



BY 11:00 a.m. MONDAY

State of Wisconsin  
- 2006 LEGISLATURE

LRB-3240/EP1  
DAK/.....  
CS

D-NOTE

- NOT READY FOR INTRODUCTION

Note:  
This is a bill, but will be made into a budget draft as soon as approved  
DAK

Gen cat

SA ✓

1 AN ACT ...; relating to: requiring a contract with a data organization for the  
2 collection, analysis, and dissemination of health care claims information,  
3 eliminating the board on health care information and the independent review  
4 board, and making appropriations.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided for a subsequent version.

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

- 5 SECTION 1. 15.07 (2) (b) of the statutes is repealed. ✓
- 6 SECTION 2. 15.07 (3) (bm) 1. of the statutes is repealed. ✓
- 7 SECTION 3. 15.195 (6) of the statutes is repealed. ✓
- 8 SECTION 4. 15.195 (9) of the statutes is repealed. ✓
- 9 SECTION 5. 16.03 (3) of the statutes is repealed. ✓

1           **SECTION 6.** 20.435 (4) (hg) of the statutes is renumbered 20.435 (1) (hg) and  
2 amended to read:

3           20.435 (1) (hg) *General program operations; health care information.* The  
4 amounts in the schedule to fund the activities of the department of health and family  
5 services and the board on health care information under ch. 153 and to contract with  
6 the data organization under s. 153.05 (2r). The contract fees paid under s. 153.05  
7 (6m) and assessments paid under s. 153.60 shall be credited to this appropriation  
8 account.

*create*  
*VAUTRETT*

**History:** 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327.

9           **SECTION 7.** 20.435 (1) (hg) of the statutes, as affected by 2005 Wisconsin Act ...  
10 (this act), is amended to read:

11           20.435 (1) (hg) *General program operations; health care information.* The  
12 amounts in the schedule to fund the activities of the department of health and family  
13 services ~~and the board on health care information~~ under ch. 153 and to contract with  
14 the data organization under s. 153.05 (2r). The contract fees paid under s. 153.05  
15 (6m) and assessments paid under s. 153.60 shall be credited to this appropriation  
16 account.

**History:** 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327.

17           **SECTION 8.** 20.435 (4) (hi) of the statutes is renumbered 20.435 (1) (hi) and  
18 amended to read:

1           20.435 (1) (hi) *Compilations and special reports; health care information.* All  
2           moneys received from user fees imposed under s. 153.65 (1) for the purpose of  
3           financing the costs of the department of health and family services of producing  
4           special data compilations or special reports under s. 153.65 and to contract with the  
5           data organization under s. 153.05 (2r). ✓

**History:** 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327.

6           **SECTION 9.** 20.515 (1) (ut) of the statutes is amended to read:

7           20.515 (1) (ut) *Health insurance data collection and analysis contracts.* From  
8           the public employee trust fund, the amounts in the schedule for the costs of  
9           contracting for insurance data collection and analysis services under s. ss. 40.03 (6)  
10          (j) and 153.05 (2r). ✓

**History:** 1971 c. 40 s. 93; 1971 c. 125; 1973 c. 90, 151, 337; 1975 c. 39; 1977 c. 29, 84; 1979 c. 34, 38; 1979 c. 102 s. 236 (4); 1981 c. 96; 1981 c. 187 s. 10; 1981 c. 250; 1983 a. 27, 247, 255; 1983 a. 394 s. 2; 1985 a. 29; 1987 a. 27, 107; 1987 a. 403 s. 256; 1989 a. 14, 31; 1989 a. 56 s. 259; 1991 a. 269; 1995 a. 27, 88, 89, 240; 1997 a. 26, 27; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33.

11          **SECTION 10.** 40.03 (6) (j) of the statutes is amended to read:

12          40.03 (6) (j) May contract with the department of health and family services  
13          and, may contract with other public or private entities for data collection and  
14          analysis services related to health maintenance organizations and insurance  
15          companies that provide health insurance to state employees, and may contract with  
16          a data organization under s. 153.05 (2r). ✓

**History:** 1981 c. 96 ss. 24, 32; 1981 c. 386; 1983 a. 247; 1985 a. 29; 1985 a. 332 ss. 53, 251 (1); 1987 a. 356; 1989 a. 31, 166, 323; 1991 a. 116, 141, 152, 269; 1993 a. 16; 1995 a. 302, 414; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33.

17          **SECTION 11.** 153.01 (1) of the statutes is renumbered 153.01 (1g). ✓

18          **SECTION 12.** 153.01 (1d) of the statutes is created to read: ✓

19          153.01 (1d) “Administrator” has the meaning given in s. 633.01 (1). ✓

20          **SECTION 13.** 153.01 (2) of the statutes is repealed. ✓

1           **SECTION 14.** 153.01 (2g) of the statutes is created to read:

2           153.01 (2g) "Calculated variable" means a data element that is computed or  
3 derived from an original data item or derived using another data source. ✓

4           **SECTION 15.** 153.01 (3g) of the statutes is created to read:

5           153.01 (3g) "Data organization" means a nonstock corporation organized  
6 under ch. 181 that is described in section 501 (c) (3) for the Internal Revenue Code,  
7 is exempt from federal income tax under section 501 (a) of the Internal Revenue  
8 Code, and represents health care consumers, insurers, administrators, and health  
9 care providers. ✓

10           **SECTION 16.** 153.01 (5m) of the statutes is amended to read:

11           153.01 (5m) "Insurer" has the meaning given under s. 600.03 (27) 632.745 (15). ✓

History: 1987 a. 399; 1993 a. 16, 185, 491; 1997 a. 27, 231; 1999 a. 9 s. 2280gc; 1999 a. 32; 2003 a. 33.

12           **SECTION 17.** 153.05 (1) (a) of the statutes is amended to read:

13           153.05 (1) (a) The Subject to s. 153.455, the department shall collect from  
14 health care providers other than hospitals and ambulatory surgery centers, analyze,  
15 and disseminate health care information, as adjusted for case mix and severity, in  
16 language that is understandable to laypersons. ✓

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33.

17           **SECTION 18.** 153.05 (1) (b) of the statutes is amended to read:

18           153.05 (1) (b) The entity under contract under sub. (2m) (a) shall collect from  
19 hospitals and ambulatory surgery centers the health care information required of  
20 hospitals and ambulatory surgery centers by the department under ch. 153, 2001  
21 stats., and the rules promulgated under ch. 153, 2001 stats., including, by the date  
22 that is 18 months after the date of the contract under sub. (2m) (a), outpatient  
23 hospital-based services. The entity shall analyze and disseminate that health care  
24 information, as adjusted for case mix and severity, in the manner required under this

1 chapter, under ch. 153, 2001 stats., and, to the extent that the rules are consistent  
2 with this chapter, under the rules promulgated under ch. 153, 2001 stats., and in  
3 language that is understandable to laypersons. ✓

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33.

