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## WISCONSIN ADMINISTRATIVE REGISTER

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## Emergency Rules Now in Effect

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*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](http://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.*

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### Agriculture, Trade and Consumer Protection (3)

**1. EmR1038** — Rule adopted to create **section ATCP 21.21**, relating to restricting the import of certain plants, wood and wood products to prevent the introduction of thousand cankers disease of walnut trees into this state.

#### Finding of emergency

(1) Thousand cankers disease is an emerging fungal disease that can be carried by the walnut twig beetle (the beetle is native to this country). The disease poses a serious threat to black walnut trees, an important forest species in Wisconsin. Black walnut is known for its highly valuable lumber, which is used for finished products such as furniture, musical instruments and gun stocks. There are approximately 18.5 million black walnut trees in Wisconsin, with over 13% of them located in the southeastern part of the state. Wisconsin businesses export over \$4 million in black walnut products annually.

(2) Thousand cankers disease was first observed in New Mexico in the 1990's. The disease has spread throughout the western United States, causing dieback and mortality in black walnut trees. In July, 2010, the disease was also confirmed in the Knoxville, Tennessee area. The Tennessee infestation is

the first confirmed infestation east of the Mississippi River, the native range of the black walnut tree.

(3) Thousand cankers disease is currently known to exist in the states of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Tennessee, Utah and Washington. The disease has not yet been found in Wisconsin.

(4) Thousand cankers disease may be spread by the movement of firewood, nursery stock, and unfinished or untreated wood products. It is important to restrict the import of host materials from infested areas, to prevent the disease from being introduced into Wisconsin. The disease, if introduced into Wisconsin, could cause great damage to Wisconsin's economically-important and environmentally important walnut forest resource.

(5) It is important to restrict the import of host materials from infested areas as soon as possible. Without this emergency rule, host materials may be imported into Wisconsin from infested areas without adequate safeguards to prevent the introduction of thousand cankers disease into this state.

(6) It would take over a year to adopt the necessary import restrictions by the normal rulemaking procedure prescribed in ch. 227, Stats. DATCP is therefore adopting this temporary emergency rule under s. 227.24, Stats., pending the adoption of a more "permanent" rule by the normal rulemaking procedures. This temporary emergency rule is necessary to protect the public peace, health, safety and welfare, and to help prevent the introduction of a serious plant disease in this state, pending the adoption of a "permanent" rule by the normal procedure.

**Publication Date:** November 1, 2010

**Effective Dates:** November 1, 2010 through March 30, 2011

**Hearing Date:** January 26, 2011

**2. EmR1040** — Rule adopted to create **Chapter ATCP 53**, relating to agricultural enterprise areas.

#### Exemption from Finding of Emergency

Under s. 91.84(2), the department may use the procedure under s. 227.24 to promulgate a rule designating an agricultural preservation area or modifying or terminating the designation of an agricultural preservation area. Notwithstanding s. 227.24(1)(c) and (2), a rule promulgated under that subsection remains in effect until the department modifies or repeals the rule. Notwithstanding s. 227.24(1)(a) and (3), the department is not required to determine that promulgating a rule under that subsection 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 under that subsection.

The department views s. 91.84(2) as authority to adopt permanent rules that shall be published immediately in the Wisconsin Administrative Code.

**Publication Date:** November 9, 2010

**Effective Dates:** January 1, 2011 until the Department modifies or repeals the rule

**3. EmR1048** — Rule adopted to repeal and recreate **Chapter ATCP 20**, relating to seed labeling and sales.

**Finding of Emergency**

Pursuant to sections 93.07(1) and 94.45(6), Stats. This emergency rule is also adopted pursuant to the nonstatutory provision in 2009 Wis. Act 28, section 9103(3).

2009 Wis. Act 28 repealed outdated seed standards effective January 1, 2011, and authorized DATCP to adopt new standards by rule. A non-statutory provision, contained in section 9103(3) of Act 28, authorized DATCP to adopt interim rules by the emergency rulemaking procedure under s. 227.24, Stats., without a finding of emergency. Under this non-statutory provision, the interim rules may remain in effect until July 1, 2011 or until the effective date of proposed “permanent” seed rules, whichever date is earlier.

**Publication Date:** January 1, 2011  
**Effective Dates:** January 1, 2011 through July 1, 2011  
**Hearing Date:** January 11, 2011

**Children and Families (2)**

*Safety and Permanence, Chs. DCF 37–59*

**1. EmR1034** — Rule adopted to create **sections DCF 57.485 and 57.49 (1) (am)**, relating to determination of need for new group homes.

**Exemption From Finding of Emergency**

Section 14m (b) of 2009 Wisconsin Act 335 provides that the department is not required to provide evidence that promulgating a rule under s. 48.625 (1g), Stats., 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.

Section 14m (b) also provides that notwithstanding s. 227.24 (1) (c) and (2), Stats., an emergency rule promulgated under s. 48.625 (1g), Stats., remains in effect until the permanent rules promulgated under s. 48.625 (1g), Stats., take effect.

**Publication Date:** September 2, 2010  
**Effective Dates:** September 2, 2010 through the date permanent rules become effective  
**Hearing Date:** October 21, 2010

**2. EmR1050** — Rule adopted to repeal **Chapter DCF 38** and revise **Chapter DCF 56**, relating to foster 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:

In the Child and Family Services Review of Wisconsin’s child welfare system this past year, the federal Administration for Children and Families found that Wisconsin is not operating in substantial conformity with a number of federal requirements. In response to this review, the department has submitted a program improvement plan that commits the department to complete implementation of the levels of care

system and the child assessment tool throughout the first quarter of 2011. Implementation must begin immediately to meet this deadline and subsequent dependent deadlines in the remaining 2 years of the program improvement plan.

**Publication Date:** January 1, 2011  
**Effective Dates:** January 1, 2011 through May 30, 2011  
**Hearing Dates:** February 8, 15, 28, 2011

**Commerce (4)**

*Financial Resources for Businesses and Communities, Chs. Comm 100—*

**1. EmR1019** — Rule adopted to create **Chapter Comm 135**, relating to tax credits for investments in food processing plants and food warehouses.

**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. Under sections 71.07 (3rm), 71.28 (3rm) and 71.47 (3rm) of the Statutes, as created in 2009 Wisconsin Act 295, a taxpayer may claim a tax credit for investments in food processing plants and food warehouses during taxable years beginning after December 31, 2009.

Section 560.2056 (4) of the Statutes, as likewise created in 2009 Wisconsin Act 295, requires the Department to (1) implement a program for certifying taxpayers as eligible for the food processing plant and food warehouse investment credit, (2) determine the amount of credits to allocate to those taxpayers, and (3) in consultation with the Department of Revenue, promulgate rules to administer the program. No other provisions are established in the Statutes regarding the specific process for taxpayers to use in applying for the credits, and for the Department of Commerce to use in certifying eligible taxpayers and in allocating the credits.

Because of enactment of 2009 Wisconsin Act 295, a number of entities that may be eligible for the tax credits have contacted the Department with inquiries concerning the process for applying for the credits, for expenditures that have been or will be incurred during taxable years that began after December 31, 2009. In addition, section 71.07 (3rm) of the Statutes includes a \$1,000,000 tax-credit allocation that became available on May 27, 2010, and expires on June 30, 2010.

Although the Department of Commerce has begun promulgating the permanent rule that is required by 2009 Act 295, the time periods in chapter 227 of the Statutes for promulgating permanent rules preclude the permanent rule from becoming effective in time to accommodate allocating the tax credits for the 2009–10 fiscal year. This emergency rule will enable the Department of Commerce to establish an application, certification, and tax credit allocation process for the entities that will be eligible for the allocation that expires on June 30, 2010.

**Publication Date:** June 8, 2010  
**Effective Dates:** June 8, 2010 through November 4, 2010  
**Extension Through:** March 11, 2011  
**Hearing Date:** August 17, 2010

**2. EmR1026** — Rule adopted creating **Chapter Comm 139**, relating to rural outsourcing grants.

**Exemption From Finding of Emergency**

The Legislature, by Section 45 (1) (b) of 2009 Wisconsin Act 265, 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:** July 2, 2010  
**Effective Dates:** July 2, 2010 through November 28, 2010  
**Extension Through:** March 28, 2011  
**Hearing Date:** October 13, 2010

**3. EmR1041** — Rule adopted creating **Chapter Comm 103**, relating to certification of disabled–veteran–owned businesses, and affecting small businesses.

**Exemption From Finding of Emergency**

The Legislature, by SECTION 101 (1) in 2009 Wisconsin Act 299, 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:** November 14, 2010  
**Effective Dates:** November 14, 2010 through April 12, 2011 (corrected)  
**Hearing Date:** February 15, 2011

**4. EmR1044** — Rule adopted to revise **Chapter Comm 139**, relating to rural outsourcing grants.

**Exemption From Finding of Emergency**

The Legislature, by SECTION 45 (1) (b) of 2009 Wisconsin Act 265, 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:** November 28, 2010  
**Effective Dates:** November 28, 2010 through April 26, 2011  
**Hearing Date:** February 16, 2011

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**Government Accountability Board**

**EmR1049** — Rule adopted to amend **section GAB 1.28**, relating to the definition of the term “political purpose.”

**Finding of Emergency**

The Government Accountability Board amends s. GAB 1.28(3)(b), Wis. Adm. Code, relating to the definition of the term “political purpose.” Section GAB 1.28 as a whole continues to clarify the definition of “political purposes” found in s. 11.01(16)(a)1., Stats., but repeals the second sentence of s. GAB 1.28(3)(b) which prescribes communications presumptively susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

This amendment to s. GAB 1.28(3)(b) is to the rule that was published on July 31, 2010 and effective on August 1, 2010, following a lengthy two year period of drafting, internal review and study, public comment, Legislative review, and consideration of U.S. Supreme Court decisions. Within the context of ch. 11, Stats, s. GAB 1.28 provides direction to persons intending to engage in activities for political purposes with respect to triggering registering and reporting obligations under campaign financing statutes and regulations. In addition, the rule provides more information for the public so that it may have a more complete understanding as to who is supporting or opposing which candidate or cause and to what extent, whether directly or indirectly.

Pursuant to §227.24, Stats., the Government Accountability Board finds an emergency exists as a result of pending litigation against the Board and two decisions by the United States Supreme Court: *Federal Election Commission (FEC) v. Wisconsin Right to Life, Inc. (WRTL II)*, 550 U.S. 549 (2007) and *Citizens United v. FEC*, 558 U.S. \_\_\_, (No. 08–205)(January 21, 2010). Following the effective date of the August 1, 2010 rule, three lawsuits were filed seeking a declaration that the rule was unconstitutional and beyond the Board’s statutory authority: one in the U.S. District Court for the Western District of Wisconsin, one in the U.S. District Court for the Eastern District of Wisconsin, and one in the Wisconsin Supreme Court. On August 13, 2010, the Wisconsin Supreme Court temporarily enjoined enforcement of the August 1, 2010 rule, pending further order by the Court.

