



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-1589/03

SWB:wlj:wj

1/24

TODAY ASAP please

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSERT

1 AN ACT to amend 146.81 (4); and to create 50.373 and 146.83 (3f) (b) 3m. of the  
2 statutes; relating to: video recording of surgical procedures, requiring the  
3 exercise of rule-making authority, and providing criminal penalties.

Analysis by the Legislative Reference Bureau

This bill creates a requirement for surgical facilities to offer surgical patients the option to have their surgical procedures videotaped. For purposes of this bill, a surgical procedure is one for which a patient is given a general anesthetic. If a patient makes a request to have a surgical procedure recorded, this bill requires that the surgical facility, or its designee, record the surgical procedure with both audio and color video, and record with color video any entryway to or exit from the surgical suite during the time reserved for the surgery of the requesting patient, including preparation time. If the patient is incapacitated, the surgical facility is required to provide a person authorized by the patient with notice of the option for video recording. Under the bill, in certain limited emergency circumstances, surgical facilities are not required to provide the option of recording.

Video recordings of surgical procedures created under this bill must be treated as patient health care records and are subject to the same protections as other medical records. The bill specifies that, once a recording is complete, the surgical facility or its designee must preserve the recording as part of the patient's health care record but delete copies of the recording from the recording device and elsewhere. The Department of Health Services (DHS) is required under this bill to promulgate rules establishing standards relating to the recording equipment, the recording, and the fees to be charged for completing the recording and for obtaining copies of the

and that person may request that a recording be made.  
Similarly, if the surgical patient is a minor, the surgical facility must notify a parent, guardian or legal custodian of the option for video recording and allow that person to make a request for a recording on behalf of the minor.

including all criminal and civil penalties for improper disclosure or destruction

1 person authorized by the patient, or parent, guardian, or legal custodian of the patient

recording. Upon request from the patient, or a person authorized by the patient, the surgical facility must provide to the patient or person one copy of the recording free of charge. Recordings under this bill are admissible as evidence in any civil or criminal action or proceeding related to any alleged act or omission depicted in the recording.

Under this bill, a patient may complete an advance request for recording, which permits an individual who is of sound mind and over the age of 18 to request video recording for future surgical procedures. The individual may complete an advance request for a single specific surgical procedure or for all future surgical procedures to which this bill would apply. An advance request must be completed voluntarily, and must be in writing and signed and dated in the presence of a witness over the age of 18. The advance request may be revoked at any time. DHS must promulgate any rules necessary for implementation of the advance request process.

This bill provides that a health care provider who knowingly and willfully refuses to comply with a patient request for recording is subject to a fine of up to \$25,000 or imprisonment for not more than nine months, or both. A surgical facility that fails to provide a required notice of the option for recording is subject to a forfeiture of up to \$20,000 for each violation. Finally, whoever intentionally conceals, cancels, defaces, obliterates, damages, or destroys an advance request for recording without consent may be fined up to \$500, imprisoned for 30 days, or both.

for each violation  
\$25,000

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

Subject to a forfeiture of up to \$25,000 for each violation

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

1 SECTION 1. 50.373 of the statutes is created to read:

2 **50.373 Video recording of surgical procedures.** (1) DEFINITIONS. In this  
3 section:

4 (a) "Incapacitated" means unable to receive and evaluate information  
5 effectively or to communicate decisions to such an extent that an individual lacks the  
6 capacity to manage his or her health care decisions.

7 (b) "Surgical facility" means a hospital, as defined in s. 50.33 (2), an ambulatory  
8 surgical center, as defined in 42 CFR 416.2, or any other place where a surgical  
9 procedure is performed.

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1 (e)  
2 (c) "Surgical patient" means a patient who is scheduled to undergo a surgical  
3 procedure.

4 (d) "Surgical procedure" means a surgical procedure for which a patient is given  
5 under general anesthetic anesthesia.

6 (2) OPTION FOR RECORDING. (a) A surgical facility shall provide a surgical  
7 patient the option to have the surgical facility or the surgical facility's designee make  
8 a color video recording, including both audio and video, of the patient's surgical  
9 procedure at the patient's expense as described under sub. (10)

10 (b) A surgical facility shall notify a surgical patient or, if the surgical patient  
11 is incapacitated, a person authorized by the patient under s. 146.81 (5) of the option  
12 to have a recording made under par. (a). If the surgical patient is a minor child, the  
13 surgical facility shall notify the minor child's parent, guardian, or legal custodian of  
14 the option to have a recording made under par. (a).

15 (3) ENTRY AND EXIT RECORDING. If a surgical patient requests to have his or her  
16 surgical procedure recorded under sub. (2) (a), the surgical facility or its designee  
17 shall also make a color video recording, including display of the time and date, of any  
18 entryway to or exit from the surgical suite in which the surgical procedure being  
19 recorded is taking place, during the time from which the surgical suite is being  
20 prepared for the surgery of the patient being recorded until that surgical patient  
21 exits the suite. A surgical facility is not required to record audio in making the  
22 recording under this subsection.

23 (4) EQUIPMENT AND TECHNICAL ASSISTANCE. A surgical facility shall have  
available appropriate video recording equipment and technical assistance as  
determined by the department in rules promulgated under sub. (8) to comply with  
a surgical patient request for a recording of his or her surgical procedure.

1 (5) INCAPACITY. If a surgical patient is incapacitated, a person authorized by  
2 the patient under s. 146.81 (5) may request that a recording be made of the patient's  
3 surgical procedure under sub. (2) (a).

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(6) EXCEPTION FOR EMERGENCIES. (a) Notwithstanding sub. (2), a surgical  
5 facility is not required to provide the option of a video recording under this section  
6 if the health care provider determines in the exercise of his or her professional  
7 judgment that either of the following is true:

- 8 1. Immediate surgery is necessary to avert death.
- 9 2. Other circumstances exist such that video recording would cause a delay that  
10 would create a serious risk of substantial and irreversible impairment of one or more  
11 of the surgical patient's bodily functions.

*the parent, guardian, or legal custodian or*

(b) The health care provider shall inform the surgical patient, or person  
13 authorized by the patient under s. 146.81 (5), if applicable, of the medical indications  
14 supporting the health care provider's reasonable medical judgment that either of the  
15 emergency conditions under par. (a) exists.

