



THURSDAY  
State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-3240/P2

DAK:cs:es

D-NOTE

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SR ✓  
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REGENERATE

1 AN ACT *to repeal* 15.07 (2) (b), 15.07 (3) (bm) 1., 15.195 (6), 15.195 (9), 16.03 (3),  
2 153.01 (2), 153.07, 153.45 (5), 153.45 (6), 153.67, 153.75 (1) (a), (b), (f), (h), (m),  
3 (n), (o), (p), (r), (t), and (u), 153.75 (2) and 153.76; *to renumber* 153.01 (1) and  
4 153.22 (1); *to renumber and amend* 20.435 (4) (hg) and 20.435 (4) (hi); *to*  
5 *amend* 20.435 (1) (hg), 20.515 (1) (ut), 40.03 (6) (j), 153.01 (5m), 153.05 (1) (a),  
6 153.05 (1) (b), 153.05 (5) (a), 153.05 (6m), 153.05 (6r), 153.05 (8) (a), 153.05 (9)  
7 (a), 153.05 (12) (a), 153.05 (13), 153.10 (1), 153.45 (1) (intro.), 153.45 (1) (b)  
8 (intro.), 153.45 (1) (b) 9., 153.45 (1) (b) 9., 153.45 (1) (b) 10., 153.45 (1) (b) 11.,  
9 153.45 (1) (c) (intro.), 153.45 (1m), 153.45 (3), 153.50 (3) (a), 153.50 (4) (a)  
10 (intro.), 153.50 (4) (a) 1. b., 153.50 (4) (b), 153.60 (title), 153.60 (1), 153.60 (1),  
11 153.60 (1), 153.60 (3), 153.65 (1), 153.75 (1) (intro.), 153.75 (2) (intro.), 153.85,  
12 153.90 (1) and 153.90 (2); and *to create* 153.01 (1d), 153.01 (2g), 153.01 (3g),  
13 153.05 (1) (c), 153.05 (2r), 153.05 (3) (c), 153.05 (5) (c), 153.05 (8) (c), 153.05 (9)  
14 (c), 153.05 (12) (c), 153.45 (intro.), 153.455, 153.50 (intro.), 153.50 (1) (b) 1m.,  
15 153.50 (4) (c) and 153.60 (intro.) of the statutes; **relating to:** requiring a

1 contract with a data organization for the collection, analysis, and dissemination  
2 of health care claims information, eliminating the board on health care  
3 information and the independent review 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:***

4 SECTION 1. 15.07 (2) (b) of the statutes is repealed. ✓

5 SECTION 2. 15.07 (3) (bm) 1. of the statutes is repealed. ✓

6 SECTION 3. 15.195 (6) of the statutes is repealed. ✓

7 SECTION 4. 15.195 (9) of the statutes is repealed. ✓

8 SECTION 5. 16.03 ~~(3)~~ of the statutes is repealed. ✓

9 SECTION 6. 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.

17 SECTION 7. 20.435 (4) (hg) of the statutes is renumbered 20.435 (1) (hg) and  
18 amended to read:

19 20.435 (1) (hg) *General program operations; health care information.* The  
20 amounts in the schedule to fund the activities of the department of health and family

1 services and the board on health care information under ch. 153 and to contract with  
2 the data organization under s. 153.05 (2r). The contract fees paid under s. 153.05  
3 (6m) and assessments paid under s. 153.60 shall be credited to this appropriation  
4 account.

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

7 20.435 (1) (hi) *Compilations and special reports; health care information.* All  
8 moneys received from user fees imposed under s. 153.65 (1) for the purpose of  
9 financing the costs of the department of health and family services of producing  
10 special data compilations or special reports under s. 153.65 and to contract with the  
11 data organization under s. 153.05 (2r).

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

13 20.515 (1) (ut) *Health insurance data collection and analysis contracts.* From  
14 the public employee trust fund, the amounts in the schedule for the costs of  
15 contracting for insurance data collection and analysis services under ~~s.~~ ss. 40.03 (6)  
16 (j) and 153.05 (2r).

