ASSEMBLY BILL 779 (LRB -4354)

An Act to renumber and amend 153.85, 153.86 and 153.90; to amend 20.435 (1) (hg), 146.37 (1g), 153.01 (intro.), 153.01 (4j) (b), 153.01 (8m), 153.05 (1) (b), 153.05 (2m) (a), 153.05 (2m) (b), 153.05 (2r) (intro.), 153.05 (2s), 153.05 (3) (a), 153.05 (3) (b), 153.05 (3) (c), 153.05 (8) (a), 153.05 (8) (b), 153.05 (9) (a), 153.05 (9) (b), 153.05 (9) (c), 153.455 (4), 153.50 (3) (b) (intro.), 153.50 (3) (c), 153.50 (3) (d), 153.50 (3m), 153.50 (5) (a) 4. b., 153.50 (6) (a), 153.50 (6) (b), 153.50 (6) (c) (intro.), 153.55, 153.60 (1), 153.75 (2) (a), 153.75 (2) (c) and 895.043 (2); and to create subchapter I (title) of chapter 153 [precedes 153.01], subchapter II (title) of chapter 153 [precedes 153.80], 153.80, 153.81 and 153.82 of the statutes; relating to: designation of a corporation to receive funding for electronic health information exchange, creation of a corporation, and making an appropriation. (FE)

2010

02-25.	A.	Introduced by Representatives **Richards**, **Dexter**, **Pasch**, **Berceau**, **Turner**, **Molepske Jr.**, **Vruwink**, **Suder**, **Seidel**, **Benedict**, **Grigsby**, **Shilling**, **Pocan**, **Stone** and **Rhoades**; cosponsored by Senators **Kreitlow**, **Vinehout**, **Lehman**, **Risser**, **Lassa**, **Taylor**, **Plale**, **Darling** and **Wirch**.	
02-25.	A.	Read first time and referred to committee on Health and Healthcare Reform	697
03-01.	A.	Fiscal estimate received.	
03-03.	A.	Public hearing held.	
03-24.	A.	Executive action taken.	
03-29.	A.	Report passage recommended by committee on Health and Healthcare Reform, Ayes 11, Noes 0	769
03-29.	A.	Referred to joint committee on Finance	769
04-07.	A.	Executive action taken.	
04-09.	A.	Report passage recommended by joint committee on Finance, Ayes 15, Noes 0	795
04-09.	A.	Referred to committee on Rules	795
04-15.	A.	Made a special order of business at 11:12 A.M. on 4-20-2010 pursuant to Assembly Resolution 23	868
04-20.	A.	Read a second time.	
04-20.	A.	Ordered to a third reading.	
04-20.	A.	Rules suspended.	
04-20.	A.	Read a third time and **passed**, Ayes 97, Noes 1.	
04-20.	A.	Ordered immediately messaged.	
04-21.	S.	Received from Assembly.	
04-21.	S.	Read first time and referred to committee on Rural Issues, Biofuels, and Information Technology.	
04-22.	S.	Rules suspended to withdraw from committee on Rural Issues, Biofuels, and Information Technology and take up.	
04-22.	S.	Read a second time.	
04-22.	S.	Ordered to a third reading.	
04-22.	S.	Rules suspended.	
04-22.	S.	Read a third time and **concurred in**, Ayes 29, Noes 4.	
04-22.	S.	Ordered immediately messaged.	
04-22.	A.	Received from Senate concurred in.	

SB

2009
ENROLLED BILL

09en A B- 779

ADOPTED DOCUMENTS:

☒ Orig ☐ Engr ___ SubAmdt ___ 09- 4354/1

Amendments to above (if none, write "NONE"): None

Corrections - show date (if none, write "NONE"): None

Topic Rel

4-27-10
Date

Enrolling Drafter

[rev: 1/6/09 2009enroll(fm)]

State of Wisconsin
2009 – 2010 LEGISLATURE

LRB–4354/1
TJD:bjk&kjf:rs

2009 ASSEMBLY BILL 779

February 25, 2010 – Introduced by Representatives RICHARDS, DEXTER, PASCH, BERCEAU, TURNER, MOLEPSKE JR., VRUWINK, SUDER, SEIDEL, BENEDICT, GRIGSBY, SHILLING, POCAN, STONE and RHOADES, cosponsored by Senators KREITLOW, VINEHOUT, LEHMAN, RISSER, LASSA, TAYLOR, PLALE, DARLING and WIRCH. Referred to Committee on Health and Healthcare Reform.

