.
- h. Administer funds.
- i. Collect fees for its services.
- j. Award grants and loans.
- k. Maintain an office.
- l. Buy, lease, or sell real or personal property.
- m. Procure liability insurance.
- n. Sue and be sued.

3. Duties of the corporation:

- a. Develop and implement strategic and operational plans to build substantial HIE capacity statewide to support providers' meaningful use of electronic health records, population health, and health care performance reporting.

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- i. Coordinate an integrated approach with the Medicaid and state public health programs to enable information exchange and support the evolving meaningful use criteria.
- b. Serve as a neutral convening authority and establish a governance process that creates transparency, trust, consensus, and buy in on an approach for statewide HIE among health care stakeholders.
 - i. Adopt nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and non-discriminatory participation by stakeholders.
- c. Remove barriers and create enablers, including technical, legal, financial, and organizational, for HIE, particularly those related to interoperability across laboratories, hospitals, clinician offices, health plans and other health information trading partners.
- d. Provide oversight and accountability of HIE to protect the public interest.
 - i. Develop and maintain a multi-stakeholder process to ensure HIE among providers is in compliance with applicable policies and laws.
 - ii. Monitor and plan for remediation of the performance, quality, and security of statewide HIE.
- e. Develop and implement strategies for increasing public awareness of and support for statewide HIE.
 - i. Develop a multi-channel communications plan to include consumer and provider education and outreach, marketing initiatives to promote statewide HIE, and media and legislative relations.
 - ii. Coordinate activities with the Health Information Technology (HIT) Regional Extension Center's provider outreach and technical assistance efforts, if established.
 - iii. Establish processes and mechanisms to gather and disseminate health IT-related information and serve as an information resource for local HIE and health IT activities.
- f. Develop policies and recommend legislation that advances the development and efficient operation of statewide and interstate HIE while protecting consumer privacy.
- g. Adopt standards for data exchange in compliance with national standardized data sets, implementation protocols, and reporting requirements.
 - i. Work with regional and local community efforts to ensure adherence to pre-determined standards and certifications.
- h. Develop or facilitate the creation of a statewide technical infrastructure that supports statewide HIE.
 - i. Prioritize among the following HIE services according to the state's needs:

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- a) Electronic eligibility and claims transactions.
 - b) Electronic prescribing and refill requests.
 - c) Electronic clinical laboratory ordering and results delivery.
 - d) Electronic public health reporting (i.e., immunizations, notifiable laboratory results).
 - e) Quality reporting.
 - f) Prescription fill status and medication fill history.
 - g) Clinical summary exchange for care coordination and patient engagement.
- i. Develop or facilitate the creation and use of shared directories and technical services, as applicable to the planned approach for statewide HIE.
- i. Shared directories may include but are not limited to:
 - a) providers (including practice location(s), specialties, health plan participation, disciplinary actions, etc.).
 - b) laboratory service providers, radiology service providers, health plans (including contact and claim submission information, required laboratory or diagnostic imaging service providers, etc.).
 - ii. Shared technical services may include but are not limited to:
 - a) patient matching.
 - b) provider authentication.
 - c) consent management.
 - d) secure routing.
 - e) advance directives.
 - f) messaging.
- j. Develop capacity to effectively manage funding necessary to build and sustain statewide HIE infrastructure and services.
- i. Establish financial policies and implement procedures to monitor spending and provide appropriate financial controls.
 - ii. Develop a path to sustainability including a business plan with feasible public and private financing strategies and mechanisms for ongoing information exchange, including among health care providers and with entities offering services for patient engagement and information access.
 - iii. Do market research and develop pricing strategies for HIE services.
 - iv. Comply with state and federal financial audit requirements.
- k. Conduct HIE business and technical operations to include but not limited to:
- i. Identifying HIE requirements.
 - ii. Process design.
 - iii. Functionality development.
 - iv. Procurement.
 - v. Project management.
 - vi. Help desk.
 - vii. Systems maintenance.
 - viii. Change control.

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ix. Program evaluation.

(Note to drafter: if the corporation contracts out or arranges for another entity to provide the technical services, some of these operational duties may fall to the entity or entities implementing and operating the technical services needed of HIE.)

- l. Develop and implement a privacy and security framework to enable inter-organizational HIE and eventually interstate HIE while personal health information and protecting consumers' interests. This includes but is not limited to the following:
 - i. Establish a statewide policy framework that allows incremental development of HIE policies over time, enables appropriate, inter-organizational health information exchange, and meets other important state policy requirements such as those related to public health and vulnerable populations.
 - ii. Participate in federal and multi-state legal and policy harmonization activities to enable the development of appropriate health information exchange services.
 - iii. Implement enforcement mechanisms that ensure those implementing and maintaining HIE services have appropriate safeguards in place and adhere to legal and policy requirements that protect health information, thus engendering trust among HIE participants.
 - iv. Develop data sharing agreements and minimize obstacles in data sharing, for example, by developing accommodations to share risk and liability of HIE operations fairly among all trading partners.
- m. The corporation may establish a universal/uniform statewide patient consent/authorization process, including a universal/uniform consent/authorization form, to allow access to, review of and/or disclosure of a patient's identifiable health care information, whether electronically, written, or by other means.
- n. Conduct Regional HIE certification and require regional HIEs to meet certification criteria to participate in and connect to the statewide HIE network.
- o. Provide technical assistance as needed to health information organizations and other developing HIE capacity within the state.
- p. Monitor HIT/HIE efforts nationally, such as legislation, emerging policies and standards, and product certification activities; provide updates to stakeholders.
- q. Support integration of HIE efforts with other health care goals, objectives and initiatives.
 - i. Collaborate with state government and private sector efforts to leverage statewide HIE as an enabler for broader health transformation goals.
- r. Facilitate alignment of statewide, interstate, and national HIE strategies.

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- i. Participate in national information sharing activities, regional consortiums with related objectives, and contribute input at each level as necessary.
- s. Annually evaluate, analyze, and report to the secretary of the department of health services on Wisconsin's progress toward implementing statewide HIE and how the HIE efforts are enabling meaningful use of electronic health records by providers.
- t. Develop programs and initiatives to promote and advance HIE to improve the safety, quality, and efficiency of health care and to reduce waste due to redundancy and administrative costs by:
 - i. cooperating and coordinating with federal, state, and local governments and agencies to make the best use of Wisconsin's health information and technology resources.
 - ii. receiving and expending funds, grants, gifts and contributions of money, property, labor, interest accrued from loans made by the corporation, and other things of value from public and private sources, including grants from state and federal government agencies. The corporation:
 - a) may accept federal grants to carry out the corporation's purposes; and
 - b) shall administer these grants in accordance with the terms of the grants; and
 - c) may contract with public and private organizations to carry out the purposes for which the grants were made.
- u. The corporation may do the following:
 - i. Plan, direct, and conduct research activities.
 - ii. Encourage and facilitate regional HIE planning and implementation designed to further the vision for statewide HIE
 - iii. Request an employee or agent of the executive branch of state government to provide assistance, information, and advice regarding the corporation's duties and functions. The secretary of any state department may assign one or more of its employees to the corporation on a temporary basis or may direct a division under its supervision and control to make a special study or survey requested by the corporation.

Other instructions:

We want this corporation's funds to remain separate from the general fund and any appropriations would be continuing, with spending authority up to the amount available in funds. It would be desirable to have excess funds not needed to meet the obligations of the fund invested with interest deposited into the fund. Money in the fund at the end of the year should not revert to the general fund. It is preferable that this corporation is not subject to the state's procurement laws and regulations. We want this corporation to have the option to issue bonds. We also want the corporation to have the authority to create not-for profit subsidiaries, as needed.



