

CR 88-140

CERTIFICATE

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STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

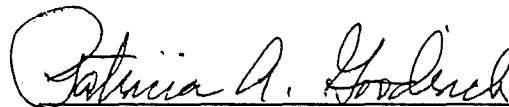
DEC 12 1988  
2:35 pm  
Revisor of Statutes  
Bureau

I, Patricia A. Goodrich, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to the Office of Health Care Information were duly approved and adopted by this Department on December 12, 1988.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 12th day of December, 1988.

SEAL:



Patricia A. Goodrich, Secretary  
Department of Health and Social Services

ORDER OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
ADOPTING RULES

To create ch. HSS 120, relating to the Wisconsin office of health care information.

Analysis Prepared by the Department of Health and Social Services

The 1988-89 Annual Budget Act, 1987 Wisconsin Act 399, created ch. 153, Stats., which establishes an Office of Health Care Information in the Department to collect and disseminate information about hospital service utilization, charges, revenues, expenditures, mortality and morbidity rates, health care coverage and care provided to indigent persons.

Section 153.75, Stats., directs and authorizes the Department to promulgate rules for administration of the Office. The rules are to respond to statutory mandates for rules covering specific areas of the Office's work and may provide additional detail in areas where the statutes trace only the outlines of Office activities. Given the scope of ch. 153, Stats., the rules will be promulgated in two or more phases. This first phase consists of rules primarily relating to reporting requirements for inpatient discharges from hospitals, along with confidentiality provisions.

These rules specify the types of information hospitals must submit to the Office. This is information related to inpatient discharges. The rules cover data submission requirements, including submission dates, acceptable media for data submission, procedures for the review and verification of data by physicians prior to its submission to the Office and review for data quality once the Office receives the data. Information is to be submitted by magnetic diskette or magnetic tape, except that small hospitals are exempt from electronic data submission until 1991. This temporary exemption of small hospitals is intended to lessen the financial impact of the reporting requirements on hospitals with less than 50 approved beds or fewer than 600 patient discharges annually.

The rules specify the Office's obligation to protect the confidentiality of patient identifiable information. Individual patient data elements considered confidential are noted. Access to this information is limited to the patient, a person authorized by the patient, and the department for epidemiological investigation purposes or in order to eliminate the need for duplicative data bases. The rules also identify the conditions under which physician identifiable information may be released.

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The Department's authority to create these rules is set forth in ss. 153.05(8), 153.40(1) and 153.75(1)(a), (b), (e) and (f), Stats., as created by 1987 Wisconsin Act 399. The rules interpret ch. 153, Stats.

SECTION 1. HSS 120 is created to read:

Chapter HSS 120

OFFICE OF HEALTH CARE INFORMATION

HSS 120.01	Authority and purpose
HSS 120.02	Applicability
HSS 120.03	Definitions
HSS 120.04	Hospital responsibility to report inpatient data
HSS 120.05	Patient confidentiality
HSS 120.06	Release of physician identifiable data
HSS 120.07	Data dissemination
HSS 120.08	Administrative and technical information
HSS 120.09	Naming contractors
HSS 120.10	Communications addressed to the office
HSS 120.11	Penalties and forfeitures for failure to uphold patient confidentiality provisions
HSS 120.12	Notice of violation and opportunity for appeal

HSS 120.01 AUTHORITY AND PURPOSE. This chapter is promulgated under the authority of s. 153.75, Stats., to implement ch. 153, Stats. Its purpose is to provide definitions and procedures to be used by the department to administer the office of health care information. The office seeks to collect, analyze and disseminate information in language that is understandable to lay persons about hospital service utilization, charges, revenues, expenditures, mortality and morbidity rates, health care coverage and care provided to indigent persons.

HSS 120.02 APPLICABILITY. This chapter applies to all hospitals in Wisconsin.

HSS 120.03 DEFINITIONS. In this chapter:

(1) "Board" means the board on health care information established under s. 15.195(6), Stats.