4 **SECTION 19.** 153.05 (1) (c) of the statutes is created to read:

5 153.05 (1) (c) <sup>e</sup>The Subject to s. 153.455, the data organization under contracts  
6 under sub. (2r) shall collect from insurers that are not self insurers and from  
7 administrators of insured plans and self-insured governmental plans, and may  
8 collect from self insurers and administrators of self-insured nongovernmental  
9 plans, health care claims information other than information concerning services  
10 provided by hospitals and ambulatory surgery centers. The data organization shall  
11 analyze and publicly report the health care claims information with respect to the  
12 cost, quality, and effectiveness of health care, <sup>5</sup>including <sup>and shall</sup> development and  
13 ~~maintenance~~ <sup>maintain</sup> of a centralized data repository, in language that is understandable by  
14 lay persons. The data organization shall provide to the department, without charge,  
15 health care claims information collected by and reports produced by the data  
16 organization that the department requests. ✓

\*\*\*NOTE: These requirements are exceedingly broad; should they be more specific,  
or is it expected that the requirements will be specified in the contract?

^

17 **SECTION 20.** 153.05 (2r) of the statutes is created to read:

18 153.05 (2r) Notwithstanding s. 16.75 (1), (2), and (3m), from the appropriation  
19 accounts under s. 20.435 (1) (hg) and (hi), the department shall ~~contract~~ and from the  
20 appropriation account under s. 20.515 (1) (ut), the department of employee trust  
21 funds shall <sup>contract</sup> with a data organization to perform services under this chapter  
22 that are specified for the data organization under sub. (1) (c), <sup>and the analysis and</sup>

1 ~~dissemination, of health care claims information.~~ As condition of the contracts under  
2 this subsection, all of the following apply:

3 (a) At least during the period of the contracts, the data organization shall  
4 include as voting members of the board of directors of the data organization the  
5 secretary of health and family services and the secretary of employee trust funds, or  
6 their designees.

7 (b) The data organization shall provide matching funds or in kind  
8 contributions, or both, that at least equal 100 percent of the amounts of the contracts.

9 (c) Termination of funding and of services of the data organization under the  
10 contracts is subject to a determination made under s. 153.455 (3). ✓

11 **SECTION 21.** 153.05 (3) (c) of the statutes is created to read:

12 153.05 (3) (c) Subject to s. 153.455, upon request of the data organization under  
13 contracts under sub. (2r) for health care claims information, other than information  
14 concerning services provided by hospitals and ambulatory surgery centers, insurers  
15 that are not self insurers and administrators of insured plans and self-insured  
16 governmental plans shall, and self insurers and administrators of self-insured  
17 nongovernmental plans may, provide the health care claims information to the data  
18 organization for use in preparing reports and developing and maintaining a central  
19 data repository under this chapter. ✓

20 **SECTION 22.** 153.05 (5) (a) of the statutes is amended to read:

21 153.05 (5) (a) Unless sub. (13) applies, subject to s. 153.455, the department  
22 may require health care providers other than hospitals and ambulatory surgery  
23 centers to submit to the department information ~~specified by rule under s. 153.75 (1)~~

1 (n) for the preparation of reports, plans, and recommendations in the form specified  
2 by the department by rule.

3 History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33.

3 SECTION 23. 153.05 (5) (c) of the statutes is created to read:

PLAIN

4 153.05 (5) (c) Unless sub. (13) applies, subject to s. 153.455, the data  
5 organization under contract under sub. (2r) ~~may~~ shall require insurers that are not self  
6 insurers and administrators of insured plans and self-insured governmental plans,  
7 and shall request self insurers and administrators of self-insured nongovernmental  
8 plans, to submit to the data organization health care claims information for the  
9 preparation of reports, plans, and recommendations in the form specified by the data  
10 organization.

11 SECTION 24. 153.05 (6m) of the statutes is amended to read:

12 153.05 (6m) The department may contract with the group insurance board for  
13 the provision of data collection and analysis services related to health maintenance  
14 organizations and insurance companies that provide health insurance for state  
15 employees. The department shall establish contract fees for the provision of the  
16 services. All moneys collected under this subsection shall be credited to the  
17 appropriation under s. 20.435 (4) (1) (hg). ✓

18 History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33.

18 SECTION 25. 153.05 (6r) of the statutes is amended to read:

19 153.05 (6r) The department shall study and, based on the results of the study,  
20 may develop and implement a voluntary system of health care plan reporting that  
21 enables purchasers and consumers to assess the performance of health care plans  
22 and the health care providers, other than hospitals and ambulatory surgery centers,  
23 that are employed or reimbursed by the health care plans. The department shall  
24 undertake the study and any development and implementation in cooperation with

1 private health care purchasers, ~~the board~~, the department of employee trust funds,  
2 the office of the commissioner of insurance, the interagency coordinating council  
3 created under s. 15.107 (7), major associations of health care providers, health care  
4 plans and consumers. If implemented, the department shall operate the system in  
5 a manner so as to enable purchasers, consumers, the public, the governor and  
6 legislators to assess the performance of health care plans and health care providers  
7 other than hospitals and ambulatory surgery centers.

8 **History:** 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33.

**SECTION 26.** 153.05 (8) (a) of the statutes is amended to read:

9 153.05 (8) (a) Unless sub. (13) applies, subject to s. 153.455, the department  
10 shall collect, analyze and disseminate, in language that is understandable to  
11 laypersons, claims information and other health care information, as adjusted for  
12 case mix and severity, under the provisions of this chapter, ~~as determined by rules~~  
13 ~~promulgated by the department~~, from health care providers, other than hospitals  
14 and ambulatory surgery centers, ~~specified by rules promulgated by the department~~.  
15 Data from those health care providers may be obtained through sampling techniques  
16 in lieu of collection of data on all patient encounters and data collection procedures  
17 shall minimize unnecessary duplication and administrative burdens. If the  
18 department collects from health care plans data that is specific to health care  
19 providers other than hospitals and ambulatory surgery centers, the department  
20 shall attempt to avoid collecting the same data from those health care providers.

21 **History:** 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33.