Media Room

EXECUTIVE ORDER # 303

Relating to the Governor's WIRED for Health Board

WHEREAS, adoption and meaningful use of certified electronic health record systems, and a statewide health information exchange ("HIE") are critical components of a high performance health care system and would improve the quality and reduce the cost of health care in Wisconsin by:

1. Ensuring health information is available at the point of care for all patients; and
2. Reducing medical errors and avoiding duplicative medical procedures; and
3. Improving coordination of care between hospitals, physicians, and other health professionals; and
4. Enabling public health surveillance and improving population health over the lifespan; and
5. Furthering health care research; and
6. Providing consumers with their health information to encourage greater participation in their health care decisions; and

WHEREAS, on August 20, 2009, the Office of the National Coordinator for Health Information Technology issued its Funding Opportunity Announcement for the State HIE Cooperative Agreement Program under Section 3013 of the American Recovery and Reinvestment Act of 2009; and

WHEREAS, the federal government intends to financially support statewide initiatives aligned with federal efforts to achieve the goals of the Health Information Technology for Economic and Clinical Health ("HITECH") Act; and

WHEREAS, the Office of the National Coordinator will award \$9.441 million to Wisconsin under a cooperative agreement for developing a statewide HIE; and

WHEREAS, the governance, policy, and technical infrastructure for an effective statewide HIE must be created to facilitate and expand the secure electronic movement and use of health information among organizations, according to nationally recognized standards; and

WHEREAS, the HITECH Act provides the State of Wisconsin the option of designating a not-for-profit entity (known as the State Designated Entity) to assume the aforementioned responsibilities;

NOW, THEREFORE, I, JIM DOYLE, Governor of the State of Wisconsin by the authority vested in me by the Constitution and the Laws of this State, and specifically by Wis. Stat. §14.019, do hereby:

1. Create a Board for the Wisconsin Relay of Electronic Data ("WIRED") for Health ("Board") organized under the Department of Health Services; and
2. Direct the Board to develop statewide HIE capacity and resolve issues related to HIE governance, finance, infrastructure, operations, and legal; and
3. Direct the Board to develop, no later than June 1, 2010, and implement Strategic and Operational Plans for statewide HIE, in accordance with the Office of the National

- Coordinator's State HIE Cooperative Agreement Program requirements, that will:
- o Provide for oversight and accountability of HIE to protect the public interest, and develop and maintain a multi-stakeholder process to ensure HIE among providers is in compliance with applicable laws and policies; and
 - o Identify, secure, and provide for the management of financial resources needed to fund HIE, including public and private financing to build statewide HIE capacity and sustainability; and
 - o Provide for a secure, reliable statewide HIE technical infrastructure and services that leverage existing public and private health information technology assets; and
 - o Provide for business and technical operations activities needed to support providers' adoption and meaningful use of electronic health records; and
 - o Provide for the operation of a statewide HIE, and enable the efficient, appropriate, and secure flow of information to optimize decisions for health; and
 - o Create a common set of rules to enable inter-organizational and eventually interstate HIE while protecting consumer interests; and
4. Provide that up to fifteen (15) members of the Board shall be appointed by and serve without compensation at the pleasure of the Governor for an initial term of two years (except ex-officio positions); and
 5. Provide that members of the Board shall represent both private and public stakeholders, including:
 - o A commercial health insurer or health plan; and
 - o A patient or consumer advocacy organization; and
 - o Hospitals or integrated delivery networks, representing both urban and rural hospitals or networks; and
 - o Physicians, preferably one from large group practice and one from solo or small group practice; and
 - o The business community; and
 - o Pharmacies; and
 - o Laboratories; and
 - o Higher education, from a health-services discipline; and
 - o Health information/quality organizations; and
 - o Public health (ex-officio position); and
 - o The State Medicaid program (ex-officio position); and
 - o The State Chief Information Officer (ex-officio position); and
 6. Provide that the Officers (Chairperson, Vice Chairperson, Treasurer, and Secretary) of the Board shall be selected by the Board from among the Board's membership to serve for an initial term of one year; and
 7. Provide that the Board may establish committees or workgroups as necessary to conduct its business; and
 8. Provide that the Board may adopt policies and procedures to govern its proceedings and carry out its duties as specified in this Executive Order; and
 9. Direct the Board to annually report to the Governor and the Secretary of the Department of Health Services on its activities and accomplishments, including HIE implementation progress and the impact of HIE on health care delivery in Wisconsin; and
 10. Direct that the Board shall exist until such time as a qualified, not for profit corporation is designated by the Governor, or created and designated in statute specifically for the purpose of governing the implementation and operation of statewide HIE services; and
 11. Rescind Executive Order 129 relating to the Governor's eHealth Care Quality and Patient Safety Board.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this first day of December, in the year two thousand nine.

JIM DOYLE
Governor

By the Governor:

DOUGLAS LA FOLLETTE
Secretary of State

Printed: 12/8/2009

Dodge, Tamara

From: Webb, Denise B - DHS [Denise.Webb@dhs.wisconsin.gov]
Sent: Wednesday, December 23, 2009 4:49 PM
To: Buhrandt, Jeff; Kostelic, Jeff; Dodge, Tamara
Cc: Currans-Sheehan, Rachel H - DHS; Foldy, Seth L - DHS; Timberlake, Karen - DHS; Russell, Faith E - DHS
Subject: RE: HIE Governance Bill - Draft
Attachments: Denise B. Webb.vcf

Hello Tami,

Everyone else is out today, so Karen asked me to get back to you, Jeff, and Jeff, to let you all know where we stand on the question of authority vs. corporation. We want the State-Designated Entity for statewide HIE to be a not-for-profit corporation. Given the discussion we had with the private sector stakeholders from existing not-for-profit health-related corporations yesterday, it appears that an existing corporation may be able to meet the criteria to be the SDE. Given that possibility, besides assuming a scenario of a new corporation, we'd like you to assume a world where there may be an existing corporation that the State would designate and give the required powers and responsibilities to and also that the existing corporation may be one that already exists in statute.

Given that we want to direct creation of a corporation or designate an existing corporation, we should be less prescriptive about the number and category of seats (except in the case of state government seats) on the governing body of the corporation, and instead specify that the governing body must be multi-disciplinary and have broad stakeholder representation that represents:

- both the public and private sector (i.e. public-private partnership)
- state and local needs
- and has the necessary authority to execute the strategic and operational plans for statewide HIE developed by the WIRED for Health Board that is being created by the Executive Order.

→ We should also specify that its governing structure (i.e. its board and standing committees), must be structured such that the corporation is able to consult with and consider the recommendations of the following stakeholders in carrying out its statewide HIE business (this comes straight from ARRA):

- “(1) health care providers (including providers that provide services to low income and underserved populations);
- “(2) health plans;
- “(3) patient or consumer organizations that represent the population to be served;
- “(4) health information technology vendors;
- “(5) health care purchasers and employers;
- “(6) public health agencies;
- “(7) health professions schools, universities and colleges;
- “(8) clinical researchers; and
- “(9) other users of health information technology such as the support and clerical staff of providers and others involved in the care and care coordination of patients.

We would like the state to statutorily have a minimum of three board seats on the designated SDE corporation's board (two ex-officio and one state designated) as a condition of being the SDE and receiving state/federal HIE funding. The three seats would be one for the state public health officer or his designee, one for the Medicaid Director or his designee, and one to be specified by the Governor or his designee, such as the Dept of Health Services Secretary, similar to what was done in Chapter 153 regarding the board of the "data organization."

We believe the WIRED for Health Board and its Governance Committee will be able to plan out the specifics of the needed structure of the SDE's governing body for the implementation phase of statewide HIE and ongoing operations, and include this plan in the strategic and operational plans for the statewide HIE.

If the following wasn't in the drafting instructions, I wanted to let you know that the ARRA requires that to be eligible to be the SDE, the not-for-profit corporation has to:

“demonstrate that one of its principal goals is to use information technology to improve health care quality and efficiency through the authorized and secure electronic exchange and use of health information.”

I will be out until Jan 4th on vacation, but if you have questions, please e-mail me. I'll check my mail next week.

Regards,

Denise B. Webb
State Health IT Coordinator
WI Department of Health Services
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From: Russell, Faith E - DHS
Sent: Thursday, December 17, 2009 4:24 PM
To: Buhrandt, Jeff - LEGIS; Kostelic, Jeff - LEGIS
Cc: Webb, Denise B - DHS; Currans-Sheehan, Rachel H - DHS
Subject: FW: HIE Governance Bill - Draft

Hi Jeff and Jeff.

