

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3240/P2ins  
DAK:cs:rs

SAV  
WJSAV

✓✓ x

**INSERT 2-5**

1 **SECTION 1.** 15.107 (7) of the statutes is repealed.

**INSERT 4-10**

2 (b) Is formed specifically to do all of the following:

3 1. Create a centralized claims repository for this state with credible and useful  
4 data elements for the purposes of quality improvement, health care provider  
5 performance comparisons, ready understandability, and consumer decisionmaking. ←

6 2. Use the information it collects to develop and disseminate a unified public  
7 report on health care quality, safety, and efficiency.

✓ **INSERT 5-16**

no 9

8 If s. 153.455 (4) applies, the department shall perform the duties specified for  
9 the data organization under this paragraph. ✓

✓✓ **INSERT 6-8**

10 **SECTION 2.** 153.05 (3) (a) of the statutes is amended to read:

11 153.05 (3) (a) Upon request of the department for health care information  
12 relating to health care providers other than hospitals and ambulatory surgery  
13 centers and, if s. 153.455 (4) applies, for health care claims information as specified  
14 in sub. (1) (c), state agencies shall provide that ~~health care~~ information to the  
15 department for use in preparing reports under this chapter. ✓

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.

**INSERT 7-7**

no 9

16 If s. 153.455 (4) applies, the department shall perform the duties specified for  
17 the data organization under this paragraph.

**INSERT 9-3**

no 9

18 If s. 153.455 (4) applies, the department shall perform the duties specified for  
19 the data organization under this paragraph.

**INSERT 9-16**

no 9

If s. 153.455 (4) applies, the department shall perform the duties specified for the data organization under this paragraph. ✓

**INSERT 9-25**

no 9

If s. 153.455 (4) applies, the department shall perform the duties specified for the data organization under this paragraph. ✓

**INSERT 10-10**

**SECTION 3.** 153.05 (14) of the statutes, as created by 2005 Wisconsin Act ... (Assembly Bill 100), is repealed. ✓

**INSERT 10-17**

no 9

If s. 153.455 (4) applies, the department shall include in the reports under this subsection reports concerning health care claims information the department collects under s. 153.05. ✓

**INSERT 14-19**

**SECTION 4.** 153.50 (1) (b) 2. (intro.) of the statutes is amended to read:

153.50 (1) (b) 2. (intro.) "Patient-identifiable data", for information submitted by health care providers who are not hospitals or ambulatory surgery centers and by insurers and administrators, means all of the following data elements:

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 5.** 153.50 (3) (intro.) of the statutes is amended to read:

153.50 (3) MEASURES TO ENSURE PROTECTION OF PATIENT IDENTITY. (intro.) To ensure that the identity of patients is protected when information obtained by the department ~~or~~, by the entity under contract under s. 153.05 (2m) (a), or by the data organization under contract under s. 153.05 (2r) is disseminated, the department and, the entity, and the data organization shall do all 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.

**INSERT 15-2**

**SECTION 6.** 153.50 (3) (b) (intro.) of the statutes is amended to read:

1           153.50 (3) (b) (intro.) Remove and destroy all of the following data elements on  
2 the uniform patient billing forms that are received by the department ~~or by~~, the  
3 entity, or the data organization under the requirements of this chapter:

4 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 7.** 153.50 (3) (d) of the statutes is amended to read:

5           153.50 (3) (d) Require that a purchaser of data under this chapter sign and have  
6 notarized the data use agreement of the department ~~or of~~, the entity specified in par-  
7 (e), or the data organization, as applicable.

8 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 8.** 153.50 (3m) of the statutes is amended to read:

9           153.50 (3m) ~~HEALTH CARE PROVIDER~~ PROVIDER, ADMINISTRATOR, OR INSURER  
10 MEASURES TO ENSURE PATIENT IDENTITY PROTECTION. A health care provider that is not  
11 a hospital or ambulatory surgery center or an insurer or an administrator shall,  
12 before submitting information required by the department or by the data  
13 organization under contract under s. 153.05 (2r) <sup>5</sup> under this chapter, convert to a  
14 payer category code as specified by the department or the data organization, as  
15 applicable, any names of an insured's payer or other insured's payer. ✓

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.

**INSERT 15-6**

✓✓  
16 **SECTION 9.** 153.50 (4) (a) 1. a. of the statutes is amended to read:

17           153.50 (4) (a) 1. a. An agent of the department who is responsible for the  
18 patient-identifiable data in the department, in order to store the data and ensure the  
19 accuracy of the information in the database of the department or to create a  
20 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.

