



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: March 16, 2018

TIME: 10:00 AM

WSR 18-07-067

Agency: Health Care Authority

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The agency is streamlining Chapter 182-04 WAC and revising the chapter to conform with Engrossed House Bill 1595 (65th Legislature, 2017, regular Session)

Citation of rules affected by this order:

New: 182-04-023
 Repealed: 182-04-035, 182-04-040, 182-04-050, 182-04-060, 182-04-070
 Amended: 182-04-010, 182-04-015, 182-04-020, 182-04-025, 182-04-027, 182-04-029, 182-04-041, 182-04-045, 182-04-055,
 Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Other authority: Engrossed House Bill 1595 (65th Legislature, 2017, Regular Session)

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 18-04-060 on February 1, 2018 (date).
 Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Web site:
- Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>1</u>	Amended	<u>9</u>	Repealed	<u>5</u>
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	<u>1</u>	Amended	<u>9</u>	Repealed	<u>5</u>

Date Adopted: March 16, 2018

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 10-18-051, filed 8/27/10, effective 9/27/10)

WAC 182-04-010 Purpose. ~~((The purpose of))~~ This chapter ~~((shall be to insure compliance by))~~ provides rules for the Washington state health care authority ~~((HCA) with))~~ (agency) to comply with the provisions of chapter 42.56 RCW ~~((dealing with))~~ for access to public records.

AMENDATORY SECTION (Amending WSR 10-18-051, filed 8/27/10, effective 9/27/10)

WAC 182-04-015 Definitions. The following definitions ~~((shall))~~ apply to this chapter:

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

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

(3) "Writing" ~~((is defined in))~~ - See 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.))~~

AMENDATORY SECTION (Amending WSR 10-18-051, filed 8/27/10, effective 9/27/10)

WAC 182-04-020 ~~((Whom should I contact about a))~~ Public records ((request?)) officer. The ~~((HCA))~~ agency's public records officer ~~((is in charge of responding to all records requests made to the HCA. The public records officer is responsible for overseeing))~~ oversees:

(1) Responses to all requests for agency public records;

(2) The release of public records ~~((and coordinating HCA public disclosure)); and~~

(3) The coordination of agency public records staff.

NEW SECTION

WAC 182-04-023 Public records—How to submit. (1) Public records requests should be made in writing. The agency accepts public records requests:

(a) Made orally by telephone or in person; or
(b) Sent by email, fax, mail, hand delivery, or commercial delivery.

(2) A public records request form is available on the agency web site or by contacting the agency's public records officer.

(3) If the agency's form is not used, the public records request should include:

(a) The requestor's name and contact information;
(b) The date of the request;
(c) A detailed description of an identifiable record, as described in RCW 42.56.080(1);

(d) The requestor's preferred format and delivery method for the requested records; and

(e) Any factors the requestor would like the agency to consider when deciding whether not to charge for or reduce the costs to copy and deliver the records.

(4) The agency may ask a person requesting a public record for personal identification when a law allows a record to be disclosed only to a specific person.

(5) The public records officer or designee assists requestors with identifying the public records requested, if necessary.

AMENDATORY SECTION (Amending WSR 10-18-051, filed 8/27/10, effective 9/27/10)

WAC 182-04-025 (~~How will the HCA respond~~) Response to ((my)) public records ((request?)) requests. (1) Except as provided by law, ~~((all)) the agency makes public records ((of the HCA as defined in WAC 182-04-015(2)) will be made)~~ available ~~((upon)) following a public records request for inspection ((and)), or copying, or both.~~

(2) The agency provides a written response within five business days ((after)) of receiving a request for public records.

(a) A business day is 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding Saturday, Sunday, and recognized holidays described in WAC 357-31-005.

(b) The agency treats a request received on a Saturday, Sunday, recognized holiday, or after 5:00 p.m. on any other day as received on the next business day.

(3) When responding to the requestor, the ((HCA)) agency's public ((disclosure)) records officer, or designee ((will)):

(a) Provides the ~~((record(s))) requested records;~~
(b) Acknowledges ~~((your)) the request and gives ((you)) a reasonable estimate of ((how long)) the ((HCA will need)) time needed to provide the records. If the request is not ~~((clear)) for an identifiable record,~~ the public ~~((disclosure)) records officer ((may)) or designee asks ((you)) for more information. ~~((See WAC 182-04-027.))((-)) If ((you fail to clarify)) the requestor does not respond to the agency's~~~~~~

request for clarification, the public ((disclosure)) records officer or designee need not respond to ((it)) the public records request and may consider the request closed; or

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

(3) At his or her discretion,)) as required by RCW 42.56.070(1), to include:

(i) The specific exemption authorizing the agency to withhold part or all of the record;

(ii) A brief explanation of how the exemption applies to the records or parts of the records withheld; and

(iii) The right to request agency review of the denial and information about how to make that request.

(4) At the public records ((officer)) officer's discretion, the agency may send the requested records ((to you)) by email, fax, or regular mail. The ((records may be delivered on computer or compact disks, or by use of other methods of transmittal or storage)) agency sends the requested records as hard copies or in an electronic format. The agency works with the requestor to send records in a method and format requested by the requestor that is used by the agency.