(2) "Calculated variable" means a data element that is computed or derived from an original data item or derived using another data source.

(3) "Contractor" means a person under contract to the office to collect, process, analyze or store data for the purposes of this chapter.

(4) "Data element" means an item of information from a uniform patient billing form record.

(5) "Department" means the Wisconsin department of health and social services.

(6) "Hospital" has the meaning specified in s. HSS 124.02(6).

(7) "Office" means the office of health care information.

(8) "Patient" has the meaning specified in s. 153.01 (7), Stats., namely, a person who receives health care services from a health care provider.

(9) "Payer" means a party responsible for payment of a hospital charge, including but not limited to, an insurer or a federal, state or local government.

(10) "Physician" means a person licensed under ch. 448, Stats., to practice medicine or osteopathy.

(11) "Public use data" means data extracted from the office's comprehensive discharge data base that does not identify a specific patient, physician, individual health care practitioner or employer and is available to the general public. "Public use data" includes data on a magnetic tape, other medium or form.

(12) "Uniform patient billing form" has the meaning specified in s. 153.01 (9), Stats., namely, for a hospital, the uniform billing form UB-82/HCF-1450 developed by the national uniform billing committee.

HSS 120.04 HOSPITAL RESPONSIBILITY TO REPORT INPATIENT DATA.

(1) DATA ELEMENTS COLLECTED. (a) Each hospital shall report to the office information on all inpatient discharges from the hospital, using the data elements available on uniform patient billing forms. The data shall include the elements listed in Table 120.04.

TABLE 120.04  
REQUIRED DATA ELEMENTS

DATA ELEMENT	UNIFORM PATIENT BILLING FORM ITEM
Patient control number	3
Federal tax number of the hospital	6
Patient zip code	11
Patient date of birth	12
Patient sex	13
Date of admission	15
Type of admission	17
Source of admission	18
Patient status	21
Date of discharge	22
Condition codes	35 - 39
Patient medical record or chart number	45
Total charges and components of those charges	51 - 53
Primary and secondary sources of payment	57

Principal and up to 4 other diagnoses	77 - 81
Principal and up to 2 other procedures	84 - 86
Date of procedures	84 - 86
Attending physician license number	92
Other physician license number	93

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(b) Each hospital shall prepare for submission to the office an extract of the uniform patient billing form containing data elements specified in this subsection. The information reported on each extract shall include the following:

1. Individual data elements; and

2. Aggregations of revenue related data elements, except that hospitals are not required to report the total charges for a patient that had accumulated a hospital stay of more than 100 calendar days. The aggregations will be specified in a technical manual issued by the office.

(c) After collection of each full calendar year of data, the office shall analyze the completeness and accuracy of the reporting and usefulness of each data element. Based on this analysis, the office may recommend to the board for its approval changes in the rules to provide that:

1. Certain data elements not be collected in subsequent years due to significant problems in collecting these data elements;

2. Additional uniform patient billing form data elements be collected; or

3. New data elements defined by the office be added to the uniform patient billing form.

(2) SUBMISSION DATES. (a) Each hospital shall submit the data specified in sub.(1) for all inpatient discharges occurring on or after January 1, 1989.

(b) Data shall be submitted to the office on a quarterly basis. Calendar quarters shall begin on January 1 and end on March 31, begin on April 1 and end on June 30, begin on July 1 and end on September 30, and begin on October 1 and end on December 31. For discharges occurring in calendar year 1989, data for each calendar quarter shall be submitted to the office within 60 calendar days following the end of a calendar quarter. For discharges occurring in calendar year 1990 and in subsequent calendar years, the data shall be submitted within 45 calendar days following the end of a calendar quarter.

(c) An extension of the time limits specified under par.(b) may be granted by the office only when need for additional time is adequately justified by the hospital. Adequate justification may include, but is not limited to, a strike, fire, natural disaster or delay due to data system conversion. A request for an extension shall be submitted in writing to the office at least 10 calendar days prior to the date that the data are due. An

extension may be granted for up to 30 calendar days.

