2005 DRAFTING REQUEST

Bill

Received: **06/22/2005**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Gregg Underheim (608) 266-2254**

By/Representing: **himself**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies: **RAC**

Submit via email: **YES**

Requester's email: **Rep.Underheim@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Health care information changes

Instructions:

See Attached

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/?	dkennedy 06/26/2005	csicilia 06/27/2005		_______ _______			
/P1			rschluet 06/27/2005	_______ _______	sbasford 06/27/2005		
/P2	dkennedy 07/14/2005	csicilia 07/14/2005	rschluet 07/14/2005	_______ _______ _______ _______	lnorthro 07/14/2005 mbarman 07/14/2005		

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/P3	dkennedy 09/09/2005	csicilia 09/12/2005	pgreensl 09/12/2005	_______ _______	lnorthro 09/12/2005		S&L
/1	dkennedy 11/02/2005	csicilia 11/07/2005	pgreensl 11/08/2005	_______ _______	mbarman 11/08/2005		S&L
/2	dkennedy 12/05/2005	csicilia 12/07/2005	pgreensl 12/07/2005	_______ _______	lemery 12/07/2005	lnorthro 12/21/2005	

FE Sent For: **12/14/2005,** [illegible]

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Requested by Michelle Hough

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re-submitted e-mail only

9/10

9/12 P8 P8 /ch

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/?	dkennedy	/P1 gjs 6/27/05	8 6/27	6 CH			

FE Sent For:

<END>

Kennedy, Debora

From: on behalf of Debora Kennedy
To: Sweet, Richard
Subject: RE: POVD Replacement Document - Revised

Thanks, Dick.

-----Original Message-----
From: Sweet, Richard
Sent: Tuesday, June 21, 2005 10:44 AM
To: Kennedy, Debora
Cc: Hough, Michelle
Subject: FW: POVD Replacement Document - Revised

Hi Debora,

Attached is the document we will be working from at the meeting tomorrow morning. It might be helpful if you had a chance to review it before we meet. If you have any questions, please let me know.

Thanks,

Michelle Hough
Office of Rep.Underheim
54th Assembly District
266-2254

POVD Replacement System – 2005-07 State Budget Provisions
Information and Options for Discussion with Rep. Underheim
HN Revised Draft – June 1~~-15~~15, 2005

GOAL: Improve the public reporting and accountability for health care costs and quality by implementing a strong, publicly accountable private sector replacement for POVD.

BUDGET: The 2005-2007 budget will approve POVD replacement with guidance about the purpose and parameters of the new system. It will authorize DHFS/ETF to fund the system if those legislative expectations are met. While providing enough flexibility for a public-private partnership to develop/evolve the system, it will also provide enough specificity to avert the need for administrative rule-making.

ASSUMPTION: The likely provider of the replacement system is a public-private partnership that is developing a health care claims data repository and reporting capacity. The budget will include statutory language, session law language and/or appropriations that provide for this partnership to be successful. However, the budget will not "promise" the money to this group in advance of formal purchasing/contracting processes.

BASIC FRAMEWORK FOR BUDGET - PROPOSED

1. POVD continues without substantial investment or expansion of reporting until a plan for its replacement is approved.

2. By law, the Legislature will articulate the system's purpose, general parameters, expected outcomes, types of data, etc. DHFS/ETF will contract for the replacement system based on these legislative specifications. DHFS/ETF will both have an ongoing involvement in the project and accountability to make sure legislative expectations are met.

3. $1.1 million in physician assessment revenues will support development and operation of the system in 2005-2007. Also, ETF will also have authority to expend up to $150,000 in trust fund revenues per year for the system. DHFS may seek federal Medical Assistance funds with POVD revenues as match to the extent federally allowable. State revenues will be available in future biennia for continued development and operation contingent upon performance and future state budget approvals by the Governor and Legislature.

4. The budget will be constructed with the expectation that the public-private partnership will succeed. However, as a "back up plan" in the event that the private sector system does not succeed in meeting the purposes stated for it by the Legislature in the budget, the law will specify that the Secretary of DHFS must collect similar data from either insurance companies and/or physicians by contract or state operations.

5. Certain matters concerning data confidentiality will be addressed to make sure that patient confidentiality is respected while data can be used to achieve the purposes of the system for meaningful public reporting of health care costs and efficiency.