In the lawsuit in the U.S. District Court for the Western District of Wisconsin, the parties previously executed a joint stipulation asking the Court to permanently enjoin application and enforcement of the second sentence of s. GAB 1.28(3)(b). On October 13, 2010, the Court issued an Opinion and Order denying that injunction request. In denying the injunction, the Court noted that “G.A.B. has within its own power the ability to refrain from enforcing, or removing altogether, the offending sentence from a regulation G.A.B. itself created” and emphasized that “removing the language—for example, by G.A.B. issuing an emergency rule—would be far more ‘simple and expeditious’ than asking a federal court to permanently enjoin enforcement of the offending regulation.” *Wisconsin Club for Growth, Inc. v. Myse*, No. 10–CV–427, slip op. at 2 (W.D. Wis. Oct. 13, 2010). The Court further noted that staying the case would give the Board time to resolve some or all of the pending issues through further rulemaking. *Id.*, slip op. at 14.

In addition, the Board, through its litigation counsel, has represented to the Wisconsin Supreme Court that it does not intend to defend the validity of the second sentence of s. GAB 1.28(3)(b) and that it would stipulate to the entry of an order by that Court permanently enjoining the application or enforcement of that sentence.

This amendment brings s. GAB 1.28(3)(b) into conformity with the above stipulation, with the representations that have been made to the Wisconsin Supreme Court, and with the suggestions made in the October 13, 2010, Opinion and Order of the U.S. District Court for the Western District of Wisconsin. The Board finds that the immediate adoption of this amendment will preserve the public peace and welfare by providing a simple and expeditious clarification of the meaning of s. GAB 1.28 for litigants, for the regulated community, and for the general public and by doing so in advance of the 2011 Spring Election and any other future elections.

**Publication Date:** January 7, 2011  
**Effective Dates:** January 7, 2011 through June 5, 2011  
**Hearing Date:** February 16, 2011

### Insurance (3)

**1. EmR1042** — Rule to create **section Ins 3.35**, relating to colorectal cancer screening coverage 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 December 1, insurers offering disability insurance policies and self-insured governmental plans are required to offer coverage for colorectal cancer screening. In order to ensure there is no gap in coverage the office needs to promulgate guidance as directed s. 632.895 (16m) (d), Stats., in advance of the initial implementation date.

**Publication Date:** November 29, 2010  
**Effective Dates:** November 29, 2010 through April 27, 2011  
**Hearing Date:** January 25, 2011

**2. EmR1043** — Rule to amend **section Ins 3.37 (1) to (5) (intro)**; and to create **sections Ins 3.37 (2m), (3m), (4m) and (5m), and 3.375**, relating to health insurance coverage of nervous and mental disorders and substance use disorders, and affecting small business.

#### Exemption From Finding of Emergency

The legislature by s. 632.89 (4) (b) 2., Stats., provides an exemption from a finding of emergency for adoption of the rule. Section 632.89 (4) (b) 2., Stats., reads as follows:

632.89 (4) (b) 2. Using the procedure under s. 227.24, the commissioner may promulgate the rules under subd. 1., for the period before the effective date of any permanent rules promulgated under subd. 1., but not to exceed the period authorized under 227.24 (1) (c) and (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the commissioner is not required to provide evidence that promulgating a rule under this subdivision as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to make a finding of emergency for a rule promulgated under this subdivision.

**Publication Date:** November 29, 2010  
**Effective Dates:** November 29, 2010 through April 27, 2011  
**Hearing Date:** January 25, 2011

**3. EmR1101** — Rule adopted to revise **section Ins 6.07 (4) and (9)**, relating to readability and electronic access to insurance policies 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 cost of implementing the Flesch scores and electronic access to policies significantly exceeded anticipated costs for the

insurance industry; a review of state resources indicates insufficient staff to timely review the volume of health insurance policy filings resulting from the flesch score requirement; and it is anticipated the federal department of Health and Human Services (“HHS”) will use National Association of Insurance Commissioners recommendations for the development of standards for a uniform summary of benefits and coverage explanation for all potential policyholders and enrollees. Repealing these provisions now before costly system overhauls will save both the industry and the state significant resources. Further, although it was anticipated that the National Association of Insurance Commissioners was planning to implement a national readability standard, such movement has stalled negating the amendment to prior Flesch readability scores.

The changes contained in this emergency rule will restore prior standards and ease financial constraints for the insurance industry.

**Publication Date:** February 9, 2011  
**Effective Dates:** February 9, 2011 through July 8, 2011

### Natural Resources (3)

*Fish, Game, etc., Chs. NR 1—*

**1. EmR1036** — Rule adopted to create **section NR 40.04 (2) (g)** relating to the identification, classification and control of invasive species.

#### Exemption From Finding of Emergency

Section 227.24 (1) (a), Stats., authorizes state agencies to promulgate a rule as an emergency rule without complying with the notice, hearing and publication requirements under ch. 227, Stats., if preservation of the public peace, health, safety or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the procedures. However, s. 23.22 (2t) (a), Stats., authorizes the department to promulgate emergency rules to identify, classify, or control an invasive species without having to provide evidence that an emergency rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency. **In addition, such emergency rules may remain in effect until whichever of the following occurs first: the first day of the 25th month beginning after the effective date of the emergency rule, the effective date of the repeal of the emergency rule, or the date on which the permanent rule identifying, classifying, or controlling the invasive species, promulgated under s. 23.22 (2) (b) 6., Stats., takes effect.**

**Publication Date:** September 29, 2010  
**Effective Dates:** September 29, 2010 through: *See bold text above*  
**Hearing Dates:** October 25 to 29, 2010

**2. EmR1039** (DNR # IS-49-10(E)) — Rule adopted to create **sections NR 40.02 (7g), (7r), (25m), (28m) and (46m), 40.04 (3m) and 40.07 (8)** relating to the identification, classification and control of invasive bat species.

#### Exemption From Finding of Emergency

Section 227.24 (1) (a), Stats., authorizes state agencies to promulgate a rule as an emergency rule without complying with the notice, hearing and publication requirements under ch. 227, Stats., if preservation of the public peace, health, safety or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the

procedures. However, s. 23.22 (2t) (a), Stats., authorizes the department to promulgate emergency rules to identify, classify, or control an invasive species without having to provide evidence that an emergency rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency. **In addition, such emergency rules may remain in effect until whichever of the following occurs first: the first day of the 25th month beginning after the effective date of the emergency rule, the effective date of the repeal of the emergency rule, or the date on which the permanent rule identifying, classifying, or controlling the invasive species, promulgated under s. 23.22 (2) (b) 6., Stats., takes effect.**

**Publication Date:** November 3, 2010  
**Effective Dates:** November 3, 2010 through  
*See bold text above*  
**Hearing Date:** November 29, 2010

**3. EmR1045 (DNR # IS-07-11(E))**— Rule to repeal section NR 40.02 (28m); to amend section NR 40.04 (3m), and to repeal and recreate section NR 40.07 (8), (all as created by Natural Resource Board emergency order EmR1039, DNR # IS-49-10(E)), relating to the identification, classification and control of invasive species.

#### Exemption From Finding of Emergency

Section 227.24 (1) (a), Stats., authorizes state agencies to promulgate a rule as an emergency rule without complying with the notice, hearing and publication requirements under ch. 227, Stats., if preservation of the public peace, health, safety or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the procedures. However, s. 23.22 (2t) (a), Stats., authorizes the department to promulgate emergency rules to identify, classify, or control an invasive species without having to provide evidence that an emergency rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency. **In addition, such emergency rules may remain in effect until whichever of the following occurs first: the first day of the 25th month beginning after the effective date of the emergency rule, the effective date of the repeal of the emergency rule, or the date on which the permanent rule identifying, classifying, or controlling the invasive species, promulgated under s. 23.22 (2) (b) 6., Stats., takes effect.**

**Publication Date:** December 13, 2010  
**Effective Dates:** December 13, 2010 through  
*See bold text above*

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### Natural Resources

#### *Environmental Protection — Air Pollution Control, Chs. NR 400—*

**EmR1046 (DNR # AM-48-10(E))** — The Wisconsin Natural Resources Board proposes an emergency order to amend section NR 407.02 (4) (b) (intro.), and Table 3 in 407.05 (5) and to create sections NR 400.02 (74m), 400.03 (3) (om), and (4) (go) and (ki), 405.02 (28m), 405.07 (9), 407.02 (8m) and 407.075, relating to major source permitting thresholds for sources of greenhouse gas emissions and affecting small business.

#### 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. Preservation of the public welfare necessitates putting the forgoing rules into effect prior to the time that it would take if the Department complied with normal procedures.

On April 1, 2010, the U.S. EPA promulgated the first emission standard for gases contributing to climate change, i.e., greenhouse gases or GHG, which will become effective on January 2, 2011. While these standards target automobile emissions, under the Clean Air Act, this action will unintentionally subject stationary sources across the country to complex prevention of significant deterioration (PSD) and Title V permitting and emission control requirements. U.S. EPA attempted to mitigate this unintended effect by promulgating additional rules, which became effective on June 3, 2010, limiting applicability of the permitting requirements. However, Wisconsin sources will not be affected by the new U.S. EPA rules since existing state statute and administrative code do not contain the same applicability limiting provisions. State rules consistent with those at the federal level must be in effect on January 2, 2011 in order to provide the relief U.S. EPA intended for Wisconsin sources. Without these proposed emergency rules, many sources, including municipal landfills, hospitals, asphalt plants, wastewater treatment plants, small wood fired boilers and agricultural digesters, will be considered major emissions sources of GHG, and therefore subject to the permit and emission control requirements for GHG. These permit and control requirements were never intended or designed to address the type or size of sources that could now be affected. Without the proposed changes, the existing rules would have the potential to overwhelm DNR permitting staff, divert resources away from significant environmental issues, and delay issuance of construction permits for critical projects for expanding businesses.

Therefore, the Department finds that the proposed emergency rules are necessary and appropriate for the preservation of the public welfare.

**Publication Date:** December 15, 2010  
**Effective Dates:** December 15, 2010 through  
 May 15, 2011  
**Hearing Date:** January 21, 2011

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### Public Instruction

**EmR1051** — Rule adopted to create Chapter PI 46, relating to training requirements for individuals administering nonprescription and prescription drug products to pupils.

#### Finding of Emergency

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

Section 118.29 (6), Stats., requires the department to approve training in administering nonprescription drug products and prescription drugs. The statute also specifies that no school bus driver, employee, or volunteer may administer a nonprescription drug product or prescription drug, use an epinephrine auto-injector, or administer glucagon unless he or she has received such training. Because the statutory requirement becomes effective March 1, 2011, administrative rules must be in place as soon as possible so that training programs can be established prior to the effective date of the statutes.

**Publication Date:** December 28, 2010  
**Effective Dates:** December 28, 2010 through May 26, 2011  
**Hearing Date:** January 12, 2011

**Publication Date:** August 25, 2010  
**Effective Dates:** September 1, 2010 through January 28, 2011  
**Extension Through:** March 29, 2011  
**Hearing Date:** September 20, 2010

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### Regulation and Licensing (5)

**1. EmR0827** — Rule adopted creating **section 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 **section RL 181.01 (2) (c)**; and to create **sections 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

**3. EmR1031** — Rule adopted revising **Chapters RL 110 to 116**, relating to the regulation of professional boxing contests.