(16) (7) RULES. (a) The department shall promulgate rules establishing standards  
17 for video recording of surgical procedures and the use of video recording equipment  
18 in the surgery setting to ensure such recordings are professional and of sufficient  
19 quality to accurately portray what takes place during a surgical procedure.

(20) (b) The department shall promulgate rules establishing the fees under sub. (9) (10)

21 (a) and any rules the department determines are necessary for implementation of  
22 sub. (11) (12) (a)

(23) (8) PRESERVATION AND DESTRUCTION. After the recording of a surgical procedure  
24 under this section is complete, the surgical facility or its designee shall promptly do  
25 all of the following:

1 (a) Preserve the recording as part of the surgical patient’s health care record,  
2 which may include both a copy in the patient’s health care record and any electronic  
3 backup of health care records kept in the normal course of business.

4 (b) Except as provided under par. (a), delete copies of the recording from the  
5 recording device or any other electronic device, including any memory card or flash  
6 drive.

7 <sup>(9)</sup> FEES. (a) A surgical facility may charge a reasonable fee, as determined  
8 by the department, for the surgical facility’s videography services provided under  
9 this section and its storage of the recording of the surgical procedure.

10 (b) A surgical facility may charge fees as set forth in s. 146.83 (3f) for providing  
11 copies from a surgical patient’s health care record of a recording under this section,  
12 except that the surgical facility shall provide, upon request, one copy of any recording  
13 taken under this section to a surgical patient <sup>or a person authorized by the patient</sup>  
14 under s. 146.81 (5) <sup>or a parent, guardian, or legal custodian of a minor surgical patient</sup> free of charge.

15 <sup>(10)</sup> ADMISSIBILITY OF RECORDING. For purposes of admissibility in a civil or  
16 criminal action or proceeding, an audiovisual recording created under this section  
17 is a patient health care record under s. 146.81 and shall be treated as other patient  
18 health care records under ss. 908.03 (6m) and 909.02 (11). If certified by an  
19 appropriate record custodian, recordings under this section shall be admissible as  
20 evidence in any civil or criminal action or proceeding related to any alleged act or  
21 omission depicted in the recording.

22 <sup>(11)</sup> ADVANCE REQUESTS FOR RECORDING. (a) *Definition.* In this subsection,  
23 “principal” means an individual who executes an advance request for surgical  
24 procedure recording instrument.

1           (b) *Advance requests for recording.* 1. An individual who is of sound mind and  
2 has attained age 18 may voluntarily execute an advance request for surgical  
3 procedure recording instrument. An individual for whom an adjudication of  
4 incompetence and appointment of a guardian of the individual is in effect in this state  
5 is presumed not to be of sound mind for purposes of this subsection and for executing  
6 an advance request for surgical procedure recording instrument.

7           2. The desires of a principal who does not have incapacity supersede the effect  
8 of his or her advance request for surgical procedure recording instrument at all  
9 times.

10          3. The department shall prepare and provide copies of an advance request for  
11 surgical procedure recording instrument and accompanying information for  
12 distribution in quantities to health care professionals, hospitals and other surgical  
13 facilities, county clerks, and local bar associations and individually to private  
14 persons. The department shall determine the form of the request form and  
15 accompanying instructions. The department shall include on the form both an option  
16 for requesting the recording of a specific single surgical procedure and an option for  
17 requesting the recording of all future surgical procedures appropriate under this  
18 section.

19          (c) *Advance request for recording; execution.* A valid advance request for  
20 surgical procedure recording shall be all of the following:

21           1. In writing.

22           2. Dated and signed by the principal or by an individual who has attained age  
23 18, at the express direction and in the presence of the principal.

24           3. Signed in the presence of a witness who is an individual who has attained  
25 the age 18.

1 4. Voluntarily executed.

2 (d) *Revocation*. A principal may revoke his or her advance request for surgical  
3 procedure recording instrument at any time by doing any of the following:

4 1. Canceling, defacing, obliterating, burning, tearing, or otherwise destroying  
5 the advance request for surgical procedure recording instrument or directing  
6 another in the presence of the principal to so destroy the advance request for surgical  
7 procedure recording instrument.

8 2. Executing a statement, in writing, that is signed and dated by the principal,  
9 expressing the principal's intent to revoke the advance request for surgical procedure  
10 recording instrument.

11 3. Verbally expressing the desire to revoke the advance request for surgical  
12 procedure recording instrument in the presence of a witness.

13 4. Executing a subsequent advance request for surgical procedure recording  
14 instrument that replaces an existing advance request for surgical procedure  
15 recording instrument.

16 <sup>(13)</sup> ~~(12)~~ PENALTIES. (a) Except as provided under sub. <sup>(1)</sup> ~~(6)~~, a health care provider  
17 who knowingly and willfully refuses to comply with a surgical patient request to have  
18 his or her surgical procedure recorded may be ~~fin~~ <sup>subject to a forfeiture of</sup> not more than \$25,000 ~~or~~  
19 imprisoned for not more than 9 months or both <sup>for each violation</sup>

20 (b) Except as provided under sub. <sup>(1)</sup> ~~(6)~~, a surgical facility that fails to provide <sup>a</sup> ~~the~~  
21 notice required under sub. (2) (b) may be subject to a forfeiture of not more than  
22 ~~\$20,000~~ <sup>\$25,000</sup> for each violation.

23 (c) Whoever intentionally conceals, cancels, defaces, obliterates, damages, or  
24 destroys an advance request for surgical procedure recording instrument created

1 under sub. (11) without the consent of the principal for that instrument may be fined  
 2 subject to a forfeiture of ~~not more than \$500 or imprisoned for not more than 30 days or both.~~ \$25,000 for each violation

3 SECTION 2. 146.81 (4) of the statutes is amended to read:

4 146.81 (4) "Patient health care records" means all records related to the health  
 5 of a patient prepared by or under the supervision of a health care provider; all video  
 6 recordings under s. 50.373 related to the surgical patient; and all records made by  
 7 an ambulance service provider, as defined in s. 256.01 (3), an emergency medical  
 8 technician, as defined in s. 256.01 (5), or a first responder, as defined in s. 256.01 (9),  
 9 in administering emergency care procedures to and handling and transporting sick,  
 10 disabled, or injured individuals. "Patient health care records" includes billing  
 11 statements and invoices for treatment or services provided by a health care provider  
 12 and includes health summary forms prepared under s. 302.388 (2). "Patient health  
 13 care records" does not include those records subject to s. 51.30, reports collected  
 14 under s. 69.186, records of tests administered under s. 252.15 (5g) or (5j), 343.305,  
 15 938.296 (4) or (5) or 968.38 (4) or (5), records related to sales of pseudoephedrine  
 16 products, as defined in s. 961.01 (20c), that are maintained by pharmacies under s.  
 17 961.235, fetal monitor tracings, as defined under s. 146.817 (1), or a pupil's physical  
 18 health records maintained by a school under s. 118.125.

