



D-NOTE

Stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

CAV
X-refs ✓

REGENERATES

1 AN ACT *to repeal* 15.07 (2) (b), 15.07 (3) (bm) 1., 15.107 (7), 15.195 (6), 15.195 (9),
2 16.03, 153.01 (2), 153.05 (14), 153.07, 153.45 (5), 153.45 (6), 153.67, 153.75 (1)
3 (a), (b), (f), (h), (m), (n), (o), (p), (r), (t), and (u), 153.75 (2) and 153.76; *to*
4 *renumber* 153.01 (1) and 153.22 (1); *to renumber and amend* 20.435 (4) (hg)
5 and 20.435 (4) (hi); *to amend* 20.435 (1) (hg), 20.515 (1) (ut), 153.01 (5m),
6 153.05 (1) (a), 153.05 (1) (b), 153.05 (3) (a), 153.05 (5) (a), 153.05 (6m), 153.05
7 (6r), 153.05 (8) (a), 153.05 (9) (a), 153.05 (12) (a), 153.05 (13), 153.10 (1), 153.45
8 (1) (intro.), 153.45 (1) (b) (intro.), 153.45 (1) (b) 9., 153.45 (1) (b) 10., 153.45 (1)
9 (b) 11., 153.45 (1) (c) (intro.), 153.45 (1m), 153.45 (3), 153.50 (1) (b) 2. (intro.),
10 153.50 (3) (intro.), 153.50 (3) (a), 153.50 (3) (b) (intro.), 153.50 (3) (d), 153.50
11 (3m), 153.50 (4) (a) (intro.), 153.50 (4) (a) 1. a., 153.50 (4) (a) 1. b., 153.50 (4) (a)
12 2., 153.50 (4) (a) 3., 153.50 (4) (b), 153.50 (5) (a) (intro.), 153.50 (5) (b) (intro.),
13 153.50 (5) (b) 1., 153.50 (6) (a), 153.50 (6) (b), 153.50 (6) (c) (intro.), 153.50 (6)
14 (d), 153.50 (6) (e) (intro.), 153.60 (title), 153.60 (1), 153.60 (1), 153.60 (1), 153.60
15 (3), 153.65 (1), 153.75 (1) (intro.), 153.75 (2) (intro.), 153.85, 153.90 (1) and

, the interagency coordinating council,

1 153.90 (2); and **to create** 153.01 (1d), 153.01 (2g), 153.01 (3g), 153.05 (1) (c),
 2 153.05 (2r), 153.05 (3) (c), 153.05 (5) (c), 153.05 (8) (c), 153.05 (9) (c), 153.05 (12)
 3 (c), 153.45 (intro.), 153.455, 153.50 (intro.), 153.50 (1) (b) 1m., 153.50 (4) (a) 1.
 4 c., 153.50 (4) (c) and 153.60 (intro.) of the statutes; **relating to:** requiring a
 5 contract with a data organization for the collection, analysis, and dissemination
 6 of health care claims information, eliminating the board on health care
 7 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:

8 **SECTION 1.** 15.07 (2) (b) of the statutes is repealed.

9 **SECTION 2.** 15.07 (3) (bm) 1. of the statutes is repealed.

10 **SECTION 3.** 15.107 (7) of the statutes is repealed.

11 **SECTION 4.** 15.195 (6) of the statutes is repealed.

12 **SECTION 5.** 15.195 (9) of the statutes is repealed.

13 **SECTION 6.** 16.03 of the statutes is repealed.

MATERIAL from P. 3, ll. 3 to 10, goes HERE

14 **SECTION 7.** 20.435 (1) (hg) of the statutes, as affected by 2005 Wisconsin Act ...

15 (this act), is amended to read:

CREATE AUTOREFX

16 20.435 (1) (hg) *General program operations; health care information.* The
 17 amounts in the schedule to fund the activities of the department of health and family
 18 services and the board on health care information under ch. 153 and to contract with
 19 the data organization under s. 153.05 (2r). The contract fees paid under s. 153.05

1 (6m) and assessments paid under s. 153.60 shall be credited to this appropriation
2 account.

3 → SECTION 8. 20.435 (4) (hg) of the statutes is ~~renumbered 20.435 (1) (hg)~~ and
4 amended to read:

5 20.435 (1) (hg) *General program operations; health care information.* The
6 amounts in the schedule to fund the activities of the department of health and family
7 services and the board on health care information under ch. 153 and to contract with
8 the data organization under s. 153.05 (2r). The contract fees paid under s. 153.05
9 (6m) and assessments paid under s. 153.60 shall be credited to this appropriation ✓
10 account.