**SECTION 27.** 153.05 (8) (c) of the statutes is created to read:

22 153.05 (8) (c) Unless sub. (13) applies, subject to s. 153.455, the data  
23 organization under contract under sub. (2r) shall collect, analyze, and publicly  
24 report, in language that is understandable to laypersons, health care claims



1 information, other than information concerning services provided by hospitals or  
2 ambulatory surgery centers, as adjusted for case mix and severity, from insurers that  
3 are not self insurers and administrators of insured plans and self-insured  
4 governmental plans, and may collect, analyze, and publicly report this information  
5 from self insurers and administrators of self-insured nongovernmental plans. Data  
6 from these sources may be obtained through sampling techniques in lieu of collection  
7 of data on all insureds, and data collection procedures shall minimize unnecessary  
8 duplication and administrative burdens.

9 **SECTION 28.** 153.05 (9) (a) of the statutes is amended to read:

10 153.05 (9) (a) The Subject to s. 153.455, the department shall provide  
11 orientation and training to health care providers, other than hospitals and  
12 ambulatory surgery centers, who submit data under this chapter, to explain the  
13 process of data collection and analysis and the procedures for data verification,  
14 comment, interpretation, and release.

15 History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33.

16 **SECTION 29.** 153.05 (9) (c) of the statutes is created to read:

17 153.05 (9) (c) Subject to s. 153.455, the data organization shall provide  
18 orientation and training to insurers that are not self insurers, administrators of  
19 insured plans and self-insured governmental plans, self insurers, and  
20 administrators of self-insured nongovernmental plans that submit data under this  
21 chapter, to explain the process of data collection and analysis and the procedures for  
22 data verification, comment, interpretation, and release.

**SECTION 30.** 153.05 (12) (a) of the statutes is amended to read:

under contract ✓  
under sub.  
(2r)

1           153.05 (12) (a) The Subject to s. 153.455, the department shall, to the extent  
 2 possible and upon request, assist members of the public in interpreting data in  
 3 health care information disseminated by the department.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33.

4           **SECTION 31.** 153.05 (12) (c) of the statutes is created to read:

5           153.05 (12) (c) The data organization under contract under sub. (2r) shall,  
 6 subject to s. 153.455, to the extent possible and upon request, assist members of the  
 7 public in interpreting data in health care information disseminated by the data  
 8 organization.

*Subject to s. 153.455, the*

9           **SECTION 32.** 153.05 (13) of the statutes is amended to read:

10           153.05 (13) ~~The~~ department may waive the requirement under sub. (1), (5) or  
 11 (8) for a health care provider, who insurer that is not a self insurer, administrator of  
 12 an insured plan or self-insured governmental plan, self insurer, or administrator of  
 13 a self-insured nongovernmental plan that requests the waiver and presents  
 14 evidence to the department that the requirement under sub. (1), (5) or (8) is  
 15 burdensome, under standards established by the department by rule. The  
 16 department shall develop a form for use by a health care provider, insurer,  
 17 administrator, or self-insured governmental plan in submitting a request under this  
 18 subsection.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231; 1999 a. 9; 2003 a. 33.

\*\*\*\*NOTE: I have not affected the power of DHFS, including the rule-making power, under this subsection, to waive requirements. Should I? If I should, will the data organization be given this power? Would WHA be given this power over hospital and ambulatory surgery center information?

19           **SECTION 33.** 153.07 of the statutes is repealed.

X

20           **SECTION 34.** 153.10 (1) of the statutes is amended to read:

21           153.10 (1) The Subject to s. 153.455, the department shall prepare, and submit  
 22 to the governor and the chief clerk of each house of the legislature for distribution

1 to the legislature under s. 13.172 (2), standard reports concerning health care  
2 providers other than hospitals and ambulatory surgery centers that the department  
3 prepares and shall collect information necessary for preparation of those reports.

4 History: 1987 a. 399; 1997 a. 27, 231; 2003 a. 33.

SECTION 35. 153.22 (1) of the statutes is renumbered 153.22. X

5 SECTION 36. 153.45 (intro.) of the statutes is created to read:

6 <sup>PLAN</sup>  
153.45 (intro.) Subject to s. 153.455:

7 SECTION 37. 153.45 (1) (intro.) of the statutes is amended to read:

8 153.45 (1) (intro.) After completion of data verification, comment and review  
9 procedures specified by the department by rule, the department shall release data,  
10 together with comments, if any, in the following forms:

11 History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33.

SECTION 38. 153.45 (1) (b) (intro.) of the statutes is amended to read:

12 153.45 (1) (b) (intro.) For information that is submitted by health care  
13 providers other than hospitals or ambulatory surgery centers, public use data files  
14 that do not permit the identification of specific patients, employers, or health care  
15 providers, ~~as defined by rules promulgated by the department.~~ The identification of  
16 patients, employers, or health care providers shall be protected by all necessary  
17 means, including the deletion of patient identifiers; the use of calculated variables  
18 and aggregated variables; the specification of counties as to residence, rather than  
19 zip codes; the use of 5-year categories for age, rather than exact age; not releasing  
20 information concerning a patient's race, ethnicity, or dates of admission, discharge,  
21 procedures, or visits; and masking sensitive diagnoses and procedures by use of  
22 larger diagnostic and procedure categories. Public use data files under this  
23 paragraph may include only the following:

24 History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33.

SECTION 39. 153.45 (1) (b) 9. of the statutes is amended to read:

create  
AUTOREF B

1           153.45 (1) (b) 9. Information that contains the name of a health care provider  
 2           that is not a hospital or ambulatory surgery center, if the independent review board  
 3           ~~department~~ first reviews and approves the release <sup>PLAIN</sup> or if the department promulgates  
 4           rules that specify circumstances under which the independent review board need not  
 5           review and approve the release.

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History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33.

6           **SECTION 40.** 153.45 (1) (b) 9. of the statutes, as affected by 2005 Wisconsin Act  
 7           .... (this act), is amended to read:

8           153.45 (1) (b) 9. Information that contains the name of a health care provider  
 9           that is not a hospital or ambulatory surgery center, if the department first reviews  
 10          and approves the release ~~or if the department promulgates rules that specify~~  
 11          ~~circumstances under which the independent review board need not review and~~  
 12          approve the release.

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33.

\*\*\*NOTE: I was unsure what to do with this provision; have I amended it as you wish?

13          **SECTION 41.** 153.45 (1) (b) 10. of the statutes is amended to read:

14          153.45 (1) (b) 10. Calendar quarters of service, except if the department  
 15          specifies by rule that the number of data elements included in the public use data file  
 16          is too small to enable protection of patient confidentiality.

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33.

17          **SECTION 42.** 153.45 (1) (b) 11. of the statutes is amended to read:

18          153.45 (1) (b) 11. Information other than patient-identifiable data, as defined  
 19          in s. 153.50 (1) (b), as approved by the ~~independent review board~~ department.

