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Questions, comments, or corrections should be directed to:

Bruce Hoesly (608) 266-7590

email: bruce.hoesly@legis.wisconsin.gov

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Emergency Rules Now in Effect

Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Occasionally the Legislature grants emergency rule authority to an agency with a longer effective period than 150 days or allows an agency to adopt an emergency rule without requiring a finding of emergency.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency or a statement of exemption from a finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at www.legis.state.wi.us/rsb/code.

Beginning with rules filed with the Legislative Reference Bureau in 2008, the Legislative Reference Bureau will assign a number to each emergency rule filed, for the purpose of internal tracking and reference. The number will be in the following form: EmR0801. The first 2 digits indicate the year of filing and the last 2 digits indicate the chronological order of filing during the year.

Agriculture, Trade and Consumer Protection

EmR1003 — Rule adopted revising **ss. ATCP 60.15 and 60.20**, relating to somatic cell standards for dairy goat milk.

Finding of Emergency

Recently, the National Conference of Interstate Milk Shippers voted to relax the standard for somatic cells in grade A goat milk, from 1,000,000 somatic cells per ml to 1,500,000 per ml. The United States Food and Drug Administration accepted this change and will include it in the next edition of the Interstate Pasteurized Milk Ordinance. The United States Department of Agriculture is adopting the same standard for grade B goat milk, as part of its standards for “Milk for Manufacturing Purposes and its Production and Processing.”

Wisconsin rules currently establish a limit of 1,000,000 somatic cells per ml in goat milk, which is more stringent than the new national standard of 1,500,000 per ml. The more stringent Wisconsin standard, if not modified to conform to the new national standard, will put Wisconsin dairy goat milk producers at a significant financial, operational, and competitive disadvantage compared to producers in other states.

This emergency rule modifies Wisconsin’s current standard, and makes it consistent with the new national

standard. The department of agriculture, trade and consumer protection (DATCP) is adopting this rule as a temporary emergency rule, pending rulemaking proceedings to modify the standard on a more “permanent” basis. “Permanent” rulemaking proceedings normally require over a year to complete. This emergency rule is needed to mitigate a potential hardship to Wisconsin producers of dairy goat milk, pending the adoption of “permanent” rules.

Publication Date: February 4, 2010
Effective Dates: February 4, 2010 through July 3, 2010

Children and Families

Safety and Permanence, Chs. DCF 37–59

EmR0937 — Rule adopted revising **Chapters DCF 56 and 58**, relating to foster care and kinship care.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

2009 Wisconsin Act 28 assumes that court-ordered kinship care relatives will be applying for a license to operate a foster home beginning after January 1, 2010, and continuing throughout 2010. This rule creates the first two levels of the new levels of care system for foster care. The newly-licensed kinship care relatives will be incorporated into the foster care program. Licensing these relatives will allow the state to claim an additional \$6.5 million in Title IV–E funds for 2010. Act 28 appropriates this \$6.5 million to be expended in 2011.

Publication Date: December 30, 2009
Effective Dates: January 1, 2010 through May 30, 2010
Hearing Dates: March 17, March 31, April 8, 2010

Commerce

Fee Schedule, Ch. Comm 2

EmR0934 — Rule adopted revising **Chapter Comm 2**, relating to public swimming pool and water attraction plan review and inspection fees.

Finding of Emergency

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

1. Implementation of the federal Virginia Graeme Baker Pool and Spa Safety Act necessitates most existing public swimming pools and water attractions to undergo physical modifications to reduce the risk of entrapment at suction outlets.
2. The Virginia Graeme Baker Pool and Spa Safety Act has a compliance date of December 19, 2008.
3. The department estimates that 3,700 existing pools and water attractions will need to be modified in order to comply

with the federal act. As of December 1, 2009, approximately 1,800 pool modifications have been submitted to the department for review and approval.

4. There are claims that the availability of parts to make the necessary modifications is limited.

5. The current department plan review fees and inspection fees under s. Comm 2.68 reflect an estimated average time and cost to provide those services. For the types of pool and water attraction modifications necessary to comply with the Virginia Graeme Baker Pool and Spa Safety Act, the department believes that the time and cost to provide the service will be below the averages reflected under the current fee structure of section Comm 2.68.

6. The department believes that a fee reduction to facilitate plan review and inspection relative to the Virginia Graeme Baker Pool and Spa Safety Act is in alignment with the direction provided under s. 101.19, Stats., of keeping fees consistent with the costs of providing service.

Publication Date: January 1, 2010
Effective Dates: January 1, 2010 through May 30, 2010
Hearing Date: January 21, 2010

Commerce (3)

Financial Resources for Businesses and Communities, Chs. Comm 104—

1. **EmR0910** — Rule adopted to create **Chapter Comm 100**, relating to tax benefits for job creation, capital investment, employee training, and corporate headquarters.

Exemption From Finding of Emergency

The Legislature, by section 9110 (4) in 2009 Wisconsin Act 2, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of the public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Publication Date: June 30, 2009
Effective Dates: June 30, 2009 through July 1, 2010 or the date permanent rules take effect, whichever is sooner
Hearing Date: September 15, 2009

2. **EmR0931** — Rule adopted creating Chapter Comm 136, relating to midwestern disaster area bonds.

Finding of Emergency

The Department of Commerce finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of public welfare. The facts constituting the emergency are as follows.

Between June 14 and July 9, 2008, thirty Wisconsin counties were declared major disaster areas by the President as a result of severe storms, tornados or flooding in 2008 that caused extensive damage to communities, residents, businesses, the economy and critical infrastructure. Subsequently, the federal Heartland Disaster Tax Relief Act of 2008 was enacted, authorizing the Governor of Wisconsin to designate up to \$3,830,112,000 in Qualified Midwestern Disaster Area Bonds, which must be issued before January 1, 2013, for the

purpose of encouraging economic development and recovery in the 30 counties.

To implement the provisions this federal Act, Governor Jim Doyle issued Executive Order #288, directing the Department to promulgate rules for allocating Wisconsin's Qualified Midwestern Disaster Area Bonding Authority, and including the necessary provisions to ensure that bonds are allocated to eligible projects on the basis of providing assistance to areas in the order in which the assistance is most needed. This rule is the result of that directive.

Publication Date: November 9, 2009
Effective Dates: November 9, 2009 through April 7, 2010
Extension Through: June 6, 2010
Hearing Date: January 25, 2010

3. **EmR1006**— Rule adopted to create **Chapter Comm 137**, relating to reallocations for recovery zone facility bonds as established under the federal American Recovery and Reinvestment Act of 2009, and affecting small businesses.

Exemption From Finding of Emergency

The Legislature, by Section 5 (1) (b) in 2009 Wisconsin Act 112, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Publication Date: March 5, 2010
Effective Dates: March 5, 2010 through August 1, 2010

(subject to 2009 Wis. Act 112, s. 5)

4. **EmR1008** — Rule adopted to create **Chapter Comm 124** relating to the Forward Innovation Fund, and affecting small businesses.

Exemption From Finding of Emergency

The Legislature, by Section 9110 (8) of 2009 Wisconsin Act 28, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Publication Date: March 22, 2010
Effective Dates: March 22, 2010 through July 1, 2010

Corrections

EmR0939 — Rule adopted revising **Chapter DOC 302**, relating to sentence calculations and prison release and to administrative review of inmate classification decisions.

Finding of Emergency

The Department of Corrections finds that an emergency exists and that emergency rules are necessary for the immediate preservation of public peace, health, safety and welfare. A statement of facts constituting the emergency is:

Under 2009 Wisconsin Act 28, the legislature provides for the release of inmates from prison if certain criteria are met. The Department is responsible for implementing several of those procedures. Specifically, the department is responsible for implementing the early release programs under: (1) s PAT

(2) ERP/CIP (3) CER (4) Risk reduction (5) 75%/85%. In addition, the department is revising section 302.18 to facilitate the review of inmates for purposes of early release.

If the rule is not created promptly and immediately, the Department will not be able to proceed in reviewing inmates under these various release procedures. This could result in significant delay in the implementation of the statutory provisions which will negatively impact the ability of the Department to manage the inmate population in a safe and effective manner. In addition, a delay will affect the management and control of inmate population levels of correctional facilities with the resources necessary to maintain public safety.

The purpose of the emergency rule is to implement newly created statutory provisions providing for release of inmates under specified circumstances. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary for a prompt implementation of the legislative mandates concerning the release of inmates meeting established criteria while the permanent rules are being developed.

Publication Date: December 31, 2009
Effective Dates: December 31, 2009 through May 29, 2010
Hearing Date: February 25, 2010

Earned Release Review Commission

(Formerly Parole Commission)

EmR0940 — Rule adopted revising **Chapter PAC 1**, relating to the release of inmates through parole or other procedures.

Finding of Emergency

The Wisconsin Earned Release Review Commission finds that an emergency exists and that emergency rules are necessary for the immediate preservation of public peace, health, safety and welfare. A statement of facts constituting the emergency is:

Under 2009 Wisconsin Act 28, the legislature provides for the release of inmates from prison if certain criteria are met. The Earned Release Review Commission (formerly the Parole Commission) is responsible for implementing several of those procedures. Specifically, the commission is responsible for considering the early release of inmates under: (1) section 304.06 (1) (bg)1. and 2., Stats., after the inmate has served the term of confinement of their bifurcated sentence less positive adjustment time, (2) section 304.06 (1) (bg) 3. and 4., Stats., after the inmate has served either 75 % or 85 % of their term of confinement, depending on the offense for which the inmate was sentenced, and (3) section 302.1135 (2) (a), (b), and (c), Stats., based on age or extraordinary health.

If the rule is not created promptly and immediately, the commission will not be able to proceed in reviewing inmates under these various release procedures. This could result in significant delay in the implementation of the statutory provisions which will negatively impact the ability of the department of corrections to manage the inmate population in a safe and effective manner. In addition, a delay will affect the management and control of inmate population levels of

correctional facilities with the resources necessary to maintain public safety.

The purpose of the emergency rule is to implement newly created statutory provisions providing for release of inmates under specified circumstances. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to respond to the legislatively recognized need to review inmates who meet the requirements under the statutes for potential release while the permanent rules are being developed.

Publication Date: December 31, 2009
Effective Dates: December 31, 2009 through May 29, 2010
Hearing Date: February 23, 2010

Employee Trust Funds

EmR0938 — Rule adopted revising **Chapters ETF 10, 20 and 40**, relating to the implementation of benefit changes mandated in 2009 Wisconsin Act 28; specifically, domestic partner benefits and the expansion of health insurance coverage to adult dependents up to the age of 27 years.

Finding of Emergency

The Department of Employee Trust Funds finds that an emergency exists and that emergency rules are necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of the facts constituting the emergency is:

ETF cannot promulgate a permanent rule in compliance with the mandated changes by January 1, 2010, which is the effective date of the domestic partnership and the health insurance provisions of 2009 Wisconsin Act 28. Without an emergency rule in place, the ability of ETF to enroll and cover participants' domestic partners and to provide health insurance to adult dependents would be seriously impaired. ETF would be unable to provide health insurance and other benefits to domestic partners and adult dependents.

Publication Date: December 28, 2009
Effective Dates: January 1, 2010 through May 30, 2010
Hearing Date: February 12, 2010

Health Services

*Medical Assistance, Chs. DHS 101—
Health, Chs. DHS 110—*

EmR0932 — Rule adopted revising **Chapters DHS 105, 106 and 133**, relating to personal care agencies and providers, and affecting small businesses.

Exemption From Finding of Emergency

The legislature by 2009 Wis. Act 28, Section 9122 (2), provides an exemption from a finding of emergency to adopt these emergency rules.

Publication Date: December 16, 2009
Effective Dates: December 16, 2009 through May 14, 2010
 (Subject to 2009 Wis. Act 28, Section 9122 (2))
Hearing Date: February 3, 2010

Health Services (2)

Health, Chs. DHS 110—

1. **EmR1004** — Rule adopted to create **sections DHS 195.145 and 197.145**, relating to carbon monoxide detectors in hotels, motels, tourist rooming houses and bed and breakfast establishments, and affecting small businesses.

Finding of Emergency

DHS finds that an emergency exists and that the adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. The facts constituting the emergency are as follows:

Section 101.149 (2) and (3), Stats., requires the owners of lodging establishments, including hotels, tourist rooming houses, and bed and breakfast establishments that were constructed on or before October 1, 2008, or had plans reviewed by the department of commerce before October 1, 2008, to, not later than April 1, 2010, install carbon monoxide detectors in every residential building that has a fuel–burning appliance, unless, pursuant to s. 101.149 (5), Stats., the building does not have an attached garage and all fuel–burning appliances in the building have sealed combustion units that are either covered by the manufacturer’s warranty against defects or are inspected under rules promulgated by DHS.

Section 254.74 (1) (am), Stats., requires DHS to promulgate rules under which DHS would conduct inspections of sealed combustion units for carbon monoxide emissions, and rules that specify the conditions under which DHS may issue orders to correct violations of s. 101.149 (2) or (3), Stats.

Publication Date: March 1, 2010
Effective Dates: April 1, 2010 through August 28, 2010
Hearing Dates: April 21, 23, 27, 28, 30, 2010

2. **EmR1009** — Rule adopted to revise **Chapter DHS 137**, relating to anatomical gifts and the Wisconsin Donor Registry.

Finding of Emergency

The Department of Health Services finds that an emergency exists and that the adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. The facts constituting the emergency are as follows:

There are over 105,000 people in the United States on the national waiting list for organ transplants including 1,500 in Wisconsin. Due to the limited availability of organs for transplantation, 18 people die each day in the United States.

As part of Wisconsin’s response to the need for increased organ and tissue donation, the department, as authorized under s. 157.06 (20), Stats., has established the Wisconsin Donor Registry (Donor Registry).

The Donor Registry will make it easier for Wisconsin residents to become donors and for procurement organizations to identify donors, and thus it should increase the supply of available organs and tissues, which may save the lives of persons awaiting transplant.

Promulgating the rules for the Donor Registry as emergency rules will enable department–authorized procurement organizations to quickly determine whether a person who is at or near death has a record of gift. In addition,

the Donor Registry makes it possible for individuals to immediately make anatomical gifts.

The Donor Registry will become available for use by the public upon the effective date of these emergency rules and may be accessed by the public at yesIwillwisconsin.com. Substantially identical permanent rules are being proposed concurrent to this emergency order.

Publication Date: March 29, 2010
Effective Dates: March 29, 2010 through August 25, 2010
Hearing Date: May 5, 2010

(See the Notice in this Register)

Insurance (5)

1. **EmR0925** — Rule adopted to create **section Ins 3.75**, relating to continuation of group health insurance policies.