11 → SECTION 9. 20.435 (4) (hi) of the statutes is ~~renumbered 20.435 (1) (hi)~~ and
12 amended to read:

13 20.435 (1) (hi) *Compilations and special reports; health care information.* All
14 moneys received from user fees imposed under s. 153.65 (1) for the purpose of
15 financing the costs of the department of health and family services of producing
16 special data compilations or special reports under s. 153.65 and to contract with the
17 data organization under s. 153.05 (2r).

18 SECTION 10. 20.515 (1) (ut) of the statutes is amended to read:

19 20.515 (1) (ut) *Health insurance data collection and analysis contracts.* From
20 the public employee trust fund, the amounts in the schedule for the costs of
21 contracting for insurance data collection and analysis services under s. ss. 40.03 (6)
22 (j) and 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).

fix component

MDVE to p. 2, after line 13

fix component

as affected by 2005 Wisconsin Act 25,

as affected by 2005 Wisconsin Act 25,

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 does all of the following:

10 (a) Represents health care consumers, insurers, administrators, and health
11 care providers.

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

13 1. Create a centralized claims repository for this state with credible and useful
14 data elements for the purposes of quality improvement, health care provider
15 performance comparisons, ready understandability, and consumer decision making.

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

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

19 153.01 (5m) “Insurer” has the meaning given under s. ~~600.03 (27)~~ 632.745 (15).

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

21 153.05 (1) (a) ~~The Subject to s. 153.455,~~ the department shall collect from
22 health care providers other than hospitals and ambulatory surgery centers, analyze,
23 and disseminate health care information, as adjusted for case mix and severity, in
24 language that is understandable to laypersons.

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

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

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

12 153.05 (1) (c) Subject to s. 153.455, the data organization under contract under
 13 sub. (2r) ~~shall~~ ^{may} collect from insurers ~~that are not self-insurers~~ and ~~from~~ administrators
 14 ~~of insured plans and self-insured governmental plans, and may collect from self~~
 15 ~~insurers and administrators of self-insured nongovernmental plans, health care~~
 16 ~~claims information other than information concerning services provided by hospitals~~
 17 ~~and ambulatory surgery centers.~~ The data organization shall analyze and publicly
 18 report the health care claims information with respect to the cost, quality, and
 19 effectiveness of health care, in language that is understandable by lay persons, and
 20 shall develop and maintain a centralized data repository. The data organization
 21 shall provide to the department, without charge, health care claims information
 22 collected by and reports produced by the data organization that the department
 23 requests. If s. 153.455 (4) applies, the department shall perform ^{other} the duties specified
 24 for the data organization under this paragraph.

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

health care claims information

or contract for the performance of

(1) to (3)

collect health care claims information from insurers and administrators and shall

of health and family services

for the department of health and family services

1 153.05 (2r) Notwithstanding s. 16.75 (1), (2), and (3m), from the appropriation
 2 account under s. 20.515 (1) (ut) the department of employee trust funds shall expend
 3 \$150,000, and from the appropriation accounts under s. 20.435 (1) (hg) and (hi) the
 4 department shall expend moneys, to contract jointly with a data organization to
 5 perform services under this chapter that are specified for the data organization
 6 under sub. (1) (c). As condition of the contract under this subsection, all of the
 7 following apply:

or, if s. 153.455 (4) applies, to perform or contract for the performance of these services

8 (a) At least during the period of the contract, the data organization shall
 9 include as voting members of the board of directors of the data organization the
 10 secretary of health and family services and the secretary of employee trust funds, or
 11 their designees.

12 (b) The data organization shall provide matching funds, which may include
 13 ~~funds from data sales, or in-kind contributions, or both, that equal at least 100~~
 14 ~~percent of the amount of the contract.~~ as specified in

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

or modification of the contract

17 SECTION 21. 153.05 (3) (a) of the statutes is amended to read:

18 153.05 (3) (a) Upon request of the department for health care information
 19 relating to health care providers other than hospitals and ambulatory surgery
 20 centers and, if s. 153.455 (4) applies, for health care claims information as specified
 21 in sub. (1) (c), state agencies shall provide that health care information to the
 22 department for use in preparing reports under this chapter.

23 SECTION 22. 153.05 (3) (c) of the statutes is created to read:

24 153.05 (3) (c) Subject to sub. (13) and ~~s. 153.455~~, upon request of the data
 25 organization under contract under sub. (2r) for health care claims information, other

, except that if s. 153.455 (4) applies, insurers and administrators shall provide the health care claims information as required by the department

- 1 ~~than information concerning services provided by hospitals and ambulatory surgery~~
- 2 ~~centers, insurers that are not self-insurers and administrators of insured plans and~~
- 3 ~~self-insured governmental plans shall, and self-insurers and administrators of~~
- 4 ~~self-insured nongovernmental plans~~ may provide the health care claims
- 5 information to the data organization for use in preparing reports and developing and
- 6 maintaining a central data repository under this chapter.