I'm writing to let you know that DHS is reviewing the issue of corporation versus authority for the State Designated Entity (SDE). Also we'll be meeting with some of our existing partners on Tuesday, Dec. 22, when we will be discussing the other issue that we talked about at the end of our meeting with Tammy related to whether the SDE would be a new entity or might morph from an existing organization. Our goal is to be prepared to provide more instruction on these issues next week after the Tuesday meeting. We'll be in touch as soon as we reach that point.

Faith Russell
Policy Analyst
Department of Health Services – Office of Policy Initiatives and Budget
1 West Wilson PO Box 7850
Madison, WI 53707-5508
608-266-7723

From: Dodge, Tamara [mailto:Tamara.Dodge@legis.wisconsin.gov]
Sent: Wednesday, December 16, 2009 11:52 AM
To: Webb, Denise B - DHS; Buhrandt, Jeff - LEGIS; Kostelic, Jeff - LEGIS
Cc: Gloe, Steve M - DHS; Russell, Faith E - DHS; Currans-Sheehan, Rachel H - DHS
Subject: RE: HIE Governance Bill - Draft

Hello all,

I was talking to Rick Champagne of our office in preparation to start draft. In our meeting last week I was merging the idea of a corporation and an authority, so before I start drafting you will have to decide which direction you want to go, to direct creation of a corporation or create an authority.

12/28/2009

The state itself cannot create a corporation and govern it (per the Wisconsin constitution). I can draft a bill that will direct the secretary of DHS to form a non-profit corporation for a certain purpose. Then after the creation of the corporation, the corporation is on its own. The legislature's control over this entity would only be through funding from the state or through the other statutory changes necessary for the corporation to do its work. In other words, the statute could say that in order to receive any funds from the state the corporation has to do X. The corporation would operate under general corporation laws. (The Bradley Center, which is called a corporation, is actually an authority.)

The other option is an authority like the Wisconsin Quality Home Care Authority. The authority runs pseudo-independently from the state but the legislature has the ability to modify aspects of the authority, and of course, control the funding that comes through the state. All of the powers and duties of the authority have to be set forth in the statutes. A corporation draft would be shorter because you don't have to apply or exempt the corporation from all of the state laws as you do with an authority.

From the private sector's standpoint, the corporation would be more independent from the state than the authority.

The governor, in his executive order, directs the creation of a corporation. The legislature does not have to follow that direction (or any other direction for that matter), so an authority could be created instead of a corporation if that is what you decide.

Sorry about the confusion between the corporation and authority entities.

I was planning to start this draft in earnest next week (December 21) so if you could let me know whether you are leaning toward an authority or a corporation, I would appreciate it.

If you have any questions about this, please feel free to contact me.

Tamara J. Dodge

Attorney

Wisconsin Legislative Reference Bureau

P.O. Box 2037

Madison, WI 53701-2037

(608) 267 - 7380

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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3911(??) PI
TJD:.....
Lbjk

In: 1/6/10 4:05 PM
Due: end of day 1/8/10 if possible

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

SA
x-ref

1 AN ACT ^{gen.}...; relating to: creation of a health information exchange corporation.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

2 SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
3 the following amounts for the purposes indicated:

		2009-10	2010-11
4	(B) Health services department of		
5	20.435		
6	(1) PUBLIC HEALTH SERVICES PLANNING		
7	(fp) Payments to health information		
8	exchange corporation	GPR A	0 0

1 **SECTION 2.** 20.435 (1) (fp) of the statutes is created to read:

2 20.435 (1) (fp) *Payments to health information exchange corporation.* The
3 amounts in the schedule for payments to the corporation under s. 146.85 (2) to
4 support health information exchange.

 ****NOTE: I did not know whether you intended to ever provide funds from the
department to support the corporation. I included an appropriation here as a reminder.
Please let me know if you would like to eliminate or alter the appropriation.

5 **SECTION 3.** 146.85 of the statutes is created to read:

6 **146.85 Statewide health information exchange corporation.** (1) In this
7 section:

8 (a) "Health care provider" has the meaning given in s. 146.81 (1).

9 (b) "State^{hyphen}designated entity" means a non-profit corporation designated by the
10 state as eligible to apply for and receive grants under 42 USC 300jj-33 from the
11 secretary of the U.S. department of health and human services.

12 (2) The secretary shall organize and assist in maintaining a nonstock,
13 nonprofit corporation under ch. 181 for all of the following purposes:

14 (a) Building substantial health information exchange capacity statewide to
15 support all of the following:

- 16 1. Health care providers' meaningful use of electronic health records.
- 17 2. Studies of population health.
- 18 3. Reporting of health care performance.

19 (b) Developing policies and recommending legislation that advances efficient
20 statewide and interstate health information exchange and that protects consumer
21 privacy.

1 (c) Developing or facilitating the creation of a statewide technical
2 infrastructure that supports statewide health information exchange and enables
3 interoperability among users of health information.

4 (d) Coordinating between the Medical Assistance and public health programs
5 to enable information exchange and promote meaningful use of electronic health
6 records.

7 (e) Providing oversight and accountability for health information exchange to
8 protect the public interest.

9 (f) Increasing public awareness of and support for statewide health information
10 exchange and fostering agreement among health care providers and other users of
11 health care information on an approach to statewide health information exchange.

12 (g) Adopting standards for health information exchange in accordance with
13 national standardized data sets, implementation protocols, and reporting
14 requirements.

15 (h) Prioritizing among health information exchange services according to the
16 state's needs.

17 (i) Managing and sustaining funding necessary to develop and sustain
18 statewide health information infrastructure and services.

19 (j) Conducting or overseeing health information exchange business and
20 technical operations, including providing technical assistance to health information
21 organizations and other health information exchanges and creating shared
22 directories.

23 (k) Establishing a uniform statewide patient consent and authorization
24 process, including uniform consent and authorization forms, to allow access to,
25 review of, or disclosure of a patient's identifiable health care information.

1 (L) Certifying regional health information exchange networks, if any, and
 2 confirming that any regional health information exchange network meets the
 3 criteria to participate in and connect to the statewide health information exchange
 4 network.

5 (m) Monitoring health information technology and health information
 6 exchange efforts nationally and facilitating alignment of statewide, interstate, and
 7 national health information exchange strategies.

8 (n) Developing programs and initiatives to promote and advance health
 9 information exchange to improve the safety, quality, and efficiency of health care and
 10 to reduce waste due to redundancy and administrative costs.

11 (3)(a) The secretary shall appoint all of the following as initial directors of the
 12 board of the corporation under sub. (2):

13 (a) 1. The state health officer, as defined under s. 250.01 (9), or his or her designee.

14 (b) 2. The person who is appointed by the secretary to be the director of the state's
 15 Medical Assistance program, or his or her designee.

16 (c) 3. One person who is specified by the governor, or his or her designee.

17 (d) 4. One or more individuals who represent each of the following categories:

18 (1) a. The public health care or information technology sector.

19 (2) b. The private health care or information technology sector.

20 (3) c. State government.

21 (4) d. Local government.

****NOTE: I wonder if there needs to be a compromise between the previous, more specific version of the member categories and this version. It seems that these categories are a bit vague and lean heavily toward governmental representation.

****NOTE: Please note that the secretary of DHS is making the appointments to the board of directors. Under ch. 181, the incorporator, which in this case is the secretary, must make the initial appointments to the board.

hyphen →

1 (4) The state may designate the corporation under sub. (2) as the state
2 designated entity only if the secretary determines that the following conditions are
3 satisfied:

4 (a) The articles of incorporation of the corporation under sub. (2) state that a
5 purpose of the corporation is to use information technology to improve health care
6 quality and efficiency through the authorized and secure electronic exchange and
7 use of health information.