19 SECTION 3. 146.83 (3f) (b) 3m. of the statutes is created to read:

20 146.83 (3f) (b) 3m. Except as provided in s. 50.373, for a copy of a video  
 21 recording of a surgical procedure, \$35 per copy.

22 (END)

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2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1589/P4ins  
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1 (a) "General anesthesia" means a temporary status commonly produced by the  
2 administration of certain intravenous drugs and inhaled gasses that cause a patient  
3 to be unconscious and unable to feel pain during a medical procedure.

4 (b) "Health care provider" means a person or entity described under s. 146.81

5 (1) (a) to (p), and includes any surgical facility under par. (b).

(END INSERT 2-3)

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6 (6) MINORS. If a surgical patient is a minor child, a parent, guardian, or legal  
7 custodian may request that a recording be made of the minor child's surgical  
8 procedure under sub. (2) (a).

(END INSERT 4-3)

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8-21

INSERT EFFECTIVE DATE  
^

SECTION 3. Effective date.

(1) This act takes effect on the first day of the 13th month beginning after publication.

(End INSERT EFFECTIVE DATE)

Per Rep. Sinicki's office

4/22

- Add explicit forfeiture procedure so can be enforced by DHS.

- Remit forfeitures to injured patients and families compensation fund.



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-1589/P4/P5  
SWB:wlf:wj  
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT to amend 146.81 (4); and to create 50.373 and 146.83 (3f) (b) 3m. of the  
2 statutes; relating to: video recording of surgical procedures, requiring the  
3 exercise of rule-making authority, and providing penalties.

*Analysis by the Legislative Reference Bureau*

This bill creates a requirement for surgical facilities to offer surgical patients the option to have their surgical procedures videotaped. For purposes of this bill, a surgical procedure is one for which a patient is given a general anesthetic. If a patient makes a request to have a surgical procedure recorded, this bill requires that the surgical facility, or its designee, record the surgical procedure with both audio and color video, and record with color video any entryway to or exit from the surgical suite during the time reserved for the surgery of the requesting patient, including preparation time. If the surgical patient is incapacitated, the surgical facility is required to provide a person authorized by the patient with notice of the option for video recording, and that person may request that a recording be made. Similarly, if the surgical patient is a minor, the surgical facility must notify a parent, guardian, or legal custodian of the option for video recording and allow that person to make a request for a recording on behalf of the minor. Under the bill, in certain limited emergency circumstances, surgical facilities are not required to provide the option of recording.

Video recordings of surgical procedures created under this bill must be treated as patient health care records and are subject to the same protections as other medical records including all criminal and civil penalties for improper disclosure or destruction. The bill specifies that, once a recording is complete, the surgical facility

or its designee must preserve the recording as part of the patient's health care record but delete copies of the recording from the recording device and elsewhere. The Department of Health Services (DHS) is required under this bill to promulgate rules establishing standards relating to the recording equipment, the recording, and the fees to be charged for completing the recording and for obtaining copies of the recording. Upon request, the surgical facility must provide to the patient, person authorized by the patient, or parent, guardian, or legal custodian of the patient one copy of the recording free of charge. Recordings under this bill are admissible as evidence in any civil or criminal action or proceeding related to any alleged act or omission depicted in the recording.

Under this bill, a surgical patient may complete an advance request for recording, which permits an individual who is of sound mind and over the age of 18 to request video recording for future surgical procedures. The individual may complete an advance request for a single specific surgical procedure or for all future surgical procedures to which this bill would apply. An advance request must be completed voluntarily, and must be in writing and signed and dated in the presence of a witness over the age of 18. The advance request may be revoked at any time. DHS must promulgate any rules necessary for implementation of the advance request process.

This bill provides that a health care provider who knowingly refuses to comply with a patient request for recording is subject to a forfeiture of up to \$25,000 for each violation. A surgical facility that fails to provide a required notice of the option for recording is subject to a forfeiture of up to \$25,000 for each violation. Finally, whoever intentionally conceals, cancels, defaces, obliterates, damages, or destroys an advance request for recording without consent may be subject to a forfeiture of up to \$25,000 for each violation.

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

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

1           **SECTION 1.** 50.373 of the statutes is created to read:

2           **50.373 Video recording of surgical procedures.** (1) DEFINITIONS. In this  
3 section:

4           (a) "General anesthesia" means a temporary status commonly produced by the  
5 administration of certain intravenous drugs and inhaled gases that cause a patient  
6 to be unconscious and unable to feel pain during a medical procedure.

1 (b) “Health care provider” means a person or entity described under s. 146.81  
2 (1) (a) to (p) and includes any surgical facility under par. (d).

3 (c) “Incapacitated” means unable to receive and evaluate information  
4 effectively or to communicate decisions to such an extent that an individual lacks the  
5 capacity to manage his or her health care decisions.

6 (d) “Surgical facility” means a hospital, as defined in s. 50.33 (2), an ambulatory  
7 surgical center, as defined in 42 CFR 416.2, or any other place where a surgical  
8 procedure is performed.

9 (e) “Surgical patient” means a patient who is scheduled to undergo a surgical  
10 procedure.

11 (f) “Surgical procedure” means a surgical procedure for which a patient is under  
12 general anesthesia.

13 (2) OPTION FOR RECORDING. (a) A surgical facility shall provide a surgical  
14 patient the option to have the surgical facility or the surgical facility’s designee make  
15 a color video recording, including both audio and video, of the patient’s surgical  
16 procedure at the patient’s expense as described under sub. (10).

17 (b) 1. A surgical facility shall notify a surgical patient or, if the surgical patient  
18 is incapacitated, a person authorized by the patient under s. 146.81 (5) of the option  
19 to have a recording made under par. (a).

