



1997 SENATE BILL 315

October 8, 1997 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Health, Human Services, Aging, Corrections, Veterans and Military Affairs.

1 **AN ACT to repeal** 15.737, 20.145 (8) (title), 20.145 (8) (hj), (kx) and (mr), 153.01
2 (3), (4m), (6) and (9), 153.05 (1) (a) to (e), 153.05 (2), 153.05 (4), 153.05 (5) (a) and
3 (bm), 153.05 (7), 153.05 (11), 153.07 (2), 153.08 (2) (b), 153.10 (1) (a) and (b) and
4 (2), 153.15, 153.25, 153.30, 153.35, 153.40, 153.60 (2), 153.75 (1) (c), (d), (e), (i)
5 and (j), 153.75 (2) (b), 230.08 (2) (ym) and 601.429; **to renumber and amend**
6 15.735 (2), 20.145 (8) (hg), 20.145 (8) (hi), 153.05 (1) (intro.) and 153.10 (1)
7 (intro.); **to consolidate, renumber and amend** 153.05 (5) (intro.) and (b) and
8 153.08 (2) (intro.) and (a); **to amend** 15.01 (6), 15.02 (3) (c) 2., 15.107 (7) (b) to
9 (d), 16.03 (1), 16.03 (3), 20.145 (1) (g), 40.03 (6) (j), 153.05 (3), 153.05 (6), 153.05
10 (6m), 153.05 (8), 153.05 (9), 153.05 (12), 153.07 (1), 153.07 (3), 153.20 (1) and
11 (2), 153.45 (1) (intro.), (a), (b) and (c), (2) and (3), 153.50, 153.60 (title), 153.60
12 (1), 153.65, 153.75 (1) (intro.), (b), (f), (k) and (L), 153.75 (2) (intro.) and (c),
13 153.90 (1) and (2) and 153.90 (3); and **to create** 15.07 (1) (b) 21., 15.107 (7) (g),
14 15.194, 153.01 (4d), (4h), (4p) and (4t), 153.05 (6r), 153.07 (4), 153.21, 153.45 (4),
15 153.45 (5), 153.60 (3), 153.75 (1) (m), (n), (o), (p), (q), (r) and (s), 153.75 (2) (d)
16 and 943.30 (5) of the statutes; **relating to:** eliminating the office of health care
17 information and transferring functions related to collection, analysis and

1 dissemination of health care information to the department of health and
2 family services, confidentiality of patient health care records, granting
3 rule-making authority, providing a penalty and making appropriations.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the joint legislative council in the bill.

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

PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on health care information.

Current law creates an office of health care information (OHCI) in the office of the commissioner of insurance. OHCI is given specific powers and duties relating to the collection, analysis and dissemination of health care information under ch. 153 of the statutes. In addition, current law creates a board on health care information, which advises the director of OHCI and approves all rules that the commissioner of insurance promulgates with respect to OHCI and ch. 153. Current law also creates an interagency coordinating council with members representing several state agencies that are involved in collection, analysis and dissemination of health care information.

This bill eliminates OHCI and transfers many of its powers and duties to the department of health and family services (DHFS). These functions would be undertaken by a bureau of health care information in the division with primary responsibility for health issues in DHFS. The bill requires the bureau to coordinate its activities with persons in that division with responsibility for medical assistance administration and collection and analysis of health statistics.

The bill also transfers the board on health care information to DHFS and adds a requirement that appointees to the board are subject to confirmation by the senate. To reflect the transfer of functions, the membership of the interagency coordinating council is changed to add a representative from DHFS. In addition, the bill requires the interagency coordinating council to establish methods and criteria for analyzing and comparing complaints filed against health care plans and grievances filed with health maintenance organizations.

The bill deletes from the statutes the specific sources of health care information collected for purposes of ch. 153 and the specific reports OHCI is required to prepare periodically, except the annual report on uncompensated health care services provided by hospitals. These provisions are replaced by provisions requiring DHFS to specify by rule the standard reports that it will issue and the uniform data set of health care information to be collected and other details relating to collecting, using and disseminating data. As with other rules under ch. 153, these rules would have to be approved by the board on health care information.

In addition to the report on uncompensated health care services, which is retained from current law, the bill requires DHFS to prepare an annual consumer guide to assist consumers in selecting health care providers and health care plans. The bill also requires DHFS to prepare a report on the feasibility of requiring annual reports and plans on uncompensated health care services (i.e., charity care and bad debt services) from major health care providers other than hospitals, which are already required to prepare these reports and plans.

The bill also requires DHFS to study a voluntary system of health plan reporting and allows DHFS, based on the results of the study, to develop and implement such a system.

