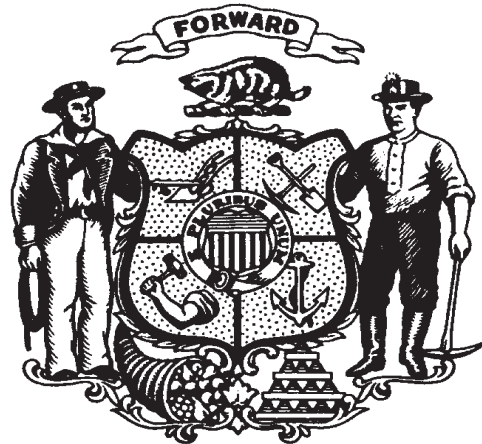


# Wisconsin Administrative Register

No. 564



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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.*

*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, 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).*

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### Agriculture, Trade & Consumer Protection (2)

1. Rules adopted revising **chs. ATCP 10 and 11** relating to chronic wasting disease in cervids.

#### Finding of emergency

(1) Chronic wasting disease is a contagious disease known to affect several species of the cervid family, including elk, white–tailed deer, black–tailed deer, red deer and mule deer. The disease is always fatal. At the present time, there is no scientific evidence to suggest that chronic wasting disease is transmitted to non–cervids or to humans. But there is limited scientific knowledge about the disease, and this lack of knowledge has contributed to public concerns.

(2) The cause of chronic wasting disease is not fully understood. The disease appears to be related to aberrant protein molecules called prions. By an unknown mechanism, prions apparently cause other protein molecules in the cervid brain to take aberrant forms. The disease causes microscopic vacuoles (holes) in the brain. Diseased cervids become emaciated, display abnormal behavior patterns, and experience loss of bodily functions.

(3) Science does not understand how chronic wasting disease is spread. It is thought that infected cervids can transmit the disease to other cervids, either directly or by contaminating their environment. It appears that cervid–to–cervid contact facilitates the spread of the disease.

(4) On February 27, 2002, the national veterinary services laboratory informed Wisconsin that it had confirmed chronic wasting disease for the first time in this state. The laboratory confirmed the disease in test samples collected from 3 free–ranging white–tailed deer killed by hunters during the November 2001 gun deer season. The Wisconsin Department of Natural Resources (DNR) collected these samples as part

of a statewide disease surveillance program. With the voluntary cooperation of hunters, DNR collected test samples from deer killed and registered by hunters at selected hunting registration sites around the state. DNR collected a total of 345 samples statewide, including 82 samples at the Mt. Horeb registration station. The 3 deer that tested positive for chronic wasting disease were all registered at the Mt. Horeb station. The 3 deer were shot in close proximity to each other in Vermont Township in Dane County. We do not know how the 3 deer were exposed to chronic wasting disease, nor do we know the extent of infection in the free–ranging herd.

(5) We do not know whether any captive cervids in Wisconsin are infected with chronic wasting disease (there are no findings to date). If captive cervids are infected, the close proximity of cervids within a captive herd may facilitate the spread of disease within the herd. The movement of infected cervids between herds may spread the disease to other herds. Contact between free–ranging and captive cervids may also spread the disease.

(6) Persons importing captive cervids to Wisconsin must obtain an import permit from the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP). Importers must identify the herd of origin and the herd of destination. A veterinarian must certify that the cervids appear to be in good health, and that they have been tested for tuberculosis and brucellosis. There is no chronic wasting disease testing requirement, because there is no way to test live cervids for the disease.

(7) Since 1995, a total of 2,604 captive cervids have been legally imported into Wisconsin. This includes 2,020 elk, 191 whitetail deer, 12 mule deer and 387 other cervids. Chronic wasting disease has been found in free–ranging herds or in some captive herds in Colorado, Nebraska, Oklahoma, Kansas, Montana, South Dakota, and Wyoming. Since 1995, a total of 410 captive cervids have been legally imported to Wisconsin from these states. Most other states lack active chronic wasting disease surveillance programs, so the full extent of the disease is not known with certainty.