Exemption From Finding of Emergency

Under 2009 Wisconsin Act 11, section 9126, a Finding of Emergency is not required for this emergency rule. The relevant portion of 2009 Act 11 reads as follows:

2009 Wisconsin Act 11, SECTION 9126. Nonstatutory provisions; Insurance.

(4) CONTINUATION COVERAGE RULES. (a) Notwithstanding section 632.897 of the statutes and subsections (1), (2), and (3), the commissioner of insurance may promulgate rules establishing standards requiring insurers to provide continuation of coverage for any individual covered at any time under a group policy who is a state eligible individual to whom subsection (2) or (3) applies or an assistance eligible individual, as defined under section 3001 (a) (3) of the federal act, including rules governing election or extension of election periods, notice, rates, premiums, premium payment, application of preexisting condition exclusions, and election of alternative coverage.

(b) The commissioner may promulgate the rules under paragraph (a) as emergency rules under section 227.24 of the statutes. Notwithstanding section 227.24 (1) (c) of the statutes, emergency rules promulgated under this paragraph may remain in effect for one year and may be extended under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, **the commissioner is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.** [Emphasis Added]

Publication Date: October 1, 2009
Effective Dates: October 2, 2009 through October 1, 2010
Hearing Date: December 8, 2009

2. **EmR0927** — Rule adopted to create **Chapter Ins 57**, relating to care management organizations and affecting small business.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

Beginning January 1, 2010, care management organizations are required to obtain a permit from the

commissioner to provide services under the Family Care program. In order to ensure no gap in services to enrollees, organizations and the office need to complete and accept applications for permits prior to January 1, 2010. Promulgation of this rule will permit the timely filing and review of permittees.

Publication Date: October 9, 2009
Effective Dates: October 10, 2009 through March 10, 2010
Extension Through: May 9, 2010
Hearing Date: December 3, 2009

3. **EmR0930** — Rule adopted to create **section Ins 3.34**, relating to insurance coverage of dependents to age 27 and affecting small business.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows: the Commissioner is aware that insurers, employers and consumers are interpreting the state mandate inconsistently so without this rule consumers will not be treated similarly when the law becomes effective on January 1, 2010; the Commissioner has received numerous inquiries from insurers, consumers and employers seeking clarity of terms and guidance on interpretation and implementation of the law as many employers are entering open enrollment for the 2010 plan year.

These changes will be effective the day following publication in the official state newspaper and a permanent rule will start the permanent rule process to achieve uniformity in interpretation therefore protecting the public, informing employers, and guiding insurers in the state.

Publication Date: October 30, 2009
Effective Dates: October 31, 2009 through March 29, 2010
Extension Through: May 28, 2010
Hearing Date: January 14, 2010

4. **EmR0945** — Rule adopted revising **section Ins 3.75**, relating to the continuation of group health insurance policies.

Exemption From Finding of Emergency

Under 2009 Wisconsin Act 11, section 9126, a Finding of Emergency is not required for this emergency rule. The relevant portion of 2009 Act 11 reads as follows:

2009 Wisconsin Act 11, SECTION 9126. Nonstatutory provisions; Insurance.

(4) CONTINUATION COVERAGE RULES (a) Notwithstanding section 632.897 of the statutes and subsections (1), (2), and (3), the commissioner of insurance may promulgate rules establishing standards requiring insurers to provide continuation of coverage for any individual covered at any time under a group policy who is a state eligible individual to whom subsection (2) or (3) applies or an assistance eligible individual, as defined under section 3001 (a) (3) of the federal act, including rules governing election or extension of election periods, notice, rates,

premiums, premium payment, application of preexisting condition exclusions, and election of alternative coverage.

(b) The commissioner may promulgate the rules under paragraph (a) as emergency rules under section 227.24 of the statutes. Notwithstanding section 227.24 (1) (c) of the statutes, emergency rules promulgated under this paragraph may remain in effect for one year and may be extended under section 227.24 (2) of the statutes Notwithstanding section 227.24 (1) (a) and (3) of the statutes, **the commissioner is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.** [Emphasis Added]

Publication Date: January 7, 2010
Effective Dates: January 8, 2010 through June 6, 2010
Hearing Date: May 5, 2010

(See the Notice in this Register)

5. **EmR1005** — A rule adopted creating **section Ins 3.36**, relating to treatment of autism spectrum disorders and affecting small business.

Exemption From Finding of Emergency

The Commissioner of Insurance pursuant to s. 632.895 (12m) (f) 2., Stats., need not find that an emergency exists nor provide evidence that promulgating a rule is necessary for the preservation of the public peace, health, safety or welfare.

Publication Date: March 8, 2010
Effective Dates: March 8, 2010 through August 4, 2010
(subject to s. 632.895 (12m) (f), Stats.)

Natural Resources

Fish, Game, etc., Chs. NR 1—

- EmR1010** — A rule adopted amending **NR 10.104 (4) (b)**, relating to deer management unit population goals.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The state legislature has delegated rule-making authority to the department to manage the white-tailed deer herd to conserve it and to ensure citizens of this state continued opportunities for good hunting. Population goal revisions in this rule order, and identical proposed permanent rules, are necessary in order to allow consideration of current recommendations from biologists and recent public input when setting the 2010 deer hunting season framework. Normal rule-making procedures will not allow establishment of revised population goals in time for use in setting the 2010 deer hunting season framework. Failure to modify population goals will result in a deer season framework and antlerless quotas that are based on goals established in 2005. Using the old goals would result in a deer season framework and permit levels considered unacceptable to the majority of the hunting public.

Publication Date: April 3, 2010
Effective Dates: April 3, 2010 through August 30, 2010

Natural Resources

Environmental Protection — Water Regulation, Chs. NR 300—

EmR0915 — A rule adopted revising **Chapters NR 335 and 336**, relating to grants for dam maintenance, repair, modification, or abandonment and removal.

Finding of Emergency

The substantial increase in bonding for the dam grant programs is a strong message from the legislature that concern for public welfare from unsafe dams is growing, as well as the desire to help dam owners, including the owners of the many dams damaged during the flooding in 2007 and 2008. In order to protect the public and provide this financial assistance, these additional funds should be put to work as soon as possible. The timeline for permanent rule promulgation will impede the Department's ability to accept applications and commit funding to dam safety projects until at least June 2010, which would delay most projects until late 2010 or 2011. The emergency rules will allow immediate implementation of modifications that will allow a grant application cycle to be conducted yet this fall and allow most projects to be constructed during the 2010 construction season or before.

Publication Date: August 28, 2009
Effective Dates: August 28, 2009 through
 January 24, 2010
Extension Through: May 24, 2010
Hearing Date: April 15, 2010

Natural Resources

Environmental Protection — Hazardous Waste Management, Chs. NR 600—

EmR1007 — A rule adopted revising **section NR 660.10**, relating to hazardous waste management.

Exemption From Finding of Emergency

Section 289.67 (2) (de), Stats., as created by 2009 Wisconsin Act 28 (the 2009–2011 biennial budget bill), requires the department to promulgate by rule definitions of “large quantity generator” and “small quantity generator” for purposes of the hazardous waste generator fees established by s. 289.67 (2) (b) 1., Stats., as amended by 2009 Wisconsin Act 28.

Section 9137 (2), a non–statutory provision in 2009 Wisconsin Act 28, authorizes the department to promulgate the required definitions using emergency rule making procedures, but is not required to provide evidence that promulgating a rule under that subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to

Publication Date: March 17, 2010
Effective Dates: March 17, 2010 through
 July 1, 2011
Hearing Date: April 26, 2010

(See the Notice in this Register)

Public Defender Board

EmR0926 — Rule adopted to create **Chapter PD 8**, Discovery Payments, relating to the maximum fees that the state public defender may pay for copies of discovery materials in criminal proceedings, proceedings under Chapter 980, Wis. Stats., and other proceedings in which the state public defender provides legal representation.

Finding of Emergency

These rules are promulgated under s. 227.24 (1) (a), Stats., because the magnitude of the shortfall in the state public defender's appropriation for transcripts, discovery, and interpreters in both years of the current biennium constitutes an emergency that requires implementation of a rule earlier than a permanent rule could take effect if the agency were to comply with the applicable notice, hearing, legislative–review, and publication requirements.

The state public defender was initially provided a base budget of \$60,000 in 1995 for discovery payments, which at that time consisted mostly of photocopies and some photographs. In the 1999–2001 budget act, this appropriation was increased to \$150,000, based on a presumptive rate for photocopies of \$0.20 per page. In the 2001–2003 biennial budget act, this appropriation was subjected to a five percent funding reduction, leaving a base budget for discovery payments of \$142,500.

The public defender received discovery bills totaling \$717,000 for the fiscal year that ended June 30, 2009. Although discovery costs are caseload driven, this represents a nearly five–fold increase since 2001 and is due primarily to two factors. First, in the past many counties and municipalities did not bill the state public defender for copies of discovery materials. Because local budgets have come under increasing pressure, most now do so. Second, 2005 Wisconsin Act 60 resulted in more widespread use of audio and video recordings of interrogations by law enforcement, copies of which must be provided to the defense.

The public defender board's requests for cost–to–continue budget increases for discovery payments in 2007–2009 and in 2009–2011 were not funded. Instead, the FY 2009–2011 budget act reduced this appropriation by 1%, leaving a base budget of \$141,100, and directed the board to promulgate rules to address the funding shortfall.

Publication Date: October 3, 2009
Effective Dates: October 3, 2009 through
 March 1, 2010
Extension Through: April 30, 2010
Hearing Date: November 16, 2009

Public Instruction (2)

1. **EmR0933** — Rule adopted to create **Chapter PI 39**, relating to grants for tribal language revitalization.

Finding of Emergency

The Department of Public Instruction finds that an emergency exists and that the adoption of an emergency rule is necessary for the immediate preservation of the public welfare. The facts constituting the emergency are as follows:

The tribal language revitalization grant program under s. 115.745, Stats., was created under 2009 Wisconsin Act 28. The Act became effective June 30, 2009, and appropriated \$247,500 annually beginning in the 2009–10 school year. In order for school districts to develop applications and for the department to review the applications and grant awards in time for the program to operate in the second semester of the school year, rules must be in place as soon as possible to establish application criteria and procedures.

Publication Date: December 15, 2009
Effective Dates: December 15, 2009
through May 13, 2010
Hearing Date: January 15, 2010

2. **EmR0936** — Rule adopted to create **section PI 8.01 (4)**, relating to waiver of school hours.

Finding of Emergency

The Department of Public Instruction finds that an emergency exists and an emergency rule is necessary for the immediate preservation of the public welfare. The facts constituting the emergency are as follows:

2009 Wisconsin Act 42 requires the department to promulgate rules establishing criteria for waiving the requirement to schedule at least the number of hours of direct pupil instruction specified under s. 121.02 (1) (f) 2. if school is closed for a reason specified in s. 115.01 (10) (a) 2. or 3. The Act became effective October 21, 2009. Therefore, rules must be in place as soon as possible to establish the waiver procedure and criteria for the current school year.

Publication Date: December 21, 2009
Effective Dates: December 21, 2009
through May 19, 2010
Hearing Date: February 1, 2010

Public Service Commission

EmR0919 — Rule adopted to create **Chapter PSC 172**, relating to the police and fire protection fee created under 2009 Wisconsin Act 28.

Finding of Emergency

The Commission finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. The police and fire protection fee, which must go into effect September 1, 2009, (2009 Wisconsin Act 28 section 9441) will be used to replace shared revenue payments for such services. To ensure the public peace, health, safety, and welfare of the citizens of Wisconsin, it is vital for funding of police and fire protection services to continue smoothly, quickly, and unimpeded. Thus, it is necessary for the rule administering the fee to be implemented as soon as possible.

Publication Date: September 11, 2009
Effective Dates: September 11, 2009
through February 7, 2010
Extension Through: April 18, 2010
Hearing Date: December 2, 2009

Regulation and Licensing (2)

1. **EmR0827** — Rule adopted creating **s. RL 91.01 (3) (k)**, relating to training and proficiency in the use of automated external defibrillators for certification as a massage therapist or bodyworker.

Exemption From Finding of Emergency

Section 41 (2) (b) of the nonstatutory provisions of 2007 Wisconsin Act 104 provides that notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of regulation and licensing is not required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated to implement 2007 Wisconsin Act 104. Notwithstanding s. 227.24 (1) (c) and (2) of the statutes, these emergency rules will remain in effect until the date on which the final rules take effect.

Publication Date: September 10, 2008
Effective Dates: September 10, 2008
through the date on which
the final rules take effect
Hearing Dates: November 26, 2008
April 13, 2009

2. **EmR0828** — Rules adopted to **amend s. RL 181.01 (2) (c); and to create ss. RL 180.02 (1m), (3m) and (11), 181.01 (1) (d), (2) (c) 1. and 2.**, relating to training and proficiency in the use of automated external defibrillators for licensure as a licensed midwife.

Exemption From Finding of Emergency

Section 41 (2) (b) of the nonstatutory provisions of 2007 Wisconsin Act 104 provides that notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of regulation and licensing is not required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated to implement 2007 Wisconsin Act 104. Notwithstanding s. 227.24 (1) (c) and (2) of the statutes, these emergency rules will remain in effect until the date on which the final rules take effect.

Publication Date: September 10, 2008
Effective Dates: September 10, 2008
through the date on which
the final rules take effect
Hearing Date: November 26, 2008

Revenue (6)

1. **EmR0924** — Rule adopted revising **Chapter Tax 11**, relating to sale and use tax.

Finding of Emergency

The Department of Revenue finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The changes made by the emergency rule must be effective October 1, 2009, to be in conformity with the Streamlined

Sales and Use Tax Agreement. In order to meet this deadline, it is necessary to promulgate this rule as an emergency rule.

Publication Date: September 30, 2009
Effective Dates: October 1, 2009 through February 27, 2010
Extension Through: April 28, 2010
Hearing Dates: December 1 and 15, 2009

2. **EmR0929** — Rule adopted to create sections **Tax 2.85 and 11.90**, relating to failure to produce records.

Finding of Emergency

The Department of Revenue finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The emergency rule is to reflect changes in Wisconsin's tax laws due to the adoption of penalties for failure to produce records.

It is necessary to promulgate this rule order to provide guidance so that the penalties can be administered in a fair and consistent manner.

Publication Date: October 19, 2009
Effective Dates: October 19, 2009 through March 17, 2010
Extension Through: May 16, 2010
Hearing Dates: December 10 and 21, 2009

3. **EmR0935** — Rule adopted to create **section Tax 1.16**, relating to the financial record matching program.

Finding of Emergency

The Department of Revenue finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The emergency rule is to reflect changes in Wisconsin's tax laws due to the creation of the financial record matching program.

It is necessary to promulgate this rule order to provide procedures so that the program can be administered in a fair and consistent manner.

Publication Date: December 22, 2009
Effective Dates: December 22, 2009 through May 20, 2010
Hearing Date: February 11, 2010

4. **EmR0943** — Rule adopted to revise **Chapter Tax 2**, relating to apportionment and nexus.