#### Exemption From Finding of Emergency

The Department of Regulation and Licensing, pursuant to 2009 Wisconsin Act 111, is not required to provide evidence that an emergency exists nor provide evidence that promulgating a rule is necessary for the preservation of the public peace, health, safety, or welfare.

**4. EmR1032** — Rule adopted creating **Chapters RL 192 to 196**, relating to the regulation of mixed martial arts sporting events.

#### Exemption From Finding of Emergency

The Department of Regulation and Licensing, pursuant to 2009 Wisconsin Act 111, is not required to provide evidence 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:** August 26, 2010  
**Effective Dates:** September 1, 2010 through January 28, 2011  
**Extension Through:** March 29, 2011  
**Hearing Date:** September 20, 2010

**5. EmR1102** — Rule adopted creating **Chapters RL 200 to 202**, relating to governing professional conduct of individuals licensed as sign language interpreters, and for the treatment of state resident licensure exemption requests.

#### Finding of Emergency

2009 Wisconsin Act 360 created laws regulating the practice of sign language interpreting, and became effective on December 1, 2010. Under the act, codified at s. 440.032, Stats., individuals practicing as sign language interpreters must now be licensed by the department, and must comply with a code of professional conduct to be promulgated by the department. The new law also provides for exemptions from the licensure requirement under certain circumstances, and requires the council to promulgate rules establishing the criteria and procedures for granting state resident exemptions. As s. 440.032, Stats., is already in effect, an emergency rule is necessary to implement the law pending promulgation of a similar permanent rule.

**Publication Date:** March 16, 2011  
**Effective Dates:** March 16, 2011 through August 12, 2011

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### Regulation and Licensing — Barbering and Cosmetology Examining Board

**EmR1047** — Rule adopted to revise **Chapters BC 9 and 11**, relating to late renewal and continuing education.

#### Finding of Emergency

The rule as currently promulgated fails to adequately protect the public to the extent that several provisions are underdeveloped, ambiguous or silent. As a result, inconsistent interpretations and contradictory information has led to significant confusion within the profession. Given that the rules require licensees to comply by March 31, 2011, the errors and omissions need to be addressed immediately so licensees can receive adequate training to provide safe and competent services to the public, and comply with the requirements for renewal of a license.

**Publication Date:** December 23, 2010  
**Effective Dates:** December 23, 2010 through May 21, 2011  
**Hearing Date:** April 4, 2011

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## Scope Statements

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### Natural Resources

#### *Fish, Game, etc., Chs. NR 1—*

#### Subject

Revises Chapter NR 10, related to the bobcat hunting and trapping season.

#### Policy Analysis

Through this rulemaking, the department will evaluate whether the bobcat hunting and trapping season should remain split into two separate time periods, if it should revert back to a single, straight season framework, or if the trial period should be extended in order to allow additional evaluation.

In 2010 and 2011, the bobcat season is split into two separate permit periods: the Saturday nearest Oct. 17 – Dec. 25 and Dec. 26 to Jan 31. Beginning in 2012, the season reverts back to a single permit period beginning on the Saturday nearest October 17 and continuing through December 31.

During this rule making process, impacts of the split bobcat season framework and public opinion will be evaluated. If there is support, this rule proposal would make the split season framework permanent. If a return to the single, straight season framework is desired, this proposal would make routine housekeeping changes to strike the 2010 and 2011 seasons from administrative code language. If there is not enough information for a complete evaluation, an extension of the trial season could be proposed.

#### Statutory Authority

Sections 29.011, 29.014 and 29.192 (4), Wis. Stats.

#### Comparison with Federal Regulations

Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

#### Entities Affected by the Rule

Groups likely to be impacted or interested in this rulemaking are bobcat hunters and trappers, including members of groups such as the Wisconsin Trappers Association, Bear Hunters Association, Wildlife Federation, and the Conservation Congress.

#### Estimate of Time Needed to Develop the Rule

144 hours.

#### Agency Contact

Scott Loomans, 101 S Webster St., Madison, WI 53707, (608) 267-2452, [scott.loomans@wisconsin.gov](mailto:scott.loomans@wisconsin.gov).

John Olson, 2501 Golf Course Road, Ashland, WI 54806, (715) 685-2934, [johnf.olson@wisconsin.gov](mailto:johnf.olson@wisconsin.gov).

### Regulation and Licensing — Massage Therapy and Bodywork Therapy Affiliated Credentialing Board

#### Subject

Revisions to Chapters RL 90 to 94 necessary following 2009 Wisconsin Act 355, including the temporary permit issued by the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board.

#### Objective of the Rule

Make any necessary changes to the Massage Therapy and Bodywork Therapy rules as a result of 2009 Wisconsin Act 355. Establish the requirements to be satisfied by a person seeking a temporary license to practice massage therapy and bodywork therapy.

#### Policy Analysis

Wis. Stat. s. 460.04 (2) (f) requires the person to be a graduate of a massage therapy or bodywork therapy school or program and may require the holder of a temporary license to make disclosures to clients and to practice under the supervision of a licensed massage therapist or bodywork therapist. The temporary license period may not exceed 6 months.

#### Statutory Authority

Sections 15.08 (5) (b), 460.04 (2), 460.08, Wis. Stats.

#### Comparison with Federal Regulations

None.

#### Entities Affected by the Rule

Graduates of a massage therapy or bodywork therapy school, licensed massage therapists or bodywork therapist supervisors, massage therapy and bodywork therapy schools or programs, Wisconsin Department of Regulation and Licensing.

#### Estimate of Time Needed to Develop the Rule

It is estimated that 200 hours will be needed to promulgate the rule.

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# Submittal of Rules to Legislative Council Clearinghouse

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

## **Insurance CR 11–015**

On March 15, 2011, the Office of the Commissioner of Insurance submitted proposed rules to the Legislative Council Rules Clearinghouse.

### **Analysis**

The proposed rule revises Chapter Ins 17, relating to annual Injured Patients and Families Compensation Fund fees, mediation panel fees, and provider classifications.

### **Agency Procedure for Promulgation**

A public hearing will be held April 13, 2011.

### **Contact Information**

Inger Williams, Public Information and Communications  
Office of the Commissioner of Insurance  
Phone: (608) 264–8110  
OR  
Theresa Wedekind, Legal Unit  
Phone: (608) 266–0953  
Email: [Theresa.Wedekind@wisconsin.gov](mailto:Theresa.Wedekind@wisconsin.gov)

## **Natural Resources Fish, Game, etc., Chs. NR 1 — CR 11–012 (DNR # FR–45–10)**

On March 8, 2011, the Department of Natural Resources submitted proposed rules to the Legislative Council Rules Clearinghouse.

### **Analysis**

The proposed rule creates Chapter NR 46, relating to Administrative changes to the Managed Forest Law Program.

### **Agency Procedure for Promulgation**

A public hearing will be held April 13, 2011. The Department's Forest Tax Program is responsible for promulgation of the proposed rule.

### **Contact Information**

Kathryn J. Nelson  
Forest Tax Program and Policy Chief  
101 S. Webster Street  
Madison, WI 53707–7921  
Phone: (608) 266–3545

## **Regulation and Licensing CR 11–018**

On March 16, 2011, the Department of Regulation and Licensing submitted proposed rules to the Legislative Council Rules Clearinghouse.

### **Analysis**

This proposed rule creates Chapters RL 200 to 202, relating to the licensure of sign language interpreters, establishing a code of conduct and a process and the criteria for granting licensure exemptions to state residents.

### **Agency Procedure for Promulgation**

A public hearing is required and will be held on May 3, 2011 at 9 a.m. at 1400 East Washington Avenue, Room 121A, Madison, Wisconsin (enter at 55 North Dickinson Street).

### **Contact Information**

Kris Anderson, Paralegal  
Department of Regulation and Licensing  
Division of Board Services  
Phone: (608) 261–2385  
Email: [Kristine1.Anderson@wisconsin.gov](mailto:Kristine1.Anderson@wisconsin.gov)

## **Regulation and Licensing Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board CR 11–014**

On March 11, 2011, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors submitted proposed rules to the Legislative Council Rules Clearinghouse.

### **Analysis**

The proposed rule creates Chapter A–E 13, relating to continuing education for professional engineers.

### **Agency Procedure for Promulgation**

A public hearing is required and will be held on April 19, 2011 at 1:30pm at 1400 East Washington Avenue, Room 121A, Madison, Wisconsin (enter at 55 North Dickinson Street).

### **Contact Information**

Kris Anderson, Paralegal  
Department of Regulation and Licensing  
Division of Board Services  
Phone: (608) 261–2385  
Email: [Kristine1.Anderson@wisconsin.gov](mailto:Kristine1.Anderson@wisconsin.gov)

**Regulation and Licensing —  
Hearing and Speech Examining Board  
CR 11-017**

On March 15, 2011, the Hearing and Speech Examining Board submitted proposed rules to the Legislative Council Rules Clearinghouse.

**Analysis**

The proposed rule-making order revises Chapter HAS 8, relating to continuing education.

**Agency Procedure for Promulgation**

A public hearing is required and will be held on April 25, 2011 at 1:15pm at 1400 East Washington Avenue, Room 121A, Madison, Wisconsin (enter at 55 North Dickinson Street).

**Contact Information**

Sharon Henes, Paralegal  
Department of Regulation and Licensing  
Division of Board Services  
Phone: (608) 261-2377  
Email: [Sharon.Henes@wisconsin.gov](mailto:Sharon.Henes@wisconsin.gov)

**Regulation and Licensing —  
Radiography Examining Board  
CR 11-016**

On March 15, 2011, the Radiography Examining Board submitted proposed rules to the Legislative Council Rules Clearinghouse.

**Analysis**

The proposed rule-making order creates Chapter RAD 1 to 5, relating to establishing the standards for courses of study, examinations, continuing education and the code of ethics for the newly created radiographer license and limited x-ray machine operator permit (LXMO).

**Agency Procedure for Promulgation**

A public hearing is required and will be held on May 10, 2011 at 9:15am at 1400 East Washington Avenue, Room 121C, Madison, Wisconsin (enter at 55 North Dickinson Street).

**Contact Information**

Sharon Henes, Paralegal  
Department of Regulation and Licensing  
Division of Board Services  
Phone: (608) 261-2377  
Email: [Sharon.Henes@wisconsin.gov](mailto:Sharon.Henes@wisconsin.gov)

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## Rule–Making Notices

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### Notice of Hearing

#### Insurance

#### CR 11–015

NOTICE IS HEREBY GIVEN that pursuant to the authority granted under section 601.41 (3), Stats., and the procedures set forth in under section 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order revising Chapter Ins 17 Wis. Adm. Code, relating to annual injured patients and families compensation fund fees, mediation panel fees, and provider classifications.