**INSERT 15-11**

✓✓  
21 **SECTION 10.** 153.50 (4) (a) 1. c. of the statutes is created to read:

1 153.50 (4) (a) 1. c. An agent of the data organization under contract under s.  
2 153.05 (2r) who is responsible for the patient-identifiable data of the data  
3 organization, in order to store the data and ensure the accuracy of the information  
4 in the database of the data organization or to create a calculated variable that is  
5 derived from the patient-identifiable data. ✓

6 **SECTION 11.** 153.50 (4) (a) 2. of the statutes is amended to read:

7 153.50 (4) (a) 2. A health care provider that is not a hospital or ambulatory  
8 surgery center or the agent of such a health care provider, to ensure the accuracy of  
9 the information in the database of the department or the data organization under  
10 contract under s. 153.05 (2r), or a health care provider that is a hospital or  
11 ambulatory surgery center or the agent of such a health care provider, to ensure the  
12 accuracy of the information in the database of the entity under contract under s.  
13 153.05 (2m) (a).

14 **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.

15 **SECTION 12.** 153.50 (4) (a) 3. of the statutes is amended to read:

16 153.50 (4) (a) 3. The department, for purposes of epidemiological investigation,  
17 or, with respect to information from health care providers that are not hospitals or  
18 ambulatory surgery centers, the department or the data organization under contract  
under s. 153.05 (2r), to eliminate the need for duplicative databases. ✓

**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.

✓✓ **INSERT 15-20**

19 **SECTION 13.** 153.50 (5) (a) (intro.) of the statutes is amended to read:

20 153.50 (5) (a) (intro.) The department ~~or~~, an entity that is under contract under  
21 s. 153.05 (2m) (a), or a data organization that is under contract under s. 153.05 (2r)  
22 may not release or provide access to patient-identifiable data to a person authorized  
23 under sub. (4) (a) unless the authorized person requests the department ~~or~~, entity,

①  
②

1 or data organization, in writing, to release the patient-identifiable data. The request  
2 shall include all of the following:

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 14.** 153.50 (5) (b) (intro.) of the statutes is amended to read:

4 153.50 (5) (b) (intro.) Upon receipt of a request under par. (a), the department  
5 ~~or, entity under contract under s. 153.05 (2m) (a) ,~~ or data organization, whichever  
6 is ~~appropriate~~ applicable, shall, as soon as practicable, comply with the request or  
7 notify the requester, in writing, of all of the following:

8 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 15.** 153.50 (5) (b) 1. of the statutes is amended to read:

9 153.50 (5) (b) 1. That the department ~~or, entity,~~ or data organization, as  
10 applicable, is denying the request in whole or in part.

11 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 16.** 153.50 (6) (a) of the statutes is amended to read:

12 153.50 (6) (a) The department ~~or~~ <sup>score, not strike</sup> entity under contract under s. 153.05 (2m)  
13 (a), or data organization under contract under s. 153.05 (2r) may not require a health  
14 care provider submitting health care information under this chapter to include the  
15 patient's name, street address or social security number.

16 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 17.** 153.50 (6) (b) of the statutes is amended to read:

17  
18 153.50 (6) (b) The department or data organization under contract under s.  
19 153.05 (2r) may not require under this chapter a health care provider that is not a  
20 hospital or ambulatory surgery center or an insurer or administrator from which  
21 health care claims information is collected under s. 153.05 to submit uniform patient  
22 billing forms.

23 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 18.** 153.50 (6) (c) (intro.) of the statutes is amended to read:

1           153.50 (6) (c) (intro.) A health care provider that is not a hospital or ambulatory  
 2 surgery center and an insurer or administrator from which health care claims  
 3 information is collected under s. 153.05 may not submit any of the following to the  
 4 department or to the data organization under contract under s. 153.05 (2r) under the  
 5 requirements of this chapter:

6 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 19.** 153.50 (6) (d) of the statutes is amended to read:

7           153.50 (6) (d) If a health care provider that is not a hospital or ambulatory  
 8 surgery center or an insurer or administrator from which health care claims  
 9 information is collected under s. 153.05 submits a data element that is specified in  
 10 par. (c) 1. to 10., the department or the data organization under contract under s.  
 11 153.05 (2r) shall immediately return this information to the health care provider,  
 12 insurer, or administrator or, if discovered later, shall remove and destroy the  
 13 information.

14 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 20.** 153.50 (6) (e) (intro.) of the statutes is amended to read:

15           153.50 (6) (e) (intro.) A health care provider, or an insurer or administrator  
 16 from which health care claims information is collected under s. 153.05, may not  
 17 submit information that uses any of the following as a patient account number:

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.

