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Testimony of Wisconsin Department of Transportation
Kathey Bilek, Legislative Advisor
Before the Assembly Committee on Transportation
January 30, 2024

Re: Clearinghouse Rule No. CR 23-035, relating to Ambulance Inspection Standards

Thank you, Chairwoman Vander Meer, and members of the committee for considering the department's proposed permanent rule, Clearinghouse Rule No. 23-035 (CR-23-035), relating to ambulance inspection standards.

Subchapter III of Trans 309 establishes requirements for ambulance equipment. Section 341.085, Stats., requires the department to inspect all ambulances, including for the standards listed in Trans 309, subchapter III. CR 23-035 and its corresponding emergency rule, EmR2310, revise and delay a sunset provision for existing ambulance equipment and inspection standards found in Section Trans 309.25. EmR2310 was promulgated to temporarily delay the sunset revision while we worked to promulgate this proposed permanent rule. EmR2310 will expire on April 26, 2024, and we have exhausted all extension requests permitted by statute.

Section Trans 309.25 repeals subchapter III on July 15, 2023, or upon promulgation by the Department of Health Services (DHS) of administrative rules establishing standards and inspection, whichever comes sooner. Currently, DHS does not have authority to promulgate rules establishing ambulance equipment standards and ambulance inspections. This rule prevents the repeal of Wisconsin's medical equipment standards for ambulances, keeping current DOT standards in effect until DHS can assume responsibility for setting medical equipment standards for ambulances.

In 1977, the legislature enacted section 341.085 of the statutes, which requires the Department of Transportation to inspect all ambulances prior to issuing an original or renewal registration. It also authorizes the department to "prescribe ambulance service equipment and standards therefor" by rule. The department first promulgated medical equipment standards for ambulances in January 1980. DOT has revised the medical equipment standards just a few times since then, most recently in 1999/2020.

In 2012, the National Highway Traffic Safety Administration studied Wisconsin's Emergency Medical Services at Wisconsin's request. Among other recommendations, NHTSA suggested Wisconsin's should, "consolidate ambulance inspection and licensing authority within the Department of Health Services with sufficient funding and personnel to support the function." It also noted that, "the equipment list has not been updated for over twelve years and the language resides in the DOT administrative rule.

Both DOT and the EMS Unit [at the Department of Health Services] will be reviewing the list for updates but constituents expressed the desire to have this inspection function within the EMS Unit.”

Following that study, in 2013, the Department of Transportation published a scope statement to update the medical equipment standards, intending to “consider the Department of Health Service’s (DHS’s) administrative rule ch. DHS 110, industry standards, regulatory compliance, and technological changes to ensure the highest possible level of ambulance vehicle safety for the public that uses ambulance services in the State of Wisconsin.” During the rule development, DOT and DHS agreed that the DHS was better positioned to prescribe standards and inspect medical equipment for ambulances. Clearinghouse Rule 19-074 was promulgated in 2020 and made minor changes to the medical equipment standards. The final rule intended to transfer responsibility for establishing medical equipment standards to DHS by repealing the medical equipment subchapter III of the Trans 309 whenever the Department of Health Services standards were put into effect, or July 15, 2023, whichever was sooner.

Included in Governor Evers’ proposed 2023-25 biennial budget, was a provision that would have provided position and expenditure authority for DHS to staff an ambulance inspection program (1.0 FTE at \$152,200 GPR for the 2023-25 biennium), and authority for DHS to promulgate rules establishing standards for ambulance medical equipment inspections. This position would have had the responsibility for the inspection of ambulance medical equipment. The provision was not included in the Joint Committee on Finance’s DHS budget motion. As such DHS does not currently have the statutory or expenditure authority to develop rules for and carry out ambulance inspections. This rule would allow current inspections to continue until such time DHS can attain the requisite statutory and funding authority.

If the emergency rule expires, there would be no state medical equipment standards for ambulances and no standards or medical equipment inspections unless and until new standards could be created by rule. Promulgation of this proposed permanent rule prior to the expiration of the emergency rule would keep the medical equipment standards in effect until DHS promulgates updated equipment standards.

There are approximately 1,200 ambulances in Wisconsin. WisDOT inspects every ambulance biennially, or 600 per year. If the emergency rule expires and medical equipment standards are repealed, roughly 50 ambulances per month will not have medical equipment inspected and would not be inspected again for medical equipment unless and until new medical equipment standards were created.

The emergency rule expiration would also be a setback for this proposed permanent rule. At present, the permanent rule only needs to delay the effective date of the medical equipment subchapter repeal, until DHS sets new standards. If the emergency rule expires and the repeal occurs, the permanent rulemaking would have to start anew with a new scope statement to create a subchapter of medical equipment standards. The department would have to create the same outdated 1999/2020 standards or weigh

suggestions to try to bring standards up to date, an area in which the department lacks expertise. Again, 50 ambulances per month would escape inspection until new standards were created.

It is important to note that both the emergency rule and the permanent rule require no changes for industry; they simply perpetuate the equipment and inspection standards in effect since 1999/2020. The department held a joint public hearing on both the emergency and permanent rule on August 31, 2023. There was no attendance, and the department received no comments.

Thank you for your time and consideration. We would be happy to answer any questions the committee may have.