

2001 Jr2 DRAFTING REQUEST

Senate Amendment (SA-SSA1-AB1)

Received: **03/30/2002**

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Democratic Caucus 266-9220**

By/Representing: **Engel**

This file may be shown to any legislator: **NO**

Drafter: **kenneda**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies:

Submit via cmail: **NO**

Pre Topic:

SCC:.....Engel - CN5549,

Topic:

Patient health care record fees

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kenneda 03/30/2002	jdyer 04/01/2002		_____			
/1			jfrantze 04/01/2002	_____	lrb_docadmin 04/01/2002		
/2	kenneda 04/01/2002	csicilia 04/01/2002	pgreensl 04/01/2002	_____	lrb_docadmin 04/01/2002		

FE Sent For:

<END>

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/1			jfrantze 04/01/2002		lrb_docadmin 04/01/2002		

1/2 jjs 4/1/02

Handwritten initials and dates: 4/1, jfrantze, lrb_docadmin, and other marks.

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1/?	kenneda	1 4/1 jld	4/1	4/1			

FE Sent For:

<END>

Subject: Medical records motion

Health and Family Services

Include the provisions of SB 71, as amended by SA 1, related to fees that may be charged for medical records.

CN 5549

DAIC

03/29/2002

**SENATE AMENDMENT 1,
TO 2001 SENATE BILL 71**

April 4, 2001 - Offered by COMMITTEE ON HEALTH, UTILITIES, VETERANS AND MILITARY
AFFAIRS.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 5: delete "April 1, 2003" and substitute "July 1, 2002".

3 **2.** Page 3, line 15: delete "April 1 After March 31, 2003" and substitute "July
4 1 After June 30, 2002".

5 **3.** Page 4, line 10: delete "April 1, 2003" and substitute "July 1, 2002".

6 (END)

2001

Date (time) needed SOON

LRB b 2940 / 1

CAUCUS BUDGET AMENDMENT
[CAUCUS AMDTS. ONLY]

DAK: JLD:

See form **AMENDMENTS — COMPONENTS & ITEMS.**

CAUCUS AMENDMENT
TO SENATE SUBSTITUTE AMENDMENT 1
TO 2001 SPECIAL SESSION ASSEMBLY BILL 1

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated; amend the substitute amendment as follows:

#. Page 172, line 10..: after that line insert:



#. Page, line

2001 SENATE BILL 71

February 28, 2001 – Introduced by Senators DECKER, BURKE, MOEN, ERPENBACH, PLACHE, BAUMGART, MOORE, GEORGE, GROBSCHMIDT and SCHULTZ, cosponsored by Representatives M. LEHMAN, STASKUNAS, UNDERHEIM, ZIEGELBAUER, SERATTI, LOEFFELHOLZ, F LASEE, MCCORMICK, BOCK, WOOD, GRONEMUS, MILLER, CULLEN, KREUSER, J. LEHMAN, LA FAVE, COLON, HUBER, PLOUFF and HEBL. Referred to Committee on Health, Utilities, Veterans and Military Affairs.

1 **AN ACT to amend** 146.83 (1) (b), 146.83 (1) (c), 908.03 (6m) (d) and 908.03 (6m)
 2 (d); and **to create** 146.83 (3m) of the statutes; **relating to:** uniform fees
 3 chargeable for certified duplicate health care records and X-ray reports and
 4 referral of X-rays and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law relating to patient health care records, patients or other persons may receive a copy of the patient's health care record or X-ray report upon submitting a statement of informed consent for the release and upon payment of reasonable costs.

Under current law, relating to evidence in court proceedings, the department of health and family services (DHFS) must, by rule, prescribe uniform fees that a health care provider may charge attorneys to obtain certified duplicate health care records that are subject to subpoena. (Health care providers affected by this law are chiropractors, dentists and physician assistants, nonpublic physicians, nurse anesthetists, massage therapists and bodyworkers, and certain nonpublic facilities, associations, or corporations.) The uniform fees must be based on an approximation of the actual costs but also permit the health care provider to charge for postage or other delivery costs. Currently, rules of DHFS permit a health care provider to charge attorneys the greater of \$8.40 per request or 45 cents per record page for the first 50 pages and 25 cents per record page for the remaining pages, \$4 for each X-ray copy, and the actual costs of postage or other means of delivery of the records.

