WISCONSIN DEPARTMENT OF HEALTH SERVICES
PROPOSED ORDER TO ADOPT PERMANENT RULES

Clearinghouse Rule 19-092

The Wisconsin Department of Health Services proposes an order **to repeal** DHS 131.35 (5) and DHS 131.37 (2) to (4), (5) (a) 1. to 3., (c) 1., (6), (8) (d) and (e), (17) (b), (19), (25), DHS 131.38 (2) and (Note) and (3), DHS 131.39 (4), (5) (c) 2.; **to renumber** DHS 131.38 (1); **to amend** DHS 131.18 (2) (a) 4. and 7., (4) and (title), DHS 131.20 (1) (a), DHS 131.21 (2) (d), DHS 131.25 (6) (a) 1., (b), and DHS 131.35 (1) and (4), DHS 131.37 (5) (a), (b) .1., (d) and (e) 3., (7) (a), (c) and (title), (17) (a) 3., (18) (b), DHS 131.39 (5) (c) 1., (6) (a) and (b); **to repeal and recreate** DHS 131.13 (3), DHS 131.18 (3), DHS 131.37 (8) (b) and (c), DHS 131.39 (1); **create** DHS 131.13 (11m), (12m), and (20m), DHS 131.39 (5) (c) 1. (Note), (8), and DHS 131.40 to DHS 131.42, **relating to** Hospices.

RULE SUMMARY

Statute interpreted
Sections 50.91, 50.92, 50.93 and 50.95, Stats.

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

Explanation of agency authority
The department is authorized to conduct plan reviews of all capital construction and remodeling of structures that are owned or leased for operation of a hospice and is required to promulgate rules that establish a fee schedule of its services in conducting the plan reviews.

The department is also required to promulgate rules establishing 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 and the maintenance, general hygiene and operation of a hospice, which will permit the use of advancing knowledge to promote safe and adequate care and treatment for these individuals.

The standards must permit provision of services directly, as required under 42 CFR 418.56, or by contract under which overall coordination of hospice services is maintained by hospice staff members and the hospice retains the responsibility for planning and coordination of hospice services and care on behalf of a hospice client and his or her family, if any.

Within certain parameters, the department is also authorized to promulgate rules interpreting the provisions of any statute it enforces or administers, if the department considers it necessary to effectuate the purpose of the statute.

Related statute or rule
None.

Plain language analysis
Prior to 2015 Wisconsin Act 55 ("Act 55"), hospices were required to submit a fee and plan of review to the Department of Safety and Professional Services (DSPS) for any capital construction or remodeling of structures owned or leased for operation of a hospice. Act 55 created s. 50.92 (3m), Stats., which assigned this responsibility to the Department of Health Services ("department") and directed the department to promulgate rules establishing a fee schedule for plan reviews. The department proposed to revise the rule to establish a fee schedule for plan reviews and to update, correct, or remove any outdated rule provisions or cross-references. In addition, the department proposes to update outdated standards relating to discharge planning, patient assessment, physician's orders, bereavement services and physical environment.

2a. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Pursuant to Sections 50.92 (3m) and 50.95 Stats., the department proposes to amend s. DHS 131 as follows:

Discharge planning
Currently, a hospice may discharge an individual for a variety of reasons including nonpayment of charges and for the patient's safety and welfare and for the safety and welfare of others. The department proposes to clarify when these options may be taken and to provide notice to the patient of such action.

Physician's orders
Currently, a hospice is required to obtain the physicians' counter-signature within 20 days of receipt of the oral order. The department proposes to change the standard to "20 working days" to be consistent with ch. DHS 133, Home health agencies. At times it can be difficult to reach the physician. There is no federal requirement in this area.

Bereavement services
Currently, the individual who coordinates bereavement services and provides for the bereavement needs of families is appointed by the governing body. The department proposes to allow the hospice to appoint this individual based on the person's training and experience.

Patient assessment
Currently, a hospice is required to complete an initial assessment of a patient's condition and needs before providing services. Due to the condition of the patient, the registered nurses is usually assessing and providing services simultaneously, often in the patient's home. The department proposes to change the standard to allow for the assessment and the provision of services to occur at the same time.

