



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Administrative Order #10-01 – Health Care Authority

- Preproposal Statement of Inquiry was filed as WSR 10-12-045 ; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4).

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)

Chapter 182-04 WAC, Public Access to Information and Records.

Hearing location(s):

Health Care Authority
676 Woodland Square Loop SE
Olympia, WA
The Sue Crystal Center

Date: August 26th, 2010 Time: 3:00 p.m.

Submit written comments to:

Name: Jason Siems, HCA Rules Coordinator
Address: 676 Woodland Square Loop SE
PO Box 42700
Olympia, WA 98504-2700
e-mail Jason.siems@hca.wa.gov

fax (360) 923-2606 by August 26th, 2010

Assistance for persons with disabilities: Contact

Nikki Johnson by August 19th, 2010

TTY (888) 923-5622 or (360) 923-2805

Date of intended adoption: August 27th, 2010
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

- Amendment of the rules is needed to reflect changes in state law, technology and HCA processes.

Reasons supporting proposal:

Statutory authority for adoption: 41.05.160 RCW; 42.56.040 RCW and 70.02.050 RCW.

Statute being implemented:

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

DATE July 19th, 2010

NAME (type or print)
Jason Siems

SIGNATURE

TITLE
Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 19, 2010

TIME: 4:47 PM

WSR 10-15-090

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Washington State Health Care Authority (HCA)

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Jason Siems	676 Woodland Square Loop, Lacey Washington	(360) 923-2720
Implementation.... Jason Siems	676 Woodland Square Loop, Lacey Washington	(360) 923-2720
Enforcement..... Jason Siems	676 Woodland Square Loop, Lacey Washington	(360) 923-2720

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

The Joint Administrative Rules Review Committee has not requested the filing of a small business economic impact statement, and there will be no costs to small businesses.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain: RCW 34.05.328 does not apply to the Health Care Authority rules unless requested by the Joint Administrative Rules Committee or applied voluntarily.

AMENDATORY SECTION (Amending WSR 97-21-125, filed 10/21/97, effective 11/21/97)

WAC 182-04-010 Purpose. The purpose of this chapter shall be to insure compliance by the Washington state health care authority (HCA) with the provisions of chapter ((42.17)) 42.56 RCW dealing with public records.

AMENDATORY SECTION (Amending WSR 97-21-125, filed 10/21/97, effective 11/21/97)

WAC 182-04-015 Definitions. The following definitions shall apply:

(1) "HCA" means the Washington state health care authority, created pursuant to chapter 41.05 RCW.

(2) "Public record" is defined in RCW 42.56.010. Except as otherwise provided by law, public records include((s)) any ((writing)) written or recorded communication containing information relating to the conduct of ((government)) the HCA or the performance of any governmental ((agency or the performance of any governmental)) or proprietary ((information)) function prepared, owned, used, or retained by the HCA.

(3) "Writing" ((means all means of recording any form of communication or representation as defined in RCW 42.17.020(28))) is defined in RCW 42.56.010. It includes handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

NEW SECTION

WAC 182-04-020 Whom should I contact about a public records request? The HCA public records officer is in charge of responding to all records requests made to the HCA. The public records officer is responsible for overseeing the release of public records and coordinating HCA public disclosure staff.

AMENDATORY SECTION (Amending WSR 97-21-125, filed 10/21/97, effective 11/21/97)

WAC 182-04-025 How will the HCA respond to my public records (-) request? (1) Except as provided by law, all public records of the HCA as defined in WAC 182-04-015(2) (~~shall~~) will be made available upon public request for inspection and copying (~~pursuant to these rules, except however as provided by law~~).

(2) (~~The public disclosure officer, or designee, shall respond promptly to requests for disclosure.~~) Within five business days after receiving a request, the HCA public disclosure officer, or designee (~~shall respond by~~) will:

(a) (~~Providing~~) Provide the record(s);

(b) (~~Acknowledging the~~) Acknowledge your request and (~~providing~~) give you a reasonable estimate of (~~the time it will take to respond to the request~~) how long the HCA will need to provide the records. If the request is not clear, the public disclosure officer may ask you for more information (see WAC 182-04-027). If you fail to clarify the request, the public disclosure officer need not respond to it; or

(c) (~~Denying~~) Deny all or part of the public record request in writing with the reason(s) for the denial (see WAC 182-04-050 and 182-04-053).