The bill modifies the current law on assessments on hospitals and ambulatory surgery centers to fund activities under ch. 153 by instead allowing assessments on health care providers who are in a class of health providers from whom DHFS collects claims data and other health care data under ch. 153. The classes of health care providers from whom claims data and other health care data is collected and the methods and criteria for assessing those health care providers would be specified by DHFS by rule.

The bill repeals the required approval of the board on health care information for contracts under ch. 153. In addition, the bill requires the board and DHFS to jointly: (1) develop rules under ch. 153; (2) provide oversight on standard reports; (3) develop the overall strategy and direction for implementation of ch. 153; and (4) provide information on their activities to the interagency coordinating council.

In preparing this bill in final form, the legislative reference bureau deleted a statement of legislative purpose and incorporated it, in large part, into a provision that cross-references the statement. The statement adopted by the special committee was as follows:

153.03 LEGISLATIVE PURPOSE. The availability of health care information is critical in a competitive health care market. Consumers and purchasers need information to make informed decisions in selecting health care plans and health care providers. Health care providers need information to provide health care that is both effective and economically efficient. The purpose of this chapter is to grant the department the authority and responsibility of collecting and disseminating health care information in a manner to meet those needs.

Current law requires that before a hospital increases its rates by more than the increase in the consumer price index, it must publish a notice and hold a public hearing. The bill eliminates the requirement that a public hearing be held. In addition, the bill requires that the notice be published in the area where the hospital is located and eliminates the alternative of publishing the notice in the official state newspaper.

The bill prohibits DHFS from releasing any health care information that is subject to the department's rules on review and verification until those rules have been complied with. Whoever intentionally violates this prohibition may be fined not more than \$10,000, imprisoned for not more than 9 months, or both.

The bill creates a new crime in the criminal extortion statute, relating to using or threatening to use patient health care records for purposes of extortion or to compel a person to do an act against his or her will. A violator is subject to a Class D felony, punishable by a fine not to exceed \$10,000, imprisonment not to exceed 5 years, or both.

1 **SECTION 1.** 15.01 (6) of the statutes is amended to read:

2 15.01 (6) "Division," "bureau," "section" and "unit" means mean the subunits
3 of a department or an independent agency, whether specifically created by law or
4 created by the head of the department or the independent agency for the more
5 economic and efficient administration and operation of the programs assigned to the
6 department or independent agency. The office of justice assistance in the
7 department of administration and the office of credit unions in the department of

1 financial institutions have the meaning of “division” under this subsection. The
2 ~~office of health care information in the office of the commissioner of insurance, the~~
3 office of the long-term care ombudsman under the board on aging and long-term
4 care and the office of educational accountability in the department of education have
5 the meaning of “bureau” under this subsection.

6 **SECTION 2.** 15.02 (3) (c) 2. of the statutes is amended to read:

7 15.02 (3) (c) 2. The principal subunit of the division is the “bureau”. Each
8 bureau shall be headed by a “director”. ~~The office of health care information in the~~
9 ~~office of the commissioner of insurance, the~~ office of the long-term care ombudsman
10 under the board on aging and long-term care and the office of educational
11 accountability in the department of education have the meaning of “bureau” under
12 this subdivision.

13 **SECTION 3.** 15.07 (1) (b) 21. of the statutes is created to read:

14 15.07 (1) (b) 21. Board on health care information.

15 **SECTION 4.** 15.107 (7) (b) to (d) of the statutes are amended to read:

16 15.107 (7) (b) A representative of the unit in the department of health and
17 ~~social~~ family services that deals with health statistics.

18 (c) A representative of the unit in the department of health and ~~social~~ family
19 services that deals with the medical assistance program.

20 (d) A representative of ~~the unit in the~~ office of the commissioner of insurance
21 ~~that deals with health care information.~~

22 **SECTION 5.** 15.107 (7) (g) of the statutes is created to read:

23 15.107 (7) (g) A representative of the bureau of health care information in the
24 department of health and family services.

25 **SECTION 6.** 15.194 of the statutes is created to read:

1 **15.194 Same; specified bureaus.** (1) There is created in the division within
2 the department of health and family services that has primary responsibility for
3 health issues a bureau of health care information.

4 **SECTION 7.** 15.735 (2) of the statutes is renumbered 15.195 (6) and amended
5 to read:

6 15.195 (6) BOARD ON HEALTH CARE INFORMATION. There is created a board on
7 health care information which is attached to the ~~office of the commissioner of~~
8 ~~insurance~~ department of health and family services under s. 15.03. The board shall
9 consist of 9 members, a majority of whom may neither be nor represent health care
10 providers, appointed for 4-year terms.

11 **SECTION 8.** 15.737 of the statutes is repealed.

