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NOON

By November 1st if possible

State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-3240/PS 1

DAK:es:ps

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~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SAV

REGENERATE

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

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, the interagency coordinating council, and the independent review  
 8 board; and making appropriations.

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***Analysis by the Legislative Reference Bureau***

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

← INS ANAL ✓

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

9 **SECTION 1.** 15.07 (2) (b) of the statutes is repealed.

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 of the statutes is repealed.

11 **SECTION 3.** 15.107 (7) of the statutes is repealed.

12 **SECTION 4.** 15.195 (6) of the statutes is repealed.

13 **SECTION 5.** 15.195 (9) of the statutes is repealed.

14 **SECTION 6.** 16.03 of the statutes is repealed.

15 **SECTION 7.** 20.435 (1) (hg) of the statutes, as affected by 2005 Wisconsin Act 25,  
 16 is amended to read:

17 20.435 (1) (hg) *General program operations; health care information.* The  
 18 amounts in the schedule to fund the activities of the department of health and family  
 19 services and the board on health care information under ch. 153 and to contract with  
 20 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 (1) (hg) of the statutes, as affected by 2005 Wisconsin Act ....  
4 (this act), is 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 (1) (hi) of the statutes, as affected by 2005 Wisconsin Act 25,  
12 is 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.** 20.435 (4) (hg) of the statutes is renumbered 20.435 (1) (hg) and  
19 amended to read:

20 20.435 (1) (hg) *General program operations; health care information.* The  
21 amounts in the schedule to fund the activities of the department of health and family  
22 services and the board on health care information under ch. 153 and to contract with  
23 the data organization under s. 153.05 (2r). The contract fees paid under s. 153.05  
24 (6m) and assessments paid under s. 153.60 shall be credited to this appropriation  
25 account.

1 SECTION 11. 20.515 (1) (ut) of the statutes is amended to read:

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

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6 SECTION 12. 153.01 (1) of the statutes is renumbered 153.01 (1g).

7 SECTION 13. 153.01 (1d) of the statutes is created to read:

8 153.01 (1d) "Administrator" has the meaning given in s. 633.01 (1).

9 SECTION 14. 153.01 (2) of the statutes is repealed.

10 SECTION 15. 153.01 (2g) of the statutes is created to read:

11 153.01 (2g) "Calculated variable" means a data element that is computed or  
12 derived from an original data item or derived using another data source.

13 SECTION 16. 153.01 (3g) of the statutes is created to read:

14 153.01 (3g) "Data organization" means a nonstock corporation organized  
15 under ch. 181 that is described in section 501 (c) (3) of the Internal Revenue Code,  
16 is exempt from federal income tax under section 501 (a) of the Internal Revenue  
17 Code, and does all of the following: *in its capacity as a public health authority,* ✓

18 (a) Represents health care consumers, insurers, administrators, and health  
19 care providers.

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

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

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

1           **SECTION 17.** 153.01 (5m) of the statutes is amended to read:

2           153.01 (5m) “Insurer” has the meaning given under s. ~~600.03 (27)~~ 632.745 (15).

INSERT  
5-2

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

4           153.05 (1) (a) The Subject to s. 153.455, the department shall collect from  
5 health care providers other than hospitals and ambulatory surgery centers, analyze,  
6 and disseminate health care information, as adjusted for case mix and severity, in  
7 language that is understandable to laypersons.

8           **SECTION 19.** 153.05 (1) (b) of the statutes is amended to read:

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

19           **SECTION 20.** 153.05 (1) (c) of the statutes is created to read:

20           153.05 (1) (c) Subject to s. 153.455 (1) to (3), the data organization under  
21 contract under sub. (2r) may collect health care claims information from insurers and  
22 administrators. The data organization shall analyze and publicly report the health  
23 care claims information with respect to the cost, quality, and effectiveness of health  
24 care, in language that is understandable by lay persons, and shall develop and  
25 maintain a centralized data repository. The data organization shall provide to the

1 department, without charge, health care claims information collected by and reports  
 2 produced by the data organization that the department requests. If s. 153.455 (4)  
 3 applies, the department ~~shall~~ collect health care claims information from insurers  
 4 and administrators and ~~shall~~ perform or contract for the performance of the other  
 5 duties specified for the data organization under this paragraph.

may

6 SECTION 21. 153.05 (2r) of the statutes is created to read:

7 153.05 (2r) Notwithstanding s. 16.75 (1), (2), and (3m), from the appropriation  
 8 account under s. 20.515 (1) ~~(ut)~~ the department of employee trust funds may expend  
 9 up to \$150,000, and from the appropriation accounts under s. 20.435 (1) (hg) and (hi)  
 10 the department of health and family services may expend moneys, to contract jointly  
 11 with a data organization to perform services under this chapter that are specified for  
 12 the data organization under sub. (1) (c) or, if s. 153.455 (4) applies, for the department  
 13 of health and family services to perform or contract for the performance of these  
 14 services. As condition of the contract under this subsection, all of the following apply:

in its capacity  
 as a public  
 health authority,

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

19 (b) The data organization shall provide matching funds, which may include  
 20 in-kind contributions, as specified in the contract.

