



State of Wisconsin
1997 - 1998 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 552**

February 5, 1998 - Offered by JOINT COMMITTEE ON INFORMATION POLICY.

1 **AN ACT to repeal** 153.01 (3) and (9), 153.05 (1) (a) to (e), 153.05 (2), 153.05 (4),
2 153.05 (5) (a) and (bm), 153.05 (7), 153.05 (11), 153.07 (2), 153.08 (2) (b), 153.10
3 (1) (a) and (b), 153.10 (2), 153.15, 153.25, 153.30, 153.35, 153.40, 153.60 (2),
4 153.75 (1) (c), (d), (e), (i) and (j) and 153.75 (2) (b); **to renumber and amend**
5 153.05 (1) (intro.) and 153.10 (1) (intro.); **to consolidate, renumber and**
6 **amend** 153.05 (5) (intro.) and (b) and 153.08 (2) (intro.) and (a); **to amend** 16.03
7 (1), 20.435 (1) (hg), 153.05 (3), 153.05 (6), 153.05 (6m), 153.05 (8), 153.05 (9),
8 153.07 (1), 153.20, 153.45 (1) (intro.), 153.45 (1) (a), 153.45 (1) (b), 153.45 (1) (c),
9 153.45 (3), 153.50, 153.60 (1), 153.65, 153.75 (1) (b), 153.75 (1) (f), (k) and (L),
10 153.75 (2) (intro.) and 153.90 (1) and (2); and **to create** 15.07 (1) (b) 21., 15.107
11 (7) (g), 15.194, 153.01 (4d), (4h), (4p) and (4t), 153.05 (6r), 153.07 (4), 153.21,
12 153.45 (4), 153.45 (5), 153.60 (3), 153.75 (1) (m), (n), (o), (p), (q), (r) and (s),
13 153.75 (2) (d) and 943.30 (5) of the statutes; **relating to:** collection, analysis and

1 dissemination of health care information by the department of health and
2 family services, confidentiality of patient health care records, granting
3 rule-making authority, providing a penalty and making an appropriation.

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

4 **SECTION 1.** 15.07 (1) (b) 21. of the statutes is created to read:

5 15.07 (1) (b) 21. Board on health care information.

6 **SECTION 2.** 15.107 (7) (g) of the statutes is created to read:

7 15.107 (7) (g) A representative of the office of the commissioner of insurance.

8 **SECTION 3.** 15.194 of the statutes is created to read:

9 **15.194 Same; specified bureaus. (1) BUREAU OF HEALTH CARE INFORMATION.**

10 There is created in the division within the department of health and family services
11 that has primary responsibility for health issues a bureau of health care information.

12 **SECTION 4.** 16.03 (1) of the statutes is amended to read:

13 16.03 (1) GENERAL FUNCTIONS. The interagency coordinating council shall serve
14 as a means of increasing the efficiency and utility and facilitating the effective
15 functioning of state agencies in activities related to health care data collection. The
16 interagency coordinating council shall advise and assist state agencies in the
17 coordination of health care data collection programs and the exchange of information
18 related to health care data collection and dissemination, including agency budgets
19 for health care data collection programs, health care data monitoring and
20 management, public information and education, health care data analysis and
21 facilities, research activities and the appropriation and allocation of state funds for
22 health care data collection. The interagency coordinating council shall establish
23 methods and criteria for analyzing and comparing complaints filed against health

1 care plans, as defined under s. 628.36 (2) (a) 1., and grievances filed with health
2 maintenance organizations, as defined under s. 609.01 (2), without requiring the
3 collection of information in addition to the information already collected by state
4 agencies.

5 **SECTION 5.** 20.435 (1) (hg) of the statutes, as affected by 1997 Wisconsin Act 27,
6 is amended to read:

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

12 **SECTION 6.** 153.01 (3) and (9) of the statutes are repealed.

13 **SECTION 7.** 153.01 (4d), (4h), (4p) and (4t) of the statutes are created to read:

14 153.01 (4d) “Department” means the department of health and family services.

15 (4h) “Employer coalition” means an organization of employers formed for the
16 purpose of purchasing health care coverage or services as a group.

17 (4p) “Health care plan” means an insured or self-insured plan providing
18 coverage of health care expenses or an employer coalition.

19 (4t) “Health care provider” has the meaning given in s. 146.81 (1) and includes
20 an ambulatory surgery center.