Finding of Emergency

The Department of Revenue finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

In 2009, the Wisconsin Legislature enacted Acts 2 and 28, both of which contained substantial changes to Wisconsin's corporation franchise and income tax laws. Most of these changes are effective retroactively to taxable years beginning on or after January 1, 2009. Emergency rules are needed to add certainty about the scope and application of the newly enacted statutes as soon as possible so that taxpayers can file their returns accordingly.

Publication Date: December 31, 2009
Effective Dates: December 31, 2009 through May 29, 2010
Hearing Date: February 25, 2010

5. **EmR1001** — Rule adopted revising **Chapter Tax 2**, relating to combined reporting for corporation franchise and income tax purposes.

Finding of Emergency

The Department of Revenue finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The function of the Wisconsin Department of Revenue is to administer the Wisconsin tax laws. These laws, and tax policy for raising revenue, are determined by the State Legislature. The State Legislature recently enacted numerous items of tax legislation, affecting individuals and businesses alike. Some of these apply retroactively to January 1, 2009. Emergency rules are needed, not only to address the risk of revenue loss, but to add more clarity and certainty about the scope and application of the newly enacted statutes.

Publication Date: January 15, 2010
Effective Dates: January 15, 2010 through June 13, 2010
Hearing Date: February 25, 2010

6. **EmR1002** — Rule adopted to create **section Tax 1.17**, relating to the ambulatory surgical center assessment.

Exemption From Finding of Emergency

The legislature by Section 9143 (4u) of 2009 Wisconsin Act 28 provides an exemption from a finding of emergency for the adoption of the rule.

Publication Date: January 19, 2010
Effective Dates: January 19, 2010 through June 16, 2010
 (Subject to 2009 Wis. Act 28, Section 9143 (4u))
Hearing Date: February 11, 2010

Veterans Affairs

- EmR0944** — Rule adopted to amend **section VA 2.02 (2)**, relating to the veterans tuition reimbursement program.

Finding of Emergency

The Wisconsin Department of Veterans Affairs finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The removal of the existing deadline for completing and receiving an application for the tuition fee reimbursement program has left the department unable to budget the available resources for this program to ensure maximum coverage for eligible veterans throughout the fiscal year. The department is requesting emergency rules to ensure applications can be processed in a responsive manner and to allow the department to properly manage the program's biennial budget and ensure the welfare of all eligible veterans. The emergency rule will address the need for an application deadline while the department completes the promulgation for a permanent rule for the program.

Publication Date: January 4, 2010
Effective Dates: January 4, 2010 through
 June 2, 2010
Hearing Date: March 10, 2010

Workforce Development (2)
*Public Works Construction Contracts,
 Chs. DWD 290–294*

1. **EmR0941** — Rule adopted to create **section DWD 290.20**, relating to the thresholds for the requirement of prevailing wage rates.

Finding of Emergency

The Department of Workforce Development finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The most recent state budget legislation, 2009 Wisconsin Act 28, contained amendments to the state laws which require the payment of prevailing wage rates for work done on projects of public works and, in a new statute, for work done on private projects which receive more than \$1,000,000 of public direct financial assistance. The new provisions become effective on January 1, 2010.

The prevailing wage laws require that when a state agency or local governmental unit contracts for the erection, construction, remodeling, repairing, or demolition of a public works project it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with the wage rates established by the determination. Under the law as it existed before the enactment of 2009 Act 28, a prevailing wage rate determination was required for any project with an estimated cost of at least \$48,000 (for a single–trade project) or \$234,000 (for a multi–trade project). Act 28 changes these amounts to an estimated project cost of at least \$25,000. Act 28 has also created a new statute, s. 66.0904, Stats., which requires that a private developer obtain and comply with a prevailing wage rate determination for a private project that

receives at least \$1,000,000 in direct financial assistance from a local governmental unit.

The state and local governmental units and private developers who may be subject to these new requirements of the prevailing wage laws need immediate guidance as to the manner in which the Department will apply the January 1, 2010 effective date to new projects. This rule provides that guidance by establishing that the new threshold requirements will apply to projects for which a request for bids is issued or a contract is negotiated after January 1, 2010.

Publication Date: December 29, 2009
Effective Dates: January 1, 2010 through
 May 30, 2010

2. **EmR0942** — Rule adopted to amend **section DWD 293.02**, relating to the adjustment of thresholds for payment and performance assurance bond requirements and affecting small businesses.

Finding of Emergency

The Department of Workforce Development finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The adjustment of the thresholds for the application of the project payment and performance assurance bond requirements ensures that the adjustments are effective on a date certain that is prior to the time of year that project requests are generally submitted to the Department and the need for obtaining bonding is determined. The adjustment avoids imposing an additional administrative burden on local governments and state agencies caused by an effective decrease of the thresholds due solely to inflation in the construction industry. If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six to seven months, until the conclusion of the permanent rule–making process. The thresholds are based on national construction cost statistics and are unlikely to be changed by the rule–making process.

Publication Date: December 29, 2009
Effective Dates: January 1, 2010 through
 May 30, 2010
Hearing Date: March 31, 2010

Scope Statements

Natural Resources

Fish, Game, etc., Chs. NR 1—

Subject

Revises Chapter NR 18, Wis. Adm. Code, to comply with federal regulations governing the sport of falconry.

Policy Analysis

The U.S. Fish and Wildlife Service will no longer issue a permit to individuals engaged in the sport of falconry. Permits will be issued by states with oversight provided by the Service. The Service has formulated revisions to how the sport of falconry is to be conducted and supervised by the states. States have up to January 14, 2014 to comply.

Statutory Authority

Sections 29.014 (1), 29.039, 29.319 (1) and 227.11 (2), Stats.

Comparison with Federal Regulations

The proposed rule will make the needed revisions to current code to ensure compliance with federal rules governing the sport of falconry.

Entities Affected by the Rule

The proposed rule will only affect those individuals practicing the sport of falconry in Wisconsin (currently about 110 individuals).

Estimate of Time Needed to Develop the Rule

The Department will need approximately 60 hours of staff time to develop the rule amendment.

Contact Information

Randle Jurewicz
Bureau of Endangered Resources
(ER/6) GEF 2
Madison, WI 53707
Phone: (608) 267–7507
Email: Randle.Jurewicz@WI.gov

Natural Resources

Environmental Protection — General, Chs. NR 100—

Environmental Protection — Water Supply,

Chs. NR 800—

(Amended)

Subject

Revises Chapter NR 142 and creates Chapters NR 850, 854, 856, 858, 860, and 864, relating to the Great Lakes–St. Lawrence River Basin Water Resources Compact.

Objectives of the Rule

On May 27, 2008 Governor Doyle signed 2007 Wisconsin Act 227, which contains Wisconsin’s ratification of the Great Lakes–St. Lawrence River Basin Water Resources Compact (Compact); regulates water use in the Wisconsin portion of

the Great Lakes Basin; implements the Compact in Wisconsin, and establishes other state water use programs.

The proposed set of administrative rules to implement 2007 Wisconsin Act 227 will include: a rule to implement a statewide water conservation and efficiency program; a rule to implement a statewide water use registration and reporting requirement; a rule to implement a statewide water supply service area planning program; a rule to implement a water use permitting system in the Great Lakes basin, along with a rule to determine water loss from consumptive use; and a rule related to public participation for water use permitting and diversion applications. Affected and proposed chapters of the Wisconsin Administrative Code include: NR 142, NR 850, NR 854, NR 856, NR 858, NR 860, and NR 864.

In addition, the 2009–11 biennial budget (2009 Wisconsin Act 28), directs the Department to promulgate a rule specifying a fee on persons who withdraw more than 50,000,000 gallons of water per year from the Great Lakes basin. Great Lakes basin withdrawals include withdrawals from waters of the state — surface water and groundwater — within the land area of the State that drains to Lake Michigan or Lake Superior. Persons who withdraw more than 50,000,000 gallons per year within the Great Lakes basin are likely to include primarily public water systems, power companies, and other large industrial or commercial facilities. Revenue generated from the fee will be deposited to a program revenue appropriation used to fund Compact implementation. Revenue to the appropriation will also include that generated from a statutory fee of \$125 to be charged annually to any person — statewide — with a water supply system capable of withdrawing an average of 100,000 gallons per day or more in any 30–day period. Act 28 directed that the provisions of the Act related to these fees takes effect on January 1, 2011.

The earlier statement of scope is amended to include information related to promulgating a rule related to the above–mentioned fee, and to update you on the revised schedule for promulgating the rules necessitated by 2007 Wisconsin Act 227.

Policy Analysis

Act 227 expanded the state’s authority to manage water quantity throughout the state. Act 227 directs the Department to develop and implement several new requirements related to water use in the state, including:

- Statewide registration and annual reporting for water systems with the capacity to withdraw an average of 100,000 gallons of water per day (GPD) or more in any 30–day period;
- Developing and implementing a statewide water conservation and efficiency program;
- Developing and implementing a water use permitting program within the Great Lakes basin for all water systems that withdraw an average of 100,000 GPD or more in any 30–day period;
- Establishing a water supply service area planning process for public water systems serving a population of 10,000 or more;

- Instituting a public participation process for requests for diversions of Great Lakes water and for certain water use permits;
- Developing a database of water use information and publishing a report of the information on a regular basis.

The proposed set of rules outlined above will address all elements of the Compact implementing legislation that mandate rule development.

Statutory Authority

Sections 281.343, 281.345, 281.346, and 281.348, Wis. Stats.

Comparison with Federal Regulations

There are no existing federal requirements regulating water use in the Great Lakes basin comparable to the Compact. The Compact was specifically negotiated to address weaknesses in prior federal law (specifically the Water Resources Development Act, 42 USC 1962d – 20.) Nothing in the Compact contradicts 42 USC 1962d – 20.

Entities Affected by the Rule

Any person with a water supply system (e.g. well(s) or surface water withdrawal) with the capacity to withdraw an average of 100,000 gallons–per–day or more in any 30–day period will be affected by these rules. Any person with a water supply system that actually withdraws an average of 100,000 gallons–per–day or more in any 30–day period will have to annually report water usage; and, if the system is located in the Great Lakes basin, the person must have a water use permit on or before December 8, 2011. In addition, as volumes of withdrawals increase, regulatory reviews of the application for withdrawal become more stringent. Operators of public water supply systems serving a population of 10,000 or more will be affected by the water supply service area planning rule. Public water supply systems, power producers, and industrial or commercial operations using large volumes of water will be affected by the fee rule. Finally, the rules — particularly the water conservation and efficiency rule — will be of interest to a variety of groups concerned with sustainable water use.

Estimate of Time Needed to Develop the Rule

4000 hours.

Contact Information

Todd Ambs
101 South Webster Street
Madison, WI 53707–7921
Phone: (608) 264–6278
Email: Todd.Ambs@wi.gov

Public Instruction

Subject

Revises sections PI 34.01 and 34.31, relating to school nurse qualifications.

Objectives of the Rule

2009 Wisconsin Act 160 requires the department to prescribe the qualifications for school nurses by rule. To meet the requirements under the Act, the department will modify Chapter PI 34, Teacher Education Program Approval and Licenses, by creating a definition of “school nurse” under s. PI 34.01 (52m) and by modifying the school nurse licensing

information under s. PI 34.31 (2). To coincide with the Act’s effective date, the rule will become effective January 1, 2011.

Policy Analysis

The school nurse license which requires completion of a school nurse practicum and an institutional endorsement, is still an optional license and is not required for a nurse to work in a school.

New Policies to be Included in the Rule

In addition to holding a license as a registered nurse under the Department of Regulation and Licensing, a school nurse must now hold a bachelor’s degree.

An individual employed by, or under contract with, a school board, a CESA, a CCDEB, or charter school as a school nurse on or before January 1, 2011, shall be considered a school nurse, regardless of whether or not that individual holds a bachelor’s degree.

Policy Alternatives

The rules must be modified to comply with 2009 Wisconsin Act 160.

Statutory Authority

Sections 115.001 (11) and 227.11 (2) (a), Stats.

Comparison with Federal Regulations

Not applicable.

Entities Affected by the Rule

Local education agencies.

Estimate of Time Needed to Develop the Rule

The amount of time needed for rule development by department staff and the amount of other resources necessary are indeterminable. The time needed to create the rule language itself will be minimal. However, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than six months to complete.

Contact Information

Lori Slauson
Phone: (608) 267–9127
Email: lori.slauson@dpi.state.wi.us

Public Instruction

Subject

Revises Chapter PI 34, relating to flexibility in licensing and rule clarification.

Objectives of the Rule

The department proposes modifying Chapter PI 34, Wis. Adm. Code, to provide for license flexibility, clarification, and other minor revisions. The rules may be submitted to the Legislative Clearinghouse as separate rule modification requests to address each of the above issues.

Policy Analysis

There are no existing relevant policies nor new policies to be included in the rule.

Policy Alternatives

Maintain current rule.

Statutory Authority

Sections 115.28 (7), 121.02 (1) (a), 227.11 (2) (a), Stats.

Comparison with Federal Regulations

Not applicable.

Entities Affected by the Rule

Local education agencies and institutions of higher education.

Estimate of Time Needed to Develop the Rule

The amount of time needed for rule development by department staff and the amount of other resources necessary

are indeterminable. The time needed to create the rule language itself will be minimal. However, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than six months to complete.

Contact Information

Lori Slauson

Phone: (608) 267–9127

Email: lori.slauson@dpi.state.wi.us

Submittal of Rules to Legislative Council Clearinghouse

*Please check the Bulletin of Proceedings – Administrative Rules
for further information on a particular rule.*

Commerce

*Licenses, Certifications and Registrations,
Ch. Comm 5*

CR 10–039

On April 5, 2010, the Department of Commerce submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter Comm 5, relating to building contractor registration.

Agency Procedure for Promulgation

A public hearing is required and will be held on May 5, 2010.

Contact Information

James Quast, Program Manager
Phone: (608) 266–9292
Email: jim.quast@wisconsin.gov

Health Services

Health, Chs. DHS 110—

CR 10–034

On March 16, 2010, the Department of Health Services submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order repeals and recreates Chapter DHS 131, relating to hospices, and affecting small businesses.

Agency Procedure for Promulgation

A public hearing is required and will be held on April 26, 2010.

Contact Information

For substantive questions on rules contact:

Pat Benesh, Quality Assurance Program Spec–Senior
DHS — Division of Quality Assurance
1 West Wilson Street, Room 534
Madison, WI
Phone: (608) 264–9896
Fax: (608) 267–0352
Email: Patricia.Benesh@wisconsin.gov

Small Business Regulatory Review Coordinator:

Rosie Greer
Phone: (608) 266–1279
Email: greerrj@dhs.state.wi.us

Health Services

*Health, Chs. DHS 110—
CR 10–037*

On March 23, 2010, the Department of Health Services submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter DHS 137, relating to anatomical gifts and the Wisconsin Donor Registry.

