



**SENATE SUBSTITUTE AMENDMENT 2,
TO 1997 SENATE BILL 315**

February 12, 1998 – Offered by JOINT COMMITTEE ON FINANCE.

1 **AN ACT to repeal** 153.01 (3) and (9), 153.05 (1) (a) to (e), 153.05 (2), 153.05 (4),
2 153.05 (5) (a) and (bm), 153.05 (7), 153.05 (11), 153.07 (2), 153.08 (2) (b), 153.10
3 (1) (a) and (b), 153.10 (2), 153.15, 153.25, 153.30, 153.35, 153.40, 153.60 (2),
4 153.75 (1) (c), (d), (e), (i) and (j) and 153.75 (2) (b); **to renumber and amend**
5 153.05 (1) (intro.) and 153.10 (1) (intro.); **to consolidate, renumber and**
6 **amend** 153.05 (5) (intro.) and (b) and 153.08 (2) (intro.) and (a); **to amend**
7 15.195 (6), 16.03 (1), 20.435 (1) (hg), 51.30 (4) (a), 146.82 (2) (b), 153.05 (3),
8 153.05 (6), 153.05 (6m), 153.05 (8), 153.05 (9), 153.07 (1), 153.20, 153.45 (1)
9 (intro.), 153.45 (1) (a), 153.45 (1) (b), 153.45 (1) (c), 153.45 (3), 153.50, 153.60 (1),
10 153.65, 153.75 (1) (b), 153.75 (1) (f), (k) and (L), 153.75 (2) (intro.) and 153.90
11 (1) and (2); and **to create** 15.07 (1) (b) 21., 15.107 (7) (g), 15.194, 153.01 (4d),
12 (4h), (4p) and (4t), 153.05 (6r), 153.05 (13), 153.07 (4), 153.21, 153.45 (4), 153.45
13 (5), 153.60 (3), 153.75 (1) (m), (n), (o), (p), (q), (r), (s) and (t), 153.75 (2) (d),

1 610.70, 895.505 and 943.30 (5) of the statutes; **relating to:** collection, analysis
2 and dissemination of health care information by the department of health and
3 family services, confidentiality of patient health care records, membership of
4 the board on health care information, authorizing disclosure of personal
5 medical information to an insurer, disclosure by an insurer of personal medical
6 information, granting rule-making authority, providing a penalty and making
7 an appropriation.

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

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

9 15.07 (1) (b) 21. Board on health care information.

10 **SECTION 2.** 15.107 (7) (g) of the statutes is created to read:

11 15.107 (7) (g) A representative of the office of the commissioner of insurance.

12 **SECTION 3.** 15.194 of the statutes is created to read:

13 **15.194 Same; specified bureaus. (1) BUREAU OF HEALTH CARE INFORMATION.**

14 There is created in the division within the department of health and family services
15 that has primary responsibility for health issues a bureau of health care information.

16 **SECTION 4.** 15.195 (6) of the statutes, as affected by 1997 Wisconsin Act 27, is
17 amended to read:

18 15.195 (6) BOARD ON HEALTH CARE INFORMATION. There is created a board on
19 health care information which is attached to the department of health and family
20 services under s. 15.03. The board shall consist of 9 10 members, ~~a majority of whom~~
21 ~~may neither be nor~~ 5 of whom shall be or represent health care providers, including
22 at least one, but not more than 2, physicians, as defined in s. 448.01 (5). The State
23 Medical Society of Wisconsin may recommend board membership for up to 5

1 physicians, one of whom the governor shall appoint. The members shall be appointed
2 for 4-year terms.

3 **SECTION 5.** 16.03 (1) of the statutes is amended to read:

4 16.03 (1) GENERAL FUNCTIONS. The interagency coordinating council shall serve
5 as a means of increasing the efficiency and utility and facilitating the effective
6 functioning of state agencies in activities related to health care data collection. The
7 interagency coordinating council shall advise and assist state agencies in the
8 coordination of health care data collection programs and the exchange of information
9 related to health care data collection and dissemination, including agency budgets
10 for health care data collection programs, health care data monitoring and
11 management, public information and education, health care data analysis and
12 facilities, research activities and the appropriation and allocation of state funds for
13 health care data collection. The interagency coordinating council shall establish
14 methods and criteria for analyzing and comparing complaints filed against health
15 care plans, as defined under s. 628.36 (2) (a) 1., and grievances filed with health
16 maintenance organizations, as defined under s. 609.01 (2), without requiring the
17 collection of information in addition to the information already collected by state
18 agencies.

19 **SECTION 6.** 20.435 (1) (hg) of the statutes, as affected by 1997 Wisconsin Act 27,
20 is amended to read:

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

1 **SECTION 7.** 51.30 (4) (a) of the statutes is amended to read:

2 51.30 (4) (a) *Confidentiality of records.* Except as otherwise provided in this
3 chapter and ss. 610.70 (3) and (5), 905.03 and 905.04, all treatment records shall
4 remain confidential and are privileged to the subject individual. Such records may
5 be released only to the persons designated in this chapter or ss. 610.70 (3) and (5),
6 905.03 and 905.04, or to other designated persons with the informed written consent
7 of the subject individual as provided in this section. This restriction applies to
8 elected officials and to members of boards appointed under s. 51.42 (4) (a) or 51.437
9 (7) (a).