20 2. If the surgical patient is a minor child, the surgical facility shall notify the  
21 minor child’s parent, guardian, or legal custodian of the option to have a recording  
22 made under par. (a).

23 (3) ENTRY AND EXIT RECORDING. If a surgical patient requests to have his or her  
24 surgical procedure recorded under sub. (2) (a), the surgical facility or its designee  
25 shall also make a color video recording, including display of the time and date, of any

1 entryway to or exit from the surgical suite in which the surgical procedure being  
2 recorded is taking place, during the time from which the surgical suite is being  
3 prepared for the surgery of the patient being recorded until that surgical patient  
4 exits the suite. A surgical facility is not required to record audio in making the  
5 recording under this subsection.

6 (4) EQUIPMENT AND TECHNICAL ASSISTANCE. A surgical facility shall have  
7 available appropriate video recording equipment and technical assistance as  
8 determined by the department in rules promulgated under sub. (8) to comply with  
9 a surgical patient request for a recording of his or her surgical procedure.

10 (5) INCAPACITY. If a surgical patient is incapacitated, a person authorized by  
11 the patient under s. 146.81 (5) may request that a recording be made of the patient's  
12 surgical procedure under sub. (2) (a).

13 (6) MINORS. If a surgical patient is a minor child, a parent, guardian, or legal  
14 custodian may request that a recording be made of the minor child's surgical  
15 procedure under sub. (2) (a).

16 (7) EXCEPTION FOR EMERGENCIES. (a) Notwithstanding sub. (2), a surgical  
17 facility is not required to provide the option of a video recording under this section  
18 if the health care provider determines in the exercise of his or her professional  
19 judgment that either of the following is true:

20 1. Immediate surgery is necessary to avert death.

21 2. Other circumstances exist such that video recording would cause a delay that  
22 would create a serious risk of substantial and irreversible impairment of one or more  
23 of the surgical patient's bodily functions.

24 (b) The health care provider shall inform the surgical patient, or the parent,  
25 guardian, or legal custodian or person authorized by the patient under s. 146.81 (5),

1 if applicable, of the medical indications supporting the health care provider's  
2 reasonable medical judgment that either of the emergency conditions under par. (a)  
3 exists.

4 (8) RULES. (a) The department shall promulgate rules establishing standards  
5 for video recording of surgical procedures and the use of video recording equipment  
6 in the surgery setting to ensure such recordings are professional and of sufficient  
7 quality to accurately portray what takes place during a surgical procedure.

8 (b) The department shall promulgate rules establishing the fees under sub. (10)  
9 (a) and any rules the department determines are necessary for implementation of  
10 sub. (12).

11 (9) PRESERVATION AND DESTRUCTION. After the recording of a surgical procedure  
12 under this section is complete, the surgical facility or its designee shall promptly do  
13 all of the following:

14 (a) Preserve the recording as part of the surgical patient's health care record,  
15 which may include both a copy in the patient's health care record and any electronic  
16 backup of health care records kept in the normal course of business.

17 (b) Except as provided under par. (a), delete copies of the recording from the  
18 recording device or any other electronic device, including any memory card or flash  
19 drive.

20 (10) FEES. (a) A surgical facility may charge a reasonable fee, as determined  
21 by the department, for the surgical facility's videography services provided under  
22 this section and its storage of the recording of the surgical procedure.

23 (b) A surgical facility may charge fees as set forth in s. 146.83 (3f) for providing  
24 copies from a surgical patient's health care record of a recording under this section,  
25 except that the surgical facility shall provide, upon request, one copy of any recording



1 taken under this section to a surgical patient, a person authorized by the surgical  
2 patient under s. 146.81 (5), or a parent, guardian, or legal custodian of a minor  
3 surgical patient free of charge.

4 (11) ADMISSIBILITY OF RECORDING. For purposes of admissibility in a civil or  
5 criminal action or proceeding, an audiovisual recording created under this section  
6 is a patient health care record under s. 146.81 and shall be treated as other patient  
7 health care records under ss. 908.03 (6m) and 909.02 (11). If certified by an  
8 appropriate record custodian, recordings under this section shall be admissible as  
9 evidence in any civil or criminal action or proceeding related to any alleged act or  
10 omission depicted in the recording.

11 (12) ADVANCE REQUESTS FOR RECORDING. (a) *Definition.* In this subsection,  
12 “principal” means an individual who executes an advance request for surgical  
13 procedure recording instrument.

14 (b) *Advance requests for recording.* 1. An individual who is of sound mind and  
15 has attained age 18 may voluntarily execute an advance request for surgical  
16 procedure recording instrument. An individual for whom an adjudication of  
17 incompetence and appointment of a guardian of the individual is in effect in this state  
18 is presumed not to be of sound mind for purposes of this subsection and for executing  
19 an advance request for surgical procedure recording instrument.

20 2. The desires of a principal who does not have incapacity supersede the effect  
21 of his or her advance request for surgical procedure recording instrument at all  
22 times.

23 3. The department shall prepare and provide copies of an advance request for  
24 surgical procedure recording instrument and accompanying information for  
25 distribution in quantities to health care professionals, hospitals and other surgical

1 facilities, county clerks, and local bar associations and individually to private  
2 persons. The department shall determine the form of the request form and  
3 accompanying instructions. The department shall include on the form both an option  
4 for requesting the recording of a specific single surgical procedure and an option for  
5 requesting the recording of all future surgical procedures appropriate under this  
6 section.

7 (c) *Advance request for recording; execution.* A valid advance request for  
8 surgical procedure recording shall be all of the following:

9 1. In writing.

10 2. Dated and signed by the principal or by an individual who has attained age  
11 18, at the express direction and in the presence of the principal.

12 3. Signed in the presence of a witness who is an individual who has attained  
13 the age 18.

14 4. Voluntarily executed.

15 (d) *Revocation.* A principal may revoke his or her advance request for surgical  
16 procedure recording instrument at any time by doing any of the following:

17 1. Canceling, defacing, obliterating, burning, tearing, or otherwise destroying  
18 the advance request for surgical procedure recording instrument or directing  
19 another in the presence of the principal to so destroy the advance request for surgical  
20 procedure recording instrument.

21 2. Executing a statement, in writing, that is signed and dated by the principal,  
22 expressing the principal's intent to revoke the advance request for surgical procedure  
23 recording instrument.