12 **SECTION 9.** 16.03 (1) of the statutes is amended to read:

13 16.03 (1) GENERAL FUNCTIONS. The interagency coordinating council shall serve
14 as a means of increasing the efficiency and utility and facilitating the effective
15 functioning of state agencies in activities related to health care data collection. The
16 interagency coordinating council shall advise and assist state agencies in the
17 coordination of health care data collection programs and the exchange of information
18 related to health care data collection and dissemination, including agency budgets
19 for health care data collection programs, health care data monitoring and
20 management, public information and education, health care data analysis and
21 facilities, research activities and the appropriation and allocation of state funds for
22 health care data collection. The interagency coordinating council shall establish
23 methods and criteria for analyzing and comparing complaints filed against health
24 care plans, as defined under s. 628.36 (2) (a) 1., and grievances filed with health
25 maintenance organizations, as defined under s. 609.01 (2), without requiring the

1 collection of information in addition to the information already collected by state
2 agencies.

3 **SECTION 10.** 16.03 (3) of the statutes is amended to read:

4 16.03 (3) REPORT. The interagency coordinating council shall report at least
5 twice annually to the board on health care information in the ~~office of the~~
6 ~~commissioner of insurance~~ department of health and family services, concerning the
7 council's activities under this section.

8 **SECTION 11.** 20.145 (1) (g) of the statutes is amended to read:

9 20.145 (1) (g) *General program operations.* The amounts in the schedule for
10 general program operations and ~~for funding the activities~~ of the office of health care
11 ~~information under s. 153.05 (8) the commissioner of insurance.~~ Ninety percent of all
12 moneys received under ss. 601.31, 601.32, 601.45 and 601.47 shall be credited to this
13 appropriation.

14 **SECTION 12.** 20.145 (8) (title) of the statutes is repealed.

15 **SECTION 13.** 20.145 (8) (hg) of the statutes is renumbered 20.435 (1) (hg) and
16 amended to read:

17 20.435 (1) (hg) (title) *General program operations; ~~office of health care~~*
18 *information.* The amounts in the schedule to fund the activities of the ~~office of health~~
19 ~~care information~~ department of health and family services and the board on health
20 care information under ch. 153. The contract fees paid under s. 153.05 (6m) and
21 assessments paid under s. 153.60 shall be credited to this appropriation account.

22 **SECTION 14.** 20.145 (8) (hi) of the statutes is renumbered 20.435 (1) (hi), and
23 20.435 (1) (hi) (title), as renumbered, is amended to read:

24 20.435 (1) (hi) (title) *Compilations and special reports; ~~office of health care~~*
25 *information.*

1 **SECTION 15.** 20.145 (8) (hj), (kx) and (mr) of the statutes are repealed.

2 **SECTION 16.** 40.03 (6) (j) of the statutes is amended to read:

3 40.03 **(6)** (j) May contract with the ~~office of health care information in the office~~
4 ~~of the commissioner of insurance~~ department of health and family services and may
5 contract with other public or private entities for data collection and analysis services
6 related to health maintenance organizations and insurance companies that provide
7 health insurance to state employees.

8 **SECTION 17.** 153.01 (3), (4m), (6) and (9) of the statutes are repealed.

9 **SECTION 18.** 153.01 (4d), (4h), (4p) and (4t) of the statutes are created to read:

10 153.01 **(4d)** “Department” means the department of health and family services.

11 **(4h)** “Employer coalition” means an organization of employers formed for the
12 purpose of purchasing health care coverage or services as a group.

13 **(4p)** “Health care plan” means an insured or self-insured plan providing
14 coverage of health care expenses or an employer coalition.

15 **(4t)** “Health care provider” has the meaning given in s. 146.81 (1) and includes
16 an ambulatory surgery center.

17 **SECTION 19.** 153.05 (1) (intro.) of the statutes is renumbered 153.05 (1) and
18 amended to read:

19 153.05 **(1)** In order to provide to hospitals, health care providers, insurers,
20 consumers, governmental agencies and others information concerning ~~hospital~~
21 ~~service utilization, charges, revenues, expenditures, mortality and morbidity rates~~
22 health care providers and uncompensated health care services, and in order to
23 provide information to assist in peer review for the purpose of quality assurance, the
24 ~~office~~ department shall collect, analyze and disseminate health care information, in
25 language that is understandable to lay persons, ~~health care information obtained~~

1 ~~from the following data sources:.~~ This chapter shall be administered by a bureau of
2 health care information. The bureau of health care information shall coordinate its
3 activities with persons with responsibility for medical assistance administration and
4 collection and analysis of health statistics.

5 **SECTION 20.** 153.05 (1) (a) to (e) of the statutes are repealed.

6 **SECTION 21.** 153.05 (2) of the statutes is repealed.

7 **SECTION 22.** 153.05 (3) of the statutes is amended to read:

8 153.05 (3) Upon request of the office department, state agencies shall provide
9 health care information to the office department for use in preparing reports under
10 ~~ss. 153.10 to 153.35~~ this chapter.