7 SECTION 23. 153.05 (5) (a) of the statutes is amended to read:

8 153.05 (5) (a) Unless sub. (13) applies, subject to s. 153.455, the department

9 may require health care providers other than hospitals and ambulatory surgery

10 centers to submit to the department *health care* information specified by rule under s. 153.75 (1)

11 (n) for the preparation of reports, plans, and recommendations in the form specified

12 by the department by rule.

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

14 153.05 (5) (c) Unless sub. (13) applies, subject to s. 153.455, the data

15 organization under contract under sub. (2r) *may request* shall require insurers *(1) to (3)* that are not self

16 insurers and administrators of insured plans and self-insured governmental plans,

17 and shall request self-insurers and administrators of self-insured nongovernmental

18 plans, to submit to the data organization health care claims information for the

19 preparation of reports, plans, and recommendations in the form specified by the data

20 organization. If s. 153.455 (4) applies, the department shall *perform the duties*

21 ~~specified for the data organization under this paragraph.~~ *require submission of the health care claims information*

22 SECTION 25. 153.05 (6m) of the statutes is amended to read:

23 153.05 (6m) The department may contract with the group insurance board for

24 the provision of data collection and analysis services related to health maintenance

25 organizations and insurance companies that provide health insurance for state

from insurers and administrators in the form specified by the department

fix component

1 employees. The department shall establish contract fees for the provision of the
 2 services. All moneys collected under this subsection shall be credited to the
 3 appropriation under s. 20.435 (4) (1) (hg).

4 → SECTION 26. 153.05 (6r) of the statutes is ~~amended to read~~ repealed.

5 153.05 (6r) The department shall study and, based on the results of the study,
 6 may develop and implement a voluntary system of health care plan reporting that
 7 enables purchasers and consumers to assess the performance of health care plans
 8 and the health care providers, other than hospitals and ambulatory surgery centers,
 9 that are employed or reimbursed by the health care plans. The department shall
 10 undertake the study and any development and implementation in cooperation with
 11 private health care purchasers, the board, the department of employee trust funds,
 12 the office of the commissioner of insurance, the interagency coordinating council
 13 created under s. 15.107 (7), major associations of health care providers, health care
 14 plans and consumers. If implemented, the department shall operate the system in
 15 a manner so as to enable purchasers, consumers, the public, the governor and,
 16 legislators, and the data organization under contract under sub. (2r) to assess the
 17 performance of health care plans and health care providers other than hospitals and
 18 ambulatory surgery centers.

19 SECTION 27. 153.05 (8) (a) of the statutes is amended to read:

20 153.05 (8) (a) Unless sub. (13) applies, subject to s. 153.455, the department
 21 shall collect, analyze and disseminate, in language that is understandable to
 22 laypersons, claims information and other health care information, as adjusted for
 23 case mix and severity, under the provisions of this chapter, ~~as determined by rules~~
 24 ~~promulgated by the department~~, from health care providers, other than hospitals
 25 and ambulatory surgery centers, specified by rules promulgated by the department.

1 Data from those health care providers may be obtained through sampling techniques
2 in lieu of collection of data on all patient encounters and data collection procedures
3 shall minimize unnecessary duplication and administrative burdens. If the
4 department collects from health care plans data that is specific to health care
5 providers other than hospitals and ambulatory surgery centers, the department
6 shall attempt to avoid collecting the same data from those health care providers.

7 **SECTION 28.** 153.05 (8) (c) of the statutes is created to read:

(1) to (3)

8 153.05 (8) (c) Unless sub. (13) applies, subject to s. 153.455, the data
9 organization under contract under sub. (2r) ~~shall~~ ^{may} collect, analyze, and publicly
10 report, in language that is understandable to laypersons, health care claims
11 information, ~~other than information concerning services provided by hospitals or~~
12 ~~ambulatory surgery centers, as adjusted for case mix and severity, from insurers that~~
13 ~~are not self insurers and administrators of insured plans and self-insured~~
14 ~~governmental plans, and may collect, analyze, and publicly report this information~~
15 ~~from self insurers and administrators of self-insured nongovernmental plans.~~ Data
16 from these sources may be obtained through sampling techniques in lieu of collection
17 of data on all insureds, and data collection procedures shall minimize unnecessary
18 duplication and administrative burdens. If s. 153.455 (4) applies, the department
19 shall perform ^{or contract for the performance of} the duties specified for the data organization under this paragraph.

