

## WSR 21-04-069

## EXPEDITED RULES

## DEPARTMENT OF HEALTH

[Filed January 29, 2021, 11:07 a.m.]

Title of Rule and Other Identifying Information: WAC 246-08-400 Health care providers charging for searching and duplicating health care records. The department of health (DOH) is proposing amendments to correct a typographical error in this rule.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule is to amend an inaccurately referenced RCW citation and to ensure the rule maintains its accuracy and clarity as statutes are updated.

Reasons Supporting Proposal: The definition of "reasonable fee" in RCW 70.02.010 requires the fee amount to be adjusted every two years. WAC 246-08-400 referenced these adjustments by stating the specific fees that may be charged. The current rule cites RCW 70.02.010 and a specific subsection for the definition of "reasonable fee." As other amendments to the law are made the subsections may change more frequently than the requirement to adjust the fee. The proposed rule amends the language so that frequent formatting updates to the statute will no longer impact the rule. The proposed amendment continues to reference RCW 70.02.010 but no longer references the specific subsection and does not change the meaning or intent of the rule.

Statutory Authority for Adoption: RCW 43.70.040.

Statute Being Implemented: RCW 70.02.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Julianne Kolln, 111 Israel Road, Tumwater, WA 98501, 360-236-4878.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed rule corrects a typographical error and clarifies the language of this rule without changing its effect.

## NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Julianne Kolln, DOH, P.O. Box 47850, Olympia, WA 98540-7850, phone 360-236-4878, fax 360-236-2901, email <https://fortress.wa.gov/doh/policyreview>, AND RECEIVED BY April 5, 2021.

January 29, 2021  
Jessica Todorovich  
Chief of Staff  
for Umair A. Shah, MD, MPH  
Secretary

## OTS-2824.1

AMENDATORY SECTION (Amending WSR 20-10-025, filed 4/27/20, effective 5/28/20)

**WAC 246-08-400 Health care providers charging for searching and duplicating health care records.** ((RCW 70.02.010(38) allows health care providers to charge fees)) A health care provider may charge a reasonable fee as defined in RCW 70.02.010 for searching and duplicating health care records. In accordance with RCW 70.02.010 the fees a provider may charge cannot exceed the fees listed below:

(1) Copying charge per page:

(a) No more than one dollar and twenty-four cents per page for the first thirty pages;

(b) No more than ninety-four cents per page for all other pages.

(2) Additional charges:

(a) The provider can charge a twenty-eight dollar clerical fee for searching and handling records;

(b) If the provider personally edits confidential information from the record, as required by statute, the provider can charge the usual fee for a basic office visit.

(3) HIPAA covered entities as defined in 45 C.F.R. Sec. 103 may not charge fees or costs that are not authorized by, or are prohibited by, Federal HIPAA regulation 45 C.F.R. Sec. 164.

[Statutory Authority: RCW 70.02.010(38) and 43.70.040. WSR 20-10-025, § 246-08-400, filed 4/27/20, effective 5/28/20. Statutory Authority: RCW 70.02.010(37) and 43.70.040. WSR 17-17-019, § 246-08-400, filed 8/7/17, effective 9/7/17; WSR 15-14-073, § 246-08-400, filed 6/26/15, effective 7/27/15. Statutory Authority: RCW 70.02.010(15) and 43.70.040. WSR 13-14-092, § 246-08-400, filed 7/1/13, effective 8/1/13; WSR 11-12-027, § 246-08-400, filed 5/24/11, effective 7/1/11; WSR 09-13-102, § 246-08-400, filed 6/17/09, effective 7/1/09; WSR 07-12-029, § 246-08-400, filed 5/30/07, effective 7/1/07. Statutory Authority: RCW 70.02.010(14) and 43.70.040. WSR 06-11-166, § 246-08-400, filed 5/24/06, effective 6/24/06. Statutory Authority: RCW 70.02.010(12) and 43.70.040. WSR 05-12-013, § 246-08-400, filed 5/20/05, effective 7/1/05. Statutory Authority: RCW 70.02.010(12), 43-70-040 [43.70.040] and 70.02.900. WSR 03-14-036, § 246-08-400, filed 6/23/03, effective 7/24/03. Statutory Authority: RCW 70.02.010 and 43.70.040. WSR 01-16-009, § 246-08-400, filed 7/19/01, effective 8/19/01; WSR 99-13-083, § 246-08-400, filed 6/14/99, effective 7/15/99. Statutory Authority: RCW 70.02.010(12) and 43.70.040. WSR 97-12-087, § 246-08-400, filed 6/4/97, effective 7/5/97. Statutory Authority: RCW 43.70.040 and 70.02.101(12). WSR 95-20-080, § 246-08-400, filed 10/4/95, effective 11/4/95.]