11 **SECTION 23.** 153.05 (4) of the statutes is repealed.

12 **SECTION 24.** 153.05 (5) (intro.) and (b) of the statutes are consolidated,
13 renumbered 153.05 (5) and amended to read:

14 153.05 (5) The office: ~~(b) May~~ department may require hospitals health care
15 providers to submit to the office department information from sources identified
16 ~~under sub. (1) (a) to (e)~~ that the office department deems necessary for the
17 preparation of reports, plans and recommendations ~~under ss. 153.10 to 153.35 and~~
18 ~~any other reports required of the office~~ in the form specified by the office department
19 by rule.

20 **SECTION 25.** 153.05 (5) (a) and (bm) of the statutes are repealed.

21 **SECTION 26.** 153.05 (6) of the statutes is amended to read:

22 153.05 (6) ~~If the requirements of s. 153.07 (2) are first met, the office~~ The
23 department may contract with a public or private entity that is not a major
24 purchaser, payer or provider of health care services in this state for the provision of
25 data processing services for the collection, analysis and dissemination of health care

1 information under sub. (1) ~~or the department of health and family services shall~~
2 ~~provide the services under s. 153.07 (2).~~

3 **SECTION 27.** 153.05 (6m) of the statutes is amended to read:

4 153.05 **(6m)** ~~If the requirements of s. 153.07 (2) are first met, the office~~ The
5 department may contract with the group insurance board for the provision of data
6 collection and analysis services related to health maintenance organizations and
7 insurance companies that provide health insurance for state employes ~~or the~~
8 ~~commissioner shall provide the services under s. 153.07 (2).~~ The office department
9 shall establish contract fees for the provision of the services. All moneys collected
10 under this subsection shall be credited to the appropriation under s. ~~20.145 (8) (kx)~~
11 20.435 (1) (hg).

12 **SECTION 28.** 153.05 (6r) of the statutes is created to read:

13 153.05 **(6r)** The department shall study and, based on the results of the study,
14 may develop and implement a voluntary system of health care plan reporting that
15 enables purchasers and consumers to assess the performance of health care plans
16 and the health care providers that are employed or reimbursed by the health care
17 plans. The department shall undertake the study and any development and
18 implementation in cooperation with private health care purchasers, the board, the
19 department of employe trust funds, the office of the commissioner of insurance, the
20 interagency coordinating council created under s. 15.107 (7), major associations of
21 health care providers, health care plans and consumers. If implemented, the
22 department shall operate the system in a manner so as to enable purchasers,
23 consumers, the public, the governor and legislators to assess the performance of
24 health care plans and health care providers.

25 **SECTION 29.** 153.05 (7) of the statutes is repealed.

1 **SECTION 30.** 153.05 (8) of the statutes is amended to read:

2 153.05 (8) ~~Beginning April 1, 1992, the office~~ The department shall collect,
3 analyze and disseminate, in language that is understandable to lay persons, health
4 care claims information and other health care information under the provisions of
5 this chapter, as determined by rules promulgated by the ~~commissioner~~ department,
6 from health care providers, ~~as defined~~ specified by rules promulgated by the
7 ~~commissioner, other than hospitals and ambulatory surgery centers~~ department.
8 Data from ~~physicians~~ health care providers may be obtained through sampling
9 techniques in lieu of collection of data on all patient encounters and data collection
10 procedures shall minimize unnecessary duplication and administrative burdens. If
11 the department collects health care provider-specific data from health care plans,
12 the department shall attempt to avoid collecting the same data from health care
13 providers.

14 **SECTION 31.** 153.05 (9) of the statutes is amended to read:

15 153.05 (9) The ~~office~~ department shall provide orientation and training to
16 ~~physicians, hospital personnel and other health care providers~~ who submit data
17 under this chapter to explain the process of data collection and analysis and the
18 procedures for data verification, interpretation and release.

19 **SECTION 32.** 153.05 (11) of the statutes is repealed.

20 **SECTION 33.** 153.05 (12) of the statutes is amended to read:

21 153.05 (12) The ~~office~~ department shall, to the extent possible and upon
22 request, assist members of the public in interpreting data in health care information
23 disseminated by the ~~office~~ department.

24 **SECTION 34.** 153.07 (1) of the statutes is amended to read:

1 153.07 (1) The board shall advise the ~~director of the office~~ department with
2 regard to the collection, analysis and dissemination of health care information
3 required by this chapter.

4 **SECTION 35.** 153.07 (2) of the statutes is repealed.

5 **SECTION 36.** 153.07 (3) of the statutes is amended to read:

6 153.07 (3) The board shall approve all rules which are proposed by the
7 ~~commissioner~~ department for promulgation to implement this chapter.

