

State of Wisconsin



1997 Senate Bill 315

Date of enactment: **April 30, 1998**
Date of publication*: **May 13, 1998**

1997 WISCONSIN ACT 231

(Vetoed in Part)

AN ACT *to repeal* 153.01 (3) and (9), 153.05 (1) (a) to (e), 153.05 (2), 153.05 (4), 153.05 (5) (a) and (bm), 153.05 (7), 153.05 (11), 153.07 (2), 153.08 (2) (b), 153.10 (1) (a) and (b), 153.10 (2), 153.15, 153.25, 153.30, 153.35, 153.40, 153.60 (2), 153.75 (1) (c), (d), (e), (i) and (j) and 153.75 (2) (b); *to renumber and amend* 153.05 (1) (intro.) and 153.10 (1) (intro.); *to consolidate, renumber and amend* 153.05 (5) (intro.) and (b) and 153.08 (2) (intro.) and (a); *to amend* 15.195 (6), 16.03 (1), 20.435 (1) (hg), 51.30 (4) (a), 146.82 (2) (b), 153.05 (3), 153.05 (6), 153.05 (6m), 153.05 (8), 153.05 (9), 153.07 (1), 153.20, 153.45 (1) (intro.), 153.45 (1) (a), 153.45 (1) (b), 153.45 (1) (c), 153.45 (3), 153.60 (1), 153.65, 153.75 (1) (b), 153.75 (1) (f), (k) and (L), 153.75 (2) (intro.) and 153.90 (1) and (2); *to repeal and recreate* 153.50; and *to create* 15.07 (1) (b) 21., 15.107 (7) (g), 15.194, 153.01 (4d), (4h), (4p) and (4t), 153.05 (6r), 153.05 (13), 153.07 (4), 153.07 (5), 153.21, 153.45 (1m), 153.45 (4), 153.45 (5), 153.55, 153.60 (3), 153.75 (1) (m), (n), (o), (p), (q), (r), (s), (t) and (u), 153.75 (2) (d), 227.01 (13) (yt), 440.03 (11m), 610.70, 895.505 and 943.30 (5) of the statutes; **relating to:** collection, analysis and dissemination of health care information by the department of health and family services, confidentiality of patient health care records, health care provider confidentiality, storage and disposal of documents containing medical and financial information, membership of the board on health care information, authorizing disclosure of personal medical information to an insurer, disclosure by an insurer of personal medical information, granting rule-making authority, providing a penalty and making appropriations.

Vetoed
In Part

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

that has primary responsibility for health issues a bureau of health care information.

Vetoed
In Part

SECTION 4. 15.195 (6) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

15.195 (6) BOARD ON HEALTH CARE INFORMATION. There is created a board on health care information which is attached to the department of health and family services under s. 15.03. The board shall consist of 9 11 members, a majority of whom may neither be nor one of whom shall be a record administrator, registered by the American Medical Record Association, and 5 of whom shall be or represent health care providers, including one registered nurse, licensed under s. 441.06, and at least 2 physicians, as defined in s. 448.01 (5). The State Medical Society of Wisconsin may recommend board member-

Vetoed
In Part

Vetoed
In Part SECTION 1. 15.07 (1) (b) 21. of the statutes is created to read:

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

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

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

Vetoed
In Part SECTION 3. 15.194 of the statutes is created to read:

15.194 Same; specified bureaus. (1) BUREAU OF HEALTH CARE INFORMATION. There is created in the division within the department of health and family services

* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

Vetoed In Part ship for up to 5 physicians, one of whom the governor shall appoint. The members shall be appointed for 4-year terms.

SECTION 5. 16.03 (1) of the statutes is amended to read:

16.03 (1) GENERAL FUNCTIONS. The interagency coordinating council shall serve as a means of increasing the efficiency and utility and facilitating the effective functioning of state agencies in activities related to health care data collection. The interagency coordinating council shall advise and assist state agencies in the coordination of health care data collection programs and the exchange of information related to health care data collection and dissemination, including agency budgets for health care data collection programs, health care data monitoring and management, public information and education, health care data analysis and facilities, research activities and the appropriation and allocation of state funds for health care data collection. The interagency coordinating council shall establish methods and criteria for analyzing and comparing complaints filed against health care plans, as defined under s. 628.36 (2) (a) 1., and grievances filed with health maintenance organizations, as defined under s. 609.01 (2), without requiring the collection of information in addition to the information already collected by state agencies.

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

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

SECTION 7. 51.30 (4) (a) of the statutes is amended to read:

51.30 (4) (a) *Confidentiality of records.* Except as otherwise provided in this chapter and ss. 610.70 (3) and (5), 905.03 and 905.04, all treatment records shall remain confidential and are privileged to the subject individual. Such records may be released only to the persons designated in this chapter or ss. 610.70 (3) and (5), 905.03 and 905.04, or to other designated persons with the informed written consent of the subject individual as provided in this section. This restriction applies to elected officials and to members of boards appointed under s. 51.42 (4) (a) or 51.437 (7) (a).