Added information is provided below to address the following matters:

1. The scope, purpose and parameters of the system
2. Funding
3. Decision-making processes
4. Public accountability for the replacement system

PURPOSE, SCOPE AND SYSTEM PARAMETERS

Broad Public Purpose: It is good public policy to provide for the collection and public reporting of information regarding the cost, quality and effectiveness of health care (DHFS-health information in Ch. 153, etc.). This information is intended to: (a) enable consumers and health care purchasers to make wise health care choices based on value - both cost and quality, and (b) foster continual improvement in health care delivery to achieve better patient outcomes in a more efficient manner

Purpose of the Centralized Healthcare Data Repository: As one part of this broader public purpose, a centralized data repository will provide for the collection and public reporting of information regarding the cost and efficiency of health care. This information will support wise health care choices and purchasing, and continual improvement in efficiency of health care delivery. (Specifically, DHFS as well as ETF will be directed to contract with an entity for this purpose meeting certain performance requirements and having certain characteristics described below. If the two secretaries conclude that it is not feasible to achieve the legislative purposes via such a contract, the Secretary of DHFS "shall collect" data from either health care providers or insurers as is administratively efficient and effective to achieve the legislative purposes. (This likely requires retention and/or amendment of statutory language on DHFS health information responsibilities as well as session law language that is clear on the back-up plan if the contracting directions cannot be implemented.)

Scope of the Repository: A centralized healthcare data repository will be developed of sufficient volume to make it possible to track, analyze and report on cost and efficiency of entire episodes of patient care across multiple systems (hospital, physician office, pharmacy, and lab). The system must provide for a reasonable representation of actual costs paid. (Note: it is understood that this may not be actual payments, but a proxy methodology that adjusts billing amounts, in order to balance public information needs with proprietary information of insurance plans and others.) The data repository will be the source for publishing a unified report to the public with meaningful data on health care efficiency and performance, for various types of care in various health care settings. Data will be derived from administrative (claims payment) sources. A central entity will manage the repository with transparency of

framework, process and rules of data aggregation, and standardized, uniform rules associated with data collection and use.

All appropriate steps will be taken to assure that federal and state laws on privacy and confidentiality of data will be met. Some amendments of law may be necessary that permit data sharing to achieve the legislative purposes of aggregating and reporting data across systems, while confirming that the non-profit entity as well as its participating data providers and users must comply with patient confidentiality requirements of federal HIPAA law.

Organizational Management: The data repository will be developed by an independent, private non-profit organization that represents a public-private partnership of health care purchasers, insurance organizations, and health care providers. Initial Board of Directors will include parties who contribute data and financial support to the development and operation of the repository, and shall include the Secretary of ETF and the Secretary of DHFS or their designees. The data repository will be managed by a private sector third party vendor responsible to develop the architecture and collect, edit, store and safeguard the data

The State through the Secretaries of ETF & DHFS will foster the creation of the organization, the data repository, and public reporting by: (a) providing funding from ETF and DHFS appropriations, subject to ETF/DHFS determinations that the statutory purposes and parameters of the project have been met, (b) providing data for the repository from ETF and DHFS as health care purchasers, (c) collaborating with the Board to foster ongoing improvement in the availability of information on health quality and safety, health outcomes, and quality, (d) using data jointly with other health care purchasers to purchase health care for quality and efficiency, and (e) supporting projects of continual improvement in health care quality and efficiency.

Data System Parameters: In this biennium, data from healthcare claims will be the main source of data to populate the centralized repository. The goal is a statewide system. ETF and DHFS will jointly establish contractual standards for the comprehensiveness of reporting necessary to assure a sufficiently robust data source with enough volume of claims information for credible and useful comparisons across health care organizations to serve the intended public purposes.

Data System Measures: The organization will deliver a unified public/consumer report on health care performance in terms of cost and efficiency that uses nationally recognized or contractually agreed standards of provider measurement. The law (budget provisions) will specify this intended outcome and also direct ETF and DHFS to jointly establish more specific contractual standards for data elements and publicly-reportable measures that will be reliable, valid, based on sound scientific evidence, and useful to meet the established public purposes of the system.

Data elements and measures will also take into account nationally accepted standards, as well as state-defined measures by mutual agreement. Implementation of measures

will be as least burdensome as possible by optimizing use of existing claims systems. Electronic data systems will be promoted. The contract will also assure that the system/data repository will adhere to federal and state privacy and security standards concerning both data inputs and data outputs.