8 **SECTION 37.** 153.07 (4) of the statutes is created to read:

9 153.07 (4) The board and the department shall jointly do all of the following:

10 (a) Develop the rules that are required or authorized under this chapter.

11 (b) Provide oversight on the standard reports under this chapter, including the
12 reports under ss. 153.20 and 153.21.

13 (c) Develop the overall strategy and direction for implementation of this
14 chapter.

15 (d) Provide information on their activities to the interagency coordinating
16 council created under s. 15.107 (7).

17 **SECTION 38.** 153.08 (2) (intro.) and (a) of the statutes are consolidated,
18 renumbered 153.08 (2) and amended to read:

19 153.08 (2) No hospital may increase its rates or charge any payer an amount
20 exceeding its rates that are in effect on May 12, 1992, unless the hospital first does
21 ~~all of the following:~~ ~~(a) Causes~~ causes to be published a class 1 notice under ch. 985
22 ~~in the official newspaper designated under s. 985.04 or 985.05 or in a newspaper~~
23 likely to give notice in the area where the hospital is located, no sooner than 45 days
24 and no later than 30 days before the proposed rate change is to take effect. The notice

1 shall describe the proposed rate change and the time and place for the public hearing
2 required under sub. (2).

3 **SECTION 39.** 153.08 (2) (b) of the statutes is repealed.

4 **SECTION 40.** 153.10 (1) (intro.) of the statutes is renumbered 153.10 and
5 amended to read:

6 **153.10 Health care data reports.** ~~Beginning in 1990 and quarterly~~
7 ~~thereafter, the office~~ The department shall prepare, and submit to the governor and
8 the chief clerk of each house of the legislature for distribution to the legislature under
9 s. 13.172 (2), ~~in a manner that permits comparisons among hospitals, a report setting~~
10 ~~forth all of the following for every hospital for the preceding quarter: standard~~
11 ~~reports that the department prepares and shall collect information necessary for~~
12 ~~preparation of those reports.~~

13 **SECTION 41.** 153.10 (1) (a) and (b) and (2) of the statutes are repealed.

14 **SECTION 42.** 153.15 of the statutes is repealed.

15 **SECTION 43.** 153.20 (1) and (2) of the statutes are amended to read:

16 153.20 (1) ~~Beginning in 1990 and annually thereafter, the office~~ The
17 department shall prepare, and submit to the governor and to the chief clerk of each
18 house of the legislature for distribution to the legislature under s. 13.172 (2) a, an
19 annual report setting forth the number of patients to whom uncompensated health
20 care services were provided by each hospital and the total charges for the
21 uncompensated health care services provided to the patients for the preceding year,
22 together with the number of patients and the total charges that were projected by the
23 hospital for that year in the plan filed under sub. (2).

24 (2) ~~Beginning in 1990 and annually thereafter, every~~ Every hospital shall file
25 with the ~~office~~ department an annual plan setting forth the projected number of

1 patients to whom uncompensated health care services will be provided by the
2 hospital and the projected total charges for the uncompensated health care services
3 to be provided to the patients for the ensuing year.

4 **SECTION 44.** 153.21 of the statutes is created to read:

5 **153.21 Consumer guide.** The department shall prepare and submit to the
6 governor and to the chief clerk of each house of the legislature for distribution to the
7 legislature under s. 13.172 (2) an annual guide to assist consumers in selecting
8 health care providers and health care plans. The guide shall be written in language
9 that is understandable to lay persons. The department shall widely publicize and
10 distribute the guide to consumers.

11 **SECTION 45.** 153.25 of the statutes is repealed.

12 **SECTION 46.** 153.30 of the statutes is repealed.

13 **SECTION 47.** 153.35 of the statutes is repealed.

14 **SECTION 48.** 153.40 of the statutes is repealed.

15 **SECTION 49.** 153.45 (1) (intro.), (a), (b) and (c), (2) and (3) of the statutes are
16 amended to read:

17 153.45 (1) (intro.) After completion of data verification and review procedures
18 under s. 153.40 specified by the department by rule, the ~~office~~ department shall
19 release data in the following forms:

20 (a) Standard reports ~~in accordance with ss. 153.10 to 153.35.~~

21 (b) Public use ~~tapes~~ data files which do not permit the identification of specific
22 patients, ~~physicians, employers or other health care providers, as defined by rules~~
23 ~~promulgated by the commissioner.~~ The identification of these groups shall be
24 protected by all necessary means, including the deletion of patient identifiers and the
25 use of calculated variables and aggregated variables.

1 (c) Custom-designed ~~subfile tapes, other electronic media,~~ special data
2 compilations or reports containing portions of the ~~public use tape data~~ under par. (b).

