



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5083/P2
JPC:skw&wlj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to renumber and amend** 146.83 (1b); **to amend** 146.81 (5), 146.83 (1c),
2 146.83 (1f) (am), 146.83 (1f) (cm), 146.83 (3f) (b) 1., 146.83 (3f) (b) 2., 146.83 (3f)
3 (b) 3., 146.83 (3f) (b) 4., 146.83 (3f) (b) 5. and 146.83 (3f) (c) 2.; and **to create**
4 146.83 (1), 146.83 (3f) (b) 1m. and 146.83 (3f) (b) 3m. of the statutes; **relating**
5 **to:** access to patient health care records.

Analysis by the Legislative Reference Bureau

This bill makes several changes to current law relating to the persons who may be authorized to access patient health care records and the fees that health care providers may charge for providing copies of patient health care records. First, the bill adds the patient's attorney to the list of individuals who may inspect copies of the patient's health care records and the list of individuals who may request copies of the patient's health care records for use in appealing a denial of Social Security Disability Insurance or Supplemental Security Income.

Under current law, if a patient or a person authorized by the patient requests copies of the patient's health care records, other than for use in appealing a denial of Social Security Disability Insurance or Supplemental Security Income, a health care provider may charge the patient or person fees for each copy requested. The Department of Health Services must update the fees for providing copies of patient health care records every year according to the difference in the consumer price index by publishing the adjusted amounts in the Wisconsin Administrative Register. The bill updates the costs associated with copying each patient health care record to

match the cost under current law and adds certain electronic records to the list of patient health care records that a health care provider may charge for the disclosure of, including an optical disk, data storage device, or other portable media of, an X-ray, MRI, CT scan, or other image that is not printable to paper.

For further information see the state 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.** 146.81 (5) of the statutes is amended to read:

2 146.81 (5) "Person authorized by the patient" means the parent, guardian, or
3 legal custodian of a minor patient, as defined in s. 48.02 (8) and (11), the person
4 vested with supervision of the child under s. 938.183 or 938.34 (4d), (4h), (4m), or
5 (4n), the guardian of a patient adjudicated incompetent in this state, the personal
6 representative under ch. 851, spouse, or domestic partner under ch. 770 of a deceased
7 patient, any person authorized in writing by the patient to make health care
8 decisions for the patient, or a health care agent designated by the patient as a
9 principal under ch. 155 if the patient has been found to be incapacitated under s.
10 155.05 (2), except as limited by the power of attorney for health care instrument. If
11 no spouse or domestic partner survives a deceased patient, "person authorized by the
12 patient" also means an adult member of the deceased patient's immediate family, as
13 defined in s. 632.895 (1) (d). A court may appoint a temporary guardian for a patient
14 believed incompetent to consent to the release of records under this section as the
15 person authorized by the patient to decide upon the release of records, if no guardian
16 has been appointed for the patient.

17 **SECTION 2.** 146.83 (1) of the statutes is created to read:

18 **146.83 (1)** In this section:

1 (a) "CT scan" means a cross-sectional, 3-dimensional image of an internal body
2 part produced by computer tomography chiefly for diagnostic purposes.

3 (b) "MRI" means magnetic resonance imaging.

4 **SECTION 3.** 146.83 (1b) of the statutes is renumbered 146.83 (1) (c) and
5 amended to read:

6 146.83 (1) (c) Notwithstanding s. 146.81 (5), ~~in this section, a~~ "person
7 authorized by the patient" includes an attorney appointed to represent the patient
8 under s. 977.08 if that attorney has written informed consent from the patient to view
9 and obtain copies of the records.

10 **SECTION 4.** 146.83 (1c) of the statutes is amended to read:

11 146.83 (1c) Except as provided in s. 51.30 or 146.82 (2), any patient, the
12 patient's attorney, or a person authorized by the patient may, upon submitting a
13 statement of informed consent, inspect the health care records of a health care
14 provider pertaining to that patient at any time during regular business hours, upon
15 reasonable notice.