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

18 40.03 (6) (j) May contract with the department of health and family services  
19 ~~and,~~ may contract with other public or private entities for data collection and  
20 analysis services related to health maintenance organizations and insurance  
21 companies that provide health insurance to state employees, and may contract with  
22 a data organization under s. 153.05 (2r).

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

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

25 153.01 (1d) "Administrator" has the meaning given in s. 633.01 (1).

1 SECTION 13. 153.01 (2) of the statutes is repealed.

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

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

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

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

INSERT 4-10

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

12 153.01 (5m) "Insurer" has the meaning given under s. 600.03 (27) 632.745 (15).

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

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

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

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

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

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

153.05 (1) (c) Subject to s. 153.455, the data organization under contracts under sub. (2r) shall collect from insurers that are not self insurers and from administrators of insured plans and self-insured governmental plans, and may collect from self insurers and administrators of self-insured nongovernmental plans, health care claims information other than information concerning services provided by hospitals and ambulatory surgery centers. The data organization shall analyze and publicly report the health care claims information with respect to the cost, quality, and effectiveness of health care, in language that is understandable by lay persons, and shall develop and maintain a centralized data repository. The data organization shall provide to the department, without charge, health care claims information collected by and reports produced by the data organization that the department requests.

INSERT 5-16

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

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

153.05 (2r) Notwithstanding s. 16.75 (1), (2), and (3m), from the appropriation accounts under s. ~~20.435 (1) (hg) and (hi)~~, the department shall, and, from the ~~appropriation account under s.~~ 20.515 (1) (ut), the department of employee trust funds shall <sup>jointly</sup> contract with a data organization to perform services under this chapter that are specified for the data organization under sub. (1) (c). As condition of the contracts under this subsection, all of the following apply:

expend \$150,000, and from the appropriation accounts under s. 20.435 (1) (hg) and (hi) the department shall expend moneys, to

1 (a) At least during the period of the contract, the data organization shall  
 2 include as voting members of the board of directors of the data organization the  
 3 secretary of health and family services and the secretary of employee trust funds, or  
 4 their designees. *which may include funds from data sales; include*

5 (b) The data organization shall provide matching funds or in-kind  
 6 contributions, or both, that equal at least 100 percent of the amount of the contract.

7 (c) Termination of funding and of services of the data organization under the  
 8 contract is subject to a determination made under s. 153.455 (3).

INSERT 6-8

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

*sub. (13) and*

10 153.05 (3) (c) Subject to s. 153.455, upon request of the data organization under  
 11 contract under sub. (2r) for health care claims information, other than information  
 12 concerning services provided by hospitals and ambulatory surgery centers, insurers  
 13 that are not self insurers and administrators of insured plans and self-insured  
 14 governmental plans shall, and self insurers and administrators of self-insured  
 15 nongovernmental plans may, provide the health care claims information to the data  
 16 organization for use in preparing reports and developing and maintaining a central  
 17 data repository under this chapter.

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

19 153.05 (5) (a) Unless sub. (13) applies, subject to s. 153.455, the department  
 20 may require health care providers other than hospitals and ambulatory surgery  
 21 centers to submit to the department information ~~specified by rule under s. 153.75 (1)~~  
 22 (n) for the preparation of reports, plans, and recommendations in the form specified  
 23 by the department by rule.

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

1           153.05 (5) (c) Unless sub. (13) applies, subject to s. 153.455, the data  
2 organization under contract under sub. (2r) shall require insurers that are not self  
3 insurers and administrators of insured plans and self-insured governmental plans,  
4 and shall request self insurers and administrators of self-insured nongovernmental  
5 plans, to submit to the data organization health care claims information for the  
6 preparation of reports, plans, and recommendations in the form specified by the data  
7 organization. INSERT 7-7 ✓ ✓

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

9           153.05 (6m) The department may contract with the group insurance board for  
10 the provision of data collection and analysis services related to health maintenance  
11 organizations and insurance companies that provide health insurance for state  
12 employees. The department shall establish contract fees for the provision of the  
13 services. All moneys collected under this subsection shall be credited to the  
14 appropriation under s. 20.435 (4) (1) (hg).