10 **SECTION 8.** 146.82 (2) (b) of the statutes is amended to read:

11 146.82 (2) (b) ~~Unless~~ Except as provided in s. 610.70 (3) and (5), unless
12 authorized by a court of record, the recipient of any information under par. (a) shall
13 keep the information confidential and may not disclose identifying information
14 about the patient whose patient health care records are released.

15 **SECTION 9.** 153.01 (3) and (9) of the statutes are repealed.

16 **SECTION 10.** 153.01 (4d), (4h), (4p) and (4t) of the statutes are created to read:

17 153.01 (4d) “Department” means the department of health and family services.

18 (4h) “Employer coalition” means an organization of employers formed for the
19 purpose of purchasing health care coverage or services as a group.

20 (4p) “Health care plan” means an insured or self-insured plan providing
21 coverage of health care expenses or an employer coalition.

22 (4t) “Health care provider” has the meaning given in s. 146.81 (1) and includes
23 an ambulatory surgery center.

24 **SECTION 11.** 153.05 (1) (intro.) of the statutes is renumbered 153.05 (1) and
25 amended to read:

1 153.05 (1) In order to provide to hospitals, health care providers, insurers,
2 consumers, governmental agencies and others information concerning hospital
3 ~~service utilization, charges, revenues, expenditures, mortality and morbidity rates~~
4 health care providers and uncompensated health care services, and in order to
5 provide information to assist in peer review for the purpose of quality assurance, the
6 ~~office~~ department shall collect, analyze and disseminate health care information, in
7 language that is understandable to lay persons, ~~health care information obtained~~
8 ~~from the following data sources:.~~ This chapter shall be administered by a bureau of
9 health care information. The bureau of health care information shall coordinate its
10 activities with persons with responsibility for medical assistance administration and
11 collection and analysis of health statistics.

12 **SECTION 12.** 153.05 (1) (a) to (e) of the statutes, as affected by 1997 Wisconsin
13 Act 27, are repealed.

14 **SECTION 13.** 153.05 (2) of the statutes, as affected by 1997 Wisconsin Act 27,
15 is repealed.

16 **SECTION 14.** 153.05 (3) of the statutes, as affected by 1997 Wisconsin Act 27,
17 is amended to read:

18 153.05 (3) Upon request of the department, state agencies shall provide health
19 care information to the department for use in preparing reports under ~~ss. 153.10 to~~
20 ~~153.35~~ this chapter.

21 **SECTION 15.** 153.05 (4) of the statutes, as affected by 1997 Wisconsin Act 27,
22 is repealed.

23 **SECTION 16.** 153.05 (5) (intro.) and (b) of the statutes, as affected by 1997
24 Wisconsin Act 27, are consolidated, renumbered 153.05 (5) and amended to read:

1 153.05 (5) ~~The Unless sub. (13) applies, the department:~~ (b) ~~May~~ may require

2 ~~hospitals~~ health care providers to submit to the department information from

3 ~~sources identified under sub. (1) (a) to (e)~~ that the department deems necessary for

4 the preparation of reports, plans and recommendations ~~under ss. 153.10 to 153.35~~

5 ~~and any other reports required of the department~~ in the form specified by the

6 department by rule.

7 **SECTION 17.** 153.05 (5) (a) and (bm) of the statutes, as affected by 1997

8 Wisconsin Act 27, are repealed.

9 **SECTION 18.** 153.05 (6) of the statutes, as affected by 1997 Wisconsin Act 27,

10 is amended to read:

11 153.05 (6) ~~If the requirements of s. 153.07 (2) are first met, the~~ The department

12 may contract with a public or private entity that is not a major purchaser, payer or

13 provider of health care services in this state for the provision of data processing

14 services for the collection, analysis and dissemination of health care information

15 under sub. (1) ~~or the department shall provide the services under s. 153.07 (2).~~

16 **SECTION 19.** 153.05 (6m) of the statutes, as affected by 1997 Wisconsin Act 27,

17 is amended to read:

18 153.05 (6m) ~~If the requirements of s. 153.07 (2) are first met, the~~ The

19 department may contract with the group insurance board for the provision of data

20 collection and analysis services related to health maintenance organizations and

21 insurance companies that provide health insurance for state employes ~~or the~~

22 ~~department shall provide the services under s. 153.07 (2).~~ The department shall

23 establish contract fees for the provision of the services. All moneys collected under

24 this subsection shall be credited to the appropriation under s. 20.435 (1) ~~(kx)~~ (hg).