21 (c) Termination of funding and of services of the data organization under the  
 22 contract or modification of the contract is subject to a determination made under s.  
 23 153.455 (3).

24 SECTION 22. 153.05 (3) (a) of the statutes is amended to read:

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

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

7           153.05 (3) (c) Subject to sub. (13), upon request of the data organization under  
8 contract under sub. (2r) for health care claims information, insurers and  
9 administrators may provide the health care claims information to the data  
10 organization for use in preparing reports and developing and maintaining a central  
11 data repository under this chapter, except that if s. 153.455 (4) applies, insurers and  
12 administrators shall provide the health care claims information as required by the  
13 department.

14           **SECTION 24.** 153.05 (5) (a) of the statutes is amended to read:

15           153.05 (5) (a) Unless sub. (13) applies, subject to s. 153.455, the department  
16 may require health care providers other than hospitals and ambulatory surgery  
17 centers to submit to the department health care information specified by rule under  
18 s. 153.75 (1) (n) for the preparation of reports, plans, and recommendations in the  
19 form specified by the department by rule.

20           **SECTION 25.** 153.05 (5) (c) of the statutes is created to read:

21           153.05 (5) (c) Unless sub. (13) applies, subject to s. 153.455 (1) to (3), the data  
22 organization under contract under sub. (2r) may request insurers and  
23 administrators to submit to the data organization health care claims information for  
24 the preparation of reports, plans, and recommendations in the form specified by the  
25 data organization. If s. 153.455 (4) applies, the department ~~shall~~ require submission

RESTORE TO PLAIN  
TEXT

may

1 of the health care claims information from insurers and administrators in the form  
2 specified by the department.

3 SECTION 26. 153.05 (6r) of the statutes is repealed.

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

5 153.05 (8) (a) Unless sub. (13) applies, subject to s. 153.455, the department  
6 shall collect, analyze and disseminate, in language that is understandable to  
7 laypersons, claims information and other health care information, as adjusted for  
8 case mix and severity, under the provisions of this chapter, as determined by rules

9 promulgated by the department, from health care providers, other than hospitals  
10 and ambulatory surgery centers, specified by rules promulgated by the department.

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

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

18 153.05 (8) (c) Unless sub. (13) applies, subject to s. 153.455 (1) to (3), the data  
19 organization under contract under sub. (2r) may collect, analyze, and publicly report,  
20 in language that is understandable to laypersons, health care claims information, as  
21 adjusted for case mix and severity, from insurers and administrators. Data from  
22 these sources may be obtained through sampling techniques in lieu of collection of  
23 data on all insureds, and data collection procedures shall minimize unnecessary  
24 duplication and administrative burdens. If s. 153.455 (4) applies, the department  
25 ~~shall~~ collect health care claims information from insurers and administrators and

RESTORE TO PLAIN TEXT

as determined by rules

promulgated by the department

specified by rules promulgated by the department

may



1 ~~shall~~ <sup>may</sup> perform or contract for the performance of the other duties specified for the data  
2 organization under this paragraph.

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

4 153.05 (9) (a) The Subject to s. 153.455, the department shall provide  
5 orientation and training to health care providers, other than hospitals and  
6 ambulatory surgery centers, who submit data under this chapter, to explain the  
7 process of data collection and analysis and the procedures for data verification,  
8 comment, interpretation, and release.

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

10 153.05 (9) (c) Subject to s. 153.455 (1) to (3), the data organization under  
11 contract under sub. (2r) shall provide orientation and training to insurers and  
12 administrators that submit data under this chapter, to explain the process of data  
13 collection and analysis and the procedures for data verification, comment,  
14 interpretation, and release. If s. 153.455 (4) applies, the department ~~shall~~ <sup>may</sup> perform  
15 or contract for the performance of the duties specified for the data organization under  
16 this paragraph.