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

16           153.05 (6r) The department shall study and, based on the results of the study,  
17 may develop and implement a voluntary system of health care plan reporting that  
18 enables purchasers and consumers to assess the performance of health care plans  
19 and the health care providers, other than hospitals and ambulatory surgery centers,  
20 that are employed or reimbursed by the health care plans. The department shall  
21 undertake the study and any development and implementation in cooperation with  
22 private health care purchasers, ~~the board~~, the department of employee trust funds,  
23 the office of the commissioner of insurance, ~~the interagency coordinating council~~  
24 ~~created under s. 15.107 (7)~~, major associations of health care providers, health care  
25 plans and consumers. If implemented, the department shall operate the system in

① a manner so as to enable purchasers, consumers, the public, the governor and  
 ② legislators to assess the performance of health care plans and health care providers  
 3 other than hospitals and ambulatory surgery centers.

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

5 153.05 (8) (a) Unless sub. (13) applies, subject to s. 153.455, the department  
 6 shall collect, analyze and disseminate, in language that is understandable to  
 7 laypersons, claims information and other health care information, as adjusted for  
 8 case mix and severity, under the provisions of this chapter, ~~as determined by rules~~  
 9 ~~promulgated by the department~~, from health care providers, other than hospitals  
 10 and ambulatory surgery centers, ~~specified by rules promulgated by the department~~.  
 11 Data from those health care providers may be obtained through sampling techniques  
 12 in lieu of collection of data on all patient encounters and data collection procedures  
 13 shall minimize unnecessary duplication and administrative burdens. If the  
 14 department collects from health care plans data that is specific to health care  
 15 providers other than hospitals and ambulatory surgery centers, the department  
 16 shall attempt to avoid collecting the same data from those health care providers.

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

18 153.05 (8) (c) Unless sub. (13) applies, subject to s. 153.455, the data  
 19 organization under contract under sub. (2r) shall collect, analyze, and publicly  
 20 report, in language that is understandable to laypersons, health care claims  
 21 information, other than information concerning services provided by hospitals or  
 22 ambulatory surgery centers, as adjusted for case mix and severity, from insurers that  
 23 are not self insurers and administrators of insured plans and self-insured  
 24 governmental plans, and may collect, analyze, and publicly report this information  
 25 from self insurers and administrators of self-insured nongovernmental plans. Data



1 from these sources may be obtained through sampling techniques in lieu of collection  
2 of data on all insureds, and data collection procedures shall minimize unnecessary  
3 duplication and administrative burdens. INSERT 9-3 ✓

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

5 153.05 (9) (a) The Subject to s. 153.455, the department shall provide  
6 orientation and training to health care providers, other than hospitals and  
7 ambulatory surgery centers, who submit data under this chapter, to explain the  
8 process of data collection and analysis and the procedures for data verification,  
9 comment, interpretation, and release.

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

11 153.05 (9) (c) Subject to s. 153.455, the data organization under contract under  
12 sub. (2r) shall provide orientation and training to insurers that are not self insurers,  
13 administrators of insured plans and self-insured governmental plans, self insurers,  
14 and administrators of self-insured nongovernmental plans that submit data under  
15 this chapter, to explain the process of data collection and analysis and the procedures  
16 for data verification, comment, interpretation, and release. INSERT 9-16 ✓

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

18 153.05 (12) (a) The Subject to s. 153.455, the department shall, to the extent  
19 possible and upon request, assist members of the public in interpreting data in  
20 health care information disseminated by the department.