25 **SECTION 20.** 153.05 (6r) of the statutes is created to read:

1 153.05 (6r) The department shall study and, based on the results of the study,
2 may develop and implement a voluntary system of health care plan reporting that
3 enables purchasers and consumers to assess the performance of health care plans
4 and the health care providers that are employed or reimbursed by the health care
5 plans. The department shall undertake the study and any development and
6 implementation in cooperation with private health care purchasers, the board, the
7 department of employe trust funds, the office of the commissioner of insurance, the
8 interagency coordinating council created under s. 15.107 (7), major associations of
9 health care providers, health care plans and consumers. If implemented, the
10 department shall operate the system in a manner so as to enable purchasers,
11 consumers, the public, the governor and legislators to assess the performance of
12 health care plans and health care providers.

13 **SECTION 21.** 153.05 (7) of the statutes, as affected by 1997 Wisconsin Act, is
14 repealed.

15 **SECTION 22.** 153.05 (8) of the statutes, as affected by 1997 Wisconsin Act 27,
16 is amended to read:

17 153.05 (8) ~~Beginning April 1, 1992, the~~ Unless sub. (13) applies, the
18 department shall collect, analyze and disseminate, in language that is
19 understandable to lay persons, ~~health care claims information and other health care~~
20 information under the provisions of this chapter, as determined by rules
21 promulgated by the department, from health care providers, ~~as defined specified by~~
22 rules promulgated by the department, ~~other than hospitals and ambulatory surgery~~
23 ~~centers.~~ health care providers may be obtained through
24 sampling techniques in lieu of collection of data on all patient encounters and data
25 collection procedures shall minimize unnecessary duplication and administrative

1 burdens. If the department collects health care provider-specific data from health
2 care plans, the department shall attempt to avoid collecting the same data from
3 health care providers.

4 **SECTION 23.** 153.05 (9) of the statutes, as affected by 1997 Wisconsin Act 27,
5 is amended to read:

6 153.05 (9) The department shall provide orientation and training to
7 ~~physicians, hospital personnel and other health care providers~~ who submit data
8 under this chapter to explain the process of data collection and analysis and the
9 procedures for data verification, interpretation and release.

10 **SECTION 24.** 153.05 (11) of the statutes, as affected by 1997 Wisconsin Act 27,
11 is repealed.

12 **SECTION 25.** 153.05 (13) of the statutes is created to read:

13 153.05 (13) The department may waive the requirement under sub. (1), (5) or
14 (8) for a health care provider, who requests the waiver and presents evidence to the
15 department that the requirement under sub. (1), (5) or (8) is burdensome, under
16 standards established by the department by rule. The department shall develop a
17 form for use by a health care provider in submitting a request under this subsection.

18 **SECTION 26.** 153.07 (1) of the statutes, as affected by 1997 Wisconsin Act 27,
19 is amended to read:

20 153.07 (1) The board shall advise the ~~director of the department~~ with regard
21 to the collection, analysis and dissemination of health care information required by
22 this chapter.

23 **SECTION 27.** 153.07 (2) of the statutes, as affected by 1997 Wisconsin Act 27,
24 is repealed.

25 **SECTION 28.** 153.07 (4) of the statutes is created to read:

1 153.07 (4) The board and the department shall jointly do all of the following:

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

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

5 (c) Develop the overall strategy and direction for implementation of this
6 chapter.

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

9 **SECTION 29.** 153.08 (2) (intro.) and (a) of the statutes are consolidated,
10 renumbered 153.08 (2) and amended to read:

11 153.08 (2) No hospital may increase its rates or charge any payer an amount
12 exceeding its rates that are in effect on May 12, 1992, unless the hospital first does
13 ~~all of the following: (a) Causes causes to be published a class 1 notice under ch. 985~~
14 ~~in the official newspaper designated under s. 985.04 or 985.05 or in a newspaper~~
15 ~~likely to give notice in the area where the hospital is located, no sooner than 45 days~~
16 ~~and no later than 30 days before the proposed rate change is to take effect. The notice~~
17 ~~shall describe the proposed rate change and the time and place for the public hearing~~
18 ~~required under sub. (2).~~

19 **SECTION 30.** 153.08 (2) (b) of the statutes, as affected by 1997 Wisconsin Act 27,
20 is repealed.

21 **SECTION 31.** 153.10 (1) (intro.) of the statutes, as affected by 1997 Wisconsin
22 Act 27, is renumbered 153.10 and amended to read:

23 **153.10 Health care data reports.** ~~Beginning in 1990 and quarterly~~
24 ~~thereafter, the~~ The department shall prepare, and submit to the governor and the
25 chief clerk of each house of the legislature for distribution to the legislature under

1 s. 13.172 (2), in a manner that permits comparisons among hospitals, a report setting
2 forth all of the following for every hospital for the preceding quarter: standard
3 reports that the department prepares and shall collect information necessary for
4 preparation of those reports.

5 **SECTION 32.** 153.10 (1) (a) and (b) of the statutes, as affected by 1997 Wisconsin
6 Act 27, are repealed.

7 **SECTION 33.** 153.10 (2) of the statutes is repealed.

8 **SECTION 34.** 153.15 of the statutes, as affected by 1997 Wisconsin Act 27, is
9 repealed.