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33.

\*\*\*NOTE: I was unsure what to do with this provision; have I amended it as you wish?

20          **SECTION 43.** 153.45 (1) (c) (intro.) of the statutes is amended to read:

1           153.45 (1) (c) (intro.) Custom–designed reports containing portions of the data  
2 under par. (b). ~~Of information submitted by health care providers that are not~~  
3 ~~hospitals or ambulatory surgery centers, requests under this paragraph for data~~  
4 ~~elements other than those available for public use data files under par. (b), including~~  
5 ~~the patient’s month and year of birth, require review and approval by the~~  
6 ~~independent review board before the data elements may be released.~~ Information  
7 that contains the name of a health care provider that is not a hospital or ambulatory  
8 surgery center may be released only if the ~~independent review board~~ department  
9 first reviews and approves the release ~~or if the department promulgates rules that~~  
10 ~~specify circumstances under which the independent review board need not review~~  
11 ~~and approve the release.~~ Reports under this paragraph may include the patient’s zip  
12 code only if at least one of the following applies:

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33.

\*\*\*\*NOTE: I was unsure what to do with this provision; have I amended it as you wish?

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

14           153.45 (1m) After completion of data verification and review procedures  
15 specified by the department ~~by rule~~, the department may, but is not required to,  
16 release special data compilations.

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33.

17           **SECTION 45.** 153.45 (3) of the statutes is amended to read:

18           153.45 (3) The department may, but is not required to, release health care  
19 provider–specific and employer–specific data that relates to health care providers  
20 other than hospitals and ambulatory surgery centers, except in public use data files  
21 as specified under sub. (1) (b), ~~in a manner that is specified in rules promulgated by~~  
22 ~~the department.~~

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33.

23           **SECTION 46.** 153.45 (5) of the statutes is repealed. X

\*\*\*NOTE: Is this provision treated as you wish?

1 SECTION 47. 153.45 (6) of the statutes is repealed. ✓

\*\*\*NOTE: Is this provision treated as you wish?

2 SECTION 48. 153.455 of the statutes is created to read:

3 153.455 Data organization; contract contingency. (1) Except as provided  
4 in sub. (2) and (3), <sup>beginning</sup> on the date, if any, but not before January 1, 2007, that the  
5 secretary of health and family services determines that the data organization under  
6 the contracts under s. 153.05 (2r) is, under the contracts, collecting health care  
7 claims information as specified in the contract and under s. 153.05 (1) (c), the  
8 department may not collect, analyze, or disseminate health care information as  
9 specified in this chapter. <sup>Beginning</sup>

10 (2) Sub. (1) does not apply to ss. 153.21 (1) and 153.60 (1). ✓

11 (3) <sup>Beginning</sup> On the date, if any, that the secretary of health and family services and the  
12 secretary of employee trust funds determine that the collection and public reporting  
13 of information regarding the cost, quality, and effectiveness of health care, including  
14 the development and maintenance of a centralized data repository, are not feasible  
15 under the contracts under s. 153.05 (2r), the data organization under the contracts  
16 under s. 153.05 (2r) may no longer collect, analyze, or disseminate health care claims  
17 information as specified in the contracts and the department shall resume collection,  
18 analysis, and dissemination of health care information under this chapter and,  
19 notwithstanding s. 227.10, shall do so without promulgating rules. ✓

20 SECTION 49. 153.50 (intro.) of the statutes is created to read:

21 <sup>PLAIN</sup> 153.50 (intro.) Subject to s. 153.455: ✓

22 SECTION 50. 153.50 (1) (b) 1m. of the statutes is created to read:

1           153.50 (1) (b) 1m. "Patient-identifiable data," for information related to  
2 hospitals and ambulatory surgery centers, does not include calculated variables that  
3 are derived from patient-identifiable data.

      \*\*\*\*NOTE: Should any qualifier be made on this definition, such as "and the use of  
which does not permit patient identification"? Please also see the Drafter's Note. ✓

4           **SECTION 51.** 153.50 (3) (a) of the statutes is amended to read:

5           153.50 (3) (a) Aggregate any data element category containing small numbers.  
6 The department, in so doing, shall use procedures that are developed by the  
7 department ~~and approved by the board~~ and that follow commonly accepted  
8 statistical methodology. ✓

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33.

9           **SECTION 52.** 153.50 (4) (a) (intro.) of the statutes is amended to read:

10           153.50 (4) (a) (intro.) Except as specified in par. par. (b) and (c), under the  
11 procedures specified in sub. (5), release of patient-identifiable data may be made  
12 only to any of the following:

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33.

13           **SECTION 53.** 153.50 (4) (a) 1. b. of the statutes is amended to read:

14           153.50 (4) (a) 1. b. An agent of the entity under contract under s. 153.05 (2m)  
15 (a) who is responsible for the patient-identifiable data of the entity, in order to store  
16 the data and ensure the accuracy of the information in the database of the entity or  
17 to create a calculated variable that is derived from the patient-identifiable data.

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33.

      \*\*\*\*NOTE: Please see the Drafter's Note with respect to this provision.

18           **SECTION 54.** 153.50 (4) (b) of the statutes is amended to read:

19           153.50 (4) (b) ~~Of Subject to s. 453.455, of~~ information submitted by health care  
20 providers that are not hospitals or ambulatory surgery centers, patient-identifiable

RESTORE TO PLAIN TEXT

1 data that contain a patient's date of birth may be released under par. (a) only under  
2 circumstances as specified by rule by the department.

3 History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231; 1999 a. 9, 185; 2003 a. 33.

**SECTION 55.** 153.50 (4) (c) of the statutes is created to read:

4

153.50 (4) (c) ~~Subject to s. 153.455,~~ the data organization under contracts under  
5 s. 153.05 (2r) may share health care claims data collected by the data organization  
6 if the sharing is in compliance with 42 USC 1320d-2 and 1320d-4 and 45 CFR 164. ✓

7 **SECTION 56.** 153.60 (title) of the statutes is amended to read:

8 **153.60 (title) Assessments to fund operations of department and board.**

9 History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 178; 1993 a. 16; 1997 a. 27, 231, 237; 1999 a. 9, 185, 186; 2003 a. 33.

