

The Governor approved this Statement of Scope on August 17, 2015.

STATEMENT OF SCOPE
DEPARTMENT OF HEALTH SERVICES

Rule No.: DHS 139

Relating to: Public health nurse credentials

Rule Type: Permanent

Type of Statement of Scope: **Original**

1. Finding/nature of emergency (Emergency Rule only):

Not Applicable.

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rulemaking is to revise the qualifications making persons eligible for employment as a public health nurse.

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

Chapter DHS 139 establishes the qualifications of certain professions, including public health nurses, employed by local health departments.

In pertinent part, language under the existing rule is narrowly focused and only allows an individual with either a bachelor's or master's degree from an approved nursing program to be eligible for employment as a public health nurse. Since the rule was created in 1998, the department recognizes that other educational paths exist to qualify an individual to be employed as a public health nurse. Additionally, s. 250.06 (1m), Stats., as created by 2011 Act 120, provides that any relevant education, training, instruction, or other experience that an applicant obtained in connection with military service, as defined in s. 111.32 (12g), counts toward satisfying the requirements for education, training, instruction, or other experience to qualify as a public health nurse if the applicant demonstrates to the satisfaction of the department that the education, training, instruction, or other experience that the applicant obtained in connection with his or her military service is substantially equivalent to the education, training, instruction, or other experience that is required to qualify as a public health nurse.

The department proposes to revise ch. DHS 139 to recognize other educational avenues or training that may qualify an individual to be employed as public health nurse. No reasonable alternatives exist to the rulemaking.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 250.06 (1) and (1m) reads:

(1) The qualifications of all public health nurses shall be prescribed by rules promulgated by the department. All public health nurses shall be registered nurses. Licensed practical nurses licensed under ch. 441 may be employed by local health departments under the supervision of a public health nurse to perform services for which licensed. Public health nurses shall work under the direction of the local board of health and the local health officer and shall conduct a generalized public health nursing program in cooperation with the department.

(1m) Notwithstanding sub. (1), any relevant education, training, instruction, or other experience that an applicant obtained in connection with military service, as defined in s. 111.32 (12g), counts toward satisfying the requirements for education, training, instruction, or other experience to qualify as a public health nurse if the applicant demonstrates to the satisfaction of the department that the education, training, instruction, or other experience that the applicant obtained in connection with his or her military service is substantially equivalent to the education, training, instruction, or other experience that is required to qualify as a public health nurse.

Section 227.11 (2) (a), Stats., reads: Rule-making authority is expressly conferred on an agency as follows:

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The department estimates that it will take approximately 1,040 hours to develop the proposed rule changes. This includes the time required for research and analysis, coordinating advisory

committee meeting, rule drafting, preparing any related documents, holding a public hearing and communicating with affect persons and groups.

6. List with description of all entities that may be affected by the proposed rule:

The proposed rule change will impact local health departments.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There appears to be no existing or proposed federal regulations that address the activities to be regulated by the rules.

8. Anticipated economic impact of implementing the rule:

The proposed rule change is anticipated to have little or no economic impact if promulgated.

Contact Person:

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