#### Hearing Information

<u>Date and Time</u>	<u>Location</u>
<b>April 13, 2011</b> Wednesday at 10:00 A.M.	OCI Room 227, 2nd Floor 125 South Webster Street Madison, WI 53703

#### Submittal of Written Comments

Written comments can be mailed to:

Theresa L. Wedekind  
Legal Unit – OCI Rule Comment for Rule Ins 1701  
Office of the Commissioner of Insurance  
PO Box 7873  
Madison WI 53707–7873

Written comments can be hand delivered to:

Theresa L. Wedekind  
Legal Unit – OCI Rule Comment for Rule Ins 1701  
Office of the Commissioner of Insurance  
125 South Webster St – 2<sup>nd</sup> Floor  
Madison WI 53703–3474

Comments can be emailed to:

Theresa L. Wedekind  
[theresa.wedekind@wisconsin.gov](mailto:theresa.wedekind@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 7<sup>th</sup> day after the date for the hearing stated in this Notice of Hearing.

#### Copies of Proposed Rule

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, Public Information and Communications, OCI, at: [inger.williams@wisconsin.gov](mailto:inger.williams@wisconsin.gov), (608) 264–8110, 125 South Webster Street – 2<sup>nd</sup> Floor, Madison WI or PO Box 7873, Madison WI 53707–7873.

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

##### *Statute(s) interpreted*

Sections 655.27 (3), and 655.61, Wis. Stats.

##### *Statutory authority*

Sections 601.41 (3), 655.004, 655.27 (3) (b), and 655.61, Wis Stats.

##### *Explanation of agency authority*

The commissioner of insurance, with the approval of the board of governors (board) of the injured patients and families compensation fund (fund), is required to establish by administrative rule the annual fees which participating health care providers must pay to the fund and the annual fee due for the operation of the medical mediation panel.

##### *Related statute or rule*

None.

##### *Plain language analysis*

This rule establishes the fees that participating health care providers must pay to the fund for the fiscal year beginning July 1, 2011. These fees represent a 8.5% increase from fees paid for the 2010–11 fiscal year. The board approved these fees at its meeting on February 16, 2011, based on the recommendation of the board’s actuarial and underwriting committee and reports of the fund’s actuaries.

This rule includes additions to the Insurance Services Office (ISO) code listing to address new classification specialties. ISO codes are the numerical designation for a health care provider’s specialty and are used to classify the provider for assessment purposes.

The board is also required to promulgate by rule the annual fees for the operation of the injured patients and families compensation mediation system, based on the recommendation of the director of state courts. The recommendation of the director of state courts was reviewed by the board’s actuarial and underwriting committee. This rule implements the funding level approved by the board by establishing mediation panel fees for the next fiscal year at \$25.00 for physicians and \$5.00 per occupied bed for hospitals, representing a decrease of \$3.00 per physician and a decrease of \$1.00 per occupied bed for hospitals from 2010–11 fiscal year mediation panel fees.

##### *Comparison with existing or proposed federal regulations*

To the fund board’s and OCI’s knowledge there is no existing or proposed federal regulation that is intended to address patient compensation fund rates, administration or activities.

##### *Comparison with similar rules in adjacent states*

To the fund board’s and OCI’s knowledge there are no similar rules in the adjacent states to compare this rule to as none of adjacent states have a patients compensation fund created by statute where rates are directed to be established yearly by rule as is true in Wisconsin.

**Summary of factual data and analytical methodologies**

None. This rule establishes annual fund fees pursuant to the requirements of the above-noted Wisconsin statutes.

**Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact report**

This increase in fund fees will have an effect on some small businesses in Wisconsin, particularly those that employ physicians and other health care professionals. The mediation panel fee is assessed only on physicians and hospitals, not on corporations or other health care entities. The fund fee increases will affect only those small businesses that pay the fund fees and mediation panel fees on behalf of their employed physicians. However, the fund fee increase will not have a significant effect nor should it negatively affect the small business's ability to compete with other providers.

**Effect on Small Business**

This rule will have little or no effect on small businesses. The increase contained in the proposed rule will require providers to pay an increased fund fee which will increase the operational expenses for the providers. However, this increase is not considered to be significant and will have no effect on the provider's competitive abilities.

**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](mailto:eileen.mallow@wisconsin.gov).

**Fiscal Estimate****Assumptions used in arriving at fiscal estimate**

The Injured Patients and Families Compensation Fund (IPFCF or Fund) is a segregated fund. Annual Fund fees are established to become effective each July 1 based the Fund's needs for payment of medical malpractice claims. The proposed fees were approved by the Fund's Board of Governors at its February 16, 2011, meeting and represent an increase of 8.5% over fiscal year 2011 fund fees.

The Fund is a unique fund; there are no other funds like it in the country. The Fund provides unlimited liability coverage and participation is mandatory. These two features make this Fund unique compared to funds in other states. The only persons who will be affected by this rule change are the Fund participants themselves as the IPFCF is fully funded through assessments paid by Fund participants.

There is no effect on GPR.

**State fiscal effect:** None. Fund sources affected: SEG.

**Local fiscal effect:** No local government costs.

**Long-range fiscal implications:** None.

**Private sector fiscal analysis**

The increase in fees promulgated by this rule does not result in a significant fiscal effect on the private sector. Although a health care provider may pass this increase on to its patients, there will not be a significant fiscal effect on the private sector as a result of this proposed rule.

**Agency Contact Person**

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

Phone: (608) 264-8110

Email: [inger.williams@wisconsin.gov](mailto:inger.williams@wisconsin.gov)

Address: 125 South Webster St – 2<sup>nd</sup> Floor, Madison WI 53703-3474

Mail: PO Box 7873, Madison, WI 53707-7873

**Notice of Hearing****Natural Resources****Fish, Game, etc., Chs. NR 1 —****CR 11-013**

(DNR # FR-45-10)

NOTICE IS HEREBY GIVEN that pursuant to sections 227.16 and 227.17, Stats, the Department of Natural Resources, hereinafter the Department, will hold a public hearing on changes to Chapter NR 46 regarding administration of the Managed Forest Law program on the date(s) and at the time(s) and location(s) listed below.

**Hearing Information**

The hearing will be held on:

**Date and Time**

**April 13, 2011**  
Wednesday  
at 10:00 A.M.

**Location**

Marathon County Public Library  
First Floor Meeting Room  
300 N. 1st Street  
Wausau, WI 54403

Reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Contact Kathryn J. Nelson in writing at the Department of Natural Resources, Forest Tax Program (FR/4) 101 S Webster, Madison, WI 53707; by E-mail to [Kathryn.Nelson@Wisconsin.gov](mailto:Kathryn.Nelson@Wisconsin.gov); or by calling (608) 266-3545. A request must include specific information and be received at least 10 days before the date of the scheduled hearing.

**Copies of Proposed Rule**

The proposed rule and supporting documents, including the fiscal estimate, may be viewed and downloaded from the Administrative Rules System Web site which can be accessed through the link: <https://health.wisconsin.gov/admrules/public/Home>. Use your Search feature to find the rule. You may want to search for NR 46, MFL, or forestry. Scroll down to find the rules under *Permanent Rules Under Promulgation*.

If you do not have Internet access, a printed copy of the proposed rule and supporting documents, including the fiscal estimate, may be obtained free of charge by contacting Kathryn J. Nelson, Department of Natural Resources, Forest Tax Program (FR/4), 101 S. Webster St, Madison, WI, 53703, or by calling (608) 266-3545.

**Submission of Written Comments**

Comments on the proposed rule must be received on or before **April 22, 2010**. Written comments may be submitted

by U.S. mail, fax, E-mail, or through the Internet and will have the same weight and effect as oral statements presented at the public hearing. Written comments and any questions on the proposed rules should be submitted to:

Kathryn J. Nelson  
 Department of Natural Resources  
 Forest Tax Program  
 101 S Webster St.  
 Madison, WI 53703  
 Phone: (608) 266-3545  
 Fax: (608) 266-8576  
 E-mail: [Kathryn.Nelson@wisconsin.gov](mailto:Kathryn.Nelson@wisconsin.gov)

## Analysis Prepared by Department of Natural Resources

### *Statute(s) interpreted*

Subchs. I and VI, Ch. 77, Stats.

### *Statutory authority*

Sections 227.11 (2) (a), 77.82 (2m) (a) and (am), (3) (am) and (g), (4), Stats. and generally subchs. I and VI, Ch. 77, Stats.

### *Plain language analysis*

*Repeal Subchapter II regarding the Woodland Tax Law and references to Woodland Tax Law throughout NR 46:* The Woodland Tax Law was a private landowner incentive program that allowed participants to pay reduced property tax while they grew trees for harvest. A management plan was developed for each parcel enrolled in the program that required harvesting of timber. Enrollment in Woodland Tax Law was for a 15 year period. Woodland Tax Law was repealed when the Managed Forest Law was enacted in 1985. The last Woodland Tax Law contacts expired on December 31, 2000. Repealing of this subchapter will eliminate wording in NR 46 for a program that no longer exists. There are no negative impacts to existing participants under Managed Forest Law or Forest Crop Law. Forest landowners wishing to enroll in a forestry tax incentive program may enroll in Managed Forest Law.

*Amend the definition of “incompatible with existing uses of the land.”* Lands that are considered incompatible with the production of timber products include those lands within a recorded subdivision plat defined under s. 236.02 (12), Stats. or other division of land recorded under s. 236.03 (1), Stats. This proposal eliminates an exception to allow for uniform interpretation and implementation of the rule. Lands that are divided as a subdivision plat are largely held for the purpose of providing land for housing development and do not easily allow for management of forested lands for timber products. Forest Crop Law lands that had subdivision plats created after enrollment into the Forest Crop Law program would no longer be allowed to enroll in Managed Forest Law unless the subdivision plat is vacated under Subchapter VIII, Section 236, Stats. even if there had been no sale of individual subdivision plat lots. There are no lands enrolled under Woodland Tax Law, so provisions relating to this program are no longer pertinent.

*Repeal the definition of “management plan packet.”* 2009 Wisconsin Act 365 required that Managed Forest Law applications must include all supporting documents, including a management plan, map, forest reconnaissance data, property ownership documents (deeds, land contracts, etc.), tax statement, certified survey maps, and application fee, including a remittance form to properly deposit the

application fee. A “management plan packet” is an obsolete phrase since passage of 2009 Wisconsin Act 365. The proposal is to eliminate this phrase from NR 46.

*Amend the wording of NR 46 to replace “petition” and “petitioner” with “application” and “applicant.”* 2009 Wisconsin Act 365 replaced the words “petition” with “application,” and “petitioner” with “applicant.” The proposal is that NR 46 would use the same wording as in statute.

*Amend the application dates and requirements.* 2009 Wisconsin Act 365 replaced the March 31, May 15 and July 1 application deadlines with a June 1 application deadline. The statutory change also required that management plans need to be submitted with the application. Independent certified plan writers would continue to provide application and management plan development service to landowners. DNR foresters provide these services in situations where services from independent certified plan writers are not available. Proposed changes to NR 46 would make all dates and requirements for Managed Forest Law applications consistent with new statutory language.