Agency Procedure for Promulgation

A public hearing is required and will be held on May 5, 2010.

Contact Information

For substantive questions on rules contact:

Martha Mallon
1 West Wilson Street, Room 233
Madison, WI 53701
Phone: (608) 261–6854
Email: Martha.mallon@dhs.wisconsin.gov

Small Business Regulatory Review Coordinator:

Rosie Greer
Phone: (608) 266–1279
Email: greerrj@dhs.state.wi.us

Insurance

CR 10–038

On March 26, 2010, the Office of the Commissioner of Insurance submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises section Ins 3.75, relating to continuation of group health insurance policies.

Agency Procedure for Promulgation

A public hearing is required and will be held on May 5, 2010.

Contact Information

A copy of the proposed rule may be obtained from the Web site at: <http://oci.wi.gov/ocirules.htm> or by contacting:

Inger Williams
Public Information and Communications
Phone: (608) 264–8110

For additional information, please contact:

Robert Luck, OCI Legal Unit
Phone: (608) 266–0082
Email: robert.luck@wisconsin.gov

Natural Resources

*Environmental Protection — Hazardous Waste
Management, Chs. NR 600—*

CR 10–036

On March 22, 2010, the Department of Natural Resources submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises section NR 660.10, relating to

hazardous waste management; general.

Agency Procedure for Promulgation

A public hearing is required and will be held on April 26, 2010.

Contact Information

Pat Chabot
Division of Air and Waste — Bureau of Waste and Material
Management
Phone: (608) 888–8888
Email: Patricia.Chabot@wisconsin.gov

Rule–Making Notices

Notice of Hearing

Commerce

Licenses, Certifications and Registrations, Ch. Comm 5 CR 10–039

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.02 and 101.147, Stats., the Department of Commerce will hold a public hearing on proposed rules under Chapter Comm 5, relating to building contractor registration.

Hearing Information

The public hearing will be held as follows:

Date and Time: May 5, 2010 10:00 a.m.	Location: Thompson Commerce Building 3rd Floor Conference Room #3C 201 W. Washington Avenue Madison, Wisconsin
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This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266–8741 or (608) 264–8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

Appearances at Hearing and Submission of Written Comments

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **May 17, 2010**, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to James Quast, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701–2689, or Email at jim.quast@wisconsin.gov.

Copies of Proposed Rules

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division Web site at www.commerce.wi.gov/SB/. Paper copies may be obtained without cost from James Quast, at the Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701–2689, or Email at jim.quast@wisconsin.gov, or at telephone (608) 266–9292 or (608) 264–8777 (TTY). Copies will also be available at the public hearing.

The small business regulatory coordinator for the Department of Commerce is Carol Dunn, who may be contacted at telephone (608) 267–0297, or Email at carol.dunn@wisconsin.gov.

Analysis Prepared by Department of Commerce

Statutes interpreted

Section 101.147, Stats., as affected by 2009 Wisconsin Act 28.

Statutory authority

Sections 101.02 (1) and 101.147, Stats., as affected by 2009 Wisconsin Act 28.

Related statute or rule

None.

Explanation of agency authority

Under chapters 101 and 145 of the Wisconsin Statutes, the Department of Commerce protects public health, safety, and welfare by promulgating comprehensive requirements for design, construction, use and maintenance of public buildings and places of employment, public swimming pools and water attractions and adopts rules that establish uniform, statewide standards for the construction of one– and 2–family dwellings.

These statutes also provide the Department with oversight of various mechanical systems and devices to protect public safety and health. The Department administers and enforces codes that address amusement rides, ski lifts and tows, boilers and pressure vessels, gas systems and mechanical refrigeration systems to accomplish its statutory objectives.

The construction trades and equipment installers share a responsibility with owners and designers to ensure that the buildings and equipment relative to the respective trade’s work, do not pose risk to public safety and health.

Summary of proposed rules

Effective October 2, 2009, the various construction trades involved in building or modifying these types of structures are required to register as a building contractor. The department administers a registration program for businesses engaged in building construction as contractors or subcontractors under ch. Comm 5. The proposed rules expand the building contractor registration which is a credential for a contracting business and is not required for each partner or employee involved with physically constructing or modifying the structures.

As mandated by Wisconsin Act 28, the definition of “construction business” has been broadened to include additional trades that are regulated by departmental codes. The proposed rules require the registration of trades and businesses that construct, install or alter mechanical equipment and devices such as boilers, gas systems, piping, mechanical refrigeration systems serving a building or structure. In addition, the proposed rules expand the registration requirement to those trades or businesses involved in the construction, installation or alteration of permanent devices or structures regulated under the amusement rides code and the sanitation code.

The proposed rules create administrative procedures and a forfeiture process for those persons or entities doing construction– or installation–related work without a registration number.

In addition, the proposed rules consolidate two types of weld tester certifications into one category.

Comparison with federal regulations

An Internet–based search of the *Code of Federal Regulations* (CFR) and the *Federal Register* did not find any federal regulations relating to contractor registration.

Comparison with rules in adjacent states

An Internet–based search of contractor registration in the states of Illinois, Iowa, Michigan and Minnesota found the following:

Illinois:

Except for roofers, the state of Illinois does not have any regulations for the licensure of building contractors.

Iowa:

All individual contractors and businesses performing construction work in the state of Iowa are required to be registered. The 2–year registration fee is \$25. The prerequisites for registration include the demonstration of compliance with worker’s compensation insurance requirements and with unemployment tax requirements.

If a contractor does not register or falsifies registration information, then Iowa assesses a penalty of not more than \$500 for a first violation and not more than \$5,000 for a second or subsequent violation.

Michigan:

Persons and businesses that contract with property owners to build new homes or remodel homes are required to have licenses in the state of Michigan. The license types are 1) residential builder and 2) residential maintenance and alteration contractor, which is restricted to perform only specific trades and services. The fee is \$225 for a 3–year license, and applicants must complete 60 hours of approved education and pass an examination. Michigan does not have a licensing law regulating builders of commercial buildings.

In Michigan, a person who is not licensed as a residential builder or a residential maintenance and alteration contractor can be found guilty and fined as follows:

- In the case of a first offense, a misdemeanor punishable by a fine of not less than \$5,000 or more than \$25,000, or imprisonment for not more than 1 year, or both.
- In the case of a second or subsequent offense, a misdemeanor punishable by a fine of not less than \$5,000 or more than \$25,000, or imprisonment for not more than 2 years, or both.
- In the case of an offense that causes death or serious injury, a felony punishable by a fine of not less than \$5,000 or more than \$25,000, or imprisonment for not more than 4 years, or both.

Minnesota:

The state of Minnesota requires certifications for a person or business that contracts with property owners to construct or improve dwellings for habitation by one– to four–families and where the person or business is involved with two or more special building skills. The Residential Contractor license and Remodeler license are annual licenses. The fees, which are based upon gross receipts, are \$260 to \$360. The application for the license requires a qualifying person to take the required

examination and fulfill the continuing education requirements for the business.

Effective January 1, 2009, the Minnesota Independent Contractor Certification Law requires building contractors to certify that they are independent contractors versus employees using a “9 Items” test related to Worker’s Compensation. The fee for a 2–year certification is \$250.

Minnesota assesses a penalty of up to \$5,000 for each violation if a person performs work without first obtaining a certificate or falsifies or alters a certificate. The penalty also applies to anyone who uses coercion, misrepresentation or fraudulent means to require another individual to adopt independent contractor status.

Factual data and analytical methodologies

The proposed rules were developed by reviewing the provisions under 2009 Wisconsin Act 28 in conjunction with the current rules relating to contractor registration under s. Comm 5.30. For consistency, the proposed forfeitures are modeled after other penalties currently used by the department to enforce compliance with other construction–related licenses, certifications and registrations.

Small Business Impact

The proposed rules implement the mandates imposed by 2009 Wisconsin Act 28. The effect on small businesses is minor and ensures that the construction trades comply with Wisconsin worker’s compensation insurance and unemployment tax requirements. Identifying contractor businesses will help prevent unfair competition which is a common problem for contractors.

An economic impact report has not been required pursuant to s. 227.137, Stats.

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

The department estimates that there would be about 400 new businesses that would be required to register. The building contractor registration is \$100 for 4 years. There is also a \$15 initial application fee that would be waived if the applicant applies and pays for the registration via the Internet. The department estimates that it would realize about \$10,750 in revenue annually.

The department anticipates that the workload associated with the registration and the enforcement of the program can be managed with current information technology and within current staff levels.

State fiscal effect

None. Increase costs — may be possible to absorb within agency’s budget.

Local government costs

None.

Fund sources affected

PRO.

Long–range fiscal implications

None are anticipated.

Agency Contact Person

James Quast, Program Manager
Email: jim.quast@wisconsin.gov
Phone: (608) 266–9292

Notice of Hearing
Health Services
Health, Chs. DHS 110—
CR 10–034

NOTICE IS HEREBY GIVEN that pursuant to ss. 50.93 (1) (c), 50.95 (1), (2), (4), (5) and (6), and 227.11 (2) (a), Stats., the Department of Health Services will hold a public hearing on proposed permanent rules to consider revisions to Chapter DHS 131, relating to hospices, and affecting small businesses.

Hearing Information

<u>Date and Time</u>	<u>Location</u>
April 26, 2010 10:00 AM – 12:00 PM	Dept. of Health Services Wilson St. State Office Bldg. 1 West Wilson Street Room 950B Madison, Wisconsin

Accessibility

English

DHS is an equal opportunity employer and service provider. If you need accommodations because of a disability or need an interpreter or translator, or if you need this material in another language or in an alternate format, you may request assistance to participate by contacting Pat Benesh at 608–264–9896. You must make your request at least 7 days before the activity.

Spanish

DHS es una agencia que ofrece igualdad en las oportunidades de empleo y servicios. Si necesita algún tipo de acomodaciones debido a incapacidad o si necesita un interprete, traductor o esta información en su propio idioma o en un formato alterno, usted puede pedir asistencia para participar en los programas comunicándose con Pat Benesh al número 608–264–9896. Debe someter su petición por lo menos 7 días de antes de la actividad.

Hmong

DHS yog ib tus tswv hauj lwm thiab yog ib qhov chaw pab cuam uas muab vaj huam sib luag rau sawv daws. Yog koj xav tau kev pab vim muaj mob xiam oob qhab los yog xav tau ib tus neeg pab txhais lus los yog txhais ntaub ntawv, los yog koj xav tau cov ntaub ntawv no ua lwm hom lus los yog lwm hom ntawv, koj yuav tau thov kev pab uas yog hu rau Pat Benesh ntawm 608–264–9896. Koj yuav tsum thov qhov kev pab yam tsawg kawg 7 hnuv ua ntej qhov hauj lwm ntawd.

Submission of Written Comments

Comments may be submitted to the agency contact person listed above or to the Wisconsin Administrative Rules Website at www.adminrules.wisconsin.gov until **April 27, 4:30 p.m.**

Copies of the Rule

A copy of the rules may be obtained from the department at no charge by downloading the documents from www.adminrules.wisconsin.gov or by contacting:

Pat Benesh, Quality Assurance Program Spec–Senior
DHS Division of Quality Assurance
1 West Wilson St., Rm. 534
Madison, WI 53701
Phone: 608–264–9896
Fax: 608–267–0352
Email: Patricia.Benesh@Wisconsin.gov

Analysis Prepared by the Department of Health Services

Statute interpreted

Sections 50.91, 50.92, 50.93 and 50.95, Stats.

Statutory authority

The Department’s authority to promulgate rules is under ss. 50.93 (1) (c), 50.95 (1) (2) (4) (5) and (6) and 227.11 (2) (a), Stats.

Explanation of agency authority

Section 50.93 (1) (c), Stats., gives the Department the authority to promulgate rules to establish a provisional licensing fee. Section 50.95 (1), Stats., requires the Department to promulgate rules to establish standards for the care, treatment, health, safety, rights, welfare and comfort of individuals with terminal illness, their families and other individuals who receive palliative care or supportive care from a hospice. Section 50.95 (2), (4), (5), and (6), Stats., requires the Department to promulgate rules establishing provisional hospice licensure fees or the methods of computation of fees, criteria for determining financial hardship for the waiver of licensing fees, criteria for determining that the applicant is fit and qualified and a procedure for the waiver of and variance from standards under ch. DHS 131.

Section 227.11 (2) (a), Stats., allows agencies to promulgate rules interpreting the provision of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

Related statute or rule

See the “Statutes interpreted” section.

Plain language analysis

The proposed order repeals and recreates ch. DHS 131 relating to hospices. Hospice is an organization that provides palliative care and supportive care to an individual with a terminal illness where he or she lives or stays. To meet the needs of an individual, the hospice will arrange for or provide short–term inpatient care and treatment or provide respite care. The primary goals of hospice are to provide comfort and alleviate pain and other symptoms, relieve physical, emotional and spiritual suffering, and promote dignity and quality of life of terminally ill persons.

On June 5, 2008, the Centers for Medicare Medicaid Services (CMS) published revised Medicare Hospice Conditions of Participation which became effective on December 2, 2008. The new federal regulations focus on a patient–centered, outcome oriented and transparent process that promotes quality patient care for every patient every time. Significant changes were made in the areas of patient rights, attending physician, pharmacy requirements and quality assessment and performance improvement. These changes are discussed in greater detail in the bulleted list at the end of this section.

Through this rulemaking order the Department proposes to align ch. DHS 131 with the revised federal Medicare regulations by adopting many of the new federal requirements. This will eliminate the inconsistencies between the state and federal regulations that have occurred since the new federal regulations went into effect. During this interim period the Department has issued waivers to address the differences between state and federal standards. The proposed rule will eliminate the need for these waivers and provide a uniform set of standards for hospice providers to follow. The Department also proposes to eliminate outdated regulations and to reflect current professional standards of practice. The proposed changes are not expected to compromise the health, safety, and welfare of hospice patients.

To accomplish these goals, the proposed rule will:

- Require proof of financial responsibility to operate a hospice for at least 90 days for all new applicants and require licensed hospices to report to the Department within 10 days any transfer of 50% or more of stock, ownership or change in partners or partnership interest in the hospice. This is a new provision that is not a part of the recently promulgated federal regulations.
- Afford patients the right to receive effective pain management and symptom control and to be free from mistreatment, neglect, abuse and misappropriation of patient property. These are new provisions that are not included in the recently promulgated federal provisions.
- Revise the standards for the completion of the initial comprehensive assessment of the hospice patient including time frame for completion, content of the assessment, functional status, imminence of death, severity of symptoms, drug profile and bereavement needs of the patient's family to be consistent with federal regulations. The provisions also include a schedule for reviewing and revising the assessment based on the patient's progress towards desired outcomes.
- Revise the standards for the completion of an initial and comprehensive plan of care, including time frames for completion, content of the plans and provisions for review of the comprehensive plan of care to be consistent with federal standards. The plan of care is to include a bereavement care plan and address the specific needs of the family and caregivers, intervention strategies, identification of staff responsible for delivering care and timeframes for evaluating and updating the interventions.
- Require hospices to develop and implement a data-driven quality assessment and performance improvement program to be consistent with federal standards. The program is to be capable of showing improvement related to improved palliative outcomes and hospice services. The program is to use quality indicator data and monitor the effectiveness of services and identify.
- Require hospices to establish an infection control program to protect patients, visitors and employees by preventing and controlling infections and communicable diseases. The program is to include a method of identifying problems and implement appropriate actions expected to result in disease prevention. The hospice is required to provide initial and ongoing education for all staff and volunteers in the modes of transmission and prevention of

infections and the need for routine use of current infection control measures recommended by the U.S. Centers for Disease Control and Prevention. These are new state provisions proposed to reflect current standards of practice. These standards are not included in the recent promulgated federal regulations.