Physical environment
Currently, several physical environment standards are outdated, duplicative of other regulations or overly prescriptive. The department proposed to eliminate requirements related to bed arrangement in patient rooms, ceiling height, electrical outlets, number of toilets and sinks, and zoning requirements.

Plan review and fees for plan reviews
2015 Wisconsin Act 55 created s. 50.92 (3m), Stats., which assigned this responsibility to the department and directed the department to promulgate rules establishing a fee schedule for plan reviews. DHS 131 is revised to establish a fee schedule for plan reviews and to update, correct, or remove any outdated rule provisions or cross-references.

2b. Analysis of policy alternatives
There are no reasonable policy alternatives. 2015 Wisconsin Act 55 created s. 50.92 (3m), Stats., which assigned this responsibility to the Department of Health Services ("department") and directed the department to promulgate rules establishing a fee schedule for plan reviews. The department therefore intends to revise ch. DHS 131 to establish a fee schedule for plan reviews and to update, correct, or remove any outdated rule provisions or cross-references.

The department could choose to propose voluntary guidelines for hospices, rather than establishing standards by rule. However, this alternative is not reasonable because voluntary compliance with such guidelines would prevent the department from ensuring consistency in the standard of care provided to vulnerable clients.

Summary of, and comparison with, existing or proposed 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. There are no federal regulations for governing plan review.

Comparison with rules in adjacent states

Illinois:
Illinois licensure law for hospices is found in Title 77, Chapter I, subchapter b, Part 280 Hospice Programs. Illinois State Code requires that all hospices be licensed and offer the required services of nursing, medical social work, spiritual counseling, bereavement and volunteer services. These services must be available on a 24-hour basis to the extent necessary to meet the needs of individuals for care that is reasonable and necessary for the palliation and management of terminal illness and related conditions. A hospice patient's plan of care must be established and maintained for each individual admitted to a hospice program and the services provided to an individual must be in accordance with the person's plan of care. Bereavement services may be coordinated with the family's clergy, if any, as well as with the other community resources judged by the hospice care team to be useful to the family unless the family declines. The hospice must ensure that each patient has an attending physician. The hospice program must have each patient or his or her representative complete and sign a form indicating the name of the attending physician responsible for the patient's care. Hospices that provide residential services must submit drawings for the proposed hospice residence for review and must be in compliance with the requirements of the NFPA 101, Chapter 33, Existing Board and Care Occupancies. Hospice must be in full compliance with the local building codes and fire safety protection requirements. Additional standards are provided related to exits, number of patients per bedroom, toilet and bathroom facilities, isolation areas, waste disposal, water supply, sewage disposal and plumbing systems.

Iowa:
Iowa hospice regulations consist of Iowa Administrative Code 481, Chapter 53 Hospice License Standards. Services provided to the hospice patient and his or her family include, nursing services, patient care coordination, social services, counselling services, volunteer services, spiritual counseling and bereavement services. The patient or family must designate an attending physician who is responsible for managing necessary medical care. The attending physician is responsible for the medical component of the plan of care,

participating in developing and revising the plan of care, arranging for continuity of the medical management and monitoring the condition of the patient and family. Prior to or on the day of admission the attending physician and at least one member of the interdisciplinary team must develop a initial plan based on the needs of the patient and family. Within seven days of admission the interdisciplinary team must assess the needs of the patient and family and develop a comprehensive written plan of care. Bereavement services must be available to each family after the death of the patient and must be provided in accordance with family needs. Bereavement series must include identification of the types of help or intervention to be provided, contact with the family after the death as requested by their needs as documented in the plan of care, a process to assess family reaction and hospice referrals for intervention deemed appropriate.

