



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0883/2
SWB:amn

2019 ASSEMBLY BILL 913

February 14, 2020 – Introduced by Representatives SINICKI, EMERSON, HORLACHER, C. TAYLOR and THIESFELDT, cosponsored by Senators L. TAYLOR and JOHNSON. Referred to Committee on Health.

1 **AN ACT to amend** 146.81 (4); and **to create** 50.373, 146.83 (3f) (b) 3m. and 655.27
2 (1g) of the statutes; **relating to:** video recording of surgical procedures,
3 providing an exemption from emergency rule procedures, granting
4 rule-making authority, requiring the exercise of rule-making authority, and
5 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill creates a requirement for hospitals, ambulatory surgical centers, or any other places where surgical procedures are performed — referred to in the bill as surgical facilities — to offer surgical patients the option to have their surgical procedures and discharge instructions videotaped. Surgical facilities must provide notice of the option and all related procedures and conditions set forth in the bill. For purposes of this bill, a surgical procedure is one for which a surgical or other invasive procedure is performed upon a patient under conscious sedation, deep sedation, or general anesthesia. If a patient makes a request to have a surgical procedure recorded, this bill requires that the surgical facility, or its designee, record the surgical procedure with both audio and color video. When recording of a surgical procedure is requested, the facility must record with color video and audio all activity in the surgical suite from the time preparation for the surgery begins until all activity related to the surgery, including cleanup, is complete. If the surgical patient is incapacitated, the surgical facility is required to provide another authorized person with notice of the option for video recording, and that person may request that a

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recording be made. Similarly, if the surgical patient is a minor, the surgical facility must notify a parent, guardian, or legal custodian of the option for video recording and allow that person to make a request for a recording on behalf of the minor. A patient may also request that his or her discharge instructions be recorded. The surgical facility may determine if these instructions will be videotaped or audiotaped. The bill also allows a physician or certain other individual who holds a valid license or other credential that allows him or her to perform surgical procedures and who is scheduled to perform a surgical patient's surgical procedure to request that a recording be made. A health care provider who provides the patient with discharge instructions may also request that those instructions, as provided, be recorded. A surgical facility must comply with these provider requests so long as certain conditions are met, including that the surgical patient or person authorized by the patient does not object. Under the bill, in certain limited emergency circumstances, surgical facilities are not required to provide the option of recording. The bill also allows the Department of Health Services to grant limited waivers from the requirements, if the facility provides evidence of a compelling need, financial or otherwise.

In return for exercising the option to have a surgical procedure recorded, under the bill, the surgical patient or another person on behalf of the patient may not disclose the recording except to limited authorized individuals, unless confidentiality is waived by the health care provider or surgical practitioner that is a subject of the video recording. Video recordings of surgical procedures created under this bill are otherwise treated as patient health care records and are subject to the same protections as other patient health care records, including all criminal and civil penalties for improper disclosure or destruction. The bill specifies that, once a recording is complete, the surgical facility or its designee must preserve the recording as part of the patient's health care record but delete copies of the recording from the recording device and elsewhere. Under the bill, a surgical facility may charge a surcharge of up to \$25 for each recording of a surgical procedure. Upon request, the surgical facility must provide to the patient, person authorized by the patient, or parent, guardian, or legal custodian of the patient one copy of the recording without an additional charge. Recordings under this bill are admissible as evidence in any civil or criminal action or proceeding related to any alleged act or omission depicted in the recording. A surgical patient may also request up to two free copies of his or her discharge instructions — one for the patient, and one for another person designated by the patient.

Under this bill, a surgical patient may complete an advance request for recording, which permits an individual who is of sound mind and over the age of 18 to request video recording for future surgical procedures. The individual may complete an advance request for a single specific surgical procedure or set of discharge instructions, or for all future surgical procedures and discharge instructions to which this bill would apply. An advance request must be completed voluntarily, and must be in writing and signed and dated in the presence of a witness over the age of 18. The advance request may be revoked at any time.