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

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

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

22 153.05 (12) (c) The data organization under contract under sub. (2r) shall,  
23 subject to s. 153.455 (1) to (3), to the extent possible and upon request, assist  
24 members of the public in interpreting data in health care information disseminated  
25 by the data organization. If s. 153.455 (4) applies, the department ~~shall~~ <sup>may</sup> perform or

1 contract for the performance of the duties specified for the data organization under  
2 this paragraph.

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

4 153.05 (13) The department may waive the requirement under sub. (1), (3) (c),  
5 (5), or (8) for a health care provider, who insurer or administrator that requests the  
6 waiver and presents evidence to the department that the requirement under sub. (1),  
7 (3) (c), (5), or (8) is burdensome, under standards established by the department by  
8 rule. The department shall develop a form for use by a health care provider, insurer,  
9 or administrator in submitting a request under this subsection.

10 **SECTION 34.** 153.07 of the statutes is repealed.

11 **SECTION 35.** 153.10 (1) of the statutes is amended to read:

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

20 **SECTION 36.** 153.22 (1) of the statutes is renumbered 153.22.

21 **SECTION 37.** 153.45 (intro.) of the statutes is created to read:

22 153.45 (intro.) Subject to s. 153.455:

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

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

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

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

17           **SECTION 40.** 153.45 (1) (b) 9. of the statutes is amended to read:

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

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

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

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

5           153.45 (1) (b) 11. Information other than patient-identifiable data, as defined  
6 in s. 153.50 (1) (b), as approved by the independent review board department.

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

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

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

21           153.45 (1m) After completion of data verification and review procedures  
22 specified by the department by rule, the department may, but is not required to,  
23 release special data compilations.

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

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

that is 60 days after

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

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

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

9 **153.455 Data organization; contract contingency.** (1) Except as provided

10 in subs. (2), (3), and (4), beginning on the date, if any, but not before January 1, 2007,

11 ~~that the secretary of health and family services determines that the data~~

12 ~~organization under the contract under s. 153.05 (2r) is, under the contract, collecting~~

13 ~~health care claims information as specified in the contract and under s. 153.05 (1) (c),~~

takes effect

14 the department shall cease collecting, analyzing, and disseminating health care

15 information ~~of physicians~~ as specified under s. HFS 120.14 (1), 2005 Wis. Adm. Code.

16 (2) ~~Sub.~~ <sup>e Subsection</sup> (1) does not apply to ss. 153.21 (1) and 153.60 (1).

17 (3) Beginning on the date, if any, that the secretary of health and family  
 18 services and the secretary of employee trust funds determine that the data  
 19 organization is not in compliance with the contract under s. 153.05 (2r) with respect  
 20 to the performance of the collection and public reporting of information regarding the  
 21 cost, quality, and effectiveness of health care, including the development and  
 22 maintenance of a centralized data repository, or determine that there is insufficient  
 23 statewide participation under the requirements of the contract, the secretaries may  
 24 modify or terminate the contract.

*in its capacity as a public health authority, may collect*

*including as specified under s. HFS 120.14 (1), 2005 Wis. Adm. Code*

1 (4) If sub. (3) applies and the secretaries do not modify the contract, the  
2 department shall collect health care information and health care claims information  
3 under this chapter ~~and~~ shall analyze and disseminate, or contract for the  
4 performance of analysis and dissemination of, the health care information and  
5 health care claims information. ~~Notwithstanding s. 227.10, the department may~~  
6 ~~comply with the requirements under this subsection without promulgating rules.~~

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

8 153.50 (intro.) Subject to s. 153.455:

*may analyze and disseminate, or contract for the performance of analysis and dissemination of the*

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

10 153.50 (1) (b) 1m. "Patient-identifiable data" does not include calculated  
11 variables that are derived from patient-identifiable data and the dissemination of  
12 which does not permit patient identification.

13 SECTION 51. 153.50 (1) (b) 2. (intro.) of the statutes is amended to read:

14 153.50 (1) (b) 2. (intro.) "Patient-identifiable data", for information submitted  
15 by health care providers who are not hospitals or ambulatory surgery centers and by  
16 insurers and administrators, means all of the following data elements:

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

18 153.50 (3) MEASURES TO ENSURE PROTECTION OF PATIENT IDENTITY. (intro.) To  
19 ensure that the identity of patients is protected when information obtained by the  
20 department ~~or~~, by the entity under contract under s. 153.05 (2m) (a), or by the data  
21 organization under contract under s. 153.05 (2r) is disseminated, the department  
22 and, the entity, and the data organization shall do all of the following:

23 SECTION 53. 153.50 (3) (a) of the statutes is amended to read:

24 153.50 (3) (a) Aggregate any data element category containing small numbers.