10 **SECTION 35.** 153.20 of the statutes, as affected by 1997 Wisconsin Act 27, is
11 amended to read:

12 **153.20 Uncompensated health care services report.** (1) Beginning in
13 ~~1990 and annually thereafter, the~~ The department shall prepare, and submit to the
14 governor and to the chief clerk of each house of the legislature for distribution to the
15 legislature under s. 13.172 (2) a, an annual report setting forth the number of
16 patients to whom uncompensated health care services were provided by each
17 hospital and the total charges for the uncompensated health care services provided
18 to the patients for the preceding year, together with the number of patients and the
19 total charges that were projected by the hospital for that year in the plan filed under
20 sub. (2).

21 (2) ~~Beginning in 1990 and annually thereafter, every~~ Every hospital shall file
22 with the department a an annual plan setting forth the projected number of patients
23 to whom uncompensated health care services will be provided by the hospital and the
24 projected total charges for the uncompensated health care services to be provided to
25 the patients for the ensuing year.

1 **SECTION 36.** 153.21 of the statutes is created to read:

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

8 **SECTION 37.** 153.25 of the statutes, as affected by 1997 Wisconsin Act 27, is
9 repealed.

10 **SECTION 38.** 153.30 of the statutes, as affected by 1997 Wisconsin Act 27, is
11 repealed.

12 **SECTION 39.** 153.35 of the statutes, as affected by 1997 Wisconsin Act 27, is
13 repealed.

14 **SECTION 40.** 153.40 of the statutes, as affected by 1997 Wisconsin Act 27, is
15 repealed.

16 **SECTION 41.** 153.45 (1) (intro.) of the statutes, as affected by 1997 Wisconsin
17 Act 27, is amended to read:

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

21 **SECTION 42.** 153.45 (1) (a) of the statutes is amended to read:

22 153.45 (1) (a) Standard reports ~~in accordance with ss. 153.10 to 153.35.~~

23 **SECTION 43.** 153.45 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 27,
24 is amended to read:

1 153.45 (1) (b) Public use ~~tapes~~ data files which do not permit the identification
2 of specific patients, physicians, employers or other health care providers, ~~as defined~~
3 ~~by rules promulgated by the department~~. The identification of these groups shall be
4 protected by all necessary means, including the deletion of patient identifiers and the
5 use of calculated variables and aggregated variables.

6 **SECTION 44.** 153.45 (1) (c) of the statutes is amended to read:

7 153.45 (1) (c) Custom-designed subfile ~~tapes~~, ~~other electronic media~~, special
8 data compilations or reports containing portions of the ~~public use tape data~~ under
9 par. (b).

10 **SECTION 45.** 153.45 (3) of the statutes, as affected by 1997 Wisconsin Act 27,
11 is amended to read:

12 153.45 (3) The department shall release ~~physician-specific~~ health care
13 provider-specific and employer-specific data, except in public use ~~tapes~~ data files as
14 specified under sub. (1) (b), in a manner that is specified in rules promulgated by the
15 department.

16 **SECTION 46.** 153.45 (4) of the statutes is created to read:

17 153.45 (4) The department shall prohibit purchasers of data from rereleasing
18 individual data elements of health care data files.

19 **SECTION 47.** 153.45 (5) of the statutes is created to read:

20 153.45 (5) The department may not release any health care information that
21 is subject to rules promulgated under s. 153.75 (1) (b) until the verification and
22 review procedures required under those rules have been complied with. Nothing in
23 this subsection prohibits release of health care provider-specific information to the
24 health care provider to whom the information relates.

1 **SECTION 48.** 153.50 of the statutes, as affected by 1997 Wisconsin Act 27, is
2 amended to read:

3 **153.50 Protection of patient confidentiality.** Patient-identifiable data
4 obtained under this chapter ~~and contained in the discharge data base of the~~
5 ~~department~~ is not subject to inspection, copying or receipt under s. 19.35 (1) and may
6 not be released ~~by the department~~, except to the patient or to a person granted
7 permission for release by the patient and except that a ~~hospital~~, a physician health
8 care provider or the agent of a ~~hospital or physician health care provider~~ may have
9 access to patient-identifiable data to ensure the accuracy of the information in the
10 discharge data base.

11 **SECTION 49.** 153.60 (1) of the statutes, as affected by 1997 Wisconsin Act 27,
12 is amended to read:

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

1 specified by the department by rule. No health care provider that is not a facility may
2 be assessed under this subsection an amount that exceeds \$75 per fiscal year. Each
3 hospital health care provider shall pay the assessment on or before December 1. All
4 payments of assessments shall be deposited in the appropriation under s. 20.435 (1)
5 (hg).

6 **SECTION 50.** 153.60 (2) of the statutes, as affected by 1997 Wisconsin Act 27,
7 is repealed.