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This bill provides that a health care provider who knowingly refuses to comply with a patient request for recording is subject to a forfeiture of up to \$25,000 for each violation. A surgical facility that fails to provide a required notice of the option for recording, including information regarding the procedures, the fees, the conditions, the surgical practitioner's request option, and the advance request option, is subject to a forfeiture of up to \$25,000 for each violation. The bill also provides penalties for interference with an advance request for recording, and for unauthorized disclosure of a recording.

Under this bill, DHS is required to promulgate rules establishing standards relating to the recording equipment and the recording. The department may promulgate additional rules as necessary to implement and administer the provisions of the bill.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

For further information see the *state* 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.** 50.373 of the statutes is created to read:
- 2 **50.373 Video recording of surgical procedures. (1) DEFINITIONS.** In this
- 3 section:
- 4 (a) "Conscious sedation" is a drug-induced depression of consciousness during
- 5 which patients respond purposefully to verbal commands, either alone or
- 6 accompanied by light tactile stimulation.
- 7 (b) "Deep sedation" is a drug-induced depression of consciousness during
- 8 which patients cannot be easily aroused but respond purposefully following repeated
- 9 or painful stimulation.
- 10 (c) "Discharge instructions" means care instructions provided to a patient at
- 11 or near the time of a patient's exit or release from a surgical facility after a surgical
- 12 procedure.

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1 (d) "General anesthesia" means a temporary status commonly produced by the
2 administration of certain intravenous drugs and inhaled gases that cause a patient
3 to be unconscious and unable to feel pain during a medical procedure.

4 (e) "Guardian" means the person named by the court having the duty and
5 authority of guardianship.

6 (f) "Health care provider" means a person or entity described under s. 146.81
7 (1) (a) to (p) and includes any surgical facility.

8 (g) "Incapacitated" means unable to receive and evaluate information
9 effectively or to communicate decisions to such an extent that an individual lacks the
10 capacity to manage his or her health care decisions.

11 (h) "Legal custodian" means a person, other than a parent or guardian, or an
12 agency to whom legal custody of the child has been transferred by a court, but does
13 not include a person who has only physical custody of the child.

14 (i) "Patient health care records" has the meaning given in s. 146.81 (4).

15 (j) "Surgical facility" means a hospital, as defined in s. 50.33 (2), an ambulatory
16 surgical center, as defined in 42 CFR 416.2, or any other place where a surgical
17 procedure is performed.

18 (k) "Surgical patient" means a patient who is scheduled to undergo a surgical
19 procedure.

20 (L) "Surgical practitioner" means a physician, surgeon, or osteopath under s.
21 990.01 (28), an individual licensed to practice dentistry under ch. 447, and any other
22 individual who holds a valid license or other credential that allows him or her to
23 perform a surgical procedure.

24 (m) "Surgical procedure" means a surgical procedure for which a patient is
25 under conscious sedation, deep sedation, or general anesthesia. "Surgical

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1 procedure” includes a colonoscopy or similarly invasive procedure if performed under
2 conscious sedation, deep sedation, or general anesthesia.

3 (2) OPTION FOR RECORDING. (a) 1. A surgical facility shall provide a surgical
4 patient the option to have the surgical facility or the surgical facility’s designee make
5 a video recording of the patient’s surgical procedure. For purposes of any recording
6 of a surgical procedure made under this subdivision, the surgical facility or its
7 designee shall make a color video recording, including both audio and video and
8 display of the time and date. All areas of the surgical suite, including entrances and
9 exits, must be in view on the recording and audible. The surgical facility or its
10 designee shall begin the recording of a surgical procedure under this subdivision
11 when preparation of the surgical suite for that surgical patient’s surgical procedure
12 starts and continue the recording through the period of the cleanup after that
13 procedure and until all activity in the surgical suite related to the procedure recorded
14 is complete.

15 2. A surgical facility shall also provide a surgical patient the option to have his
16 or her discharge instructions, as given by the patient’s doctor or other health care
17 provider, recorded. If a patient chooses to have his or her discharge instructions
18 recorded, the recording may be audio only or videotaped, including audio, at the
19 option of the surgical facility.