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

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

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

4 153.50 (3) (b) (intro.) Remove and destroy all of the following data elements on  
5 the uniform patient billing forms that are received by the department ~~or by~~, the  
6 entity, or the data organization under the requirements of this chapter:

7 **SECTION 55.** 153.50 (3) (d) of the statutes is amended to read:

8 153.50 (3) (d) Require that a purchaser of data under this chapter sign and have  
9 notarized the data use agreement of the department ~~or of~~, the entity specified in par.  
10 (e), or the data organization, as applicable.

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

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

19 **SECTION 57.** 153.50 (4) (a) (intro.) of the statutes is amended to read:

20 153.50 (4) (a) (intro.) Except as specified in par. ~~pars.~~ (b) and (c), under the  
21 procedures specified in sub. (5), release of patient-identifiable data may be made  
22 only to any of the following:

23 **SECTION 58.** 153.50 (4) (a) 1. a. of the statutes is amended to read:

24 153.50 (4) (a) 1. a. An agent of the department who is responsible for the  
25 patient-identifiable data in the department, in order to store the data and ensure the

1 accuracy of the information in the database of the department or to create a  
2 calculated variable that is derived from the patient-identifiable data.

3 **SECTION 59.** 153.50 (4) (a) 1. b. of the statutes is amended to read:

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

8 **SECTION 60.** 153.50 (4) (a) 1. c. of the statutes is created to read:

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

14 **SECTION 61.** 153.50 (4) (a) 2. of the statutes is amended to read:

15 153.50 (4) (a) 2. A health care provider that is not a hospital or ambulatory  
16 surgery center or the agent of such a health care provider, to ensure the accuracy of  
17 the information in the database of the department or the data organization under  
18 contract under s. 153.05 (2r), or a health care provider that is a hospital or  
19 ambulatory surgery center or the agent of such a health care provider, to ensure the  
20 accuracy of the information in the database of the entity under contract under s.  
21 153.05 (2m) (a).

22 **SECTION 62.** 153.50 (4) (a) 3. of the statutes is amended to read:

23 153.50 (4) (a) 3. The department, for purposes of epidemiological investigation,  
24 or, with respect to information from health care providers that are not hospitals or



1 ambulatory surgery centers, the department or the data organization under contract  
2 under s. 153.05 (2r), to eliminate the need for duplicative databases.

3 **SECTION 63.** 153.50 (4) (b) of the statutes is amended to read:

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

8 **SECTION 64.** 153.50 (4) (c) of the statutes is created to read:

9 (9) 153.50 (4) (c) The data organization under contract under s. 153.05 (2r) may ~~share~~ not  
10 share health care claims data collected by the data organization ~~if~~ unless the sharing is in  
11 compliance with 42 USC 1320d-2 and 1320d-4 and 45 CFR 164.

12 **SECTION 65.** 153.50 (5) (a) (intro.) of the statutes is amended to read:

13 153.50 (5) (a) (intro.) The department ~~or~~, an entity that is under contract under  
14 s. 153.05 (2m) (a), or a data organization that is under contract under s. 153.05 (2r)  
15 may not release or provide access to patient-identifiable data to a person authorized  
16 under sub. (4) (a) unless the authorized person requests the department ~~or~~, entity,  
17 or data organization, in writing, to release the patient-identifiable data. The request  
18 shall include all of the following:

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

20 153.50 (5) (b) (intro.) Upon receipt of a request under par. (a), the department  
21 ~~or~~, entity ~~under contract under s. 153.05 (2m) (a)~~, or data organization, whichever  
22 is appropriate applicable, shall, as soon as practicable, comply with the request or  
23 notify the requester, in writing, of all of the following:

24 **SECTION 67.** 153.50 (5) (b) 1. of the statutes is amended to read:

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

3           **SECTION 68.** 153.50 (6) (a) of the statutes is amended to read:

4           153.50 (6) (a) The department ~~or, entity under contract under s. 153.05 (2m)~~  
5 (a), or data organization under contract under s. 153.05 (2r) may not require a health  
6 care provider submitting health care information under this chapter to include the  
7 patient's name, street address or social security number.

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

9           153.50 (6) (b) The department or data organization under contract under s.  
10 153.05 (2r) may not require under this chapter a health care provider that is not a  
11 hospital or ambulatory surgery center or an insurer or administrator from which  
12 health care claims information is collected under s. 153.05 to submit uniform patient  
13 billing forms.

