



## 2005 ASSEMBLY BILL 404

May 5, 2005 - Introduced by JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES. Referred to Committee on Health.

1     **AN ACT to amend** 146.83 (3m) (a) (intro.) and 908.03 (6m) (d); and **to create**  
2             146.83 (3m) (c) and 908.03 (6m) (e) of the statutes; **relating to:** prohibiting the  
3             Department of Health and Family Services from promulgating a rule under  
4             which fees for copies of patient health care records and X-rays equal certain  
5             amounts.

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### *Analysis by the Legislative Reference Bureau*

Under current law relating to patient health care records, the Department of Health and Family Services (DHFS) must, after considering certain factors, promulgate rules that prescribe fees for copies of patient health care records and X-ray reports. The fees must be based on an approximation of actual costs. The rules must be revised by January 1, 2006, and every three years thereafter to account for increases or decreases in actual costs. Under current law relating to evidence, after December 31, 2002, DHFS must prescribe fees for copies of patient health care records and X-rays requested after commencement of an action that are based on an approximation of actual costs and that allow a health care provider to charge actual postage and delivery costs.

This bill prohibits DHFS from promulgating a rule that prescribes fees for copies of patient health care records and X-rays in amounts that equal the following amounts:

1. For requests from the patient or the patient's personal representative, \$0.31 per patient health care record copy page and \$5.25 per X-ray copy, plus actual postage or other delivery costs and any applicable sales tax.

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2. For requests from individuals other than the patient or the patient's personal representative:

a. For patient health care record copies, \$0.31 per page, plus \$12.50 per request (for a request generating a total of four or fewer pages), and \$15.00 per request (for a request generating a total of five or more pages, plus actual postage or other delivery costs and any applicable sales tax.

b. For X-ray copies, \$5.25 per copy, plus actual postage or other delivery costs and any applicable sales tax.

c. For certification of copies, \$5.00 per request (for four or fewer pages or X-ray copies) and \$7.50 per request (for five or more pages or X-ray copies).

The bill is introduced as required by s. 227.19 (5) (e), stats., in support of the objection of the Joint Committee for Review of Administrative Rules on March 31, 2005, to the issuance of clearinghouse rule 03-111 by DHFS. The proposed rule limited fees applicable under current law relating to patient health care records and to evidence, for copies of patient health care records or X-rays and for certification of the copies, as requested by a patient, the patient's personal representative, or other individuals.

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 (3m) (a) (intro.) of the statutes is amended to read:

2           146.83 (3m) (a) (intro.) The Except as provided in par. (c), the department shall,  
3 by rule, prescribe fees that are based on an approximation of actual costs. The fees,  
4 plus applicable tax, are the maximum amount that a health care provider may  
5 charge under sub. (1) (b) for duplicate patient health care records and under sub. (1)  
6 (c) for duplicate X-ray reports or the referral of X-rays to another health care  
7 provider of the patient's choice. The rule shall also permit the health care provider  
8 to charge for actual postage or other actual delivery costs. In determining the  
9 approximation of actual costs for the purposes of this subsection, the department  
10 may consider all of the following factors:

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

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1           146.83 **(3m)** (c) The department may not promulgate rules that prescribe fees  
2 for duplicate patient health care records or duplicate X-rays in amounts that equal  
3 the following amounts:

4           1. For requests from the patient or the personal representative of the patient,  
5 31 cents per patient health care record copy page and \$5.25 per X-ray copy, plus  
6 actual postage or other delivery costs and any applicable sales tax.

7           2. For requests from individuals other than the patient or the personal  
8 representative of the patient:

9           a. For patient health care record copies, 31 cents per page; plus \$12.50 per  
10 request, for a request generating a total of 4 or fewer pages, and \$15 per request, for  
11 a request generating a total of 5 or more pages; plus actual postage or other delivery  
12 costs and any applicable sales tax.

13           b. For X-ray copies, \$5.25 per copy, plus actual postage or other delivery costs  
14 and any applicable sales tax.

15           c. For certification of copies, \$5 per request, for certification of a total of 4 or  
16 fewer pages or X-ray copies, and \$7.50 per request, for certification of a total of 5 or  
17 more pages or X-ray copies.

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

19           908.03 **(6m)** (d) *Fees.* ~~After December 31, 2002, the~~ Except as provided in par.  
20 (e), the department of health and family services shall, by rule, prescribe uniform  
21 fees that are based on an approximation of actual costs. The fees, plus applicable tax,  
22 are the maximum amount that a health care provider may charge for certified  
23 duplicate patient health care records. The rule shall also allow the health care  
24 provider to charge for actual postage or other actual delivery costs. For duplicate  
25 patient health care records and duplicate X-ray reports or the referral of X-rays to

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

3 **SECTION 4.** 908.03 (6m) (e) of the statutes is created to read:

4 908.03 **(6m)** (e) The department may not promulgate rules that prescribe fees  
5 for duplicate patient health care records or duplicate X-rays in amounts that equal  
6 the following amounts:

7 1. For requests from the patient or the personal representative of the patient,  
8 31 cents per patient health care record copy page and \$5.25 per X-ray copy, plus  
9 actual postage or other delivery costs and any applicable sales tax.

10 2. For requests from individuals other than the patient or the personal  
11 representative of the patient:

12 a. For patient health care record copies, 31 cents per page; plus \$12.50 per  
13 request, for a request generating a total of 4 or fewer pages, and \$15 per request, for  
14 a request generating a total of 5 or more pages; plus actual postage or other delivery  
15 costs and any applicable sales tax.

16 b. For X-ray copies, \$5.25 per copy, plus actual postage or other delivery costs  
17 and any applicable sales tax.

18 c. For certification of copies, \$5 per request, for certification of a total of 4 or  
19 fewer pages or X-ray copies, and \$7.50 per request, for certification of a total of 5 or  
20 more pages or X-ray copies.

21 (END)