(8) DATCP currently registers captive cervid herds, other than white–tail deer herds. DNR currently licenses captive white–tail deer herds. Since 1998, DATCP has sponsored a voluntary program to monitor for chronic wasting disease among the captive herds that it registers. Approximately 50 herd owners currently participate in this program.

(9) Since chronic wasting disease was confirmed in this state, there has been widespread public concern about the disease. The public has expressed concern about the health of free–ranging deer and elk, and about potential threats to humans, livestock and deer–related businesses. Hunters and consumers have expressed food safety concerns. There is currently no scientific evidence to suggest that chronic wasting disease is transmissible to non–cervids or to humans. But there is limited scientific knowledge about the disease, and this lack of knowledge has contributed to public concerns.

(10) In order to protect the public peace, health, safety and welfare, it is necessary to take immediate steps to prevent and control the spread of chronic wasting disease in this state. Among other things, it is necessary to impose further controls on the import and movement of captive cervids and to implement a mandatory monitoring program. DATCP may adopt rules to implement these measures.

(11) Normal rulemaking procedures require up to a year or more to complete. A temporary emergency rule is needed to protect the public peace, health, safety and welfare, pending the adoption of longer–term rules. This emergency rule will implement essential prevention and control measures on an immediate, interim basis.

**Publication Date:** April 9, 2002  
**Effective Date:** April 9, 2002  
**Expiration Date:** September 6, 2002  
**Hearing Date:** May 22, 2002  
**Extension Through:** May 31, 2003

2. Rules adopted revising **ch. ATCP 96** relating to milk producer security.

#### **Finding of emergency**

(1) The Legislature, in 2001 Wis. Act 16, repealed and recreated Wisconsin's agricultural producer security program. The new program is codified in ch. 126, Stats. (the "new law"). The new law takes effect, for milk contractors, on May 1, 2002. The new law is intended to protect milk producers against catastrophic financial defaults by milk contractors.

(2) The new law applies to milk contractors, including dairy plant operators, producer agents and other milk handlers, who procure producer milk in this state. Under the new law, milk contractors must be licensed by the Wisconsin department of agriculture, trade and consumer protection (DATCP). Milk contractors must pay license fees and do one or more of the following:

(a) Contribute to Wisconsin's agricultural producer security fund, to help secure milk payments to milk producers.

(b) File security with DATCP.

(c) File financial statements with DATCP, showing that the contractor meets minimum financial standards specified in ch. 126, Stats.

(3) The new law regulates producer agents (who market milk and collect payment for milk producers, without taking title to the milk), but treats them differently than other milk contractors. Producer agents may have lower fund participation requirements, and may file smaller amounts of security, than other milk contractors. The program may provide correspondingly less compensation to producers if a producer agent defaults.

(4) It is important to clarify the following matters before the new law takes effect for milk contractors on May 1, 2002:

(a) The treatment of dairy plant operators who provide custom processing services to milk producers, without marketing or taking title to milk or dairy products.

(b) The treatment of producer agents. Under s. 126.51, Stats., DATCP must adopt rules for milk contractors who wish to qualify as producer agents under the new law.

(c) The treatment of persons who market only processed dairy products for milk producers, without procuring, marketing or processing raw producer milk.

(d) The method by which milk contractors calculate and report milk payment obligations, for the purpose of calculating fund assessments and security requirements under the new law.

(5) Under s. 126.81 (4), Stats., DATCP may require milk contractors to disclose their security and fund contribution status to milk producers. It is important for milk contractors to begin making these disclosures soon after the new law takes effect, so that producers can evaluate the financial risk

associated with milk procurement contracts. Disclosures are important, because not all milk contractors are required to participate in the agricultural security fund or file security with DATCP.

(6) It is not possible, by normal rulemaking procedures, to adopt these essential clarifications and disclosure requirements by May 1, 2002. DATCP must, therefore, adopt them by emergency rule. This emergency rule is needed to implement the new law, to protect the financial security of milk producers, to preserve fair competition in the dairy industry, and to avoid unnecessary confusion and expense for dairy businesses.