20 (b) 1. A surgical facility shall notify a surgical patient of the option to have a
21 recording made under par. (a) and of the procedures, the fees, the conditions, the
22 surgical practitioner’s request option, and the advance request option.

23 2. If the surgical patient is a minor child, the surgical facility shall notify the
24 minor child’s parent, guardian, or legal custodian of the option to have a recording

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1 made under par. (a) and of the procedures, the fees, the conditions, the surgical
2 practitioner's request option, and the advance request option.

3 3. If a surgical patient is incapacitated, a surgical facility shall notify a person
4 authorized by the patient under s. 146.81 (5), if available, or, if not, a relative of the
5 patient of the option and information under subd. 1. and allow that person to make
6 a decision regarding whether to have a recording under par. (a).

7 (c) A surgical practitioner who is scheduled to participate in a surgical patient's
8 surgical procedure may request that the procedure be video recorded under the
9 procedures described in this subsection. The surgical facility shall comply with the
10 surgical practitioner's request if all of the following are true:

11 1. The requesting surgical practitioner has informed the surgical patient or, if
12 the patient is a minor, a parent, guardian, or legal custodian, of the surgical
13 practitioner's request for video recording and the reason the surgical practitioner
14 has requested that recording. If the patient is incapacitated, the requesting surgical
15 practitioner shall inform a person authorized by the patient under s. 146.81 (5), if
16 available, or, if not, a relative of the patient.

17 2. The surgical patient or other person informed under subd. 1. does not object
18 to the video recording.

19 (d) A patient's doctor or other health care provider who will administer a
20 patient's discharge instructions may request that the patient's discharge
21 instructions, as given by the health care provider, be recorded under the procedures
22 described in this subsection. The surgical facility shall comply with the health care
23 provider's request if all of the following are true:

24 1. The requesting health care provider has informed the patient or, if
25 applicable, a parent, guardian, legal custodian, or person authorized by the patient,

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1 of the health care provider's request for recording and the reason the health care
2 provider has requested that recording.

3 2. The surgical patient or, if applicable, the parent, guardian, legal custodian,
4 or person authorized by the patient under s. 146.81 (5) does not object to the
5 recording.

6 (e) 1. Except as otherwise provided under this subsection, no surgical patient
7 or person on behalf of a surgical patient may disclose, unless the surgical practitioner
8 or other health care provider that is a subject of the recording waives confidentiality,
9 the content of a recording created under this section except to health care providers
10 providing care to the surgical patient, to immediate family members or a person
11 authorized by the patient under s. 146.81 (5), or to an attorney or an attorney's staff
12 for the purpose of obtaining legal advice. If legal action is taken, the surgical patient
13 or an attorney for the surgical patient may disclose the recording to additional
14 individuals if necessary for the case, but the recording shall be filed under seal if
15 permitted by the court. In all other respects, recordings under this section shall be
16 treated as patient health care records.

17 2. Notwithstanding the restrictions on disclosure under this paragraph, a
18 surgical patient or a person on behalf of a surgical patient may disclose his or her
19 discharge instructions to one or more persons designated by the surgical patient to
20 assist the surgical patient with postsurgical care, and one person designated by the
21 surgical patient may receive a free copy of the surgical patient's discharge
22 instructions as set forth under sub. (10).

23 3. Notwithstanding subds. 1. and 2. and sub. (10), a surgical facility or surgical
24 practitioner may, if authorization is granted under sub. (3), use a copy of a recording
25 made under this subsection for teaching or research purposes outside the network

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1 of the surgical facility and if the surgical patient's personal identifying information
2 is redacted or if the surgical patient or other person authorized to request or consent
3 to a recording under this subsection on behalf of the patient expressly consents, in
4 writing, to the use and disclosure. Notwithstanding any other provision of this
5 section, a surgical facility or surgical practitioner may, if not for teaching or research
6 purposes outside of the network of the surgical facility, be permitted to use a
7 recording made under this subsection without informed written confirmation under
8 sub. (3) if the disclosure is otherwise permitted under s. 146.82 or 146.83.