SECTION 8. 146.82 (2) (b) of the statutes is amended to read:

146.82 (2) (b) Unless Except as provided in s. 610.70 (3) and (5), unless authorized by a court of record, the recipient of any information under par. (a) shall keep the information confidential and may not disclose identifying information about the patient whose patient health care records are released.

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

SECTION 10. 153.01 (4d), (4h), (4p) and (4t) of the statutes are created to read:

153.01 (4d) "Department" means the department of health and family services.

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

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

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

SECTION 11. 153.05 (1) (intro.) of the statutes is renumbered 153.05 (1) and amended to read:

153.05 (1) In order to provide to hospitals, health care providers, insurers, consumers, governmental agencies and others information concerning ~~hospital service utilization, charges, revenues, expenditures, mortality and morbidity rates~~ health care providers and uncompensated health care services, and in order to provide information to assist in peer review for the purpose of quality assurance, the ~~office~~ department shall collect, analyze and disseminate health care information, as adjusted for case mix and severity, in language that is understandable to lay persons, ~~health care information obtained from the following data sources:~~ This chapter shall be administered by a bureau of health care information. The bureau of health care information shall coordinate its activities with persons with responsibility for medical assistance administration and collection and analysis of health statistics.

SECTION 12. 153.05 (1) (a) to (e) of the statutes, as affected by 1997 Wisconsin Act 27, are repealed.

SECTION 13. 153.05 (2) of the statutes, as affected by 1997 Wisconsin Act 27, is repealed.

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

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

SECTION 15. 153.05 (4) of the statutes, as affected by 1997 Wisconsin Act 27, is repealed.

SECTION 16. 153.05 (5) (intro.) and (b) of the statutes, as affected by 1997 Wisconsin Act 27, are consolidated, renumbered 153.05 (5) and amended to read:

153.05 (5) ~~The Unless sub. (13) applies, the department: (b) May require hospitals~~ health care providers to submit to the department information ~~from sources identified under sub. (1) (a) to (e) that the department deems necessary~~ specified by rule under s. 153.75 (1) (n) for the preparation of reports, plans and recommendations ~~under ss. 153.10 to 153.35 and any other reports re-~~

Vetoed In Part

quired of the department in the form specified by the department by rule.

SECTION 17. 153.05 (5) (a) and (bm) of the statutes, as affected by 1997 Wisconsin Act 27, are repealed.

SECTION 18. 153.05 (6) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

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

SECTION 19. 153.05 (6m) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

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

SECTION 20. 153.05 (6r) of the statutes is created to read:

153.05 (6r) The department shall study and, based on the results of the study, may develop and implement a voluntary system of health care plan reporting that enables purchasers and consumers to assess the performance of health care plans and the health care providers that are employed or reimbursed by the health care plans. The department shall undertake the study and any development and implementation in cooperation with private health care purchasers, the board, the department of employee trust funds, the office of the commissioner of insurance, the interagency coordinating council created under s. 15.107 (7), major associations of health care providers, health care plans and consumers. If implemented, the department shall operate the system in a manner so as to enable purchasers, consumers, the public, the governor and legislators to assess the performance of health care plans and health care providers.

SECTION 21. 153.05 (7) of the statutes, as affected by 1997 Wisconsin Act, is repealed.

SECTION 22. 153.05 (8) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

153.05 (8) ~~Beginning April 1, 1992, the~~ Unless sub. (13) applies, the department shall collect, analyze and disseminate, in language that is understandable to lay persons, ~~health care claims information and other health care information, as adjusted for case mix and severity,~~ under the provisions of this chapter, as determined by

rules promulgated by the department, from health care providers, ~~as defined~~ specified by rules promulgated by the department, ~~other than hospitals and ambulatory surgery centers.~~ Data from physicians shall health care providers may be obtained through sampling techniques in lieu of collection of data on all patient encounters and data collection procedures shall minimize unnecessary duplication and administrative burdens. If the department collects health care provider-specific data from health care plans, the department shall attempt to avoid collecting the same data from health care providers. The department may not require use of unique patient identifiers, developed by the federal government, for health care information submitted to the department under this chapter unless required to do so by the federal government.

Vetoed
In Part

SECTION 23. 153.05 (9) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

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

SECTION 24. 153.05 (11) of the statutes, as affected by 1997 Wisconsin Act 27, is repealed.

SECTION 25. 153.05 (13) of the statutes is created to read:

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

SECTION 26. 153.07 (1) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

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

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

SECTION 28. 153.07 (4) of the statutes is created to read:

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

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

Vetoed
In Part

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

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

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

SECTION 28m. 153.07 (5) of the statutes is created to read:

153.07 (5) The board shall approve the amounts of assessments that the department makes under s. 153.60 (1) for health care providers other than hospitals and ambulatory surgery centers.

