

Report From Agency

FINAL REPORT CLEARINGHOUSE RULE 08-001 CHAPTER PI 33 GRANTS FOR NURSING SERVICES

Analysis by the Department of Public Instruction

Statute interpreted: Section 115.28 (47), Stats.

Statutory authority: Section 227.11 (2) (a), Stats.

Explanation of agency authority:

Section 227.11 (2) (a), Stats., gives an agency rule-making authority to interpret the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

Related statute or rule: N/A

Plain language analysis:

2007 Wisconsin Act 20, the biennial budget bill, created a new competitive grant program under s. 115.28 (47), Stats., appropriating \$250,000 annually for school districts, other than Milwaukee Public Schools, to employ additional school nurses or contract for additional nursing services.

Grants must be awarded based on greatest need for such services based on criteria such as the ratio of pupils to nurses, rate of chronic health problems among pupils, and number of pupils from low-income families. Recipients may not supplant existing nursing staff or services and must submit a report to the department describing how the school district used the money and its effectiveness in providing additional nursing services to pupils who need such services.

The proposed rule establishes criteria and procedures for awarding grants to eligible school districts.

Emergency rules were promulgated effective November 24, 2007, in order to establish application criteria and procedures in time for the program to operate in the second semester of the school year.

Summary of, and comparison with, existing or proposed federal regulations: N/A

Comparison with rules in adjacent states:

Illinois, Iowa, Michigan, and Minnesota do not have rules relating to grants for nursing services.

Summary of factual data and analytical methodologies:

The rules reflect statutory language. Because 2007 Wisconsin Act 20 creating this grant program became effective October 27, 2007, the emergency rule established an application deadline of December 14 to expedite the awarding of funds in 2007-08. In subsequent years, the permanent rule requires applications to be due April 30 to coincide with application timelines established for other grants awarded by the department.

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

Anticipated costs incurred by private sector: N/A

Effect on small business:

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

Agency contact person: (including email and telephone)

Douglas White, Director, Student Services/Prevention and Wellness, (608) 266-5198, douglas.white@dpi.state.wi.us .

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

The department published a hearing notice in the *Administrative Register* which included this information.

A public hearing to consider emergency and proposed permanent rules was conducted by the department on February 21, 2008, in Madison. Persons were asked to register in favor, generally in favor (except for . . .), against, generally against (except for . . .), or for information only.

Madison Hearing, February 21, 2008

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Bonnie Campbell	Green Bay Area Public Schools	X		
Isa Chase	Wisconsin Assoc. of School Nurses	X		
Twyla Lato	Wisconsin Assoc. of School Nurses	X		
Jack O'Meara	Wisconsin Assoc. of School Nurses	X		
Diane Peterson	Green Bay Area Public Schools	X		

The following persons submitted written testimony:

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Peggy Carew	Self			X
Mary Jane Hirtz	Self			X
Ann Riojas	Self			X
Susan P. Stoupe	Self	X		
Laura R. Hoffmeister	Self			X
Marla J. Blom	Self			X
Sharon A. Daun	Self			X

Summary of public comments, the agency's response to those comments, and changes made as a result of those comments:

Comments – All of the testimony received supported the idea of providing funds to support additional nursing services in schools. Most of the testimony “for information” thanked the Governor, Legislature, and the Department for removing the health barriers in learning for thousands of Wisconsin school children by providing these grants for nursing services. However, this testimony did not comment on the rule itself.

One person testified that grant funds should be available for all school nurses not just school nurses who want to expand their programs. Because the rules reflect statutory language, such a change cannot be made.

Changes made as a result of oral or written testimony: None.

Changes to the analysis or the fiscal estimate:

The first sentence of the second paragraph of the analysis, “greatest need such as the ratio” has been changed to language more similar to the statutory provision, namely, “greatest need for such services based on criteria such as the ratio.”

No changes were made to the fiscal estimate.

Responses to Clearinghouse Report:

1. Statutory Authority:

The school nurse license is an optional license. There are very few licensed school nurses as the license is not required for a nurse to work in a school or to be employed by a school. There are 446 nurses working in school districts statewide. Of that amount, only 89 are licensed by the department. Further, 27 out of the 89 are employed in the Madison School District. Because school districts (other than Milwaukee Public Schools) may receive grant funds to contract with nurses who are not licensed by the department, it stands to reason that grants should also be awarded to school districts that employ nurses who are not licensed by the department. If awards were made only to school districts that employ additional school nurses licensed by the department, very few grants would be awarded because very few nurses would meet the requirements.

However, the definition of school nurse under s. PI 33.02 (6) has been modified to more closely reflect the statutory definition and the department's school nurse license requirements under s. PI 34.31 (2) and now reads:

“School nurse” means a registered nurse licensed under ch. 441, Stats., or in a party state, as defined in s. 441.50 (2) (j), Stats., who has also received a baccalaureate degree in nursing.

2. Form, Style and Placement in Administrative Code:

Section PI 33.04 (2) (a) has been modified to read “The extent there is a need for the grant described under s. PI 33.03 (3) (b).”

Given the limited amount of funds to be distributed, the priorities listed on the form may vary from year to year making it difficult to prescribe by rule. However, s. PI 33.04 (1) has been modified to clarify that the department shall annually establish funding limits and priorities and inform school districts of those limits and priorities.

4. Adequacy of References to Related Statutes, Rules and Forms:

- a. Recommendation accepted, changes made.
- b. Recommendation accepted, changes made.

5. Clarity, Grammar, Punctuation and Plainness:

- a. Recommendation accepted, changes made.
- b. The definition under s. PI 33.02 (2), has been modified to delete the reference to “school” nurse to clarify that nursing services may be provided or delegated by any nurse, regardless of his or her employment with the school district or license status with the department. Also, the term “the” has been replaced with “a” nurse.
- c. Recommendation accepted, changes made.
- d. Recommendation accepted, changes made.
- e. Recommendation accepted. The phrase “immunization and communicable disease” has been changed to “immunization compliance management, communicable disease prevention and follow up,” for parallel sentence structure.
- f. Recommendation accepted, changes made.
- g. Recommendation accepted, changes made.
- h. Recommendation accepted, changes made.
- i. Recommendation accepted, changes made.
- j. Recommendation accepted, changes made.
- k. Recommendation accepted, changes made.

FINAL REGULATORY FLEXIBILITY ANALYSES

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.