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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Health...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
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### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (October 2013)

**Assembly**

**Record of Committee Proceedings**

**Committee on Health**

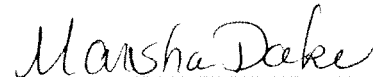
**Clearinghouse Rule 08-087**

Relating to training and proficiency in the use of automated external defibrillators for licensure as a licensed midwife.

Submitted by Department of Regulation and Licensing.

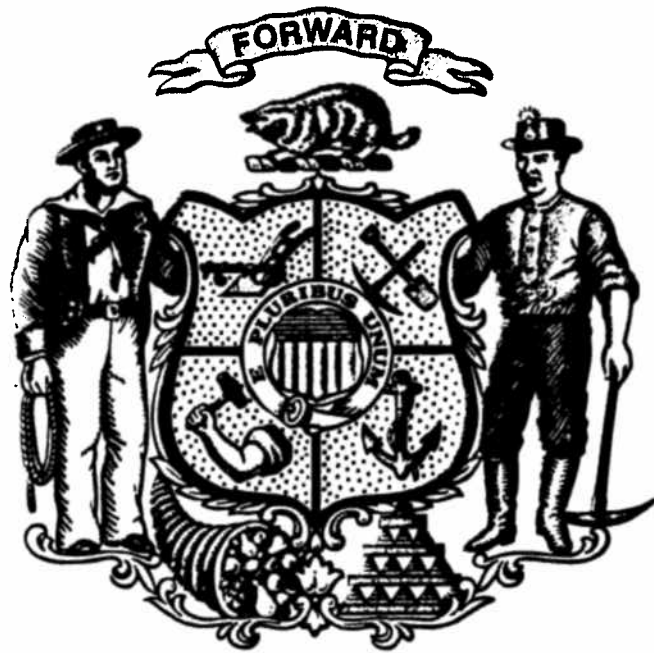
May 31, 2011            Referred to Committee on Health.

June 30, 2011            No action taken.



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Marsha Dake  
Committee Clerk



DATE: May 31, 2011

TO: Marsha Dake

Committee on Health

FROM: Patrick E. Fuller, Assembly Chief Clerk

RE: Clearinghouse Rules Referral

The following Clearinghouse Rule has been referred to your committee.

### **CLEARINGHOUSE RULE 08-087**

AN ORDER to renumber and amend RL 181.01 (2) (c); and to create RL 180.02 (1m), (3m) and (11) and 181.01 (1) (d) and (2) (c) 1. and 2., relating to training and proficiency in the use of automated external defibrillators for licensure as a licensed midwife.

Submitted by **Department of Regulation and Licensing.**

Report received from Agency on **May 25, 2011.**

To committee on **Health.**

Referred on **Tuesday, May 31, 2011.**

Last day for action - **Thursday, June 30, 2011.**

Under section 227.19 (4) of the Wisconsin Statutes, your committee has 30 days to take action or get an extension. The day **after** the official referral date is day one of your review period. Therefore, the 30th day should fall four weeks and two days after the referral date. For example, for Clearinghouse Rules referred on a Monday, a Wednesday would be your 30th day. For Clearinghouse Rules referred on a Thursday or Friday, your 30th day would fall on a weekend. Therefore, your time would expire on the next working day (Monday) as provided for in s. 990.001 of the Wisconsin Statutes. Also, if the 30th day falls on a legal holiday, time would expire on the next working day.

To extend your review period for an additional 30 days, your committee has one of two options. Section 227.19(4)(b) states that you can request in writing that the agency meet with the committee to review the proposed rule. Another option is to publish or post notice that the committee will hold a meeting or hearing to review the proposed rule and immediately send a copy of the notice to the agency.

Section 227.19 **requires** you to notify each member of your committee that you have received this Clearinghouse Rule. Although some committee chairs choose to do so, you are not required by law or rule to send a copy of the text of the rule to each member at this time. Instead, your notice could state that members should contact you if they wish to receive a hard copy of the rule. Another option would be to email the rule to members. Please put a copy of your official notification memo in the rule jacket.