*Amend MFL application fees.* Recording fees at local register of deeds offices have increased to \$30.00 per document. The department is required to collect the cost of recording Managed Forest Law documents from landowners as an application fee. The proposal is to increase the application fee from \$20 to \$30 per county for each application.

*Repeal NR 46 wording requirements in application forms and management plans.* NR 46 currently lists wording requirements to be used on the application and management plan regarding building characteristics and management plans. Application forms are required to have certain information regarding building characteristics and wording in management plans for landowners to acknowledge that violations of the building requirements may cause lands to be withdrawn from the Managed Forest Law program. These specific wording requirements were inserted into NR 46 at a time when the building provisions were new, however these building provisions have been in effect since 1998. The proposal is to remove the wording requirements from NR 46 so that no one statutory or administrative code provision is highlighted over and above other provisions of the Managed Forest Law.

*Amend the certified plan writer program certification requirements.* The department has amended its training requirements according to the skills and training needs of students. NR 46 states the homework required for plan writer certification. Proposed amendments to NR 46 eliminate the specific homework requirements to allow the department to better meet student training needs.

*Amend reporting dates as a result of new application deadlines provided for in 2009 Wisconsin Act 365.* Deadlines for certified plan writers to report management plan cost data must be adjusted in order to have new costs available for use for the new Managed Forest Law application dates. The NR 46 proposal will be to move the dates to collect cost data to be one month earlier from May 31 to May 1 of each year.

*Require that owners buying lands from large ownerships as defined in NR 46.18(4) provide a management plan within one year of the transfer date.* Historically, the department has written management plans free of charge. This proposal requires that landowners who purchase lands from large ownerships provide a management plan within 1 year of the

date of transfer. Landowners would follow the same protocol to obtain the services of a certified plan writer as new enrollees.

*Require that owners who no longer meet the qualifications of a large ownership in NR 46.18(4) must provide a management plan within one year of losing large ownership status.* Landowners who no longer qualify as a large ownership as defined in NR 46.18(4) are placed in the small landowner category, requiring that a management plan be developed. Historically the department has written these plans. This proposal would require that landowners who lose their status as a large ownership provide a management plan within 1 year of the date of losing their large ownership status. Landowners would follow the same protocol to obtain the services of a certified plan writer as new enrollees.

*Amend wording associated with the alternative withdrawal tax calculation.* Landowners who withdraw lands early from the Managed Forest Law are required to pay a withdrawal tax based on a formula that multiplies the assessed value, tax rate and years under the law, or based on 5% of the average stumpage value for the market zone. Adjustments to the wording will clarify that the withdrawal tax estimates are not the same as the Department of Revenue withdrawal tax estimates recently created in 2009 Wisconsin Act 365. NR 46 wording changes will also include statutory references regarding renewal of lands under Managed Forest Law.

#### ***Comparison with existing or proposed federal regulations***

There are no known federal rules which apply to the Managed Forest Law program.

#### ***Comparison with similar rules in adjacent states***

Minnesota, Michigan, Iowa and Illinois offer some type of incentive program to forest landowners, however their program requirements are not as comprehensive as Wisconsin's Managed Forest Law.

#### **Effect on Small Business**

Effect on small business will be de minimis.

#### **Fiscal Estimate**

##### ***Assumptions used in arriving at fiscal estimate***

*Summary of the changes to NR 46, Wis. Admin. Code under FR-45-10.*

Changes to NR 46 include a variety of topics including elimination of the subsection associated with management of the Woodland Tax Law, changing the definition of "incompatible with existing uses of the land," repealing of the definition of "management plan packet," replacing the words "petition" and "petitioner" with "application" and "applicant," amending the application dates and requirements, amending the application fees, repealing the requirement for specific wording on application forms and management plans, amending the requirements to be certified as a plan writer, amending reporting dates for certified plan writers, requiring that owners buying lands from larger ownerships provide a management plan within one year of the date of transfer, requiring that owners who no longer meet the qualifications of a large ownership provide a management plan within one year of losing large ownership status, amending wording associated with the alternative withdrawal tax calculation.

Most provisions of the proposed NR 46 rule change have no fiscal impact on state or local revenues or expenditures,

including provisions to repeal subchapter II, amend or repeal definitions, amending application deadlines and requirements, repeal specific wording used in MFL forms, amend certified plan writer program certification requirements, amend certified plan writer reporting dates, amending wording associated with determining the alternative withdrawal tax.

*Changes to NR 46 that do have a fiscal impact include the following:*

#### **STATE FISCAL IMPACT:**

*Amend MFL application fees.*

The department's cost to record orders at the register of deeds office has increased from \$20 to \$30 per order. Since MFL landowners pay an application fee that covers the recording costs, application fees must be increased from \$20 to \$30. Over the past 5 years, an average of 1,249 applications have been received for entry into MFL. This new entry is expected to be constant for the next 5 years. In addition, there is an expected increase in applications due to the renewal of lands from expiring MFL entries. Roughly 67% of lands that are expiring from the Forest Crop Law program re-enroll under MFL. If this trend remains constant it is expected that an average of 837 renewals will be submitted annually. If landowners pay an additional \$10 per entry for new or renewal applications, the department will collect an additional \$20,860 to cover the recording costs (1,249 new entries + 837 renewals = 2,086 total entries x \$10/entry = \$20,860).

#### **LOCAL GOVERNMENT FISCAL IMPACT:**

None.

#### **PRIVATE SECTOR FISCAL IMPACT:**

*Require that owners buying lands from large ownerships, as defined in NR 46.18(4), provide a management plan within one year of the transfer date.*

Roughly 113 transfers from a large ownership to a small ownership have occurred annually from calendar year 2005 through 2009. Under this rule proposal, landowners would be required to provide a management plan within one year of the date of transfer that would be written by a certified plan writer. DNR foresters would write a management plan only if services from a certified plan writer are not available.

Certified plan writers charge for their services in a variety of ways including: (1) a combination of plan cost and per acre cost, (2) per acre costs only, (3) hourly costs or (4) project costs. To determine the cost of plan writing services for this fiscal estimate the cost the department would charge to write a management plan is used, which is based on the plan cost and per acre costs. DNR determines these costs by averaging the costs certified plan writers annually charge landowners for plan writing services. The current base rate, or cost per plan is \$470 per plan, with an additional charge of \$6.73 per acre.

The average MFL ownership is 67 acres; therefore, landowners would collectively spend \$104,062.83 to have these plans prepared by certified plan writers [(113 plans x \$470/plan) + (7,571 acres (67 ac. per plan x 113 plans) x \$6.73/acre) = \$104,062.83].

*Require that owners who no longer meet the qualifications of a large ownership in NR 46.18(4) must provide a management plan within one year of losing large ownership status.*

Currently there are two large landowners who no longer meet the qualifications of a large landowner that would need to develop management plans through a certified plan writer.

Under this rule proposal these two landowners would need to have management plans developed at a cost of \$17,032.99 [(10 plans x \$470/plan) + (1,832.54 acres x \$6.73/acre) = \$17,032.99].

**State fiscal effect:**

Increase existing revenues.

Fund sources affected: SEG.

Affected chapter 20 appropriations: Section 20.370 (1) (cr).

**Local fiscal effect**

No local government costs.

**Anticipated cost by private sector**

Landowners applying for Managed Forest Law will pay an additional \$15 per county for MFL applications. This extra cost covers the fees to record new MFL Orders of Designation with registers of deeds.

**Agency Contact Person**

Kathryn J. Nelson

Forest Tax Program and Policy Chief

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**Notice of Hearing  
Regulation and Licensing  
Examining Board of Architects, Landscape  
Architects, Professional Engineers, Designers  
and Land Surveyors  
CR 11-014**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b), 227.11 (2) and 443.015, Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to consider an order to create Chapter A-E 13, relating to continuing education requirements for professional engineers.

**Hearing Information**

The hearing will be held on:

<b>Date and Time</b>	<b>Location</b>
<b>April 19, 2011</b>	Room 121A
Tuesday	1400 East Washington Avenue
at 1:30 P.M	Madison, WI 53703

**Copies of Proposed Rule**

Copies of this proposed rule are available upon request to Kris Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at [Kristine1.Anderson@wisconsin.gov](mailto:Kristine1.Anderson@wisconsin.gov).

**Appearances at the Hearing and Submittal 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 be submitted to Kris

Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to [kristine1.anderson@wisconsin.gov](mailto:kristine1.anderson@wisconsin.gov). Comments must be received on or before **April 19, 2011** to be included in the record of the rule-making proceedings.

**Analysis Prepared by the Department of Regulation and Licensing**

**Statute(s) interpreted**

Section 443.015, Stats.

**Statutory authority**

Sections 15.08 (5) (b), 227.11 (2) and 443.015, Stats.

**Explanation of agency authority**

Under 2007 Act 47, codified at s. 443.015, Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors is authorized to establish rules regarding continuing education (CE) requirements for purposes of renewing the credential of individuals licensed under Ch. 443, Stats.

**Related statute or rule**

There are no other statutes or rules than those listed above.

**Plain language analysis**

This proposed rule-making creates ch. A-E 13, Wis. Admin. Code, relating to continuing education requirements for the credential renewal of professional engineers within the jurisdiction of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, as permitted under s. 443.015, Stats.

SECTION 1 creates ch. A-E 13, entitled "CONTINUING EDUCATION FOR PROFESSIONAL ENGINEERS."

SECTION 2 creates s. A-E 13.01, entitled "Authority and purpose." This section provides the statutory authority for the creation of ch. A-E 13, and indicates that ch. A-E 13 implements biennial continuing education requirements for professional engineer registrants.

SECTION 3 creates s. A-E 13.02, entitled "Definitions." This section defines, in numbered subsections, seven (7) terms as they are used in ch. A-E 13: (1) "biennium," (2) "college semester hour," (3) "continuing education," (4) "continuing education unit" or "CEU," (5) "course" or "activity," (6) "EAC/ABET," and (7) "professional development hour" or "PDH."

SECTION 4 creates s. A-E 13.03, entitled "Continuing education." This section has three (3) subsections. Subsection (1) of s. A-E 13.03 has four lettered paragraphs. Paragraph (a) provides that beginning with the August 2012 biennial registration period, all registered professional engineers who have renewed their credential one or more times shall complete at least 30 PDHs of approved continuing education each biennial period.

Paragraph (b) provides that of those 30 required PDHs, 2 must be in the area of professional conduct and ethics.

Paragraph (c) provides that of those same 30 PDHs, a maximum of 13 may be obtained through courses in either a traditional classroom setting, by computer conferencing, or by video conferencing, in which participants can communicate directly with each other and the instructor.

Paragraph (d) provides that a maximum of 15 PDHs earned in excess of the 30 required for one biennial registration

period may be used toward the next biennium's continuing education requirements.