- Establish standards that require new employees and existing employees to be certified in writing by a physician, physician assistant or registered nurse as having been screened for tuberculosis and clinically apparent communicable disease. These are new state provisions proposed to reflect current standards of practice. These standards are not included in the recent promulgated federal regulations.
- Require that each hospice have its own bereavement program.
- Revise the standards regarding the provision of spiritual counseling to be provided in accordance with the patient's and family's acceptance of the service including making all reasonable efforts to facilitate visits by local clergy, pastoral counselors or other individuals who can support the patient's spiritual needs. These changes will make the standards regarding spiritual counseling consistent with recently promulgated federal regulations.
- Require that if the hospice provides nurse aide services nurse aides are given written patient care instructions prepared by the registered nurse to be consistent with recently promulgated federal regulation. The registered nurse is required to make an on-site visit to the patient's home every 14 days to assess the quality of care and services provided by the nurse aide and to ensure that services meet the needs of the patient.
- Amend the definition of the attending physician to include a nurse practitioner. This will make Wisconsin's definition consistent with the federal definition of the attending physician and eliminate the need for waivers of the provisions in ch. DHS 131.
- Change the current provision that requires a plan of care be reviewed at least every 2 weeks to allow the plan of care to be reviewed at least every 15 days to be consistent with federal standards. This will eliminate the need for waivers of the provisions in ch. DHS 131.
- Change the current provision and require the use of standard precautions similar to the federal standard. Currently, ch. DHS 131 requires the use of universal precautions which is no longer an acceptable standard of practice. This will eliminate the need for waivers of the provisions in ch. DHS 131.

Comparison with federal regulations

Title 42 CFR 418 contains the Federal Medicare Hospice Conditions of Participation. These regulations establish conditions and standards for the operation of hospices that primarily provide palliative and supportive care to an individual with terminal illness where he or she lives and if necessary arranges for or provides short-term inpatient care and treatment or respite care. State regulations are comparable and the intent of these regulations is to foster safe and adequate care and treatment of patients by hospice agencies.

Comparison with rules in adjacent states**Wisconsin:****Patient rights**

- written policies and procedures, copy provided to patient
- right to informed consent
- right to receive effective pain management and symptom control
- right to participate in care
- right to privacy
- right to be treated with dignity and respect
- develop, implement an ongoing quality assessment

Quality Assurance (QA)

- the program shall monitor the effectiveness of services and quality of care and identify areas of improvement

Volunteers

- must be oriented to the hospice program
- must be trained for the duties to which he or she is assigned
- volunteers shall participate in the delivery of care

Bereavement services

- coordinated by a person with the capacity to provide for the bereavement needs of families
- available for one year following the patient's death
- provided under a plan of care

Illinois:**Patient rights**

- written policies and procedures, copy provided to patient
- right to informed consent
- right to information regarding diagnosis and prognosis
- right to participate in care
- right to privacy

Quality Assurance (QA)

- conduct QA program in accordance with federal Medicare regulations

Volunteers

- must use volunteers in day-to-day services and direct care
- must be provided in accordance with federal regulation

Bereavement services

- coordinate with the family's clergy, if desired
- provide services to families of patients to the extent desired
- provide in accordance with federal Medicare regulations

Iowa:**Patient rights**

- written policies and procedures, copy provided to patient
- right to be treated with dignity and respect
- right to informed consent
- right to information regarding diagnosis and prognosis
- right to participate in care
- right to privacy

Quality Assurance (QA)

- written process for identifying problems and a system to
- report findings and recommendations
- quarterly review of 10% record review of hospice patients
- review conducted by MD, patient coordinator and social worker
- individual assessments reviewed quarterly by QA staff
- QA reports reviewed annually by the governing body

Volunteers

- provide volunteer services to meet patient and family needs
- volunteers must have at least 14 hours of education
- topics shall include; hospice philosophy, symptom control, infection control, home care skills, safety measures, stress management, communication, psychosocial needs, death, dying and grief and funeral and alternative rituals
- offer at least 2 hours of in-service each quarter

Bereavement services

- services shall be available to each family after death of patient
- provided in accordance with family needs
- type of intervention provided under a plan of care
- contact with the family after he death as required by their needs

Michigan:**Patient rights**

- shall not discriminate because of race, religion, color, national origin or sex regarding patient admission, care and room

Quality Assurance (QA)

- no specific requirements for quality assurance

Volunteers

- hospice services may include services provided by trained volunteers

Bereavement services

- hospice services are designed to meet the patient's family through the periods of bereavement

Minnesota:**Patient rights**

- provide written copy of rights, and information on how to file a complaint at the time services are initiated

Quality Assurance (QA)

- conduct a self-assessment of the quality and appropriateness of care provided
- monitor and evaluate 2 or more components of service once every 12 month
- document an analysis of the data and the action taken

Volunteers

- hospice must designate a volunteer coordinator
- all volunteers must be competent to perform assigned services
- each volunteer must complete a training to include orientation,
- confidentiality of patient information, goals of hospice care and record keeping

Bereavement services

- hospice must make reasonable efforts to arrange for visits of clergy
- advise patients of the opportunity for visits of clergy.

Summary of factual data and analytical methodologies

The Department of Health Services relied on all of the following sources to determine the impact on small businesses, specifically hospices to draft the proposed rules:

- The 2002 Economic Census – Wisconsin Geographic Series, compiled by the U.S. census bureau every 5 years for each year ending in “2” and “7” and contains the latest available economic data compiled on businesses located in Wisconsin. (The U.S. Census Bureau’s data release schedule for the 2007 Economic Census – Geographic Series is November 2009–July 2010.)
- Criteria adopted by the Department and approved by the Wisconsin Small Business Regulatory Review Board to determine whether the Department’s proposed rules have a significant economic impact on a substantial number of small businesses. Pursuant to the Department’s criteria, a proposed rule will have a significant economic impact on a substantial number of small businesses if at least 10% of the businesses affected by the proposed rules are small businesses and if operating expenditures, including annualized capital expenditures, increase by more than the prior year’s consumer price index or reduces revenues by more than the prior year’s consumer price index. For the purposes of this rulemaking, 2008 is the index year. The consumer price index is compiled by the U.S. Department of Labor, Bureau of Labor Statistics; the 12 months percent change for the Midwest urban region in 2008 for all items is 3.7 percent.
- Section 227.114 (1) (a), Stats., defines “small business” as a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employees 25 or fewer full–time employees or which has gross annual sales of less than \$5,000,000.
- DHS databases including the Aspen information System which contains demographic, licensing, program, and compliance history of hospices in Wisconsin.

Analysis and supporting documents used to determine effect on small business

The North American Industry Classification System (NAICS) includes hospices in the Health Care and Social Assistance sector, (sector 62) and further defined in sub–sector 6216 home health agencies (home based services) and sub–sector 6221 General Medical and Surgical Hospitals (inpatient services). This industry comprises establishments primarily engaged in providing skilled nursing services, and palliative care in the home and inpatient settings, along with medical social services, medications, medical equipment and supplies, counseling, 24–hour home care, dietary and nutritional services, and high–tech care, such as intravenous therapy.

Employment statistics and revenue data are not readily available for the hospice portion of these major health care providers. Hospice data for Wisconsin from the federal certification database reported 76 entities in January 2010. Most hospices in Wisconsin are operated by hospitals, home health agencies, nursing homes, and other health care providers. Research revealed that one facility (1.3 percent) in Wisconsin meets the definition of a small business. This

facility is Medicare certified, so must already meet many of the standards established in this rule.

The items listed below have been identified as potentially increasing costs to hospices including one–time administrative costs of \$836, annual administrative/Quality Improvement costs of \$3,212, and per patient costs of \$280. New employee expenses are estimated at \$200 for each replacement including background checks, communicable disease screening and minimum new employee orientation. Existing hospice staff should be able to complete the new requirements.

Development of hospice program description, policies and procedures

The hospice is required to have a written description of its program that defines the philosophy of the program and identifies the services available. The proposed rule also requires the hospice to have policies and procedures outlining certain aspects of the operation of the hospice including a patient discharge policy and procedure, hospice rules and regulations governing patient responsibilities, a patient complaint procedure, a policy regarding patient smoking and a policy regarding the use of abbreviations in the hospice’s clinical records. It is estimated that the administrator or registered nurse will need approximately 8 hours to develop this information. This one–time task is estimated to cost \$418 (Average hourly rate \$36 + fringe (45%) \$16.20 = \$52.20).

Background checks

Hospices are required under s. 50.065, Stats., to conduct caregiver background checks of all employees upon hire and every 4 years thereafter. Wisconsin statutes set the search fee of \$12 for non–profit organizations, \$12 for governmental agencies and \$16 for any other requestor. The frequency of caregiver background checks and the associated fees will depend upon both the size of the hospice and staff turnover.

Patient rights form

Section DHS 131.19 (2) requires a patient rights form. It is estimated that the administrator will need 8 hours to complete this one–time task \$418 (Average hourly rate \$36 + fringe (45%) \$16.20 = \$52.20).

Quality Assessment and Performance Improvement

Section DHS 131.22 establishes standards for a Quality Assessment and Performance Improvement (QAPI) function. This cost projection assumes that existing registered nurse staff can fulfill these requirements with an hourly cost of \$42. Based on labor data from the Wisconsin Department of Workforce Development from 2009, the average registered nurse hourly rate in Wisconsin is \$28.84, fringe benefits 45% = \$12.98 for a direct hourly cost of \$41.82.

- Establish a hospice QAPI team to meet four times each year. The team will consist of at least 3 members employed or under contract by the hospice and will convene 4 times each year, one hour per meeting, or 12 hours annually \$584, to identify quality domains and measures. The team will consist of the QAPI coordinator (\$42 per hour), administrator, and a clinical manager (each at \$52 per hour).
- Identify a QAPI coordinator; tasks will require approximately 1.5 hours weekly to oversee the QAPI program, \$328 annually (\$42 x 52 weeks x 1.5 hours).
- Collecting quality measure data during the patient assessment is a new practice under the proposed rules. It is estimated 4 minutes per patient assessment to collect

quality data, with 2 assessments per patient by a registered nurse \$5.60 per patient.

- Review the quality data during the Inter–Disciplinary Group (IDG) meeting to monitor the effectiveness of interventions to help the patient achieve desired outcomes. The IDG may include a registered nurse, social worker, bereavement counselor, pastor, or others. This estimate assumes 2 paid staff each costing \$42 per hour. The IDG is estimated to take 5 minutes per patient to complete, with 2 IDG meetings, \$14.00 per patient.
- Administrative staff will collect and organize data to identify trends, patterns, anomalies areas of strength and concerns. This estimate assumes 4 hours per month to gather and process data, \$1,200 annually, (\$25 per hour salary + fringe x 48 hours).
- The QAPI committee will identify trends, patterns, anomalies areas of strength and concerns of the program. Quarterly meetings lasting one hour each will cost \$584 annually as noted above.

Patient care management

The proposed rule requires the hospice to complete an initial assessment at the time of admission and a comprehensive assessment within 5 days after the election of hospice care. Hospice staff is required to review the physical, psychosocial, emotional and spiritual needs of the patient(s) related to the terminal illness to promote the patient's well-being, comfort and dignity throughout the dying process. This assessment must also evaluate the patient's prescription and over-the-counter drugs reviewing the effectiveness, side effects and possible drug interactions. The initial assessment must also include an assessment of the patient's and the patient's family's bereavement needs. Upon conclusion of the initial assessment, hospice staff is to develop an initial plan of care. The plan of care is to reflect patient and family goals and interventions based on the problems identified in the initial and comprehensive assessments. The plan is to include all services needed for the palliation and management of the terminal illness and related conditions. It is estimated that 2 registered nurses will need 4 hours to complete the initial and comprehensive assessment and plan of care for each patient, with an estimated cost of \$168 per patient (\$42 per staff hour x 4 hours).

Periodically hospice staff, in collaboration with the patient's attending physician, is required to review the patient's condition, but no less frequently than every 15 days. This review is completed by the IDG which may consist of up to 4 staff of the hospice. The review generally takes on average of 30 minutes per patient and is estimated to cost \$21 based on staff costs averaging \$42 per hour.

Drug management

Section DHS 131.20 (3) (f) requires the IDG to confer on an individual basis with education and training in drug management. A pharmacist will need 30 minutes for the initial advisement per patient and 15 minutes for each updated advisement per patient. This estimate assumes one hour per patient \$72.00: (average Wisconsin pharmacist salary \$49.48 + 45% fringe \$22.27 = \$71.75). Many pharmacists may provide this as a free service to their respective patients.

Additionally, the pharmacist or administrator is required to conduct controlled drug investigations— \$432 annually requiring 6 hours if completed by the pharmacist, \$312 annually if completed by the administrator.

Infection control

Section DHS 133.23 requires agencies to provide staff training and proper supplies to minimize the risk of infection and to monitor for compliance. This requirement is expected to result in minimal costs to providers because many hospices in Wisconsin already provide staff training and monitoring to meet current standards of practice and Centers for Disease Control (CDC) guidelines. Any provider that does not meet this standard is able to access information from CDC's web site to train their staff and start their monitoring program. Additional costs for sundry supplies (e.g., gloves, masks, etc.) are expected to be minimal.

Communicable disease screening

Hospices will be required to ensure that employees are screened for the presence of clinically apparent communicable diseases, including tuberculosis, within 90 days before the employee has direct client contact. This standard is similar to employee health screening requirements for nursing homes, home health agencies, hospitals, facilities for the developmentally disabled and restaurants. *The Journal of American Medical Association* (April 19, 2000) identifies health care workers as a group at risk for acquiring tuberculosis. Pulmonary tuberculosis is a contagious disease that is usually spread through the coughing and sneezing of an infected person. Transmission of the infection usually occurs only after prolonged exposure. It is important for persons in high risk groups to be tested to ensure they are free from infectious disease to prevent exposure and spread of the disease to clients and to identify the need for treatment. The average time to complete the pre-employment screening is estimated to be 30 minutes, at an estimated cost of \$14 per employee.