1 AN ACT ***to renumber and amend*** 153.85, 153.86 and 153.90; ***to amend*** 20.435
2 (1) (hg), 146.37 (1g), 153.01 (intro.), 153.01 (4j) (b), 153.01 (8m), 153.05 (1) (b),
3 153.05 (2m) (a), 153.05 (2m) (b), 153.05 (2r) (intro.), 153.05 (2s), 153.05 (3) (a),
4 153.05 (3) (b), 153.05 (3) (c), 153.05 (8) (a), 153.05 (8) (b), 153.05 (9) (a), 153.05
5 (9) (b), 153.05 (9) (c), 153.455 (4), 153.50 (3) (b) (intro.), 153.50 (3) (c), 153.50 (3)
6 (d), 153.50 (3m), 153.50 (5) (a) 4. b., 153.50 (6) (a), 153.50 (6) (b), 153.50 (6) (c)
7 (intro.), 153.55, 153.60 (1), 153.75 (2) (a), 153.75 (2) (c) and 895.043 (2); and ***to***
8 ***create*** subchapter I (title) of chapter 153 [precedes 153.01], subchapter II (title)
9 of chapter 153 [precedes 153.80], 153.80, 153.81 and 153.82 of the statutes;
10 **relating to:** designation of a corporation to receive funding for electronic
11 health information exchange, creation of a corporation, and making an
12 appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the federal Health Information Technology for Economic and Clinical Health Act (HITECH Act) regulates the exchange of health information

electronically. The HITECH Act allows the secretary of the U.S. Department of Health and Human Services to award grants to promote the exchange of health information electronically. A state may receive that grant itself or may designate a nonprofit corporation that meets certain criteria to apply for and receive the federal grants under the HITECH Act.

This bill allows the secretary of the Department of Health Services (DHS) to designate a nonprofit corporation as the entity to apply for and receive federal funding under the HITECH Act if the corporation meets all of the following criteria:

1. A purpose of the corporation, as written in its articles of incorporation or bylaws, is to use information technology to improve health care quality and efficiency through the authorized and secure electronic exchange and use of health information.

2. Annually, the corporation reports to the secretary on statewide health information exchange and how exchange efforts are enabling meaningful use of certified electronic health record technology, as defined in federal law.

3. The corporation complies with the requirements to be a qualified state–designated entity and to receive a grant under the HITECH Act.

4. The corporation's governing structure and bylaws allow it to consult and consider recommendations from outside entities, as specified under the HITECH Act.

5. The board of directors of the corporation includes as members the state health officer, the state Medical Assistance program director, and one person whom the governor selects. The board's members also include, with the goal of balancing public and private health sector interests, at least one individual representing each of the following categories: health care providers, health insurers or health plans, employers who purchase or self–insure employee health care, health care consumers or consumer advocates, and higher education.

6. The corporation agrees to fulfill purposes related to development and maintenance of electronic health information exchange.

DHS may make payments to a corporation to support health information exchange if the secretary of DHS determines that the corporation meets the same conditions as a corporation that is designated as the entity to apply for and receive federal funding under the HITECH Act.

The bill allows the secretary of DHS to organize and maintain a corporation for purposes related to the development and maintenance of electronic health information exchange. If the secretary organizes the corporation, the secretary must appoint as initial members the same categories of individuals as are required for a corporation to be designated to apply for and receive funding under the HITECH Act.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

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

2 20.435 **(1)** (hg) *General program operations; health care information.* The
3 amounts in the schedule to fund the activities of the department of health services
4 under ch. 153 ~~and~~, to contract with the data organization under s. 153.05 (2r), and
5 to make payments to a corporation under s. 153.81 to support health information
6 exchange. The contract fees paid under s. 153.05 (6m) and assessments paid under
7 s. 153.60 shall be credited to this appropriation account.

8 **SECTION 2.** 146.37 (1g) of the statutes, as affected by 2009 Wisconsin Act 113,
9 is amended to read:

10 146.37 **(1g)** Except as provided in s. ~~153.85~~ 153.76, no person acting in good
11 faith who participates in the review or evaluation of the services of health care
12 providers or facilities or the charges for such services conducted in connection with
13 any program organized and operated to help improve the quality of health care, to
14 avoid improper utilization of the services of health care providers or facilities or to
15 determine the reasonable charges for such services, or who participates in the
16 obtaining of health care information under subch. I of ch. 153, is liable for any civil
17 damages as a result of any act or omission by such person in the course of such review
18 or evaluation. Acts and omissions to which this subsection applies include, but are
19 not limited to, acts or omissions by peer review committees or hospital governing
20 bodies in censuring, reprimanding, limiting or revoking hospital staff privileges or
21 notifying the medical examining board or podiatry affiliated credentialing board
22 under s. 50.36 or taking any other disciplinary action against a health care provider
23 or facility and acts or omissions by a medical director in reviewing the performance
24 of emergency medical technicians or ambulance service providers.