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

22 153.05 (12) (c) The data organization under contract under sub. (2r) shall,  
23 subject to s. 153.455, to the extent possible and upon request, assist members of the  
24 public in interpreting data in health care information disseminated by the data  
25 organization. INSERT 9-25 ✓

RESTORE TO PLAIN TEXT

(3)(c) ↑

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

2 153.05 (13) ~~The Subject to s. 153.455, the~~ department may waive the  
 3 requirement under sub. (1), (5) or (8) for a health care provider, who insurer that is  
 4 not a self insurer, administrator of an insured plan or self-insured governmental  
 5 plan, self insurer, or administrator of a self-insured nongovernmental plan that  
 6 requests the waiver and presents evidence to the department that the requirement  
 7 under sub. (1), (5) or (8) is burdensome, under standards established by the  
 8 department by rule. The department shall develop a form for use by a health care  
 9 provider, ~~insurer, administrator or self-insured governmental plan~~ in submitting a  
 10 request under this subsection.

\*\*\*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?

INSERT 10-10

11 SECTION 33. 153.07 of the statutes is repealed.

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

13 153.10 (1) The Subject to s. 153.455, the department shall prepare, and submit  
 14 to the governor and the chief clerk of each house of the legislature for distribution  
 15 to the legislature under s. 13.172 (2), standard reports concerning health care  
 16 providers other than hospitals and ambulatory surgery centers that the department  
 17 prepares and shall collect information necessary for preparation of those reports.

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

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

20 153.45 (intro.) Subject to s. 153.455:

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

INSERT 10-17

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

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

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

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

18           153.45 (1) (b) 9. Information that contains the name of a health care provider  
19 that is not a hospital or ambulatory surgery center, if the independent review board  
20 department first reviews and approves the release or if the department promulgates  
21 ~~rules that specify circumstances under which the independent review board need not~~  
22 ~~review and approve the release.~~

23           **SECTION 40.** 153.45 (1) (b) 9. of the statutes, as affected by 2005 Wisconsin Act

24           ... (this act), is amended to read:

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 department first reviews  
3           and approves the release or if the department promulgates rules that specify  
4           circumstances under which the independent review board need not review and  
5           approve the release.

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

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

7           153.45 (1) (b) 10. Calendar quarters of service, except if the department  
8           specifies by rule that the number of data elements included in the public use data file  
9           is too small to enable protection of patient confidentiality.

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

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

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

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

14          153.45 (1) (c) (intro.) Custom-designed reports containing portions of the data  
15          under par. (b). ~~Of information submitted by health care providers that are not~~  
16          ~~hospitals or ambulatory surgery centers, requests under this paragraph for data~~  
17          ~~elements other than those available for public use data files under par. (b), including~~  
18          ~~the patient's month and year of birth, require review and approval by the~~  
19          ~~independent review board before the data elements may be released.~~ Information  
20          that contains the name of a health care provider that is not a hospital or ambulatory  
21          surgery center may be released only if the independent review board department  
22          first reviews and approves the release or if the department promulgates rules that

1 specify ~~circumstances under which the independent review board need not review~~  
2 ~~and approve the release.~~ Reports under this paragraph may include the patient's zip  
3 code only if at least one of the following applies:

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

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

5 153.45 (1m) After completion of data verification and review procedures  
6 specified by the department ~~by rule~~, the department may, but is not required to,  
7 release special data compilations.

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

9 153.45 (3) The department may, but is not required to, release health care  
10 provider-specific and employer-specific data that relates to health care providers  
11 other than hospitals and ambulatory surgery centers, except in public use data files  
12 as specified under sub. (1) (b), ~~in a manner that is specified in rules promulgated by~~  
13 the department.

14 SECTION 46. 153.45 (5) of the statutes is repealed.

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

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

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

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

17 153.455 **Data organization; contract contingency.** (1) Except as provided  
18 in subs. (2) ~~and~~ (3), <sup>and (4),</sup> beginning on the date, if any, but not before January 1, 2007, that  
19 the secretary of health and family services determines that the data organization  
20 under the contract<sup>s</sup> under s. 153.05 (2r) is, under the contract<sup>s</sup>, collecting health care  
21 claims information as specified in the contract and under s. 153.05 (1) (c), the

1 department may not collect, analyze, or disseminate health care information as  
2 specified in this chapter.

they are dissatisfied with the performance of

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

4 (3) Beginning on the date, if any, that the secretary of health and family  
5 services and the secretary of employee trust funds determine that the collection and  
6 public reporting of information regarding the cost, quality, and effectiveness of  
7 health care, including the development and maintenance of a centralized data