(3) (~~In acknowledging receipt of a public record request that is unclear, the public disclosure officer may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the public disclosure officer need not respond to it.~~) At his or her discretion, the public records officer may send the requested records to you by e-mail, fax, or regular mail. The records may be delivered on computer or compact disks, or by use of other methods of transmittal or storage.

NEW SECTION

WAC 182-04-027 Why might the HCA need to extend the time to respond to a public record request? The HCA may need to extend the time to respond to a public record request to:

- (1) Locate and gather the information requested;
- (2) Notify an individual or organization affected by the request;
- (3) Determine whether the information requested is exempt from disclosure and whether all or part of the public record requested can be released; or
- (4) Contact you to clarify the intent, scope or specifics of the request. If you fail to clarify the request, the HCA may not have to respond to your request.

NEW SECTION

WAC 182-04-029 What records can I request and/or copy? You may inspect or get copies of all public records unless they are exempted by chapter 42.56, 19.183 or 70.02 RCW, or other applicable law.

AMENDATORY SECTION (Amending WSR 97-21-125, filed 10/21/97, effective 11/21/97)

WAC 182-04-035 (~~(Office hours.)~~) When can I inspect or obtain copies of documents? (~~(Public records shall be made available upon request only during working hours of the HCA. For the purpose of this chapter, the working hours shall be from 9:00 a.m. until noon, and from 1:00 p.m. until 4:00 p.m., Monday through Friday, excluding legal holidays.)~~) You can inspect public records at the HCA in Thurston County from 9:00 a.m. until noon, and from 1:00 p.m. until 4:00 p.m., Monday through Friday. Records are not available on legal holidays or when the HCA offices are closed for other reasons such as inclement weather or emergencies. The HCA reserves the right to restrict your ability to examine public records when the HCA determines it is necessary to preserve public records or prevent interference with the performance of HCA duties. This does not prevent the HCA from providing you with copies of the public records or limit the duty of the HCA to provide you with copies of the public records.

AMENDATORY SECTION (Amending WSR 97-21-125, filed 10/21/97, effective 11/21/97)

WAC 182-04-040 (~~(Request for)~~) How do I make a public record(~~s-~~) request? In accordance with the requirements of chapter (~~42.17~~) 42.56 RCW that agencies prevent unreasonable invasion of privacy, and to protect public records from damage or disorganization, and to prevent excessive interference with essential functions of the agency, public records may be inspected (~~or copied~~), or copies of such records may be obtained by the public, (~~upon compliance with~~) by using the following procedures:

(1) (~~A request shall be made in writing or upon the form prescribed in WAC 182-04-070, which shall be available at the HCA. The form shall be presented to the public disclosure officer, or to any member of the agency's staff, if the public disclosure officer is not available, at the office of the agency during customary office hours.~~) Public record requests should be made in writing. The HCA accepts written public record requests made in person or sent by e-mail, fax, or mail. To assist members of the public to make a formal request, forms are available on the HCA web site or by contacting the public records officer. A request need merely identify with reasonable certainty the record sought to be disclosed. (~~If the matter requested is referred to within the current index maintained by the public disclosure officer, a reference to the requested record as it is described in such current index is desirable.~~)

(2) If the HCA form is not used, the public record request should be in writing and include all of the following information:

(a) The name and contact information of the person requesting the record;

(b) The calendar date on which the request was made;

(c) A statement that the requested records are not to be used for commercial purposes; and

(d) A detailed description of the record requested sufficient to make it identifiable.

(3) In all cases in which a member of the public is making a request, (~~it shall be the obligation of~~) the public disclosure officer or staff member (~~to~~) will assist (~~the member of the public in~~) to appropriately (~~identifying~~) identify the public record requested, if necessary.

(~~3) When the law makes a record disclosable to a specific person, a requestor may be required to provide personal identification.~~)

AMENDATORY SECTION (Amending WSR 97-21-125, filed 10/21/97, effective 11/21/97)

WAC 182-04-041 Preserving requested records. If a public record request is made at a time when such record exists but is scheduled for destruction in the near future, the public disclosure officer (~~shall~~) will retain possession of the record, and (~~may~~) will not destroy or erase the record until the request is resolved.

AMENDATORY SECTION (Amending WSR 97-21-125, filed 10/21/97, effective 11/21/97)

WAC 182-04-045 Copying costs. (1) No fee (~~shall be~~) is charged for the inspection of public records.