Subsection (2) of s. A–E 13.03 sets forth, in lettered paragraphs, seven (7) different means by which a registrant may satisfy his or her biennial continuing education requirements: (a) completing courses offered at an EAC/ABET–accredited engineering school or college; (b) completing short courses or tutorials and distance education courses offered via correspondence, DVD, or the internet; (c) presenting or attending seminars, in–house courses, workshops, or making professional or technical presentations at meetings, conventions, or conferences; (d) teaching or instructing any of the courses or programs listed in paragraphs (a) to (c), where the PDH earned for each hour of teaching is twice that earned for participation only; (e) publishing papers, articles, or books in the registrant's practice area, where each such publication earns 5 PDHs, and where peer–reviewed publications earn 10; (f) participating in professional and technical societies for a maximum of 4 PDHs per biennium, where participation as an officer or committee member earns 2 PDHs per year; and (g) attaining a patent in the registrant's practice area, where each such patent earns 10 PDHs.

Subsection (3) of s. A–E 13.03 provides that any registrant who fails to meet the continuing education requirements by the registration renewal date may not practice professional engineering until renewal has been achieved.

SECTION 5 creates A–E 13.04, entitled “Examples of qualifying activities.” This section provides five (5) examples of qualifying activities in numbered subsections.

SECTION 6 creates s. A–E 13.05, entitled “Standards for approval.” This section has two subsections. Subsection (1) of s. A–E 13.05 establishes, in lettered paragraphs, four criteria for approval of a continuing education program.

Subsection (2) of s. A–E 13.05 provides that the professional engineer section of the joint A–E examining board has final authority to approve continuing education courses and other methods for earning PDHs. Subsection (2) also lists, in lettered paragraphs (a) – (n), fourteen (14) approved provider entities, and in lettered paragraphs (o) and (p), two (2) general, or catch–all, categories of potential continuing education providers that may seek approval from the professional engineer section.

SECTION 7 creates s. A–E 13.06, entitled “Certificate of completion; proof of attendance.” This section has three (3) subsections. Subsection (1) of s. A–E 13.06 requires applicants for registration renewal to certify their compliance with the continuing education requirements of ch. A–E 13.

Subsection (2) of s. A–E 13.06 provides that the professional engineering section may randomly audit registrants biennially for continuing education compliance.

Subsection (3) of s. A–E 13.06 provides that within 30 days of receiving a written request from the section for evidence of compliance, a registrant shall submit such evidence, and that failure to do so will result in denial of the registrant's renewal application.

SECTION 8 creates s. A–E 13.07, entitled “Recordkeeping.” This section has three (3) numbered subsections. Subsection (1) of s. A–E 13.07 requires all registrants to maintain, on a form approved by the professional engineer section, records of having satisfied the continuing education requirements for at least the three (3) most recent biennia.

Subsection (2) of s. A–E 13.07 provides that the records maintained under subs. (1) must include evidence of registrant's attendance at, and completion of, any program providing continuing education the registrant counts toward his or her required PDHs.

Subsection (3) of s. A–E 13.07 requires registrants to convert any CEUs awarded for continuing education courses to PDHs for recordkeeping.

SECTION 9 creates s. A–E 13.08, entitled “Waiver of continuing education.” This section has six (6) numbered subsections. Subsection (1) of s. A–E 13.08 provides that renewal applicants may request, in writing, a waiver of the continuing education requirements for reasons of “extreme hardship.” The professional engineer section, or its designee, will have sole discretion on how to address such requests.

Subsection (2) of s. A–E 13.08 defines “extreme hardship” as an inability to fulfill the continuing education requirements during a particular biennial period for one of the four (4) reasons set forth in lettered paragraphs (a) – (d). Paragraphs (a) – (c) describe specific hardship situations; paragraph (d) allows the professional engineer section to waive the requirements under any other extenuating circumstances it finds acceptable.

Subsection (3) of s. A–E 13.08 prohibits the professional engineer section from waiving continuing education requirements for the same registrant for two consecutive biennia.

Subsection (4) of s. A–E 13.08 allows the professional engineer section to waive the continuing education requirements for a renewal applicant who has maintained an active Wisconsin license for at least 30 years, provided that the applicant has retired from the profession and no longer receives compensation for his or her services.

Subsection (5) of s. A–E 13.08 prohibits a renewal applicant who has received a waiver under subs. (4) from practicing professional engineering until he or she has met the late renewal requirements set forth in s. A–E 13.10.

#### ***Comparison with existing or proposed federal regulations***

There is no existing or proposed federal regulation.

#### ***Comparison with similar rules in adjacent states***

##### *Illinois:*

Thirty hours of continuing education are required for professional engineers each biennial renewal. <http://www.ilga.gov/commission/jcar/admincode/068/0680113800003250R.html>.

##### *Iowa:*

Thirty hours of continuing education are required for professional engineers for each biennial renewal. <http://www.state.ia.us/government/com/prof/engineer/renewals.html>.

##### *Michigan:*

There are no continuing education requirements for professional engineers. [www.michigan.gov/dleg](http://www.michigan.gov/dleg).

##### *Minnesota:*

Twenty–four hours of continuing education are required for professional engineers for each biennial renewal. <http://www.aelslagid.state.mn.us/conted.html>.

#### ***Summary of factual data and analytical methodologies***

The Professional Engineer Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors examined models

of continuing education from the National Council for Examiners of Engineers and Surveyors, as well as from other Wisconsin regulatory boards.

In addition, the section received input from a steering committee organized by the Wisconsin Society of Professional Engineers which included representatives of 10 professional engineering societies or trade associations. The steering committee discussed the content and operation of the proposed draft for purposes of creating a continuing education program that will be beneficial to both the public and professional engineers.

The comparison information with the rules in adjacent states was obtained directly from contact with those states and a review of their rules. The comparisons to the adjacent states demonstrate that the proposed rules are substantially consistent with the rules in those states.

***Analysis and supporting documents used to determine effect on small business***

Data was obtained from the Department of Regulation and Licensing's Credentialing Division Renewal Unit, additional information was obtained from the steering committee organized by the Wisconsin Society of Professional Engineers and research was conducted regarding the availability of continuing education credits offered via online courses, trade associations sponsored seminars and other means, as well as the costs associated therewith. That data was compared with the requirements outlined in the proposed rules and based thereon, appears that these rules will have no significant impact on a substantial number of small businesses.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule—making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

**Effect on Small Business**

These proposed rules will be reviewed by the department's Small Business Review Advisory Committee to determine whether the rules will have any significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

***Small business regulatory coordinator***

The Department's Regulatory Review Coordinator may be contacted by email at [john.murray@wisconsin.gov](mailto:john.murray@wisconsin.gov), or by calling (608) 266-2112.

**Fiscal Estimate**

The department estimates that this rule will require staff time in the Office of Exams, Division of Board Services and Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$12,400. The total on-going salary and fringe costs are estimated at \$11,800.

***Anticipated costs incurred by the private sector***

The department finds that this rule has no significant fiscal effect on the private sector.

**Agency Contact Person**

Kris Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin

53708; telephone 608-261-2385; email at [kristine.l.anderson@wisconsin.gov](mailto:kristine.l.anderson@wisconsin.gov).

**Notice of Hearing  
Regulation and Licensing  
Hearing and Speech Examining Board  
CR 11-017**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Hearing and Speech Examining Board in sections 15.08 (5) (b), 227.11 (2), 459.095, 459.12 (1), 459.24 (5m), Stats., and interpreting section 459.095 and 459.24 (5m), Stats., the Hearing and Speech Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend section HAS 8.03 (1), to repeal the Note following section HAS 8.03 (1), amend section HAS 8.03 (3) and (6) and to amend section HAS 8.04 (6), relating to continuing education.

**Hearing Information**

The hearing will be held on:

<b><u>Date and Time</u></b>	<b><u>Location</u></b>
<b>April 25, 2011</b>	Room 121A
Monday	1400 East Washington Avenue
at 1:15 P.M.	Madison, WI 53703

**Appearances at the Hearing and Submittal 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. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708, or by email to [sharon.henes@wisconsin.gov](mailto:sharon.henes@wisconsin.gov). Written comments must be received by 1:15 p.m. on **April 25, 2011** to be included in the record of rule-making proceedings.

**Copies of Proposed Rule**

Copies of this proposed rule are available upon request to Sharon Henes, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at [sharon.henes@wisconsin.gov](mailto:sharon.henes@wisconsin.gov).

**Analysis Prepared by the Department of Regulation and Licensing**

***Statute(s) interpreted***

Sections 459.095 and 459.24 (5m), Stats.

***Statutory authority***

Sections 15.08 (5) (b), 227.11 (2), 459.095, 459.12 (1) and 459.24 (5m), Stats.

***Explanation of agency authority***

The Hearing and Speech Examining Board has the authority under ss. 459.095, 459.12 (1) and 459.24 (5m), Stats., to promulgate rules relating to continuing education.

***Related statute or rule***

There are no other statutes or rules other than those listed.

***Plain language analysis***

Section 1 of the proposed rule amends to require at least 2 hours of ethics as part of the required 20 hours of continuing education.

Section 2 of the proposed rule repeals the note following HAS 8.03(1) which states that a list of approved programs may be obtained from the Board.

Section 3 of the proposed rule amends the statement certifying that he or she has completed the continuing education programs to include at least 2 of the hours in ethics. It creates an exemption so a licensee is not required to take or report continuing education prior to or at the time of the first renewal of the license.

Section 4 of the proposed rule amends to allow other acceptable continuing education activities including employer in-service training, other professional organizations' programs, college or university course work and courses offered by any provider authorized by the International Association for Continuing Education and Training. Prior approval is not required for activities related to professional development or practice completed during the renewal period.

#### ***Comparison with existing or proposed federal regulations***

None.

#### ***Comparison with similar rules in adjacent states***

##### *Illinois:*

Illinois includes ethics as an approved content area, but no hour requirement is imposed. <http://www.ilga.gov/commission/jcrar/admincode/077/07703000sections.html>.

##### *Iowa:*

There is no provision for ethics or best practices in the statutes or rules. <http://www.idph.state.ia.us/licensure/continuingeducation.asp?board=had>.

##### *Michigan:*

Michigan has no requirements for continuing education.

##### *Minnesota:*

There is no provision for ethics or best practices in the statutes or rules. <http://www.health.state.mn.us/divs/hpsc/hop/hid/certregs.html>.

#### ***Summary of factual data and analytical methodologies***

No study resulting in the collection of factual data, other than a review of surrounding states, was used relating to this rule. The primary methodology for revising the rule is based on the Board's collective experience and determination that a change is necessary.

#### ***Analysis and supporting documents used to determine effect on small business***

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

#### **Effect on Small Business**

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

#### ***Small business regulatory coordinator***

The Department's Regulatory Review Coordinator may be contacted by email at [John.Murray@wisconsin.gov](mailto:John.Murray@wisconsin.gov), or by calling (608) 266-8608.

#### **Fiscal Estimate**

The department estimates that the proposed rule will have no significant fiscal impact.

#### ***Anticipated costs incurred by private sector***

The department finds that this rule has no significant fiscal effect on the private sector.

#### **Agency Contact Person**

Sharon Henes, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 116, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2377; email at [sharon.henes@wisconsin.gov](mailto:sharon.henes@wisconsin.gov).