Training and orientation

The rules will require an estimated 4 hours of initial training and orientation for staff and 2 hours of continuing education training. It is estimated that the initial training will cost \$168 (average hospice salary of \$42 x 4 hours). Continuing education is estimated to cost \$84 annually (average hospice salary of \$42 x 2 hours annually).

Registered nurse supervisory visits

Section DHS 131.26 (2) (c) requires a registered nurse supervisory visits to patients every 2 weeks to patients who receive nurse aide services. This proposed requirement is consistent with federal standards. The Department estimates the costs per patient of \$21 per RN supervisory visit (\$42 hour x ½ hour/visit).

Small Business Impact

The fiscal impact on small business as defined in s. 227.114 (1), Stats., should be minimal. Most of the changes to this rule are technical in nature and similar to recently adapted federal regulations. Hospices electing to be certified by the Medicare program are required to meet these federal regulations. As of January 1, 2010; 75 of 76 licensed hospices (99 percent) in Wisconsin are federally certified. According to Department criteria, a proposed rule will have a significant economic impact on a substantial number of small businesses if at least 10% or the businesses affected by the proposed rule are small businesses and if operating expenditures, including annualized capital expenditures increase more than the prior year's consumer price index or reduces revenues by more than the prior year's consumer price index. Since most hospices in Wisconsin are operated by hospitals, home health agencies, nursing homes, and other health care providers, data shows

that one facility (1.3 percent) in Wisconsin meets the definition of a small business. As a result, the proposed rule will not have a significant economic impact on a substantial number of small businesses.

Small Business Regulatory Coordinator

Rosie Greer

Email: rosie.greer@dhs.wisconsin.gov

Phone: 608–266–1279

Fiscal Estimate

Summary

The Department proposes to amend ch. DHS 131 to align the rule with revised federal Medicare regulations, to eliminate outdated regulation and to reflect current professional standards of practice. Most of the changes to this rule are technical in nature and similar to recently adopted federal regulations. Hospices electing to be certified by the Medicare program are required to meet these federal regulations. Currently 75 of 76 licensed hospices in Wisconsin are federally certified. Most hospices in Wisconsin are operated by hospitals, home health agencies, nursing homes, and other health care providers. Research revealed that one facility (1.3 percent) in Wisconsin meets the definition of a small business. DHS 131 establishes certain standards for the delivery of services. The standards will not have an effect on state government expenditures or revenues. Estimated costs to providers for these standards include the following:

Quality Assessment and Performance Improvement (QAPI) program.

- one–time administrative costs of \$418
- annual administrative/Quality Improvement costs of \$3,128
- per patient costs of \$92

Development of program description, policies and procedures

- one–time administrative costs of \$418

Develop patient rights form

- one–time administrative costs of \$418

Caregiver background checks

- \$12 for non–profits organizations and governmental agencies and \$16 for other requestor
- completed upon hire and every 4 years thereafter

Patient care management including initial assessment, development of a plan of care

- Estimated \$168 per patient

Drug management including per patient assessment and drug investigations

- \$72 per patient assessment
- \$432 annual fee if completed by the pharmacist, \$312 if complete by the administrator

Communicable disease screening

- \$14 per employee

Training and orientation

- \$168 initial training per employee
- \$84 continuing education per employee

Registered nurse supervisory visits

- \$21 per RN supervisory visit per patient every 2 weeks
- Some of the cost increase may be passed from affected hospices to the patient or private insurance for subsequent reimbursement either wholly, or in part, by one or both of these parties.

A small number of Wisconsin counties operate hospices and are subject to these rules. All county operated hospices are Medicare certified. Since this rule is similar to federal certification standards; counties are already meeting the new DHS 131 standards through compliance with the federal regulations.

State fiscal effect

None.

Local government fiscal effect

Indeterminate. Increase costs.

Local government units affected

Counties.

Private sector fiscal effect

Indeterminate. Will increase costs. Will not have significant economic impact on a substantial number of small businesses.

Long–range fiscal implications

None known.

Agency Contact Person

Pat Benesh, Quality Assurance Program Spec–Senior
DHS Division of Quality Assurance
1 West Wilson St. Rm. 534
Madison, WI 53701
Phone: 608–264–9896
Fax: 608–267–0352
Email: Patricia.Benesh@Wisconsin.gov

Notice of Hearing

Health Services

Health, Chs. DHS 110— EmR1009, CR 10–037

NOTICE IS HEREBY GIVEN that pursuant to ss. 157.06 (20) and 227.11 (2) (a), Stats., the Department of Health Services will hold a public hearing on emergency rules and proposed permanent rules to consider revisions to Chapter 137, relating to anatomical gifts and the Wisconsin Donor Registry.

Hearing Information

Date and Time

May 5, 2010
10 a.m. – Noon

Location

Department of Health Services
1 W. Wilson Street, Rm. B139
Madison, WI

Accessibility

English

DHS is an equal opportunity employer and service provider. If you need accommodations because of a disability or need an interpreter or translator, or if you need this material in another language or in an alternate format, you may request assistance to participate by contacting Martha Mallon at 608–261–6854. You must make your request at least 7 days before the activity.

Spanish

DHS es una agencia que ofrece igualdad en las oportunidades de empleo y servicios. Si necesita algún tipo de acomodaciones debido a incapacidad o si necesita un interprete, traductor o esta información en su propio idioma o en un formato alterno, usted puede pedir asistencia para participar en los programas comunicándose con Martha Mallon al número 608–261–6854. Debe someter su petición por lo menos 7 días de antes de la actividad.

Hmong

DHS yog ib tus tswv hauj lwm thiab yog ib qhov chaw pab cuam uas muab vaj huam sib luag rau sawv daws. Yog koj xav tau kev pab vim muaj mob xiam oob qhab los yog xav tau ib tus neeg pab txhais lus los yog txhais ntaub ntawv, los yog koj xav tau cov ntaub ntawv no ua lwm hom lus los yog lwm hom ntawv, koj yuav tau thov kev pab uas yog hu rau Martha Mallon ntawm 608–261–6854. Koj yuav tsum thov qhov kev pab yam tsawg kawg 7 hnuv ua ntej qhov hauj lwm ntawd.

Submission of Written Comments

Comments may be submitted to the agency contact person listed above or to the Wisconsin Administrative Rules Website at www.adminrules.wisconsin.gov until **May 12, 2010, 4:30 p.m.**

Copies of the Rule

A copy of the rules may be obtained from the department at no charge by downloading the documents from www.adminrules.wisconsin.gov or by contacting:

Martha Mallon
1 W. Wilson Street, Rm. 233
Madison, WI 53701
Phone: (608) 261–6854
Email: Martha.mallon@dhs.wisconsin.gov

Analysis Prepared by the Department of Health Services**Statutes interpreted**

Section 157.06, Stats.

Statutory authority

Sections 157.06 (20) and 227.11 (2) (a), Stats.

Explanation of agency authority

Section 157.06 (20), Stats., authorizes the department to establish an organ and tissue donor registry and directs the department to promulgate administrative rules to govern any registry it establishes.

Related statute or rule

See the “Statutes interpreted” section.

Plain language analysis

The rules under this order, as authorized under s. 157.06 (20), Stats., establish and govern the Wisconsin Donor Registry (Donor Registry).

The rules in this order prescribe:

- The conditions under which individuals may have a record of gift or record of intent to make an anatomical gift included in the Donor Registry.
- The conditions under which an individual can amend or revoke his or her record of gift recorded in the Donor Registry.

- The conditions under which procurement organizations and their employees can receive department authorization to access the Donor Registry.
- The conditions of use of Donor Registry information.

The department has adopted emergency rules, which will become effective on March 29, 2010, to govern the Donor Registry during the period it will take to promulgate permanent rules.

Comparison with federal regulations

There appear to be no existing or proposed federal regulations that are comparable to the proposed rules.

Comparison with rules in adjacent states**Illinois:**

There appears to be no administrative code governing the Illinois donor registry.

Iowa:

Iowa has no administrative code governing its donor registry.

Michigan:

Michigan has no administrative code governing its donor registry.

Minnesota:

Minnesota has no administrative code regarding its donor registry.

Summary of factual data and analytical methodologies

The department reviewed s. 157.06, Stats., worked with the Department of Transportation as required under s. 157.06 (20), Stats., and reviewed donor programs in other states. The department also received comments from its stakeholder advisory group which includes representatives from the following organizations:

1. University of Wisconsin Hospital and Clinics Organ Procurement Organization
2. University of Wisconsin Hospital and Clinics Transplant Program
3. Wisconsin Donor Network
4. Froedtert Memorial Lutheran Hospital
5. Children’s Hospital of Wisconsin
6. Aurora Health Care
7. Life Source of Minnesota
8. American Tissue Services Foundation, Inc.
9. Musculoskeletal Transplant Foundation
10. RTI Donor Services
11. Wisconsin Tissue Bank
12. Lions Eye Bank of Wisconsin

Small Business Impact

The rules do not affect small businesses.

Small Business Regulatory Coordinator

Rosie Greer
rosie.greer@dhs.wisconsin.gov
608–266–1279

Fiscal Estimate**Summary**

DHS will absorb the costs of maintaining and updating registry functions in the organ donor program budget and will

provide grant funding to pay for six months .50 FTE LTE in the Department of Transportation to update driver's records. After that time the work is expected to be no more than 2 hours per week and will be absorbed by existing personnel.

The proposed rule would not affect the revenues or costs of local governments.

The proposed rule would not have a fiscal impact on small businesses over and above the costs imposed for the recovery organizations to conduct criminal background checks on employees who access the registry data. Most of these agencies already do so.

A copy of the full fiscal estimate may be obtained from the department's contact person listed below upon request.

State fiscal effect

Increase costs; may be possible to absorb within agency's budget.

Fund sources affected

PRO.

Local government fiscal effect

None.

Private sector fiscal effect

None.

Long–range fiscal implications

None known.

Agency Contact Person

Martha Mallon
1 W. Wilson Street, Rm. 233
Madison, WI 53701
Phone: (608) 261–6854
Email: Martha.mallon@dhs.wisconsin.gov

Notice of Hearing

Insurance

EmR0945, CR 10–038

NOTICE IS HEREBY GIVEN That pursuant to the authority granted under s. 601.41 (3), Stats., and the procedures set forth in under s. 227.18, Stats., the Office of the Commissioner of Insurance (OCI) will hold a public hearing to consider emergency rules and proposed permanent rules revising section Ins 3.75, Wis. Adm. Code, relating to continuation of group health insurance policies.

Hearing Information

Date: May 5, 2010
Time: 10:00 a.m., or as soon thereafter as the matter may be reached
Place: OCI, Room 227
125 South Webster Street, 2nd Floor
Madison, WI

Submission of Written Comments

Written comments can be mailed to:

Robert Luck
Legal Unit — OCI Rule Comment for Rule Ins 375–2
Office of the Commissioner of Insurance
PO Box 7873
Madison WI 53707–7873

Written comments can be hand delivered to:

Robert Luck
Legal Unit – OCI Rule Comment for Rule Ins 375–2
Office of the Commissioner of Insurance
125 South Webster St – 2nd Floor
Madison WI 53703–3474

Comments can be emailed to:

Robert Luck
robert.luck@wisconsin.gov

Comments submitted through the Wisconsin Administrative Rule Web site at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is **4:00 p.m. on the 14th day after the date for the hearing** stated in this Notice of Hearing.

Copies of Proposed Rules

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the OCI internet Web site at <http://oci.wi.gov/ocirules.htm> or by contacting:

Inger Williams, OCI
Public Information and Communications
Email: inger.williams@wisconsin.gov
Phone: (608) 264–8110
Address: 125 South Webster St., 2nd Floor
Madison, WI 53703–3474
Mail: PO Box 7873, Madison WI 53707–7873

Analysis Prepared by the Office of the Commissioner of Insurance (OCI)

Statutes interpreted

Sections 600.01 and 628.34 (12), Stats.

Statutory authority

Sections 601.41 (3), 601.42, 632.897, Stats.

Section 9126 of 2009 Wisconsin Act 11 and the American Recovery and Reinvestment Act of 2009, P.L. 111–5.

Explanation of agency authority

2009 Act 11 specifically permits the commissioner to enact this rule.

Related statutes or rules

ss. 632.746 & 632.897, Stats.

Plain language analysis

In December 2009 Congress enacted section 1010 of the federal department of defense appropriations act, 2010 (“DOD Act”). This section extended the federal premium subsidy provided under the American Recovery and Reinvestment Act of 2009, provided for retroactive extension of coverage for a transition period, and required that notice of the extended subsidy and retroactive coverage and premium payment be given to assistance eligible individuals. This rule makes it clear that these rights must also be extended to assistance eligible individuals who are or were eligible for coverage under state law, either under s. 632.897, Stats., or s. INS 3.75, Wisconsin Administrative Code. These rights include the following:

(a) The DOD Act extended the federal premium reduction eligibility period for two months until February 28, 2010 and increased the maximum period for receiving the subsidy for an additional six months (from nine to 15 months).

(b) Individuals who had reached the end of the federal reduced premium period before the DOD Act extended it to

15 months will have an extension of their grace period to pay the reduced premium. To continue their coverage they must pay the 35 percent of premium costs by February 17, 2010, or, if later, 30 days after they receive notice of the extension.

(c) Individuals who ended the federal reduced premium subsidy and paid the full premium may obtain a credit for future months of coverage or a reimbursement of the overpayment.

(d) Individuals who are assistance eligible individuals on or after October 31, 2009 or who experience a qualifying event on or after that date are entitled to notice, or additional notice, of the extended federal premium subsidy.

(e) Individuals who are entitled to an extended premium grace period as described in paragraph (b), or a credit or refund for premium paid as described in paragraph (c), are entitled to notice of those rights.

Comparison with federal regulations

The proposed rule parallels the standards enacted by the DOD Act and makes it clear they are applicable to assistance eligible individuals who are or were entitled to coverage under s. 632.897, Stats., or s. Ins 3.75, Wis. Adm. Code.

Comparison of similar rules in adjacent states

Illinois: None.

Iowa: None.

Michigan: None.

Minnesota: None.

Factual data and analytical methodologies

This proposed rule is based on, and parallels the DOD Act.

Analysis and supporting documentation used to determine rule's effect on small businesses

The rule imposes no substantial requirements on small employers but would allow discontinued employees of small employer who have group insurance the ability to elect continuation of health insurance coverage.

Small Business Impact

This rule will have little or no negative effect on small businesses and does not impose any additional requirements on small businesses.

Small Business Regulatory Coordinator

The OCI small business coordinator is Eileen Mallow and may be reached at phone number (608) 266-7843 or at email address eileen.mallow@wisconsin.gov

Fiscal Estimate

State and local government fiscal impact

There will be no state or local government fiscal effect.

Private sector fiscal impact

This rule change will have no significant negative effect on the private sector regulated by OCI but will allow numerous people to continue group health insurance that would not be able to without this change.