SECTION 29. 153.08 (2) (intro.) and (a) of the statutes are consolidated, renumbered 153.08 (2) and amended to read:

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

SECTION 30. 153.08 (2) (b) of the statutes, as affected by 1997 Wisconsin Act 27, is repealed.

SECTION 31. 153.10 (1) (intro.) of the statutes, as affected by 1997 Wisconsin Act 27, is renumbered 153.10 and amended to read:

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

SECTION 32. 153.10 (1) (a) and (b) of the statutes, as affected by 1997 Wisconsin Act 27, are repealed.

SECTION 33. 153.10 (2) of the statutes is repealed.

SECTION 34. 153.15 of the statutes, as affected by 1997 Wisconsin Act 27, is repealed.

SECTION 35. 153.20 of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

153.20 Uncompensated health care services report. (1) ~~Beginning in 1990 and annually thereafter, the~~ The department shall prepare, and submit to the governor and to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2) ~~a,~~ an annual report setting forth the number of patients to whom uncompensated health care services were provided by each hospital and the total charges for the uncompensated health care services provided to the patients for the preceding year, together with the number of pa-

tients and the total charges that were projected by the hospital for that year in the plan filed under sub. (2).

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

SECTION 36. 153.21 of the statutes is created to read:

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

SECTION 37. 153.25 of the statutes, as affected by 1997 Wisconsin Act 27, is repealed.

SECTION 38. 153.30 of the statutes, as affected by 1997 Wisconsin Act 27, is repealed.

SECTION 39. 153.35 of the statutes, as affected by 1997 Wisconsin Act 27, is repealed.

SECTION 40. 153.40 of the statutes, as affected by 1997 Wisconsin Act 27, is repealed.

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

153.45 (1) (intro.) After completion of data verification, comment and review procedures ~~under s. 153.40 specified by the department by rule,~~ the department shall release data, together with comments, if any, in the following forms:

SECTION 42. 153.45 (1) (a) of the statutes is amended to read:

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

SECTION 43. 153.45 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

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

SECTION 44. 153.45 (1) (c) of the statutes is amended to read:

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

SECTION 44d. 153.45 (1m) of the statutes is created to read:

Vetoed
In Part

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

SECTION 45. 153.45 (3) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

153.45 (3) The department shall may, but is not required to, release physician-specific health care provider-specific and employer-specific data, except in public use tapes data files as specified under sub. (1) (b), in a manner that is specified in rules promulgated by the department.

SECTION 46. 153.45 (4) of the statutes is created to read:

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

SECTION 47. 153.45 (5) of the statutes is created to read:

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

SECTION 48m. 153.50 of the statutes, as affected by 1997 Wisconsin Act 27, is repealed and recreated to read:

153.50 Protection of patient confidentiality. (1)

DEFINITIONS. In this section:

(a) "Data element" means an item of information from a uniform patient billing form.

(b) "Patient-identifiable data" means all of the following data elements:

1. Patient medical record or chart number.
2. Patient control number.
3. Patient date of birth.
4. Date of patient admission.
5. Date of patient discharge.
6. Date of patient's principal procedure.
7. Encrypted case identifier.
8. Insured's policy number.
9. Patient's employer's name.
10. Insured's date of birth.
11. Insured's identification number.
12. Medicaid resubmission code.
13. Medicaid prior authorization number.

(c) "Small number" means a number that is insufficiently large to be statistically significant, as determined by the department.

(2) PROHIBITION ON RELEASE. Patient-identifiable data obtained under this chapter is not subject to inspection, copying or receipt under s. 19.35 (1) and may not be released by the department except as provided in sub. (4).

(3) DEPARTMENTAL MEASURES TO ENSURE PROTECTION OF PATIENT IDENTITY. To ensure that the identity of patients is protected when information obtained by the department is disseminated, the department shall do all of the following:

(a) Aggregate any data element category containing small numbers, using procedures that are developed by the department and approved by the board and that follow commonly accepted statistical methodology.

(b) Remove and destroy all of the following data elements on the uniform patient billing forms that are received by the department under the requirements of this chapter:

1. The patient's name and street address.
2. The insured's name, address and telephone number.
3. Any other insured's name, employer name and date of birth.
4. The signature of the patient or other authorized signature.
5. The signature of the insured or other authorized signature.
6. The signature of the physician.

(4) RELEASE OF PATIENT-IDENTIFIABLE DATA. Under the procedures specified in sub. (5), release of patient-identifiable data may be made to any of the following:

(a) The patient or a person granted permission in writing by the patient for release of the patient's patient-identifiable data.

(b) An agent of the department who is responsible for the patient-identifiable data in the department, in order to store the data and ensure the accuracy of the information in the data base of the department.

