

WISCONSIN DEPARTMENT OF HEALTH SERVICES PROPOSED ORDER TO ADOPT EMERGENCY RULES

The Wisconsin Department of Health Services proposes an order to **amend** DHS 110.13 (5), relating to emergency medical services licensing, certification, and training requirements

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 emergency medical technician (AEMT) level. AEMT ambulance services disproportionately serve 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 AEMTs that are not consistent with state and national standards for EMT licensure, and thereby restricts an AEMT's ability to practice and meet the emergency medical service needs in Wisconsin communities. The additional requirements in current rule – which are not required in neighboring states – could further exacerbate the shortage of practitioners through reductions in recruitment and retention in Wisconsin.

RULE SUMMARY

Statute interpreted

Sections 256.08 (1) and (4)(g), 256.14 (13), Stats.

Statutory authority

The Department is authorized to promulgate the rule based upon explicit statutory language in ss. 256.15 (6) (b) and 227.11 (2) (a), Stats.

Explanation of agency authority

The Department is authorized to promulgate the rule based upon the following statutory language:

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.

Section 227.24 (1) (a), Stats.: An agency may, except as provided in s. 227.136 (1), promulgate a rule as an emergency rule without complying with the notice, hearing, and publication requirements under this chapter if preservation of the public peace, health, safety, or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the procedures

Related statute or rule

None.

Plain language analysis

The proposed changes to Chapter DHS 110 modify the administrative rule remove the requirement that AEMTs hold current certification in advanced cardiac life support as a professional responsibility of licensure. This requirement conflicts with the Wisconsin Scope of Practice and Wisconsin Technical College educational requirements for AEMTs in Wisconsin. Furthermore, the current rule does not otherwise require advanced cardiac life support to obtain or renew an AEMT license. The proposed changes will eliminate this inconsistency within Chapter DHS 110. The proposed changes would simplify the licensing rules for the approximately 2,000 individuals within the state licensed at the AEMT level and bring Wisconsin in line with neighboring states and national standards.

No reasonable alternatives exist to rulemaking. Without the proposed revisions to Chapter DHS 110, administrative rules regarding AEMT licensure will not be in accordance with state and national standards.

Summary of, and comparison with, existing or proposed federal regulations

There appear to be no existing or proposed federal regulations that address the activities to be regulated by the proposed rules.

Comparison with rules in adjacent states

Illinois:

Illinois statute confers upon the Illinois Department of Public Health the authority and responsibility to oversee and regulate emergency medical services. Illinois does not require AEMTs to hold advanced cardiac life support certification. Applicable law and administrative rule are found in 210 ILCS 50 and 77 Ill. Adm. Code 515

Iowa:

Iowa statute designates the Iowa Department of Public Health as the lead agency for coordinating and implementing the provision of emergency medical services in the state. The Bureau of Emergency and Trauma Services is the responsible agency. Iowa does not require AEMTs to hold advanced cardiac life support certification. Applicable law and administrative rule are found in Iowa Code § 147A and Iowa Adm. Code 641.

Michigan:

Michigan Public Health Code 333.20910 authorizes the Michigan Department of Health and Human Services to develop, coordinate, and administer a statewide emergency medical services system. Michigan does not require AEMTs to hold advanced cardiac life support certification. Applicable law and administrative rule are found in Michigan Public Health Code § 333.20910 and Mich. Admin. Code R 325.

Minnesota:

Minnesota statute authorizes the emergency medical services regulatory board to administer and enforce both statute and administrative rule. Minnesota does not require AEMTs to hold advanced cardiac life support certification. Applicable law and administrative rule are found in Minnesota State Statute Chapter 144E and Minnesota Administrative Rule Chapter 4690.

Summary of factual data and analytical methodologies

The department relied on advice received from the EMS board to draft the proposed rule. The department also relied on the Wisconsin Scope of Practice and the Wisconsin Standardized AEMT Curriculum.

Analysis and supporting documents used to determine effect on small business

The department received advice from the EMS board, which consists of members drawn from multiple types of EMS systems across the state including fire-based EMS, private ambulance services, volunteer EMS, and stakeholder organizations who may be affected by the proposed rule for use in analyzing and determining the economic impact that the proposed rules and rule revisions would have on EMS services, businesses, individual practitioners, and local governments. The department also utilized the Wisconsin Scope of Practice and the Wisconsin Standardized AEMT Curriculum.

Effect on small business

Based on the foregoing analysis, the emergency rules are anticipated to have little to no economic impact on small businesses.

Agency contact person

Christopher Gjestson
Lead Budget & Policy Analyst
Bureau of Operations
1 W. Wilson St.
Madison, WI 53701
Christopher.Gjestson@dhs.wisconsin.gov
608-590-2855

Statement on quality of agency data

The data used by the Department to prepare these proposed rules and analysis comply with s. 227.14 (2m), Stats.

Place where comments are to be submitted and deadline for submission

Comments may be submitted to the agency contact person that is listed above until the deadline given in the upcoming notice of public hearing. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and to the department's website, at <https://www.dhs.wisconsin.gov/rules/permanent.htm>. Comments may also be submitted through the Wisconsin Administrative Rules Website, at: <https://docs.legis.wisconsin.gov/code/chr/active>.

RULE TEXT

SECTION 1. DHS 110.13 (5) is amended to read:

DHS 110.13 (5) An EMT-intermediate, ~~advanced EMT~~, or paramedic shall maintain current certification in advanced cardiac life support throughout the triennial license period.

SECTION 2. EFFECTIVE DATE: This rule takes effect upon publication in the Wisconsin State Journal, as provided in s. 227.24 (1) (c), Stats, and remains in effect as provided in s. 227.24 (1) (c) and (2).