1 **SECTION 3.** Subchapter I (title) of chapter 153 [precedes 153.01] of the statutes
2 is created to read:

3 **CHAPTER 153**

4 SUBCHAPTER I

5 INFORMATION COLLECTION AND

6 DISSEMINATION

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

8 **153.01 Definitions.** (intro.) In this ~~chapter~~ subchapter:

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

10 153.01 **(4j)** (b) Receives oversight with respect to services performed by the
11 entity under this ~~chapter~~ subchapter from the secretary of health services.

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

13 153.01 **(8m)** "Public health authority" means the department or a person
14 acting under this ~~chapter~~ subchapter under a grant of authority from or contract
15 with the department.

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

17 153.05 **(1)** (b) The entity under contract under sub. (2m) (a) shall collect from
18 hospitals and ambulatory surgery centers the health care information required of
19 hospitals and ambulatory surgery centers by the department under ch. 153, 2001
20 stats., and the rules promulgated under ch. 153, 2001 stats., including, by the date
21 "that is 18 months after the date of the contract under sub. (2m) (a), outpatient
22 hospital–based services. The entity shall analyze and disseminate that health care
23 information, as adjusted for case mix and severity, in the manner required under this
24 ~~chapter~~ subchapter, under ch. 153, 2001 stats., and under the rules promulgated
25 under ch. 153, 2001 stats., and in language that is understandable to laypersons.

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

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

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

12 153.05 **(2m)** (b) Biennially, the group specified under s. 153.01 (4j) (b) shall
13 review the entity's performance, including the timeliness and quality of the reports
14 generated by the entity. If the group is dissatisfied with the entity's performance, the
15 group may recommend to the department of administration that that department
16 use a competitive request–for–proposal process to solicit offers from other
17 organizations for performance of the services. If no organization responds to the
18 request for proposal, the department of health services shall perform the services
19 specified for the entity with respect to the collection, analysis, and dissemination of
20 health care information of hospitals and ambulatory surgery centers under this
21 ~~chapter~~ subchapter.

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

23 153.05 **(2r)** (intro.) Notwithstanding s. 16.75 (1), (2), and (3m), from the
24 appropriation account under s. 20.515 (1) (ut) the department of employee trust
25 funds may expend up to $150,000, and from the appropriation accounts under s.

20.435 (1) (hg) and (hi) the department of health services, in its capacity as a public health authority, may expend moneys, to contract with a data organization to perform services under this ~~chapter~~ subchapter that are specified for the data organization under sub. (1) (c) or, if s. 153.455 (4) applies, for the department of health services to perform or contract for the performance of these services. As a condition of the contract under this subsection, all of the following apply:

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

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

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

153.05 **(3)** (a) Upon request of the department for health care information relating to health care providers other than hospitals and ambulatory surgery centers and, if s. 153.455 (4) applies, for health care claims information as specified in sub. (1) (c), state agencies shall provide that information to the department for use in preparing reports under this ~~chapter~~ subchapter.

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

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

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

153.05 **(3)** (c) Upon request of the data organization under contract under sub. (2r) for health care claims information, insurers and administrators may provide the

health care claims information to the data organization for use in preparing reports and developing and maintaining a central data repository under this ~~chapter~~ subchapter, and, if s. 153.455 (4) applies, insurers and administrators may provide the health care claims information as requested by the department.

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

153.05 **(8)** (a) Unless sub. (13) applies, subject to s. 153.455, the department shall collect, analyze and disseminate, in language that is understandable to laypersons, claims information and other health care information, as adjusted for case mix and severity, under the provisions of this ~~chapter~~ subchapter, as determined by rules promulgated by the department, from health care providers, other than hospitals and ambulatory surgery centers, specified by rules promulgated by the department. Data from those health care providers may be obtained through sampling techniques in lieu of collection of data on all patient encounters and data collection procedures shall minimize unnecessary duplication and administrative burdens. If the department collects from health care plans data that is specific to health care providers other than hospitals and ambulatory surgery centers, the department shall attempt to avoid collecting the same data from those health care providers.