(c) A health care provider or the agent of a health care provider, to ensure the accuracy of the information in the data base of the department.

(d) The department, for purposes of epidemiological investigation or to eliminate the need for duplicative data bases.

(e) An entity that is required by federal or state statute to obtain patient-identifiable data for purposes of epidemiological investigation or to eliminate the need for duplicative data bases.

(5) PROCEDURES FOR RELEASE OF PATIENT-IDENTIFIABLE DATA. (a) The department may not release or provide access to patient-identifiable data to a person authorized under sub. (4) (a), (c), (d) or (e) unless the authorized person requests the department, in writing, to release the patient-identifiable data. The request shall include all of the following:

1. The requester's name and address.
2. The reason for the request.
3. For a person who is authorized under sub. (4) (a), (c) or (d) to receive or have access to patient-identifiable

data, evidence, in writing, that indicates that authorization.

4. For an entity that is authorized under sub. (4) (e) to receive or have access to patient-identifiable data, evidence, in writing, of all of the following:

a. The federal or state statutory requirement to obtain the patient-identifiable data.

b. Any federal or state statutory requirement to uphold the patient confidentiality provisions of this chapter or patient confidentiality provisions that are more restrictive than those of this chapter; or, if the latter evidence is inapplicable, an agreement, in writing, to uphold the patient confidentiality provisions of this chapter.

(b) Upon receipt of a request under par. (a), the department shall, as soon as practicable, comply with the request or notify the requester, in writing, of all of the following:

1. That the department is denying the request in whole or in part.

2. The reason for the denial.

3. For a person who believes that he or she is authorized under sub. (4), the action provided under s. 19.37.

(6) INFORMATION SUBMITTED. The department may not require a health care provider submitting health care information under this chapter to include the patient's name, street address or social security number.

SECTION 48r. 153.55 of the statutes is created to read:

153.55 Protection of health care provider confidentiality. Health care provider-identifiable data obtained under this chapter is not subject to inspection, copying or receipt under s. 19.35 (1).

SECTION 49. 153.60 (1) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

153.60 (1) The department shall, by the first October 1 after the commencement of each fiscal year, estimate the total amount of expenditures under this chapter for the department and the board for that fiscal year for data collection, data base development and maintenance, generation of data files and standard reports, orientation and training provided under s. 153.05 (9) and maintaining the board. The department shall assess the estimated total amount for that fiscal year less the estimated total amount to be received for purposes of administration of this chapter under s. 20.435 (1) (hi) during the fiscal year and the unencumbered balance of the amount received for purposes of administration of this chapter under s. 20.435 (1) (hi) from the prior fiscal year, to hospitals in proportion to each hospital's respective gross private pay patient revenues during the hospital's most recently concluded entire fiscal year health care providers who are in a class of health care providers from whom the department collects data under this chapter in a manner specified by the department by rule. The department shall obtain approval from the board for the amounts of assessments for health care providers other than hospitals and ambulatory surgery centers. The department shall work together with

the department of regulation and licensing to develop a mechanism for collecting assessments from health care providers other than hospitals and ambulatory surgery centers. No health care provider that is not a facility may be assessed under this subsection an amount that exceeds \$75 per fiscal year. Each hospital health care provider shall pay the assessment on or before December 1. All payments of assessments shall be deposited in the appropriation under s. 20.435 (1) (hg).

SECTION 50. 153.60 (2) of the statutes, as affected by 1997 Wisconsin Act 27, is repealed.

SECTION 51. 153.60 (3) of the statutes is created to read:

153.60 (3) The department shall, by the first October 1 after the commencement of each fiscal year, estimate the total amount of expenditures required for the collection, database development and maintenance and generation of public data files and standard reports for health care plans that voluntarily agree to supply health care data under s. 153.05 (6r). The department shall assess the estimated total amount for that fiscal year to health care plans in a manner specified by the department by rule and may enter into an agreement with the office of the commissioner of insurance for collection of the assessments. Each health plan that voluntarily agrees to supply this information shall pay the assessments on or before December 1. All payments of assessments shall be deposited in the appropriation under s. 20.435 (1) (hg) and may be used solely for the purposes of s. 153.05 (6r).

SECTION 52. 153.65 of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

153.65 Provision of special information; user fees. The department may, but is not required to, provide, upon request from a person, a data compilation or a special report based on the information collected by the department under s. 153.05 (1), (3), (4) (b), (5), (7) or (8) or 153.08. The department shall establish user fees for the provision of these compilations or reports, payable by the requester, which shall be sufficient to fund the actual necessary and direct cost of the compilation or report. All moneys collected under this section shall be credited to the appropriation under s. 20.435 (1) (hi).

SECTION 53. 153.75 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

153.75 (1) (b) Establishing procedures under which hospitals and health care providers are permitted to review and, verify patient-related and comment on information prior to its submission to the department and include the comments with the information.