9 **(3) WRITTEN CONFIRMATION.** Before proceeding with a recording under sub. (2),
10 a surgical facility shall obtain from the surgical patient or other person authorized
11 to request or consent to a recording under sub. (2) on behalf of the patient,
12 confirmation, in writing, authorizing the recording of the surgical patient's surgical
13 procedure. If a surgical facility or surgical practitioner intends to use a recording as
14 described under sub. (2) (e) 3., the surgical facility shall provide written notice of that
15 proposed use to the surgical patient or other person authorized to request or consent
16 to a recording under sub. (2) on behalf of the patient, and obtain written
17 authorization of that use of the recording.

18 **(4) EQUIPMENT AND TECHNICAL ASSISTANCE.** A surgical facility shall have
19 available appropriate recording equipment and technical assistance as determined
20 by the department in rules promulgated under sub. (8) to comply with a surgical
21 patient request for a recording of his or her surgical procedure or discharge
22 instructions.

23 **(5) MINORS.** If a surgical patient is a minor child, a parent, guardian, or legal
24 custodian may request that a recording be made of the minor child's surgical
25 procedure or discharge instructions under sub. (2) (a).

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1 **(6) EXCEPTION FOR EMERGENCIES.** (a) Notwithstanding sub. (2), a surgical
2 facility is not required to provide the option of a video recording under this section
3 if the surgical practitioner determines in the exercise of his or her professional
4 judgment that either of the following is true:

5 1. Immediate surgery is necessary to avert death.

6 2. Other circumstances exist such that video recording would cause a delay that
7 would create a serious risk of substantial and irreversible impairment of one or more
8 of the surgical patient's bodily functions.

9 (b) The health care provider shall inform the surgical patient or, if applicable,
10 other persons as described under sub. (2) (b) of the medical indications supporting
11 the surgical practitioner's reasonable medical judgment that either of the emergency
12 conditions under par. (a) exists.

13 **(7) EXTENSIONS FOR FACILITY COMPLIANCE.** The department may in its discretion
14 grant a surgical facility one or more 6-month extensions of the deadline for the
15 facility to comply with the requirements of this section, but may not grant more than
16 a total of 6 extensions. In order to qualify for an extension, a surgical facility shall
17 provide the department with evidence of a compelling need, financial or otherwise,
18 for additional time for compliance.

19 **(8) RULES.** (a) The department shall promulgate rules establishing standards
20 for video recording of surgical procedures, recording of discharge instructions, and
21 the use of recording equipment in the surgery and discharge settings to ensure such
22 recordings are professional and of sufficient quality to accurately portray what takes
23 place when discharge instructions are given or during a surgical procedure,
24 including who enters and leaves and a view of the patient without requiring close-up
25 views of the patient or the surgical procedure itself.

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1 (b) In addition to the rules required under par. (a), the department may
2 promulgate rules, as necessary, to implement and administer this section, including
3 any of the following:

4 1. Establishing criteria and procedures for providing notice and the option for
5 video recording under sub. (2).

6 2. Implementing the requirements regarding preservation and destruction of
7 recordings under sub. (9).

8 3. Establishing standards, procedures, and forms for advance requests for
9 recording under sub. (12).

10 4. Implementing the forfeiture procedures under sub. (14).

11 **(9) PRESERVATION AND DESTRUCTION.** After the recording of a surgical procedure
12 under this section is complete, the surgical facility or its designee shall promptly do
13 all of the following:

14 (a) Preserve the recording as part of the surgical patient's health care record,
15 which may include both a copy in the patient's health care record and any electronic
16 backup of health care records kept in the normal course of business.

17 (b) Except as provided under par. (a), delete copies of the recording from the
18 recording device or any other electronic device, including any memory card or flash
19 drive.