Three copies of the Clearinghouse Rule and its accompanying documents are contained in the jacket. If you wish to have your Legislative Council attorney review the Clearinghouse Rule, send him/her a copy. I only need one copy remaining in the jacket when you report it out of committee at the end of the review period.

The identical process is happening simultaneously in the Senate. Keep track of their action on the rule.

For assistance with the Clearinghouse Rule process, please consult Kay Inabnet (6-5550) or your Legislative Council attorney. If you wish to learn more on this subject, read *Review of Administrative Rules* which is part of the Legislative Council's Wisconsin Legislator Briefing Book series, section 227.19 of the Wisconsin Statutes or part 2 of the *Administrative Rules Procedures Manual* written by the Revisor of Statutes Bureau and the Wisconsin Legislative Council staff.



**Dake, Marsha**

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**From:** Dake, Marsha  
**Sent:** Thursday, June 02, 2011 1:16 PM  
**To:** Rep.Stone; Rep.Severson; Rep.Kaufert; Rep.Van Roy; Rep.Strachota; Rep.Petersen;  
Rep.Litjens; Rep.Richards; Rep.Pasch; Rep.Pocan; Rep.Seidel; Field, Adam; Scholz, AJ; Hein,  
Tanya; Buschman, Sara; Bowers, Deborah; Turke, Jon; Ludwig, Frederic; Trost, Craig; McKinny,  
Chris; Sweet, Richard; Moran, Christian  
**Subject:** Assembly Committee on Health - FW: CR 08-087  
**Attachments:** RL 181 CR08-087 (AED-midwife) Draft to Legislature May 2011.pdf; RL 181 CR08-087  
(Automated external defibrillator-midwife) Report to Leg May 2011.pdf

Committee Members:

**Clearinghouse Rule 08-087, relating to training and proficiency in the use of automated external defibrillators for licensure as a licensed midwife**, has been referred to the Assembly Committee on Health.

Please let us know if you have any questions or concerns about CHR 08-087. The last day for committee action is June 30, 2011 - if you would like to request committee action on this rule, please contact our office no later than June 23, 2011.

Thank you!

*Marsha Dake*  
*Committee Clerk*  
6-8590

**STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING**

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**IN THE MATTER OF RULE-MAKING :**  
**PROCEEDINGS BEFORE THE :** **REPORT TO THE LEGISLATURE**  
**DEPARTMENT OF REGULATION :** **ON CLEARINGHOUSE RULE 08-087**  
**AND LICENSING :** **(s. 227.19 (3), Stats.)**

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**I. THE PROPOSED RULE:**

The proposed rule, including the analysis and text, is attached.

**II. REFERENCE TO APPLICABLE FORMS:**

No new or revised forms are required by these rules.

**III. FISCAL ESTIMATES:**

The Department of Regulation and Licensing estimates that this rule will require staff time in the Office of Legal Counsel, Division of Management Services, and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$2,223. The department finds that this rule has no significant fiscal effect on the private sector.

**IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:**

2007 Wisconsin Act 104 amends Subchapter XII of ch. 440, Stats., which regulates the practice of midwifery. The effect of the Act requires the department to amend administrative rules for application for licensure as a licensed midwife. As required by 2007 Wisconsin Act 24, the proposed rule creates the requirement for applicants and licensees to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial licensure and renewal of licensure.

**V. NOTICE OF PUBLIC HEARING:**

A public hearing was held on November 26, 2008. There were no appearances at the public hearing and no written comments were received.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

Comment 2.a. In s. RL 180.02 (1m), a, b, and c are paragraphs and should be enclosed with parentheses. Also, the structure of s. RL 180.02 (1m) (c) is inconsistent with pars.