8 repository, ~~are not feasible~~ under the contracts under s. 153.05 (2r), the data  
9 organization under the contracts under s. 153.05 (2r) may no longer collect, analyze,

10 or disseminate health care claims information as specified in the contracts and the  
11 department ~~shall resume~~ <sup>shall undertake</sup> collection, analysis, and dissemination of health care

12 information under this chapter and, notwithstanding s. 227.10, ~~shall~~ <sup>may</sup> do so without  
13 promulgating rules.

the secretaries may contract with another organization.

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

¶(4) If sub. (3) applies and the secretaries do not contract with another organization,

15 153.50 (intro.) Subject to s. 153.455:

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

17 153.50 (1) (b) 1m. "Patient-identifiable data," ~~for information related to~~  
18 ~~hospitals and ambulatory surgery centers,~~ does not include calculated variables that  
19 are derived from patient-identifiable data.

and the dissemination of which does not permit patient identification

\*\*\*\*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.

INSERT 14.19

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

21 153.50 (3) (a) Aggregate any data element category containing small numbers.

22 The department, in so doing, shall use procedures that are developed by the

1 department and approved by the board and that follow commonly accepted  
2 statistical methodology.

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15-2

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

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

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15-6

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

8 153.50 (4) (a) 1. b. An agent of the entity under contract under s. 153.05 (2m)  
9 (a) who is responsible for the patient-identifiable data of the entity, in order to store  
10 the data and ensure the accuracy of the information in the database of the entity or  
11 to create a calculated variable that is derived from the patient-identifiable data.

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

✓  
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15-11

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

13 153.50 (4) (b) Of information submitted by health care providers that are not  
14 hospitals or ambulatory surgery centers, patient-identifiable data that contain a  
15 patient's date of birth may be released under par. (a) only under circumstances as  
16 specified by rule by the department.

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

18 (18) 153.50 (4) (c) The data organization under contract <sup>re</sup> under s. 153.05 (2r) may  
19 share health care claims data collected by the data organization if the sharing is in  
20 compliance with 42 USC 1320d-2 and 1320d-4 and 45 CFR 164.

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15-20

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

22 **153.60 (title) Assessments to fund operations of department and board.**

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

24 153.60 (intro.) Subject to s. 153.455:

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

2           153.60 (1) The department shall, by the first October 1 after the  
3 commencement of each fiscal year, estimate the total amount of expenditures under  
4 this chapter for the department and the board for that fiscal year for data collection,  
5 database development and maintenance, generation of data files and standard  
6 reports, orientation and training provided under s. 153.05 (9) (a) ~~and~~, maintaining  
7 the board, and contracting with the data organization under s. 153.05 (2r). The  
8 department shall assess the estimated total amount for that fiscal year less the  
9 estimated total amount to be received for purposes of administration of this chapter  
10 under s. 20.435 (4) (1) (hi) during the fiscal year, and the unencumbered balance of  
11 the amount received for purposes of administration of this chapter under s. 20.435  
12 (4) (1) (hi) from the prior fiscal year ~~and the amount in the appropriation account~~  
13 ~~under s. 20.435 (1) (dg), 1997 stats., for the fiscal year~~, to health care providers, other  
14 than hospitals and ambulatory surgery centers, who are in a class of health care  
15 providers from whom the department collects data under this chapter in a manner  
16 specified by the department by rule. The department shall obtain approval from the  
17 board for the amounts of assessments for health care providers other than hospitals  
18 and ambulatory surgery centers. The department shall work together with the  
19 department of regulation and licensing to develop a mechanism for collecting  
20 assessments from health care providers other than hospitals and ambulatory  
21 surgery centers. No health care provider that is not a facility may be assessed under  
22 this subsection an amount that exceeds \$75 per fiscal year. All payments of  
23 assessments shall be credited to the appropriation under s. 20.435 (4) (1) (hg).