### **Notice of Hearing Regulation and Licensing Radiography Examining Board CR 11-016**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Radiography Examining Board in sections 15.08 (5) (b), 227.11 (2), 462.06, Stats, and interpreting Chapter 262, Stats, the Radiography Examining Board will hold a public hearing at the time and place indicated below to consider an order to create Chapters RAD 1, RAD 2, RAD 3, RAD 4, RAD 5 and RAD 6 relating to standards for courses of study, examinations, continuing education, and a code of ethics for the newly created radiographer license and limited x-ray machine operator permit.

#### **Hearing Information**

<b><u>Date and Time</u></b>	<b><u>Location</u></b>
<b>May 10, 2011</b> Tuesday at 9:15 A.M.	Room 121C 1400 East Washington Avenue Madison, WI 53703

#### **Appearances at the Hearing and Submittal 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. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708, or by email to [sharon.henes@wisconsin.gov](mailto:sharon.henes@wisconsin.gov). Written comments must be received by 9:15 a.m. on **May 10, 2011**, to be included in the record of rule-making proceedings.

#### **Copies of Proposed Rule**

Copies of this proposed rule are available upon request to Sharon Henes, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at [sharon.henes@wisconsin.gov](mailto:sharon.henes@wisconsin.gov).

#### **Analysis Prepared by the Department of Regulation and Licensing**

##### ***Statute(s) interpreted***

Chapter 462, Stats.

##### ***Statutory authority***

Sections 15.08 (5), 227.11 (2), 462.06, Stats.

##### ***Explanation of agency authority***

Under 2009 Act 106, codified at s. 462.06, Stats., the Radiography Examining Board (RAD) is authorized to

promulgate rules which establish the standards for courses of study, examinations, continuing education, and a code of ethics for the newly created radiographer license and limited x-ray machine operator permit (LXMO), and to effectuate the purpose of the statute.

***Related statute or rule***

There are no other statutes or rules other than those listed above.

***Plain language analysis***

SECTION 1 creates ch. RAD 1, entitled “Authority and Definitions.”

Section RAD 1.01 identifies the statutory authority under which chapters RAD 1 to 6 are adopted.

Section RAD 1.02 defines the terms used in chapters RAD 1 to 6 applicable to the credentialing and practice of radiographers and limited x-ray machine operators.

SECTION 2 creates ch. RAD 2, entitled “Requirements for Radiographer License”

Section 2.01 establishes the criteria for issuance of a license to practice as a radiographer.

Section 2.02 establishes the standards for an approved course of study.

Section 2.03 establishes the standard for examination required for licensure.

Both Section 2.02 and 2.03 provide that active certification by the American Registry of Radiologic Technologists (ARRT) is deemed to satisfy the educational and examination requirements for licensure in the proposed rules.

Section 2.04 contains the requirements for issuance of license by endorsement to persons who holds a radiography credential in another jurisdiction.

Section 2.05 provides the basis for denial of an application for licensure.

Note: Although the non-statutory provisions of 2009 Act 106 creates a transitional period for the issuance of a radiographer license, the educational qualifications of the national examination provider, ARRT, effectively preclude the board from offering a license under the non-statutory terms of the act. The ARRT requires that a person shall complete an approved course of study in radiography to be eligible to take the ARRT radiographer examination, as well as sets the passing score, and defines the reexamination options available to examinees. Unlike the limited scope machine operator examination for which eligibility can be determined by each state under the state laws, the board cannot waive the completion of an approved course of study for the ARRT radiographer examination.

SECTION 3 creates ch. RAD 3, entitled “Requirements for Limited X-Ray Machine Operator (LXMO) Permit”.

Section 3.01 establishes the criteria for issuance of a permit to practice as a LXMO.

Section 3.02 establishes the standards for an approved course of study for a permit.

Section 3.03 establishes the standards for examination.

Section 3.04 establishes the Board’s authority to determine the passing grade for the examination.

Section 3.05 limits the number of reexamination attempts allowed within a 12 month period.

Section 3.06 establishes the requirements for issuance of a permit during the non-statutory transitional period. During

the “transitional” period a person may receive a LXMO permit without completing a formal course of study if the person has been engaged in the limited scope practice of radiography for at least 3 of the 5 years immediately preceding the application. A person who applies for a permit during the transitional period shall successfully pass the required examination. Beginning on April 1, 2012, a person who applies for a LXMO permit shall be required to complete both the required course of study and pass the board-approved limited scope examination in order to receive the credential.

Section 3.07 provides the basis for denial of an application for a permit.

SECTION 4 creates ch. RAD 4, entitled “Scope of Practice.”

Section 4.01 establishes the scope and standards of practice for a licensed radiographer based upon nationally recognized and accredited sources.

Section 4.02 establishes the scope and standards of practice for a LXMO permit holder based upon nationally recognized and accredited sources.

SECTION 5 creates ch. RAD 5, entitled “Continuing Education.”

Section 5.01 establishes the continuing education requirements for renewal of a license or permit.

Section 5.02 provides the method for verifying compliance with the continuing education requirements.

Section 5.03 defines those who are recognized providers of continuing education deemed acceptable to the board.

Section 5.04 establishes the recordkeeping requirements for continuing education hours.

Section 5.05 establishes the random audit process for verifying continuing education compliance.

Section 5.06 provides for a waiver or postponement of the continuing education requirements on the basis of a hardship and defines the meaning of hardship.

SECTION 6 creates ch. RAD 6, entitled “Unprofessional Conduct.”

Section 6.01 establishes a code of ethics for persons who practice radiography with a license or permit issued under this chapter. The rules of unprofessional conduct list 16 separate acts or behavior which may result in disciplinary action by the board.

***Comparison with existing or proposed federal regulations***

There is no existing or proposed federal regulation that addresses licensure and activities to be regulated by the rule. Existing federal laws are pertinent to the accreditation standards for radiography programs.

***Comparison with similar rules in adjacent states***

The comparison information with the rules in adjacent states was obtained directly from a review of the following statutes and rules.

*Iowa:*

641 Iowa Admin. Code 42 specifies the training requirements for diagnostic radiographers, limited diagnostic radiographers and limited in-hospital diagnostic radiographers. Iowa requires satisfactory completion of an agency approved training program, satisfactory completion of an agency-approved examination and submission of the appropriate fee. 641 Iowa Admin. Code 42.2(1). To renew, licensees must submit an annual renewal application which

includes specified fees and completion of continuing education requirements. 641 Iowa Admin Code 42.2(4). Iowa requires successful completion of a Joint Review Committee on Education in a Radiologic Technology approved course of study, certification by the American Registry of Radiologic Technologists (ARRT) or the American Registry of Clinical Radiography Technologists, or an equivalent agency-approved training course to prepare students to demonstrate competency in various areas including radiation protection of patients and workers, technique and quality control to achieve diagnostic objectives with minimum patient exposure, and patient care. See 641 Iowa Admin. Code 42.3(1). The Iowa Department of Public Health contracts with the American Registry of Radiography Technologists for the certification examination. Individuals who have passed the general radiography examination with the ARRT meet testing requirements. Limited diagnostic radiographers must also complete an approved course of study and pass the limited scope examination. Radiographers must have 24 clock hours of continuing education during a two-year period. One hour must be in radiation protection. Limited diagnostic radiographers and limited in-hospital diagnostic radiographers must have 12 clock hours, with one hour in radiation protection. 641 Iowa Admin. Code 42.2(3). <http://www.legis.state.ia.us/asp/ACODOCS/DOCS/641.42.pdf>

*Illinois:*

32 Illinois Admin. Code 401 accredits persons in the practice of medical radiation technology by requiring minimum standards for preparatory education and experience as well as examination and continuing education requirements. Illinois recognizes both active status accreditation and temporary accreditation for medical radiography. Active accreditation applies to individuals who have passed an examination; temporary accreditation applies to persons who have completed an approved program in radiography. Individuals who seek active or temporary accreditation in medical radiography must pass the certification examination of the American Registry of Radiology Technologists. See s. 401.70. Renewal of medical radiography accreditation requires 24 continuing education credits. See Ill Admin. Code 401.140(b). CE requirements may be met by engaging in activity approved by the agency, including approved post-secondary courses relevant to radiology science and/or patient care, advanced life support or instructor/instructor trainer certification, or an advanced level exam approved or acceptable to ARRT. An individual may not legally perform medical radiation technology without valid accreditation or without express approval of the Agency. Technologists seeking renewal are required to attest they acquired the necessary number of continuing education credits and the agency may perform an audit in which the individual is asked to provide documentation of continuing education. Illinois assesses civil penalties against those who perform medical radiation procedures without valid accreditation. Illinois' rules closely follow the draft model rules of the Conference of Radiation Control Program Directors. [http://www.state.il.us/iema/legal/pdf/32\\_401.pdf](http://www.state.il.us/iema/legal/pdf/32_401.pdf)

*Minnesota:*

In Minnesota, human use x-ray operator minimum requirements are set forth in Minn. Stat. 144.121 – X-Ray Machines; Other Sources of Ionizing Radiation. The Minnesota Department of Health requires initial site specific training and additional training if there is a change to a

registrant's quality assurance program. An individual in a facility with registered x-ray equipment may not operate the equipment unless the individual passes a national examination approved by the commissioner of health. The criteria for approval of examinations are based on national standards, such as the examination in radiography from the ARRT and the examination from the ARRT for limited x-ray machine operators. A limited x-ray operator is anyone who is not a radiologic technologist registered by the ARRT. Under Minn. Stat. 144.121 (5a), a limited x-ray operator may only practice medical radiography on limited regions of the human anatomy for which the operator has successfully passed an examination. The Minnesota statutes and administrative rules do not have educational, renewal or continuing education requirements for diagnostic medical radiographers or limited x-ray machine operators. <https://www.revisor.mn.gov/statutes/?id=144.121>

*Michigan:*

The State of Michigan does not license the operators of x-ray equipment, nor does it have requirements relative to the licensure or credentialing of x-ray machine operators. <http://law.justia.com/us/cfr/title42/42-1.0.1.6.60.0.19.4.11.html>

The comparison of the proposed rules to the adjacent states demonstrates that the rules are relatively comparable to those in adjacent states.

***Summary of factual data and analytical methodologies***

No study resulting in the collection of factual data was used relating to this rule. The primary method for creating the proposed rules was based upon the provisions in 2009 Act 106 and ch. 462, Stats., and information from the American Registry of Radiologic Technologists and American Society of Radiologic Technologists.

***Analysis and supporting documents used to determine effect on small business***

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

Chapter 462, Stats, exempts from the licensure and permitting requirements the following licensed health care providers; physicians; a person enrolled in a board approved radiography program who is directly supervised by a physician or persons licensed under s. 462.03(2); a chiropractor licensed under s. 446.02 or a person under the direct supervision of a chiropractor if the person has successfully completed a course of instruction of at least 48 hours approved by the chiropractic examining board; a dentist licensed under s. 447.04 (1) or a person directly supervised by a dentist, a dental hygienist licensed under s. 447.04 (2); a physician assistant licensed under s. 448.04 (1) (f) and a podiatrist licensed under s. 448.63 or a persons under the direct supervision of a such a podiatrist if the person has successfully completed a course of instruction related to x-ray examinations approved under 448.695 (3) by the podiatrists affiliated credentialing board.