14           **SECTION 70.** 153.50 (6) (c) (intro.) of the statutes is amended to read:

15           153.50 (6) (c) (intro.) A health care provider that is not a hospital or ambulatory  
16 surgery center and an insurer or administrator from which health care claims  
17 information is collected under s. 153.05 may not submit any of the following to the  
18 department or to the data organization under contract under s. 153.05 (2r) under the  
19 requirements of this chapter:

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

21           153.50 (6) (d) If a health care provider that is not a hospital or ambulatory  
22 surgery center or an insurer or administrator from which health care claims  
23 information is collected under s. 153.05 submits a data element that is specified in  
24 par. (c) 1. to 10., the department or the data organization under contract under s.  
25 153.05 (2r) shall immediately return this information to the health care provider,

1 ~~insurer, or administrator or, if discovered later, shall remove and destroy the~~  
2 ~~information.~~

3 SECTION 72. 153.50 (6) (e) (intro.) of the statutes is amended to read:

4 153.50 (6) (e) (intro.) ~~A health care provider, or an insurer or administrator~~  
5 ~~from which health care claims information is collected under s. 153.05, may not~~  
6 ~~submit information that uses any of the following as a patient account number:~~

7 SECTION 73. 153.60 (title) of the statutes is amended to read:

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

9 SECTION 74. 153.60 (intro.) of the statutes is created to read:

10 153.60 (intro.) Subject to s. 153.455:

11 SECTION 75. 153.60 (1) of the statutes, as affected by Wisconsin Act 25, is  
12 amended to read:

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

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

9 **SECTION 76.** 153.60 (1) of the statutes, as affected by 2005 Wisconsin Act ....  
 10 (this act), section 75, is amended to read:

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

1 ambulatory surgery centers. The department shall work together with the  
 2 department of regulation and licensing to develop a mechanism for collecting  
 3 assessments from health care providers other than hospitals and ambulatory  
 4 surgery centers. ~~No health care provider that is not a facility may be assessed under~~  
 5 ~~this subsection an amount that exceeds \$75 per fiscal year.~~ INSERT 21-S All payments of  
 6 assessments shall be credited to the appropriation under s. 20.435 (1) (hg).

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

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

INSERT 21-S

1 payments of assessments shall be credited to the appropriation under s. 20.435 (1) <sup>7</sup>  
2 (hg).

3 SECTION 78. 153.60 (3) of the statutes, as affected by 2005 Wisconsin Act 25,  
4 is repealed.

5 SECTION 79. 153.65 (1) of the statutes, as affected by 2005 Wisconsin Act 25,  
6 is amended to read:

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

14 SECTION 80. 153.67 of the statutes is repealed.

15 SECTION 81. 153.75 (1) (intro.) of the statutes is amended to read:

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

18 SECTION 82. 153.75 (1) (a), (b), (f), (h), (m), (n), (o), (p), (r), (t), and (u) of the  
19 statutes are repealed.

INSERT 22-19

20 SECTION 83. 153.75 (2) (intro.) of the statutes is amended to read:

<sup>create</sup>  
AUTOREF  
Z

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

23 SECTION 84. 153.75 (2) of the statutes, as affected by 2005 Wisconsin Act ....  
24 (this act), is repealed.

25 SECTION 85. 153.75 (2) (d) of the statutes is repealed.

INSERT 22-24

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:

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 (9) SECTION #. RP; 253.12(4)(b)

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

22 (1) ELIMINATION OF BOARD ON HEALTH CARE INFORMATION. The treatment of  
23 sections 15.07 (2) (b) and (3) (bm) 1., 15.195 (6), 20.435 (1) (hg) (by SECTION 8), 153.01  
24 (2), 153.05 (6r), 153.07, 153.50 (3) (a), 153.60 (title), 153.60 (1) (by SECTION 76), 153.75  
(1) (intro.) and (2) (intro.), and 153.76 of the statutes takes effect on January 1, 2007.