3 (2) The ~~office~~ department shall provide to other entities the data necessary to
4 fulfill their statutory mandates for epidemiological purposes or to minimize the
5 duplicate collection of similar data elements.

6 (3) The ~~office~~ department shall release ~~physician-specific~~ health care
7 provider-specific and employer-specific data, except in public use ~~tapes~~ data files as
8 specified under sub. (1) (b), in a manner that is specified in rules promulgated by the
9 ~~commissioner~~ department.

10 **SECTION 50.** 153.45 (4) of the statutes is created to read:

11 153.45 (4) The department shall prohibit purchasers of data from rereleasing
12 individual data elements of health care data files.

13 **SECTION 51.** 153.45 (5) of the statutes is created to read:

14 153.45 (5) The department may not release any health care information that
15 is subject to rules promulgated under s. 153.75 (1) (b) until the verification and
16 review procedures required under those rules have been complied with. Nothing in
17 this subsection prohibits release of health care provider-specific information to the
18 health care provider to whom the information relates.

19 **SECTION 52.** 153.50 of the statutes is amended to read:

20 **153.50 Protection of patient confidentiality.** Patient-identifiable data
21 obtained under this chapter and ~~contained in the discharge data base of the office~~ is
22 not subject to inspection, copying or receipt under s. 19.35 (1) and may not be released
23 ~~by the office,~~ except to the patient or to a person granted permission for release by
24 the patient and except that a ~~hospital, a physician,~~ health care provider or the agent
25 of a ~~hospital or physician or the commissioner~~ health care provider may have access

1 to patient-identifiable data to ensure the accuracy of the information in the
2 discharge data base. ~~The department of health and family services may have access~~
3 ~~to the discharge data base for the purposes of completing epidemiological reports and~~
4 ~~eliminating the need to maintain a data base that duplicates that of the office, if the~~
5 ~~department of health and family services does not release or otherwise provide~~
6 ~~access to the patient-identifiable data.~~

7 **SECTION 53.** 153.60 (title) of the statutes is amended to read:

8 **153.60 (title) Assessments to fund operations of ~~office~~ the department**
9 **and board.**

10 **SECTION 54.** 153.60 (1) of the statutes is amended to read:

11 153.60 (1) The ~~office~~ department shall, by the first October 1 after the
12 commencement of each fiscal year, estimate the total amount of expenditures for the
13 ~~office~~ department and the board for that fiscal year for data collection, data base
14 development and maintenance, generation of data files and standard reports,
15 orientation and training provided under s. 153.05 (9) and maintaining the board.
16 The ~~office~~ department shall assess the estimated total amount for that fiscal year less
17 the estimated total amount to be received for purposes of administration of this
18 chapter under s. 20.145 (8) (hi), (hj), (kx) and (mr) 20.435 (1) (hi) during the fiscal year
19 and the unencumbered balances of the amounts received for purposes of
20 administration of this chapter under s. 20.145 (8) (hi), (hj) and (mr) 20.435 (1) (hi)
21 from the prior fiscal year, to hospitals in proportion to each hospital's respective gross
22 ~~private-pay patient revenues during the hospital's most recently concluded entire~~
23 ~~fiscal year~~ health care providers, who are in a class of health care providers from
24 whom the department collects data under this chapter in a manner specified by the
25 department by rule. Each hospital health care provider shall pay the assessment on

1 or before December 1. All payments of assessments shall be deposited in the
2 appropriation under s. ~~20.145 (8) (hg)~~ 20.435 (1) (hg) and may be used solely for
3 purposes of this chapter.

4 **SECTION 55.** 153.60 (2) of the statutes is repealed.

5 **SECTION 56.** 153.60 (3) of the statutes is created to read:

6 153.60 (3) The department shall, by the first October 1 after the
7 commencement of each fiscal year, estimate the total amount of expenditures
8 required for the collection, database development and maintenance and generation
9 of public data files and standard reports for health care plans that voluntarily agree
10 to supply health care data under s. 153.05 (6r). The department shall assess the
11 estimated total amount for that fiscal year to health care plans in a manner specified
12 by the department by rule and may enter into an agreement with the office of the
13 commissioner of insurance for collection of the assessments. Each health plan that
14 voluntarily agrees to supply this information shall pay the assessments on or before
15 December 1. All payments of assessments shall be deposited in the appropriation
16 under s. 20.435 (1) (hg) and may be used solely for the purposes of s. 153.05 (6r).

17 **SECTION 57.** 153.65 of the statutes is amended to read:

18 **153.65 Provision of special information; user fees.** The ~~office~~ department
19 may provide, upon request from a person, a data compilation or a special report based
20 on the information collected by the ~~office~~ department under s. ~~153.05 (1), (3), (4) (b), (5), (7) or (8)~~
21 ~~or 153.08~~ department. The ~~office~~ department shall establish user fees for the
22 provision of these compilations or reports, payable by the requester, which shall be
23 sufficient to fund the actual necessary and direct cost of the compilation or report.
24 All moneys collected under this section shall be credited to the appropriation under
25 s. ~~20.145 (8)~~ 20.435 (1) (hi).