(3) ACCEPTABLE MEDIA FOR DATA SUBMISSION. (a) Except as provided in pars.(b) and (c), each hospital shall submit an extract of the uniform patient billing form information on a magnetic diskette or magnetic tape to the office. The office shall specify in a technical manual:

1. Physical specifications for the data submittal media; and
2. A recommended format for data submission.

(b) A hospital with fewer than 50 beds approved under s. HSS 123.30, or a hospital with fewer than 600 annual patient discharges, as determined by the department's most recently published hospital directory, may submit extracts on a paper form acceptable to the office for calendar years 1989 and 1990. If a hospital elects to submit data on electronic medium, the hospital shall submit the data in accordance with par.(a).

(c) A hospital that does not meet either of the requirements specified in par.(b) may submit data on a paper form acceptable to the office if the hospital reimburses the office for all the actual and necessary costs of converting the data to an electronic medium with physical specifications and format acceptable to the office.

(d) Beginning with 1991 calendar year data, all hospitals shall submit information on electronic media with physical specifications, format and record layout prescribed in a technical manual issued by the office.

(e) Any group of 6 or more hospitals or any group of hospitals which in the aggregate have more than 30,000 patient discharges per year may request in writing a waiver from the office format, record layout or electronic data submission requirements under par.(a) or (d) if the hospitals have a common alternative electronic media, format and record layout for the required data.

(f) The office shall provide consultation to a hospital upon written request of the hospital to enable it to submit data according to office specifications.

(4) REVIEW OF DATA BY HOSPITALS PRIOR TO DATA SUBMISSION. As stated in s. 153.40, Stats., prior to submitting data to the office, a hospital shall review the data. The review shall consist of checks for accuracy and completeness which are designed by the office or designed by the hospital and approved by the office.

(5) VERIFICATION OF PATIENT MEDICAL RECORD DATA BY PHYSICIAN PRIOR TO DATA SUBMISSION. (a) The physician who maintains primary responsibility for determining a patient's continued need for acute care and readiness for discharge, even when this physician has referred the patient to one or more consulting physicians for specialized treatment, shall confirm the validity of a patient's principal and secondary diagnoses and the primary and secondary

procedures specified in a patient's medical record within 30 calendar days after the patient is discharged from the hospital. The diagnoses and procedures shall be as defined in the uniform patient billing form manual. The physician shall use the procedures under par.(b) to fulfill this requirement.

(b) Hospitals, with their medical staffs, shall establish appropriate procedures and mechanisms to ensure verification by the physician. As stated in s. 153.40, Stats., if verification is not made on a timely basis for each calendar quarter, the hospital shall submit the data noting the lack of verification.

(6) REVIEW OF DATA BY OFFICE AND HOSPITALS AFTER DATA SUBMISSION. (a) The office shall check the accuracy and completeness of submitted data. All errors or probable errors shall be recorded on paper for each patient discharge. Acceptable data submissions shall be integrated into the case level data base. Unacceptable data or tapes shall be returned to the hospital with a paper copy of the information for revision and resubmission.

(b) All data revisions required as a result of the checks performed shall be corrected and resubmitted to the office within 10 working days after a hospital's receipt of the unacceptable data.

(c) Patient records data resubmitted by hospitals shall be grouped with the appropriate amendments or additions. Additional patient records data from the same calendar quarter as the revised data may be submitted with the revised data.

(d) The office shall aggregate each hospital's data after its receipt of data revisions and additional records. Hospitals shall review the aggregated data for accuracy and completeness and shall supply to the office within 10 working days any corrections or additions to the data at the patient discharge level.

(e) The chief executive officer or designee of each hospital shall sign a statement affirming that the data submitted to the office and any corrections to the data have been verified and are accurate and complete to the best of his or her knowledge.