(a) and (b). Consider removing the prepositional phrase: "After having determined that defibrillation should be performed" at the beginning of the sentence altogether. This prepositional phrase is confusing as it does not indicate who or what determines whether defibrillation is necessary. Does the AED or the AED operator determine this? If this phrase is essential to the definition, and if it is intended that the machine should determine whether defibrillation is necessary, then par. (c) could be rewritten:

It is capable, either at the command of an operator or without the intervention of an operator, of delivering an electrical shock to an individual, after it determines defibrillation should be performed.

Response: Paragraphs a, b, and c have been enclosed with parentheses. The proposed language in s. RL 180.02 (1m) (c) is retained because it is the same language found in the definition of "automated external defibrillator" contained in s. 440.01 (1) (ad) 3., Stats.

Comment 5.c. The "Comparison with Rules in Adjacent States" section states that "the American Heart Association teaches AED with CPR" training. The supporting documentation included however, is a list of the American Red Cross class schedule. Do both associations teach the class? Is this a typographical error?

Response: Under the "Comparison with Rules in Adjacent States," the reference to the American Heart Association relates to the training offered in Minnesota. Under "the Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report," the reference to the American Red Cross relates to training offered in Wisconsin.

All of the other recommendations suggested in the Clearinghouse Report were accepted in whole.

## **VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:**

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.



STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION  
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES  
AND LICENSING : (CLEARINGHOUSE RULE 08-087)

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PROPOSED ORDER

An order of the Department of Regulation and Licensing to renumber and amend RL 181.01 (2) (c); to amend RL 181.01 (4) (b) 4., and to create RL 180.02 (1m), (3m) and (11), 181.01 (1) (d) and (2) (c) 1. and 2., relating to training and proficiency in the use of automated external defibrillators for licensure as a licensed midwife.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

**Statutes interpreted:**

Sections 440.982 and 440.983, Stats., and 2007 Wisconsin Act 104.

**Statutory authority:**

Sections 227.11 (2) and 440.984, Stats.

**Explanation of agency authority:**

2007 Wisconsin Act 104 amends ch. 440, Stats., which regulates the practice of midwifery. The effect of the Act requires the Department of Regulation and Licensing to amend administrative rules for application for licensure as a licensed midwife. As required by 2007 Wisconsin Act 104, the proposed rule creates the requirement for applicants and licensees to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial licensure and renewal of licensure.

**Related statutes or rules:**

Section 46.03 (38), Stats.

**Plain language analysis:**

This proposed rule-making order amends rules relating to licensed midwives to include the requirement for applicants and licensees to be proficient in the use of AEDs through

the completion of an approved instruction program prior to initial licensure or renewal of licensure, resulting from 2007 Wisconsin Act 104.

SECTION 1 creates definitions for "automated external defibrillator," "defibrillation" and "ventricular fibrillation."

SECTION 2 creates a provision in s. RL 181.01 (1) to require applicants to submit evidence satisfactory to the department that the applicant has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38), Stats., to provide the instruction.

SECTION 3 renumbers and amends, and SECTION 4 creates, provisions to require licensees to submit, at the time of renewal, evidence satisfactory to the department that the applicant has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38), Stats., to provide the instruction.

SECTION 5 deletes the phrase "he or she" to be consistent with the whole chapter.

**Summary of, and comparison with, existing or proposed federal regulation:**

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

**Comparison with rules in adjacent states:**

**Minnesota:**

Under 147D.17; subd. 1 (14) requires midwives to be certified in adult and infant CPR (the American Heart Association teaches AED with CPR) but there is nothing in the statutes or rules requiring specific training in the use of the defibrillator.

**Iowa:**

Iowa does not regulate midwives.

**Illinois:**

Illinois does not regulate midwives.

**Michigan:**

Michigan does not regulate midwives.