21 **SECTION 8.** 153.05 (1) (intro.) of the statutes is renumbered 153.05 (1) and
22 amended to read:

23 153.05 (1) In order to provide to hospitals, health care providers, insurers,
24 consumers, governmental agencies and others information concerning hospital
25 ~~service utilization, charges, revenues, expenditures, mortality and morbidity rates~~

1 health care providers and uncompensated health care services, and in order to
2 provide information to assist in peer review for the purpose of quality assurance, the
3 office department shall collect, analyze and disseminate health care information, in
4 language that is understandable to lay persons, ~~health care information obtained~~
5 ~~from the following data sources:.~~ This chapter shall be administered by a bureau of
6 health care information. The bureau of health care information shall coordinate its
7 activities with persons with responsibility for medical assistance administration and
8 collection and analysis of health statistics.

9 **SECTION 9.** 153.05 (1) (a) to (e) of the statutes, as affected by 1997 Wisconsin
10 Act 27, are repealed.

11 **SECTION 10.** 153.05 (2) of the statutes, as affected by 1997 Wisconsin Act 27,
12 is repealed.

13 **SECTION 11.** 153.05 (3) of the statutes, as affected by 1997 Wisconsin Act 27,
14 is amended to read:

15 153.05 (3) Upon request of the department, state agencies shall provide health
16 care information to the department for use in preparing reports under ~~ss. 153.10 to~~
17 ~~153.35~~ this chapter.

18 **SECTION 12.** 153.05 (4) of the statutes, as affected by 1997 Wisconsin Act 27,
19 is repealed.

20 **SECTION 13.** 153.05 (5) (intro.) and (b) of the statutes, as affected by 1997
21 Wisconsin Act 27, are consolidated, renumbered 153.05 (5) and amended to read:

22 153.05 (5) The department: ~~(b) May~~ may require hospitals health care
23 providers to submit to the department information ~~from sources identified under~~
24 ~~sub. (1) (a) to (e)~~ that the department deems necessary for the preparation of reports,

1 plans and recommendations under ~~ss. 153.10 to 153.35~~ and any other reports
2 required of the department in the form specified by the department by rule.

3 **SECTION 14.** 153.05 (5) (a) and (bm) of the statutes, as affected by 1997
4 Wisconsin Act 27, are repealed.

5 **SECTION 15.** 153.05 (6) of the statutes, as affected by 1997 Wisconsin Act 27,
6 is amended to read:

7 153.05 (6) ~~If the requirements of s. 153.07 (2) are first met, the~~ The department
8 may contract with a public or private entity that is not a major purchaser, payer or
9 provider of health care services in this state for the provision of data processing
10 services for the collection, analysis and dissemination of health care information
11 under sub. (1) ~~or the department shall provide the services under s. 153.07 (2).~~

12 **SECTION 16.** 153.05 (6m) of the statutes, as affected by 1997 Wisconsin Act 27,
13 is amended to read:

14 153.05 (6m) ~~If the requirements of s. 153.07 (2) are first met, the~~ The
15 department may contract with the group insurance board for the provision of data
16 collection and analysis services related to health maintenance organizations and
17 insurance companies that provide health insurance for state employees ~~or the~~
18 department shall provide the services under s. 153.07 (2). The department shall
19 establish contract fees for the provision of the services. All moneys collected under
20 this subsection shall be credited to the appropriation under s. 20.435 (1) ~~(kx)~~ (hg).

21 **SECTION 17.** 153.05 (6r) of the statutes is created to read:

22 153.05 (6r) The department shall study and, based on the results of the study,
23 may develop and implement a voluntary system of health care plan reporting that
24 enables purchasers and consumers to assess the performance of health care plans
25 and the health care providers that are employed or reimbursed by the health care

1 plans. The department shall undertake the study and any development and
2 implementation in cooperation with private health care purchasers, the board, the
3 department of employe trust funds, the office of the commissioner of insurance, the
4 interagency coordinating council created under s. 15.107 (7), major associations of
5 health care providers, health care plans and consumers. If implemented, the
6 department shall operate the system in a manner so as to enable purchasers,
7 consumers, the public, the governor and legislators to assess the performance of
8 health care plans and health care providers.

9 **SECTION 18.** 153.05 (7) of the statutes, as affected by 1997 Wisconsin Act, is
10 repealed.

11 **SECTION 19.** 153.05 (8) of the statutes, as affected by 1997 Wisconsin Act 27,
12 is amended to read:

13 153.05 (8) ~~Beginning April 1, 1992, the~~ The department shall collect, analyze
14 and disseminate, in language that is understandable to lay persons, ~~health care~~
15 claims information and other health care information under the provisions of this
16 chapter, as determined by rules promulgated by the department, from health care
17 providers, ~~as defined~~ specified by rules promulgated by the department, ~~other than~~
18 ~~hospitals and ambulatory surgery centers.~~ Data from physicians shall health care
19 providers may be obtained through sampling techniques in lieu of collection of data
20 on all patient encounters and data collection procedures shall minimize unnecessary
21 duplication and administrative burdens. If the department collects health care
22 provider-specific data from health care plans, the department shall attempt to avoid
23 collecting the same data from health care providers.