There are approximately 951 registered hospital and medical facilities, of which 508 sites have at least one X-ray machine on the premise. This information is derived from the Wisconsin Department of Health Services, Radiation Protection and X-Ray Registration Database.

**Effect on Small Business**

These proposed rules were reviewed by the Small Business Review Advisory Committee and it was determined that the rules will not have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

***Small business regulatory coordinator***

The Department's Regulatory Review Coordinator may be contacted by email at [john.murray@wisconsin.gov](mailto:john.murray@wisconsin.gov) or by calling 608-266-8608.

**Fiscal Estimate**

The department estimates that this rule will require staff

time in the Division of Enforcement, Division of Management Services, Office of Exams and Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$7,510. The total on-going salary and fringe costs are estimated at \$56,525.

***Anticipated costs incurred by private sector***

The department finds that this rule has no significant fiscal effect on the private sector.

**Agency Contact Person**

Sharon Henes, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2377; email at [sharon.henes@wisconsin.gov](mailto:sharon.henes@wisconsin.gov).

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## Submittal of Proposed Rules to the Legislature

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

**Agriculture, Trade and Consumer Protection**  
**CR 10-122**

(DATCP # 09-R-05)

Revises Chapters ATCP 21 Appendix A, 29, 30, 35, 55, 57, 90, 91, 92, 161 and 167, relating to various technical rule changes.

**Agriculture, Trade and Consumer Protection**  
**CR 10-120**

(DATCP # 09-R-4)

Creates Chapter ATCP 161 subchapter V, relating to economic development grants and loans – accountability provisions.

**Insurance**  
**CR 10-149**

Revises section Ins 3.37 and creates section Ins 3.375,

relating to health insurance coverage of nervous and mental disorders and substance use disorders.

**Insurance**  
**CR 10-150**

Creates section Ins 3.35, relating to colorectal cancer screening coverage.

**University of Wisconsin System Board of Regents**  
**CR 10-104**

Revises Chapter UWS 19, relating to accrual and use of sick leave by faculty, academic staff, and limited appointees of the University of Wisconsin System.

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## Rule Orders Filed with the Legislative Reference Bureau

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*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](mailto:bruce.hoesly@legis.wisconsin.gov) or (608) 266-7590 for updated information on the effective dates for the listed rule orders.*

### **Public Defender Board CR 10-133**

Revises Chapter PD 3, relating to determining, collecting and processing the payments from persons as payment for legal representation.  
Effective 6-19-11.

### **Public Defender Board CR 10-134**

Revises Chapter PD 6, relating to determining, collecting and processing the payments from persons as payment for legal representation.  
Effective 6-19-11.

### **Regulation and Licensing Controlled Substances Board CR 10-112**

Creates section CSB 2.35, relating to scheduling of a schedule II controlled substance, lisdexamfetamine under ch. 961, Stats, of the Uniform Controlled Substances Act.  
Effective 5-1-11.

### **Technical College System Board CR 10-096**

Revises section TCS 17.06, relating to training program grants.  
Effective 5-1-11.

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## Sections Affected by Rule Revisions and Corrections

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The following administrative code sections had rule revisions and corrections take place in **March 2011**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Legislative Reference Bureau at (608) 266-7590.

### Editorial Corrections

Corrections to code sections under the authority of s. 13.92 (4) (b), Stats., are indicated in the following listing.

#### Health Services

##### Ch. DHS 139

DHS 139.06 (1), (2)

DHS 139.07 (1), (2)

##### Ch. DHS 192

DHS 192.03 (7)

DHS 192.05 (1), (2)

#### Natural Resources

##### Ch. NR 101

NR 101.03 (4), (5)

##### Ch. NR 109

NR 109.01

##### Ch. NR 116

NR 116.07 (6) (c)

NR 116.12 (2) (b)

##### Ch. NR 120

NR 120.06 (1) (c)

NR 120.17 (2) (o)

##### Ch. NR 121

NR 121.01

NR 121.03 (4), (9), (10), (11), (13), (18), (19)

NR 121.04 (1)

NR 121.05 (1) (c)

NR 121.06 (2) (a)

##### Ch. NR 129

NR 129.13 (2) (e)

##### Ch. NR 130

NR 130.03 (9)

NR 130.06 (2)

NR 130.09 (1) (a), (b)

NR 130.12 (1)

##### Ch. NR 131

NR 131.02

NR 131.03 (2), (18), (20), (21)

NR 131.05 (6)

NR 131.06 (3) (d), (4) (e), (6)

NR 131.07 (1), (3) (g), (4) (j), (k), (L)

NR 131.08 (2) (g)

NR 131.09 (2) (a)

NR 131.10 (1) (d), (g)

NR 131.11 (2)

NR 131.13 (1)

NR 131.14 (1)

NR 131.17 (intro.), (5)

NR 131.19 (2) (a), (5) (c)

##### Ch. NR 133

NR 133.03 (11)

NR 133.06 (1) (b), (c)

NR 133.07 (1) (b)

NR 133.09 (1), (3)

##### Ch. NR 134

NR 134.09 (2)

##### Ch. NR 141

NR 141.07 (2)

##### Ch. NR 146

NR 146.01 (1)

NR 146.02 (5), (9), (11)

NR 146.09 (1) (c)

##### Ch. NR 172

NR 172.01 (Note)

NR 172.02 (Note)

NR 172.05 (1) (Note)

NR 172.06 (4) (a) (Note)

##### Ch. NR 182

NR 182.02 (2), (4), (9)

NR 182.07 (1) (a)

NR 182.075 (1x) (b), (2) (a)

NR 182.17 (10) (c)

##### Ch. NR 185

NR 185.07 (3) (a)

##### Ch. NR 186

NR 186.01

NR 186.03 (19)

NR 186.05

NR 186.06 (1)

NR 186.08 (2) (e), (f)

NR 186.09 (1), (4) (d), (6) (c)

NR 186.11 (4) (b), (5) (e), (f)

##### Ch. NR 187

NR 187.01

NR 187.03 (4), (6)

NR 187.04 (3)

##### Trans 233

Entire Chapter Reprinted

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## Executive Orders

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**The following are recent Executive Orders issued by the Governor.**

**Executive Order 14.** Relating to a Special Session of the Legislature and Amending Executive Orders #1 and #4.

**Executive Order 15.** Relating to a Special Election for the Sixtieth Assembly District, Eighty-third Assembly District, and Ninety-fourth Assembly District.

**Executive Order 16.** Relating to a Special Election for the Sixtieth Assembly District, Eighty-third Assembly District, and Ninety-fourth Assembly District and Amending Executive Order #15.

**Executive Order 17.** Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for First Lieutenant Daren M. Hidalgo of the United States Army Who Lost His Life While Serving His Country During Operation Enduring Freedom – Afghanistan.

**Executive Order 18.** Relating to Suspending Executive Order #108.

**Executive Order 19.** Relating to Executive Order #172.

**Executive Order 20.** Relating to the Creation of the Governor's Pardon Advisory Board.

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## Public Notices

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### Health Services

#### Medical Assistance Reimbursement to Hospitals Pay For Performance Payment Plan for State Fiscal Year 2011–2012

The State of Wisconsin reimburses hospitals for services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and Chapter 49 of Wisconsin State Statutes. This program, administered by the State's Department of Health Services (Department), is called Medicaid or Medical Assistance.

The Department is proposing to modify inpatient hospital pay for performance measures and associated payment rates for state fiscal year 2011. The pay for performance measures are projected to distribute \$5,000,000 all funds in state fiscal year 2011, composed of \$1,930,000 general purpose revenue (GPR) and \$3,070,000 federal funds (FED).

The Joint Committee for the Review of Administrative Rules met in Executive Session on March 1, 2011 and adopted the following motion:

#### Copies of Proposed Change

A copy of the proposed change may be obtained free of charge at your local county agency or by calling or writing as follows:

#### Regular Mail

Division of Health Care Access and Accountability  
P.O. Box 309  
Madison, WI 537001–0309

#### State Contact

Krista Willing, Section Chief  
Hospital Rate Setting  
(608) 266–2469 (phone)  
(608)266–1096 (fax)  
[KristaE.Willing@wisconsin.gov](mailto:KristaE.Willing@wisconsin.gov)

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

#### Written Comments

Written comments are welcome. Written comments on the proposed change may be sent by FAX, email, or regular mail to the Division of Health Care Access and Accountability. The FAX number is (608) 266–1096. The email address is [kristae.willing@wisconsin.gov](mailto:kristae.willing@wisconsin.gov). Regular mail can be sent to the above address. All written comments will be reviewed and considered.

All written comments received will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 350 of State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made in the proposed changed pay for performance measures based on comments received.

### Health Services

#### Medicaid Reimbursement for Health Homes

The State of Wisconsin reimburses providers for services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health Services, is called Medical Assistance (MA) or Medicaid. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is currently in effect.

The State of Wisconsin intends to create state plan language that provides for health home services. A proposed amendment will be submitted to the federal Centers for Medicare and Medicaid Services with a proposed effective date of April 1, 2011, or possibly a later date.

A recent change to federal law provided that a State may at its option submit a state plan amendment under which the State provides a designated provider, a team of health care professionals operating with such a provider, or a health team with payments for the provision of health home services to each eligible individual with certain chronic conditions that selects such provider, team of health care professionals, or health team as the individual's health home. Payments for such services are treated as medical assistance for purposes of section 1903 (a) of the Social Security Act, which provides for reimbursement to the states for the federal share of expenditures under the Medicaid program.

Payment for these services must be consistent with §1902 (a) (30) (A) of the Social Security Act. Payment may be tiered according to severity and intensity of need as allowed under §1945 (c) (2) (A) of the Social Security Act.

This proposal is estimated to increase Wisconsin Medicaid expenditures by \$2 million, all funds, in each of State Fiscal Years 2011 and 2012. This amount is composed of 90% federal match and 10% general purpose revenue, or GPR, during the first 8 fiscal year quarters the home health state plan amendment is in effect. The federal match rate will decrease to the match rate applicable to Medicaid services generally (currently, approximately 59%) thereafter.

**Copies of the Proposed Change:**

A copy of the proposed change may be obtained free of charge at your local county agency or by calling or writing as follows:

**Regular Mail**

Alfred Matano  
Division of Health Care Access and Accountability  
PO Box 309  
Madison, WI 53701-0309

**Phone**

Alfred Matano  
Division of Health Care Access and Accountability  
(608) 267-6848

**FAX**

(608) 261-7792  
Attention: Al Matano

**E-Mail**

[alfred.matano@dhs.wisconsin.gov](mailto:alfred.matano@dhs.wisconsin.gov)

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

**Written Comments:**

Written comments are welcome. Written comments on the proposed change may be sent by FAX, e-mail, or regular mail to the Division of Health Care Access and Accountability. The FAX number is (608) 261-7792. The e-mail address is [alfred.matano@dhs.wisconsin.gov](mailto:alfred.matano@dhs.wisconsin.gov). Regular mail can be sent to the above address. All written comments will be reviewed and considered.

All written comments received will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 472 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made based on comments received.

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