(2) The (~~agency shall~~) HCA collects the following fees to reimburse the (~~agency~~) HCA for its actual costs incident to providing copies of public records:

(a) Fifteen cents per page for black and white photocopies (~~plus sales tax~~); and

(b) The cost of postage, if any.

(3) Copies of some records may be provided electronically or on disk to the requestor at no charge.

(4) The public disclosure officer is authorized to waive the foregoing costs. (~~Factors considered in deciding whether to waive costs include, but are not limited to: Providing the copy will facilitate administering the program, and/or the expense of processing the payment exceeds the copying and postage cost.~~)

AMENDATORY SECTION (Amending WSR 97-21-125, filed 10/21/97, effective 11/21/97)

WAC 182-04-050 ((Exemptions-)) What happens if the record I requested is exempt from disclosure? (~~(1) The HCA reserves the right to determine whether a public record requested in accordance with the procedures outlined in WAC 182-04-040 is exempted under statutory provisions.~~

~~(2) Pursuant to RCW 42.17.260, the HCA reserves the right to delete identifying details when it makes available or publishes any public record, in any case where there is reason to believe that disclosure of such details would be an invasion of personal privacy or vital governmental interest protected by chapter 42.17 RCW. The public disclosure officer will fully justify such deletion in writing in such a way so that the nature of the deleted information is made known.~~

~~(3) If disclosure is denied, the requestor is entitled to a written explanation of the denial which cites the relevant exemption and an explanation of how it applies to the record being denied.)~~ Certain records that you wish to review or copy are exempt from disclosure because of federal or state laws. If a record is exempt from disclosure, you will be informed in writing of the reasons why the HCA is withholding the record.

AMENDATORY SECTION (Amending WSR 97-21-125, filed 10/21/97, effective 11/21/97)

WAC 182-04-055 Will the HCA review ((of)) the denial((s)) of ((public records)) my request((-))? ~~((1) Any person who objects to the denial of request for public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public disclosure officer or other staff member which constituted or accompanied the denial.~~

~~(2))~~ If the HCA denies your public record request, you may ask the HCA to review the denial. To request a review, you must make your request in writing.

Following receipt of a written request for review of a decision denying a public record request, the disclosure officer ~~((shall immediately))~~ will consider the matter and either affirm or reverse ~~((such))~~ the denial. ~~((Such review shall be deemed completed at the end of the second business day following the receipt by the disclosure officer of the request for review.))~~ This shall constitute final ~~((agency))~~ HCA action for the purposes of judicial review, pursuant to RCW ~~((42.17.320))~~ 42.56.520.

AMENDATORY SECTION (Amending WSR 97-21-125, filed 10/21/97, effective 11/21/97)

WAC 182-04-060 Protection of public records. Following are guidelines which shall be adhered to by any person inspecting such public records:

(1) Inspection of any public records shall be conducted only during working hours as specified in WAC 182-04-035 ~~((with))~~ in the presence of an HCA employee;

(2) ~~((No public record shall be removed from the main office without the approval of the public disclosure officer or his/her designee.))~~ Original records cannot be removed from the HCA building. The HCA has a duty to protect public records (see RCW 42.56.100);

(3) Public records shall not be marked, torn, or otherwise damaged;

(4) Public records must be maintained as they are in file or in a chronological order, and shall not be dismantled except for purposes of copying and then only by an HCA employee;

(5) Access to file cabinets and other places where public records are kept is restricted (~~and shall be used by employees of the HCA~~).

AMENDATORY SECTION (Amending WSR 98-17-063, filed 8/17/98, effective 9/17/98)

WAC 182-04-070 Request for inspection of records. The HCA hereby adopts for use by all persons requesting inspection and/or copying of its records, the form set out below, entitled "Request for Inspection of Records."

The information requested in Blocks 4 through 6 is not mandatory, however, the completion of these blocks will enable this office to expedite your request and contact you should the record you seek not be immediately available.

1. Name	4. Phone Number
.....
2. Address	5. Representing (if applicable)
.....
3. Zip Code	6. If urgent - date needed
.....

Below please state what record(s) you wish to inspect and be as specific as possible. If you are uncertain as to the type or identification of specific record or records we will assist you.

I certify that the information requested from the above record(s) will not be part of a list of individuals to be used for commercial purposes.

(Signed)

Date

Return the request for inspection of records to:

Public Disclosure Office
Health Care Authority
676 Woodland Square Loop S.E.

Post Office Box ((~~42705~~)) 42700
Olympia, Washington ((~~98504-2705~~)) 98504-2700