8 **SECTION 51.** 153.60 (3) of the statutes is created to read:

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

20 **SECTION 52.** 153.65 of the statutes, as affected by 1997 Wisconsin Act 27, is
21 amended to read:

22 **153.65 Provision of special information; user fees.** The department may
23 provide, upon request from a person, a data compilation or a special report based on
24 the information collected by the department under s. 153.05 (1), (3), (4) (b), (5), (7)
25 ~~or (8) or 153.08.~~ The department shall establish user fees for the provision of these

1 compilations or reports, payable by the requester, which shall be sufficient to fund
2 the actual necessary and direct cost of the compilation or report. All moneys collected
3 under this section shall be credited to the appropriation under s. 20.435 (1) (hi).

4 **SECTION 53.** 153.75 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 27,
5 is amended to read:

6 153.75 (1) (b) Establishing procedures under which ~~hospitals and~~ health care
7 providers are permitted to review and verify ~~patient-related information prior to its~~
8 ~~submission to the department.~~

9 **SECTION 54.** 153.75 (1) (c), (d), (e), (i) and (j) of the statutes are repealed.

10 **SECTION 55.** 153.75 (1) (f), (k) and (L) of the statutes are amended to read:

11 153.75 (1) (f) Governing the release of ~~physician-specific~~ health care
12 provider-specific and employer-specific data under s. 153.45 (3).

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

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

17 **SECTION 56.** 153.75 (1) (m), (n), (o), (p), (q), (r), (s) and (t) of the statutes are
18 created to read:

19 153.75 (1) (m) Specifying the classes of health care providers from whom claims
20 data and other health care information will be collected.

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

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

24 (p) Specifying the methods for using and disseminating health care data in
25 order for health care providers to provide health care that is effective and

1 economically efficient and for consumers and purchasers to make informed decisions
2 in selecting health care plans and health care providers.

3 (q) Specifying the information to be provided in the consumer guide under s.
4 153.21.

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

7 (s) Defining “individual data elements” for purposes of s. 153.45 (4).

8 (t) Establishing standards for determining under s. 153.05 (13) if a
9 requirement under s. 153.05 (1), (5) or (8) is burdensome for a health care provider.

10 **SECTION 57.** 153.75 (2) (intro.) of the statutes, as affected by 1997 Wisconsin
11 Act 27, is amended to read:

12 153.75 (2) (intro.) ~~With the~~ Following approval of ~~by~~ the board, the department
13 may promulgate all of the following rules:

14 **SECTION 58.** 153.75 (2) (b) of the statutes is repealed.

15 **SECTION 59.** 153.75 (2) (d) of the statutes is created to read:

16 153.75 (2) (d) Specifying the information collected under any voluntary system
17 of health care plan reporting under s. 153.05 (6r) and the methods and criteria for
18 assessing health care plans that submit data under that subsection.

19 **SECTION 60.** 153.90 (1) and (2) of the statutes are amended to read:

20 153.90 (1) Whoever intentionally violates s. 153.45 (5) or 153.50 or rules
21 promulgated under s. 153.75 (1) (a) may be fined not more than \$10,000 or
22 imprisoned for not more than 9 months or both.

23 (2) Any person who violates this chapter or any rule promulgated under the
24 authority of this chapter, except ss. 153.45 (5), 153.50 and 153.75 (1) (a), as provided
25 in s. 153.85 and sub. (1), shall forfeit not more than \$100 for each violation. Each day

1 of violation constitutes a separate offense, except that no day in the period between
2 the date on which a request for a hearing is filed under s. 227.44 and the date of the
3 conclusion of all administrative and judicial proceedings arising out of a decision
4 under this section constitutes a violation.

5 **SECTION 61.** 610.70 of the statutes is created to read:

6 **610.70 Disclosure of personal medical information. (1) DEFINITIONS.** In
7 this section:

8 (a) "Health care provider" means any person licensed, registered, permitted or
9 certified by the department of health and family services or the department of
10 regulation and licensing to provide health care services, items or supplies in this
11 state.

12 (b) "Individual" means a natural person who is a resident of this state. For
13 purposes of this paragraph, a person is a state resident if his or her last-known
14 mailing address, according to the records of an insurer or insurance support
15 organization, was in this state.

16 (c) 1. "Insurance support organization" means any person that regularly
17 engages in assembling or collecting personal medical information about natural
18 persons for the primary purpose of providing the personal medical information to
19 insurers for insurance transactions, including the collection of personal medical
20 information from insurers and other insurance support organizations for the
21 purpose of detecting or preventing fraud, material misrepresentation or material
22 nondisclosure in connection with insurance underwriting or insurance claim
23 activity.

24 2. Notwithstanding subd. 1., "insurance support organization" does not include
25 insurance agents, government institutions, insurers or health care providers.

1 (d) “Insurance transaction” means any of the following involving insurance
2 that is primarily for personal, family or household needs:

3 1. The determination of an individual’s eligibility for an insurance coverage,
4 benefit or payment.

5 2. The servicing of an insurance application, policy, contract or certificate.