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

153.05 **(8)** (b) Unless sub. (13) applies, the entity under contract under sub. (2m) (a) shall collect, analyze, and disseminate, in language that is understandable to laypersons, claims information and other health care information, as adjusted for case mix and severity, under the provisions of this ~~chapter~~ subchapter, from hospitals and ambulatory surgery centers. Data from hospitals and ambulatory surgery centers may be obtained through sampling techniques in lieu of collection of data on

all patient encounters, and data collection procedures shall minimize unnecessary duplication and administrative burdens.

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

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

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

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

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

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

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

153.455 **(4)** If the contract with the data organization is terminated under sub. (3) and no organization responds to the request for proposals or a successor contract

cannot be achieved, the department, in its capacity as a public health authority, shall collect health care information, including as specified under s. HFS 120.14 (1), Wis. Adm. Code, in effect on April 13, 2006, and may request health care claims information, which may be voluntarily provided by insurers or administrators, under this ~~chapter~~ subchapter; shall analyze and disseminate, or contract for the performance of analysis and dissemination of, the health care information; and may analyze and disseminate, or may contract for the performance of analysis and dissemination of, the health care claims information.

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

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

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

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

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

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

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

153.50 **(3m)** PROVIDER, ADMINISTRATOR, OR INSURER MEASURES TO ENSURE PATIENT IDENTITY PROTECTION. A health care provider that is not a hospital or ambulatory surgery center or an insurer or an administrator shall, before submitting

information required by the department, or by the data organization under contract under s. 153.05 (2r), under this ~~chapter~~ subchapter, convert to a payer category code as specified by the department or the data organization, as applicable, any names of an insured's payer or other insured's payer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 153

SUBCHAPTER II

ELECTRONIC HEALTH INFORMATION EXCHANGE

SECTION 34. 153.80 of the statutes is created to read:

153.80 Definitions. In this subchapter:

(1) "Department" means the department of health services.

(2) "Health care provider" has the meaning given in s. 146.81 (1) and includes an ambulatory surgery center, which has the meaning given for "ambulatory surgical center" under 42 CFR 416.2.

(3) "Secretary" means the secretary of health services.

(4) "State–designated entity" means a nonprofit corporation designated by the state as eligible to apply for and receive grants under 42 USC 300jj–33 from the secretary of the U.S. department of health and human services.

SECTION 35. 153.81 of the statutes is created to read:

1 **153.81 Requirements for designation and funding. (1)** The state may
2 designate a nonprofit corporation that is incorporated under ch. 181 as the
3 state–designated entity only if the secretary determines that all of the following
4 conditions are satisfied:

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

9 (b) The corporation annually evaluates, analyzes, and reports to the secretary
10 on the progress toward implementing statewide health information exchange and
11 how the health information exchange efforts are enabling meaningful use of certified
12 electronic health record technology, as defined in 42 USC 300jj and by the U.S.
13 department of health and human services by regulation, by health care providers.

14 (c) The corporation complies with the requirements to be a qualified
15 state–designated entity under 42 USC 300jj–33 (f) (2) to (5) and to receive a grant
16 under 42 USC 300jj–33.

17 (d) The governing structure and bylaws of the corporation allow it to consult
18 and consider recommendations from all of the persons specified under 42 USC
19 300jj–33 (g) (1) to (10) in carrying out statewide health information exchange.

20 (e) The board of directors of the corporation includes all of the following
21 persons:

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

23 2. The person who is appointed by the secretary to be the director of the Medical
24 Assistance program, or his or her designee.

25 3. One person who is specified by the governor, or his or her designee.

1 4. One or more persons who represent each of the following such that the
2 representation of the public and private health sector is balanced in the board's
3 representation:
4 a. Health care providers.
5 b. Health insurers or health plans.
6 c. Employers who purchase or self–insure employee health care.
7 d. Health care consumers or consumer advocates.
8 e. Higher education.
9 (f) The corporation agrees to fulfill all of the following purposes:
10 1. Building substantial health information exchange capacity statewide to
11 support all of the following:
12 a. Health care providers' meaningful use of electronic health records.
13 b. Population health improvement.
14 c. Reporting of health care performance.
15 2. Developing policies and recommending legislation that advance efficient
16 statewide and interstate health information exchange and that protect consumer
17 privacy.
18 3. Developing or facilitating the creation of a statewide technical infrastructure
19 that supports statewide health information exchange and enables interoperability
20 among users of health information.
21 4. Coordinating between the Medical Assistance and public health programs
22 to enable information exchange and promote meaningful use of electronic health
23 records.
24 5. Providing oversight and accountability for health information exchange to
25 protect the public interest.