HSS 120.05 PATIENT CONFIDENTIALITY. (1) NONRELEASE OF PATIENT IDENTIFIABLE DATA. No data that identifies a patient may be released by the office, except as provided in sub.(3). The identification of a patient shall be protected by all necessary means, including the use of calculated or aggregated variables.

(2) RELEASE OF PATIENT IDENTIFIABLE DATA. A patient identifiable record obtained under ch. 153, Stats. and this chapter is not a public record under s. 19.35, Stats. The office may not release any data that would permit the identification of a patient, except as specified in sub.(3). Procedures to ensure the protection of patient confidentiality shall include the following:



(a) Requests for patient identifiable data shall be made in writing to the office. A request shall include the requester's name, address, reason for the request and supporting written evidence necessary to comply with sub.(3);

(b) Upon receiving a request for patient identifiable data, the office shall, as soon as practicable and without delay, either fill the request, as provided in sub.(3), or notify the requester in writing of the office's denial of the request in whole or in part and the reasons for the denial; and

(c) A record requester whose written request has been denied by the office may appeal the decision in accordance with procedures pursuant to ss. 19.31 to 19.39, Stats.

(3) ACCESS TO PATIENT IDENTIFIABLE DATA. Only the following may have access to patient identifiable data maintained by the office, in accordance with s. 153.50, Stats.:

(a) The patient or a person granted permission in writing by the patient for release of the patient's records;

(b) A hospital, a physician, the agent of a hospital or physician, or the department to ensure the accuracy of the information in the data base;

(c) The department for:

1. Epidemiological investigation purposes; or
2. Eliminating the need to maintain duplicative data bases; or

(d) Other entities that enter into a written agreement with the office, in accordance with the following conditions:

1. The entity shall have a statutory mandate for obtaining patient identifiable data for:

- a. Epidemiological investigation purposes; or
- b. Eliminating the need to maintain duplicative data bases, as stated under s. 153.45(2), Stats.;

2. The office may review and approve specific requests by the entity for patient identifiable data to fulfill its statutory mandate. This review shall include the requester providing the office with written statutory evidence that the requester is entitled to have access to patient identifiable data from the office; and

3. The entity shall identify for the office any statutes that require it to uphold the patient confidentiality provisions specified in this section or stricter patient confidentiality provisions than those specified in this section. If these statutory requirements do not exist, the entity shall agree in writing to uphold the patient confidentiality provisions in this section.

Note: Examples of other entities include the Centers for Disease Control of the U.S. Public Health Service and cancer registries in other states.

(4) DATA ELEMENTS CONSIDERED CONFIDENTIAL. Data elements from the uniform patient billing form that identify a patient shall be considered confidential, except as stated in sub.(3). These elements are the following:

- (a) Patient medical record or chart number;
- (b) Patient control number;
- (c) Patient date of birth;
- (d) Date of admission;
- (e) Date of discharge; and
- (f) Date of procedures.

(5) AGGREGATION OF SMALL NUMBERS. (a) In this subsection, "small number" means any number that is not large enough to be statistically significant, as determined by the office.

(b) To ensure that the identity of patients is protected when information generated by the office is released, any data element category containing small numbers shall be aggregated using procedures developed by the office and approved by the board. The procedures shall follow commonly accepted statistical methodology.

HSS 120.06 RELEASE OF PHYSICIAN IDENTIFIABLE DATA. (1) PHYSICIAN CONFIDENTIALITY. Any information that identifies a physician may not be released as public use data. The identification of the physician shall be protected by all necessary means, including the use of calculated or aggregated variables.

(2) PATIENT CONFIDENTIALITY. Any information identifying a physician and which would permit the identification of specific patients shall be considered confidential and may not be released, except under s. HSS 120.05.