Note: It is anticipated that the system will collect credible data elements derived from standard formats (such as HCFA 1500 (outpatient) or UB 92 (inpatient) claims forms. Stakeholders in the enterprise are working together to make the claims data elements more consistent and therefore more meaningful. Performance assessment measures will be selected based on usefulness for decision-making by purchasers, consumers and health care organizations interested in improvement

Evolution of the Public-Private Partnership Over Time: This exciting collaboration offers considerable room for growth and improvement over time as the initial organizational structure and core system are established. For example, the sponsors of this project will consider linking this efficiency report to the quality/safety report of the Collaborative on Health Care Quality.

The system may also evolve to allow more centralized claims payment functions that would reduce administrative costs in the health care system. It may also provide a mechanism by which purchasers can align pay-for-performance incentives. The statutory language will not specify but will allow such evolution.

FUNDING

Cost: The Wisconsin Committee on Data Centralization (WICDC) that has been meeting on this project has received preliminary estimates of costs to develop and manage a statewide repository – projected to be approximately $1.5 million per year for the first three years of operation. Depending on the project start date, this would mean a total cost of $3 million in the 2005-2007 biennium.

Public-Partnership for Financing: The WICDC has asked for 50-50 public-private matching. Currently, private stakeholders are pledging significant funds that make a 50% private matching ratio appear feasible. However, until the final cost figures and organizational agreement are in place, the precise cost-sharing cannot be confirmed.

Source of Public Funding Contribution: DHFS and ETF believe that approximately $1.3 - $1.5 million of existing revenues sources (non-GPR) could be made available for this system. WICDC leadership has indicated that this is likely a sufficient state contribution to make the system feasible in the coming biennium. Sources of funding would be:

- Unencumbered physician assessment revenue: Currently, DHFS estimates that there will be $592,500 of unencumbered cash balances of physician assessment revenues by the end of FY06 (composed of a $435,000 balance at the end of FY05 and an additional $157,500 balance in FY06) and an

additional $261,400 balance in FY07 based on the actions taken by Joint Finance to date. This forecast assumes the $70/annual physician assessment continues, no revenue is transferred to DOA or other purposes outside the Department, DHFS can eliminate or not fill 2 positions as recommended by the Governor, and POVD operations are maintained in DHFS through the current biennium. (Note: It is necessary to eliminate workforce survey responsibilities of DHFS and 2.2 FTE in DHFS as recommended in the Governor's budget, but not to transfer those positions to DOA for other purposes, in order to generate a portion of the net revenue noted here.)

- Earlier phase-out of POVD: Assuming that the current POVD functions in January 2007, rather than continue them through June 2007, would generate an additional $265,500 of unencumbered physician assessment revenue. This would mean that a total of $1.1 million of physician assessment revenue would be available by the end of the biennium for the POVD replacement system ($592,500 in 05-06 and $261,400 + $265,500 in 06-07).

- ETF Contribution: ETF has indicated an interest in having a purchaser-stakeholder place at the table. ETF would be interested in having authority to use up to $150,000/year of trust funds for this purpose as needed to make the system feasible consistent with legislative objectives.

- Possible Medical Assistance-Federal Contribution: If the system is planned to allow later inclusion of MA claims data and participation by DHFS as a payer organization, it may be feasible to claim federal MA dollars for a contribution of $50,000-$100,000 FED. This would assume that the POVD revenues would be deployed as the MA-federal match and not GPR.

Within each year, the funding could be contracted contingent on the completion of specific deliverables. Further details on the process follow.

PROCESS FOR DECISIONS APPROVING THE SYSTEM AND FUNDING

Since the WICDC is just in the process of organizing itself as a non-profit organization, and since the plan for developing the data repository is in early stages, the question is what is the best way to make sure the process develops as intended, the system plan is sound with necessary deliverables, before dollars are released?

Recommendation One: The overall framework should be a formal state purchasing/contracting process. This will be done by a sole source with an organization meeting the criteria of the WICDC as noted above (a non-profit entity, organized for this purpose, representing a public-private partnership including ETF and DHFS Secretaries, etc.). This would be similar to the decisions made by the Legislature in the 03-05 budget to anticipate that the Wisconsin Hospital Association would develop the capacity to deliver a particular service, and then having a state

agency contract with them for it.