Agency Contact Person

Inger Williams, OCI
Public Information and Communications
Email: inger.williams@wisconsin.gov
Phone: (608) 264-8110
Address: 125 South Webster St., 2nd Floor
Madison, WI 53703-3474
Mail: PO Box 7873, Madison WI 53707-7873

Notice of Hearings Justice Assistance

CR 10-010

(Reprinted from March 31, 2010 Register)

NOTICE IS HEREBY GIVEN that pursuant to ss. 16.964 (16) (b) and 227.11 (2) (a), Stats., the Office of Justice Assistance (OJA) will hold public hearings at the times and places indicated below to consider the creation of Chapter OJA 1, relating to the collection and analysis of motor vehicle traffic stop information.

Hearing Information

Date and Time Location

April 26, 2010 Room 142 C (Student Lounge)
4:00 PM Madison Area Technical College
3550 Anderson Street
Madison, Wisconsin

April 28, 2010 Room 250, Zelazo Center
4:00 PM University of Wisconsin — Milwaukee
2419 East Kenwood Boulevard
Milwaukee, Wisconsin

The public hearing sites are accessible to people with disabilities. If you have special needs or circumstances that may make communication or accessibility difficult at a hearing, please call (608) 261-7005 at least 10 days prior to the hearing date. Accommodations will be made available to the fullest extent possible.

Copies of Proposed Rule

Copies of this proposed rule are available on the Office of Justice Assistance website at <http://oja.wi.gov> under "Current News" or at the state administrative rules website at <http://adminrules.wisconsin.gov> (search under "traffic stop"). Copies may also be obtained at no charge by making a request to Dennis Schuh, Program Director, Office of Justice Assistance, 1 S. Pinckney Street, Suite 615 Madison, WI 53703, Phone: (608) 266-7682. Email: Dennis.Schuh@wisconsin.gov

Appearances at the Hearing and Submission of Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation, but are urged to submit facts, opinions and argument in writing as well. Comments may also be submitted using the Wisconsin Admin. Rules Website at <http://adminrules.wisconsin.gov> or submitted by mail addressed to the agency contact person listed above. The deadline for submitting comments to the Office of Justice Assistance is 4:30 p.m. on April 30, 2010.

Analysis Prepared by the Office of Justice Assistance

Statutes interpreted

Sections 16.964 (16) (a) and 349.027, Stats.

Statutory authority

Section 16.964 (16) (b), Stats.

Explanation of agency authority

Section 9101 (11y), of 2009 Wisconsin Act 28, a nonstatutory provision, directs that:

(11y) **RULE–MAKING RELATED TO TRAFFIC STOP INFORMATION COLLECTION AND ANALYSIS.** The office of justice assistance in the department of administration shall submit in proposed form the rules required under section 16.964 (16) (b) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than February 1, 2010.

Under the provisions of s. 16.964 (16) (b), Stats. as created by 2009 Wisconsin Act 28, “(t)he office shall promulgate rules relating to . . .” (traffic stop data collection, submittal, analyses and reports). “Office” is defined to mean “the office of justice assistance.” s. 16.964 (1) (g), Stats.

Related statute or rule

Under s. 349.027, Stats., the person in charge of a law enforcement agency shall “cause to be obtained” information required by the OJA rules relating to each traffic stop made on or after January 1, 2011. The person in charge of a law enforcement agency is also required to submit the information to the OJA using the process and format prescribed by OJA rules.

Plain language analysis

These rules fulfill a statutory mandate that OJA adopt rules relating to the collection of information on traffic stops by law enforcement agencies (agencies) and analysis of the collected information by OJA. By statute, the rules are to relate to:

- The types of information that agencies must collect and the circumstances under which it must be collected;
- The process and format that agencies must use to submit the collected information to the OJA;
- The types of analyses that OJA will perform; and,
- Requirements for making reports to the legislature.

Proposed ch. OJA 1, in s. OJA 1.03, includes definitions of terms used in the statute and rule, including “law enforcement agency,” “law enforcement officer,” “person in charge of a law enforcement agency employing the law enforcement officer” “race or ethnicity” and “traffic stop.”

No later than June 30, 2010, the Department of Transportation and the OJA are to enter into a memorandum of understanding covering traffic stop data collection procedures, forms, procedures, costs, staffing and training. Among other things, the terms of the agreement are to minimize impact on the time and expense of law enforcement agencies. Section OJA 1.04.

In section OJA 1.05, the rules describe the type of information that police officers must collect relating to traffic stops, categorized as operator, occupant, event and search data. The process that law enforcement agencies must use to submit traffic stop data to the Office of Justice Assistance is set out in s. OJA 1.06.

The types of data analysis that OJA will perform is described in s. OJA 1.07. The analysis will be completed by the Statistical Analysis Center in OJA. The Center will analyze the traffic stop data under the tests identified in s. 16.964 (16) (a), Stats., specifically, to determine:

- (a) Whether the number of traffic stops involving motor vehicles operated or occupied by members of a racial minority is disproportionate to the number of traffic stops involving motor vehicles operated or occupied solely by persons who are not members of a racial minority.
- (b) Whether the number of searches involving motor vehicles operated or occupied by members of a racial minority is disproportionate to the number of searches involving motor vehicles operated or occupied solely by persons who are not members of a racial minority.

Under the rule, the analysis may also evaluate correlations between the race and ethnicity of vehicle occupants and traffic stop events such as search requests and stop duration. OJA may also note whether other factors, such as specific law enforcement strategies, may contribute to identified disproportionalities. OJA is required to identify benchmarks and other analytical tools used in preparing its reports.

All of the OJA traffic stop reports shall be filed as required by statute and published on the agency’s website. Section OJA 1.08.

Under section OJA 1.10, a law enforcement agency that does not submit traffic stop data will be identified in OJA reports.

Comparison with federal regulations

There is no known federal law requiring the collection and analysis of data about the racial or ethnic characteristics of individuals involved in traffic stops. However, the Federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) 23 USC s. 1906 provides guidance on local legislation. Section 1906 provides incentive funding for states to enact a law that prohibits the use of racial profiling in highway law enforcement and to allow public inspection of statistical information for each motor vehicle stop regarding the race and ethnicity of the driver and passengers.

Comparison with rules in adjacent states**Minnesota:**

In 2001, Minn. Stats. § 626.951, provided for a statewide racial profiling study with voluntary participation by law enforcement agencies. Sixty–five jurisdictions participated, reporting 194,189 total stops. The 2003 report from this study analyzed one year of data collected from the sixty–five jurisdictions. The complete report is available at <http://archive.leg.state.mn.us/docs/2004/mandated/040200.pdf>. According to the Minnesota study,

Law enforcement officers stopped Black, Latino, and American Indian drivers at greater rates than White drivers, searched Blacks, Latinos, and American Indians at greater rates than White drivers, and found contraband as a result of searches of Blacks, Latinos, and American Indians at lower rates than in searches of White drivers. . . . (2001 Report, p. 1)

The report includes the conclusion that the patterns of disparate treatment “. . . suggest a strong likelihood that racial/ethnic bias plays a role in traffic stop policies and practices in Minnesota.”

Minnesota does not currently have a statewide law requiring law enforcement officers to collect data and prepare reports on the race of persons who are stopped or searched in a traffic stop. However, Minnesota does have a law that defines “racial profiling” and requires the chief law enforcement officer of every state and local law enforcement

agency to enforce a written anti–racial profiling policy governing the conduct of officers engaged in stops of citizens. Minn. Stat. § 626.8471.

Iowa:

Iowa does not currently have a law requiring the police to collect traffic stop data that includes the race or ethnicity of vehicle operators or passengers. Between October 1, 2000 and March 3, 2002, the Iowa State Patrol collected traffic stop data from over 260,000 traffic stops. A report was prepared in April 2003, by the Iowa state Patrol and the Iowa Division of Criminal and Juvenile Justice Planning.

The 2003 Report, available at http://publications.iowa.gov/7228/1/Stop_Data.pdf, concluded, among other things, that,

Can we say whether or not ISP troopers are stopping, ticketing, searching or arresting people differently because of their race? The data in this report do not conclusively answer this question. They do give us an indication that Iowans are not more or less likely to be stopped by ISP troopers because of their race. . . .

The data in this report also do not definitively answer the question of whether or not the ISP troopers are influenced by a person's race or ethnicity when deciding whether to conduct a search or issue a warning vs. a formal sanction. The data do seem to indicate that race or ethnicity may have sometimes influenced decisions in these areas. However, such observations are only indications because a substantial number of cases had missing data and because the impact of numerous other variables that should affect such decisions is unknown (e.g. existence of outstanding warrants, severity of alleged traffic violations, visible contraband, incriminating driver or passenger behavior). (2003 Report p. 8)

Illinois:

Illinois began collecting traffic stop data and issuing annual reports on January 1, 2004. The Illinois law was substantially amended in 2008. A Racial Profiling Prevention and Data Oversight Board (Board) was created to oversee plans and strategies to eliminate racial profiling in Illinois.

The recent 2008 Illinois report based on data reported from 2,518,825 traffic stops, sought to answer two questions.

- To what extent, if any, does race influence an officer's decision to stop a vehicle?
- To what extent, if any, does race influence the disposition of the stop? Was a citation issued? Was the vehicle subject to a consent search?

The 2008 Illinois Report, available at <http://www.dot.state.il.us/trafficstop/meeting.html>, concluded:

The ratio of minority drivers stopped to the minority driving population has improved each year. That is, the percentage of minority drivers stopped by the police is getting closer to the estimated driving population.

Law enforcement agencies continue to pay careful attention to this issue and many have introduced policies and procedures to correct deficiencies.

Our newest measures of post–stop performance — duration of stop — suggests that traffic stops of minority drivers consume about the same time as those for Caucasian drivers.

The number of consent searches in Illinois continues to decline, but minority drivers are still more likely to be consent searched than Caucasian drivers. Differential refusal rates do not appear to contribute to this difference.

Police officers conducting consent searches are far more likely to find contraband in a vehicle driven by a Caucasian driver than by a minority driver. While there has been a significant amount of attention devoted to this issue, there is little evidence at this point of substantial improvement. (2008 Report, p. 13)

The Illinois Act sunsets on July 1, 2010. The Illinois Board must recommend whether to continue the Illinois racial profiling study beyond July 1, 2010.

Michigan:

Michigan does not have a statewide law currently in effect requiring traffic stop data collection and analysis, although some local studies have been conducted in Michigan.

Summary of factual data and analytical methodologies

OJA utilized an advisory committee and public listening sessions in developing proposed ch. OJA 1.

OJA appointed a 17–member Traffic Stop Data collection Advisory Committee to advise the agency with respect to this rulemaking. The committee included representatives of law enforcement (police chiefs, county sheriff, the state patrol) a police association, legislators, community representatives, the Department of Transportation, the Department of Natural Resources, the Office of the Public Defender and a civil liberties organization. The advisory committee met on September 28, 2009, October 14, 2009, November 18, 2009, December 17, 2009 and January 14, 2010. Presentations made to the committee include:

- The Illinois Traffic Stop Study: Alexander Weiss, Ph.D. University of Illinois at Chicago Center for Research in Law and Justice.
- Data Elements — Jerry Jansen, Criminal Justice Consultant, OJA.
- Technology — Erin Egan, Citations & Withdrawals Section, Badger TraCS Program Manager, DOT, Division of Motor Vehicles.
- Funding – Kathy Cushman, Citations and Withdrawals Section, DOT Division of Motor Vehicles.
- Milwaukee Police Department Traffic Enforcement Policy and Data Analysis — Milwaukee Chief of Police Ed. Flynn.
- Fundamental Questions and Benchmarks and a Draft Data Analysis Report Outline — Kristi Waits, Program Director, OJA Strategic Analysis Center.
- Monitoring Stops for Biased Policing in Washington State — John R. Batiste, Chief of the Washington State Patrol.
- Data Collection and Community Partnerships — Noble Wray, Chief of Police, Madison Police Department.
- Local Law Enforcement Data Assessment (LLEDA), UW Report to BOTS — Joni Graves, Program Director, UW–Madison Transportation Information Center.
- Analysis Software for Local Analysis — Greg Ridgeway, Ph.D. Director, RAND Corporation.
- Benchmarks — Lorie Fridell, Ph.D., University of South Florida, Department of Criminology.

Listening Sessions were held by the Advisory Committee and OJA from 4 and 7 PM on November 11, 2009 (La Crosse),

November 12, 2009 (Green Bay), November 18 (Milwaukee), December 1, 2009 (Rice Lake, Superior, Crandon and Keshena), and December 12, 2009 (Kenosha/Racine). At the sessions the committee and OJA heard from citizens who commented about the issue of racial profiling and traffic stops and about the traffic stop data collection project mandated by 2009 Wisconsin Act 28.

Small Business Impact

This rule does not have a significant effect on small business.

Fiscal Estimate

State fiscal effect

Increase costs, program revenue.

Local government fiscal effect

No fiscal effect.

Private sector fiscal effect

No fiscal effect.

A copy of the full fiscal estimate may be obtained from the agency contact person listed below, upon request.

Agency Contact Person

Dennis Schuh, Program Director
Office of Justice Assistance
1 S. Pinckney Street, Suite 615
Madison, WI 53703
Phone: (608) 266–7682
Email: Dennis.Schuh@wisconsin.gov.

Notice of Hearings

Natural Resources

Environmental Protection — Hazardous Waste Management, Chs. NR 600— EmR1007, CR 10–036

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2) (a), 227.24 (1)(a), 289.67 (2) (de) and 291.07 (2), Stats., the Department of Natural Resources will hold public hearings on proposed Natural Resources Board Order No. WA–30–09, CR 10–036, and on Natural Resources Board Emergency Order No. WA–31–09(E), EmR1007, revising s. NR 660.10, pertaining to the definitions of hazardous waste “large quantity generator” and “small quantity generator.” The emergency order was published and took effect on March 17, 2010.

Hearing Information

The hearing will be held live in Madison and via the Internet by “Live Meeting” or conference telephone in Green Bay, Milwaukee, and Eau Claire on:

Monday, April 26, 2010 at 9:00 am

Room G–09, Natural Resources State Office Building
101 S. Webster Street, Madison, Wisconsin

Lake Michigan Rm., DNR Northeast Region Headquarters
2984 Shawano Ave., Green Bay, Wisconsin

Room 139, DNR Southeast Region Headquarters
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee, Wisconsin

Room 162, DNR West Central Region Headquarters
1300 W. Clairemont, Eau Claire, Wisconsin

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Patricia Chabot at (608) 264–6015 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of Rules and Submission of Written Comments

The emergency order, proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Ms. Pat Chabot, Bureau of Waste and Materials Management, P.O. Box 7921, Madison, WI 53707–7921 or by email to Patricia.Chabot@Wisconsin.gov. Comments may be submitted until **April 30, 2010**. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the rules and fiscal estimate may be obtained from Ms. Chabot.