(3) RELEASE OF PHYSICIAN IDENTIFIABLE DATA. Except as stated in subs.(1) and (2), the office shall release data that identifies a physician to any person that requests the data, other than the reports specified in s. 153.25, Stats., under the following conditions:

(a) Requests for data that identifies a physician shall be made in writing to the office, indicating the physician's name or Wisconsin physician license number;

(b) The following procedures apply to persons requesting data

s. 13.93(2m)  
(b) 12, Stats.  
12/16/82

who wish to re-release data that identifies a physician:

1. Except as stated in par.(c), prior to the release of data that identifies a physician, the office shall notify the physician of the request by 1st class mail using the last known address maintained by the Wisconsin department of regulation and licensing. The notification shall include a statement that the physician may submit written comments on the data to the office. If the physician's comments are received by the office not more than 30 calendar days from the date of the postmark on the notification from the office, the office shall release the requested data and the comments received to the requester. If the office receives the physician's comments after the data is released, the office shall make the comments available to anyone requesting them;

2. The review and comment period by the physician does not apply if a request is identical to a previous request and the office has at the time of release the physician's prior written comments on file. The office shall notify the physician about the request and shall release the physician's written comments to the requester with the requested data; and

3. Prior to the release of physician identifiable data to the requester, the requester shall sign an agreement stating that if the data is re-released by the requester, the physician's written comments shall be appended to it; or

(c) The following procedures apply to persons requesting data who do not wish to re-release data that identifies a physician:

1. The review and comment period by the physician, as stated in par.(b), does not apply provided that the requester executes a written agreement with the office assuring the office that the data will not be re-released; and

2. One of the following applies:

(a) The request is made by the department to fulfill epidemiological investigation purposes or to eliminate the need to maintain duplicative data bases, as stated under s. 153.50, Stats.;

(b) The request is accompanied by a signed and notarized statement from the physician or a person designated by the physician waiving the 30-calendar day comment period provided in par.(b); or

(c) The request is made by a payer for aggregated or non-identifiable patient care data and the payer is responsible for paying the charges for that care.

HSS 120.07 DATA DISSEMINATION. (1) The office shall prepare quarterly and annual reports as specified in ss. 153.10 to 153.35, Stats. The office shall make these reports available to the public at a charge which meets the cost of printing, copying

and mailing a report to the requester.

(2) In addition to the reports under sub.(1), the office shall respond to requests by individuals, agencies of government and organizations in the private sector for public use data, data to fulfill statutory mandates for epidemiological purposes or to minimize the duplicate collection of similar data elements, and information that identifies a physician pursuant to s. HSS 120.06. The board shall designate the form in which the data for these requests shall be made available. The office shall charge the requester the total actual and necessary cost of producing the requested data.

(3) The office shall prepare special studies or analyses upon request. Prior to the release of any special studies or analyses conducted by the office pertaining to morbidity or mortality data in which a physician or hospital is identified, the office shall notify the identified physician or hospital of the request by 1st class mail using the last known address. The physician or hospital may submit written comments on the data to the office. If the physician's or hospital's comments are received by the office not more than 30 calendar days from the date of the postmark on the notification from the office, the office shall release the requested data and the comments received to the requester. If the office receives the physician's or hospital's comments after the data is released, the office shall make the comments available to anyone requesting them.

(4) Prior to the release of a subfile or special report which contains data that identifies a physician, the office shall include with the subfile or insert in the special report a statement cautioning the user or reader about the meaning and significance of the data.

HSS 120.08 ADMINISTRATIVE AND TECHNICAL INFORMATION. The office shall conduct throughout the state a series of training sessions for hospitals and other data submitters to explain its policies and procedures and to provide assistance in implementing the requirements of ch. 153, Stats., and this chapter.

HSS 120.09 NAMING CONTRACTORS. In accordance with s. 153.05(6), Stats., the office may designate a contractor and grant the contractor authority to examine confidential materials and perform other functions authorized by the office. The contractor shall comply with all confidentiality requirements established under this chapter. The release of confidential information by the contractor without the written consent of the office shall constitute grounds for the office to terminate any agreement between the contractor and the office.