8 (b) The corporation annually evaluates, analyzes, and reports to the secretary
9 on the progress toward implementing statewide health information exchange and
10 how the health information exchange efforts are enabling meaningful use of
11 electronic health records by providers.

12 (c) ^a The corporation complies with the requirements to be qualified
13 state-designated entity under 42 USC 300jj-33.

14 (d) The governing structure and bylaws of the corporation allow it to consult
15 and consider recommendations from all of the following persons in carrying out
16 statewide health information exchange:

- 17 1. Health care providers.
- 18 2. Health insurers and self-insured health plans.
- 19 3. Patient or consumer organizations that represent the population to be served
20 by a health information exchange.
- 21 4. Health information technology vendors.
- 22 5. Health care purchasers and employers.

****NOTE: Who are health care purchasers and employers if they aren't health care providers or consumers?

23 6. Public health agencies.

- 1 7. Health profession schools, universities, and colleges.
- 2 8. Clinical researchers.
- 3 9. Other users of health information technology, including the support and
- 4 clerical staff of health care providers and others involved in the care of patients.

> ****NOTE: I was wondering whether there should be some way for the WIRED for Health board to influence some aspects of the corporation. I considered including a provision to allow the WIRED for Health board to set some requirements in order for the corporation to be the state designated entity and to receive state funding. The negative side to such a provision would be that it delegates a lot of power to the board without much oversight by either the legislature or DHS. Let me know if you would like such a provision.

hyphen
****NOTE: Are there any additional purposes under sub. (2) or any other provisions that you want to specify as requirements to be the state designated entity or to receive state funds?

5 (e) The board of directors of the corporation under sub. (2) contains all of the
6 following individuals:

- 7 1. The state health officer, as defined under s. 250.01 (9), or his or her designee.
- 8 2. The person who is appointed by the secretary to be the director of the state's
- 9 Medical Assistance program, or his or her designee.
- 10 3. One person to be specified by the governor, or his or her designee.

11 (5) From the appropriation account under s. 20.435 (1) (fp), the department
12 may make payments to the corporation under sub. (2) to support health information
13 exchange if the secretary determines that the conditions under sub. (4) (a) to (e) are
14 satisfied.

> ****NOTE: Please note that I have separated the conditions for being the state-
designated entity and for receiving state funds, but the conditions are currently the same.
Please let me know if you would like different conditions for being the state-designated
entity from receiving state funds.

15 (6) The assets and liabilities of the corporation under sub. (2) shall be separate
16 from all other assets and liabilities of the state, of all political subdivisions of the
17 state, and of the department. Neither the state, any political subdivision of the state,

1 nor the department guarantees any obligation of or has any obligation to the
2 corporation. Neither the state, any political subdivision of the state, nor the
3 department is liable for any debt or liability of the corporation.

4

(END)

D-note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3911/21n
TJD:.....

P1

Ljk

Date

To Jeff Buhrandt:

Please review this preliminary draft to make sure it complies with your intent. Please also review the notes embedded in the draft.

As we discussed in our meeting on December 8, 2009, I will provide a copy of this draft by email directly to Representative Richards' office and Denise Webb and Faith Russell at the Department of Health Services.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3911/P1dn
TJD:bjk:ph

January 8, 2010

Please review this preliminary draft to make sure it complies with your intent. Please also review the notes embedded in the draft.

As we discussed in our meeting on December 8, 2009, I will provide a copy of this draft by email directly to Representative Richards' office and Denise Webb and Faith Russell at the Department of Health Services.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

Dodge, Tamara

From: Russell, Faith E - DHS [Faith.Russell@dhs.wisconsin.gov]
Sent: Tuesday, January 19, 2010 8:23 AM
To: Dodge, Tamara
Cc: Kostelic, Jeff; Buhrandt, Jeff; Currans-Sheehan, Rachel H - DHS; Webb, Denise B - DHS; Page, Alice K - DHS; Gloe, Steve M - DHS
Subject: LRB-3911/P1
Attachments: Requested Changes_1-17-10.doc

Good morning, Tami.

DHS has worked with Representative Richard's and Senator Kreitlow's offices on compiling requested changes and comments on LRB-3911/P1, the preliminary draft on the statewide health information exchange corporation. The attached table summarizes our comments. If you have any questions, please let me know and I'll work with the group to get things clarified as needed. Thanks!

Faith Russell
Policy Analyst
Department of Health Services
Office of Policy Initiatives and Budget
1 West Wilson, P.O. Box 7850
Madison, WI 53707-7850
608-266-7723

Recommended Changes/Questions on LRB-3911/P1 – Preliminary Draft on the Creation of a Statewide Health Information Exchange Corporation

1/17/2010

LRB-3911/P1 location	Topic	Actions Requested	Comments
pp. 1-2	GPR appropriation	Delete GPR appropriation.	It is not intended that GPR will be used for the SDE.
pp. 1-2	Modification of existing PR appropriation	Modify s.20.435(1)(hg) (appropriation 187), to clarify that it can also fund the activities under the statewide HID corporation.	
p. 2 line 6	New language on HIE Corporation	Recommend creating as a subchapter under Ch. 153	These provisions seem more appropriate for Ch. 153 on "Health Care Information."
p. 2 line 8	"Health Care Provider"	If the new language is in Ch. 153, we could reference s.153.01(4t).	
p.2 line 16	"meaningful use" and "electronic health records"	Need references to definitions under federal law, which are currently still being spelled out.	Tami advises getting at this through the provisions on p. 5 on the requirements of a SDE under federal law. Could add something about rules promulgated based on the federal law provisions.
p. 2 line 16	"electronic health records"	Federal provisions reference "certified electronic health records technology." Should we use the same?	

LRB-3911/P1 location	Topic	Actions Requested	Comments
p.2 line 17	“Studies of population health.”	Should read “Population health.”	
p.2 line 19	(b) “...advances...”	Should be “...advance”	
p. 3 line 24	“... to allow access...”	Should read “...to allow <u>electronic</u> access...”	
p.4 line 1	“L”	Should that be “I”?	
p.4 lines 17-21	Initial directors of corporation	Suggested re-phrasing: Change (3)(d) to: One or more individuals from the public and private health care sector who represent the following categories: 1. providers; 2. insurers/health plans; 3. business community (e.g. employers who purchase/self-fund health care; 4. consumers or consumer advocates; 5. higher education. In addition, delete lines 18 through 21.	
p. 5 line 22	Health care purchasers and employers	This is the language in the Recovery Act, s. 3013 (g).	Shouldn't we use the same language as the federal law?
p. 6 line 10	Ongoing requirements for board membership	Should be the same as the initial board appointed by the secretary	
p. 6 line 11	Reference to appropriation	Delete “from the appropriation account under s.20.435(1)(fp) and start with “The...”	

Dodge, Tamara

From: Russell, Faith E - DHS [Faith.Russell@dhs.wisconsin.gov]
Sent: Tuesday, January 19, 2010 11:10 AM
To: Dodge, Tamara
Cc: Page, Alice K - DHS
Subject: one more minor item for LRB-3911/1

Hi again, Tami.

There's one more minor item we noticed in the draft. We had suggested that, on p. 2, line 19, "advances" be changed to "advance." Similarly, in line 20, we think "protects" should be changed to "protect." Thanks!

Faith Russell
Policy Analyst
Department of Health Services
Office of Policy Initiatives and Budget
1 West Wilson, P.O. Box 7850
Madison, WI 53707-7850
608-266-7723



State of Wisconsin
2009 - 2010 LEGISLATURE

In: 1/29/10 soon

LRB-3911/P1

TJD:bjk:ph

P2

stays

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
x-ref

Inserts

D-note

regen.

and making an appropriation

1 AN ACT to create 20.435 (1) (fp) and 146.85 of the statutes; relating to: creation
2 of a health information exchange corporation

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

	2009-10	2010-11
20.435 Health services, department of		
(1) PUBLIC HEALTH SERVICES PLANNING		
(fp) Payments to health information exchange corporation	GPR A 0	0

1
2
3
4

~~SECTION 2. 20.435 (1) (fp) of the statutes is created to read:
20.435 (1) (fp) *Payments to health information exchange corporation.* The
amounts in the schedule for payments to the corporation under s. 146.85 (2) to
support health information exchange.~~

****NOTE: I did not know whether you intended to ever provide funds from the department to support the corporation. I included an appropriation here as a reminder. Please let me know if you would like to eliminate or alter the appropriation.