1 **SECTION 58.** 153.75 (1) (intro.), (b), (f), (k) and (L) of the statutes are amended
2 to read:

3 153.75 **(1)** (intro.) Following approval by the board, the ~~commissioner~~
4 department shall promulgate the following rules:

5 (b) Establishing procedures under which ~~hospitals and~~ health care providers
6 are permitted to review and verify ~~patient-related~~ information ~~prior to its~~
7 ~~submission to the office.~~

8 (f) Governing the release of ~~physician-specific~~ health care provider-specific
9 and employer-specific data under s. 153.45 (3).

10 (k) Establishing methods and criteria for assessing ~~hospitals and ambulatory~~
11 ~~surgery centers~~ health care providers under s. 153.60 (1).

12 (L) Defining the term “uncompensated health care services” for the purposes
13 of ~~ss. 153.05 (1) (d) and s.~~ s. 153.20.

14 **SECTION 59.** 153.75 (1) (c), (d), (e), (i) and (j) of the statutes are repealed.

15 **SECTION 60.** 153.75 (1) (m), (n), (o), (p), (q), (r) and (s) of the statutes are created
16 to read:

17 153.75 **(1)** (m) Specifying the classes of health care providers from whom claims
18 data and other health care information will be collected.

19 (n) Specifying the uniform data set of health care information to be collected.

20 (o) Specifying the means by which the information in par. (b) will be collected,
21 including the procedures for submission of data by electronic means.

22 (p) Specifying the methods for using and disseminating health care data in
23 order for health care providers to provide health care that is effective and
24 economically efficient and for consumers and purchasers to make informed decisions
25 in selecting health care plans and health care providers.

1 (q) Specifying the information to be provided in the consumer guide under s.
2 153.21.

3 (r) Specifying the standard reports that will be issued by the department in
4 addition to those required in ss. 153.20 and 153.21.

5 (s) Defining "individual data elements" for purposes of s. 153.45 (4).

6 **SECTION 61.** 153.75 (2) (intro.) and (c) of the statutes are amended to read:

7 153.75 (2) (intro.) ~~With the~~ Following approval of the board, the ~~commissioner~~
8 department may promulgate all of the following rules:

9 (c) Providing for the efficient collection, analysis and dissemination of health
10 care information which the ~~office~~ department may require under this chapter.

11 **SECTION 62.** 153.75 (2) (b) of the statutes is repealed.

12 **SECTION 63.** 153.75 (2) (d) of the statutes is created to read:

13 153.75 (2) (d) Specifying the information collected under any voluntary system
14 of health care plan reporting under s. 153.05 (6r) and the methods and criteria for
15 assessing health care plans that submit data under that subsection.

16 **SECTION 64.** 153.90 (1) and (2) of the statutes are amended to read:

17 153.90 (1) Whoever intentionally violates s. 153.45 (5) or 153.50 or rules
18 promulgated under s. 153.75 (1) (a) may be fined not more than \$10,000 or
19 imprisoned for not more than 9 months or both.

20 (2) Any person who violates this chapter or any rule promulgated under the
21 authority of this chapter, except ss. 153.45 (5), 153.50 and 153.75 (1) (a), as provided
22 in s. 153.85 and sub. (1), shall forfeit not more than \$100 for each violation. Each day
23 of violation constitutes a separate offense, except that no day in the period between
24 the date on which a request for a hearing is filed under s. 227.44 and the date of the

1 conclusion of all administrative and judicial proceedings arising out of a decision
2 under this section constitutes a violation.

3 **SECTION 65.** 153.90 (3) of the statutes is amended to read:

4 153.90 (3) The ~~commissioner~~ department may directly assess forfeitures under
5 sub. (2). If the ~~commissioner~~ department determines that a forfeiture should be
6 assessed for a particular violation or for failure to correct the violation, the
7 ~~commissioner~~ department shall send a notice of assessment to the alleged violator.
8 The notice shall specify the alleged violation of the statute or rule and the amount
9 of the forfeiture assessed and shall inform the alleged violator of the right to contest
10 the assessment under s. 227.44.

11 **SECTION 66.** 230.08 (2) (ym) of the statutes is repealed.

12 **SECTION 67.** 601.429 of the statutes is repealed.

13 **SECTION 68.** 943.30 (5) of the statutes is created to read:

14 943.30 (5) (a) In this subsection, "patient health care records" has the meaning
15 given in s. 146.81 (4).