SECTION 54. 153.75 (1) (c), (d), (e), (i) and (j) of the statutes are repealed.

SECTION 55. 153.75 (1) (f), (k) and (L) of the statutes are amended to read:

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

Vetoed
In Part

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

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

SECTION 56. 153.75 (1) (m), (n), (o), (p), (q), (r), (s), (t) and (u) of the statutes are created to read:

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

(n) Specifying the uniform data set of health care information, as adjusted for case mix and severity, to be collected.

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

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

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

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

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

(t) Establishing standards for determining under s. 153.05 (13) if a requirement under s. 153.05 (1), (5) or (8) is burdensome for a health care provider.

(u) Specifying the methods for adjusting health care information for case mix and severity.

SECTION 57. 153.75 (2) (intro.) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

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

SECTION 58. 153.75 (2) (b) of the statutes is repealed.

SECTION 59. 153.75 (2) (d) of the statutes is created to read:

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

SECTION 60. 153.90 (1) and (2) of the statutes are amended to read:

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

(2) Any person who violates this chapter or any rule promulgated under the authority of this chapter, except

ss. 153.45 (5), 153.50 and 153.75 (1) (a), as provided in s. 153.85 and sub. (1), shall forfeit not more than \$100 for each violation. Each day of violation constitutes a separate offense, except that no day in the period between the date on which a request for a hearing is filed under s. 227.44 and the date of the conclusion of all administrative and judicial proceedings arising out of a decision under this section constitutes a violation.

SECTION 60g. 227.01 (13) (yt) of the statutes is created to read:

227.01 (13) (yt) Relates to the amounts of assessments that are made under s. 153.60 (1) for health care providers.

SECTION 60r. 440.03 (11m) of the statutes is created to read:

440.03 (11m) The department shall work together with the department of health and family services to develop a mechanism for collecting assessments under s. 153.60 (1) from health care providers other than hospitals and ambulatory surgery centers.

SECTION 61. 610.70 of the statutes is created to read:
610.70 Disclosure of personal medical information. (1) DEFINITIONS. In this section:

(a) “Health care provider” means any person licensed, registered, permitted or certified by the department of health and family services or the department of regulation and licensing to provide health care services, items or supplies in this state.

(b) “Individual” means a natural person who is a resident of this state. For purposes of this paragraph, a person is a state resident if his or her last-known mailing address, according to the records of an insurer or insurance support organization, was in this state.

(c) 1. “Insurance support organization” means any person that regularly engages in assembling or collecting personal medical information about natural persons for the primary purpose of providing the personal medical information to insurers for insurance transactions, including the collection of personal medical information from insurers and other insurance support organizations for the purpose of detecting or preventing fraud, material misrepresentation or material nondisclosure in connection with insurance underwriting or insurance claim activity.

2. Notwithstanding subd. 1., “insurance support organization” does not include insurance agents, government institutions, insurers or health care providers.

(d) “Insurance transaction” means any of the following involving insurance that is primarily for personal, family or household needs:

1. The determination of an individual’s eligibility for an insurance coverage, benefit or payment.

2. The servicing of an insurance application, policy, contract or certificate.

(e) “Medical care institution” means a facility, as defined in s. 647.01 (4), or any hospital, nursing home,

community-based residential facility, county home, county infirmary, county hospital, county mental health center, tuberculosis sanatorium, adult family home, assisted living facility, rural medical center, hospice or other place licensed, certified or approved by the department of health and family services under s. 49.70, 49.71, 49.72, 50.02, 50.03, 50.032, 50.033, 50.034, 50.35, 50.52, 50.90, 51.04, 51.08, 51.09, 58.06, 252.073 or 252.076 or a facility under s. 45.365, 51.05, 51.06 or 252.10 or under ch. 233 or licensed or certified by a county department under s. 50.032 or 50.033.

(f) 1. “Personal medical information” means information concerning an individual that satisfies all of the following:

a. Relates to the individual’s physical or mental health, medical history or medical treatment.

b. Is obtained from a health care provider, a medical care institution, the individual or the individual’s spouse, parent or legal guardian.

2. “Personal medical information” does not include information that is obtained from the public records of a governmental authority and that is maintained by an insurer or its representatives for the purpose of insuring title to real property located in this state.

(2) DISCLOSURE AUTHORIZATION. (a) Any form that is used in connection with an insurance transaction and that authorizes the disclosure of personal medical information about an individual to an insurer shall comply with all of the following:

1. All instructions and other information contained in the form are presented in plain language.

2. The form is dated.

3. The form specifies the types of persons that are authorized to disclose information about the individual.

4. The form specifies the nature of the information that is authorized to be disclosed.

5. The form names the insurer, and identifies by generic reference representatives of the insurer, to whom the information is authorized to be disclosed.