**INSERT 21-7**

18           (4) ELIMINATION OF INTERAGENCY COORDINATING COUNCIL. The treatment of  
 19 sections 15.107 (7), 16.03, and 153.05 (6r) of the statutes takes effect on July 1, 2007.

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

LRB-3240/P2dn

DAK:cs:rs

stays

To Representative Underheim:

1. I assumed that s. 153.50 (3m), stats., is applicable to the data organization and affected it; is that assumption correct? ✓

2. Please note that I also added the "calculated variable" language requested by the Wisconsin Hospitals Association for s. 153.50 (4) (a) 1. b., stats., to s. 153.50 (4) (a) 1. a. and c., for use by DHFS or the data organization. Okay? ✓

3. Should insurers be added to s. 153.50 (4) (a) 2., stats., to allow them to check accuracy? ✓

4. Should s. 153.50 (4) (b), stats., as affected by this draft, be expanded to cover insurers and administrators? Would doing so pose a problem for the data organization? If so, how would you like for me to modify it? ✓

5. Are s. 153.50 (6) (b) and (e) (intro.), stats., amended as you wish? ✓

6. My conversation with Susan Wood of DHFS on July 11 clarified that DHFS feels that, if the contract with the data organization ends because of dissatisfaction (and another contract is not made with another organization), DHFS should be required to do what is required under current law (i.e., collect health care information from health care providers other than hospitals and ambulatory surgery centers), plus what is required of the data organization under s. 153.05 (1) (c). This instruction has governed my amendments to numerous provisions. Please especially review s. 153.455 (3) and (4), as changed in this draft. ✓

7. Is any provision necessary to clarify who owns the data collected by the data organization? ✓

8. *When this draft is redrafted in ~~to~~ introducible form, I will update the provisions that have been affected by 2005 Assembly Bill 100.*

Debra 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/P2dn  
DAK:cs:rs

July 14, 2005

To Representative Underheim:

1. I assumed that s. 153.50 (3m), stats., is applicable to the data organization and affected it; is that assumption correct?
2. Please note that I also added the "calculated variable" language requested by the Wisconsin Hospitals Association for s. 153.50 (4) (a) 1. b., stats., to s. 153.50 (4) (a) 1. a. and c., for use by DHFS or the data organization. Okay?
3. Should insurers be added to s. 153.50 (4) (a) 2., stats., to allow them to check accuracy?
4. Should s. 153.50 (4) (b), stats., as affected by this draft, be expanded to cover insurers and administrators? Would doing so pose a problem for the data organization? If so, how would you like for me to modify it?
5. Are s. 153.50 (6) (b) and (e) (intro.), stats., amended as you wish?
6. My conversation with Susan Wood of DHFS on July 11 clarified that DHFS feels that, if the contract with the data organization ends because of dissatisfaction (and another contract is not made with another organization), DHFS should be required to do what is required under current law (i.e., collect health care information from health care providers other than hospitals and ambulatory surgery centers), plus what is required of the data organization under s. 153.05 (1) (c). This instruction has governed my amendments to numerous provisions. Please especially review s. 153.455 (3) and (4), as changed in this draft.
7. Is any provision necessary to clarify who owns the data collected by the data organization?
8. When this draft is redrafted in introducible form, I will update the provisions that have been affected by 2005 Assembly Bill 100.

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



## Kennedy, Debora

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**From:** Wood, Susan  
**Sent:** Thursday, September 01, 2005 5:41 PM  
**To:** Kennedy, Debora; Hough, Michelle  
**Cc:** Johnston, James; Sweet, Richard; Nankivil Bennett, Nancy; Nelson, Helene; Welsh, Diane  
**Subject:** DHFS suggested changes to LRB3240/P2

Dear Michelle and Debora

two documents are attached

1. a narrative summary of the proposed legislation - hope this is helpful
2. a chart identifying the changes that the Department is requesting so that the bill fits with the intentions we are seeking.

Secretary Nelson and Chief Legal Counsel Welsh of DHFS have asked me to forward this and to request that if possible the changes/edits be incorporated into the next draft of the bill before our meeting on September 8.

We realize how complicated the drafting is given the way Ch. 153 is written.

We want to make sure that it is clear that the contract from DHFS and ETF to a private not for profit organization will support voluntary reporting on the part of the health care sector about care provided across the entire health care sector, and also make it clear that the new requirements proposed in the bill do not alter or diminish the responsibilities of WHA as the state's contractor for collecting data from hospitals and ambulatory surgical centers as is now required by Ch. 153.