24 3. Verbally expressing the desire to revoke the advance request for surgical  
25 procedure recording instrument in the presence of a witness.

1           4. Executing a subsequent advance request for surgical procedure recording  
2 instrument that replaces an existing advance request for surgical procedure  
3 recording instrument.

4           **(13) PENALTIES.** (a) Except as provided under sub. (7), a health care provider  
5 who knowingly refuses to comply with a surgical patient request to have his or her  
6 surgical procedure recorded may be subject to a forfeiture of not more than \$25,000  
7 for each violation.

8           (b) Except as provided under sub. (7), a surgical facility that fails to provide a  
9 notice required under sub. (2) (b) may be subject to a forfeiture of not more than  
10 \$25,000 for each violation.

11           (c) Whoever intentionally conceals, cancels, defaces, obliterates, damages, or  
12 destroys an advance request for surgical procedure recording instrument created  
13 under sub. (12) without the consent of the principal for that instrument may be  
14 subject to a forfeiture of not more than \$25,000 for each violation.

15           **SECTION 2.** 146.81 (4) of the statutes is amended to read:

16           146.81 (4) "Patient health care records" means all records related to the health  
17 of a patient prepared by or under the supervision of a health care provider; all video  
18 recordings under s. 50.373 related to the surgical patient; and all records made by  
19 an ambulance service provider, as defined in s. 256.01 (3), an emergency medical  
20 technician, as defined in s. 256.01 (5), or a first responder, as defined in s. 256.01 (9),  
21 in administering emergency care procedures to and handling and transporting sick,  
22 disabled, or injured individuals. "Patient health care records" includes billing  
23 statements and invoices for treatment or services provided by a health care provider  
24 and includes health summary forms prepared under s. 302.388 (2). "Patient health  
25 care records" does not include those records subject to s. 51.30, reports collected

1 under s. 69.186, records of tests administered under s. 252.15 (5g) or (5j), 343.305,  
2 938.296 (4) or (5) or 968.38 (4) or (5), records related to sales of pseudoephedrine  
3 products, as defined in s. 961.01 (20c), that are maintained by pharmacies under s.  
4 961.235, fetal monitor tracings, as defined under s. 146.817 (1), or a pupil's physical  
5 health records maintained by a school under s. 118.125.

6 **SECTION 3.** 146.83 (3f) (b) 3m. of the statutes is created to read:

7 146.83 (3f) (b) 3m. Except as provided in s. 50.373, for a copy of a video  
8 recording of a surgical procedure, \$35 per copy.

9 **SECTION 4. Effective date.**

10 (1) This act takes effect on the first day of the 13th month beginning after  
11 publication.

12 (END)

INS  
9-8

INSERT

**2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1589/P5ins  
SWB:wlj:wj

**INSERT 8-14**

1           **(14) FORFEITURE PROCEDURE.** (a) The department may directly assess  
2 forfeitures provided for under sub. (13). If the department determines that a  
3 forfeiture should be assessed for a particular violation, the department shall send a  
4 notice of assessment to the health care provider. The notice shall specify the amount  
5 of the forfeiture assessed, the violation and the statute or rule alleged to have been  
6 violated, and shall inform the hospital of the right to a hearing under par. (b).

7           (b) A health care provider may contest an assessment of a forfeiture by sending,  
8 within 30 days after receipt of notice under par. (a), a written request for a hearing  
9 under s. 227.44 to the division of hearings and appeals created under s. 15.103 (1).  
10 The administrator of the division may designate a hearing examiner to preside over  
11 the case and recommend a decision to the administrator under s. 227.46. The  
12 decision of the administrator of the division shall be the final administrative  
13 decision. The division shall commence the hearing within 60 days after receipt of the  
14 request for a hearing and shall issue a final decision within 30 days after the close  
15 of the hearing. Proceedings before the division are governed by ch. 227. In any  
16 petition for judicial review of a decision by the division, the party, other than the  
17 petitioner, who was in the proceeding before the division shall be the named  
18 respondent.

19           (c) All forfeitures shall be paid to the department within 30 days after receipt  
20 of notice of assessment or, if the forfeiture is contested under par. (b), within 30 days  
21 after receipt of the final decision after exhaustion of administrative review, unless  
22 the final decision is appealed and the order is stayed by court order. The department

1 shall remit all forfeitures paid to the secretary of administration for deposit in the  
2 injured patients and families compensation fund under s. 655.27.

3 (d) The attorney general may bring an action in the name of the state to collect  
4 any forfeiture imposed under sub. (13) if the forfeiture has not been paid following  
5 the exhaustion of all administrative and judicial reviews. The only issue to be  
6 contested in any such action shall be whether the forfeiture has been paid.

(END INSERT 8-14)

INSERT 9-8

7 SECTION 1. 655.27 (1g) of the statutes is created to read:

8 655.27 (1g) DEPOSIT OF FORFEITURES. Forfeitures paid under s. 50.373 (13) shall  
9 be deposited in the fund under sub. (1).

(END INSERT 9-8)

10

4/30

Per Rep. Strick's office  
(via Leg Council)

- ① Add provision - contractual? - limiting patient use of recordings to legitimate medical or legal advice reasons - only disclosure to limited authorized persons
- ② Add penalty for violation of this, if needed
- ③ Allow doctors to request recording IF tell the patient why



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-1589/P5  
SWB:wlj&cjs:cs  
stays RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

TODAY (MONDAY)  
ASAP AM please  
INSERT

SAW

1 surgical  
2 In exercising the option to have a procedure recorded, under the bill,  
3 the surgical patient or legal custodian or person authorized by the patient  
may exercise the recording to limited authorized individuals unless  
waived by the physician.

AN ACT to amend 146.81 (4); and to create 50.373, 146.83 (3f) (b) 3m. and 655.27  
(1g) of the statutes; relating to: video recording of surgical procedures,  
requiring the exercise of rule-making authority, and providing penalties.

Analysis by the Legislative Reference Bureau

This bill creates a requirement for surgical facilities to offer surgical patients the option to have their surgical procedures videotaped. For purposes of this bill, a surgical procedure is one for which a patient is given a general anesthetic. If a patient makes a request to have a surgical procedure recorded, this bill requires that the surgical facility, or its designee, record the surgical procedure with both audio and color video, and record with color video any entryway to or exit from the surgical suite during the time reserved for the surgery of the requesting patient, including preparation time. If the surgical patient is incapacitated, the surgical facility is required to provide a person authorized by the patient with notice of the option for video recording, and that person may request that a recording be made. Similarly, if the surgical patient is a minor, the surgical facility must notify a parent, guardian, or legal custodian of the option for video recording and allow that person to make a request for a recording on behalf of the minor. Under the bill, in certain limited emergency circumstances, surgical facilities are not required to provide the option of recording.