6. The form specifies the purposes for which the information is being obtained.

7. Subject to par. (b), the form specifies the length of time for which the authorization remains valid.

8. The form advises that the individual, or an authorized representative of the individual, is entitled to receive a copy of the completed authorization form.

(b) 1. For an authorization under this subsection that will be used for the purpose of obtaining information in connection with an insurance policy application, an insurance policy reinstatement or a request for a change in policy benefits, the length of time specified in par. (a) 7. may not exceed 30 months from the date on which the authorization is signed.

2. For an authorization under this subsection that will be used for the purpose of obtaining information in connection with a claim for benefits under an insurance

policy, the length of time specified in par. (a) 7. may not exceed the policy term or the pendency of a claim for benefits under the policy, whichever is longer.

(3) ACCESS TO RECORDED PERSONAL MEDICAL INFORMATION. (a) If, after proper identification, an individual or an authorized representative of an individual submits a written request to an insurer for access to recorded personal medical information that concerns the individual and that is in the insurer’s possession, within 30 business days after receiving the request the insurer shall do all of the following:

1. Inform the individual or authorized representative of the nature and substance of the recorded personal medical information in writing, by telephone or by any other means of communication at the discretion of the insurer.

2. At the option of the individual or authorized representative, permit the individual or authorized representative to inspect and copy the recorded personal medical information, in person and during the insurer’s normal business hours, or provide by mail to the individual or authorized representative a copy of the recorded personal medical information. If the recorded personal medical information is in coded form, the insurer shall provide to the individual or authorized representative an accurate written translation in plain language.

3. Disclose to the individual or authorized representative the identities, if recorded, of any persons to whom the insurer has disclosed the recorded personal medical information within 2 years prior to the request. If the identities are not recorded, the insurer shall disclose to the individual or authorized representative the names of any insurance agents, insurance support organizations or other entities to whom such information is normally disclosed.

4. Provide to the individual or authorized representative a summary of the procedures by which the individual or authorized representative may request the correction, amendment or deletion of any recorded personal medical information in the possession of the insurer.

(b) Notwithstanding par. (a), an insurer may, in the insurer’s discretion, provide a copy of any recorded personal medical information requested by an individual or authorized representative under par. (a) to a health care provider who is designated by the individual or authorized representative and who is licensed, registered, permitted or certified to provide health care services with respect to the condition to which the information relates. If the insurer chooses to provide the information to the designated health care provider under this paragraph, the insurer shall notify the individual or authorized representative, at the time of disclosure, that the information has been provided to the health care provider.

(c) An insurer is required to comply with par. (a) or (b) only if the individual or authorized representative provides a reasonable description of the information that

is the subject of the request and if the information is reasonably easy to locate and retrieve by the insurer.

(d) If an insurer receives personal medical information from a health care provider or a medical care institution with instructions restricting disclosure of the information under s. 51.30 (4) (d) 1. to the individual to whom the information relates, the insurer may not disclose the personal medical information to the individual under this subsection, but shall disclose to the individual the identity of the health care provider or a medical care institution that provided the information.

(e) Any copy of recorded personal medical information provided under par. (a) or (b) shall include the identity of the source of the information if the source is a health care provider or a medical care institution.

(f) An insurer may charge the individual a reasonable fee to cover the costs incurred in providing a copy of recorded personal medical information under par. (a) or (b).

(g) The requirements for an insurer under this subsection may be satisfied by another insurer, an insurance agent, an insurance support organization or any other entity authorized by the insurer to act on its behalf.

(h) The requirements under this subsection do not apply to information concerning an individual that relates to, and that is collected in connection with or in reasonable anticipation of, a claim or civil or criminal proceeding involving the individual.

(4) CORRECTION, AMENDMENT OR DELETION OF RECORDED PERSONAL MEDICAL INFORMATION. (a) Within 30 business days after receiving a written request from an individual to correct, amend or delete any recorded personal medical information that is in the insurer's possession, an insurer shall do either of the following:

1. Comply with the request.
2. Notify the individual of all of the following:
 - a. That the insurer refuses to comply with the request.
 - b. The reasons for the refusal.
 - c. That the individual has a right to file a statement as provided in par. (c).

(b) An insurer that complies with a request under par. (a) shall notify the individual of that compliance in writing and furnish the correction, amendment or fact of deletion to all of the following:

1. Any person who may have received, within the preceding 2 years, the recorded personal medical information concerning the individual and who is specifically designated by the individual.

2. Any insurance support organization for which insurers are the primary source of personal medical information and to which the insurer, within the preceding 7 years, has systematically provided recorded personal medical information. This subdivision does not apply to an insurance support organization that does not maintain recorded personal medical information concerning the individual.

3. Any insurance support organization that furnished to the insurer the personal medical information that has been corrected, amended or deleted.