20 **SECTION 29.** 153.05 (9) (a) of the statutes is amended to read:

21 153.05 (9) (a) The Subject to s. 153.455, the department shall provide
22 orientation and training to health care providers, other than hospitals and
23 ambulatory surgery centers, who submit data under this chapter, to explain the
24 process of data collection and analysis and the procedures for data verification,
25 comment, interpretation, and release.

shall collect health care claims information from insurers and administrators and

(1) to (3)

1 SECTION 30. 153.05 (9) (c) of the statutes is created to read:

2 153.05 (9) (c) Subject to s. 153.455, the data organization under contract under
3 sub. (2r) shall provide orientation and training to insurers ~~that are not self insurers,~~
4 ~~administrators of insured plans and self-insured governmental plans, self insurers,~~
5 and administrators of ~~self-insured nongovernmental plans~~ that submit data under
6 this chapter, to explain the process of data collection and analysis and the procedures
7 for data verification, comment, interpretation, and release. If s. 153.455 (4) applies,
8 the department shall perform the duties specified for the data organization under
9 this paragraph. *or contract for the performance of*

10 SECTION 31. 153.05 (12) (a) of the statutes is amended to read:

11 153.05 (12) (a) The Subject to s. 153.455, the department shall, to the extent
12 possible and upon request, assist members of the public in interpreting data in
13 health care information disseminated by the department. *(1) to (3)*

14 SECTION 32. 153.05 (12) (c) of the statutes is created to read:

15 153.05 (12) (c) The data organization under contract under sub. (2r) shall,
16 subject to s. 153.455, to the extent possible and upon request, assist members of the
17 public in interpreting data in health care information disseminated by the data
18 organization. If s. 153.455 (4) applies, the department shall perform the duties
19 specified for the data organization under this paragraph. *or contract for the performance of*

20 SECTION 33. 153.05 (13) of the statutes is amended to read:

21 153.05 (13) The department may waive the requirement under sub. (1), (3) (c),
22 (5), or (8) for a health care provider, ~~who insurer that is not a self insurer,~~
23 ~~administrator of an insured plan or self-insured governmental plan, self insurer, or~~
24 ~~administrator of a self-insured nongovernmental plan~~ that requests the waiver and
25 presents evidence to the department that the requirement under sub. (1), (3) (c), (5),

1 or (8) is burdensome, under standards established by the department by rule. The
2 department shall develop a form for use by a health care provider, insurer, or
3 administrator in submitting a request under this subsection.

4 ~~SECTION 34. 153.05 (14) of the statutes, as created by 2005 Wisconsin Act ...~~
5 ~~(Assembly Bill 100), is repealed.~~

6 SECTION 35. 153.07 of the statutes is repealed.

7 SECTION 36. 153.10 (1) of the statutes is amended to read:

8 153.10 (1) ~~The~~ Subject to s. 153.455, the department shall prepare, and submit
9 to the governor and the chief clerk of each house of the legislature for distribution
10 to the legislature under s. 13.172 (2), standard reports concerning health care
11 providers other than hospitals and ambulatory surgery centers that the department
12 prepares and shall collect information necessary for preparation of those reports. If
13 s. 153.455 (4) applies, the department shall include in the reports under this
14 subsection reports concerning health care claims information the department
15 collects under s. 153.05.

16 SECTION 37. 153.22 (1) of the statutes is renumbered 153.22.

17 SECTION 38. 153.45 (intro.) of the statutes is created to read:

18 153.45 (intro.) Subject to s. 153.455:

19 SECTION 39. 153.45 (1) (intro.) of the statutes is amended to read:

20 153.45 (1) (intro.) After completion of data verification, comment and review
21 procedures specified by the department ~~by rule~~, the department shall release data,
22 together with comments, if any, in the following forms:

23 SECTION 40. 153.45 (1) (b) (intro.) of the statutes is amended to read:

24 153.45 (1) (b) (intro.) For information that is submitted by health care
25 providers other than hospitals or ambulatory surgery centers, public use data files

1 that do not permit the identification of specific patients, employers, or health care
2 providers, ~~as defined by rules promulgated by the department.~~ The identification of
3 patients, employers, or health care providers shall be protected by all necessary
4 means, including the deletion of patient identifiers; the use of calculated variables
5 and aggregated variables; the specification of counties as to residence, rather than
6 zip codes; the use of 5-year categories for age, rather than exact age; not releasing
7 information concerning a patient's race, ethnicity, or dates of admission, discharge,
8 procedures, or visits; and masking sensitive diagnoses and procedures by use of
9 larger diagnostic and procedure categories. Public use data files under this
10 paragraph may include only the following:

11 **SECTION 41.** 153.45 (1) (b) 9. of the statutes is amended to read:

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

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

18 153.45 (1) (b) 10. Calendar quarters of service, except if the department
19 specifies by rule that the number of data elements included in the public use data file
20 is too small to enable protection of patient confidentiality.

21 **SECTION 43.** 153.45 (1) (b) 11. of the statutes is amended to read:

22 153.45 (1) (b) 11. Information other than patient-identifiable data, as defined
23 in s. 153.50 (1) (b), as approved by the ~~independent review board~~ department.