Michigan:
Michigan regulates hospices in Hospice and Hospice Residences R 325. At the time of admission to a hospice, the patient must be under the care of a physician who is responsible for providing for medical care. The hospice must enter all physician orders and services rendered in the patient and family record. The hospice registered nurse must complete an initial assessment of the patient's condition within 48 hours after the election of hospice care. The interdisciplinary group must complete a comprehensive assessment no later than 5 calendar days after the election of hospice care and identify the patient's immediate physical, psychosocial, emotional and spiritual needs. The development of comprehensive patient care plan of care for each hospice patient and family must commence within 24 hours of admission. Bereavement and spiritual services must be available 7 days a week and must be available to the family for not less than 13 months following the death of the patient. All plans, specification and operation narratives of new buildings, additions, major building changes and conversion of existing facilities to use as a hospice residence shall be submitted to the Department of Licensing and Regulatory Affairs for review to assure compliance with the laws and rules for Hospice and Hospice Residences. The Department of Licensing and Regulatory Affairs must approve plans and specifications if they meet the requirements of section 20145 of the code, MCL 333.20145, and these rules for Hospice and Hospice Residences. Construction of new buildings, additions and major building changes and conversion may not begin until the plans and specification have been approved by the department and a construction permit has been issued for the construction to begin. Additional standards are provided for resident bedrooms, light fixtures, toilet and bathing facility, nurse call system and isolation rooms. The water system, and the disposal of sewage and liquid and solid waste must be in compliance with state regulation. Fire safety and disaster planning must comply with sections 20156 and 21413 (3) (c) of 1978 PA 368, MCL 333.20156 and 333.20156 and 333.21413 (3) (c).

Minnesota:
Minnesota regulates hospices in Minn. Stat. § 4664. No hospice may accept a person as a hospice patient unless the licensee has staff sufficient to qualifications and numbers to adequately provide hospice services. If the licensee discharges or transfers a hospice patient the reason for the discharge or transfer must be documented in the clinical record and include the reason why the transfer is necessary and why the patient's needs cannot be met by the hospice. A written notice must be given to the patient or responsible person at least ten days in advance of termination of services. The hospice provider must ensure that each hospice patient and hospice patient's family has a current assessment. The assessment must address the physical, nutritional, emotional, social, spiritual, pain, symptom management, medication and social needs of the hospice patient and hospice patient's family during the final stages of illness, dying and bereavement. Counseling services must be adequate in frequency to meet the needs of the patient and the patient's family. The hospice provider must provide a planned program of supportive services and bereavement counseling under the supervision of a qualified professional according to the

qualifications identified by hospice policy. The service must be available to families following the death of the hospice patient. Physical services must be available and adequate in frequency to meet the general medical needs of the hospice patient to the extent that these needs are not met by the attending physician.

Summary of factual data and analytical methodologies
The department formed an advisory committee composed of representatives of the Hospice Organization and Palliative Experts (HOPE) of Wisconsin and hospices. Representatives from these organizations were provided a copy of the initial draft of the rule and asked for comments. The department also solicited information and advice from individuals, businesses, associations representing businesses, and local governmental units who may be affected by the proposed rule for use in analyzing and determining the economic impact that the rules would have on businesses, individuals, public utility rate payers, local governmental units, and the state's economy as a whole from 05/28/19-06/11/19. The department received no comments.

Analysis and supporting documents used to determine effect on small business
See Fiscal Estimate & Economic Impact Analysis.

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

Agency contact person
Pat Benesh, 608-264-9896, Patricia.Benesh@wi.gov

Statement on quality of agency data
The data used by the Department to prepare these proposed rules and analysis comply with § 227.14 (2m), Wis. Stats.

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

RULE TEXT

SECTION 1. DHS 131.13 (3) is repealed and recreated to read:

DHS 131.13 **(3)** "Attending physician" means a person who is either a doctor of medicine or osteopathy legally authorized to practice medicine and surgery under ch. 448, Stats., physician assistant or a nurse practitioner who meets the training, education, and experience requirements specified in s. DHS 105.20 (1) and the person is identified by the patient, at the time he or she elects to receive hospice care, as having the greatest overall role in the determination and delivery of the individual's medical care.

SECTION 2. DHS 131.13 (11m), (12m), and (20m) are created to read:

DHS 131.13 **(11m)** “Nonambulatory” means unable to walk.

DHS 131.13 **(12m)** “Nursing assistant" means a person who is employed primarily to provide direct care services to residents but is not registered or licensed under ch. 441, Stats.

DHS 131.13 (20m) “Semiambulatory” means able to walk with difficulty or able to walk only with the assistance of an aid, such as crutches, a cane, or a walker.

SECTION 3. DHS 131.18 (2) (a) 4. and 7. are amended to read:

DHS 131.18 **(2)** (a) 4. If the patient moves ~~beyond~~ out of the geographical area served by the hospice or into a facility that does not have a contract with the hospice.