Insert
2-5

5 ~~(153.80)~~ SECTION 3. ~~(146.85)~~ of the statutes is created to read:

6 ~~(146.85)~~ **Statewide health information exchange corporation.** (1) In this
7 ~~(153.80)~~ section:
and includes an ambulatory surgery center which
has the meaning given for ambulatory surgical center under
42 CFR 416.02

Ins
2-8

8 (b) (a) "Health care provider" has the meaning given in s. 146.81 (1)

Ins
2-9

9 (d) (b) "State-designated entity" means a non-profit corporation designated by
10 the state as eligible to apply for and receive grants under 42 USC 300jj-33 from the
11 secretary of the U.S. department of health and human services.

12 (2) The secretary ~~shall~~ ^{may} organize and assist in maintaining a nonstock,
13 nonprofit corporation under ch. 181 for all of the following purposes:

14 (a) Building substantial health information exchange capacity statewide to
15 support all of the following:

- 16 1. Health care providers' meaningful use of electronic health records.
- 17 2. Studies of population health.
- 18 3. Reporting of health care performance.

19 (b) Developing policies and recommending legislation that advances efficient
20 statewide and interstate health information exchange and that protects consumer
21 privacy.

Note: **** ~~cs~~ From a drafting perspective, I do not believe the federal terminology "certified electronic health records" is needed here because this provision reflects the broad purposes for the corporation's creation.

1 (c) Developing or facilitating the creation of a statewide technical
2 infrastructure that supports statewide health information exchange and enables
3 interoperability among users of health information.

4 (d) Coordinating between the Medical Assistance and public health programs
5 to enable information exchange and promote meaningful use of electronic health
6 records.

7 (e) Providing oversight and accountability for health information exchange to
8 protect the public interest.

9 (f) Increasing public awareness of and support for statewide health information
10 exchange and fostering agreement among health care providers and other users of
11 health care information on an approach to statewide health information exchange.

12 (g) Adopting standards for health information exchange in accordance with
13 national standardized data sets, implementation protocols, and reporting
14 requirements.

15 (h) Prioritizing among health information exchange services according to the
16 state's needs.

17 (i) Managing and sustaining funding necessary to develop and sustain
18 statewide health information infrastructure and services.

19 (j) Conducting or overseeing health information exchange business and
20 technical operations, including providing technical assistance to health information
21 organizations and other health information exchanges and creating shared
22 directories.

23 (k) Establishing a uniform statewide patient consent and authorization
24 process, including uniform consent and authorization forms, to allow access to,
25 review of, or disclosure of a patient's identifiable health care information.

electronic

1 (L) Certifying regional health information exchange networks, if any, and
2 confirming that any regional health information exchange network meets the
3 criteria to participate in and connect to the statewide health information exchange
4 network.

5 (m) Monitoring health information technology and health information
6 exchange efforts nationally and facilitating alignment of statewide, interstate, and
7 national health information exchange strategies.

8 (n) Developing programs and initiatives to promote and advance health
9 information exchange to improve the safety, quality, and efficiency of health care and
10 to reduce waste due to redundancy and administrative costs.

11 (3) The secretary shall appoint all of the following as initial directors of the
12 board of the corporation under sub. (2):

13 (a) The state health officer, as defined under s. 250.01 (9), or his or her designee.

14 (b) The person who is appointed by the secretary to be the director of the state's
15 Medical Assistance program, or his or her designee.

16 (c) One person who is specified by the governor, or his or her designee.

17 (d) One or more individuals who represent each of the following categories:

18 (e) The public health care or information technology sector.

19 (f) The private health care or information technology sector.

20 (g) State government.

21 (h) Local government.

from the
Public and
Private
health care
sectors

****NOTE: I wonder if there needs to be a compromise between the previous, more specific version of the member categories and this version. It seems that these categories are a bit vague and lean heavily toward governmental representation.

****NOTE: Please note that the secretary of DHS is making the appointments to the board of directors. Under ch. 181, the incorporator, which in this case is the secretary, must make the initial appointments to the board.

Ins
4-18

1 (4) The state may designate the corporation under sub. (2) as the
2 state-designated entity only if the secretary determines that the following
3 conditions are satisfied:

4 (a) The articles of incorporation ^{or bylaws} of the corporation under sub. (2) state that a
5 purpose of the corporation is to use information technology to improve health care
6 quality and efficiency through the authorized and secure electronic exchange and
7 use of health information.

8 (b) The corporation annually evaluates, analyzes, and reports to the secretary
9 on the progress toward implementing statewide health information exchange and
10 how the health information exchange efforts are enabling meaningful use of
11 electronic health records by providers.

12 (c) The corporation complies with the requirements to be a qualified
13 state-designated entity under 42 USC 300jj-33 ^{(f)(2) to (5) and to receive a grant under 42 USC 300jj-33}

14 (d) The governing structure and bylaws of the corporation allow it to consult
15 and consider recommendations from all of the following persons in carrying out
16 statewide health information exchange.

- 17 1. Health care providers.
- 18 2. Health insurers and self-insured health plans.
- 19 3. Patient or consumer organizations that represent the population to be served
- 20 by a health information exchange.
- 21 4. Health information technology vendors.
- 22 5. Health care purchasers and employers.

****NOTE: Who are health care purchasers and employers if they aren't health care providers or consumers?

23 6. Public health agencies.

Ins 5-11

Ins 5-14

Specified under 42 USC 300jj-33(g)(1) to (10)

- 1 7. Health profession schools, universities, and colleges.
- 2 8. Clinical researchers.
- 3 9. Other users of health information technology, including the support and
- 4 clerical staff of health care providers and others involved in the care of patients.

****NOTE: I was wondering whether there should be some way for the WIRED for Health board to influence some aspects of the corporation. I considered including a provision to allow the WIRED for Health board to set some requirements in order for the corporation to be the state-designated entity and to receive state funding. The negative side to such a provision would be that it delegates a lot of power to the board without much oversight by either the legislature or DHS. Let me know if you would like such a provision.

****NOTE: Are there any additional purposes under sub. (2) or any other provisions that you want to specify as requirements to be the state-designated entity or to receive state funds?

5 (e) The board of directors of the corporation under sub. (2) contains all of the

6 following individuals:

specified under sub. (3)(a) to (d)

- 7 1. The state health officer, as defined under s. 250.01 (9), or his or her designee.
- 8 2. The person who is appointed by the secretary to be the director of the state's
- 9 Medical Assistance program, or his or her designee.
- 10 3. One person to be specified by the governor, or his or her designee.

INS 6-11

11 (5) From the appropriation account under s. 20.435 (1) (f), the department
 12 may make payments to the corporation under sub. (2) to support health information
 13 exchange if the secretary determines that the conditions under sub. (4) (a) to (e) are
 14 satisfied.

INS 6-15

****NOTE: Please note that I have separated the conditions for being the state-designated entity and for receiving state funds, but the conditions are currently the same. Please let me know if you would like different conditions for being the state-designated entity from receiving state funds.

15 (6) The assets and liabilities of the corporation under sub. (2) shall be separate
 16 from all other assets and liabilities of the state, of all political subdivisions of the
 17 state, and of the department. Neither the state, any political subdivision of the state,

1 ^{and} nor the department ^{do not} guarantees any obligation of or ^{have} has any obligation to the
 2 corporation. Neither the state, any political subdivision of the state, ^{and} nor the
 3 department ^{are not} liable for any debt or liability of the corporation. ^{and}
 4

(END)

Ins 7-4

D-note

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3911/P2ins
TJD:.....

