

STATEMENT OF SCOPE
WISCONSIN DEPARTMENT OF HEALTH SERVICES

CHAPTER: DHS 110
RELATING TO: Emergency medical services licensing, certification, and training requirements
RULE TYPE: Permanent and emergency
SCOPE TYPE: Original

FINDING OF EMERGENCY:

An emergency rule is necessary to protect the public peace, safety, and welfare. Wisconsin currently has over 2,000 individuals and 100 ambulance or non-transporting emergency medical service providers licensed at the advanced EMT level. Advanced EMT ambulance services disproportionately service small and rural communities across the state. These individuals and services constitute a critical component of the state's emergency medical services system, and they are in high demand across the state. The current rule contains additional requirements for advanced EMTs that are not consistent with state and national standards for EMT licensure, and thereby restricts an advanced EMT's ability to practice and meet the emergency medical service needs in Wisconsin communities. The additional requirements in the current rule – which are not required in neighboring states – could further exacerbate the shortage of practitioners through reductions in recruitment and retention.

SUMMARY

1. Description of rule objectives

The Wisconsin Department of Health Services (“the Department”) proposes to revise ch. DHS 110 to remove certain requirements for advanced Emergency Medical Technician’s (“AEMTs”). Specifically, s. DHS 110.13 (5) contains a requirement that AEMTs, EMT-intermediates, and paramedics maintain current certification in advanced cardiac life support throughout the license period. This requirement for AEMTs conflicts with the Wisconsin Scope of Practice and Wisconsin Technical College System educational requirements for AEMTs in Wisconsin. The Department therefore proposes to remove AEMTs from this requirement in s. DHS 110.13 (5).

2. Existing policies relevant to the rule

The current rule, s. DHS 110.13 (5), provides that “[a]n EMT-intermediate, advanced EMT, or paramedic shall maintain current certification in advanced cardiac life support throughout the triennial license period.” This requirement conflicts with state and national standards for AEMT licensure.

Wisconsin emergency medical service curricula for all levels are based on the National Emergency Medical Services Educational Standards and the National Emergency Medical Services National Scope of Practice Model published by the National Highway Traffic Safety Administration (NHTSA). Both standards underwent revision at the same time of the most recent revision of ch. DHS 110 in clearinghouse rule CR 20-028, which took effect on October 1, 2021.¹ While the AEMT scope of practice expanded during the revisions of these standards and additional changes are anticipated over the next decade, the most recent versions of the NHTSA standards do not include the core components of advanced cardiac life support including cardiac rhythm interpretation, manual defibrillation, cardioversion, transcutaneous pacing, and most cardiac medications.

¹ The Wisconsin State Legislature’s rules clearinghouse page for this rule is available at https://docs.legis.wisconsin.gov/code/chr/all/cr_20_028.

In accordance with the NHTSA models, current Wisconsin emergency medical services scope of practice does not require cardiac rhythm interpretation, cardioversion, transcutaneous, or most cardiac medications at the advanced EMT level. The current Wisconsin curriculum for advanced EMT also does not include most of the procedures and medications covered in advanced cardiac life support. These policies prohibit advanced EMTs from having the training and scope of practice necessary essential to provide most aspects of advanced cardiac life support.

In addition, the current rule conflicts with other rules regarding initial licensure and renewal of licensure at the AEMT level. While s. DHS 110.13 (5) requires AEMTs to maintain current certification in advanced cardiac life support as a professional responsibility, neither s. DHS 110.06 (1) (e) nor s. DHS 110.066 (1) (f) require current certification in advanced cardiac life support to obtain initial licensure at the AEMT level. Furthermore, AEMTs are not required to hold current certification in advanced cardiac life support in order to renew their licenses under s. DHS 110.07(1)(d). EMT-intermediates and paramedics, who have long been required to maintain current advanced cardiac life support certification as a professional responsibility of licensure, are also expressly required to hold that as a qualification for initial licensure under ss. DHS 110.06(1)(e) or 110.066(1)(f), and licensure renewal under s. DHS 110.07(1)(d).

3. Policies proposed to be included in the rule

The discrepancy between the administrative rule and the NHTSA models, and the internal inconsistencies within the rule create the potential for AEMTs to be able to obtain and renew their licenses while being unable to practice without obtaining a certification outside their training and scope of practice. Removing the reference to AEMTs in s. DHS 110.13 (5) would eliminate these discrepancies. The Department therefore proposes to remove AEMTs from s. DHS 110.13(5).

4. Analysis of policy alternative

There are no viable policy alternatives to the proposed rulemaking. Attempting to address this issue through waivers under s. DHS 110.03 is not feasible as there are over 2,000 individuals licensed at the advanced EMT level who are potentially affected. The number of individuals affected would place an administrative strain on the Department, which lacks the staff and time necessary to process waivers on that scale. Furthermore, reliance on the waiver process is unfeasible as new advanced EMTs are continually entering the state's emergency medical services system through initial and reciprocity licensure who would also require waiver.

5. Statutory authority for the rule

a. Explanation of authority to promulgate the proposed rule

The Department is authorized to promulgate the rule based upon explicit statutory language.

b. Statute/s that authorize/s the promulgation of the proposed rule

Section 256.08 (1), Stats: The department shall review all statutes and rules that relate to emergency medical services and recommend in the plan any changes in those statutes and rules that the department considers appropriate. After initial preparation of the plan, the department shall keep the plan current and shall reorder priorities for changes in the state emergency medical services system, based on determinations of the board.

Section 256.08 (4) (g), Stats: The Department shall . . . Review recommendations of the board. The department may promulgate any rule changes necessary to implement those recommendations and may pursue any statutory changes necessary to implement those recommendations.

Section 256.15 (13), Stats.: RULES.

(a) The department may promulgate rules necessary for administration of this section.

(b) The department shall promulgate rules under subs. (8) (b), (c) and (e) and (8m).

(c) The department shall promulgate rules that specify actions that emergency medical services practitioners may undertake after December 31, 1995, including rules that specify the required involvement of physicians in actions undertaken by emergency medical services practitioners.

Section 256.15 (6) (b), Stats.:

1. Except as provided in ss. 256.17 and 256.18, to be eligible for a renewal of a license as an emergency medical services practitioner, the licensee shall, in addition to meeting the requirements of par. (a) 1., complete the training, education, or examination requirements specified in rules promulgated under subd. 2.

2. The department, in conjunction with the technical college system board, shall promulgate rules specifying training, education, or examination requirements, including requirements for training for response to acts of terrorism, for license renewals for emergency medical services practitioners.

Section 227.11 (2) (a), Stats.: Rule-making authority is expressly conferred on an agency as follows:

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.

2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.

3. A statutory provision containing a specific standard, requirement, or threshold does not confer rule-making authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

c. Statute/s or rule/s that will affect the proposed rule or be affected by it

Section DHS 110.13 (5)

6. Estimates of the amount of time that state employees will spend to develop the rule and other necessary

State employees are estimated to spend up to 200 work hours developing the rule changes.

7. Description of all of the entities that may be affected by the rule, including any local governmental units, businesses, economic sectors, or public utility rate payers who may reasonably be anticipated to be affected by the rule

The proposed changes are anticipated to affect approximately eight hundred licensed ambulance services and approximately 2,000 individually licensed AEMT practitioners throughout the state.

8. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule

There appears to be no existing or proposed federal regulations that address the activities to be regulated by the proposed rule

9. Anticipated economic impact, locally or state wide

The proposed rule will have minimal or no economic impact.

10. Agency contacts

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