24 **SECTION 44.** 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:

13 **SECTION 45.** 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.

17 **SECTION 46.** 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.~~

23 **SECTION 47.** 153.45 (5) of the statutes is repealed.

24 **SECTION 48.** 153.45 (6) of the statutes is repealed.

25 **SECTION 49.** 153.455 of the statutes is created to read:

*under s. HES
120.14 (1), 2005 Wis. Adm. Code*

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

*of
physicians*

*shall cease collecting, analyzing, and
disseminating*

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

*or determine that there
is insufficient
statewide participation
under
the
requirements
of the
contract,*

(3) Beginning on the date, if any, that the secretary of health and family
10 services and the secretary of employee trust funds determine that ~~they are~~
11 ~~dissatisfied with~~ the performance of the collection and public reporting of
12 information regarding the cost, quality, and effectiveness of health care, including
13 the development and maintenance of a centralized data repository, ~~under the~~
14 ~~contract under s. 153.05 (2r), the data organization under the contract under s.~~
15 ~~153.05 (2r) may no longer collect, analyze, or disseminate health care claims~~
16 ~~information as specified in the contract, and the secretaries may contract with~~
17 ~~another organization.~~

*modify the
contract*

*the department may comply
with the requirements under
this subsection*

*modify or
terminate the
contract*

(4) If sub. (3) applies and the secretaries do not ~~contract with another~~
18 ~~organization,~~ the department shall ~~undertake~~ collection, ~~analysis,~~ and
19 ~~dissemination~~ of health care information and health care claims information under
20 this chapter and, notwithstanding s. 227.10, ~~may do so~~ without promulgating rules.

SECTION 50. 153.50 (intro.) of the statutes is created to read:

*shall analyze
and disseminate*

153.50 (intro.) Subject to s. 153.455:

the performance of

or contract for

*analysis and
dissemination of
the health care
information and health
care
claims
information*

SECTION 51. 153.50 (1) (b) 1m. of the statutes is created to read:

*the data organization is not in compliance
with the contract under s. 153.05 (2r) with respect to
claims
information*

1 153.50 (1) (b) 1m. “Patient-identifiable data” does not include calculated
2 variables that are derived from patient-identifiable data and the dissemination of
3 which does not permit patient identification.

4 **SECTION 52.** 153.50 (1) (b) 2. (intro.) of the statutes is amended to read:

5 153.50 (1) (b) 2. (intro.) “Patient-identifiable data”, for information submitted
6 by health care providers who are not hospitals or ambulatory surgery centers and by
7 insurers and administrators, means all of the following data elements:

8 **SECTION 53.** 153.50 (3) (intro.) of the statutes is amended to read:

9 153.50 (3) MEASURES TO ENSURE PROTECTION OF PATIENT IDENTITY. (intro.) To
10 ensure that the identity of patients is protected when information obtained by the
11 department ~~or~~, by the entity under contract under s. 153.05 (2m) (a), or by the data
12 organization under contract under s. 153.05 (2r) is disseminated, the department
13 ~~and~~, the entity, and the data organization shall do all of the following:

14 **SECTION 54.** 153.50 (3) (a) of the statutes is amended to read:

15 153.50 (3) (a) Aggregate any data element category containing small numbers.
16 The department, in so doing, shall use procedures that are developed by the
17 department ~~and approved by the board~~ and that follow commonly accepted
18 statistical methodology.

19 **SECTION 55.** 153.50 (3) (b) (intro.) of the statutes is amended to read:

20 153.50 (3) (b) (intro.) Remove and destroy all of the following data elements on
21 the uniform patient billing forms that are received by the department ~~or by~~, the
22 entity, or the data organization under the requirements of this chapter:

23 **SECTION 56.** 153.50 (3) (d) of the statutes is amended to read:

1 153.50 (3) (d) Require that a purchaser of data under this chapter sign and have
2 notarized the data use agreement of the department ~~or of~~, the entity specified in par.
3 (e), or the data organization, as applicable.

4 **SECTION 57.** 153.50 (3m) of the statutes is amended to read:

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

12 **SECTION 58.** 153.50 (4) (a) (intro.) of the statutes is amended to read:

13 153.50 (4) (a) (intro.) Except as specified in par. pars. (b) and (c), under the
14 procedures specified in sub. (5), release of patient-identifiable data may be made
15 only to any of the following:

16 **SECTION 59.** 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.

21 **SECTION 60.** 153.50 (4) (a) 1. b. of the statutes is amended to read:

22 153.50 (4) (a) 1. b. An agent of the entity under contract under s. 153.05 (2m)
23 (a) who is responsible for the patient-identifiable data of the entity, in order to store
24 the data and ensure the accuracy of the information in the database of the entity or
25 to create a calculated variable that is derived from the patient-identifiable data.