6 (e) “Medical care institution” means a facility, as defined in s. 647.01 (4), or any
7 hospital, nursing home, community-based residential facility, county home, county
8 infirmary, county hospital, county mental health center, tuberculosis sanatorium,
9 adult family home, assisted living facility, rural medical center, hospice or other place
10 licensed, certified or approved by the department of health and family services under
11 s. 49.70, 49.71, 49.72, 50.02, 50.03, 50.032, 50.033, 50.034, 50.35, 50.52, 50.90, 51.04,
12 51.08, 51.09, 58.06, 252.073 or 252.076 or a facility under s. 45.365, 51.05, 51.06 or
13 252.10 or under ch. 233 or licensed or certified by a county department under s.
14 50.032 or 50.033.

15 (f) 1. “Personal medical information” means information concerning an
16 individual that satisfies all of the following:

17 a. Relates to the individual’s physical or mental health, medical history or
18 medical treatment.

19 b. Is obtained from a health care provider, a medical care institution, the
20 individual or the individual’s spouse, parent or legal guardian.

21 2. “Personal medical information” does not include information that is obtained
22 from the public records of a governmental authority and that is maintained by an
23 insurer or its representatives for the purpose of insuring title to real property located
24 in this state.

1 **(2) DISCLOSURE AUTHORIZATION.** (a) Any form that is used in connection with
2 an insurance transaction and that authorizes the disclosure of personal medical
3 information about an individual to an insurer shall comply with all of the following:

4 1. All instructions and other information contained in the form are presented
5 in plain language.

6 2. The form is dated.

7 3. The form specifies the types of persons that are authorized to disclose
8 information about the individual.

9 4. The form specifies the nature of the information that is authorized to be
10 disclosed.

11 5. The form names the insurer, and identifies by generic reference
12 representatives of the insurer, to whom the information is authorized to be disclosed.

13 6. The form specifies the purposes for which the information is being obtained.

14 7. Subject to par. (b), the form specifies the length of time for which the
15 authorization remains valid.

16 8. The form advises that the individual, or an authorized representative of the
17 individual, is entitled to receive a copy of the completed authorization form.

18 (b) 1. For an authorization under this subsection that will be used for the
19 purpose of obtaining information in connection with an insurance policy application,
20 an insurance policy reinstatement or a request for a change in policy benefits, the
21 length of time specified in par. (a) 7. may not exceed 30 months from the date on which
22 the authorization is signed.

23 2. For an authorization under this subsection that will be used for the purpose
24 of obtaining information in connection with a claim for benefits under an insurance

1 policy, the length of time specified in par. (a) 7. may not exceed the policy term or the
2 pendency of a claim for benefits under the policy, whichever is longer.

3 **(3) ACCESS TO RECORDED PERSONAL MEDICAL INFORMATION.** (a) If, after proper
4 identification, an individual or an authorized representative of an individual
5 submits a written request to an insurer for access to recorded personal medical
6 information that concerns the individual and that is in the insurer's possession,
7 within 30 business days after receiving the request the insurer shall do all of the
8 following:

9 1. Inform the individual or authorized representative of the nature and
10 substance of the recorded personal medical information in writing, by telephone or
11 by any other means of communication at the discretion of the insurer.

12 2. At the option of the individual or authorized representative, permit the
13 individual or authorized representative to inspect and copy the recorded personal
14 medical information, in person and during the insurer's normal business hours, or
15 provide by mail to the individual or authorized representative a copy of the recorded
16 personal medical information. If the recorded personal medical information is in
17 coded form, the insurer shall provide to the individual or authorized representative
18 an accurate written translation in plain language.

19 3. Disclose to the individual or authorized representative the identities, if
20 recorded, of any persons to whom the insurer has disclosed the recorded personal
21 medical information within 2 years prior to the request. If the identities are not
22 recorded, the insurer shall disclose to the individual or authorized representative the
23 names of any insurance agents, insurance support organizations or other entities to
24 whom such information is normally disclosed.

1 4. Provide to the individual or authorized representative a summary of the
2 procedures by which the individual or authorized representative may request the
3 correction, amendment or deletion of any recorded personal medical information in
4 the possession of the insurer.

5 (b) Notwithstanding par. (a), an insurer may, in the insurer's discretion,
6 provide a copy of any recorded personal medical information requested by an
7 individual or authorized representative under par. (a) to a health care provider who
8 is designated by the individual or authorized representative and who is licensed,
9 registered, permitted or certified to provide health care services with respect to the
10 condition to which the information relates. If the insurer chooses to provide the
11 information to the designated health care provider under this paragraph, the insurer
12 shall notify the individual or authorized representative, at the time of disclosure,
13 that the information has been provided to the health care provider.

14 (c) An insurer is required to comply with par. (a) or (b) only if the individual or
15 authorized representative provides a reasonable description of the information that
16 is the subject of the request and if the information is reasonably easy to locate and
17 retrieve by the insurer.

18 (d) If an insurer receives personal medical information from a health care
19 provider or a medical care institution with instructions restricting disclosure of the
20 information under s. 51.30 (4) (d) 1. to the individual to whom the information
21 relates, the insurer may not disclose the personal medical information to the
22 individual under this subsection, but shall disclose to the individual the identity of
23 the health care provider or a medical care institution that provided the information.