**SECTION 57.** 153.60 (intro.) of the statutes is created to read:

10

<sup>PLAIN</sup> **153.60** (intro.)  
Subject to s. 153.455:

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11 **SECTION 58.** 153.60 (1) of the statutes is amended to read:

12

153.60 (1) The department shall, by the first October 1 after the  
13 commencement of each fiscal year, estimate the total amount of expenditures under  
14 this chapter for the department and the board for that fiscal year for data collection,  
15 database development and maintenance, generation of data files and standard  
16 reports, orientation and training provided under s. 153.05 (9) (a) and, maintaining  
17 the board, and contracting with the data organization under s. 153.05 (2r). The  
18 department shall assess the estimated total amount for that fiscal year less the  
19 estimated total amount to be received for purposes of administration of this chapter  
20 under s. 20.435 (4) (1) (hi) during the fiscal year; and the unencumbered balance of  
21 the amount received for purposes of administration of this chapter under s. 20.435  
22 (4) (1) (hi) from the prior fiscal year and the amount in the appropriation account  
23 under s. 20.435 (1) (dg), 1997 stats., for the fiscal year, to health care providers, other  
24 than hospitals and ambulatory surgery centers, who are in a class of health care



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**AUOREFE**

1 providers from whom the department collects data under this chapter in a manner  
2 specified by the department by rule. The department shall obtain approval from the  
3 board for the amounts of assessments for health care providers other than hospitals  
4 and ambulatory surgery centers. The department shall work together with the  
5 department of regulation and licensing to develop a mechanism for collecting  
6 assessments from health care providers other than hospitals and ambulatory  
7 surgery centers. No health care provider that is not a facility may be assessed under  
8 this subsection an amount that exceeds \$75 per fiscal year. All payments of  
9 assessments shall be credited to the appropriation under s. 20.435 (4) (1) (hg).

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 178; 1993 a. 16; 1997 a. 27, 231, 237; 1999 a. 9, 185, 186; 2003 a. 33.

10 **SECTION 59.** 153.60 (1) of the statutes, as affected by 2005 Wisconsin Act,

11 ~~Section \*\*\*~~, is amended to read: .... *(+this act)* ↑ section X ↗

12 153.60 (1) The department shall, by the first October 1 after the  
13 commencement of each fiscal year, estimate the total amount of expenditures under  
14 this chapter for the department ~~and the board~~ for that fiscal year for data collection,  
15 database development and maintenance, generation of data files and standard  
16 reports, orientation and training provided under s. 153.05 (9) (a), ~~maintaining the~~  
17 ~~board~~, and contracting with the data organization under s. 153.05 (2r). The  
18 department shall assess the estimated total amount for that fiscal year less the  
19 estimated total amount to be received for purposes of administration of this chapter  
20 under s. 20.435 (1) (hi) during the fiscal year and the unencumbered balance of the  
21 amount received for purposes of administration of this chapter under s. 20.435 (1)  
22 (hi) from the prior fiscal year, to health care providers, other than hospitals and  
23 ambulatory surgery centers, who are in a class of health care providers from whom  
24 the department collects data under this chapter in a manner specified by the

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AUTO REF F

1 department by rule. ~~The department shall obtain approval from the board for the~~  
2 ~~amounts of assessments for health care providers other than hospitals and~~  
3 ~~ambulatory surgery centers.~~ The department shall work together with the  
4 department of regulation and licensing to develop a mechanism for collecting  
5 assessments from health care providers other than hospitals and ambulatory  
6 surgery centers. No health care provider that is not a facility may be assessed under  
7 this subsection an amount that exceeds \$75 per fiscal year. All payments of  
8 assessments shall be credited to the appropriation under s. 20.435 (1) (hg).

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 178; 1993 a. 16; 1997 a. 27, 231, 237; 1999 a. 9, 185, 186; 2003 a. 33.

9 **SECTION 60.** 153.60 (1) of the statutes, as affected by 2005 Wisconsin Act ...

10 (this act), Section \*\*\*\*, is amended to read:

use  
AUTO REF E  
from p. 17

11 153.60 (1) The department shall, by the first October 1 after the  
12 commencement of each fiscal year, estimate the total amount of expenditures under  
13 this chapter for the department for that fiscal year for data collection, database  
14 development and maintenance, generation of data files and standard reports,  
15 orientation and training provided under s. 153.05 (9) (a) and contracting with the  
16 data organization under s. 153.05 (2r). The department shall assess the estimated  
17 total amount for that fiscal year less the estimated total amount to be received for  
18 purposes of administration of this chapter under s. 20.435 (1) (hi) during the fiscal  
19 year and the unencumbered balance of the amount received for purposes of  
20 administration of this chapter under s. 20.435 (1) (hi) from the prior fiscal year, to  
21 health care providers, other than hospitals and ambulatory surgery centers, who are  
22 in a class of health care providers from whom the department collects data under this  
23 chapter ~~in a manner specified by the department by rule.~~ The department shall work  
24 together with the department of regulation and licensing to develop a mechanism for

1 collecting assessments from health care providers other than hospitals and  
 2 ambulatory surgery centers. No health care provider that is not a facility may be  
 3 assessed under this subsection an amount that exceeds \$75 per fiscal year. All  
 4 payments of assessments shall be credited to the appropriation under s. 20.435 (4)  
 5 (hg).

(4)  
 (1)

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 178; 1993 a. 16; 1997 a. 27, 231, 237; 1999 a. 9, 185, 186; 2003 a. 33.

6 SECTION 61. 153.60 (3) of the statutes is amended to read:

7 153.60 (3) The department shall, by the first October 1 after the  
 8 commencement of each fiscal year, estimate the total amount of expenditures  
 9 required for the collection, database development and maintenance and generation  
 10 of public data files and standard reports for health care plans that voluntarily agree  
 11 to supply health care data under s. 153.05 (6r). The department shall assess the  
 12 estimated total amount for that fiscal year to health care plans in a manner specified  
 13 by the department by rule and may enter into an agreement with the office of the  
 14 commissioner of insurance for collection of the assessments. Each health plan that  
 15 voluntarily agrees to supply this information shall pay the assessments on or before  
 16 December 1. All payments of assessments shall be deposited in the appropriation  
 17 under s. 20.435 (4) (1) (hg) and may be used solely for the purposes of s. 153.05 (6r). ✓

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 178; 1993 a. 16; 1997 a. 27, 231, 237; 1999 a. 9, 185, 186; 2003 a. 33.

18 SECTION 62. 153.65 (1) of the statutes is amended to read:

19 153.65 (1) The Subject to s. 153.455, the department may, but is not required  
 20 to, provide, upon request from a person, a data compilation or a special report based  
 21 on the information collected by the department. The department shall establish user  
 22 fees for the provision of these compilations or reports, payable by the requester,  
 23 which shall be sufficient to fund the actual necessary and direct cost of the

1 compilation or report. All moneys collected under this subsection shall be credited  
2 to the appropriation under s. 20.435 (4) (1) (hi). ✓

3 History: 1987 a. 399; 1993 a. 16, 104; 1997 a. 27, 231; 1999 a. 9; 2003 a. 33.

SECTION 63. 153.67 of the statutes is repealed.