DHS 131.18 **(2)** (a) 7. For the patient’s safety and welfare or the safety and welfare of others, if the hospice determines that the behavior of the patient or other persons in the patient’s home is disruptive, abusive, or uncooperative to the extent that delivery of care to the patient or the ability of the hospice to operate effectively is seriously impaired.

SECTION 4. DHS 131.18 (3) is repealed and recreated to read:

DHS 131.18 **(3)** NOTICE. (a) When a patient is being discharged for a reason given in sub. (2) (a) 1.,2., 3., 4., 5., 7., or 8., the hospice shall give written notice of the discharge to the patient or patient's representative, if any, a family representative and the attending physician.

DHS 131.18 **(3)** (b) When a patient is being discharged for the reason given in sub. (2) (a) 6., the hospice shall give written notice of the discharge at least 14 days prior to the date of discharge, and indicate a proposed date for pre-discharge planning. The written notice shall be given to the patient or patient's representative, if any, a family representative and the attending physician.

SECTION 5. DHS 131.18 (4) and (title), DHS 131.20 (1) (a), DHS 131.21 (2) (d), DHS 131.25 (6) (a) 1., (b), and DHS 131.35 (1) and (4) are amended to read:

DHS 131.18 **(4)** PLANNING ~~CONFERENCE~~. The hospice shall conduct the pre-discharge planning ~~conference~~ with the patient or the patient's representative and review the need for discharge, assess the effect of discharge on the patient, discuss alternative placements and develop a comprehensive discharge plan.

DHS 131.20 **(1)** (a) If the hospice determines that it has the general capability to meet the prospective patient's described needs, ~~then before services are provided,~~ a registered nurse shall perform an initial assessment of the person's ~~condition and~~ immediate needs and shall describe in writing the person's current status, including physical condition, present pain status, emotional status, pertinent psychosocial and spiritual concerns and coping ability of the prospective patient and family support system, and shall determine the appropriateness or inappropriateness of admission to the hospice based on the assessment.

DHS 131.21 **(2)** (d) The registered nurse shall immediately record and sign a physician's oral orders and shall obtain the physician's counter-signature within 20 working days.

DHS 131.25 **(6)** (a) 1. Coordinated by an individual ~~recognized by the governing body to possess~~ who possesses the capacity by training and experience to provide for the bereavement

needs of families, including the ability to organize a program of directed care services provided to family members.

DHS 131.25 **(6)** (b) *Dietary counseling.* Dietary counseling services shall be provided only as authorized by the hospice and in conjunction with the plan of care. The services shall be provided by a registered ~~dietician~~ dietitian or an individual who has documented equivalency in education or training. Dietary services shall be supervised and evaluated by a registered ~~dietician~~ dietitian or other individual qualified under this paragraph who may delegate acts to other employees. Dietary counseling services shall consist of all of the following:

DHS 131.35 **(1)** "Existing construction" or "existing facility" means a building which is in place or is being constructed with plans approved by the department prior to ~~October 1, 2010~~ the effective date of this rule.

DHS 131.35 **(4)** "New construction" means construction for the first time of any building or addition to an existing building, the plans for which are approved on or after ~~October 1, 2010.~~ the effective date of this rule.

SECTION 6. DHS 131.35 (5) and DHS 131.37 (2) to (4) are repealed.

SECTION 7. DHS 131.37 (5) (a) is amended to read:

DHS 131.37 **(5)** (a) *Design and location.* Patient bedrooms shall be designed and equipped for the comfort and privacy of the patient and shall be equipped with or conveniently located near toilet and bathing facilities.

SECTION 8. DHS 131.37 (5) (a) 1. to 3.are repealed.

SECTION 9. DHS 131.37 (5) (b) 1. is amended to read:

DHS 131.37 **(5)** (b) 1. A patient bedroom may accommodate no more than ~~3~~ 2 patients ~~except that in new construction a patient bedroom may accommodate no more than 2 persons~~. Patients of the opposite sex may not be required to occupy the same sleeping room.

SECTION 10. DHS 131.37 (5) (c) 1. is repealed.