24 **SECTION 20.** 153.05 (9) of the statutes, as affected by 1997 Wisconsin Act 27,
25 is amended to read:

1 153.05 (9) The department shall provide orientation and training to
2 physicians, ~~hospital personnel and other health care providers~~ who submit data
3 under this chapter to explain the process of data collection and analysis and the
4 procedures for data verification, interpretation and release.

5 **SECTION 21.** 153.05 (11) of the statutes, as affected by 1997 Wisconsin Act 27,
6 is repealed.

7 **SECTION 22.** 153.07 (1) of the statutes, as affected by 1997 Wisconsin Act 27,
8 is amended to read:

9 153.07 (1) The board shall advise the ~~director of the department~~ with regard
10 to the collection, analysis and dissemination of health care information required by
11 this chapter.

12 **SECTION 23.** 153.07 (2) of the statutes, as affected by 1997 Wisconsin Act 27,
13 is repealed.

14 **SECTION 24.** 153.07 (4) of the statutes is created to read:

15 153.07 (4) The board and the department shall jointly do all of the following:

16 (a) Develop the rules that are required or authorized under this chapter.

17 (b) Provide oversight on the standard reports under this chapter, including the
18 reports under ss. 153.20 and 153.21.

19 (c) Develop the overall strategy and direction for implementation of this
20 chapter.

21 (d) Provide information on their activities to the interagency coordinating
22 council created under s. 15.107 (7).

23 **SECTION 25.** 153.08 (2) (intro.) and (a) of the statutes are consolidated,
24 renumbered 153.08 (2) and amended to read:

1 153.08 (2) No hospital may increase its rates or charge any payer an amount
2 exceeding its rates that are in effect on May 12, 1992, unless the hospital first does
3 all of the following: ~~(a) Causes causes to be published a class 1 notice under ch. 985~~
4 ~~in the official newspaper designated under s. 985.04 or 985.05 or in a newspaper~~
5 likely to give notice in the area where the hospital is located, no sooner than 45 days
6 and no later than 30 days before the proposed rate change is to take effect. The notice
7 shall describe the proposed rate change and the time and place for the public hearing
8 required under sub. (2).

9 **SECTION 26.** 153.08 (2) (b) of the statutes, as affected by 1997 Wisconsin Act 27,
10 is repealed.

11 **SECTION 27.** 153.10 (1) (intro.) of the statutes, as affected by 1997 Wisconsin
12 Act 27, is renumbered 153.10 and amended to read:

13 **153.10 Health care data reports.** ~~Beginning in 1990 and quarterly~~
14 ~~thereafter, the~~ The department shall prepare, and submit to the governor and the
15 chief clerk of each house of the legislature for distribution to the legislature under
16 s. 13.172 (2), ~~in a manner that permits comparisons among hospitals, a report setting~~
17 ~~forth all of the following for every hospital for the preceding quarter: standard~~
18 reports that the department prepares and shall collect information necessary for
19 preparation of those reports.

20 **SECTION 28.** 153.10 (1) (a) and (b) of the statutes, as affected by 1997 Wisconsin
21 Act 27, are repealed.

22 **SECTION 29.** 153.10 (2) of the statutes is repealed.

23 **SECTION 30.** 153.15 of the statutes, as affected by 1997 Wisconsin Act 27, is
24 repealed.

1 **SECTION 31.** 153.20 of the statutes, as affected by 1997 Wisconsin Act 27, is
2 amended to read:

3 **153.20 Uncompensated health care services report.** (1) ~~Beginning in~~
4 ~~1990 and annually thereafter, the~~ The department shall prepare, and submit to the
5 governor and to the chief clerk of each house of the legislature for distribution to the
6 legislature under s. 13.172 (2) ~~a,~~ an annual report setting forth the number of
7 patients to whom uncompensated health care services were provided by each
8 hospital and the total charges for the uncompensated health care services provided
9 to the patients for the preceding year, together with the number of patients and the
10 total charges that were projected by the hospital for that year in the plan filed under
11 sub. (2).

12 (2) ~~Beginning in 1990 and annually thereafter, every~~ Every hospital shall file
13 with the department a an annual plan setting forth the projected number of patients
14 to whom uncompensated health care services will be provided by the hospital and the
15 projected total charges for the uncompensated health care services to be provided to
16 the patients for the ensuing year.