1 (e) Any copy of recorded personal medical information provided under par. (a)
2 or (b) shall include the identity of the source of the information if the source is a
3 health care provider or a medical care institution.

4 (f) An insurer may charge the individual a reasonable fee to cover the costs
5 incurred in providing a copy of recorded personal medical information under par. (a)
6 or (b).

7 (g) The requirements for an insurer under this subsection may be satisfied by
8 another insurer, an insurance agent, an insurance support organization or any other
9 entity authorized by the insurer to act on its behalf.

10 (h) The requirements under this subsection do not apply to information
11 concerning an individual that relates to, and that is collected in connection with or
12 in reasonable anticipation of, a claim or civil or criminal proceeding involving the
13 individual.

14 **(4) CORRECTION, AMENDMENT OR DELETION OF RECORDED PERSONAL MEDICAL**
15 **INFORMATION.** (a) Within 30 business days after receiving a written request from an
16 individual to correct, amend or delete any recorded personal medical information
17 that is in the insurer's possession, an insurer shall do either of the following:

- 18 1. Comply with the request.
- 19 2. Notify the individual of all of the following:
 - 20 a. That the insurer refuses to comply with the request.
 - 21 b. The reasons for the refusal.
 - 22 c. That the individual has a right to file a statement as provided in par. (c).

23 (b) An insurer that complies with a request under par. (a) shall notify the
24 individual of that compliance in writing and furnish the correction, amendment or
25 fact of deletion to all of the following:

1 1. Any person who may have received, within the preceding 2 years, the
2 recorded personal medical information concerning the individual and who is
3 specifically designated by the individual.

4 2. Any insurance support organization for which insurers are the primary
5 source of personal medical information and to which the insurer, within the
6 preceding 7 years, has systematically provided recorded personal medical
7 information. This subdivision does not apply to an insurance support organization
8 that does not maintain recorded personal medical information concerning the
9 individual.

10 3. Any insurance support organization that furnished to the insurer the
11 personal medical information that has been corrected, amended or deleted.

12 (c) If an insurer refuses to comply with a request under par. (a) 1., the individual
13 making the request may file with the insurer, an insurance agent or an insurance
14 support organization any of the following:

15 1. A concise statement setting forth the information that the individual
16 believes to be correct, relevant or fair.

17 2. A concise statement setting forth the reasons why the individual disagrees
18 with the insurer's refusal to correct, amend or delete the recorded personal medical
19 information.

20 (d) If the individual files a statement under par. (c), the insurer shall do all of
21 the following:

22 1. File any statement filed by the individual under par. (c) with the recorded
23 personal medical information that is the subject of the request under par. (a) in such
24 a manner that any person reviewing the recorded personal medical information will
25 be aware of and have access to the statement.

1 2. In any subsequent disclosure by the insurer of the recorded personal medical
2 information, clearly identify any matter in dispute and provide any statement filed
3 by the individual under par. (c) that relates to the recorded personal medical
4 information along with the information.

5 3. Furnish any statement filed by the individual under par. (c) to any person
6 to whom the insurer would have been required to furnish a correction, amendment
7 or fact of deletion under par. (b).

8 (e) The requirements under this subsection do not apply to information
9 concerning an individual that relates to, and that is collected in connection with or
10 in reasonable anticipation of, a claim or civil or criminal proceeding involving the
11 individual.

12 **(5) DISCLOSURE OF PERSONAL MEDICAL INFORMATION BY INSURERS.** Any disclosure
13 by an insurer of personal medical information concerning an individual shall be
14 consistent with the individual's signed disclosure authorization form, unless the
15 disclosure satisfies any of the following:

16 (a) Is otherwise authorized by the individual, or by a person who is authorized
17 to consent on behalf of an individual who lacks the capacity to consent.

18 (b) Is reasonably related to the protection of the insurer's interests in the
19 assessment of causation, fault or liability or in the detection or prevention of criminal
20 activity, fraud, material misrepresentation or material nondisclosure.

21 (c) Is made to an insurance regulatory authority or in response to an
22 administrative or judicial order, including a search warrant or subpoena, that is
23 valid on its face.

24 (d) Is otherwise permitted by law.

25 (e) Is made for purposes of pursuing a contribution or subrogation claim.

1 (f) Is made to a professional peer review organization, bill review organization,
2 health care provider or medical consultant or reviewer for the purpose of reviewing
3 the services, fees, treatment or conduct of a medical care institution or health care
4 provider.

5 (g) Is made to a medical care institution or health care provider for any of the
6 following purposes:

7 1. Verifying insurance coverage or benefits.

8 2. Conducting an operations or services audit to verify the individuals treated
9 by the health care provider or at the medical care institution.

10 (h) Is made to a network plan that is offered by an insurer in order to make
11 arrangements for coordinated health care in which personal medical information
12 concerning an individual is available for providing treatment, making payment for
13 health care under the plan and undertaking such plan operations as are necessary
14 to fulfill the contract for provision of coordinated health care.

