

**2001 DRAFTING REQUEST**

**Bill**

Received: **12/06/2000**

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Russell Decker (608) 266-2502**

By/Representing: **Pat Walsh**

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

Drafter: **kenneda**

May Contact: **Jane Raymond, DHFS 96-2568)**

Alt. Drafters:

Subject: **Health - miscellaneous**

Extra Copies: **ISR**

**Pre Topic:**

No specific pre topic given

**Topic:**

Fees for health care records, X-ray reports and X-ray referrals

**Instructions:**

See Attached; same as 99 SSA 1 to SB 195 (99s0143/1), plus SA 1 to SSA 1, to SB 195 (99a0905/1)

**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>
/1	kenneda 12/26/2000	jdye 12/27/2000	pgreensl 12/28/2000		lrb_docadmin 12/28/2000	lrb_docadminS&L 02/07/2001	

FE Sent For:

<END>

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/?	kenneda	1/12/01 JLW	12/27 PG	12/28 PG/HCM			

FE Sent For:

<END>

**B I L L  
REQUEST  
FORM**

.. Use of this form is optional. It is often better  
.. to talk directly with the LRB attorney who will  
.. draft the bill. Use this form only for BILL  
drafts. Attach more pages if necessary.

Date: 12/4/2000

Legislator, agency or other body requesting this draft: Senator Decker

Person submitting request (name, phone number): Patrick Walsh (6-2502)

Persons to contact for questions about this draft (names, phone numbers): \_\_\_\_\_

Patrick Walsh 6-2502

Describe the problem, including any helpful examples:

Debra, please draft the enclosed substitute amendment and amendment to the substitute into a bill. In addition, please change the effective dates to 2002. Thank you.

How do you want to solve the problem?

Please attach a copy of any correspondence or other material that may help us.

If you know of any statute sections that you think must be affected, list them or provide a marked-up (not retyped) copy:

You may attach a marked-up (not retyped) copy of any LRB draft on this subject, or provide its number (e.g., 1993 LRB-2345/1 or 1991 AB-67):

Requests are confidential unless stated otherwise. May we tell others we are working on this for you? \_\_\_\_\_ If yes: Anyone who asks?  Any legislator? \_\_\_\_\_  
Or, only the following persons:

Do you consider this request urgent? No If yes, please indicate why:

Should we give this request priority over any other pending requests of this legislator, agency or body? No If yes, SIGN YOUR NAME here:



**SENATE SUBSTITUTE AMENDMENT 1,  
TO 1999 SENATE BILL 195**

October 26, 1999 – Offered by COMMITTEE ON HEALTH, UTILITIES, VETERANS AND  
MILITARY AFFAIRS.

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

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

5             **SECTION 1.** 146.83 (1) (b) of the statutes is amended to read:

6             146.83 (1) (b) Receive After March 31, 2001, receive a copy of the patient's  
7             health care records upon payment of ~~reasonable costs~~ fees, as established by rule  
8             under sub. (3m).

9             **SECTION 2.** 146.83 (3m) of the statutes is created to read:

10            146.83 (3m) The department shall, by rule, prescribe fees that are based on an  
11            approximation of actual costs. The fees, plus applicable state tax, are the maximum

1 of X-rays to another health care provider that are requested prior to commencement  
2 of an action, s. 146.83 (1) (b) and (c) and (3m) applies.

3 **SECTION 5. Nonstatutory provisions.**

4 (1) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The department of health and  
5 family services shall submit in proposed form the rules required under section 146.83  
6 (3m) of the statutes, as created by this act, to the legislative council staff under  
7 section 227.15 (1) of the statutes no later than the first day of the 5th month  
8 beginning after the effective date of this subsection.

9 **SECTION 6. Effective dates.** This act takes effect on the day after publication,  
10 except as follows:

11 (1) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The treatment of section  
12 908.03 (6m) (d) (by SECTION 4) of the statutes takes effect on April 1, 2001.

13 (END)



**SENATE SUBSTITUTE AMENDMENT 1,  
TO 1999 SENATE BILL 195**

October 26, 1999 - Offered by COMMITTEE ON HEALTH, UTILITIES, VETERANS AND MILITARY AFFAIRS.