1 **SECTION 61.** 153.50 (4) (a) 1. c. of the statutes is created to read:

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

7 **SECTION 62.** 153.50 (4) (a) 2. of the statutes is amended to read:

8 153.50 (4) (a) 2. A health care provider that is not a hospital or ambulatory
9 surgery center or the agent of such a health care provider, to ensure the accuracy of
10 the information in the database of the department or the data organization under
11 contract under s. 153.05 (2r), or a health care provider that is a hospital or
12 ambulatory surgery center or the agent of such a health care provider, to ensure the
13 accuracy of the information in the database of the entity under contract under s.
14 153.05 (2m) (a).

15 **SECTION 63.** 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
19 under s. 153.05 (2r), to eliminate the need for duplicative databases.

20 **SECTION 64.** 153.50 (4) (b) of the statutes is amended to read:

21 153.50 (4) (b) Of information submitted by health care providers that are not
22 hospitals or ambulatory surgery centers, patient-identifiable data that contain a
23 patient's date of birth may be released under par. (a) only under circumstances as
24 specified by rule by the department.

25 **SECTION 65.** 153.50 (4) (c) of the statutes is created to read:

1 153.50 (4) (c) The data organization under contract under s. 153.05 (2r) may
2 share health care claims data collected by the data organization if the sharing is in
3 compliance with 42 USC 1320d–2 and 1320d–4 and 45 CFR 164.

4 **SECTION 66.** 153.50 (5) (a) (intro.) of the statutes is amended to read:

5 153.50 (5) (a) (intro.) The department ~~or~~, an entity that is under contract under
6 s. 153.05 (2m) (a), or a data organization that is under contract under s. 153.05 (2r)
7 may not release or provide access to patient–identifiable data to a person authorized
8 under sub. (4) (a) unless the authorized person requests the department ~~or~~, entity,
9 or data organization, in writing, to release the patient–identifiable data. The request
10 shall include all of the following:

11 **SECTION 67.** 153.50 (5) (b) (intro.) of the statutes is amended to read:

12 153.50 (5) (b) (intro.) Upon receipt of a request under par. (a), the department
13 ~~or~~, entity ~~under contract under s. 153.05 (2m) (a)~~ , or data organization, whichever
14 is ~~appropriate~~ applicable, shall, as soon as practicable, comply with the request or
15 notify the requester, in writing, of all of the following:

16 **SECTION 68.** 153.50 (5) (b) 1. of the statutes is amended to read:

17 153.50 (5) (b) 1. That the department ~~or~~, entity, or data organization, as
18 applicable, is denying the request in whole or in part.

19 **SECTION 69.** 153.50 (6) (a) of the statutes is amended to read:

20 153.50 (6) (a) The department ~~or~~, entity under contract under s. 153.05 (2m)
21 (a), or data organization under contract under s. 153.05 (2r) may not require a health
22 care provider submitting health care information under this chapter to include the
23 patient’s name, street address or social security number.

24 **SECTION 70.** 153.50 (6) (b) of the statutes is amended to read:

1 153.50 (6) (b) The department or data organization under contract under s.
2 153.05 (2r) may not require under this chapter a health care provider that is not a
3 hospital or ambulatory surgery center or an insurer or administrator from which
4 health care claims information is collected under s. 153.05 to submit uniform patient
5 billing forms.

6 **SECTION 71.** 153.50 (6) (c) (intro.) of the statutes is amended to read:

7 153.50 (6) (c) (intro.) A health care provider that is not a hospital or ambulatory
8 surgery center and an insurer or administrator from which health care claims
9 information is collected under s. 153.05 may not submit any of the following to the
10 department or to the data organization under contract under s. 153.05 (2r) under the
11 requirements of this chapter:

12 **SECTION 72.** 153.50 (6) (d) of the statutes is amended to read:

13 153.50 (6) (d) If a health care provider that is not a hospital or ambulatory
14 surgery center or an insurer or administrator from which health care claims
15 information is collected under s. 153.05 submits a data element that is specified in
16 par. (c) 1. to 10., the department or the data organization under contract under s.
17 153.05 (2r) shall immediately return this information to the health care provider,
18 insurer, or administrator or, if discovered later, shall remove and destroy the
19 information.