15 (i) Is made to a group policyholder for the purpose of reporting claims
16 experience or conducting an audit of the insurer's operations or services. Disclosure
17 may be made under this paragraph only if the disclosure is reasonably necessary for
18 the group policyholder to conduct the review or audit.

19 (j) Is made for purposes of enabling business decisions to be made regarding
20 the purchase, transfer, merger, reinsurance or sale of all or part of an insurance
21 business.

22 (k) Is made for purposes of actuarial or research studies or for accreditation or
23 auditing. With respect to a disclosure made under this paragraph, any materials
24 that allow for the identification of an individual must be returned to the insurer or

1 destroyed as soon as reasonably practicable, and no individual may be identified in
2 any actuarial, research, accreditation or auditing report.

3 (L) Is made to the insurer's legal representative for purposes of claims review
4 or legal advice or defense.

5 (6) IMMUNITY. (a) A person is not liable to any person for any of the following:

6 1. Disclosing personal medical information in accordance with this section.

7 2. Furnishing personal medical information to an insurer or insurance support
8 organization in accordance with this section.

9 (b) Paragraph (a) does not apply to the disclosure or furnishing of false
10 information with malice or intent to injure any person.

11 (7) OBTAINING INFORMATION UNDER FALSE PRETENSES. Any person who knowingly
12 and wilfully obtains information about an individual from an insurer or insurance
13 support organization under false pretenses may be fined not more than \$10,000 or
14 imprisoned for not more than one year in the county jail or both.

15 **SECTION 62.** 895.505 of the statutes is created to read:

16 **895.505 Storage and disposal of records containing personal**
17 **information. (1) DEFINITIONS.** In this section:

18 (a) "Business" means an organization or enterprise, whether or not operated
19 for profit, including a sole proprietorship, partnership, firm, business trust, joint
20 venture, syndicate, corporation, limited liability company or association.

21 (b) "Destruction" means, with respect to a record, permanently rendering the
22 personal information contained in the record incapable of being read.

23 (c) "Disposal" means, with respect to a record, ceasing to have control over
24 access to the record.

1 (d) "Personal information" means personally identifiable data about the
2 medical or financial condition of a state resident that is not generally considered to
3 be public knowledge, including the individual's social security number.

4 (e) "Personally identifiable" means capable of being associated with a
5 particular individual through one or more identifiers or other information or
6 circumstances.

7 (f) "Record" means any material on which written, drawn, printed, spoken,
8 visual or electromagnetic information is recorded or preserved, regardless of
9 physical form or characteristics.

10 **(2) STORAGE OF RECORDS CONTAINING PERSONAL INFORMATION.** Prior to the
11 disposal of a record under sub. (3), a business shall take all actions that it reasonably
12 believes to be necessary to prevent unauthorized persons from obtaining access to
13 personal information contained in the record.

14 **(3) DISPOSAL OF RECORDS CONTAINING PERSONAL INFORMATION.** A business may not
15 dispose of a record containing personal information unless it does at least one of the
16 following:

17 (a) Prior to the disposal of the record, the business shreds, erases or otherwise
18 modifies the record to make the personal information unreadable.

19 (b) The business takes actions that it reasonably believes will ensure that no
20 unauthorized person will have access to the personal information contained in the
21 record for the period between the record's disposal and the record's destruction.

22 **(4) CAUSE OF ACTION.** Notwithstanding s. 814.04 (1), a business that violates
23 sub. (2) or (3) is liable to any person damaged by the violation for the amount of
24 damages and for reasonable attorney fees.

25 **SECTION 63.** 943.30 (5) of the statutes is created to read:

1 943.30 (5) (a) In this subsection, “patient health care records” has the meaning
2 given in s. 146.81 (4).

3 (b) Whoever, orally or by any written or printed communication, maliciously
4 uses, or threatens to use, the patient health care records of another person, with
5 intent thereby to extort money or any pecuniary advantage, or with intent to compel
6 the person so threatened to do any act against the person’s will or omit to do any
7 lawful act, is guilty of a Class D felony.

8 **SECTION 64. Nonstatutory provisions; administration.**

9 (1) INTERAGENCY COORDINATING COUNCIL MEMBER. Notwithstanding the length
10 of terms of members specified in section 15.107 (7) (intro.) of the statutes, the
11 member appointed to the interagency coordinating council under section 15.107 (7)
12 (g) of the statutes, as created by this act, shall serve for an initial term that expires
13 on July 1, 2003.

14 **SECTION 65. Nonstatutory provisions; health and family services.**

15 (1) REPORT AND PLAN ON CHARITY CARE AND BAD DEBT SERVICES. The department
16 of health and family services shall prepare a report on the feasibility of requiring
17 major health care providers, other than hospitals, to report annually on the services
18 provided as either charity care or bad debt services and to file an annual plan on
19 projected services that will be provided as either charity care or bad debt services,
20 in the same manner as the annual report and plan by hospitals under section 153.20
21 of the statutes, as affected by this act. By the first day of the 7th month after
22 publication of this act, the department shall submit the report to the legislature in
23 the manner provided under section 13.172 (2) of the statutes, to the board on health
24 care information and to the governor.