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

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

RESTORE TO PLAIN TEXT

5 SECTION 1. 146.83 (1) (b) of the statutes is amended to read:

6 146.83 (1) (b) Receive ~~After March 31, 2001, receive~~ a copy of the patient's  
7 health care records upon payment of reasonable costs fees, as established by rule  
8 under sub. (3m).

INSERT  
1-8

9 SECTION 2. 146.83 (3m) of the statutes is created to read:

10 146.83 (3m) The department shall, by rule, prescribe fees that are based on an  
11 approximation of actual costs. The fees, plus applicable state tax, are the maximum

1 amount that a health care provider may charge under sub. (1) (b) for duplicate  
2 patient health care records and under sub. (1) (c) for duplicate X-ray reports or the  
3 referral of X-rays to another health care provider of the patient's choice. The rule  
4 shall also permit the health care provider to charge for actual postage or other actual  
5 delivery costs.

6 **SECTION 3.** 908.03 (6m) (d) of the statutes is amended to read:

7 908.03 (6m) (d) *Fees.* ~~The~~ Before April 1, 2001, the department of health and  
8 family services shall, by rule, prescribe uniform fees that are based on an  
9 approximation of ~~the~~ actual costs. The fees, plus applicable state tax, are the  
10 maximum amount that a health care provider may charge under ~~par. (e) 3.~~ for  
11 certified duplicate patient health care records. The rule shall also allow the health  
12 care provider to charge for actual postage or other actual delivery costs. The  
13 commencement of an action is not a prerequisite for the application of this  
14 paragraph.

15 **SECTION 4.** 908.03 (6m) (d) of the statutes, as affected by ~~1999~~ Wisconsin Act  
16 .... (this act), is amended to read:

17 908.03 (6m) (d) *Fees.* ~~Before April 1, 2001~~ After March 31, 2001, the  
18 department of health and family services shall, by rule, prescribe uniform fees that  
19 are based on an approximation of actual costs. The fees, plus applicable state tax,  
20 are the maximum amount that a health care provider may charge for certified  
21 duplicate patient health care records. The rule shall also allow the health care  
22 provider to charge for actual postage or other actual delivery costs. ~~The~~  
23 ~~commencement of an action is not a prerequisite for the application of this paragraph~~  
24 For duplicate patient health care records and duplicate X-ray reports or the referral

*Before*

1 of X-rays to another health care provider that are requested ~~prior to~~ commencement  
2 of an action, s. 146.83 (1) (b) and (c) and (3m) applies.

3 **SECTION 5. Nonstatutory provisions.**

4 (1) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The department of health and  
5 family services shall submit in proposed form the rules required under section 146.83  
6 (3m) of the statutes, as created by this act, to the legislative council staff under  
7 section 227.15 (1) of the statutes no later than the first day of the 5th month  
8 beginning after the effective date of this subsection.

9 **SECTION 6. Effective dates.** This act takes effect on the day after publication,  
10 except as follows:

11 (1) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The treatment of section<sup>s</sup>  
12 908.03 (6m) (d) (by SECTION 4) of the statutes takes effect on April 1, 2001.

13 (END)

*2003*

*146.83 (1)(b) and (c) and*

1025 BT 1-8

1999 - 2000 LEGISLATURE

LRBa0905/1  
DAK:cmh:km

**SENATE AMENDMENT 1,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 1999 SENATE BILL 195**

November 2, 1999 - Offered by Senator MOEN.

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

2 1. Page 1, line 8: after that line insert:

3 ~~SECTION 1m.~~ 146.83 (1) (c) of the statutes is amended to read:

4 146.83 (1) (c) Receive ~~After March 31, 2001, receive~~ a copy of the health care  
5 provider's X-ray reports or have the X-rays referred to another health care provider  
6 of the patient's choice upon payment of reasonable costs fees, as established by rule  
7 under sub. (3m).

8 (END)

RESTORE TO PLAIN TEXT



2001 - S. add 12/26

State of Wisconsin  
2001 - 2002 LEGISLATURE

D-NOTE

LRB-1359/1  
DAK...  
jld

2001 BILL

Gen

1 AN ACT ...; relating to: uniform fees chargeable for certified duplicate health care  
2 records and X-ray reports and referral of X-rays and granting rule-making  
3 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.

This bill changes laws relating to patient health care records to require that DHFS promulgate rules that prescribe fees, based on an approximation of

**BILL**

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 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).