Analysis Prepared by the Department of Natural Resources

Statutes interpreted

Sections 227.11 (2) (a) and 289.67 (2) (b) 1., Stats.

Statutory authority

Sections 227.11 (2) (a), 227.24 (1)(a), 289.67 (2) (de) and 291.07 (2), Stats.

Summary of proposed rule

The 2009–2011 biennial budget (2009 Wisconsin Act 28, s. 2659) amended s. 289.67 (2) (b) 1., Stats., to increase the annual base fee for large quantity and small quantity generators of hazardous waste. Section 2662 of Act 28 also created s. 289.67 (2) (de), Stats., which requires the DNR to promulgate a rule that defines “large quantity generator” and “small quantity generator” for purposes of the fees. Under current hazardous waste rules, generator status is functionally described in text but there are no specific, comprehensive definitions.

Section 9137 (2), a non–statutory provision in Act 28, allows the DNR to promulgate the required definitions through the emergency rule making procedures without having to provide a finding of emergency. The emergency order took effect March 17, 2010 and will remain in effect until July 1, 2011, or until a corresponding permanent rule takes effect if it is adopted sooner.

The emergency order added a definition of “large quantity generator” and revised the definition of “small quantity generator” in ch. NR 660, Wis. Adm. Code. Under prior hazardous waste rules, standards are set for large quantity and small quantity hazardous waste generators, so their status is functionally described, but there were no specific, comprehensive definitions of these terms. This proposed permanent rule is identical to the emergency rule. The definitions are consistent with and based upon the functional descriptions or standards that currently identify large quantity and small quantity generators.

Comparison with federal regulations

There is no specific definition of “large quantity generator” in the U.S. Environmental Protection Agency’s hazardous waste regulations in 40 CFR § 260.10, upon which s. NR 660.10 is based. Large quantity generator status is

functionally described in text in 40 CFR Part 262, *Standards Applicable to Generators of Hazardous Waste*. 40 CFR § 260.10, includes a definition of “small quantity generator” but the definition is incomplete. Small quantity generator status is functionally described in text in 40 CFR Part 262. The department proposes to add explicit, complete definitions of large and small quantity generators to s. NR 660.10 based on the state and federal functional definitions.

Comparison of similar rules in adjacent states

Minnesota:

Minnesota’s hazardous waste rules in s. 7045.026 define large and small quantity generators. These definitions are similar to the definitions in the proposed rule.

Iowa:

Iowa does not have a federally authorized hazardous waste program. The program is administered by the U.S. Environmental Protection Agency Region 7 office in Kansas City, Mo., and the federal regulations are in effect in the state.

Illinois:

Illinois’ hazardous waste rules have a definition for small quantity generator that is equivalent to the definition in the federal regulations. There is no definition of large quantity generator; however, a note after 35 Ill. Adm. Code 7220.127 states that the “[Illinois Pollution Control] Board interprets the term large quantity generator to mean a hazardous waste generator that is not a small quantity generator.”

Michigan:

Under Michigan’s rules in R 299.9107 (v), the definition of small quantity generator is equivalent to the federal definition. Large quantity generator is not defined in a rule.

Factual data and analytical methodologies

The proposed definitions are required by statute and reflect current state and federal functional definitions of “large quantity generator” and “small quantity generator” used in the state’s hazardous waste management program and by US EPA.

Analysis and supporting documentation used to determine the rule’s effect on small businesses

See above.

Small Business Impact

The proposed rules affect small businesses that are large quantity or small quantity generators of hazardous waste. There is no direct correlation between the definitions of “small business” and “large quantity generator” or “small quantity generator”, so a precise assessment of the definitions’ effect on small business is not possible. Small businesses may be either large quantity or small quantity generators of hazardous waste, or neither. In any case, under the revised hazardous waste generator base fee statute, the maximum additional amount that a large quantity generator would have to pay is \$470. A small quantity generator would pay a maximum of \$350 more than in past years.

Under the statutory language in effect before the 2009–2011 biennial budget bill (2009 Wisconsin Act 28), all large quantity generators and small quantity generators who were required to submit a hazardous waste annual report were required to pay a base fee of \$210 and \$20 per ton for hazardous waste generated during the reporting year. The

tonnage fee did not apply to any wastes that were recycled or reused, and if a generator recycled or reused all of its hazardous waste, it was not required to pay the base fee either.

2009 Wis. Act 28 amended the statutes to increase the base fee from \$210 to \$350 for small quantity generators, and to \$470 for large quantity generators. It also increased the maximum fee any generator would have to pay from \$17,000 to \$17,500 per year. In addition, the base fee was applied to all generators who are required to report, regardless of whether they recycled or reused any or all of their wastes. The per ton fee remains at \$20 per ton.

No new recordkeeping or reporting requirements are created and no new skills are required to comply with the proposed rules.

The proposed rules are definitions only, but are a key component of the hazardous waste generator annual fee requirements set out in recently–revised s. 289.67, Stats. The fee requirements (statutes and rules) will be enforced by department staff through compliance assistance, complaint follow–up and inspections. If a violation is found, the department normally uses a stepped enforcement process similar to the process it uses for other environmental programs.

This stepped process includes the following:

- Notice of non–compliance, this is typically the first step in dealing with a problem and is usually done by a program specialist through a letter to the generator. It’s expected that the generator, once notified of the problem will, correct the problem quickly.
- Notice of Violation, this is typically the second step in dealing with a problem and is a higher level of enforcement. Typically, the Notice of non–compliance hasn’t resulted in the problem being resolved and this next step includes an opportunity for a face–to–face meeting with program and enforcement staff. At this meeting, it’s expected that the generator will make commitments to resolve the problem and will follow through.
- Referral to the Attorney General for prosecution and injunctive relief, when appropriate. In addition to being liable for unpaid fees, a person who fails to pay fees in a timely manner may be subject to statutory enforcement mechanisms and penalties for hazardous waste violations as established in subchapter V of ch. 291, Stats.

The Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department’s consideration of the impacts of the proposal and reasonable alternatives.

Fiscal Estimate

State fiscal effect

Increase existing revenues.

The most recent data for number of Hazardous Waste Generators is from 2008: 733 SQGs and 448 LQGs. Of the total SQGs, 390 SQGs reported fees, leaving 343 SQGs new to paying the revised fees. Of the total LQGs, 288 reported fees, leaving 160 LQGs new to paying the revised fees.

Revenue Increase to Previous Payers:

Number of Previous Payers	Base Fee Increase	Revenue Increase
SQG = 390	SQG = \$140	SQG = \$ 54,600
LQG = 288	LQG = \$260	LQG = \$ 74,800
Total = \$129,480		

Revenue Increase to Previous Payers:

Number of New Payers	New Fee	Revenue from New Payers
SQG = 343	SQG = \$350	SQG = \$120,500
LQG = 160	LQG = \$470	LQG = \$ 75,200
Total = \$195,250		

It is estimated that based on the number of 2008 HW generators paying the previous fee at the \$17,000 previous maximum, the new revenue with the shift to the new \$17,500 maximum will be \$2,731.

Total estimate new state revenue: \$327,461.

Fund sources affected

SEG.

Local government fiscal impact

Increase costs.

Over the last 3 years, on average 17 Local Units of Government (13 SQGs & 4 LQGs) generated hazardous waste at a level which required them to submit an annual report. Of those 17, on average 3 (2 SQGs & 1LQG) recycled

or reused all of their wastes, so they were not required to pay the base fee (based on the previous statutory language).

Number of Previous Payers	Base Fee Increase	Cost Increase
SQG = 11	SQG = \$140	SQG = \$1,540
LQG = 3	LQG = \$260	LQG = \$ 780
Total = \$2,320		

Number of New Payers	New Fee	Costs to New Payers
SQG = 2	SQG = \$350	SQG = \$ 700
LQG = 1	LQG = \$470	LQG = \$ 470
Total = \$1,170		

Total Additional Costs for Local Governments = \$3,490

Local governmental units affected

Villages, Cities, Counties.

Long–range fiscal implications

None.

Agency Contact Person

Ms. Patricia Chabot, WA/5
 Wisconsin Department of Natural Resources
 P.O. Box 7921
 Madison, WI 53707–7921
 Phone: (608) 264–6015
 Email: patricia.chabot@wisconsin.gov

Submittal of Proposed Rules to the Legislature

Please check the Bulletin of Proceedings — Administrative Rules for further information on a particular rule.

Commerce

*Financial Resources for Businesses and Communities,
Chs. Comm 104—*

CR 09–121

A rule–making order to create Chapter Comm 136, relating to Midwestern Disaster Area bonds.

Financial Institutions — Credit Unions

CR 10–009

A rule–making order to create Chapter DFI–CU 65, relating to credit union service organizations.

Natural Resources

Environmental Protection — General, Chs. NR 100—

WPDES, Chs. NR 200—

Water Regulation, Chs. NR 300—

Water Supply, Chs. NR 800—

CR 09–123

A rule–making order of the Watershed Management Bureau for housekeeping rule revisions to Chapters NR 102, 103, 105, 106, 108, 110, 114, 200, 203, 205, 210, 214, 299, 328, 341 and 812, Wis. Adm. Code.

Revenue

CR 09–087

A rule–making order to create sections Tax 2.85 and 11.90, relating to penalties for failure to produce records.

Revenue

CR 10–001

A rule–making order to revise sections Tax 2.39 to 2.82, relating to apportionment and nexus.

Veterans Affairs

CR 09–092

A rule–making order to revise section VA 1.11, relating to the duties and responsibilities of the secretary.

Veterans Affairs

CR 09–122

A rule–making order to amend section VA 2.02 (2), relating to the veterans tuition reimbursement program.

Rule Orders Filed with the Legislative Reference Bureau

The following administrative rule orders have been filed with the Legislative Reference Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication date of these rules could be changed. Contact the Legislative Reference Bureau at bruce.hoesly@legis.wisconsin.gov or (608) 266–7590 for updated information on the effective dates for the listed rule orders.

Commerce

Financial Resources for Businesses and Communities, Chs. Comm 104—

CR 09–063

Rule creates Chapter Comm 100, relating to tax incentives for job creation, capital investment, employee training, and corporate headquarters, and affecting small businesses.
Effective 6–1–10.

Commerce

Financial Resources for Businesses and Communities, Chs. Comm 104—

CR 09–082

Rule revises Chapter Comm 129, relating to tax credits for angel investments and early stage seed investments, and affecting small businesses.
Effective 6–1–10.

Employee Trust Funds

CR 09–047

Rule amends section ETF 11.11, relating to legal counsel advising the boards that are attached to the department while a board considers a final decision pertaining to an appeal.
Effective 6–1–10.

Employee Trust Funds

CR 09–048

Rule amends section ETF 11.15 (4), relating to the agent for service of process upon the boards that are attached to the department.
Effective 6–1–10.

Employee Trust Funds

CR 09–057

Rule revises Chapters ETF 10, 11, 20, 52, and 60, relating to technical and minor substantive changes in existing rules.
Effective 6–1–10.

Insurance

CR 09–097

Rule revises section Ins 6.77, relating to exempting commercial umbrella and commercial liability policies covering only hired and non–owned autos from having to offer or include uninsured and underinsured motorist coverage.
Effective 5–1–10.

Public Instruction

CR 09–074

Rule revises sections PI 35.03 and 35.05, relating to establishing a fee under the Milwaukee Parental Choice Program.
Effective 6–1–10.

Public Instruction

CR 09–117

Rule creates section PI 8.01 (4), relating to waiver of school hours.
Effective 6–1–10.

Revenue

CR 09–090

Rule revises Chapter Tax 11, relating to sales and use tax.
Effective 6–1–10.

Tourism

CR 09–111

Rule creates Chapter Tour 3, relating to grants to municipalities and organizations for regional tourist information centers created under 2009 Wisconsin Act 28.
Effective 6–1–10.

Public Notices

Department of Health Services Specialty Pharmacy Drugs

The State of Wisconsin reimburses pharmacies for services provided to low–income persons under the authority of Title XIX of the Federal Social Security Act and sections 49.43 to 49.47, Wisconsin Statutes. The Wisconsin Department of Health Services (DHS) administers this program, which is called Medical Assistance or Medicaid. In addition, the state of Wisconsin reimburses pharmacies for services provided under the authority of chapters 49.471, 49.665, and 49.688, Wisconsin Statutes.

Under the Wisconsin State Medicaid Plan as approved by the U.S. Department of Health and Human Services, DHS establishes maximum allowable fees for all covered pharmaceutical items provided to Wisconsin Medicaid recipients. The Plan further specifies that DHS will provide public notice in advance of the effective date of any significant change in maximum allowable fees. Federal regulations at 42 CFR §§ 447.512 – 447.518 establish certain aggregate upper limits in State Medicaid expenditures for drugs. This notice is to announce new rates for specialty pharmacy drugs.

Specialty Pharmacy Drugs

Specialty pharmacy drugs are defined as typically high cost drugs, used to treat acute and chronic conditions. They often require special handling, and can be self–administered in the home or administered by a health care provider. Specialty drugs are often associated with complex drug regimes and require patient education, monitoring and clinical support. The Department uses marketplace research or best estimate of prices currently and generally paid for those drugs to establish the new rates.

Effective for dates of service on and after April 15, 2010, DHS is proposing to establish new rates for specialty pharmacy drugs in accordance with the approved Wisconsin Medicaid State Plan. The rates for specialty pharmacy drugs are published by DHS and are available in the data table section of the Pharmacy page, located in the Provider area of the ForwardHealth Portal at www.forwardhealth.wi.gov.

This proposal is estimated to reduce Wisconsin Medicaid expenditures by \$2.9 million, all funds, in state fiscal year (SFY) 2010. This amount is divided between federal and state shares. The federal share is different in every state, and in every state it differs somewhat year to year, with Wisconsin’s rate generally being approximately around 60% federal/40% state. In addition, the American Recovery and Reinvestment Act of 2009 (ARRA), increases the federal share for Medicaid expenditures during the recession adjustment period, as defined in that law. Using the 60/40 proportion, this savings would be composed of \$1.74 million FED and \$1.16 million GPR.

Copies of Proposed Changes

A copy of the proposed change is available for review at the main office of any county department of social services or human services.

A copy of the proposed changes may also be obtained free of charge by calling or writing as follows:

Regular Mail

James Vavra
Division of Health Care Access and Accountability
P.O. Box 309
Madison, WI 53701–0309

Phone

James Vavra
(608) 261–7838

FAX

(608) 266–1096
Attention: James Vavra

E–Mail

james.vavra@dhs.wisconsin.gov

Written Comments

Written comments are welcome. Written comments on the changes may be sent by FAX, e-mail, or regular mail to the Division of Health Care Access and Accountability. The FAX number is (608) 266-1096. The e-mail address is james.vavra@dhs.wisconsin.gov. Regular mail can be sent to the above address.

The written comments will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 350 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin.

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