20 **(10) FEES.** A surgical facility may charge a surcharge of up to \$25 for each
21 recording made of a surgical procedure or discharge instructions to offset the costs
22 of creating and providing a recording. The surgical facility shall provide, upon
23 request by the surgical patient, a person authorized by the surgical patient under s.
24 146.81 (5), or a parent, guardian, or legal custodian of a minor surgical patient, one
25 copy of each recording made under sub. (2) (a) 1. for which a request is made without

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1 additional charge. The surgical facility shall provide to the surgical patient, upon
2 request by the surgical patient, one free copy of the discharge instructions for the
3 surgical patient and up to one additional free copy of the discharge instructions for
4 another person designated by the surgical patient. The surgical facility may charge
5 fees as described under s. 146.83 (3f) (b) 3m. for additional copies of the recordings.

6 **(11) ADMISSIBILITY OF RECORDING.** For purposes of admissibility in a civil or
7 criminal action or proceeding, an audiovisual recording created under this section
8 is a patient health care record under s. 146.81 and shall be treated as other patient
9 health care records under ss. 908.03 (6m) and 909.02 (11). If certified by an
10 appropriate record custodian, recordings under this section shall be admissible as
11 evidence in any civil or criminal action or proceeding related to any alleged act or
12 omission depicted in the recording.

13 **(12) ADVANCE REQUESTS FOR RECORDING.** (a) *Definition.* In this subsection,
14 “principal” means an individual who executes an advance request for surgical
15 procedure recording instrument.

16 (b) *Advance requests for recording.* 1. An individual who is of sound mind and
17 has attained age 18 may voluntarily execute an advance request for surgical
18 procedure recording instrument. An individual for whom an adjudication of
19 incompetence and appointment of a guardian of the individual is in effect in this state
20 is presumed not to be of sound mind for purposes of this subsection and for executing
21 an advance request for surgical procedure recording instrument.

22 2. The desires of a principal who is not incapacitated supersede the effect of his
23 or her advance request for surgical procedure recording instrument at all times.

24 3. The department shall prepare and provide copies of an advance request for
25 surgical procedure recording instrument and accompanying information for

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1 distribution in quantities to health care professionals, hospitals and other surgical
2 facilities, county clerks, and local bar associations and individually to private
3 persons. The department shall determine the form of the request form and
4 accompanying instructions. The department shall include on the form an option for
5 requesting the recording of a specific single surgical procedure, an option for
6 requesting the recording of discharge instructions after a surgical procedure, an
7 option for requesting the recording of all future surgical procedures under this
8 section, and an option for requesting the recording of discharge instructions after all
9 future surgical procedures under this section. The department shall also include on
10 the form a statement to the effect that a principal who exercises the option for
11 recording agrees that, unless the surgical practitioner involved waives
12 confidentiality, a recording created under this section is confidential and the
13 principal or a person on behalf of the principal may disclose it only to health care
14 providers providing care to the principal, to immediate family members or a person
15 authorized by the patient under s. 146.81 (5), or to an attorney or an attorney's staff
16 for the purpose of obtaining legal advice, and if legal action is taken, the principal
17 or an attorney on behalf of the principal may disclose the recording to additional
18 individuals if necessary for the case, but it must be filed under seal if permitted by
19 the court. The form shall also include a statement that the principal or a person on
20 behalf of a principal may disclose the principal's discharge instructions to one or
21 more persons designated by the principal to assist with postsurgical care, and a
22 statement that a surgical facility or surgical practitioner may, if express
23 authorization is granted by the principal in writing, use a copy of a recording for
24 teaching or research purposes outside of the network of the surgical facility if the
25 principal's personal identifying information is redacted or if the principal or other

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1 person authorized on behalf of the principal expressly consents, in writing, to the use
2 and disclosure.

3 (c) *Advance request for recording; execution.* A valid advance request for
4 surgical procedure recording shall be all of the following:

5 1. In writing.

6 2. Dated and signed by the principal or by an individual who has attained age
7 18, at the express direction and in the presence of the principal.

8 3. Signed in the presence of a witness who is an individual who has attained
9 the age 18.

