CHAPTER 153

HEALTH CARE INFORMATION

153.01 Definitions. In this chapter:

(1) "Ambulatory surgery center" has the meaning given under 42 CFR 416.2.

(2) "Board" means the board on health care information.

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

(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.

(5) "Hospital" has the meaning given under s. 50.33 (2).

(5m) "Insurer" has the meaning given under s. 600.03 (27).

(7) "Patient" means a person who receives health care services from a health care provider.

(8) "Payer" means a 3rd party payer, including an insurer, federal, state or local government or another who is responsible for payment of a hospital charge.

History: 1987 a. 399; 1993 a. 16, 185, 491; 1997 a. 27, 231.

153.05 Collection and dissemination of health care and related information. (1) In order to provide to hospitals, health care providers, insurers, consumers, governmental agencies and others information concerning 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 department shall collect, analyze and disseminate health care information, as adjusted for case mix and severity, in language that is understandable to lay persons.

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

(5) Unless sub. (13) applies, the department may require health care providers to submit to the department information specified by rule under s. 153.75 (1) (n) for the preparation of reports, plans and recommendations in the form specified by the department by rule.

(6) 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).

(6m) 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 employes. 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) (hg).

(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 employe 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.

(8) Unless sub. (13) applies, the department shall collect, analyze and disseminate, in language that is understandable to lay persons, 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 specified by rules promulgated by the department. Data from 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.

(9) The department shall provide orientation and training to 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.

(12) The department shall, to the extent possible and upon request, assist members of the public in interpreting data in health care information disseminated by the department.

(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.

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 250, 269; 1993 a. 16, 104, 185, 491; 1995 a. 27 ss. 4393, 9126 (19); 1997 a. 27, 231.

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

(3) The board shall approve all rules which are proposed by the department for promulgation to implement this chapter.

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

(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).

History: 1987 a. 399; 1991 a. 269; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231, 237.

153.08 Hospital rate increases or charges in excess of rates. (1) In this section:

(a) "Consumer price index" has the meaning given in s. 16.004 (8) (e) 1.

(b) Notwithstanding s. 153.01 (5), "hospital" has the meaning given in s. 50.33 (2), except that "hospital" does not include a center for the developmentally disabled as defined in s. 51.01 (3).

(c) "Rates" means individual charges of a hospital for the services that it provides.

(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 causes to be published a class 1 notice under ch. 985 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.

(3) This section does not apply to a hospital that proposes to increase its rates during the course of the hospital's fiscal year by any amount or amounts that, in the aggregate, do not exceed the percentage amount that is the percentage difference between the consumer price index reported for the 12−month period ending on December 31 of the preceding year and the consumer price index reported for the 12−month period ending on December 31 of the year prior to the preceding year.

(4) A hospital shall publish a class 1 notice under ch. 985 at least 10 days prior to the institution by the hospital of a rate increase.

History: 1993 a. 16 ss. 2644 to 2646; 1993 a. 104 ss. 3, 5m, 7, 8, 9; 1993 a. 491; 1997 a. 27, 231.

153.10 Health care data reports. 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), standard reports that the department prepares and shall collect information necessary for preparation of those reports.

History: 1987 a. 399; 1997 a. 27, 231.

153.20 Uncompensated health care services report. (1) 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 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 patients and the total charges that were projected by the hospital for that year in the plan filed under sub. (2).

(2) Every hospital shall file with the department 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.

History: 1987 a. 399; 1989 a. 18; 1997 a. 27, 231.

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.

History: 1997 a. 231.

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

(a) Standard reports.

(b) Public use data files which do not permit the identification of specific patients, employers or 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.

(c) Custom−designed reports containing portions of the data under par. (b).

(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.

(2) The department shall provide to other entities the data necessary to fulfill their statutory mandates for epidemiological purposes or to minimize the duplicate collection of similar data elements.

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

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

(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.

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

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.

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231.

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).

History: 1997 a. 231.

153.60 Assessments to fund operations of department and board. (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, 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 and the amount in the appropriation account under s. 20.435 (1) (dg) for the fiscal year, to 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 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).

(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).

History: 1987 a. 399; 1989 a. 18, 56; 1991 a. 178; 1993 a. 16; 1997 a. 27, 231, 237.

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. 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).

History: 1987 a. 399; 1993 a. 16, 104; 1997 a. 27, 231.

153.75 Rule making. (1) Following approval by the board, the department shall promulgate the following rules:

(a) Providing procedures to ensure the protection of patient confidentiality under s. 153.50.

(b) Establishing procedures under which health care providers are permitted to review, verify and comment on information and include the comments with the information.

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

(g) Establishing criteria for the publication and contents of notices under s. 153.08.

(h) Defining the term "major purchaser, payer or provider of health care services" for the purposes of s. 153.05 (6).

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

(L) Defining the term "uncompensated health care services" for the purposes of s. 153.20.

(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.

(2) Following approval by the board, the department may promulgate all of the following rules:

(a) Exempting certain classes of health care providers from providing all or portions of the data required under this chapter.

(c) Providing for the efficient collection, analysis and dissemination of health care information which the department may require under this chapter.

(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.

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

153.85 Civil liability. Any person violating s. 153.50 or rules promulgated under s. 153.75 (1) (a) is liable to the patient for actual damages and costs, plus exemplary damages of up to $1,000 for a negligent violation and up to $5,000 for an intentional violation.

History: 1987 s. 399.

153.90 Penalties. (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.

(3) The department may directly assess forfeitures under sub. (2). If the department determines that a forfeiture should be assessed for a particular violation or for failure to correct the violation, the department shall send a notice of assessment to the alleged violator. The notice shall specify the alleged violation of the statute or rule and the amount of the forfeiture assessed and shall inform the alleged violator of the right to contest the assessment under s. 227.44.

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