STET:  
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(by SECTION <sup>CS</sup> ~~76~~ <sup>use from page 22 of bill</sup>)

(by SECTION <sup>CS</sup> ~~76~~ <sup>use from page 22 of bill</sup> ~~76~~ <sup>AUTDREFZ</sup>)

*and 153.76*

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.), <sup>and</sup> 153.45 (6), <sup>and</sup> 153.67 of the <sup>(CS)</sup>  
3 statutes takes effect on January 1, 2007. *restore* *PLAN REPORTING*

4 (3) <sup>VOLUNTARY</sup> ~~HEALTH CARE INFORMATION, DEPARTMENTAL POWERS, RULE MAKING.~~ The  
5 treatment of sections ~~153.03 (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 77), 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), (d), (h), (m), (n), (o), (p), (r), (t), and (u) and (2) of the~~  
9 ~~statutes~~ take effect on the date specified in <sup>s.</sup> 153.455 (1) of the statutes, as created  
10 by this act. *section*

11 (4) ELIMINATION OF INTERAGENCY COORDINATING COUNCIL. The treatment of  
12 sections 15.107 (7) <sup>(1)</sup> and 16.03 of the statutes takes effect on January 1, 2007.

13

(END)

*and 253.12 (4) (b)*

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24-13

D-NOTE

*153.05 (6r), 153.60 (3), and 153.75 (2) (d)*



**2005-2006 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

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**INSERT ANAL**

Under current law, the Department of Health and Family Services (DHFS) must collect, analyze, and disseminate health care information from health care providers other than hospitals and ambulatory surgery centers; in addition, the Department of Administration (DOA) must contract with an entity to collect, analyze, and disseminate health care information from hospitals and ambulatory surgery centers. Both DHFS and the entity under contract with DOA must, from the data collected, prepare certain reports that do not permit the identification of a patient, an employer, or a health care provider. The Independent Review Board (Review Board) attached to DHFS must first review and approve release or sale by DHFS of certain health care information, including that which contains the name of a health care provider, includes a patient's month and year of birth, or contains data elements other than those available for public use data files.

Currently, the nine-member Interagency Coordinating Council (the Council), created in DOA, has numerous duties including advising and assisting state agencies in the coordination and exchange of information concerning programs that collect, analyze, and disseminate health care data. The Council must report twice annually to the Board on Health Care Information (the Board) and, in turn, DHFS and the Board must provide information on their activities to the Council. The 11-member Board, attached to DHFS, must advise DHFS on the collection, analysis, and dissemination of health care information; provide oversight on the reports issued by DHFS and the entity under contract with DOA; develop overall strategy and direction for health care information collection activities; and review and approve any rules that the Review Board proposes to promulgate. Activities of the Board and DHFS are funded from fees for performance of certain work under contract and from assessments that are annually levied on health care providers other than hospitals and ambulatory surgery centers. For health care providers that are not facilities, the assessments may not exceed \$75 per fiscal year.

This bill authorizes the Department of Employee Trust Funds (DETF) and DHFS jointly to contract with a data organization to collect, analyze, and publicly report certain health care claims information from insurers and administrators, to develop and maintain a centralized data repository, and to provide to DHFS, without charge, health care claims information and reports requested by DHFS. ("Data organization," "administrator," and "insurer" are all defined in the bill.) As a condition of the contract, the data organization must include as voting members of its board of directors the secretaries of health and family services and employee trust funds, or their designees, and must provide certain matching funds. Beginning on the date that is 60 days after the contract takes effect, DHFS must cease collecting, analyzing, and disseminating health care information, and implementation of DHFS' rules for the collection, analysis, and dissemination of this health care information is suspended. However, the secretaries may modify or terminate the contract with the data organization if the secretaries determine that the data organization is not in compliance with the contract or determine that there is

to

insufficient statewide participation under the requirements of the contract; if the secretaries terminate the contract, DHFS shall collect, analyze, and disseminate health care information from health care providers other than hospitals and ambulatory surgery centers, and ~~the~~ DHFS' rules for doing so apply. Also, if the contract is terminated, DHFS may collect, analyze, and disseminate health care claims information from insurers and administrators, or contract for the performance of the collection, analysis, and dissemination.

The assessments that currently fund activities of DHFS and the Board would, under the bill, fund the contract with the data organization or, if the contract is terminated, health care information collection, analysis, and dissemination activities of DHFS. The bill eliminates the prohibition on assessing health care providers that are not facilities more than \$75 per fiscal year and, instead, requires that DHFS, if it proposes to increase the assessment for health care providers that are not facilities ~~by~~ an amount that exceeds \$70 per fiscal year, obtain approval of the joint committee on finance of the legislature under a passive review process.