10 4. Voluntarily executed.

11 (d) *Revocation.* A principal may revoke his or her advance request for surgical
12 procedure recording instrument at any time by doing any of the following:

13 1. Canceling, defacing, obliterating, burning, tearing, or otherwise destroying
14 the advance request for surgical procedure recording instrument or directing
15 another in the presence of the principal to so destroy the advance request for surgical
16 procedure recording instrument.

17 2. Executing a statement, in writing, that is signed and dated by the principal,
18 expressing the principal's intent to revoke the advance request for surgical procedure
19 recording instrument.

20 3. Verbally expressing the desire to revoke the advance request for surgical
21 procedure recording instrument in the presence of a witness.

22 4. Executing a subsequent advance request for surgical procedure recording
23 instrument that replaces an existing advance request for surgical procedure
24 recording instrument.

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1 **(13) PENALTIES.** (a) Except as provided under sub. (6), a health care provider
2 who knowingly refuses to comply with a surgical patient request to have his or her
3 surgical procedure or discharge instructions recorded may be subject to a forfeiture
4 of not more than \$25,000 for each violation.

5 (b) Except as provided under sub. (6), a surgical facility that fails to provide a
6 notice required under sub. (2) (b) may be subject to a forfeiture of not more than
7 \$25,000 for each violation.

8 (c) 1. Any person who negligently interferes with or violates a surgical patient's
9 advance request for surgical procedures recording instrument created under sub.
10 (12) without the consent of the principal shall be subject to a fine of at least \$500 but
11 not more than \$1,000.

12 2. Any person who intentionally interferes with or violates a surgical patient's
13 advance request for surgical procedures recording instrument created under sub.
14 (12), including intentionally concealing, canceling, defacing, obliterating, damaging,
15 or destroying the instrument without the consent of the principal may be fined not
16 more than \$5,000.

17 (d) 1. For purposes of this paragraph, "disclosure" means to effect the provision
18 of access to, or the release, transfer, or divulging in any manner of information
19 outside those persons or entities authorized under in this section.

20 2. Except as otherwise authorized under this section, if a surgical practitioner
21 or other health care provider discloses a recording made under this section, the
22 standards and penalties for violations relating to patient health care records
23 described under s. 146.84 shall apply.

24 3. A surgical patient, or another person on behalf of a surgical patient, who
25 intentionally discloses a recording made under this section in violation of sub. (2) (e)

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1 may be fined not more than \$1,000 per violation. If a person affirmatively discloses
2 a recording made under this section on a social media platform, that disclosure shall
3 constitute a single violation, regardless of whether the disclosure is subsequently
4 redisclosed by other social media participants. Each subsequent disclosure on a
5 separate platform shall be considered a separate violation.

6 4. Whoever threatens, with intent to extort money or any pecuniary advantage
7 whatever, or with intent to compel the person so threatened to do any act against the
8 person's will, to disseminate or to communicate to anyone, or, except as otherwise
9 authorized under this section, does disseminate or communicate to anyone,
10 information related to a recording under this section is guilty of a Class I felony. For
11 the purpose of this subdivision, "information" has the meaning given in s. 943.31.

12 **(14) FORFEITURE PROCEDURE.** (a) The department may directly assess
13 forfeitures provided for under sub. (13). If the department determines that a
14 forfeiture should be assessed for a particular violation, the department shall send a
15 notice of assessment to the health care provider. The notice shall specify the amount
16 of the forfeiture assessed, the violation and the statute or rule alleged to have been
17 violated, and shall inform the hospital of the right to a hearing under par. (b).

18 (b) A health care provider may contest an assessment of a forfeiture by sending,
19 within 30 days after receipt of notice under par. (a), a written request for a hearing
20 under s. 227.44 to the division of hearings and appeals created under s. 15.103 (1).
21 The administrator of the division may designate a hearing examiner to preside over
22 the case and recommend a decision to the administrator under s. 227.46. The
23 decision of the administrator of the division shall be the final administrative
24 decision. The division shall commence the hearing within 60 days after receipt of the
25 request for a hearing and shall issue a final decision within 30 days after the close

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1 of the hearing. Proceedings before the division are governed by ch. 227. In any
2 petition for judicial review of a decision by the division, the party, other than the
3 petitioner, who was in the proceeding before the division shall be the named
4 respondent.