SENATE BILL 71

This bill changes laws relating to patient health care records to require that DHFS promulgate rules that prescribe fees, based on an approximation of reasonable costs, that, together with applicable state tax, are the maximum amount that, beginning April 1, 2003, a health care provider may charge for duplicate patient health care records, for duplicate X-ray reports, or for the referral of X-rays to another health care provider. The rules must also permit the health care provider to charge for actual postage or other actual delivery costs.

This bill changes laws relating to evidence in court proceedings to specify that, before April 1, 2003, the uniform fees that DHFS prescribes by rule for certified duplicate health care records, plus applicable tax, are the maximum amount that a health care provider may charge for the records, that the health care provider may also charge for actual postage or other actual delivery costs, and that a court action need not be commenced for this law to apply. After March 31, 2003, for duplicate patient health care records and duplicate X-ray reports or the referral of X-rays to another health care provider requested before a court action is commenced, rules that specify fees that DHFS is required, under the bill, to promulgate under the patient health care record laws apply.

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

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

- ① SECTION ^{336g} 1. 146.83 (1) (b) of the statutes is amended to read:
- 2 146.83 (1) (b) Receive a copy of the patient's health care records upon payment
- 3 of reasonable costs fees, as established by rule under sub. (3m). ^{336h}
- ④ SECTION ^{336g} 2. 146.83 (1) (c) of the statutes is amended to read:
- 5 146.83 (1) (c) Receive a copy of the health care provider's X-ray reports or have
- 6 the X-rays referred to another health care provider of the patient's choice upon
- 7 payment of reasonable costs fees, as established by rule under sub. (3m).
- ⑧ SECTION ³³⁶ⁱ 3. 146.83 (3m) of the statutes is created to read:
- 9 146.83 (3m) The department shall, by rule, prescribe fees that are based on an
- 10 approximation of actual costs. The fees, plus applicable state tax, are the maximum
- 11 amount that a health care provider may charge under sub. (1) (b) for duplicate
- 12 patient health care records and under sub. (1) (c) for duplicate X-ray reports or the

SENATE BILL 71

July 1, 2002 ✓

1 referral of X-rays to another health care provider of the patient's choice. The rule
2 shall also permit the health care provider to charge for actual postage or other actual
3 delivery costs. " ✓

Page 225, line 3; after that line insert:

4 " SECTION 908.03 (6m) (d) of the statutes is amended to read:

5 908.03 (6m) (d) Fees. The Before April 1, 2003 ✓ the department of health and
6 family services shall, by rule, prescribe uniform fees that are based on an
7 approximation of the actual costs. The fees, plus applicable state tax, are the
8 maximum amount that a health care provider may charge under par. (c) 3. for
9 certified duplicate patient health care records. The rule shall also allow the health
10 care provider to charge for actual postage or other actual delivery costs. The
11 commencement of an action is not a prerequisite for the application of this
12 paragraph.

13 SECTION 908.03 (6m) (d) of the statutes, as affected by 2001 Wisconsin Act
14 ... (this act), is amended to read:

15 908.03 (6m) (d) Fees. Before April 1 After March 31 ✓, 2003 the department of
16 health and family services shall, by rule, prescribe uniform fees that are based on an
17 approximation of actual costs. The fees, plus applicable state tax, are the maximum
18 amount that a health care provider may charge for certified duplicate patient health
19 care records. The rule shall also allow the health care provider to charge for actual
20 postage or other actual delivery costs. The commencement of an action is not a
21 prerequisite for the application of this paragraph For duplicate patient health care
22 records and duplicate X-ray reports or the referral of X-rays to another health care
23 provider that are requested before commencement of an action, s. 146.83 (1) (b) and
24 (c) and (3m) applies. " ✓

25 SECTION 6 Nonstatutory provisions.

SENATE BILL 71

Page 358, line 15: after that line insert:

① " (1) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The department of health and
 2 family services shall submit in proposed form the rules required under section 146.83
 3 (3m) of the statutes, as created by this act, to the legislative council staff under
 4 section 227.15 (1) of the statutes no later than the first day of the 5th month
 ⑤ beginning after the effective date of this subsection. " ✓

6 ~~SECTION 7 Effective dates. This act takes effect on the day after publication,~~
 7 ~~except as follows:~~

Page 446, line 6: after that line insert:

⑧ " (1) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The treatment of sections
 ⑨ 146.83 (1) (b) and (c) and 908.03 (6m) (d) (by SECTION 5) of the statutes takes effect
 ⑩ on ~~April 1, 2002~~. " ✓

11

(END)

2e

July 1, 2002 ✓

522s ✓



SOON - In edit #11
State of Wisconsin
2001 - 2002 LEGISLATURE

January 2002 Special Session

LRBb2940/2
DAK:jld

D-NOTE

djs

SCC:.....Engel - Patient health care record fees

CNS549

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1

LPS:
please
fix

topic
line on
this
page

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 172, line 10: after that line insert:
- 3 **"SECTION 336g.** 146.83 (1) (b) of the statutes is amended to read:
- 4 146.83 (1) (b) Receive a copy of the patient's health care records upon payment
- 5 of reasonable costs fees, as established by rule under sub. (3m).
- 6 **SECTION 336h.** 146.83 (1) (c) of the statutes is amended to read:
- 7 146.83 (1) (c) Receive a copy of the health care provider's X-ray reports or have
- 8 the X-rays referred to another health care provider of the patient's choice upon
- 9 payment of reasonable costs fees, as established by rule under sub. (3m).
- 10 **SECTION 336i.** 146.83 (3m) of the statutes is created to read:

1 146.83 (3m) The department shall, by rule, prescribe fees that are based on an
2 approximation of actual costs. The fees, plus applicable state tax, are the maximum
3 amount that a health care provider may charge under sub. (1) (b) for duplicate
4 patient health care records and under sub. (1) (c) for duplicate X-ray reports or the
5 referral of X-rays to another health care provider of the patient's choice. The rule
6 shall also permit the health care provider to charge for actual postage or other actual
7 delivery costs.”

8 **2.** Page 225, line 3: after that line insert:

9 **“SECTION 522r.** 908.03 (6m) (d) of the statutes is amended to read:

10 908.03 (6m) (d) *Fees.* ~~The Before July 1, 2002,~~ the department of health and
11 family services shall, by rule, prescribe uniform fees that are based on an
12 approximation of the actual costs. The fees, plus applicable state tax, are the
13 maximum amount that a health care provider may charge ~~under par. (e) 3.~~ for
14 certified duplicate patient health care records. The rule shall also allow the health
15 care provider to charge for actual postage or other actual delivery costs. The
16 commencement of an action is not a prerequisite for the application of this
17 paragraph.

18 **SECTION 522s.** 908.03 (6m) (d) of the statutes, as affected by 2001 Wisconsin
19 Act (this act), is amended to read:

20 908.03 (6m) (d) *Fees.* ~~Before July 1, 2002,~~ the department of
21 health and family services shall, by rule, prescribe uniform fees that are based on an
22 approximation of actual costs. The fees, plus applicable state tax, are the maximum
23 amount that a health care provider may charge for certified duplicate patient health
24 care records. The rule shall also allow the health care provider to charge for actual

January 1, 2003

January 1, 2003 After

December 31,
2002

plain
comma

1 postage or other actual delivery costs. ~~The commencement of an action is not a~~
2 ~~prerequisite for the application of this paragraph~~ For duplicate patient health care
3 records and duplicate X-ray reports or the referral of X-rays to another health care
4 provider that are requested before commencement of an action, s. 146.83 (1) (b) and
5 (c) and (3m) applies.”

6 **3.** Page 358, line 15: after that line insert:

7 “(4e) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The department of health
8 and family services shall submit in proposed form the rules required under section
9 146.83 (3m) of the statutes, as created by this act, to the legislative council staff
10 under section 227.15 (1) of the statutes no later than the first day of the 5th month
11 beginning after the effective date of this subsection.”