(c) If an insurer refuses to comply with a request under par. (a) 1., the individual making the request may file with the insurer, an insurance agent or an insurance support organization any of the following:

1. A concise statement setting forth the information that the individual believes to be correct, relevant or fair.
2. A concise statement setting forth the reasons why the individual disagrees with the insurer's refusal to correct, amend or delete the recorded personal medical information.

(d) If the individual files a statement under par. (c), the insurer shall do all of the following:

1. File any statement filed by the individual under par. (c) with the recorded personal medical information that is the subject of the request under par. (a) in such a manner that any person reviewing the recorded personal medical information will be aware of and have access to the statement.

2. In any subsequent disclosure by the insurer of the recorded personal medical information, clearly identify any matter in dispute and provide any statement filed by the individual under par. (c) that relates to the recorded personal medical information along with the information.

3. Furnish any statement filed by the individual under par. (c) to any person to whom the insurer would have been required to furnish a correction, amendment or fact of deletion under par. (b).

(e) The requirements under this subsection do not apply to information concerning an individual that relates to, and that is collected in connection with or in reasonable anticipation of, a claim or civil or criminal proceeding involving the individual.

(5) DISCLOSURE OF PERSONAL MEDICAL INFORMATION BY INSURERS. Any disclosure by an insurer of personal medical information concerning an individual shall be consistent with the individual's signed disclosure authorization form, unless the disclosure satisfies any of the following:

- (a) Is otherwise authorized by the individual, or by a person who is authorized to consent on behalf of an individual who lacks the capacity to consent.

- (b) Is reasonably related to the protection of the insurer's interests in the assessment of causation, fault or liability or in the detection or prevention of criminal activity, fraud, material misrepresentation or material nondisclosure.

- (c) Is made to an insurance regulatory authority or in response to an administrative or judicial order, including a search warrant or subpoena, that is valid on its face.

- (d) Is otherwise permitted by law.

(e) Is made for purposes of pursuing a contribution or subrogation claim.

(f) Is made to a professional peer review organization, bill review organization, health care provider or medical consultant or reviewer for the purpose of reviewing the services, fees, treatment or conduct of a medical care institution or health care provider.

(g) Is made to a medical care institution or health care provider for any of the following purposes:

1. Verifying insurance coverage or benefits.
2. Conducting an operations or services audit to verify the individuals treated by the health care provider or at the medical care institution.

(h) Is made to a network plan that is offered by an insurer in order to make arrangements for coordinated health care in which personal medical information concerning an individual is available for providing treatment, making payment for health care under the plan and undertaking such plan operations as are necessary to fulfill the contract for provision of coordinated health care.

(i) Is made to a group policyholder for the purpose of reporting claims experience or conducting an audit of the insurer's operations or services. Disclosure may be made under this paragraph only if the disclosure is reasonably necessary for the group policyholder to conduct the review or audit.

(j) Is made for purposes of enabling business decisions to be made regarding the purchase, transfer, merger, reinsurance or sale of all or part of an insurance business.

(k) Is made for purposes of actuarial or research studies or for accreditation or auditing. With respect to a disclosure made under this paragraph, any materials that allow for the identification of an individual must be returned to the insurer or destroyed as soon as reasonably practicable, and no individual may be identified in any actuarial, research, accreditation or auditing report.

(L) Is made to the insurer's legal representative for purposes of claims review or legal advice or defense.

(6) IMMUNITY. (a) A person is not liable to any person for any of the following:

1. Disclosing personal medical information in accordance with this section.
2. Furnishing personal medical information to an insurer or insurance support organization in accordance with this section.

(b) Paragraph (a) does not apply to the disclosure or furnishing of false information with malice or intent to injure any person.

(7) OBTAINING INFORMATION UNDER FALSE PRETENSES. Any person who knowingly and wilfully obtains information about an individual from an insurer or insurance support organization under false pretenses may be fined not more than \$10,000 or imprisoned for not more than one year in the county jail or both.

SECTION 62. 895.505 of the statutes is created to read:

895.505 Storage and disposal of records containing personal information. (1) DEFINITIONS. In this section:

(a) "Business" means an organization or enterprise, whether or not operated for profit, including a sole proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, limited liability company or association.

(b) "Destruction" means, with respect to a record, permanently rendering the personal information contained in the record incapable of being read.

(c) "Disposal" means, with respect to a record, ceasing to have control over access to the record.

(d) "Personal information" means personally identifiable data about the medical or financial condition of a state resident that is not generally considered to be public knowledge, including the individual's social security number.

(e) "Personally identifiable" means capable of being associated with a particular individual through one or more identifiers or other information or circumstances.

(f) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

(2) STORAGE OF RECORDS CONTAINING PERSONAL INFORMATION. Prior to the disposal of a record under sub. (3), a business shall take all actions that it reasonably believes to be necessary to prevent unauthorized persons from obtaining access to personal information contained in the record.