1 6. Increasing public awareness of and support for statewide health information
2 exchange and fostering agreement among health care providers and other users of
3 health care information on an approach to statewide health information exchange.
4 7. Adopting standards for health information exchange in accordance with
5 national standards, implementation protocols, and reporting requirements.
6 8. Prioritizing among health information exchange services according to the
7 needs of the residents of this state.
8 9. Managing and sustaining funding necessary to develop and sustain
9 statewide health information infrastructure and services.
10 10. Conducting or overseeing health information exchange business and
11 technical operations, including providing technical assistance to health information
12 organizations and other health information exchanges.
13 11. Developing or facilitating the creation and use of shared directories and
14 technical services, as applicable to statewide health information exchange.
15 12. Creating a model, uniform statewide patient consent and authorization
16 process to allow electronic access to, review of, or disclosure of a patient's identifiable
17 health care information.
18 13. Certifying regional health information exchange networks, if any, and
19 confirming that any regional health information exchange network meets the
20 criteria to participate in and connect to the statewide health information exchange
21 network.
22 14. Monitoring health information technology and health information
23 exchange efforts nationally and facilitating alignment of statewide, interstate, and
24 national health information exchange strategies.

15. Developing programs and initiatives to promote and advance health information exchange to improve the safety, quality, and efficiency of health care and to reduce waste due to redundancy and administrative costs.

(2) The department may make payments to a nonprofit corporation that is incorporated under ch. 181 to support health information exchange if the secretary determines that the conditions under sub. (1) are satisfied.

SECTION 36. 153.82 of the statutes is created to read:

153.82 Creation of corporation. (1) The secretary may organize and assist in maintaining a nonstock, nonprofit corporation under ch. 181 for all of the purposes specified under s. 153.81 (1) (f).

(2) If the secretary organizes a corporation under sub. (1), the secretary shall appoint all of the individuals specified under s. 153.81 (1) (e) 1. to 4. as initial directors of the board of the corporation.

(3) The assets and liabilities of the corporation under sub. (1) shall be separate from all other assets and liabilities of the state, of all political subdivisions of the state, and of the department. The state, any political subdivision of the state, and the department do not guarantee any obligation of or have any obligation to the corporation. The state, any political subdivision of the state, and the department are not liable for any debt or liability of the corporation.

SECTION 37. 153.85 of the statutes is renumbered 153.76 and amended to read:

153.76 Civil liability. Except as provided in s. ~~153.86~~ 153.77, any person violating s. 153.50 or rules promulgated under s. 153.75 (1) (a) is liable to the patient for actual damages and costs, plus exemplary damages of up to $1,000 for a negligent violation and up to $5,000 for an intentional violation.

1 **SECTION 38.** 153.86 of the statutes is renumbered 153.77, and 153.77 (1)
2 (intro.), as renumbered, is amended to read:

3 153.77 **(1)** (intro.) A health care provider that submits information to the
4 department under this ~~chapter~~ subchapter is immune from civil liability for all of the
5 following:

6 **SECTION 39.** 153.90 of the statutes is renumbered 153.78, and 153.78 (2), as
7 renumbered, is amended to read:

8 153.78 **(2)** Any person who violates this ~~chapter~~ subchapter or any rule
9 promulgated under the authority of this ~~chapter~~ subchapter, except ss. 153.45 (5),
10 153.50 and 153.75 (1) (a), as provided in s. ~~153.85~~ 153.76 and sub. (1), shall forfeit
11 not more than $100 for each violation. Each day of violation constitutes a separate
12 offense, except that no day in the period between the date on which a request for a
13 hearing is filed under s. 227.44 and the date of the conclusion of all administrative
14 and judicial proceedings arising out of a decision under this section constitutes a
15 violation.

16 **SECTION 40.** 895.043 (2) of the statutes is amended to read:

17 895.043 **(2)** SCOPE. This section does not apply to awards of double damages
18 or treble damages, or to the award of exemplary damages under ss. 46.90 (9) (a) and
19 (b), 51.30 (9), 51.61 (7), 55.043 (9m) (a) and (b), 103.96 (2), 134.93 (5), 146.84 (1) (b)
20 and (bm), ~~153.85~~ 153.76, 252.14 (4), 252.15 (8) (a), 610.70 (7) (b), 943.245 (2) and (3)
21 and 943.51 (2) and (3).

22 **(END)**