History: 1979 c. 221; 1989 a. 56; 1993 a. 27, 445; 1997 a. 157.

4           **SECTION 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).

History: 1979 c. 221; 1989 a. 56; 1993 a. 27, 445; 1997 a. 157.

8           **SECTION 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

**BILL**

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.

4 **SECTION 4.** 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 pargaraph.

History: Sup. Ct. Order, 59 Wis. 2d R250; Sup. Ct. Order, 67 Wis. 2d vii (1975); 1983 a. 447; Sup. Ct. Order, 158 Wis. 2d xxv (1990); 1991 a. 32, 269; 1992 a. 105, 1295  
a. 27 s. 9126 (19); 1997 a. 67, 156; 1998 a. 32, 85, 162.

13 **SECTION 5.** 908.03 (6m) (d) of the statutes, as affected by 2001 Wisconsin Act

14 2001 Wisconsin Act .... (this act), is amended to read:

15 908.03 (6m) (d) Fees. ~~Before April 1, 2003~~ After March 31, 2003 the department  
16 of health and family services shall, by rule, prescribe uniform fees that are based on  
17 an approximation of actual costs. The fees, plus applicable state tax, are the  
18 maximum amount that a health care provider may charge for certified duplicate patient  
19 health care records. The rule shall also allow the health care provider to charge for  
20 actual postage or other actual delivery costs. ~~The commencement of an action is not~~  
21 ~~a 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

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**BILL**

1 provider that are requested before commencement of an action, s. 146.83 (1) (b) and  
2 (c) and (3m) applies.

History: Sup. Ct. Order, 59 Wis. 2d R250; Sup. Ct. Order, 67 Wis. 2d vii (1975); 1983 a. 447; Sup. Ct. Order, 158 Wis. 20d xxv (1990); 1991 a. 32, 269; 1993 a. 105; 1995 a. 27 s. 9126 (19); 1997 a. 67, 156; 1999 a. 32, 85, 162.

3 **SECTION 6. Nonstatutory provisions.**

4 (1) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The department of health and  
5 family services shall submit in proposed form the rules required under section 146.83  
6 (3m) of the statutes, as created by this act, to the legislative council staff under  
7 section 227.15 (1) of the statutes no later than the first day of the 5th month  
8 beginning after the effective date of this subsection.

9 **SECTION 7. Effective dates.** This act takes effect on the day after publication,  
10 except as follows:

11 (1) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The treatment of sections  
12 146.83 (1) (b) and (c) and 908.03 (6m) (d) (by Section) of the statutes takes effect  
13 on April 1, 2003.

14 (END)

CS  
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PLEASE FIX FONT

D-NOTE

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

LRB-1359/1dn

DAK...:~:~:~

JLD

To Pat Walsh:

1. In this draft, I have altered the treatment of s. 146.83 (1) (b) and (c), stats., slightly from the 1999 versions. Instead of stating the date of the amendment in the text of these paragraphs, I have expanded the delayed effective date to include treatment of the paragraphs. I did this because I noticed that the previous version, by making the amendments to the paragraphs effective immediately but confining the changes to after March 31, 2001, had created a gap in the application of the paragraphs until April 1, 2001, which I am sure was not your intent. If you have questions about this, please let me know.

2. Note that I have moved the effective date back two years; I have assumed that this is what you wanted.

Please let me know if I may help you further with this draft.

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

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

LRB-1359/1dn  
DAK:jld:pg

December 28, 2000

To Pat Walsh:

1. In this draft, I have altered the treatment of s. 146.83 (1) (b) and (c), stats., slightly from the 1999 versions. Instead of stating the date of the amendment in the text of these paragraphs, I have expanded the delayed effective date to include treatment of the paragraphs. I did this because I noticed that the previous version, by making the amendments to the paragraphs effective immediately but confining the changes to after March 31, 2001, had created a gap in the application of the paragraphs until April 1, 2001, which I am sure was not your intent. If you have questions about this, please let me know.
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Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: [debora.kennedy@legis.state.wi.us](mailto:debora.kennedy@legis.state.wi.us)



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

December 28, 2000

### MEMORANDUM

To: Senator Decker

From: Debora A. Kennedy, Managing Attorney

Re: LRB-1359 Fees for health care records, X-ray reports and X-ray referrals

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY  JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0137 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.