4 SECTION 64. 153.75 (1) (intro.) of the statutes is amended to read:

5 153.75 (1) (intro.) Following approval by the board, the The department shall  
6 promulgate the following rules:

7 History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 2003 a. 33.

SECTION 65. 153.75 (2) (intro.) of the statutes is amended to read:

8 153.75 (2) (intro.) Following approval by the board, the The department may  
9 promulgate all of the following rules:

10 History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 2003 a. 33.

SECTION 66. 153.75 (1) (a), (b), (f), (h), (m), (n), (o), (p), (r), (t), and (u) and (2)

11 of the statutes, as affected by 2005 Wisconsin Act ... (this act), is repealed.

12 SECTION 67. 153.76 of the statutes is repealed. are

13 SECTION 68. 153.85 of the statutes is amended to read:

14 153.85 Civil liability. Except as provided in s. 153.86, any person violating  
15 s. 153.50 or rules promulgated under s. 153.75 (1) (a) is liable to the patient for actual ✓  
16 damages and costs, plus exemplary damages of up to \$1,000 for a negligent violation  
17 and up to \$5,000 for an intentional violation.

18 History: 1987 s. 399; 1999 a. 9.

SECTION 69. 153.90 (1) of the statutes is amended to read:

19 153.90 (1) Whoever intentionally violates s. 153.45 (5) or 153.50 or rules ✓  
20 promulgated under s. 153.75 (1) (a) may be fined not more than \$15,000 or ✓  
21 imprisoned for not more than one year in the county jail or both.

22 History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 1999 a. 9.

SECTION 70. 153.90 (2) of the statutes is amended to read:

Ⓟ Sec. #. 153,75 (2) of the statutes, as affected  
by 2005 Wisconsin Act Δ.....Δ (this act), is repealed Ⓞ

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PLAIN TEXT

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from p. 17

S.

1 153.90 (2) Any person who violates this chapter or any rule promulgated under  
 2 the authority of this chapter, ~~except ss. 153.45 (5), 153.50 and 153.75 (1) (a), as~~  
 3 ~~provided in s. 153.85 and sub. (1),~~ shall forfeit not more than \$100 for each violation.  
 4 Each day of violation constitutes a separate offense, except that no day in the period  
 5 between the date on which a request for a hearing is filed under s. 227.44 and the date  
 6 of the conclusion of all administrative and judicial proceedings arising out of a  
 7 decision under this section constitutes a violation.

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AUTOREF  
M  
from p. 2

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1997 a. 27, 231; 1999 a. 9.

8 **SECTION 9421. Effective dates; health and family services.**

9 (1) **ELIMINATION OF BOARD ON HEALTH CARE INFORMATION.** The treatment of  
 10 sections 15.07 (2) (b) and (3) (bm) 1., 15.195 (6), 16.03 (3), 20.435 (1) (hg) (by SECTION  
 11 ~~153.01 (2), 153.05 (6r), 153.07, 153.50 (3) (a), 153.60 (title), 153.60 (1) (by SECTION~~  
 12 ~~\*\*), 153.75 (1) (intro.) and (2) (intro.), and 153.76 of the statutes takes effect on July~~  
 13 1, 2007.

use  
AUTOREF B  
from p. 11

14 (2) **ELIMINATION OF INDEPENDENT REVIEW BOARD.** The treatment of sections  
 15 15.195 (9), 153.45 (1) (b) 9. (by Section ~~\*\*\*~~) and 11. and (c) (intro.), 153.45 (6), and  
 16 153.67 of the statutes takes effect on July 1, 2007.

use  
AUTOREF C  
from p. 12

17 (3) **HEALTH CARE INFORMATION; DEPARTMENTAL POWERS; RULEMAKING.** The  
 18 treatment of sections 153.05 (1) (a), (5) (a), (8) (a), ~~(9) (a), (12) (a) and (13) (a)~~ ~~153.10 (1),~~  
 19 ~~153.45 (intro.)~~ (1) (intro.), (b) (intro.), 9. (by Section ~~\*\*\*\*~~), and 10., (1m), (3), and (5),  
 20 153.50 ~~(intro.)~~ (4) (a) (intro.), (b), and (c), 153.60 ~~(intro.)~~ and (1) (by Section ~~\*\*\*~~),  
 21 153.65 (1), 153.85, and 153.90 (1) and (2) <sup>of the statutes</sup> and the repeal of section 153.75 (1) (a), (b),  
 22 (f), (h), (m), (n), (o), (p), (r), (t), and (u) and (2) of the statutes takes effect on the date  
 23 specified in s. 153.455 (1) of the statutes, as created by this act.

24 (END)

no 9 This bill takes effect on the day after publication, except as follows:

NOTE

use  
AUTOREF F  
from p. 18

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3240/7dn

DAK

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CS

To Representative Underheim: *change to* (CS)

I have drafted this document in bill form; I believe it is easier for you to read it that way, and it will be relatively easy to convert it to amendment form when and if you wish to do so with respect to the budget bill. The bill is preliminary; I have interspersed **\*\*\*NOTES\*\*\*** in the body of the bill at points for which I had questions; I would appreciate your reviewing these as well as the following:

1. With respect to the material proposed by Laura Leitch of the Wisconsin Hospitals Association, among other things I have drafted s. 153.50 (1) (b) 1m., as proposed, which changes the current definition of "patient-identifiable data" to make that definition inapplicable to calculated variables that are created from patient-identifiable data. I also have drafted an amendment to s. 153.50 (4) (a) 1. b., stats., as proposed, which allows WHA to create the calculated variables. (I also have drafted s. 153.01 (2g), a definition of the term "calculated variable" that is derived from the definition in HFS 120.31 (1) (a), Wis. Admin. Code.) I have not drafted a provision proposed that expressly declares that WHA is not prohibited from creating a calculated variable; since the amendment to s. 153.50 (4) (a) 1. b., stats., permits this action, such a prohibition is unnecessary. Ms. Leitch has indicated to me that a calculated variable contains patient-identifiable information and that the legislation changes that I have mentioned are necessary to, among other things, permit analysis of hospital readmissions. I am, however, concerned that it is not clear, under the language proposed and drafted, what precise use the WHA will make of the created calculated variables, i.e., whether WHA will possibly disseminate the calculated variables as part of other data it disseminates. A blanket exception for calculated variables to the restrictions currently in place for use of patient-identifiable information may be a lesser standard than is acceptable under HIPAA. ✓