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

17 146.83 (1f) (am) If a patient, the patient's attorney, or a person authorized by
18 the patient requests copies of the patient's health care records under this section for
19 use in appealing a denial of social security disability insurance, under 42 USC 401
20 to 433, or supplemental security income, under 42 USC 1381 to 1385, the health care
21 provider may charge the patient, the patient's attorney, or a person authorized by the
22 patient no more than the amount that the federal social security administration
23 reimburses the department for copies of patient health care records.

24 **SECTION 6.** 146.83 (1f) (cm) of the statutes is amended to read:

1 146.83 (1f) (cm) Except as provided in sub. (1g), a health care provider may not
2 charge a patient, the patient's attorney, or a person authorized by the patient more
3 than 25 percent of the applicable fee under sub. (3f) for providing one set of copies
4 of a patient's health care records under this section if the patient is eligible for
5 medical assistance, as defined in s. 49.43 (8). A health care provider may require that
6 a patient, the patient's attorney, or a person authorized by the patient provide proof
7 that the patient is eligible for medical assistance before providing copies under this
8 paragraph at a reduced charge. A health care provider may charge 100 percent of
9 the applicable fee under sub. (3f) for providing a 2nd or additional set of copies of
10 patient health care records for a patient who is eligible for medical assistance.

11 **SECTION 7.** 146.83 (3f) (b) 1. of the statutes is amended to read:

12 146.83 (3f) (b) 1. For paper copies: ~~\$1~~, \$1.27 per page for the first 25 pages; 75
13 95 cents per page for pages 26 to 50; ~~50~~ 62 cents per page for pages 51 to 100; and ~~30~~
14 37 cents per page for pages 101 and above.

15 **SECTION 8.** 146.83 (3f) (b) 1m. of the statutes is created to read:

16 146.83 (3f) (b) 1m. For electronic copies, 50 percent of the cost per page
17 calculated as if each page were a paper copy under subd. 1.

18 **SECTION 9.** 146.83 (3f) (b) 2. of the statutes is amended to read:

19 146.83 (3f) (b) 2. For microfiche or microfilm copies, ~~\$1.50~~ delivered either on
20 paper or electronically, \$1.86 per page.

21 **SECTION 10.** 146.83 (3f) (b) 3. of the statutes is amended to read:

22 146.83 (3f) (b) 3. For a print of an X-ray, ~~\$10~~ MRI, CT scan, or other image that
23 is not printable to paper, \$12.52 per image.

24 **SECTION 11.** 146.83 (3f) (b) 3m. of the statutes is created to read:

1 146.83 (3f) (b) 3m. For an optical disk, data storage device, or other portable
2 media of an X-ray, MRI, CT scan, or other image that is not printable to paper, a flat
3 fee of \$30 per optical disk, data storage device, or other portable media.

4 **SECTION 12.** 146.83 (3f) (b) 4. of the statutes is amended to read:

5 146.83 (3f) (b) 4. If the requester is not the patient or a person authorized by
6 the patient, for certification of copies, a single ~~\$8~~ \$10.04 charge.

7 **SECTION 13.** 146.83 (3f) (b) 5. of the statutes is amended to read:

8 146.83 (3f) (b) 5. If the requester is not the patient or a person authorized by
9 the patient, a single retrieval fee of ~~\$20~~ \$25.09 for all copies requested, and if no
10 records are located, the requester shall pay a fee of \$20 if correspondence that no
11 records were located is provided.

12 **SECTION 14.** 146.83 (3f) (c) 2. of the statutes is amended to read:

13 146.83 (3f) (c) 2. On each July 1, beginning on July 1, ~~2012~~ 2024, the
14 department shall adjust the dollar amounts specified under par. (b) by the
15 percentage difference between the consumer price index for the 12-month period
16 ending on December 31 of the preceding year and the consumer price index for the
17 12-month period ending on December 31 of the year before the preceding year. The
18 department shall notify the legislative reference bureau of the adjusted amounts and
19 the legislative reference bureau shall publish the adjusted amounts in the Wisconsin
20 Administrative Register.

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(END)