SECTION 11. DHS 131.37 (5) (d) and (e) 3. are amended to read:

DHS 131.37 **(5)** (d) *Semiambulatory and nonambulatory patients*. For rooms with semiambulatory or nonambulatory patients, mobility space at the end and one side of each bed may not be not less than 4 feet. Adequate accessible space for storage of a patient's wheelchair or other adaptive or prosthetic equipment shall be provided and shall be readily accessible to the patient. ~~In this paragraph, "semiambulatory" means able to walk with difficulty or able to walk only with assistance of an aid such as crutches, a cane or a walker, and "nonambulatory" means not able to walk at all.~~

DHS 131.37 **(5)** (e) 3. Closet or wardrobe space with clothes racks and shelves in the bedroom. ~~Closets or wardrobes shall have an enclosed space of not less than 15 inches wide by 18 inches deep by 5 feet in height for each patient.~~

SECTION 12. DHS 131.37 (6) is repealed.

SECTION 13. DHS 131.37 (7) (a), (c) and (title) are amended to read:

DHS 131.37 **(7)** (a) *Minimum size*. Every living and sleeping room shall have one or more outside-facing windows~~ with a total sash area of at least 8% of the floor area of the room. The openable area of a window shall be equal to not less than 4% of the floor area of the room~~.

DHS 131.37 **(7)** (c) ~~*Storm windows and*~~ *Window screens*. All openable windows ~~serving~~ in habitable rooms shall~~ be provided with storm windows in winter, except insulated windows, and openable windows serving habitable rooms shall be provided with~~ have insect-proof screens~~ in summer~~.

SECTION 14. DHS 131.37 (8) (b) and (c) are repealed and recreated to read:

DHS 131.37 **(8)** (b) Extension cords shall not be used in lieu of permanent wiring.

DHS 131.37 **(8)** (c) Exposed wiring is prohibited.

SECTION 15. DHS 131.37 (8) (d) and (e) are repealed.

SECTION 16. DHS 131.37 (16) (c) is amended to read:

DHS 131.37 **(16)** (c) The use of portable space heaters is prohibited~~ except for permanently wired electric heaters which have an automatic thermostatic control and are attached to a wall~~.

SECTION 17. DHS 131.37 (17) (a) 3. is amended to read:

DHS 131.37 **(17)** (a) 3. All bath and toilet areas shall be well lighted.~~ Bath and toilet rooms shall be provided with at least one electrical fixture to provide artificial light.~~

SECTION 18. DHS 131.37 (17) (b) is repealed.

SECTION 19. DHS 131.37 (18) (b) is amended to read:

DHS 131.37 **(18)** (b) Hot water~~ at~~ from taps accessible to patients may not exceed~~ 110º~~ 115º F.

SECTION 20. DHS 131.37 (19) and (25) are repealed.

SECTION 21. DHS 131.38 (1) is renumbered to DHS 131.38 (intro.)

SECTION 22. DHS 131.38 (2) and (Note), and (3) are repealed.

SECTION 23. DHS 131.39 (1) is repealed and recreated to read:

DHS 131.39 **(1)** FIRE INSPECTION. The licensee of the hospice shall do all of the following:

DHS 131.39 **(1)** (a) The hospice shall obtain an annual inspection of the facility by the local fire authority or certified fire inspector and shall retain fire inspection reports for 2 years.

DHS 131.39 **(1)** (b) The hospice shall provide to the local fire authority a copy of the facility written plan of orderly evacuation of patients in the event of fire.

SECTION 24. DHS 131.39 (4) is repealed.

SECTION 25. DHS 131.39 (5) (c) 1. is amended to read:

DHS 131.39 **(5)** (c) 1.Smoke detectors shall be installed, tested and maintained in accordance with ~~the manufacturer's recommendations, except that they shall be tested not less than once a month.~~ NFPA 72-2013 edition. Smoke detectors powered by the hospice electrical system shall be tested according to the manufacturer's recommendation but no less than once a month. The hospice shall maintain a written record of tests for the previous 2 years.

SECTION 26. DHS 131.39 (5) (c) 1. (Note) is created to read:

DHS 131.39 **(5)** (c) 1. (Note) Copies of the 2012 Life Safety Code and related codes may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169.

SECTION 27. DHS 131.39 (5) (c) 2. and (Note) are repealed.

SECTION 28. DHS 131.39 (6) (a) and (b) are amended to read:

DHS 131.39 **(6)** (a) Hospice facilities ~~licensed after June 1, 1992 which were not previously licensed~~ shall install at least one heat detector integrated with the smoke detection system at each of the following locations:

DHS 131.39 **(6)** (b) Smoke and heat detectors installed under this section shall be listed by a nationally recognized testing laboratory ~~that maintains periodic inspection of production of tested equipment and the listing of which states that the equipment meets nationally recognized standards or has been tested and found suitable for use in a specified manner~~.