Hopefully the recommended changes accomplish this. I have also included recommendations from ETF in this list.

Any questions, please let me know.  
thank you,  
Susan

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Susan Wood  
Director, Bureau of Health Information and Policy Division of Public Health Wisconsin  
Department of Health and Family Services  
608-261-4958

*9/5/05 DAK called Michelle Hough - She instructed DAK to wait on making these changes until Rep. Underheim approves them.*

Summary of LRB3240 – Underheim Proposal for Health Care Quality Improvement and  
POVD Replacement System

The purpose of this legislation is to improve the public reporting and accountability for health care costs and quality by implementing a strong, publicly accountable private sector replacement for POVD.

This bill authorizes replacement of the Physician Office Visit Data system and provides requirements for the new system. It authorizes DHFS/ETF to provide public funding for partial support of this system. This is to be done by means of a contract with a private entity to develop and evolve a centralized data repository that will support the voluntary collection and public reporting of information regarding the cost and efficiency of health care across multiple systems (hospital, physician office, pharmacy, and lab). Data will be derived from administrative (claims payment) sources.

The bill does not change the current requirement for the state to contract with an entity (the Wisconsin Hospital Association – WHA - is the contractor) to collect, analyze and disseminate health care information from hospitals and ambulatory surgical centers. The new contract with a data organization will be in addition to the current activities performed by WHA.

This new information is intended to: (a) enable consumers and health care purchasers to make wise health care choices based on value - both cost and quality, and (b) foster continual improvement in health care delivery to achieve better patient outcomes in a more efficient manner. This information is intended to support wise health care choices and purchasing, and continual improvement in efficiency of health care delivery.

Specific provisions of the legislation

1. Physician Office Visit System (POVD) and related boards

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

2. Public funding

The development and operation of the system will be accomplished as a joint public-private partnership. DHFS and ETF will help support development and operation of the system in 2005-2007. Public funding as follows will be contracted contingent on the completion of specific deliverables:

- Unencumbered physician assessment revenue: DHFS will continue to collect a \$70 annual fee from physicians to support the POVVD system and related costs, with a portion of the funds used to support a contract with an entity to develop the new system.
- ETF Contribution: ETF will have the authority to use up to \$150,000/year of trust funds for this purpose as needed to make the system feasible consistent with legislative objectives.
- Possible Medical Assistance-Federal Contribution: The legislation will permit DHFS to claim federal MA funds if the system is planned to allow later inclusion of MA claims data (using POVVD revenues as the MA-federal match).

### 3. Contract contingency

The legislation is constructed with the expectation that the public-private partnership will succeed based upon voluntary participation of health care entities. However, in order to assure that the intended outcomes are achieved, if the Secretaries of ETF and DHFS conclude that the private sector contractor is not meeting the state's requirements, the legislation directs that the Secretary of DHFS "shall collect" data from health care providers, insurers or other entities that maintain or have access to health care claims information as is administratively efficient and effective to achieve the legislative purposes.

### 4. Patient confidentiality and HIPPA

The legislation maintains the current protections for patient confidentiality while permitting specific data exchange to achieve the purposes of the system for meaningful public reporting of health care costs and efficiency. The contract with the entity will also assure that the system/data repository will adhere to federal and state privacy and security standards concerning both data inputs and data outputs.

The legislation also resolves a concern of the current contractor for hospital data and the Department about data analysis functions that rely on the creation of calculated variables from the patient-identifiable data. This is done by adding a definition of "calculated variable" and then creating a new definition section in Chapter 153 (1) (b) 1m. to read as follows: "Patient-identifiable data" does not include calculated variables that are derived from patient-identifiable data and the dissemination of which does not permit patient identification.

### 5. Description of the Data Organization that will operate the Data Repository

The organization is defined as a nonstick corporation organized under Ch. 181 that is described in section 501 © (3) of the Internal Revenue Code, is exempt from federal income tax under this code and does all of the following:

- Represents health care consumers, insurers, administrators and health care providers
- Is formed specifically to do all of the following:
  - Create a centralized claims repository for this state with credible and useful data elements for the purposes of quality improvement, health care provider comparisons, ready understandability and consumer decision-making
  - Use the information it collects to develop and disseminate a unified public report on health care quality, safety and efficiency

In order to qualify for a contract with the state for these purposes, the organization must include as voting members of the board of directors the secretary of the department of health and family services and the secretary of the department of employee trust funds or their designees, and provide matching funds, which may include funds from data sales, or in-kind contributions or both, that equal at least 100 percent of the amount of the contract with the state.