2. Do you wish to eliminate or otherwise affect the interagency coordinating council in DOA? ✓

3. The instructions at the June 22, 2005, meeting were to eliminate "the boards." I have repealed the provisions dealing with both the Board on Health Care Information and the Independent Review Board, as of January 1, 2007; is this your intent? ✓

4. The key provisions in this draft concerning the phase-out of DHFS' responsibilities and phase-in of the data organization's responsibilities, and the ability of DHFS to

resume data collection, analysis, and dissemination if the contract does not work out, are in s. 153.455. Please review. ✓

5. The document provided at the June 22, 2005, meeting says "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." I have repealed the current rules, contingent on s. 153.455 (1) (see Drafter's Note 4., above), because, if DHFS determines that the data organization is not functioning adequately, you have indicated that DHFS should resume the program without use of rules. ✓

6. How do you intend for me to affect the provisions in s. 153.05 (14) in the budget bill that were created by the Joint Committee on Finance? ✓

7. I was unsure if you wanted the data organization to be subject to requirements under s. 153.50, stats. (protection of patient confidentiality). If so, what specific provisions should apply or be modified to apply? ✓

8. Although I have repealed s. 153.75 (2) (d), stats., I have not affected ss. 153.05 (6r) and 153.60 (3), stats.; these statutes concern reports from health care plans that voluntarily agree to supply health care data. Should these be left alone, or repealed? ✓

9. I understand from the instructions that your intent is to eliminate requirements under DHFS rules if DHFS resumes the collection and dissemination of health care information if the contract does not work out; I have, therefore, repealed the requirements for many rules under s. 153.75, stats., effective on the date specified in s. 153.455 (1) (when DHFS determines that the data organization has begun collection health care information). I also have provided, in s. 153.455 (2), that, if DHFS resumes the program, it shall be done without rules. Is this done as you wish? ✓

10. Should s. 153.05 (6) and (6m), stats., be affected by this bill? ✓

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: debora.kennedy@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3240/P1dn  
DAK.cs:rs

June 27, 2005

To Representative Underheim:

I have drafted this document in bill form; I believe it is easier for you to read it that way, and it will be relatively easy to convert it to amendment form when and if you wish to do so with respect to the budget bill. The bill is preliminary; I have interspersed \*\*\*\*\*NOTES in the body of the bill at points for which I had questions; I would appreciate your reviewing these as well as the following:

1. With respect to the material proposed by Laura Leitch of the Wisconsin Hospitals Association, among other things I have drafted s. 153.50 (1) (b) 1m., as proposed, which changes the current definition of "patient-identifiable data" to make that definition inapplicable to calculated variables that are created from patient-identifiable data. I also have drafted an amendment to s. 153.50 (4) (a) 1. b., stats., as proposed, which allows WHA to create the calculated variables. (I also have drafted s. 153.01 (2g), a definition of the term "calculated variable" that is derived from the definition in HFS 120.31 (1) (a), Wis. Admin. Code.) I have not drafted a provision proposed that expressly declares that WHA is not prohibited from creating a calculated variable; since the amendment to s. 153.50 (4) (a) 1. b., stats., permits this action, such a prohibition is unnecessary. Ms. Leitch has indicated to me that a calculated variable contains patient-identifiable information and that the legislation changes that I have mentioned are necessary to, among other things, permit analysis of hospital readmissions. I am, however, concerned that it is not clear, under the language proposed and drafted, what precise use the WHA will make of the created calculated variables, i.e., whether WHA will possibly disseminate the calculated variables as part of other data it disseminates. A blanket exception for calculated variables to the restrictions currently in place for use of patient-identifiable information may be a lesser standard than is acceptable under HIPAA.
2. Do you wish to eliminate or otherwise affect the interagency coordinating council in DOA?
3. The instructions at the June 22, 2005, meeting were to eliminate "the boards." I have repealed the provisions dealing with both the Board on Health Care Information and the Independent Review Board, as of January 1, 2007; is this your intent?
4. The key provisions in this draft concerning the phase-out of DHFS' responsibilities and phase-in of the data organization's responsibilities, and the ability of DHFS to



resume data collection, analysis, and dissemination if the contract does not work out, are in s. 153.455. Please review.

5. The document provided at the June 22, 2005, meeting says "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." I have repealed the current rules, contingent on s. 153.455 (1) (see Drafter's Note 4., above), because, if DHFS determines that the data organization is not functioning adequately, you have indicated that DHFS should resume the program without use of rules.

6. How do you intend for me to affect the provisions in s. 153.05 (14) in the budget bill that were created by the Joint Committee on Finance?

7. I was unsure if you wanted the data organization to be subject to requirements under s. 153.50, stats. (protection of patient confidentiality). If so, what specific provisions should apply or be modified to apply?

8. Although I have repealed s. 153.75 (2) (d), stats., I have not affected ss. 153.05 (6r) and 153.60 (3), stats.; these statutes concern reports from health care plans that voluntarily agree to supply health care data. Should these be left alone, or repealed?

9. I understand from the instructions that your intent is to eliminate requirements under DHFS rules if DHFS resumes the collection and dissemination of health care information if the contract does not work out; I have, therefore, repealed the requirements for many rules under s. 153.75, stats., effective on the date specified in s. 153.455 (1) (when DHFS determines that the data organization has begun collection health care information). I also have provided, in s. 153.455 (2), that, if DHFS resumes the program, it shall be done without rules. Is this done as you wish?

10. Should s. 153.05 (6) and (6m), stats., be affected by this bill?

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: debora.kennedy@legis.state.wi.us

6/29/05 DAK, Rep Underheim, Dick Sweet, Susan Wood,  
225 NW Nancy Bennett, Deane Welsh

Questions:

see below 7/1/05  
① If D.O. does not work out, DHFS goes back to h.c. providers (rather than insurers?)