20 **SECTION 73.** 153.50 (6) (e) (intro.) of the statutes is amended to read:

21 153.50 (6) (e) (intro.) A health care provider, or an insurer or administrator
22 from which health care claims information is collected under s. 153.05, may not
23 submit information that uses any of the following as a patient account number:

24 **SECTION 74.** 153.60 (title) of the statutes is amended to read:

25 **153.60 (title) Assessments to fund operations of department and board.**

1 SECTION 75. 153.60 (intro.) of the statutes is created to read:

2 153.60 (intro.) Subject to s. 153.455:

as affected by 2005 Wisconsin Act 25,

3 SECTION 76. 153.60 (1) of the statutes is amended to read:

4 153.60 (1) The department shall, by the first October 1 after the
5 commencement of each fiscal year, estimate the total amount of expenditures under
6 this chapter for the department and the board for that fiscal year for data collection,
7 database development and maintenance, generation of data files and standard
8 reports, orientation and training provided under s. 153.05 (9) (a) and, maintaining
9 the board, and contracting with the data organization under s. 153.05 (2r). The

10 department shall assess the estimated total amount for that fiscal year, less the
11 estimated total amount to be received for purposes of administration of this chapter

12 under s. 20.435 ~~(1)~~ (1) (hi) during the fiscal year ~~and~~ the unencumbered balance of
13 the amount received for purposes of administration of this chapter under s. 20.435

14 ~~(1)~~ (1) (hi) from the prior fiscal year ~~and the amount in the appropriation account~~
15 ~~under s. 20.435 (1) (dg), 1997 stats., for the fiscal year,~~ to health care providers, other

16 than hospitals and ambulatory surgery centers, who are in a class of health care
17 providers from whom the department collects data under this chapter in a manner

18 specified by the department by rule. The department shall obtain approval from the
19 board for the amounts of assessments for health care providers other than hospitals

20 and ambulatory surgery centers. The department shall work together with the
21 department of regulation and licensing to develop a mechanism for collecting

22 assessments from health care providers other than hospitals and ambulatory
23 surgery centers. No health care provider that is not a facility may be assessed under

24 this subsection an amount that exceeds \$75 per fiscal year. All payments of
25 assessments shall be credited to the appropriation under s. 20.435 ~~(1)~~ (1) (hg).

↑ plain

PMF

1 **SECTION 77.** 153.60 (1) of the statutes, as affected by 2005 Wisconsin Act
2 (this act), section 76, is amended to read:

3 153.60 (1) The department shall, by the first October 1 after the
4 commencement of each fiscal year, estimate the total amount of expenditures under
5 this chapter for the department and the board for that fiscal year for data collection,
6 database development and maintenance, generation of data files and standard
7 reports, orientation and training provided under s. 153.05 (9) (a), ~~maintaining the~~
8 ~~board~~, and contracting with the data organization under s. 153.05 (2r). The

9 department shall assess the estimated total amount for that fiscal year ^{plain} less the
10 estimated total amount to be received for purposes of administration of this chapter
11 under s. 20.435 (1) (hi) during the fiscal year and the unencumbered balance of the
12 amount received for purposes of administration of this chapter under s. 20.435 (1)
13 (hi) from the prior fiscal year, to health care providers, other than hospitals and
14 ambulatory surgery centers, who are in a class of health care providers from whom
15 the department collects data under this chapter in a manner specified by the
16 department by rule. ~~The department shall obtain approval from the board for the~~
17 ~~amounts of assessments for health care providers other than hospitals and~~
18 ~~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 (1) (hg).

24 **SECTION 78.** 153.60 (1) of the statutes, as affected by 2005 Wisconsin Act (this
25 act), section 77, 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 for that fiscal year for data collection, database
 4 development and maintenance, generation of data files and standard reports,
 5 orientation and training provided under s. 153.05 (9) (a) and contracting with the
 6 data organization under s. 153.05 (2r). The department shall assess the estimated
 7 total amount for that fiscal year ^{✓ plain} less the estimated total amount to be received for
 8 purposes of administration of this chapter under s. 20.435 (1) (hi) during the fiscal
 9 year and the unencumbered balance of the amount received for purposes of
 10 administration of this chapter under s. 20.435 (1) (hi) from the prior fiscal year, to
 11 health care providers, other than hospitals and ambulatory surgery centers, who are
 12 in a class of health care providers from whom the department collects data under this
 13 chapter in a manner specified by the department by rule. The department shall work
 14 together with the department of regulation and licensing to develop a mechanism for
 15 collecting assessments from health care providers other than hospitals and
 16 ambulatory surgery centers. No health care provider that is not a facility may be
 17 assessed under this subsection an amount that exceeds \$75 per fiscal year. All
 18 payments of assessments shall be credited to the appropriation under s. 20.435 (1)
 19 (hg).

fix component

as affected by 2005 Wisconsin Act 25, repealed.