SECTION 29. DHS 131.39 (8) and DHS 131.40 to DHS 131.42 are created to read:

DHS 131.39 **(8)** FIRE REPORT. All incidents of fire in a hospice shall be reported to the department within 72 hours.

DHS 131.39 **(8)** (Note) A fire report must be completed online. An approved fire report survey is available at: Health Care Facility Fire Report, F-62500, at: https://www.dhs.wisconsin.gov/publications/p01729.pdf

DHS 131.40 **Plans for new construction and alterations.**
(1) DEFINITIONS. In this subsection:
(a) "Alteration" has the meaning provided in SPS 361.05 International Building Code 2015.
(b) "Existing construction" means a building which is in place or is being constructed with plans approved by the department prior to the effective date of this rule.
(c) "Life Safety Code" means the National Fire Protection Association's (NFPA) Standard 101.
(d) "New construction" means construction for the first time of any building or addition to an existing building, the plans for which are approved on or after the effective date of this rule.

(2) SIGNING AND SEALING. Construction documents submitted to the department for review shall be prepared, signed and sealed as required by ch. 443, Stats., and s. A−E 2.02.

(3) CONTENTS AND INFORMATION.
(a) 1. Construction documents submitted to the department for review shall be dimensioned and drawn to scale.
2. The scale used for the construction documents shall be indicated on the documents.
(b) 1. Except as provided in subd. 2., at least 4 sets of construction documents shall be submitted to the department for review.

2. a. At least one set of construction specifications shall be submitted to the department for review.
b. One complete set of plans may be submitted, provided it is accompanied with 3 copies of the cover sheet for the complete set, and provided all 4 cover sheets comply with sub. (1).
c. Fees shall be remitted at the time the plans are submitted. No plan examinations, approvals, or onsite reviews shall be made until fees are received.

(4) APPLICATION APPROVAL.
(a) A plan review application form shall be included with the construction documents and information submitted to the department for examination and approval. The department shall review and make a determination on an application for plan review under this chapter within 30 business days.
(b) An application for conditional approval will not be granted if, upon examination, the department determines that the construction documents or application for approval require additional information.
(c) If, upon examination, the department determines that the construction documents and the application for approval comply substantially with this chapter, a conditional approval, in writing, will be granted and the plans will be stamped conditionally approved. All conditions stated in the conditional approval shall be complied with by the applicant before or during construction.
(d) If, upon examination, the department determines that the construction documents or application for approval do not substantially comply with this chapter, the application for conditional approval will be denied, in writing.

(5) EXPIRATION OF APPROVAL.
(a) *Building shell.* Plan approval by the department for new buildings and building additions shall expire 2 years after the approval date indicated on the approved building plans if the building shell is not closed-in within those 2 years.
(b) *Occupancy.* Plan approval by the department for new buildings and building additions shall expire 3 years after the approval date indicated on the approved building plans if the building is not ready for occupancy within those 3 years.
(c) *Alterations.* Plan approval by the department for interior building alterations shall expire one year after the approval date indicated on the approved building plans if the alteration work is not completed within that year.
(d) *HVAC construction only.* Plan approval by the department for heating, ventilating, or air conditioning construction that does not include any associated building construction shall expire one year after the approval date indicated on the approved plans if the building or building area affected by the plans is not ready for occupancy within that year.
(e) *Fire protection systems only*. Plan approval by the department for a fire protection system that does not include any associated building construction shall expire 2 years after the approval date indicated on the approved plans if the building or building area affected by the plans is not ready for occupancy within those 2 years.

(6) EXTENSION OF PLAN APPROVAL. Upon request and payment of the fee specified in s. DHS 131.42 (3) (d), the expiration dates in sub. (5) (a) to (e) may be extended provided the request is submitted prior to expiration of the original approval.

(7) CHANGES TO APPROVED FINAL PLANS. Any changes in the approved final plans affecting the application of the requirements of this subchapter shall be shown on the approved final plans and shall be submitted to the department for approval before construction is undertaken. The department shall notify the hospice in writing of any conflict with this subchapter found in its review of modified plans and specifications.