The bill eliminates the Board, the Review Board, and the Council on January 1, 2007.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

✓ **INSERT 4-5**

1 **SECTION 1.** 20.515 (1) (r) of the statutes is amended to read:

2 20.515 (1) (r) *Benefit and coverage payments; data collection, analysis, and*  
3 *reporting.* All moneys credited to the public employee trust fund for payment from  
4 the appropriate accounts and reserves of the fund of the benefits, contributions,  
5 insurance premiums and refunds authorized by ch. 40 for the respective benefit  
6 plans and for the costs of contracting for data collection, analysis, and reporting  
7 under s. 153.05 (2r). Estimated disbursements under this paragraph shall not be  
8 included in the schedule under s. 20.005.

History: 1971 c. 40 s. 93; 1971 c. 125; 1973 c. 90, 151, 337; 1975 c. 39; 1977 c. 29, 84; 1979 c. 34, 38; 1979 c. 102 s. 236 (4); 1981 c. 96; 1981 c. 187 s. 10; 1981 c. 250; 1983 a. 27, 247, 255; 1983 a. 394 s. 2; 1985 a. 29; 1987 a. 27, 107; 1987 a. 403 s. 256; 1989 a. 14, 31; 1989 a. 56 s. 259; 1991 a. 269; 1995 a. 27, 88, 89, 240; 1997 a. 26, 27; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25.

✓ **INSERT 5-2**

9 **SECTION 2.** 153.01 (8m) of the statutes is created to read:

10 153.01 (8m) "Public health authority" means the department or a person  
11 acting under this chapter under a grant of authority from or contract with the  
12 department.

The department may increase the assessment only as approved by the committee

to

**INSERT 20-7**

no #

1 If the department proposes to increase the assessment for a health care  
 2 provider that is not a facility ~~by an~~ <sup>a specific</sup> amount that exceeds \$70 per fiscal year, the  
 3 department may submit a request to the joint committee on finance for approval to  
 4 increase the assessment by that amount. ~~Notwithstanding s. 13.101 (3) (a), the~~  
 5 ~~committee is not required to find that an emergency exists.~~ If the cochairpersons of  
 6 the committee do not notify the secretary within 14 working days after the date of  
 7 the department's submittal that the committee intends to schedule a meeting to  
 8 review the request, approval of the request is granted. If, within 14 working days  
 9 after the date of the department's request submittal, the cochairpersons of the  
 10 committee notify the secretary that the committee intends to schedule a meeting to  
 11 review the request, ~~the request may be granted only as approved by the committee.~~

the department may increase the assessment by the requested amount

DO NOT CHANGE TEXT AS TYPED

**INSERT 21-5**

The department may increase the assessment only by amount approved by committee

no #

12 If the department proposes to increase the assessment for a health care  
 13 provider that is not a facility ~~by an~~ <sup>to a specific</sup> amount that exceeds \$70 per fiscal year, the  
 14 department may submit a request to the joint committee on finance for approval to  
 15 increase the assessment by that amount. ~~Notwithstanding s. 13.101 (3) (a), the~~  
 16 ~~committee is not required to find that an emergency exists.~~ If the cochairpersons of  
 17 the committee do not notify the secretary within 14 working days after the date of  
 18 the department's submittal that the committee intends to schedule a meeting to  
 19 review the request, approval of the request is granted. If, within 14 working days  
 20 after the date of the department's request submittal, the cochairpersons of the  
 21 committee notify the secretary that the committee intends to schedule a meeting to  
 22 review the request, the request may be granted only as approved by the committee.

the department may increase the assessment by the requested amount

the department may increase the assessment

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**INSERT 22-19**

1 **SECTION 3.** 153.75 (1) (intro.) of the statutes, as affected by 2005 Wisconsin Act  
2 .... (this act), is amended to read:

3 153.75 (1) (intro.) The department shall promulgate the following rules, of  
4 which pars. (a), (b), (f), (h), (m), (n), (o), (p), (r), (t), and (u) shall apply only if the  
5 contract under s. 153.455 (3) ~~is terminated~~ and s. 153.455 (4) applies:

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

**INSERT 22-24**

6 **SECTION 4.** 153.75 (2) (intro.) of the statutes, as affected by 2005 Wisconsin Act  
7 .... (this act), is amended to read:

8 153.75 (2) (intro.) The department may promulgate all of the following rules,  
9 which shall apply only if the contract under s. 153.455 (3) ~~is terminated~~ and s.  
10 153.455 (4) applies:

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

s. 153.05(2r) is terminated  
under

FFF

LRB \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Nonstat File Sequence:

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... create → action: → \*NS: → effdate  
For the text, execute: ..... create → text: → \*NS: → effdateA
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # \_\_\_\_\_ . Effective date.