5 (c) All forfeitures shall be paid to the department within 30 days after receipt
6 of notice of assessment or, if the forfeiture is contested under par. (b), within 30 days
7 after receipt of the final decision after exhaustion of administrative review, unless
8 the final decision is appealed and the order is stayed by court order. The department
9 shall remit all forfeitures paid to the secretary of administration for deposit in the
10 injured patients and families compensation fund under s. 655.27.

11 (d) The attorney general may bring an action in the name of the state to collect
12 any forfeiture imposed under sub. (13) if the forfeiture has not been paid following
13 the exhaustion of all administrative and judicial reviews. The only issue to be
14 contested in any such action shall be whether the forfeiture has been paid.

15 **SECTION 2.** 146.81 (4) of the statutes is amended to read:

16 146.81 (4) "Patient health care records" means all records related to the health
17 of a patient prepared by or under the supervision of a health care provider; all
18 recordings under s. 50.373 related to the surgical patient; and all records made by
19 an ambulance service provider, as defined in s. 256.01 (3), an emergency medical
20 services practitioner, as defined in s. 256.01 (5), or an emergency medical responder,
21 as defined in s. 256.01 (4p), in administering emergency care procedures to and
22 handling and transporting sick, disabled, or injured individuals. "Patient health
23 care records" includes billing statements and invoices for treatment or services
24 provided by a health care provider and includes health summary forms prepared
25 under s. 302.388 (2). "Patient health care records" does not include those records

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1 subject to s. 51.30, reports collected under s. 69.186, records of tests administered
2 under s. 252.15 (5g) or (5j), 343.305, 938.296 (4) or (5) or 968.38 (4) or (5), records
3 related to sales of pseudoephedrine products, as defined in s. 961.01 (20c), that are
4 maintained by pharmacies under s. 961.235, fetal monitor tracings, as defined under
5 s. 146.817 (1), or a pupil's physical health records maintained by a school under s.
6 118.125.

7 **SECTION 3.** 146.83 (3f) (b) 3m. of the statutes is created to read:

8 146.83 **(3f)** (b) 3m. Except as provided in s. 50.373, for a copy of a video
9 recording of a surgical procedure or discharge instructions, \$25 per copy.

10 **SECTION 4.** 655.27 (1g) of the statutes is created to read:

11 655.27 **(1g)** DEPOSIT OF FORFEITURES. Forfeitures paid under s. 50.373 (13) shall
12 be deposited in the fund under sub. (1).

13 **SECTION 5. Nonstatutory provisions.**

14 (1) EMERGENCY RULES. Using the procedure under s. 227.24, the department of
15 health services shall promulgate the rules required under s. 50.373 for the period
16 before the effective date of the permanent rules promulgated under s. 50.373 but not
17 to exceed the period authorized under s. 227.24 (1) (c), subject to extension under s.
18 227.24 (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the department of health
19 services is not required to provide evidence that promulgating a rule under this
20 subsection as an emergency rule is necessary for the preservation of the public peace,
21 health, safety, or welfare and is not required to provide a finding of emergency for a
22 rule promulgated under this subsection. Notwithstanding s. 227.24 (1) (e) 1d., the
23 department of health services is not required to prepare a statement of the scope of
24 the rules promulgated under this subsection. Notwithstanding s. 227.24 (1) (e) 1g.,

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SECTION 5

1 the department of health services is not required to present the rules promulgated
2 under this subsection to the governor for approval.

3 **SECTION 6. Effective dates.** This act takes effect on the first day of the 13th
4 month beginning after publication, except as follows:

5 (1) SECTION 5 (1) of this act takes effect on the day after publication.

6 (END)