1
2
3
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5
6
7
8
9

INSERT 2-5

SECTION 1. 20.435 (1) (hg) of the statutes is amended to read:

20.435 (1) (hg) *General program operations; health care information.* The amounts in the schedule to fund the activities of the department of health services under ch. 153 and, to contract with the data organization under s. 153.05 (2r), and to make payments to the corporation under s. 153.80 to support of health information exchange. The contract fees paid under s. 153.05 (6m) and assessments paid under s. 153.60 shall be credited to this appropriation account.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434; 2007 a. 20 ss. 331 to 422, 9121 (6) (a); 2007 a. 39, 88, 107, 111, 130; 2009 a. 2, 15; 2009 a. 28 ss. 325 to 470, 485, 488, 490; 2009 a. 76.

****NOTE: Do you want to increase the amounts in the schedule to reflect the additional purpose? Will there be any additional revenue from s. 153.80 to add to this appropriation account? 

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SECTION 2. 146.37 (1g) of the statutes is amended to read:

146.37 (1g) Except as provided in s. ~~153.85~~ 153.76, no person acting in good faith who participates in the review or evaluation of the services of health care providers or facilities or the charges for such services conducted in connection with any program organized and operated to help improve the quality of health care, to avoid improper utilization of the services of health care providers or facilities or to determine the reasonable charges for such services, or who participates in the obtaining of health care information under subch. I of ch. 153, is liable for any civil damages as a result of any act or omission by such person in the course of such review or evaluation. Acts and omissions to which this subsection applies include, but are

1 not limited to, acts or omissions by peer review committees or hospital governing
2 bodies in censuring, reprimanding, limiting or revoking hospital staff privileges or
3 notifying the medical examining board or podiatrists affiliated credentialing board
4 under s. 50.36 or taking any other disciplinary action against a health care provider
5 or facility and acts or omissions by a medical director in reviewing the performance
6 of emergency medical technicians or ambulance service providers.

7 **History:** 1975 c. 187; 1979 c. 221; 1981 c. 323; 1983 a. 27; 1985 a. 29 s. 3202 (27); 1985 a. 340; 1987 a. 27, 399; 1989 a. 102; 1997 a. 175; 1999 a. 56; 2007 a. 130.

8 **SECTION 3.** Subchapter I (title) of chapter 153 [precedes 153.01] of the statutes

9 is created to read:

10 SUBCHAPTER I

11 **HEALTH CARE INFORMATION**

all caps
collection and dissemination

12 **SECTION 4.** 153.01 (intro.) of the statutes is amended to read:

13 **153.01 Definitions.** (intro.) In this chapter subchapter:

14 **History:** 1987 a. 399; 1993 a. 16, 185, 491; 1997 a. 27, 231; 1999 a. 9 s. 2280ge; 1999 a. 32; 2003 a. 33; 2005 a. 228, 253; 2007 a. 20 s. 9121 (6) (a); 2009 a. 28.

15 **SECTION 5.** 153.01 (4j) (b) of the statutes is amended to read:

16 153.01 (4j) (b) Receives oversight with respect to services performed by the
17 entity under this chapter subchapter from the secretary of health services.

18 **History:** 1987 a. 399; 1993 a. 16, 185, 491; 1997 a. 27, 231; 1999 a. 9 s. 2280ge; 1999 a. 32; 2003 a. 33; 2005 a. 228, 253; 2007 a. 20 s. 9121 (6) (a); 2009 a. 28.

19 **SECTION 6.** 153.01 (8m) of the statutes is amended to read:

20 153.01 (8m) "Public health authority" means the department or a person
21 acting under this chapter subchapter under a grant of authority from or contract
22 with the department.

23 **History:** 1987 a. 399; 1993 a. 16, 185, 491; 1997 a. 27, 231; 1999 a. 9 s. 2280ge; 1999 a. 32; 2003 a. 33; 2005 a. 228, 253; 2007 a. 20 s. 9121 (6) (a); 2009 a. 28.

SECTION 7. 153.05 (1) (b) of the statutes is amended to read:

153.05 (1) (b) The entity under contract under sub. (2m) (a) shall collect from
hospitals and ambulatory surgery centers the health care information required of
hospitals and ambulatory surgery centers by the department under ch. 153, 2001

LPS -
Please check the font size in these two sections

1 stats., and the rules promulgated under ch. 153, 2001 stats., including, by the date
 2 that is 18 months after the date of the contract under sub. (2m) (a), outpatient
 3 hospital-based services. The entity shall analyze and disseminate that health care
 4 information, as adjusted for case mix and severity, in the manner required under this
 5 ~~chapter~~ subchapter, under ch. 153, 2001 stats., and under the rules promulgated
 6 under ch. 153, 2001 stats., and in language that is understandable to laypersons.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33; 2005 a. 25, 228; 2007 a. 20 ss. 2898h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

7 **SECTION 8.** 153.05 (2m) (a) of the statutes is amended to read:

8 153.05 (2m) (a) Notwithstanding s. 16.75 (1), (2), and (3m), by the 2nd month
 9 after July 26, 2003, the department of administration shall, from the appropriation
 10 under s. 20.505 (1) (im), contract with an entity to perform services under this
 11 ~~chapter~~ subchapter that are specified for the entity with respect to the collection,
 12 analysis, and dissemination of health care information of hospitals and ambulatory
 13 surgery centers. The department of administration may not, by this contract,
 14 require from the entity any collection, analysis, or dissemination of health care
 15 information of hospitals and ambulatory surgery centers that is in addition to that
 16 required under this ~~chapter~~ subchapter.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33; 2005 a. 25, 228; 2007 a. 20 ss. 2898h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

17 **SECTION 9.** 153.05 (2m) (b) of the statutes is amended to read:

18 153.05 (2m) (b) Biennially, the group specified under s. 153.01 (4j) (b) shall
 19 review the entity's performance, including the timeliness and quality of the reports
 20 generated by the entity. If the group is dissatisfied with the entity's performance, the
 21 group may recommend to the department of administration that that department
 22 use a competitive request-for-proposal process to solicit offers from other
 23 organizations for performance of the services. If no organization responds to the

1 request for proposal, the department of health services shall perform the services
2 specified for the entity with respect to the collection, analysis, and dissemination of
3 health care information of hospitals and ambulatory surgery centers under this
4 chapter subchapter.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33; 2005 a. 25, 228; 2007 a. 20 ss. 2898h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

5 **SECTION 10.** 153.05 (2r) (intro.) of the statutes is amended to read:

6 153.05 (2r) (intro.) Notwithstanding s. 16.75 (1), (2), and (3m), from the
7 appropriation account under s. 20.515 (1) (ut) the department of employee trust
8 funds may expend up to \$150,000, and from the appropriation accounts under s.
9 20.435 (1) (hg) and (hi) the department of health services, in its capacity as a public
10 health authority, may expend moneys, to contract with a data organization to
11 perform services under this chapter subchapter that are specified for the data
12 organization under sub. (1) (c) or, if s. 153.455 (4) applies, for the department of
13 health services to perform or contract for the performance of these services. As a
14 condition of the contract under this subsection, all of the following apply:

NOTE: NOTE: Sub. (2r) (intro.) is shown as affected by 2 acts of the 2007 Wisconsin legislature and as merged by the legislative reference bureau under s. 13.92 (2) (i).NOTE:

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33; 2005 a. 25, 228; 2007 a. 20 ss. 2898h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

15 **SECTION 11.** 153.05 (2s) of the statutes is amended to read:

16 153.05 (2s) Annually, the department of health services and the department
17 of employee trust funds shall jointly prepare and submit under s. 13.172 (3) to
18 standing committees of the legislature with jurisdiction over health issues a report
19 on the activities of the data organization under this chapter subchapter.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33; 2005 a. 25, 228; 2007 a. 20 ss. 2898h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

20 **SECTION 12.** 153.05 (3) (a) of the statutes is amended to read:

21 153.05 (3) (a) Upon request of the department for health care information
22 relating to health care providers other than hospitals and ambulatory surgery

1 centers and, if s. 153.455 (4) applies, for health care claims information as specified
 2 in sub. (1) (c), state agencies shall provide that information to the department for use
 3 in preparing reports under this ~~chapter~~ subchapter.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33; 2005 a. 25, 228; 2007 a. 20 ss. 2898h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