**Summary of factual data and analytical methodologies:**

2007 Wisconsin Act 104 created a requirement that an applicant for an initial credential as a midwife or a renewal be proficient in the use of AEDs through the completion of an

approved instruction program. This requirement of the Act has been set forth in the newly created rule provisions, as directed by the legislature.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:**

Training for AED certification and renewal of certification may vary. The Madison Wisconsin Chapter of the American Red Cross (Badger Chapter) offers to professionals AED/CPR initial certification for \$80.00 and \$52.00 for review. Both trainings are valid for one year. Based on these figures, AED certification for a licensed midwife could cost approximately \$132.00 for the licensure biennium and less so in subsequent bienniums (initial biennium in which AED certification was achieved: \$80.00 initial certification plus \$52.00 for review). A price sheet obtained from the Badger Chapter of the American Red Cross for January to December of 2008 is attached.

As of July 2008, there were 35 Wisconsin licensed midwives with active licenses to practice.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

**Anticipated costs incurred by private sector:**

The department finds that this rule has no significant fiscal effect on the private sector.

**Fiscal estimate:**

The department estimates that this rule will require staff time in the Office of Legal Counsel, Division of Management Services, and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$2,223.

**Effect on small business:**

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at [john.murray@wisconsin.gov](mailto:john.murray@wisconsin.gov), or by calling 608-266-8608.

**Agency contact person:**

Sharon Henes, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2377; email at [sharon.henes@wisconsin.gov](mailto:sharon.henes@wisconsin.gov).

**Place where comments are to be submitted and deadline for submission:**

Comments may be submitted to Sharon Henes, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to sharon.henes@wisconsin.gov. Comments must be received on or before October 24, 2008 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. RL 180.02 (1m), (3m) and (11) are created to read:

RL 180.02 (1m) "Automated external defibrillator" means a defibrillator device to which all of the following apply:

(a) It is approved for commercial distribution by the federal food and drug administration.

(b) It is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and of determining without intervention by the user of the device whether defibrillation should be performed.

(c) After having determined that defibrillation should be performed, it is capable, either at the command of an operator or without intervention by an operator, of delivering an electrical shock to an individual.

(3m) "Defibrillation" means administering an electrical impulse to an individual's heart in order to stop ventricular fibrillation or rapid ventricular tachycardia.

(11) "Ventricular fibrillation" means a disturbance in the normal rhythm of the heart that is characterized by rapid, irregular, and ineffective twitching of the ventricles of the heart.

SECTION 2. RL 181.01 (1) (d) is created to read:

RL 181.01 (1) (d) Evidence satisfactory to the department that the applicant has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38), Stats., to provide the instruction.

SECTION 3. RL 181.01 (2) (c) is renumbered RL 181.01 (2) (c) (intro.) and is amended to read:

RL 181.01 (2) (c) (intro.) A At the time of renewal of a license under par. (b), a licensed midwife shall, at the time that he or she applies for renewal of a license under par. (b), submit proof satisfactory to the department that he or she holds a valid certified

~~professional midwife credential from the North American Registry of Midwives or a successor organization, or a valid certified nurse-midwife credential from the American College of Nurse-Midwives or a successor organization. of all of the following:~~

SECTION 4. RL 181.01 (2) (c) 1. and 2. are created to read:

RL 181.01 (2) (c) 1. The licensee holds a valid certified professional midwife credential from the North American Registry of Midwives or a successor organization, or a valid certified nurse-midwife credential from the American College of Nurse-Midwives or a successor organization.

2. The licensee has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38), Stats., to provide the instruction.

SECTION 5. RL 181.01 (4) (b) 4. is amended to read:

RL 181.01 (4) (b) 4. The department may in its discretion grant renewal of a temporary permit. Renewal shall be granted only once and for a period of no more than 3 years. A permit holder seeking renewal of a temporary permit shall submit documentation that ~~he or she~~ satisfies the requirements for an initial permit under par. (a).

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(END OF TEXT OF RULE)  
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The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated: \_\_\_\_\_

Agency \_\_\_\_\_

Dave Ross, Secretary  
Department of Regulation and Licensing

RL 180, 181 CR08-087 (Automated external defibrillator – midwives) Draft to Leg 3-25-09