(8) PERMISSION TO START CONSTRUCTION.

(a) A building owner may request and the department may grant permission to start construction for the footings and foundations upon submission of construction documents under s. DHS 131.40.
(b) The department shall review and make a determination on an application for permission to start construction of the footings and foundations within 3 business days of receipt of the application and all forms, fees, construction documents and information required to complete the review.
(c) A building owner who has been granted permission to start construction of the footings and foundations may proceed at the owner's own risk without assurance that a conditional approval for the building will be granted.

(9) ONSITE REVIEWS. The department may conduct onsite reviews during the construction phase of the project including but not limited to framing reviews, above ceiling reviews, and finish reviews.

DHS 131.41 **Plan review.**

(1) Before the start of any construction or alteration project for a hospice, the plans for the construction or alteration shall be submitted to the department, pursuant to s. DHS 131.40, for review and approval by the department.

(2) The department shall review hospice construction and alteration plans for compliance with all of the following:

(a) Chapter DHS 131.

(b) The Wisconsin Commercial Building Code, chs. SPS 361 to 366, with the exception of s. SPS 361.31 (3). Where chs. SPS 361 to 366 refer to the department of safety and professional services, those rules shall be deemed for purposes of review under this chapter to refer to the department of health services.

(c) "Life Safety Code NFPA 101 as identified in the Conditions of Participation, per s. 50.36, Stats."

(Note) Copies of the Life Safety Code NFPA documents are available at the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471.

DHS 131.42 **Fees for plan reviews.**
(1) GENERAL. The fees established in this section shall be paid to the department for providing plan review services under this subchapter. The department may withhold providing services to parties who have past due accounts with the department for plan review services. The fee for review of plans shall be based on the total gross floor area of SPS Table 302.31-1 and on the dollar value of the project to the schedule under sub. (2).

(2) FEE BASED ON PROJECT DOLLAR VALUE.

Project Dollar Value	Fee
Less Than $4,999	$125
$5,000 - $12,249	$175
$12,500 - $24,999	$375
$25,000 - $49,999	$475
$50,000 - $99,999	$625
$100,000 - $249,999	$775
$250,000 - $499,999	$925

$500,000 - $749,999	$1,175
$750,000 - $999,999	$1,550
$1,000,000 - $2,499,999	$2,350
$2,500,000 - $4,999,999	$4,675
$5,000,000 - $9,999,999	$6,250
$10,000,000 - $19,999,999	$12,500
$20,000,000 And Over	$20,000

(3) OTHER FEE PROVISIONS RELATED TO REVIEW OF PLANS.
(a) *Fee for miscellaneous plans.* Miscellaneous plans are plans that have no building or heating, ventilation and air conditioning plan submissions and for which there may not be an associated area. The fee for a miscellaneous plan shall be $250. This fee is for plan review and inspection. Miscellaneous plans include:
1. Footing and foundation plans submitted prior to the sub- mission of the building plans;
2. Structural plans submitted as independent projects, such as docks or, antennae; and
3. Plans for any building component, other than building and heating, ventilation and air conditioning, submitted following the final inspection by the department.
(b) *Fee for permission to start construction.* The fee for permission to start construction shall be $75. This fee shall apply only to applicants proposing to start construction prior to approval of their plans by the department.
(c) *Fee for plan revision.* The fee for revision of previously approved plans shall be $75. This paragraph applies when plans are revised for reasons other than those that were requested by the department. The department may not charge a fee for revisions requested by the department as a condition of original plan approval.
(d) *Fee for extension of plan approval.* The examination fee for a plan previously approved by the department for which an approval extension beyond the time limit specified in this chapter shall be $120 per plan.
(e) *Fee for plan entry*. In addition to the plan review and inspection fees for a project, each separate submission of plans for the project shall be accompanied by a $100.00 plan entry fee. When plans for multiple projects are submitted together, each project shall constitute a separate submission and requires a $100.00 plan entry fee.
(f) *Fee for petitions for variance.* The fee for reviewing commercial building code petitions for variance shall be in accordance with SPS 302. The fee for reviewing a petition on a priority basis shall be in accordance with SPS 302.

SECTION 30. EFFECTIVE DATE: This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in § 227.22 (2) (intro.), Wis. Stats.