24           **SECTION 59.** 153.60 (1) of the statutes, as affected by 2005 Wisconsin Act ....  
25 (this act), section 58, is amended to read:



1           153.60 (1) The department shall, by the first October 1 after the  
2 commencement of each fiscal year, estimate the total amount of expenditures under  
3 this chapter for the department and the board for that fiscal year for data collection,  
4 database development and maintenance, generation of data files and standard  
5 reports, orientation and training provided under s. 153.05 (9) (a), ~~maintaining the~~  
6 ~~board,~~ and contracting with the data organization under s. 153.05 (2r). The  
7 department shall assess the estimated total amount for that fiscal year less the  
8 estimated total amount to be received for purposes of administration of this chapter  
9 under s. 20.435 (1) (hi) during the fiscal year and the unencumbered balance of the  
10 amount received for purposes of administration of this chapter under s. 20.435 (1)  
11 (hi) from the prior fiscal year, to health care providers, other than hospitals and  
12 ambulatory surgery centers, who are in a class of health care providers from whom  
13 the department collects data under this chapter in a manner specified by the  
14 department by rule. ~~The department shall obtain approval from the board for the~~  
15 ~~amounts of assessments for health care providers other than hospitals and~~  
16 ~~ambulatory surgery centers.~~ The department shall work together with the  
17 department of regulation and licensing to develop a mechanism for collecting  
18 assessments from health care providers other than hospitals and ambulatory  
19 surgery centers. No health care provider that is not a facility may be assessed under  
20 this subsection an amount that exceeds \$75 per fiscal year. All payments of  
21 assessments shall be credited to the appropriation under s. 20.435 (1) (hg).

22           **SECTION 60.** 153.60 (1) of the statutes, as affected by 2005 Wisconsin Act .... (this  
23 act), section 59, is amended to read:

24           153.60 (1) The department shall, by the first October 1 after the  
25 commencement of each fiscal year, estimate the total amount of expenditures under

1 this chapter for the department for that fiscal year for data collection, database  
2 development and maintenance, generation of data files and standard reports,  
3 orientation and training provided under s. 153.05 (9) (a) and contracting with the  
4 data organization under s. 153.05 (2r). The department shall assess the estimated  
5 total amount for that fiscal year less the estimated total amount to be received for  
6 purposes of administration of this chapter under s. 20.435 (1) (hi) during the fiscal  
7 year and the unencumbered balance of the amount received for purposes of  
8 administration of this chapter under s. 20.435 (1) (hi) from the prior fiscal year, to  
9 health care providers, other than hospitals and ambulatory surgery centers, who are  
10 in a class of health care providers from whom the department collects data under this  
11 chapter ~~in a manner specified by the department by rule~~. The department shall work  
12 together with the department of regulation and licensing to develop a mechanism for  
13 collecting assessments from health care providers other than hospitals and  
14 ambulatory surgery centers. No health care provider that is not a facility may be  
15 assessed under this subsection an amount that exceeds \$75 per fiscal year. All  
16 payments of assessments shall be credited to the appropriation under s. 20.435 (1)  
17 (hg).

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

19 153.60 (3) The department shall, by the first October 1 after the  
20 commencement of each fiscal year, estimate the total amount of expenditures  
21 required for the collection, database development and maintenance and generation  
22 of public data files and standard reports for health care plans that voluntarily agree  
23 to supply health care data under s. 153.05 (6r). The department shall assess the  
24 estimated total amount for that fiscal year to health care plans in a manner specified  
25 by the department by rule and may enter into an agreement with the office of the

1 commissioner of insurance for collection of the assessments. Each health plan that  
2 voluntarily agrees to supply this information shall pay the assessments on or before  
3 December 1. All payments of assessments shall be deposited in the appropriation  
4 under s. 20.435 (4) (1) (hg) and may be used solely for the purposes of s. 153.05 (6r).

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

6 153.65 (1) ~~The~~ Subject to s. 153.455, the department may, but is not required  
7 to, provide, upon request from a person, a data compilation or a special report based  
8 on the information collected by the department. The department shall establish user  
9 fees for the provision of these compilations or reports, payable by the requester,  
10 which shall be sufficient to fund the actual necessary and direct cost of the  
11 compilation or report. All moneys collected under this subsection shall be credited  
12 to the appropriation under s. 20.435 (4) (1) (hi).