4 **SECTION 13.** 153.05 (3) (b) of the statutes is amended to read:

5 153.05 (3) (b) Upon request of the entity under contract under sub. (2m) (a) for
 6 health care information relating to hospitals and ambulatory surgery centers, state
 7 agencies shall provide that health care information to the entity for use in preparing
 8 reports under this ~~chapter~~ subchapter.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33; 2005 a. 25, 228; 2007 a. 20 ss. 2898h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

9 **SECTION 14.** 153.05 (3) (c) of the statutes is amended to read:

10 153.05 (3) (c) Upon request of the data organization under contract under sub.
 11 (2r) for health care claims information, insurers and administrators may provide the
 12 health care claims information to the data organization for use in preparing reports
 13 and developing and maintaining a central data repository under this ~~chapter~~
 14 subchapter, and, if s. 153.455 (4) applies, insurers and administrators may provide
 15 the health care claims information as requested by the department.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33; 2005 a. 25, 228; 2007 a. 20 ss. 2898h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

16 **SECTION 15.** 153.05 (8) (a) of the statutes is amended to read:

17 153.05 (8) (a) Unless sub. (13) applies, subject to s. 153.455, the department
 18 shall collect, analyze and disseminate, in language that is understandable to
 19 laypersons, claims information and other health care information, as adjusted for
 20 case mix and severity, under the provisions of this ~~chapter~~ subchapter, as determined
 21 by rules promulgated by the department, from health care providers, other than
 22 hospitals and ambulatory surgery centers, specified by rules promulgated by the
 23 department. Data from those health care providers may be obtained through

1 sampling techniques in lieu of collection of data on all patient encounters and data
 2 collection procedures shall minimize unnecessary duplication and administrative
 3 burdens. If the department collects from health care plans data that is specific to
 4 health care providers other than hospitals and ambulatory surgery centers, the
 5 department shall attempt to avoid collecting the same data from those health care
 6 providers.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33; 2005 a. 25, 228; 2007 a. 20 ss. 2898h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

7 **SECTION 16.** 153.05 (8) (b) of the statutes is amended to read:

8 153.05 (8) (b) Unless sub. (13) applies, the entity under contract under sub.
 9 (2m) (a) shall collect, analyze, and disseminate, in language that is understandable
 10 to laypersons, claims information and other health care information, as adjusted for
 11 case mix and severity, under the provisions of this ~~chapter~~ subchapter, from hospitals
 12 and ambulatory surgery centers. Data from hospitals and ambulatory surgery
 13 centers may be obtained through sampling techniques in lieu of collection of data on
 14 all patient encounters, and data collection procedures shall minimize unnecessary
 15 duplication and administrative burdens.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33; 2005 a. 25, 228; 2007 a. 20 ss. 2898h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

16 **SECTION 17.** 153.05 (9) (a) of the statutes is amended to read:

17 153.05 (9) (a) Subject to s. 153.455, the department shall provide orientation
 18 and training to health care providers, other than hospitals and ambulatory surgery
 19 centers, who submit data under this ~~chapter~~ subchapter, to explain the process of
 20 data collection and analysis and the procedures for data verification, comment,
 21 interpretation, and release.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33; 2005 a. 25, 228; 2007 a. 20 ss. 2898h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

22 **SECTION 18.** 153.05 (9) (b) of the statutes is amended to read:

1 153.05 (9) (b) The entity under contract under sub. (2m) (a) shall provide
2 orientation and training to hospitals and ambulatory surgery centers that submit
3 data under this ~~chapter~~ subchapter, to explain the process of data collection and
4 analysis and the procedures for data verification, comment, interpretation, and
5 release.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33; 2005 a. 25, 228; 2007 a. 20 ss. 2898h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

6 **SECTION 19.** 153.05 (9) (c) of the statutes is amended to read:

7 153.05 (9) (c) Subject to s. 153.455 (1) to (3), the data organization under
8 contract under sub. (2r) shall provide orientation and training to insurers and
9 administrators that submit data under this ~~chapter~~ subchapter, to explain the
10 process of data collection and analysis and the procedures for data verification,
11 comment, interpretation, and release. If s. 153.455 (4) applies, the department may
12 perform or contract for the performance of the duties specified for the data
13 organization under this paragraph.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33; 2005 a. 25, 228; 2007 a. 20 ss. 2898h, 9121 (6) (a); 2007 a. 97; s. 13.92 (2) (i).

14 **SECTION 20.** 153.455 (4) of the statutes is amended to read:

15 153.455 (4) If the contract with the data organization is terminated under sub.
16 (3) and no organization responds to the request for proposals or a successor contract
17 cannot be achieved, the department, in its capacity as a public health authority, shall
18 collect health care information, including as specified under s. HFS 120.14 (1), Wis.
19 Adm. Code, in effect on April 13, 2006, and may request health care claims
20 information, which may be voluntarily provided by insurers or administrators,
21 under this ~~chapter~~ subchapter; shall analyze and disseminate, or contract for the
22 performance of analysis and dissemination of, the health care information; and may

1 analyze and disseminate, or may contract for the performance of analysis and
2 dissemination of, the health care claims information.

3 **History:** 2005 a. 228; 2007 a. 20 s. 9121 (6) (a).

SECTION 21. 153.50 (3) (b) (intro.) of the statutes is amended to read:

4 153.50 (3) (b) (intro.) Remove and destroy all of the following data elements on
5 the uniform patient billing forms that are received by the department, the entity, or
6 the data organization under the requirements of this ~~chapter~~ subchapter:

7 **History:** 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33; 2005 a. 228.

SECTION 22. 153.50 (3) (c) of the statutes is amended to read:

8 153.50 (3) (c) Develop, for use by purchasers of data under this ~~chapter~~
9 subchapter, a data use agreement that specifies data use restrictions, appropriate
10 uses of data and penalties for misuse of data, and notify prospective and current
11 purchasers of data of the appropriate uses.

12 **History:** 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33; 2005 a. 228.

SECTION 23. 153.50 (3) (d) of the statutes is amended to read:

13 153.50 (3) (d) Require that a purchaser of data under this ~~chapter~~ subchapter
14 sign and have notarized the data use agreement of the department, the entity, or the
15 data organization, as applicable.

16 **History:** 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33; 2005 a. 228.

SECTION 24. 153.50 (3m) of the statutes is amended to read:

17 153.50 (3m) PROVIDER, ADMINISTRATOR, OR INSURER MEASURES TO ENSURE PATIENT
18 IDENTITY PROTECTION. A health care provider that is not a hospital or ambulatory
19 surgery center or an insurer or an administrator shall, before submitting
20 information required by the department, or by the data organization under contract
21 under s. 153.05 (2r), under this ~~chapter~~ subchapter, convert to a payer category code
22 as specified by the department or the data organization, as applicable, any names of
23 an insured's payer or other insured's payer.

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33; 2005 a. 228.

1 **SECTION 25.** 153.50 (5) (a) 4. b. of the statutes is amended to read:

2 153.50 (5) (a) 4. b. Any federal or state statutory requirement to uphold the
3 patient confidentiality provisions of this ~~chapter~~ subchapter or patient
4 confidentiality provisions that are more restrictive than those of this ~~chapter~~
5 subchapter; or, if the latter evidence is inapplicable, an agreement, in writing, to
6 uphold the patient confidentiality provisions of this ~~chapter~~ subchapter.

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33; 2005 a. 228.

7 **SECTION 26.** 153.50 (6) (a) of the statutes is amended to read:

8 153.50 (6) (a) The department or entity under contract under s. 153.05 (2m) (a)
9 may not require a health care provider submitting health care information under
10 this ~~chapter~~ subchapter to include the patient's name, street address or social
11 security number.

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33; 2005 a. 228.

12 **SECTION 27.** 153.50 (6) (b) of the statutes is amended to read:

13 153.50 (6) (b) The department may not require under this ~~chapter~~ subchapter
14 a health care provider that is not a hospital or ambulatory surgery center to submit
15 uniform patient billing forms.