#### 6. Scope of the new Data Repository

The legislation requires that the new centralized healthcare data repository will have sufficient volume to make it possible to track, analyze and report on cost and efficiency of entire episodes of patient care across multiple systems (hospital, physician office, pharmacy, and lab). Data will be derived from administrative (claims payment) sources. The goal is a statewide system. ETF and DHFS will jointly establish contractual standards for the comprehensiveness of reporting necessary to assure a sufficiently robust data source with enough volume of claims information for credible and useful comparisons across health care organizations to serve the intended public purposes.

A central entity will manage the repository with transparency of framework, process and rules of data aggregation, and standardized, uniform rules associated with data collection and use.

The system must provide for a reasonable representation of actual costs paid. (Note: it is understood that this may not be actual payments, but a proxy methodology that adjusts billing amounts, in order to balance public information needs with proprietary information of insurance plans and others.)

The data repository will be the source for publishing a unified report to the public with meaningful data on health care efficiency and performance, for various types of care in various health care settings. The entity under contract to the state will deliver a unified public/consumer report on health care performance in terms of cost and efficiency that

uses nationally recognized or contractually agreed standards of provider measurement.

#### 7. Nature of the public – private partnership

The data repository will be developed by an independent, private non-profit organization that represents a public-private partnership of health care purchasers, insurance organizations, and health care providers. Initial Board of Directors will include parties who contribute data and financial support to the development and operation of the repository, and will include the Secretary of ETF and the Secretary of DHFS or their designees.

The data repository will be managed by a private sector third party vendor responsible to develop the architecture and collect, edit, store and safeguard the data.

The State through the Secretaries of ETF & DHFS will foster the creation of the organization, the data repository, and public reporting by:

- providing funding from ETF and DHFS appropriations, subject to ETF/DHFS determinations that the statutory purposes and parameters of the project have been met;
- providing data for the repository from ETF and DHFS as health care purchasers;
- collaborating as members of the Board of Directors to foster ongoing improvement in the availability of information on health quality and safety, health outcomes, and quality;
- using data jointly with other health care purchasers to purchase health care for quality and efficiency; and
- supporting projects of continual improvement in health care quality and efficiency.

#### 7. Summary of the requirements for public oversight of the entity and project accountability

- a. DHFS and ETF contract for the replacement system and the contract includes commitments to meet the legislatively established outcome expectations and other system characteristics.
- b. DHFS and ETF provide in the contract that the release of public funds for the system is based on contractor performance.
- c. DHFS and ETF Secretaries or designees are members of the non-profit organization's Board of Directors.

- d. Like all public contracts and funding arrangements, these are subject to legislative oversight including review by the Legislative Audit Bureau.
- e. The legislation provides that if the replacement system is not developed according to the established legislative expectations, as determined jointly by ETF and DHFS, the DHFS Secretary “shall collect” this data..

Prepared by Susan Wood, DPH/DHFS  
September 1, 2005

DHFS suggested changes to LRB-3240/P2  
9/1/05

Page	Section	Line numbers	Changes
3	10	22	Add "up to \$150,000 annually" at the end of the sentence to provide flexibility to ETF
4	17	22	After the word health care provider add the phrase "or any other entity that maintains or has access to health care claims information" – so that the Department has the authority to collect this information if necessary from self-funded employers and third party administrators
5	19	13	Change shall to may so that the reporting by the health care sector is voluntary not mandatory
5	19	16-17	Delete phrase "other than information concerning hospitals and ASCs" because the new entity that will collect from health insurance organizations needs authority to collect information about all health care transactions
6	20	2-3	Change word shall to may so that it reads "ETF may expend up to \$150,000" – to provide flexibility to ETF
6	20	4	Change shall expend to "may expend" – to provide flexibility to DHFS
6	20	6	Add at the end of the sentence "or to perform these services" because if DHFS is required to take over these functions will need to use these funds to support them
6	22	25	Delete exception for information about services provided by hospitals and ASCs because the new entity that will collect from health insurance organizations needs authority to collect information about all health care transactions
8	26	5	Delete these words: "shall study and based on the results of the study" to provide more flexibility to DHFS
9	28	11-12	Delete the phrase "other than information concerning services provided by hospitals and ASCs" because the new entity that will collect from health insurance organizations needs authority to collect, analyze and report information about all health care transactions
14	49	3-7	Reword to say that that DHFS will cease collecting physician office visit data
14	49	13	Add the phrase "or the lack of sufficient representation of statewide participation under the terms of the contract" just before the words "under the " at the end of the line so that the Department has some recourse if the voluntary reporting is not of sufficient volume to serve the intended public purposes
20	76	18-20	Delete the sentence that requires the dept. to obtain approval from the board for the amount of assessments to make it consistent with other provisions that delete this board
24	90	24	Effective dates – change the date to January 1, 2007 instead of July 1, 2007 to sunset the Board on Health Care Information, IRB and Interagency Coordinating Council