Video recordings of surgical procedures created under this bill <sup>are otherwise</sup> must be treated as patient health care records and are subject to the same protections as other medical records including all criminal and civil penalties for improper disclosure or destruction. The bill specifies that, once a recording is complete, the surgical facility

The bill also allows physicians to request that a recording be made, and a surgical facility must comply with the request so long as certain conditions are met, including that the surgical patient or authorized representative does not object.  
person by the patient



or its designee must preserve the recording as part of the patient's health care record but delete copies of the recording from the recording device and elsewhere. The Department of Health Services (DHS) is required under this bill to promulgate rules establishing standards relating to the recording equipment, the recording, and the fees to be charged for completing the recording and for obtaining copies of the recording. Upon request, the surgical facility must provide to the patient, person authorized by the patient, or parent, guardian, or legal custodian of the patient one copy of the recording free of charge. Recordings under this bill are admissible as evidence in any civil or criminal action or proceeding related to any alleged act or omission depicted in the recording.

Under this bill, a surgical patient may complete an advance request for recording, which permits an individual who is of sound mind and over the age of 18 to request video recording for future surgical procedures. The individual may complete an advance request for a single specific surgical procedure or for all future surgical procedures to which this bill would apply. An advance request must be completed voluntarily, and must be in writing and signed and dated in the presence of a witness over the age of 18. The advance request may be revoked at any time. DHS must promulgate any rules necessary for implementation of the advance request process.

This bill provides that a health care provider who knowingly refuses to comply with a patient request for recording is subject to a forfeiture of up to \$25,000 for each violation. A surgical facility that fails to provide a required notice of the option for recording is subject to a forfeiture of up to \$25,000 for each violation. ~~Finally~~ <sup>Finally, a patient, parent, guardian, legal custodian, or person authorized by a patient who knowingly violates the</sup> ~~whoever intentionally conceals, cancels, defaces, obliterates, damages, or destroys an advance request for recording without consent may be subject to a forfeiture of up to \$25,000 for each violation.~~

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill. <sup>confidentiality provision and discloses a video to an unauthorized individual may be subject to a forfeiture of up to \$25,000 for each violation.</sup>

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

1           **SECTION 1.** 50.373 of the statutes is created to read:

2           **50.373 Video recording of surgical procedures. (1) DEFINITIONS.** In this  
3 section:

4           (a) "General anesthesia" means a temporary status commonly produced by the  
5 administration of certain intravenous drugs and inhaled gases that cause a patient  
6 to be unconscious and unable to feel pain during a medical procedure.

ee

1 (b) "Health care provider" means a person or entity described under s. 146.81

2 (1) (a) to (p) and includes any surgical facility under par. (d).

3 (c) "Incapacitated" means unable to receive and evaluate information  
4 effectively or to communicate decisions to such an extent that an individual lacks the  
5 capacity to manage his or her health care decisions.

6 (d) "Surgical facility" means a hospital, as defined in s. 50.33 (2), an ambulatory  
7 surgical center, as defined in 42 CFR 416.2, or any other place where a surgical  
8 procedure is performed.

9 (e) "Surgical patient" means a patient who is scheduled to undergo a surgical  
10 procedure.

11 (f) "Surgical procedure" means a surgical procedure for which a patient is under  
12 general anesthesia.

13 (2) OPTION FOR RECORDING. (a) A surgical facility shall provide a surgical  
14 patient the option to have the surgical facility or the surgical facility's designee make  
15 a color video recording, including both audio and video, of the patient's surgical  
16 procedure at the patient's expense as described under sub. (10).

and display of the time and date

17 (b) 1. A surgical facility shall notify a surgical patient or, if the surgical patient  
18 is incapacitated, a person authorized by the patient under s. 146.81 (5) of the option  
19 to have a recording made under par. (a).

20 2. If the surgical patient is a minor child, the surgical facility shall notify the  
21 minor child's parent, guardian, or legal custodian of the option to have a recording  
22 made under par. (a).

23 (3) ENTRY AND EXIT RECORDING. If a surgical patient requests to have his or her  
24 surgical procedure recorded under sub. (2) (a), the surgical facility or its designee  
25 shall also make a color video recording, including display of the time and date, of any

INS 3-5

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INS 3-22

1 entryway to or exit from the surgical suite in which the surgical procedure being  
2 recorded is taking place, during the time from which the surgical suite is being  
3 prepared for the surgery of the patient being recorded until that surgical patient  
4 exits the suite. A surgical facility is not required to record audio in making the  
5 recording under this subsection.

6 (4) EQUIPMENT AND TECHNICAL ASSISTANCE. A surgical facility shall have  
7 available appropriate video recording equipment and technical assistance as  
8 determined by the department in rules promulgated under sub. (8) to comply with  
9 a surgical patient request for a recording of his or her surgical procedure.

10 (5) INCAPACITY. If a surgical patient is incapacitated, a person authorized by  
11 the patient under s. 146.81 (5) may request that a recording be made of the patient's  
12 surgical procedure under sub. (2) (a).

13 (6) MINORS. If a surgical patient is a minor child, a parent, guardian, or legal  
14 custodian may request that a recording be made of the minor child's surgical  
15 procedure under sub. (2) (a).

16 (7) EXCEPTION FOR EMERGENCIES. (a) Notwithstanding sub. (2), a surgical  
17 facility is not required to provide the option of a video recording under this section  
18 if the health care provider determines in the exercise of his or her professional  
19 judgment that either of the following is true:

20 1. Immediate surgery is necessary to avert death.

21 2. Other circumstances exist such that video recording would cause a delay that  
22 would create a serious risk of substantial and irreversible impairment of one or more  
23 of the surgical patient's bodily functions.

24 (b) The health care provider shall inform the surgical patient, or the parent,  
25 guardian, or legal custodian or person authorized by the patient under s. 146.81 (5),

1 if applicable, of the medical indications supporting the health care provider's  
2 reasonable medical judgment that either of the emergency conditions under par. (a)  
3 exists.

