

Removing Notary Requirements

HCA agency request legislation

What we're proposing

HCA seeks to modify [RCW 41.05A.050](#) to remove the notary requirement when filing liens. This proposal replaces that requirement with a sworn statement:

I,, declare under penalty of perjury under the laws of the state of Washington that I have read the foregoing Statement of Lien, know the contents thereof, and believe the same to be true.

STATE OF WASHINGTON, HEALTH CARE AUTHORITY

Date: XX/XX/XXXX

Signature:

HCA Representative

Currently, HCA must notarize any liens filed by the agency. As a result, HCA:

- Must maintain and make available notary journals beyond employees' time of employment.
- Is responsible for the cost of notary renewals.
- Requires access to Zoom and storage space for videos of notary session recordings.

However, HCA has rarely had to go to court to enforce a lien. HCA files approximately 160 liens per year (2024).

Background

HCA files liens with Washington state counties when necessary to meet its obligation as the state Medicaid agency to be payer of last resort when another payer may be liable for payment of Medicaid claims.

HCA files liens when identifying a client for whom Medicaid has paid claims of more than \$15,000, and another party may be liable to reimburse Medicaid upon conclusion of the case.

RCW 41.05A.050 currently requires all liens filed by HCA to include notarization. In addition to the length and complexity that notarizing every lien and release of lien requires, this also requires notary records to be maintained by the notary 10 years after performance of the last notarial act chronicled in their notary journal. The current process requires HCA to maintain records long after staff have retired, separated, or otherwise moved on.

In some cases, the family of the notary must continue to maintain their journal after their death, raising concerns for public record disclosure. While generally a notary's journal is considered private property, the journal entries that a notary public creates during the course of work as a state or local government employee in Washington are likely public records, due to the nature of government employee's work and Washington public disclosure laws.

Fiscal impact

HCA will save approximately \$3,000 per year by removing the need for staff to retain active notary status, and for supplies and data storage costs.