## Kennedy, Debora

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**From:** Wood, Susan  
**Sent:** Thursday, September 08, 2005 12:29 PM  
**To:** Johnston, James; Kennedy, Debora; Hough, Michelle; Sweet, Richard; Nankivil Bennett, Nancy; Nelson, Helene; Welsh, Diane  
**Subject:** summary of the proposed legislation - LRB3240  
**Attachments:** summary of LRB 3240 sept 8.doc



summary of LRB  
3240 sept 8.doc...

here is an updated summary of the proposed legislation reflecting today's discussion.  
any questions, please let me know  
thanks,  
Susan

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Susan Wood  
Director, Bureau of Health Information and Policy Division of Public Health Wisconsin  
Department of Health and Family Services  
608-261-4958



9/8/05 Summary of LRB3240: Underheim Proposal for Health Care Quality  
Improvement and POVD Replacement System

The purpose of this legislation is to improve the public reporting and accountability for health care costs and quality by implementing a strong, publicly accountable private sector replacement for POVD. This summary provides a description of the changes proposed and provides some background to explain the proposed changes.

This bill authorizes replacement of the Physician Office Visit Data system and provides requirements for the new system. It authorizes DHFS/ETF to provide public funding for partial support of this system. This is to be done by means of a contract with a private entity to develop and evolve a centralized data repository that will support the voluntary collection and public reporting of information regarding the cost and efficiency of health care across multiple systems (hospital, physician office, pharmacy, and lab). Data will be derived from administrative (claims payment) sources.

The bill does not change the current requirement for the state to contract with an entity (the Wisconsin Hospital Association – WHA - is the contractor) to collect, analyze and disseminate health care information from hospitals and ambulatory surgical centers. The new contract with a data organization will be in addition to the current activities performed by WHA.

This new information is intended to: (a) enable consumers and health care purchasers to make wise health care choices based on value - both cost and quality, and (b) foster continual improvement in health care delivery to achieve better patient outcomes in a more efficient manner. This information is intended to support wise health care choices and purchasing, and continual improvement in efficiency of health care delivery.

#### Specific provisions of the legislation

##### 1. Physician Office Visit System (POVD) and related boards

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

##### 2. Public funding

The development and operation of the system will be accomplished as a joint public-private partnership. DHFS and ETF will help support development and operation of the system in 2005-2007. Public funding as follows will be provided contingent on the completion of specific deliverables in the contract:

- Unencumbered physician assessment revenue: DHFS will continue to collect a \$70 annual fee from physicians to support the POVVD system and related costs, with a portion of the funds used to support a contract with an entity to develop the new system.
- ETF Contribution: ETF will have the authority to use up to \$150,000/year of trust funds for this purpose as needed to make the system feasible consistent with legislative objectives.
- Possible Medical Assistance-Federal Contribution: The legislation will permit DHFS to claim federal MA funds if the system is planned to allow later inclusion of MA claims data (using POVVD revenues as the MA-federal match).

### 3. Contract contingency

The legislation is constructed with the expectation that the public-private partnership will succeed based upon voluntary participation of health care entities. However, in order to assure that the intended outcomes are achieved, if the Secretaries of ETF and DHFS conclude that a private sector contractor can not comply with the state's requirements, the legislation provides that the Secretary of DHFS "shall collect" data from health care providers, insurers or other entities that maintain or have access to health care claims information as is administratively efficient and effective to achieve the legislative purposes.

### 4. Patient confidentiality and HIPPA

The legislation maintains the current protections for patient confidentiality while permitting specific data exchange to achieve the purposes of the system for meaningful public reporting of health care costs and efficiency. The contract with the entity will also assure that the system/data repository will adhere to federal and state privacy and security standards concerning both data inputs and data outputs.

The legislation also resolves a concern of the current contractor for hospital data about data analysis functions that rely on the creation of calculated variables from the patient-identifiable data. This is done by adding a definition of "calculated variable" and then creating a new definition section in Chapter 153 (1) (b) 1m. to read as follows: "Patient-identifiable data" does not include calculated variables that are derived from patient-identifiable data and the dissemination of which does not permit patient identification.