17 **SECTION 32.** 153.21 of the statutes is created to read:

18 **153.21 Consumer guide.** The department shall prepare and submit to the
19 governor and to the chief clerk of each house of the legislature for distribution to the
20 legislature under s. 13.172 (2) an annual guide to assist consumers in selecting
21 health care providers and health care plans. The guide shall be written in language
22 that is understandable to lay persons. The department shall widely publicize and
23 distribute the guide to consumers.

24 **SECTION 33.** 153.25 of the statutes, as affected by 1997 Wisconsin Act 27, is
25 repealed.

1 **SECTION 34.** 153.30 of the statutes, as affected by 1997 Wisconsin Act 27, is
2 repealed.

3 **SECTION 35.** 153.35 of the statutes, as affected by 1997 Wisconsin Act 27, is
4 repealed.

5 **SECTION 36.** 153.40 of the statutes, as affected by 1997 Wisconsin Act 27, is
6 repealed.

7 **SECTION 37.** 153.45 (1) (intro.) of the statutes, as affected by 1997 Wisconsin
8 Act 27, is amended to read:

9 153.45 (1) (intro.) After completion of data verification and review procedures
10 ~~under s. 153.40 specified by the department by rule~~, the department shall release
11 data in the following forms:

12 **SECTION 38.** 153.45 (1) (a) of the statutes is amended to read:

13 153.45 (1) (a) Standard reports ~~in accordance with ss. 153.10 to 153.35.~~

14 **SECTION 39.** 153.45 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 27,
15 is amended to read:

16 153.45 (1) (b) Public use ~~tapes~~ data files which do not permit the identification
17 of specific patients, ~~physicians~~, employers or other health care providers, ~~as defined~~
18 ~~by rules promulgated by the department~~. The identification of these groups shall be
19 protected by all necessary means, including the deletion of patient identifiers and the
20 use of calculated variables and aggregated variables.

21 **SECTION 40.** 153.45 (1) (c) of the statutes is amended to read:

22 153.45 (1) (c) Custom-designed ~~subfile tapes, other electronic media~~, special
23 data compilations or reports containing portions of the ~~public-use tape data~~ under
24 par. (b).

1 **SECTION 41.** 153.45 (3) of the statutes, as affected by 1997 Wisconsin Act 27,
2 is amended to read:

3 153.45 (3) The department shall release ~~physician-specific~~ health care
4 provider-specific and employer-specific data, except in public use ~~tapes~~ data files as
5 specified under sub. (1) (b), in a manner that is specified in rules promulgated by the
6 department.

7 **SECTION 42.** 153.45 (4) of the statutes is created to read:

8 153.45 (4) The department shall prohibit purchasers of data from rereleasing
9 individual data elements of health care data files.

10 **SECTION 43.** 153.45 (5) of the statutes is created to read:

11 153.45 (5) The department may not release any health care information that
12 is subject to rules promulgated under s. 153.75 (1) (b) until the verification and
13 review procedures required under those rules have been complied with. Nothing in
14 this subsection prohibits release of health care provider-specific information to the
15 health care provider to whom the information relates.

16 **SECTION 44.** 153.50 of the statutes, as affected by 1997 Wisconsin Act 27, is
17 amended to read:

18 **153.50 Protection of patient confidentiality.** Patient-identifiable data
19 obtained under this chapter ~~and contained in the discharge data base of the~~
20 ~~department~~ is not subject to inspection, copying or receipt under s. 19.35 (1) and may
21 not be released ~~by the department~~, except to the patient or to a person granted
22 permission for release by the patient and except that a ~~hospital, a physician~~ health
23 care provider or the agent of a ~~hospital or physician~~ health care provider may have
24 access to patient-identifiable data to ensure the accuracy of the information in the
25 discharge data base.

1 **SECTION 45.** 153.60 (1) of the statutes, as affected by 1997 Wisconsin Act 27,
2 is amended to read:

3 153.60 (1) The department shall, by the first October 1 after the
4 commencement of each fiscal year, estimate the total amount of expenditures under
5 this chapter for the department and the board for that fiscal year for data collection,
6 data base development and maintenance, generation of data files and standard
7 reports, orientation and training provided under s. 153.05 (9) and maintaining the
8 board. The department shall assess the estimated total amount for that fiscal year
9 less the estimated total amount to be received for purposes of administration of this
10 chapter under s. 20.435 (1) (hi) during the fiscal year and the unencumbered balance
11 of the amount received for purposes of administration of this chapter under s. 20.435
12 (1) (hi) from the prior fiscal year, to ~~hospitals in proportion to each hospital's~~
13 ~~respective gross private-pay patient revenues during the hospital's most recently~~
14 ~~concluded entire fiscal year~~ health care providers who are in a class of health care
15 providers from whom the department collects data under this chapter in a manner
16 specified by the department by rule. Each ~~hospital~~ health care provider shall pay the
17 assessment on or before December 1. All payments of assessments shall be deposited
18 in the appropriation under s. 20.435 (1) (hg).