12 **4.** Page 446, line 6: after that line insert:

13 “(2e) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The treatment of sections
14 146.83 (1) (b) and (c) and 908.03 (6m) (d) (by SECTION 522s) of the statutes takes effect
15 on ~~July 22, 2002~~.”

16

(END)

January 1, 2003 ✓

D-NOTE

To Andy Engel:

In accordance with our telephone conversation,
this redraft changes to January 1, 2003, the date
by which DHS must promulgate rules concerning
fees for patient health care records.

DAK

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

LRBb2940/2dn
DAK:jld&cjs:pg

April 1, 2002

To Andy Engel:

In accordance with our telephone conversation, this redraft changes to January 1, 2003, the date by which DHFS must promulgate rules concerning fees for patient health care records.

Debra A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debra.kennedy@legis.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb2940/2
DAK:jld&cjs:pg

SCC:.....Engel – CN5549, Patient health care record fees

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 172, line 10: after that line insert:

3 "SECTION 336g. 146.83 (1) (b) of the statutes is amended to read:

4 146.83 (1) (b) Receive a copy of the patient's health care records upon payment
5 of ~~reasonable costs~~ fees, as established by rule under sub. (3m).

6 SECTION 336h. 146.83 (1) (c) of the statutes is amended to read:

7 146.83 (1) (c) Receive a copy of the health care provider's X-ray reports or have
8 the X-rays referred to another health care provider of the patient's choice upon
9 payment of ~~reasonable costs~~ fees, as established by rule under sub. (3m).

10 SECTION 336i. 146.83 (3m) of the statutes is created to read:

1 146.83 (3m) The department shall, by rule, prescribe fees that are based on an
2 approximation of actual costs. The fees, plus applicable state tax, are the maximum
3 amount that a health care provider may charge under sub. (1) (b) for duplicate
4 patient health care records and under sub. (1) (c) for duplicate X-ray reports or the
5 referral of X-rays to another health care provider of the patient's choice. The rule
6 shall also permit the health care provider to charge for actual postage or other actual
7 delivery costs.”.

8 **2.** Page 225, line 3: after that line insert:

9 “**SECTION 522r.** 908.03 (6m) (d) of the statutes is amended to read:

10 908.03 (6m) (d) *Fees.* ~~The~~ Before January 1, 2003, the department of health
11 and family services shall, by rule, prescribe uniform fees that are based on an
12 approximation of ~~the~~ actual costs. The fees, plus applicable state tax, are the
13 maximum amount that a health care provider may charge ~~under par. (c) 3.~~ for
14 certified duplicate patient health care records. The rule shall also allow the health
15 care provider to charge for actual postage or other actual delivery costs. The
16 commencement of an action is not a prerequisite for the application of this
17 paragraph.

18 **SECTION 522s.** 908.03 (6m) (d) of the statutes, as affected by 2001 Wisconsin
19 Act (this act), is amended to read:

20 908.03 (6m) (d) *Fees.* ~~Before January 1, 2003~~ After December 31, 2002, the
21 department of health and family services shall, by rule, prescribe uniform fees that
22 are based on an approximation of actual costs. The fees, plus applicable state tax,
23 are the maximum amount that a health care provider may charge for certified
24 duplicate patient health care records. The rule shall also allow the health care

1 provider to charge for actual postage or other actual delivery costs. The
2 commencement of an action is not a prerequisite for the application of this paragraph
3 For duplicate patient health care records and duplicate X-ray reports or the referral
4 of X-rays to another health care provider that are requested before commencement
5 of an action, s. 146.83 (1) (b) and (c) and (3m) applies.”.

6 **3.** Page 358, line 15: after that line insert:

7 “(4e) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The department of health
8 and family services shall submit in proposed form the rules required under section
9 146.83 (3m) of the statutes, as created by this act, to the legislative council staff
10 under section 227.15 (1) of the statutes no later than the first day of the 5th month
11 beginning after the effective date of this subsection.”.

12 **4.** Page 446, line 6: after that line insert:

13 “(2e) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The treatment of sections
14 146.83 (1) (b) and (c) and 908.03 (6m) (d) (by SECTION 522s) of the statutes takes effect
15 on January 1, 2003.”.

16

(END)