### 5. Description of the Data Organization that will operate the Data Repository

The organization is defined as a nonstick corporation organized under Ch. 181 that is described in section 501 (c) (3) of the Internal Revenue Code, is exempt from federal income tax under this code and does all of the following:

- Represents health care consumers, insurers, administrators and health care providers
- Is formed specifically to do all of the following:
  - Create a centralized claims repository for this state with credible and useful data elements for the purposes of quality improvement, health care provider comparisons, ready understandability and consumer decision-making
  - Use the information it collects to develop and disseminate a unified public report on health care quality, safety and efficiency

In order to qualify for a contract with the state for these purposes, the organization must include as voting members of the board of directors the secretary of the department of health and family services and the secretary of the department of employee trust funds or their designees, and provide matching funds, which may include in-kind contributions, as required by the contract.

#### 6. Scope of the new Data Repository

The legislation requires that the new centralized healthcare data repository will have sufficient volume to make it possible to track, analyze and report on cost and efficiency of entire episodes of patient care across multiple systems (hospital, physician office, pharmacy, and lab). Data will be derived from administrative (claims payment) sources. The goal is a statewide system. ETF and DHFS will jointly establish contractual standards for the comprehensiveness of reporting necessary to assure a sufficiently robust data source with enough volume of claims information for credible and useful comparisons across health care organizations to serve the intended public purposes.

A central entity will manage the repository with transparency of framework, process and rules of data aggregation, and standardized, uniform rules associated with data collection and use.

The system must provide for a reasonable representation of actual costs paid. (Note: it is understood that this may not be actual payments, but a proxy methodology that adjusts billing amounts, in order to balance public information needs with proprietary information of insurance plans and others.)

The data repository will be the source for publishing a unified report to the public with meaningful data on health care efficiency and performance, for various types of care in various health care settings. The entity under contract to the state will deliver a unified public/consumer report on health care performance in terms of cost and efficiency that uses nationally recognized or contractually agreed standards of provider measurement.

## 7. Nature of the public – private partnership

The data repository will be developed by an independent, private non-profit organization that represents a public-private partnership of health care purchasers, insurance organizations, and health care providers. In order for the state to contract with this entity, its Board of Directors must include the Secretary of ETF and the Secretary of DHFS or their designees.

The data repository will be managed by a private sector third party vendor responsible to develop the architecture and collect, edit, store and safeguard the data.

The State through the Secretaries of ETF & DHFS will foster the creation of the organization, the data repository, and public reporting by:

- providing funding from ETF and DHFS appropriations, subject to ETF/DHFS determinations that the statutory purposes and parameters of the project have been met;
- providing data for the repository from ETF and DHFS as health care purchasers;
- collaborating as members of the Board of Directors to foster ongoing improvement in the availability of information on health quality and safety, health outcomes, and quality;
- using data jointly with other health care purchasers to purchase health care for quality and efficiency; and
- supporting projects of continual improvement in health care quality and efficiency.

## 8. Summary of the requirements for public oversight of the entity and project accountability

- a. DHFS and ETF contract for the replacement system and the contract includes commitments to meet the legislatively established outcome expectations and other system characteristics.
- b. DHFS and ETF provide in the contract that the release of public funds for the system is based on contractor performance.
- c. DHFS and ETF Secretaries or designees are members of the non-profit organization's Board of Directors.
- d. Like all public contracts and funding arrangements, these are subject to legislative oversight including review by the Legislative Audit Bureau.
- e. The legislation provides that if the replacement system is not developed according to the established legislative expectations, as determined jointly by ETF and DHFS, the DHFS Secretary "shall collect" this data.

DHFS suggested changes to LRB-3240/P2  
9/1/05

Page	Section	Line numbers	Changes
3	10	22	Add "up to \$150,000 annually" at the end of the sentence to provide flexibility to ETF
4	17	22	After the word health care provider add the phrase "or any other entity that maintains or has access to health care claims information" – so that the Department has the authority to collect this information if necessary from self-funded employers and third party administrators
5	19	13	Change shall to may so that the reporting by the health care sector is voluntary not mandatory
5	19	16-17	Delete phrase "other than information concerning hospitals and ASCs" because the new entity that will collect from health insurance organizations needs authority to collect information about all health care transactions
6	20	2-3	Change word shall to may so that it reads "ETF may expend up to \$150,000" – to provide flexibility to ETF
6	20	4	Change shall expend to "may expend" – to provide flexibility to DHFS
6	20	6	Add at the end of the sentence "or to perform these services" because if DHFS is required to take over these functions will need to use these funds to support them
6	22	25	Delete exception for information about services provided by hospitals and ASCs because the new entity that will collect from health insurance organizations needs authority to collect information about all health care transactions
8	26	5	Delete these words: "shall study and based on the results of the study" to provide more flexibility to DHFS
9	28	11-12	Delete the phrase "other than information concerning services provided by hospitals and ASCs" because the new entity that will collect from health insurance organizations needs authority to collect, analyze and report information about all health care transactions
14	49	3-7	Reword to say that that DHFS will cease collecting <u>physician office visit data</u>
14	49	13	Add the phrase "or the lack of sufficient representation of statewide participation under the terms of the contract" just before the words "under the " at the end of the line so that the Department has some recourse if the voluntary reporting is not of sufficient volume to serve the intended public purposes
20	76	18-20	Delete the sentence that requires the dept. to obtain approval from the board for the amount of assessments to make it consistent with other provisions that delete this board
24	90	24	Effective dates – change the date to January 1, 2007 instead of July 1, 2007 to sunset the Board on Health Care Information, IRB and Interagency Coordinating Council