20 → SECTION 79. 153.60 (3) of the statutes is amended to read:

21 153.60 (3) The department shall, by the first October 1 after the
 22 commencement of each fiscal year, estimate the total amount of expenditures
 23 required for the collection, database development and maintenance and generation
 24 of public data files and standard reports for health care plans that voluntarily agree
 25 to supply health care data under s. 153.05 (6r). The department shall assess the

1 estimated total amount for that fiscal year to health care plans in a manner specified
 2 by the department by rule and may enter into an agreement with the office of the
 3 commissioner of insurance for collection of the assessments. Each health plan that
 4 voluntarily agrees to supply this information shall pay the assessments on or before
 5 December 1. All payments of assessments shall be deposited in the appropriation
 6 under s. 20.435 (4) (1) (hg) and may be used solely for the purposes of s. 153.05 (6r).

7 **SECTION 80.** 153.65 (1) of the statutes is amended to read:

*, as affected by 2005
Wisconsin Act
25,*

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

PLAIN

15 **SECTION 81.** 153.67 of the statutes is repealed.

16 **SECTION 82.** 153.75 (1) (intro.) of the statutes is amended to read:

17 153.75 (1) (intro.) ~~Following approval by the board, the~~ The department shall
 18 promulgate the following rules:

19 **SECTION 83.** 153.75 (1) (a), (b), (f), (h), (m), (n), (o), (p), (r), (t), and (u) of the
 20 statutes are repealed.

21 **SECTION 84.** 153.75 (2) (intro.) of the statutes is amended to read:

22 153.75 (2) (intro.) ~~Following approval by the board, the~~ The department may
 23 promulgate all of the following rules:

SECTION #, RP; 153.75 (2)(d)

24 **SECTION 85.** 153.75 (2) of the statutes, as affected by 2005 Wisconsin Act ...
 25 (this act), is repealed.

1 **SECTION 86.** 153.76 of the statutes is repealed.

2 **SECTION 87.** 153.85 of the statutes is amended to read:

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

7 **SECTION 88.** 153.90 (1) of the statutes is amended to read:

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

11 **SECTION 89.** 153.90 (2) of the statutes is amended to read:

RESTORE TO
PLAIN TEXT

12 153.90 (2) Any person who violates this chapter or any rule promulgated under
13 the authority of this chapter, except ss. ~~153.45 (5), s. 153.50 and 153.75 (1) (a)~~, as
14 ~~provided in s. 153.85 and sub. (1)~~, shall forfeit not more than \$100 for each violation.

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

19 **SECTION 90. Effective dates.** This act takes effect on the day after publication,
20 except as follows:

(by SECTION
[AUTOREF X])

21 (1) **ELIMINATION OF BOARD ON HEALTH CARE INFORMATION.** The treatment of
22 sections 15.07 (2) (b) and (3) (bm) 1., 15.195 (6), 20.435 (1) (hg), 153.01 (2), ~~153.05 (6c),~~
23 153.07, 153.50 (3) (a), 153.60 (title), 153.60 (1) (by SECTION 77), 153.75 (1) (intro.) and
24 (2) (intro.), and 153.76 of the statutes takes effect on ~~July~~ 1, 2007.

January

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

4 (3) HEALTH CARE INFORMATION; DEPARTMENTAL POWERS; RULE MAKING. The
5 treatment of sections 153.05 (1) (a), (5) (a), and (8) (a), 153.45 (1) (intro.) and (b)
6 (intro.) and 10., (1m), (3), and (5), 153.50 (4) (a) (intro.), (b), and (c), 153.60 (1) (by
7 SECTION 78), 153.65 (1), 153.85, and 153.90 (1) and (2) of the statutes and the repeal
8 of section 153.75 (1) (a), (b), (f), (h), (m), (n), (o), (p), (r), (t), and (u) and (2) of the
9 statutes take effect on the date specified in s. 153.455 (1) of the statutes, as created
10 by this act.

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

13 (END)

and

January

D - NOTE

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

LRB-3240/P2dn
DAK:cs:rs

P3

~~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. ✓

INSERT D-NOTE

Debora A. Kennedy
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3240/P3dn

DAK:cs:pg

September 12, 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. I understand that the contract for the date organization is anticipated to be around January 1, 2007; if that is done, the appropriation expenditures under ss. 20.435 (1) (hg) and (hi) and 20.515 (1) (ut), stats., authorized under this bill will begin to be made at that time, which is within the 2005-07 biennium. Note that s. 20.435 (1) (hg), stats., is a sum certain appropriation, limited to the amounts in the schedule, regardless if the contract fees and physician assessments exceed the amounts in the schedule. Section 20.515 (1) (ut), stats., is also sum certain appropriation, from a segregated fund, and under this bill has additional purpose. Are the amounts in the schedule for these appropriations sufficient for the changes effected under the bill, or should they be increased?

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8. There appears to be ⁸conflict between ss. 20.515 (1) (ut) and 155.05 (2r). Should DETF be authorized to expend moneys for DHFS' performance under s. 153.455 (4)?

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