( #1 ) ( ) ..... This act takes effect on .....

use autoref T

1. In the component bar: For the action phrase, execute: .. create → action: → \*NS: → effdateE  
For the text, execute: ..... create → text: → \*NS: → effdate
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # \_\_\_\_\_ . Effective dates; .....

..... This act takes effect on the day after publication, except as follows:

( #1 ) ~~#~~ SUSPENSION OF RULES ..... The treatment of sections ..... 153.75 (1) (intro.) (by SECTION [AUTOREF \*]) and (2) (intro.) (by SECTION [AUTOREF X]) of the statutes takes effect on the date specified in section 153.455 (1) of the statutes, as created by this act.

1. In the component bar: For the budget action phrase, execute: .. create → action: → \*NS: → 94XX  
For the text, execute: ..... create → text: → \*NS: → effdate
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

SECTION 94 \_\_\_\_\_ . Effective dates; .....

use autoref V

( #1 ) ( ) ..... The treatment of sections ..... of the statutes takes effect on .....

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

LRB-3240/1dn

DAK:cs:pg

To Representative Underheim:

1. This is an item left over from the Drafter's Note for 05-3240/P3; my notes do not indicate that the group addressed it: There may be a conflict between ss. 20.515 (1) (r) (which refers only to contracting) and 153.05 (2r) (which seems to imply that DETF would be expending moneys for the contract *or* for DHFS to perform the data organization's functions). Is it your intent that DETF be authorized to expend moneys for DHFS' performance under s. 153.455 (4) (i.e., if the contract with the data organization fails)? ✓

2. As requested, I have in this draft changed s. 153.05 (1) (c) to authorize, rather than require, DHFS to collect health care claims information from insurers and administrators if the contract with the data organization falls through; please note that I also changed the rest of the last sentence in s. 153.05 (1) (c), to authorize, rather than require, DHFS to perform or contract for the performance of other duties (analysis and dissemination of data) of the data organization. In accordance with these changes, I have also changed ss. 153.05 (1) (c), (5) (c), (8) (c), and (12) (c), 153.10 (1), and 153.455 (4); please review these provisions to make sure that I've captured your intent. ✓

3. With respect to Dick Sweet's proposed changes concerning HIPAA requirements in his e-mail of October 21, 2005, and after talking with Dick, I have done all of the following:

a. Created a definition of "public health authority" in s. 153.01 (8m) that is similar to the definition in the HIPAA regulations under 45 CFR 164.501; I did this to ensure that use of the term is not confused with the definition of "public health authority" that is in current law under s. 250.01 (6g), stats., which serves a different purpose. Note that this definition applies to both DHFS, the data organization, *and* to the Wisconsin Hospitals Association. ✓

b. Not drafted the phrase "in its capacity as a public health authority" in s. 20.435 (1) (hg), stats., since the language is already included under s. 153.05 (2r). I did, however, include the phrase, rather than language proposed, under s. 153.01 (3g), the definition of the data organization. ✓

c. Not drafted as restrictions on sharing data under s. 153.50 (4) (c) references to current statutes that deal with confidentiality, because those statutes apply regardless

of whether they are referenced or not, and clearly it is not your intent that they not apply. However, Dick suggested prohibiting the data organization from sharing health care claims data unless the sharing complies with HIPAA, which I think is a good change.

4. Since the decision of the group at the October 5, 2005, meeting was that DHFS, if the contract fails, would revert to collecting health care information under existing rules, I have deleted from the bill amendments or repeals of the following numerous statutes that referenced the rules: ss. 153.05 (5) (a) and (8) (a), 153.45 (1) (intro.), (b) (intro.) and 10., (1m), (3), and (5), 153.50 (4) (b), 153.85, and 153.90 (1) and (2), and the third treatment of s. 153.60 (1). However, please note that the Wisconsin Hospital Association's suggested language for s. 153.05 (1) (b) ("to the extent that the rules are consistent with this chapter") now might inadvertently be read to release the Association from the rules, during their suspension during the period of the contract with the data organization. Please carefully review.

✓  
✓  
✓  
✓

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④ 5. In accordance with the information received from Nancy ~~Wankivil~~ Bennett, this draft contains no changes to s. 153.50 (6), stats.

Nankivil  
↑

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

LRB-3240/1dn  
DAK:cs:pg

November 8, 2005

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5. In accordance with the information received from Nancy Nankivil Bennett, this draft contains no changes to s. 153.50 (6), stats.

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