Prepared by Susan Wood – DHFS/DPH

requires \$1 expend.

? This is not a ERISA problem see also 153.05(3)(c)

requires 0 expend

RP

(see Notes)

no; is done on next pg. when Bd. is elim.

shd also affect p. 25, 2.12 if done

Not necessary. sec. 153.05(1)(c) + 153.455 (4)

DAK

Gr. pt. - shd say "or, if s. 153.455 (4) applies, to perform these services"

? Don't DHFS to cease collecting all data?

rests on concept of entirely vol. reporting

- ✓ (9) RP; 153.05(6r)
- ✓ (10) ok
- ✓ (11) 153.455(1) Make unstat; refer to ceasing authority to collect PVID under rules
- ✓ (12) no

p. 14, l. 11 - delete dissatisfied - add "not in compliance w/ K", ~~secy may~~ contract ceases - DHSB wd. collect, + may K w/ organiz. to process

- ✓ (12) ok - see promis
- ✓ (13) no
- ✓ (14) all

? (15) Independent Rev. Bd - Rep. Underheim - concerned that restrictions are so tight can't get meaningful data

Response to D-NOTE # 7 : Underlying data is owned by insurer; material collected + processed is owned by data organization - unnecessary to draft

7/8/05 Rep. Linderheim, Michelle Hough, Susan Wood,  
Nancy Bennett, Heleene Nelson, Jim Johnston,  
Deane Welsh

General:

① Voluntary v. mandatory reporting - Rep. Linderheim:  
ok to have vol. if DHFS can take over if  
doesn't work

Wis Health Info. Org. has been formed -  
Med. Society will join

② Sady Nelson: John Toussaint, - concerned abt  
complete episode of care: necessary to collect  
hospital data; also concerned re mandatory

③ Nancy: 8/31/05: Insurers have put in <sup>To be/year/organz</sup> \$50,000  
in Health Care, BC/BS, Numana, <sup>WPS</sup> etc. + collaboratives  
Univ. B.S. Group, etc. participating

DHFS suggested changes

- ✓ ① p. 6, ll 2-4 - <sup>Do not add to p. 3, l. 22</sup> may expend up to \$150,000; DHFS may expend
- ✓ ② no
- ✓ ③ Make voluntary, ~~not~~ (no ERISA bec. (not mandating specific benefit or policy); (DHFS, if 153.455(4) applies shall collect from all)
- ✓ ④ ok
- ✓ ⑤ ok
- ✓ ⑥ ok
- ✓ ⑦ ok
- ✓ ⑧ ok ✓ p. 6, l. 13 - elim ref. to data sales - say matching funds as determined in the K
- ~~⑨~~

## Kennedy, Debora

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**From:** Wood, Susan  
**Sent:** Friday, September 09, 2005 11:19 AM  
**To:** Kennedy, Debora  
**Subject:** HFS 120

hi  
the section that covers the Physician Office Visit System is HFS 120.14(1)

I will be around the rest of the day if you would like to discuss - 261-4958

thanks!

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Susan Wood  
Director, Bureau of Health Information and Policy Division of Public Health Wisconsin  
Department of Health and Family Services  
608-261-4958



**Northrop, Lori**

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**From:** Hough, Michelle  
**Sent:** Wednesday, December 21, 2005 9:52 AM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-3240/2 Topic: Health care information changes

It has been requested by <Hough, Michelle> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-3240/2 Topic: Health care information changes

## Northrop, Lori

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**To:** Thorson, Randy  
**Subject:** LRB 05-3240/2 attached as requested

**Attachments:** 05-3240/2



05-32402.pdf

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