AMENDATORY SECTION (Amending WSR 10-18-051, filed 8/27/10, effective 9/27/10)

WAC 182-04-027 ((Why might the HCA need to extend the)) Additional time to respond to a public records request((?)). The ((HCA)) agency may ((need to)) extend the time to respond to a public records request when necessary to:

(1) ((Locate)) Identify and gather the ((information)) records requested;

(2) Notify ((an individual)) a person or organization affected by the request;

(3) Perform a comprehensive review to determine whether all or portions of the ((information requested is)) responsive records are exempt from disclosure ((and whether all or part of the public record requested can be released)); or

(4) Contact ((you)) the requestor to clarify ((the intent, scope or specifies)) part or all of the request. ((If you fail to clarify the request, the HCA may not have to respond to your request.))

AMENDATORY SECTION (Amending WSR 10-18-051, filed 8/27/10, effective 9/27/10)

WAC 182-04-029 ((What records can I request and/or copy?)) Inspection of public records. ((You may inspect or get copies of)) (1) All of the agency's public records are available for inspection and copying unless they are ((exempted)) exempt from disclosure by chapter 42.56, ((19.183 or)) 70.02 RCW, or other applicable law.

(2) People may inspect public records with an agency employee present at the agency's offices between 9:00 a.m. and 12:00 p.m. and

between 1:00 p.m. and 4:00 p.m. during business days as defined in WAC 182-04-025 (2)(a). Records are not available for inspection if the agency is closed during a business day for reasons such as inclement weather or emergencies.

(3) During inspection, public records must:

(a) Not be removed from the agency's offices.

(b) Not be marked, torn, or otherwise damaged.

(c) Be kept as they are filed or in a chronological manner.

(d) Not be taken apart except for copying by an agency employee.

(4) The agency restricts access to file cabinets and other places where public records are kept.

(5) The agency reserves the right to restrict access to public records if the agency determines it is necessary to preserve the integrity of the public records or prevent interference with the agency's essential business functions. This does not limit the agency's duty to provide public records to the requestor. If the agency restricts access to requested public records, the agency promptly provides the requestor with:

(a) Written notice of the restriction, including the reason for restricting access; and

(b) Copies of the restricted records at no charge.

AMENDATORY SECTION (Amending WSR 10-18-051, filed 8/27/10, effective 9/27/10)

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

AMENDATORY SECTION (Amending WSR 10-18-051, filed 8/27/10, effective 9/27/10)

WAC 182-04-045 Copying costs. (1) ~~((No fee is charged for the inspection of))~~ The agency does not charge a fee to inspect public records.

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

~~(a) Fifteen cents per page for black and white photocopies; 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.)~~ Under RCW 42.56.120 (2)(b), the agency does not calculate all actual costs to copy records as it would be unduly burdensome because:

(i) The agency does not have the resources to conduct a study to determine all its actual copying costs;

(ii) To conduct such a study would interfere with other essential agency functions; and

(iii) Through the 2017 legislative process, the public and requestors commented on and were informed of authorized fees and costs, including those for electronic records, described in RCW 42.56.120 (2)(b) and (c), (3) and (4).

(3) The agency charges for copies of records under the default fees in RCW 42.56.120 (2)(b) and (c).

(4) The agency charges for customized services under RCW 42.56.120(3).

(5) Under RCW 42.56.130, the agency may charge other copy fees authorized by statutes outside of chapter 42.56 RCW.

(6) The agency may enter into a contract, memorandum of understanding, or other agreement with a requestor that provides an alternative fee agreement for copying charges under RCW 42.56.120(4).

(7) Before copying any records, the agency provides the requestor with the estimated copying charge. The requestor may revise the request to limit the number of records copied and the applicable copying charges.

(8) The agency may waive the costs to copy or deliver requested records, including any charges for customized services under RCW 42.56.120(4).

AMENDATORY SECTION (Amending WSR 10-18-051, filed 8/27/10, effective 9/27/10)

WAC 182-04-055 ~~((Will the HCA))~~ **Agency review** ~~((the denial of my))~~ **of a denied request** ~~((?)).~~ (1) If the ((HCA)) agency denies ((your)) all or part of a public records request, ((you may ask the HCA to)) the requestor may ask, in writing, that the agency review the denial((. To request a review, you must make your request in writing)).

~~((Following receipt of a written))~~ (2) After receiving a written request ((for)) to review ((of)) a decision denying all or part of a public records request, the ((disclosure officer will)) agency considers the matter and either affirms or reverses the denial, or affirms part of the denial and reverses the remaining part of it. This ((shall constitute)) decision is the agency's final ((HCA)) action for the purposes of judicial review((, pursuant to)) under RCW 42.56.520.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|----------------|---|
| WAC 182-04-035 | When can I inspect or obtain copies of documents? |
| WAC 182-04-040 | How do I make a public record request? |
| WAC 182-04-050 | What happens if the record I requested is exempt from disclosure? |
| WAC 182-04-060 | Protection of public records. |

WAC 182-04-070

Request for inspection of records.