19 **SECTION 46.** 153.60 (2) of the statutes, as affected by 1997 Wisconsin Act 27,
20 is repealed.

21 **SECTION 47.** 153.60 (3) of the statutes is created to read:

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

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

8 **SECTION 48.** 153.65 of the statutes, as affected by 1997 Wisconsin Act 27, is
9 amended to read:

10 **153.65 Provision of special information; user fees.** The department may
11 provide, upon request from a person, a data compilation or a special report based on
12 the information collected by the department ~~under s. 153.05 (1), (3), (4) (b), (5), (7)~~
13 ~~or (8) or 153.08.~~ The department shall establish user fees for the provision of these
14 compilations or reports, payable by the requester, which shall be sufficient to fund
15 the actual necessary and direct cost of the compilation or report. All moneys collected
16 under this section shall be credited to the appropriation under s. 20.435 (1) (hi).

17 **SECTION 49.** 153.75 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 27,
18 is amended to read:

19 153.75 (1) (b) Establishing procedures under which ~~hospitals and health care~~
20 ~~providers are permitted to review and verify patient-related information prior to its~~
21 ~~submission to the department.~~

22 **SECTION 50.** 153.75 (1) (c), (d), (e), (i) and (j) of the statutes are repealed.

23 **SECTION 51.** 153.75 (1) (f), (k) and (L) of the statutes are amended to read:

24 153.75 (1) (f) Governing the release of ~~physician-specific~~ health care
25 provider-specific and employer-specific data under s. 153.45 (3).

1 (k) Establishing methods and criteria for assessing ~~hospitals and ambulatory~~
2 ~~surgery centers~~ health care providers under s. 153.60 ~~(1)~~.

3 (L) Defining the term “uncompensated health care services” for the purposes
4 of ~~ss. 153.05 (1) (d) and s.~~ 153.20.

5 **SECTION 52.** 153.75 (1) (m), (n), (o), (p), (q), (r) and (s) of the statutes are created
6 to read:

7 153.75 (1) (m) Specifying the classes of health care providers from whom claims
8 data and other health care information will be collected.

9 (n) Specifying the uniform data set of health care information to be collected.

10 (o) Specifying the means by which the information in par. (b) will be collected,
11 including the procedures for submission of data by electronic means.

12 (p) Specifying the methods for using and disseminating health care data in
13 order for health care providers to provide health care that is effective and
14 economically efficient and for consumers and purchasers to make informed decisions
15 in selecting health care plans and health care providers.

16 (q) Specifying the information to be provided in the consumer guide under s.
17 153.21.

18 (r) Specifying the standard reports that will be issued by the department in
19 addition to those required in ss. 153.20 and 153.21.

20 (s) Defining “individual data elements” for purposes of s. 153.45 (4).

21 **SECTION 53.** 153.75 (2) (intro.) of the statutes, as affected by 1997 Wisconsin
22 Act 27, is amended to read:

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

25 **SECTION 54.** 153.75 (2) (b) of the statutes is repealed.

1 **SECTION 55.** 153.75 (2) (d) of the statutes is created to read:

2 153.75 (2) (d) Specifying the information collected under any voluntary system
3 of health care plan reporting under s. 153.05 (6r) and the methods and criteria for
4 assessing health care plans that submit data under that subsection.

5 **SECTION 56.** 153.90 (1) and (2) of the statutes are amended to read:

6 153.90 (1) Whoever intentionally violates s. 153.45 (5) or 153.50 or rules
7 promulgated under s. 153.75 (1) (a) may be fined not more than \$10,000 or
8 imprisoned for not more than 9 months or both.

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

16 **SECTION 57.** 943.30 (5) of the statutes is created to read:

17 943.30 (5) (a) In this subsection, “patient health care records” has the meaning
18 given in s. 146.81 (4).

19 (b) Whoever, orally or by any written or printed communication, maliciously
20 uses, or threatens to use, the patient health care records of another person, with
21 intent thereby to extort money or any pecuniary advantage, or with intent to compel
22 the person so threatened to do any act against the person’s will or omit to do any
23 lawful act, is guilty of a Class D felony.

24 **SECTION 58. Nonstatutory provisions; administration.**