Revisions:

① Pt. identifiable data - p. 14 NOTE - and the age of wh/ does not permit pt. identifi. dissemination

Rep Underheim will consult to make sure ok  
Dick Sweet

② Kill off interagency coordinating council

③ p. 14, l. 12 - ~~change~~ shall to "may" - see aht. changing

✓ 153.05 (2)(b) - p. 14, l. 8 - change are not feasible" to "are not are dissatisfied w/ contractor" performance

See also 7/11/05

DHFS authorized throughout to collect from same entities as do, is under bill

✓ p. 14, l. 11 - change "resume" to "undertake"

✓ Change draft so if d.o. doesn't work, secys can reK or have DHFS do

④ Delete stuff in budget bill (153.05(14))

- ✓ (5) DN # 7 go ; DHS will look at 153.50  
*none identified* + identify parts that are burdensome - will provide confidentiality language  
(153.50(1)(b)1m.)
- ✓ (6) SEC. 50 - delete reference to hospitals + ambulatory surgery centers
- ✓ (7) DN # 8, Keep; modify so that d.o. can access 153.05(6v)
- ✓ (8) DN # 10. Keep both
- ✓ (9) Waivers - DHS keeps authority
- ✓ (10) p. 5, l. 16 - ok; will specify by K
- ✓ (11) SEC 9 - <sup>20</sup> limit to \$150,000
- ✓ (12) 1 K signed by 2 depts - <sup>40.03(6)(j)</sup> remove SEC 10 ✓
- ✓ (13) p. 4, l. 6 to 10 - add represent <sup>the</sup>  
+ orgs that repres at least        % of  
his physicians in state  
  
and represent        % of claims volume  
in this state  
DHS will craft definition  
  
+ created for purpose of creating central repository  
  
org      qual improvement  
          purchasing value  
✓ Susan Wood will provide

14 p. 6, l. 5 funds, "including funds from data sales" wh/ may include

15 p. 10 Answer to "Should I" is No

7/11/05 From Susan Wood (DHFS)

✓ 1. Treatment of s. 153.60 (1) in SEC 58 that does not affect requirement that DHFS obtain approval from Bd on HC info for assessments is fine, bec. it disappears when Bd is repealed July 1, 2007 (see SEC 59)

✓ 2. If K ends, DHFS feels should be regd. to do what is doing now, plus what is regd. under the K

## Kennedy, Debora

---

**From:** Susan Wood [woodss@dhrs.state.wi.us]  
**Sent:** Wednesday, June 29, 2005 3:30 PM  
**To:** Welsh, Diane; Johnston, James; Nankivil Bennett, Nancy; Kennedy, Debora; Hough, Michelle; Sweet, Richard  
**Cc:** Nelson, Helene; Stanchfield, Eric; Rep.Underheim  
**Subject:** RE: POVD meeting this afternoon

in follow-up to our discussion this afternoon here is proposed language that can be used in whole or part to supplement the definition of the data organization in section 15 an organization specifically formed to create a centralized claims repository for Wisconsin with credible and useful data elements for the purposes of quality improvement, provider performance comparison, transparency and consumer decision making, and formed with the intent of using the information it collects to develop and disseminate a unified public report on health care quality, safety and efficiency.

and on the issue of current language about patient confidentiality - our staff are fine with the current language and we have no need to request changes. We believe the current requirements should be extended to the new data organization, as they are to the entity we contract with for hospital data, and that the only change that is necessary is the one we discussed about "calculated variables".

Any questions, please let me know.  
thanks

Susan

>>> "Hough, Michelle" <Michelle.Hough@legis.state.wi.us> 06/29/05  
12:09PM >>>

Hello Everyone,

Sounds like just about everyone will be able to attend, so I reserved 225 Northwest (same room as before) for our 1:30pm meeting.

See you soon!

Michelle

---

**From:** Hough, Michelle  
**Sent:** Wednesday, June 29, 2005 10:19 AM  
**To:** Kennedy, Debora; Welsh, Diane; Nankivil Bennett, Nancy; 'WOODSS@dhrs.state.wi.us'; Johnston, James  
**Cc:** Sweet, Richard; Stanchfield, Eric; Nelson, Helene; Rep.Underheim  
**Subject:** POVD meeting this afternoon  
**Importance:** High

Hello Everyone,

Attached are the Health Care Information draft and drafters notes. Sorry for the short notice, but we would like to meet this afternoon to go over the information. Please let me know your availability for 1:30pm this afternoon or later. We will meet in Rep.Underheim's office at 11 North. We hope you can all join us.

Please let me know if you have any questions.

Sincerely,

Michelle Hough

Office of Rep.Underheim  
54th Assembly District  
608.266.2254

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dn.pdf  
>>

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Susan Wood  
Wisconsin Department of Health and Family Services  
608-261-4958

6/30/05

To: Helene  
Diane  
Tim

POV draft -

I annotated the documents to show the issues we discussed yesterday.

There are 2 items we did not discuss that I think should be deleted -  
see pages 11 + 16.

Helene - once you've reviewed, if you have any changes please add these 2 to the list if you + Diane agree.

If you do not have any changes, then Diane - would you please send them to Debora? Thanks,

Susan



**From:** "Kennedy, Debora" <Debora.Kennedy@legis.state.wi.us>  
**To:** "Susan Wood" <woodss@dhfs.state.wi.us>  
**Date:** 6/29/05 4:06PM  
**Subject:** RE: POVd meeting this afternoon

Thanks very much, Susan.

-----Original Message-----

From: Susan Wood [mailto:woodss@dhfs.state.wi.us]  
 Sent: Wednesday, June 29, 2005 3:30 PM  
 To: Welsh, Diane; Johnston, James; Nankivil Bennett, Nancy; Kennedy, Debora; Hough, Michelle; Sweet, Richard  
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 Subject: POVd meeting this afternoon  
 Importance: High

Followup to  
 meeting 6/29

Participants:

Rep. Underheim  
 Michelle Hough  
 Debora Kennedy  
 Dick Sweet  
 Tim Johnston  
 Diane Welsh  
 Susan Wood

- ① Debra to do draft #2 by 7/6
- ② Michelle to check in w/ Michael Heifitz of Dean + Chris Queram
- ③ Dick Sweet to check in w/ Laura Leitch
- ④ Susan to provide language to <sup>add to</sup> definition of data org.  
 +  
 check to see if any other changes are needed to patient confid. provisions

Hello Everyone,

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Susan Wood  
Wisconsin Department of Health and Family Services  
608-261-4958

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3240/P1dn

DAK:cs:rs

June 27, 2005

To Representative Underheim:

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*Sections*

*50  
52  
53*

2. Do you wish to eliminate or otherwise affect the interagency coordinating council in DOA? *Yes*

*ok*

3. The instructions at the June 22, 2005, meeting were to eliminate "the boards." I have repealed the provisions dealing with both the Board on Health Care Information and the Independent Review Board, as of January 1, 2007; is this your intent? *Yes*

*make it clear the use of calculated variables is for internal analysis purposes.*

4. The key provisions in this draft concerning the phase-out of DHFS' responsibilities and phase-in of the data organization's responsibilities, and the ability of DHFS to

resume data collection, analysis, and dissemination if the contract does not work out, are in s. 153.455. Please review. *Made a few adjustments - Section 48*

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Debora A. Kennedy  
Managing Attorney  
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E-mail: debora.kennedy@legis.state.wi.us