4 **(8) RULES.** (a) The department shall promulgate rules establishing standards  
5 for video recording of surgical procedures and the use of video recording equipment  
6 in the surgery setting to ensure such recordings are professional and of sufficient  
7 quality to accurately portray what takes place during a surgical procedure.

8 (b) The department shall promulgate rules establishing the fees under sub. (10)  
9 (a) and any rules the department determines are necessary for implementation of  
10 sub. (12).

11 **(9) PRESERVATION AND DESTRUCTION.** After the recording of a surgical procedure  
12 under this section is complete, the surgical facility or its designee shall promptly do  
13 all of the following:

14 (a) Preserve the recording as part of the surgical patient's health care record,  
15 which may include both a copy in the patient's health care record and any electronic  
16 backup of health care records kept in the normal course of business.

17 (b) Except as provided under par. (a), delete copies of the recording from the  
18 recording device or any other electronic device, including any memory card or flash  
19 drive.

20 **(10) FEES.** (a) A surgical facility may charge a reasonable fee, as determined  
21 by the department, for the surgical facility's videography services provided under  
22 this section and its storage of the recording of the surgical procedure.

23 (b) A surgical facility may charge fees as set forth in s. 146.83 (3f) for providing  
24 copies from a surgical patient's health care record of a recording under this section,  
25 except that the surgical facility shall provide, upon request, one copy of any recording

**SECTION 1**

1 taken under this section to a surgical patient, a person authorized by the surgical  
2 patient under s. 146.81 (5), or a parent, guardian, or legal custodian of a minor  
3 surgical patient free of charge.

4 (11) **ADMISSIBILITY OF RECORDING.** For purposes of admissibility in a civil or  
5 criminal action or proceeding, an audiovisual recording created under this section  
6 is a patient health care record under s. 146.81 and shall be treated as other patient  
7 health care records under ss. 908.03 (6m) and 909.02 (11). If certified by an  
8 appropriate record custodian, recordings under this section shall be admissible as  
9 evidence in any civil or criminal action or proceeding related to any alleged act or  
10 omission depicted in the recording.

11 (12) **ADVANCE REQUESTS FOR RECORDING.** (a) *Definition.* In this subsection,  
12 “principal” means an individual who executes an advance request for surgical  
13 procedure recording instrument.

14 (b) *Advance requests for recording.* 1. An individual who is of sound mind and  
15 has attained age 18 may voluntarily execute an advance request for surgical  
16 procedure recording instrument. An individual for whom an adjudication of  
17 incompetence and appointment of a guardian of the individual is in effect in this state  
18 is presumed not to be of sound mind for purposes of this subsection and for executing  
19 an advance request for surgical procedure recording instrument.

20 2. The desires of a principal who does not have incapacity supersede the effect  
21 of his or her advance request for surgical procedure recording instrument at all  
22 times.

23 3. The department shall prepare and provide copies of an advance request for  
24 surgical procedure recording instrument and accompanying information for  
25 distribution in quantities to health care professionals, hospitals and other surgical

1 facilities, county clerks, and local bar associations and individually to private  
2 persons. The department shall determine the form of the request form and  
3 accompanying instructions. The department shall include on the form both an option  
4 for requesting the recording of a specific single surgical procedure and an option for  
5 requesting the recording of all future surgical procedures appropriate under this  
6 section. INS 7-6

7 (c) *Advance request for recording; execution.* A valid advance request for  
8 surgical procedure recording shall be all of the following:

- 9 1. In writing.
- 10 2. Dated and signed by the principal or by an individual who has attained age  
11 18, at the express direction and in the presence of the principal.
- 12 3. Signed in the presence of a witness who is an individual who has attained  
13 the age 18.
- 14 4. Voluntarily executed.

15 (d) *Revocation.* A principal may revoke his or her advance request for surgical  
16 procedure recording instrument at any time by doing any of the following:

- 17 1. Canceling, defacing, obliterating, burning, tearing, or otherwise destroying  
18 the advance request for surgical procedure recording instrument or directing  
19 another in the presence of the principal to so destroy the advance request for surgical  
20 procedure recording instrument.
- 21 2. Executing a statement, in writing, that is signed and dated by the principal,  
22 expressing the principal's intent to revoke the advance request for surgical procedure  
23 recording instrument.
- 24 3. Verbally expressing the desire to revoke the advance request for surgical  
25 procedure recording instrument in the presence of a witness.

1           4. Executing a subsequent advance request for surgical procedure recording  
2 instrument that replaces an existing advance request for surgical procedure  
3 recording instrument.

4           **(13) PENALTIES.** (a) Except as provided under sub. (7), a health care provider  
5 who knowingly refuses to comply with a surgical patient request to have his or her  
6 surgical procedure recorded may be subject to a forfeiture of not more than \$25,000  
7 for each violation.

8           (b) Except as provided under sub. (7), a surgical facility that fails to provide a  
9 notice required under sub. (2) (b) may be subject to a forfeiture of not more than  
10 \$25,000 for each violation.

11           (c) Whoever intentionally conceals, cancels, defaces, obliterates, damages, or  
12 destroys an advance request for surgical procedure recording instrument created  
13 under sub. (12) without the consent of the principal for that instrument may be  
14 subject to a forfeiture of not more than \$25,000 for each violation.

15 **(14) FORFEITURE PROCEDURE.** (a) The department may directly assess  
16 forfeitures provided for under sub. (13). If the department determines that a  
17 forfeiture should be assessed for a particular violation, the department shall send a  
18 notice of assessment to the health care provider. The notice shall specify the amount  
19 of the forfeiture assessed, the violation and the statute or rule alleged to have been  
20 violated, and shall inform the hospital of the right to a hearing under par. (b).

21           (b) A health care provider may contest an assessment of a forfeiture by sending,  
22 within 30 days after receipt of notice under par. (a), a written request for a hearing  
23 under s. 227.44 to the division of hearings and appeals created under s. 15.103 (1).  
24 The administrator of the division may designate a hearing examiner to preside over  
25 the case and recommend a decision to the administrator under s. 227.46. The

1 decision of the administrator of the division shall be the final administrative  
2 decision. The division shall commence the hearing within 60 days after receipt of the  
3 request for a hearing and shall issue a final decision within 30 days after the close  
4 of the hearing. Proceedings before the division are governed by ch. 227. In any  
5 petition for judicial review of a decision by the division, the party, other than the  
6 petitioner, who was in the proceeding before the division shall be the named  
7 respondent.

