

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 10/5/2021
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DHS 129, Certification of programs for training and testing nurse aides, medication aides and feeding assistants	
4. Subject Certification of programs for training and testing nurse aides, medication aides and feeding assistants	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected N/A
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$The proposed rule will have no fiscal impact on current providers.	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule Section 146.40 (3), Stats., requires that the Department of Health Services ("the Department") establish standards, by rule, for the approval of instructional programs for individuals applying to be nurse aides in the state of Wisconsin. Section 146.40 (3g), Stats., requires that the Department establish standards, by rule, for the approval of instructional programs for nurse aides who have successfully completed an instructional program for nurse aides in another state that, when combined with instruction received from another state, provide instruction that is substantially equivalent to instruction received through a program developed under s. 146.40 (3), Stats. Rules previously promulgated by the Department require that, before a nurse aide can be employed in Wisconsin, they must complete 120 hours of instruction, including 32 clinical hours, through a Department-approved program. See ss. DHS 129.03 (30m) (a) and 129.07 (2) (b). An individual who has completed nurse aide training in another state may be approved if they complete an instructional program—referred by rule as the "45-hour training program in DHS 129.03 (30m) (b)—which, combined with the instruction received in the other state, amounts to receiving substantially the same instruction as Wisconsin's 120-hour training program. 2019 Wisconsin Act 185 added an additional requirement in s. 146.40 (3), stating that "[t]he department may not require an instructional program to exceed the federally required minimum total training hours or minimum hours of supervised practical training under 42 CFR 483.152 (a)." 42 CFR 483.152 (a) provides that "[f]or a nurse aide training and competency evaluation to be approved by the State, it must, at a minimum . . . [c]onsist of no less than 75 clock hours of training." At least 16 hours of those 75 hours must be supervised practical training. The Department proposes to revise portions of DHS 129 in order to make the required minimum number of training hours consistent with the federally required minimum total training hours under 42 CFR 483.152 (a). Further, the Department proposes to eliminate the references to the 45-hour training program in DHS 129 as the 45-hour training program is no longer needed to bridge the gap between the 120 hours of instruction and the 75-hour federal minimum since Wisconsin has adopted the federal 75-hour minimum.	

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12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.

A public commenting period was held from September 20, 2021 until October 4, 2021, pursuant to s. 227.137(3), Wis. Stats. The comment period was publicly noticed in the Wisconsin Administrative Register and on the Department's website. No public comments were received during the commenting period.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.
None.

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule will have no fiscal impact on current providers.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The proposed rule will align the administrative rule with Wisconsin Statutes. This will help to eliminate confusion for nurse aide training programs and consumers.

16. Long Range Implications of Implementing the Rule

The proposed rule will align the administrative rule with Wisconsin Statutes. This will help to eliminate confusion for nurse aide training programs and consumers.

17. Compare With Approaches Being Used by Federal Government

Federal conditions of participation for the registry of nurse aides, nurse aide training and testing programs, and training of paid feeding assistants are contained in 42 CFR 483.150 through 483.160. These regulations establish conditions and standards for the approval of nurse aide training and competency evaluation programs, for the maintenance and operation of a registry, and for conducting training and testing programs for nurse aides and paid feeding assistants.

State and federal regulations for registry services and training and testing of nurse aide and paid feeding assistants are comparable, however the department previously supplemented these requirements through rulemaking to address therapeutic interventions and non-pharmacological pain control interventions, techniques of restorative nursing, client rights and reporting abuse or neglect of a client or misappropriation of a client's property. See CR 16-088, which became effective on October 1, 2017, available at https://docs.legis.wisconsin.gov/code/chr/all/cr_16_088.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

Illinois adopted significant portions of the federal regulation including the standards for the denial, suspension and revocation of program approval in 77 Admin Code 395, Long-Term Care Assistants and Aides Training Programs Code. Illinois specifies a comprehensive list of topics that must be addressed in any approved program including patient rights, communication, psychological needs of patient and family, hand washing, body mechanics, basic anatomy, nutrition, etc. Each set of topics includes course objectives and proficiency measures.

Iowa:

Iowa Code Chapter 81 – 16 Nurse Aide Requirements and Training and Testing Program closely mirrors federal requirements by including standards for denial, suspension and revocation of program approval. Like Illinois, Iowa code contains an extensive list of topics that must be included in any approved training program including bathing, dressing, toileting, assistance with eating, skin care, transfers, responding to behaviors, restorative care and avoiding the need for restraints.

Michigan:

Michigan has no state rule regarding certified nurse aide training programs or maintenance of a registry and relies solely on federal regulation.

Minnesota:

Minnesota has no state rule regarding certified nurse aide training programs or maintenance of a registry and relies solely on federal regulation.

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19. Contact Name

Pat Benesh

20. Contact Phone Number

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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

N/A

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

N/A

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

N/A

5. Describe the Rule's Enforcement Provisions

N/A

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
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