Recommendation Two: At least for purposes of the DHFS/physicians assessment revenues, the budget could provide that DHFS would release funds and phase-out the state POVD system when certain benchmarks are achieved by the replacement system. For example, two payments could be made each year. In year one, the initial allocation of start-up funds would be released for the entity to select and fund a vendor to develop the warehouse and its reporting utilities (perhaps 25% of the total for the biennium). Added payments could be made for specific deliverables such as development milestones for the system per the contract negotiations, development (with DHFS/ETF approval) of the specific public reporting measures to be used initially, and actual public reporting accomplished by the end of the second year of the biennium. DHFS/ETF would establish the milestones in contract, certify they were met, and release funds accordingly. Also, the DHFS decision to phase-out POVD would be contingent upon the vendor demonstrating an operable replacement system with sufficient scope of data to meet the legislative expectations.

PUBLIC OVERSIGHT OF THE ENTITY AND PROJECT ACCOUNTABILITY

The process for public oversight of this project described above includes the following:

1. DHFS and ETF contract for the replacement system and the contract includes commitments to meet the legislatively established outcome expectations and other system characteristics.

2. DHFS and ETF provide in the contract that the release of public funds for the system is based on contractor performance.

3. DHFS and ETF Secretaries or designees are members of the non-profit organization's Board of Directors. Note: it is assumed that this provision does not impose on the non-profit organization the responsibility for public meetings of the Board, public records, and the like. If this assumption is incorrect than this provision is not acceptable to the private partners.

4. Like all public contracts and funding arrangements, these are subject to legislative oversight including review by the Legislative Audit Bureau.

5. The statutes (or session law) provide that if the replacement system is not developed according to the established legislative expectations, as determined jointly by ETF and DHFS, the DHFS Secretary "shall collect" this data.

Related Provisions concerning oversight:

The general framework does not anticipate that administrative rule-making will be required because the POVD replacement system expectations are described in the law

(budget) and detailed in a contract.

The statutory Board on Health Information and the associated Independent Review Board will sunset January 1, 2007 contingent upon DHFS and ETF establishing a contract for the system to replace POVD.

The Wisconsin Medical Society is interested in the idea of creating a physician data base. It may be possible to link the WMS idea with the data repository in some fashion but that requires added study

OS/Helene/Health information/POVD replacement - Underheim options – June 12.doc

6/23/05 From Nancy Bennett: Info obtained will be claims forms of waivers or 3d-party administrators (who pay claims on behalf of self-funded health care purchasers).

STATE OF WISCONSIN – **LEGISLATIVE REFERENCE BUREAU** – LEGAL SECTION
1-4958 (608–266–3561)

6/22/05 Mtg. Dick Sweet (LC), Rep Underheim, Michelle (aide), Susan Wood (DHFS), Jim Johnston, Dianne 6-1404 (DHFS)
Nancy Bennett (ETF), Jim Johnston (DOA).

DHFS + ETF K w/ entity 501c3 – From insurers: all hc ~~providers~~ [except hosps + amb. surg centers] INCLUDE

Wis Hosp. Assoc. language: Laura Leitch draft

✓ Secys as members of the board – permanent voting members

Privacy reqmts: 153.50 (see LL draft)
✓ HIPAA consistent

✓ Data is coming from self-insured health plans – is voluntary?

✓ Insurers are required (HIPAA ok)
✓ Self-insurers are voluntary (may be HIPAA problem) (no ERISA problem)
except self-insured gov't plans

✓ Give Secy power to collect from all hc providers if market-based falls through

✓ ~~Plan~~ No Plan – POVD ends ~~Reg~~ when K w/ entity is signed
Sunset Bor HC Info 1/1/07

no rule-making ~~necess~~ reqd. by DHFS to
✓ implement

when collects data,

✓ Secy has auth. to suspend collection by rule if determines entity is working

~~Funding~~
~~EOB~~

Add to statutory mandates in ch 153 exception if K'd entity is working –
✓ Entity reqd. to share data w/ DHFS

FUNDING
ETF — Phys. assessmt. – allow to be used as MA match for program, if given author. by feds
POVD

✓ Sunset Bds as of 1/1/07

✓ Continue for DHFS:
Consumer guide
Collecting fee from physicians

not now ✓ No ~~[illegible]~~ DHFS position authoriz. decreases – if in budget
(2 immediately
5-6 when stop POVD)
(may put in if not a bud amdt.)