8 (c) All forfeitures shall be paid to the department within 30 days after receipt  
9 of notice of assessment or, if the forfeiture is contested under par. (b), within 30 days  
10 after receipt of the final decision after exhaustion of administrative review, unless  
11 the final decision is appealed and the order is stayed by court order. The department  
12 shall remit all forfeitures paid to the secretary of administration for deposit in the  
13 injured patients and families compensation fund under s. 655.27.

14 (d) The attorney general may bring an action in the name of the state to collect  
15 any forfeiture imposed under sub. (13) if the forfeiture has not been paid following  
16 the exhaustion of all administrative and judicial reviews. The only issue to be  
17 contested in any such action shall be whether the forfeiture has been paid.

18 **SECTION 2.** 146.81 (4) of the statutes is amended to read:

19 146.81 (4) "Patient health care records" means all records related to the health  
20 of a patient prepared by or under the supervision of a health care provider; all video  
21 recordings under s. 50.373 related to the surgical patient; and all records made by  
22 an ambulance service provider, as defined in s. 256.01 (3), an emergency medical  
23 technician, as defined in s. 256.01 (5), or a first responder, as defined in s. 256.01 (9),  
24 in administering emergency care procedures to and handling and transporting sick,  
25 disabled, or injured individuals. "Patient health care records" includes billing



**SECTION 2**

1 statements and invoices for treatment or services provided by a health care provider  
2 and includes health summary forms prepared under s. 302.388 (2). “Patient health  
3 care records” does not include those records subject to s. 51.30, reports collected  
4 under s. 69.186, records of tests administered under s. 252.15 (5g) or (5j), 343.305,  
5 938.296 (4) or (5) or 968.38 (4) or (5), records related to sales of pseudoephedrine  
6 products, as defined in s. 961.01 (20c), that are maintained by pharmacies under s.  
7 961.235, fetal monitor tracings, as defined under s. 146.817 (1), or a pupil’s physical  
8 health records maintained by a school under s. 118.125.

9 **SECTION 3.** 146.83 (3f) (b) 3m. of the statutes is created to read:

10 146.83 (3f) (b) 3m. Except as provided in s. 50.373, for a copy of a video  
11 recording of a surgical procedure, \$35 per copy.

12 **SECTION 4.** 655.27 (1g) of the statutes is created to read:

13 655.27 (1g) DEPOSIT OF FORFEITURES. Forfeitures paid under s. 50.373 (13) shall  
14 be deposited in the fund under sub. (1).

15 **SECTION 5. Effective date.**

16 (1) This act takes effect on the first day of the 13th month beginning after  
17 publication.

18 (END)

INSERT

INSERT 3-5

1 (d) "Patient health care records" shall have the meaning given in s. 146.81 (4).

(END INSERT 3-5)

INSERT 3-22

2 (c) A physician who is scheduled to participate as a physician in a surgical  
3 patient's surgical procedure may request that the procedure be video recorded under  
4 the procedures described in this subsection. The surgical facility shall comply with  
5 the physician's request if all of the following are true:

6 1. The requesting physician has informed the patient or, if applicable, a parent,  
7 guardian, legal custodian, or a person authorized by the patient, of the physician's  
8 request for <sup>video</sup> recording and the reason the physician has requested that recording.

9 2. The surgical patient, or if applicable, the parent, guardian, legal custodian,  
10 or person authorized by the patient, does not object to the video recording.

11 (d) If a physician requests <sup>the</sup> video recording <sup>option</sup> under par. (c), the surgical  
12 facility may not charge the surgical patient any fees under sub. (10) (a).

13 (e) A surgical patient, or if applicable, parent, guardian, <sup>or</sup> legal custodian, or  
14 person authorized by the patient, <sup>common stays</sup> who exercises the option for recording under this

15 section may not disclose, unless the physician or physicians involved waive  
16 confidentiality, the content of a video recording created under this section except to  
17 health care providers providing care to the surgical patient, to immediate family  
18 members or a person authorized by the patient under s. 146.81 (5), or to an attorney  
19 or an attorney's staff for the purpose of obtaining legal advice. If legal action is taken,  
20 the surgical patient may disclose the video recording to additional individuals if  
21 necessary for the case, but it <sup>shall</sup> ~~should~~ be filed under seal if permitted. In all other

1 respects, recordings under this section shall be treated as patient health care  
2 records.

*under s. 146.81(5)*

(END INSERT 3-22)

INSERT 7-6

3 *no 9*

The department shall also include on the form a statement to the effect that a  
4 principal who exercises the option for *Video* recording either a single *Surgical* procedure or all future  
5 surgical procedures agrees that, unless the physician or physicians involved waive  
6 confidentiality, a video recording created under this section is confidential and the  
7 principal or, if applicable, a parent, guardian, *or* legal custodian, or person  
8 authorized by a patient, may *only* *be* disclose it to health care providers providing  
9 care to the principal, to immediate family members or a person authorized by the  
10 patient under s. 146.81 (5), or to an attorney or an attorney's staff for the purpose of  
11 obtaining legal advice. *If* legal action is taken, the principal may disclose the video  
12 recording to additional individuals if necessary for the case, but it *should* be filed  
13 under seal if permitted. *and that if must*

(END INSERT 7-6)

INSERT 8-14

14 (d) A surgical patient, parent, guardian, legal custodian, or person authorized  
15 by a patient under s. 146.81 (5) who knowingly violates sub. (2) (e) *by disclosing a*  
16 *video recording taken under this section to a person not authorized under sub. (2) (e)*  
17 may be subject to a forfeiture of not more than \$25,000 for each violation.

(END INSERT 8-14)

5/6

(Ann)

- ① Per Rep. Sinicki's office, change analysis as discussed to include definition of surgical facilities:

"This bill creates a requirement for surgical facilities hospitals, ambulatory surgical centers, or any other places where surgical procedures are performed (surgical facilities) to offer surgical patients the option to have their surgical procedures videotaped."

[New text underlined]

- ② Per Leg Council's suggestion, Rep. Sinicki's office requests addition of "laundry list" of things DHS has to promulgate rules on - aiming to add more specificity.