HSS 120.10 COMMUNICATIONS ADDRESSED TO THE OFFICE. (1) ADDRESS. All written communications with the office required or permitted under this chapter shall be addressed to the director of the office.

(2) **FORMAT.** All written information or communications submitted on behalf of a hospital to the office shall be signed by the hospital's chief executive officer or the designee of the chief executive officer.

(3) **TIMING.** Except as stated in ss. HSS 120.06(3)(b) and 120.07(3), all written communications, including documents, reports and information required to be submitted to the office shall be submitted by 1st class or registered mail or by delivery in person. The date of submission is the day the written communication is postmarked or delivered in person.

Note: Send all communications to the Director, Office of Health Care Information, P.O. Box 309, Madison, Wisconsin 53701-0309, or deliver them to 1 West Wilson, Room 172, Madison, Wisconsin.

HSS 120.11 PENALTIES AND FORFEITURES FOR FAILURE TO UPHOLD PATIENT CONFIDENTIALITY PROVISIONS. (1) **PENALTIES.** (a) Civil. In accordance with s. 153.85, Stats., whoever violates the patient confidentiality provisions defined in s. HSS 120.05 shall be 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.

(b) Criminal. In accordance with s. 153.90(1), Stats., whoever intentionally violates s. HSS 120.05 may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

(2) **FORFEITURES.** In accordance with s. 153.90(2), Stats., whoever violates ch. 153, Stats., or this chapter, except for s. HSS 120.05, shall forfeit not more than \$100 for each violation.

HSS 120.12 NOTICE OF VIOLATION AND OPPORTUNITY FOR APPEAL. (1) **DETERMINATION AND NOTICE OF VIOLATION.** If the office determines that a hospital has failed to submit the required information, failed to submit information by the due date, failed to submit information in the proper form or failed to submit corrected information, the office shall notify the hospital, in writing, of this determination and the basis for it.

(2) **APPEAL PROCESS.** (a) Request for a hearing. Whoever wishes to challenge a determination of the office that ch. 153, Stats., or this chapter has been violated may request a hearing as specified under s. 227.44, Stats. A written request for a hearing shall be submitted no later than 10 working days after notification of the determination to both the office and the department's office of administrative hearings. Hearing requests based on multiple violations shall be adjudicated within one hearing. A request for a hearing is considered submitted on the date that the office and the office of administrative hearings receive it. If it is not received by both offices on the same date, the later of the 2 dates shall be used to determine if the request was filed on time.

Note: The request for a hearing should be submitted to the Director, Office of Health Care Information, P.O. Box 309, Madison, Wisconsin 53701-0309 and the Office of Administrative Hearings, P.O. Box 7875, Madison, Wisconsin 53707-7875.

(b) Start of hearing process. The department shall start the hearing process within 45 days after receiving a request unless all parties to a hearing consent to an extension of this period. The hearing process is considered started when a prehearing conference is held.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Approved by the Board on Health  
Care Information

Date: December 12, 1988

By: Ronald Dix  
Ronald Dix, Chairperson  
Board on Health Care Information

Wisconsin Department of Health and  
Social Services

Date: December 12, 1988

By: Patricia A. Goodrich  
Patricia A. Goodrich  
Secretary

Seal:



State of Wisconsin \

DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
1 West Wilson Street, Madison, Wisconsin 53702

Tommy G. Thompson  
Governor

Patricia A. Goodrich  
Secretary

Mailing Address:  
Post Office Box 7850  
Madison, WI 53707

December 12, 1988

Mr. Orlan Prestegard  
Revisor of Statutes  
7th Floor - 30 on the Square  
Madison, Wisconsin 53702

Dear Mr. Prestegard:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 120, administrative rules relating to the Office of Health Care Information.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

RECEIVED

DEC 12 1988

Revisor of Statutes  
Bureau

Sincerely,

Patricia A. Goodrich  
SECRETARY

Enclosure