From Laura Leitch (WHA) 268-1823 6/17/05

153.05(1)(b) The entity under contract under sub. (2m)(a) shall collect from hospitals and ambulatory surgery centers the health care information required of hospitals and ambulatory surgery centers by the department under ch. 153, 2001 stats., and the rules promulgated under ch. 153, 2001 stats., including, by the date that is 18 months after the date of the contract under sub. (2m) (a), outpatient hospital-based services. The entity shall analyze and disseminate that health care information, as adjusted for case mix and severity, in the manner required under this chapter, under ch. 153, 2001 stats., and, to the extent the rules are consistent with this Chapter, under the rules promulgated under ch. 153, 2001 stats., and in language that is understandable to lay persons.

153.50 Protection of patient confidentiality. (1) DEFINITIONS. In this section:
(b) 1.a."Patient-identifiable data," for information ~~submitted by~~ related to hospitals and ambulatory surgery centers, means all of the following data elements:

~~a~~1. Patient medical record or chart number.
~~b~~2. Patient control number.
~~c~~3. Patient date of birth.
~~d~~4. Date of patient admission.
~~e~~5 Date of patient discharge.
~~f~~6. Date of patient's principal procedure.
~~g~~7. Encrypted case identifier.
~~h~~8. Insured's policy number.
~~i~~9. Patient's employers' name.
~~j~~10. Insured's date of birth.
~~k~~11. Insured's identification number.
~~L~~12. Medicaid resubmission code.
~~m~~13. Medicaid prior authorization number.

no; stat numbers not that small

1m- b. "Patient-identifiable data," for information related to hospitals and ambulatory surgery centers, does not include calculated variables derived from patient-identifiable data.

no change (c) "Small number" means a number that is insufficiently large to be statistically significant, as determined by the department.

no change **(3)** MEASURES TO ENSURE PROTECTION OF PATIENT IDENTITY. To ensure that the identity of patients is protected when information obtained by the department or by the entity under contract under s. 153.05 (2m) (a) is disseminated, the department and the entity shall do all of the following:

(a) Aggregate any data element category containing small numbers. The department, in so doing, shall use procedures that are developed by the department and approved by the board and that follow commonly accepted statistical methodology.

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what change here? None

153.50 (4) RELEASE OF PATIENT-IDENTIFIABLE DATA. **(a)** Except as specified in par. (b), under the procedures specified in sub. (5), release of patient-identifiable data may be made only to any of the following:

no change

1.a. An agent of the department who is responsible for the patient-identifiable data in the department, in order to store the data and ensure the accuracy of the information in the database of the department.

no change

b. An agent of the entity under contract under s. 153.50 (2m) (a) who is responsible for the patient-identifiable data of the entity, in order to store the data and ensure the accuracy of the information in the database of the entity, or to create a calculated variable derived from patient-identifiable data.

2. A health care provider that is not a hospital or ambulatory surgery center of the agent of such a health care provider, to ensure the accuracy of the information in the database of the department, or a health care provider that is a hospital or ambulatory surgery center or the agent of such a health care provider, to ensure the accuracy of the information in the database of the entity under contract under s. 153.50 (2m) (a).

no change

3. The department, for purposes of epidemiological investigation or, with respect to information from health care providers that are not hospitals or ambulatory surgery centers, to eliminate the need for duplicative databases.

no change

4. An agency or organization that is required by federal or state statute to obtain patient-identifiable data for purposes of epidemiological investigation or to eliminate the need for duplicative databases.

no change

(b) Of information submitted by health care providers that are not hospitals or ambulatory surgery centers, patient-identifiable data that contain a patient's date of birth may be released under par. (a) only under circumstances as specified by rule by the department.

no change

(6)(e) A health care provider may not submit information that uses any of the following as a patient account number:

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1. The patient's social security number or any substantial portion of the of the patient's social security number.
2. A number that is related to another patient identifying number.

(f) Nothing in this section prohibits the entity under contract under s. 153.05(2m)(a) from creating a calculated variable derived from a patient identifiable data.

any change here? NO

6/22 From Laura Leitch: may prohibit entity other than that under K under 153.05 (2m) (WHA) from revealing patient health care info that is contained in a calculated variable obtained from WHA.

HFS 120.31(1)(a)

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