(3) DISPOSAL OF RECORDS CONTAINING PERSONAL INFORMATION. A business may not dispose of a record containing personal information unless it does at least one of the following:

(a) Prior to the disposal of the record, the business shreds, erases or otherwise modifies the record to make the personal information unreadable.

(b) The business takes actions that it reasonably believes will ensure that no unauthorized person will have access to the personal information contained in the record for the period between the record's disposal and the record's destruction.

(4) CAUSE OF ACTION. A business that violates sub. (2) or (3) is liable to any person damaged by the violation for the amount of pecuniary damages.

SECTION 63. 943.30 (5) of the statutes is created to read:

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

(b) Whoever, orally or by any written or printed communication, maliciously uses, or threatens to use, the patient health care records of another person, with intent thereby to extort money or any pecuniary advantage, or with intent to compel the person so threatened to do any

Vetoed
In Part

Vetoed
In Part

act against the person's will or omit to do any lawful act, is guilty of a Class D felony.

SECTION 64. Nonstatutory provisions; administration.

(1) INTERAGENCY COORDINATING COUNCIL MEMBER. Notwithstanding the length of terms of members specified in section 15.107 (7) (intro.) of the statutes, the member appointed to the interagency coordinating council under section 15.107 (7) (g) of the statutes, as created by this act, shall serve for an initial term that expires on July 1, 2003.

SECTION 65. Nonstatutory provisions; health and family services.

(1) REPORT AND PLAN ON CHARITY CARE AND BAD DEBT SERVICES. The department of health and family services shall prepare a report on the feasibility of requiring major health care providers, other than hospitals, to report annually on the services provided as either charity care or bad debt services and to file an annual plan on projected services that will be provided as either charity care or bad debt services, in the same manner as the annual report and plan by hospitals under section 153.20 of the statutes, as affected by this act. By the first day of the 7th month after publication of this act, the department shall submit the report to the legislature in the manner provided under section 13.172 (2) of the statutes, to the board on health care information and to the governor.

(2) BOARD ON HEALTH CARE INFORMATION MEMBERS. Notwithstanding the length of terms specified for the members of the board on health care information under section 15.195 (6) of the statutes, as affected by this act, the 10th and 11th initial members appointed under that subsection shall be appointed for a term expiring on May 1, 2002.

(3) PLAN FOR CORRECTION OF ERRONEOUS DATA. The department of health and family services shall develop a plan for the correction of erroneous data collected under section 153.05 (1), (5) and (8) of the statutes, as affected by this act. The department of health and family services may not implement procedures under the plan unless the plan is approved by the board on health care information. The department of health and family services shall implement the procedures under the plan at the time data is first collected from health care providers under section 153.05 (1), (5) and (8) of the statutes, as affected by this act.

(3t) REPORT ON INFORMATION COLLECTED FROM A MEDICAL SCHOOL FACULTY MEMBER. The department of health and family services shall report on whether health care information that is collected under chapter 153 of the statutes, as affected by this act, from a physician who is a member of the faculty of a medical school should be adjusted to reflect services rendered by residents or fellows in medical education who are under the supervision of the physician. The department shall submit the report by July 1, 1999, to the legislature in the manner provided under section 13.172 (2) of the statutes, and to the governor.

SECTION 65m. Appropriation changes; health and family services.

(1) REPORT ON INFORMATION COLLECTED FROM A MEDICAL SCHOOL FACULTY MEMBER. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services under section 20.435 (6) (a) of the statutes, as affected by the acts of 1997, the dollar amount is increased by \$5,200 for fiscal year 1998-99 to increase funding to contract with the Medical College of Wisconsin for the preparation of the report under SECTION 65 (3t) of this act.

Vetoed
In Part

SECTION 66. Initial applicability.

(1) BOARD ON HEALTH CARE INFORMATION. The treatment of section 15.07 (1) (b) 21. of the statutes first applies to persons appointed to the board on health care information on the effective date of this subsection.

Vetoed
In Part

(2) DISCLOSURE BY INSURERS OF PERSONAL MEDICAL INFORMATION. If a contract that is affected by section 610.70 of the statutes, as created by this act, that is in effect on the first day of the 13th month beginning after publication and that was not issued or renewed after the effective date of this subsection contains terms or provisions that are inconsistent with the requirements under section 610.70 of the statutes, as created by this act, the treatment of sections 51.30 (4) (a), 146.82 (2) (b) and 610.70 of the statutes first applies to that contract upon renewal.

SECTION 67. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 51.30 (4) (a), 146.82 (2) (b) and 610.70 of the statutes takes effect on the first day of the 13th month beginning after publication.

(2) The treatment of section 895.505 of the statutes takes effect on the first day of the 4th month beginning after publication.

Vetoed
In Part