16 (b) Whoever, orally or by any written or printed communication, maliciously
17 uses, or threatens to use, the patient health care records of another person, with
18 intent thereby to extort money or any pecuniary advantage whatever, or with intent
19 to compel the person so threatened to do any act against the person's will or omit to
20 do any lawful act, is guilty of a Class D felony.

21 **SECTION 69. Nonstatutory provisions; health and family services.**

22 (1) The department of health and family services shall prepare a report on the
23 feasibility of requiring major health care providers, other than hospitals, to report
24 annually on the services provided as either charity care or bad debt services and to
25 file an annual plan on projected services that will be provided as either charity care

1 or bad debt services, in the same manner as the annual report and plan by hospitals
2 under section 153.20 of the statutes, as affected by this act. By the first day of the
3 7th month after publication of this act, the department shall submit the report to the
4 legislature in the manner provided under section 13.172 (2) of the statutes, to the
5 board on health care information and to the governor.

6 **SECTION 70. Nonstatutory provisions; insurance; transfer of health**
7 **care information functions.**

8 (1) ASSETS AND LIABILITIES. On the effective date of this subsection, all assets
9 and liabilities of the office of the commissioner of insurance that are primarily
10 related to the functions of the office of health care information shall become the
11 assets and liabilities of the department of health and family services.

12 (2) EMPLOYE TRANSFERS. The department of health and family services and the
13 office of the commissioner of insurance shall jointly determine these assets and
14 liabilities and shall jointly develop and implement a plan for the orderly transfer
15 thereof. In the event of any disagreement between the department and the office of
16 the commissioner of insurance, the secretary of administration shall decide the
17 question. On the effective date of this subsection, 19.0 FTE PR positions in the office
18 of the commissioner of insurance that are primarily related to the functions of the
19 office of health care information and the incumbents holding these positions, as
20 determined by the secretary of administration, are transferred to the department of
21 health and family services.

22 (3) EMPLOYE STATUS. Employees transferred under subsection (2) have all the
23 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
24 statutes in the department of health and family services that they enjoyed in the
25 office of the commissioner of insurance immediately before the transfer.

1 Notwithstanding section 230.28 (4) of the statutes, no employe so transferred who
2 has attained permanent status in class is required to serve a probationary period.

3 (4) TANGIBLE PERSONAL PROPERTY. On the effective date of this subsection, all
4 tangible personal property, including records, of the office of the commissioner of
5 insurance that is primarily related to the functions of the office of health care
6 information are transferred to the department of health and family services. The
7 department of health and family services and the office of the commissioner of
8 insurance shall jointly identify the tangible personal property, including records,
9 and shall jointly develops and implement a plan for the orderly transfer thereof. In
10 the event of any disagreement between the department and the office of the
11 commissioner, the secretary of administration shall decide the question.

12 (5) PENDING MATTERS. On the effective date of this subsection, any matter
13 pending with the office of the commissioner of insurance primarily related to the
14 functions of the office of health care information is transferred to the department of
15 health and family services. All materials submitted to or actions taken by the office
16 of the commissioner of insurance with respect to the pending matter are considered
17 as having been submitted to or taken by the department of health and family
18 services.

19 (6) CONTRACTS. On the effective date of this subsection, all contracts entered
20 into by the office of the commissioner of insurance primarily related to the functions
21 of the office of health care information which are in effect on the effective date of this
22 subsection remain in effect and are transferred to the department of health and
23 family services. The department of health and family services and the office of the
24 commissioner of insurance shall jointly identify these contracts and shall jointly
25 develop and implement a plan for the orderly transfer thereof. In the event of any

1 disagreement between the department and the office of the commissioner of
2 insurance, the secretary of administration shall decide the question. The
3 department of health and family services shall carry out any such contractual
4 obligations until modified or rescinded by the department of health and family
5 services to the extent allowed under the contracts.

6 (7) RULES AND ORDERS. All rules promulgated by the office of the commissioner
7 of insurance that are in effect on the effective date of this subsection and that are
8 primarily related to the functions of the office of health care information remain in
9 effect until their specified expiration date or until amended or repealed by the
10 department of health and family services. All orders issued by the office of the
11 commissioner of insurance that are in effect on the effective date of this subsection
12 and that are primarily related to the functions of the office of health care information
13 remain in effect until their specified expiration date or until modified or rescinded
14 by the department of health and family services.

15 **SECTION 71. Initial applicability.**

16 (1) Section 15.07 (1) (b) 21. of the statutes, as created by this act, first applies
17 to persons appointed to the board on health care information on the effective date of
18 this act.

19 **SECTION 72. Effective date.**

20 (1) This act takes effect on the day after publication of this act or on the second
21 day after publication of the 1997-99 biennial budget act, whichever is later.

22 (END)