13 **SECTION 63.** 153.67 of the statutes is ~~repealed.~~ ✓

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

15 153.75 (1) (intro.) ~~Following approval by the board, the~~ The department shall  
16 promulgate the following rules:

17 **SECTION 65.** 153.75 (1) (a), (b), (f), (h), (m), (n), (o), (p), (r), (t), and (u) of the  
18 statutes are repealed. ✓

19 **SECTION 66.** 153.75 (2) (intro.) of the statutes is amended to read: ✓

20 153.75 (2) (intro.) ~~Following approval by the board, the~~ The department may  
21 promulgate all of the following rules:

22 **SECTION 67.** 153.75 (2) of the statutes, as affected by 2005 Wisconsin Act ....  
23 (this act), is repealed. ✓

24 **SECTION 68.** 153.76 of the statutes is repealed.

25 **SECTION 69.** 153.85 of the statutes is amended to read: ✓

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

5           **SECTION 70.** 153.90 (1) <sup>✓</sup> of the statutes is amended to read:

6           153.90 (1) Whoever intentionally violates s. ~~153.45 (5) or 153.50 or rules~~  
7 ~~promulgated under s. 153.75 (1) (a)~~ may be fined not more than \$15,000 or  
8 imprisoned for not more than one year in the county jail or both.

9           **SECTION 71.** 153.90 (2) <sup>✓</sup> of the statutes is amended to read:

10           153.90 (2) Any person who violates this chapter or any rule promulgated under  
11 the authority of this chapter, except ~~ss. 153.45 (5), s. 153.50 and 153.75 (1) (a), as~~  
12 ~~provided in s. 153.85 and sub. (1)~~, shall forfeit not more than \$100 for each violation.  
13 Each day of violation constitutes a separate offense, except that no day in the period  
14 between the date on which a request for a hearing is filed under s. 227.44 and the date  
15 of the conclusion of all administrative and judicial proceedings arising out of a  
16 decision under this section constitutes a violation.

17           **SECTION 72. Effective dates.** This act takes effect on the day after publication,  
18 except as follows:

19           (1) **ELIMINATION OF BOARD ON HEALTH CARE INFORMATION.** The treatment of  
20 sections 15.07 (2) (b) and (3) (bm) 1., 15.195 (6), ~~16.03 (3)~~, 20.435 (1) (hg), 153.01 (2),  
21 153.05 (6r), 153.07, 153.50 (3) (a), 153.60 (title), 153.60 (1) (by SECTION 59), 153.75  
22 (1) (intro.) and (2) (intro.), and 153.76 of the statutes takes effect on July 1, 2007.

23           (2) **ELIMINATION OF INDEPENDENT REVIEW BOARD.** The treatment of sections  
24 15.195 (9), 153.45 (1) (b) 9. ~~(by SECTION 39)~~ and 11. and (c) (intro.), 153.45 (6), and  
25 153.67 of the statutes takes effect on July 1, 2007.

1 (3) HEALTH CARE INFORMATION; DEPARTMENTAL POWERS; RULE MAKING. The  
 2 treatment of sections 153.05 (1) (a), (5) (a), and (8) (a), 153.45 (1) (intro.) and (b)  
 3 (intro.) ~~by SECTION 40~~<sup>e</sup> and 10., (1m), (3), and (5), 153.50 (4) (a) (intro.), (b), and  
 4 (c), 153.60 (1) (by SECTION 60), 153.65 (1), 153.85, and 153.90 (1) and (2) of the statutes  
 5 and the repeal of section 153.75 (1) (a), (b), (f), (h), (m), (n), (o), (p), (r), (t), and (u) and  
 6 (2) of the statutes take effect on the date specified in s. 153.455 (1) of the statutes,  
 7 as created by this act.

INSERT  
21-7 8

(END)

D-NOTE