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33; 2005 a. 228.

16 **SECTION 28.** 153.50 (6) (c) (intro.) of the statutes is amended to read:

17 153.50 (6) (c) (intro.) A health care provider that is not a hospital or ambulatory
18 surgery center may not submit any of the following to the department under the
19 requirements of this ~~chapter~~ subchapter:

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33; 2005 a. 228.

20 **SECTION 29.** 153.55 of the statutes is amended to read:

21 **153.55 Protection of confidentiality.** Data obtained under this ~~chapter~~
22 subchapter is not subject to inspection, copying or receipt under s. 19.35 (1).

History: 1997 a. 231; 1999 a. 9.

23 **SECTION 30.** 153.60 (1) of the statutes is amended to read:

1 153.60 (1) The department shall, by the first October 1 after the
2 commencement of each fiscal year, estimate the total amount of expenditures under
3 this ~~chapter~~ subchapter for the department for that fiscal year for data collection,
4 database development and maintenance, generation of data files and standard
5 reports, orientation and training provided under s. 153.05 (9) (a) and contracting
6 with the data organization under s. 153.05 (2r). The department shall assess the
7 estimated total amount for that fiscal year, less the estimated total amount to be
8 received for purposes of administration of this ~~chapter~~ subchapter under s. 20.435
9 (1) (hi) during the fiscal year and the unencumbered balance of the amount received
10 for purposes of administration of this ~~chapter~~ subchapter under s. 20.435 (1) (hi) from
11 the prior fiscal year, to health care providers, other than hospitals and ambulatory
12 surgery centers, who are in a class of health care providers from whom the
13 department collects data under this ~~chapter~~ subchapter in a manner specified by the
14 department by rule. The department shall work together with the department of
15 regulation and licensing to develop a mechanism for collecting assessments from
16 health care providers other than hospitals and ambulatory surgery centers. No
17 health care provider that is not a facility may be assessed under this subsection an
18 amount that exceeds \$75 per fiscal year. All payments of assessments shall be
19 credited to the appropriation under s. 20.435 (1) (hg).

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 178; 1993 a. 16; 1997 a. 27, 231, 237; 1999 a. 9, 185, 186; 2003 a. 33; 2005 a. 25, 228.

20 **SECTION 31.** 153.75 (2) (a) of the statutes is amended to read:

21 153.75 (2) (a) Exempting certain classes of health care providers that are not
22 hospitals or ambulatory surgery centers from providing all or portions of the data
23 required under this ~~chapter~~ subchapter.

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 2003 a. 33; 2005 a. 228.

24 **SECTION 32.** 153.75 (2) (c) of the statutes is amended to read:

1 153.75 (2) (c) Providing for the efficient collection, analysis and dissemination
2 of health care information which the department may require under this chapter
3 subchapter.

4 History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 2003 a. 33; 2005 a. 228.

4 **SECTION 33.** Subchapter II (title) of chapter 153 [precedes 153.80] of the
5 statutes is created to read:

6 SUBCHAPTER II

7 ELECTRONIC HEALTH INFORMATION

8 EXCHANGE

9
10 INSERT 2-8

11 (a) "Department" means the department of health services

12
13 INSERT 2-9

14 (c) "Secretary" means the secretary of health services.

15
16 INSERT 4-18

17 (1) Health care providers.

18 (2) Health insurers or health plans.

19 (3) Employers who purchase or self-insure employee health care.

20 (4) Health care consumers or consumer advocates.

21 (5) Higher education.

language

> ******NOTE:** The requested language "public and private health care sectors" is
> confusing to me. Does this mean that the secretary needs to appoint at least one person
from each category from the public health care sector and at least one person from each
category from the private health care sector? Put another way, if all of the individuals
under par. (d) are from the private health care sector, does this satisfy the requirement?

1 INSERT 5-11

2 ^{NO}_{OR} certified electronic health record technology, as defined in 42 USC 300jj and by
3 the U.S. department of health and human services by regulation, by health care
4 providers.

5

6 INSERT 5-14

****NOTE: I added the requirement that the corporation comply with requirements to receive a grant under 42 USC 300jj-33. Though we discussed adding further references to federal laws and regulations, I am hesitant because the state-designated entity does not directly have to comply with the other provisions of HITECH, such as meaningful use; it just has to facilitate other's compliance. I think it may be sufficient to require the corporation to meet the definition of qualified state-designated entity and qualify for a federal grant under HITECH. If the corporation is not in compliance with the grant qualifications then it cannot receive state funds either.

****NOTE: Please note that in other paragraphs in this subsection I added references to federal law.

7 See also Insert 6-11 attached.

8 INSERT 6-15

****NOTE: I removed the phrase "From the appropriation account under..." as requested. Please note that removing this phrase does not allow the department to make payments from any appropriation account it wants. The language of an appropriation in ch. 20 must be broad enough to incorporate the purpose for which the payments are made under this section. In this draft, only the appropriation account under s. 20.435 (1) (hg) has specific language to allow payments to the corporation.

9

10 INSERT 7-4

11 (7) The department may designate an employee of the department to provide
12 services to the corporation under sub. (2).

****NOTE: This subsection allows the department to designate an employee to work with the corporation. It is probably not necessary to put other details on this relationship in the statutes.

13 ⁸ SECTION 34. 153.85 of the statutes is renumbered 153.76 and amended to read.

14 ⁷⁶ ~~153.85~~ Civil liability. Except as provided in s. 153.86 153.77, any person
15 violating s. 153.50 or rules promulgated under s. 153.75 (1) (a) is liable to the patient

1 for actual damages and costs, plus exemplary damages of up to \$1,000 for a negligent
2 violation and up to \$5,000 for an intentional violation.

3 **History:** 1987 s. 399; 1999 a. 9.
3 **SECTION 35.** 153.86 of the statutes is renumbered 153.77, and 153.77 (1) (intro.),
4 as renumbered, is amended to read:

5 153.77 (1) (intro.) A health care provider that submits information to the
6 department under this ~~chapter~~ subchapter is immune from civil liability for all of the
7 following:

8 **History:** 1999 a. 9.
8 **SECTION 36.** 153.90 of the statutes is renumbered 153.78, and 153.78 (2), as
9 renumbered, is amended to read:

10 ~~153.90~~ ⁷⁸ (2) Any person who violates this ~~chapter~~ subchapter or any rule
11 promulgated under the authority of this ~~chapter~~ subchapter, except ss. 153.45 (5),
12 153.50 and 153.75 (1) (a), as provided in s. ~~153.85~~ 153.76 and sub. (1), shall forfeit
13 not more than \$100 for each violation. Each day of violation constitutes a separate
14 offense, except that no day in the period between the date on which a request for a
15 hearing is filed under s. 227.44 and the date of the conclusion of all administrative
16 and judicial proceedings arising out of a decision under this section constitutes a
17 violation.

18 **History:** 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 1999 a. 9.
18 **SECTION 37.** 895.043 (2) of the statutes is amended to read:

19 895.043 (2) **SCOPE.** This section does not apply to awards of double damages
20 or treble damages, or to the award of exemplary damages under ss. 46.90 (9) (a) and
21 (b), 51.30 (9), 51.61 (7), 55.043 (9m) (a) and (b), 103.96 (2), 134.93 (5), 146.84 (1) (b)

1 and (bm), ~~153.85~~ 153.76, 252.14 (4), 252.15 (8) (a), 610.70 (7) (b), 943.245 (2) and (3)
2 and 943.51 (2) and (3).

3 **History:** 1995 a. 17; 1997 a. 71; 1999 a. 79; 2005 a. 155 s. 71; Stats. 2005 s. 895.043; 2005 a. 388 s. 216.

(END)

Ins 6-11

¶ (f) _{AA =} The corporation agrees to fulfill the purposes under sub_A(2).

Note:

~~NOTE~~ ^{CS} Note (f) I added par_A(f) because the secretary will not necessarily be designating as "State-designated entity" a corporation created under sub_A(2).