**Publication Date:** April 29, 2002  
**Effective Date:** April 29, 2002  
**Expiration Date:** September 26, 2002  
**Hearing Date:** May 16, 2002  
**Extension Through:** January 23, 2003

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## **Commerce**

### **(Financial Assistance to Businesses and Communities, Chs. Comm 105 to 128)**

The Wisconsin Department of Commerce proposes an order to create **ch. Comm 118** relating to the Agricultural Development Zone Program.

#### **Finding of emergency**

The Department of Commerce finds that an emergency exists and that adoption of the rule is necessary for the immediate preservation of public health, safety and welfare.

Facts constituting the emergency are as follows:

1. In accordance with s. 560.798 (5), Stats., the Department of Commerce has the responsibility to promulgate rules for the operation of an agricultural development zone to provide for the attraction, promotion, retention, and expansion of agricultural businesses in the state.

2. Section 560.798 (3), Stats., makes available certain tax benefits for certified business within an agricultural development zone; tax credits first apply to tax years beginning on or after January 1, 2003.

3. Commerce, being the agency with primary authority for economic development in the state, recognizes that there is a verified need to attract, promote retain, and expand Wisconsin agricultural businesses. For example, over the past 50 years, Wisconsin has experienced an average of six dairy farms leaving production each day.

4. In the year 2001, state milk production declined by more than one billion pounds, resulting in a near 5% decline in milk production.

5. Western states have increased their cheese production, while Wisconsin experiences declining milk production and dairy processing activities; this program would immediately assist Wisconsin in regaining its prominence in dairy and dairy processing production.

6. The creation of this program combined with other economic development programs in the state is expected to increase the competitiveness of the Wisconsin dairy industry.

This emergency rule is being created in order that the process of designating an agricultural development zone be commenced as soon as possible and that such eligible businesses may become certified and participate in the tax benefits through the Agricultural Development Zone Program.

**Publication Date:** August 13, 2002  
**Effective Date:** August 13, 2002  
**Expiration Date:** January 10, 2003  
**Hearing Date:** October 16, 2002

### Corrections

Rules adopted amending **ch. DOC 316**, relating to medical, dental and nursing copayment charges.

#### Exemption from finding of emergency

The department of corrections adopts this emergency rule pursuant to the statutory requirements of 2001 Wis. Act 109. The Act provides, in relevant part:

“Using the procedure under section 227.24 of the statutes, the department of corrections shall promulgate the rules that are required under section 302.386 (4) (a) of the statutes relating to the deductible, coinsurance, copayment, or similar charge that must be imposed under section 302.386 (3) (b) of the statutes.”

and,

“Notwithstanding section 302.386 (3) (b) of the statutes, the rules shall require the department to require that, subject to the exception and waiver provisions under section 302.386 (3) (c) of the statutes, each person to whom section 302.386 (1) of the statutes applies pay a deductible, coinsurance, copayment, or similar charge of at least \$7.50 for each request that the person makes for medical or dental services.”

Currently, the department’s administrative rules provide for a \$2.50 copayment under such circumstances as described above. This emergency rule raises the copayment to \$7.50 as directed by 2001 Wis. Act 109.

In addition, pursuant to 2001 Wis. Act 109 the department makes no finding of emergency in promulgating this rule. 2001 Wis. Act 109 expressly exempts the department from the statutory requirements to do so.

**Publication Date:** September 3, 2002  
**Effective Date:** September 3, 2002  
**Expiration Date:** January 31, 2003  
**Hearing Date:** November 18, 2002

### Health and Family Services (Medical Assistance, Chs. HFS 100—)

Rules adopted creating **ch. HFS 109**, relating to SeniorCare.

#### Finding of emergency

The Department of Health and Family Services finds that an emergency exists and that the rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The high cost of prescription drugs in Wisconsin and nationwide are especially burdensome on the elderly, many of whom live on a fixed income. Through 2001 Act 16, Wisconsin has addressed the problem those increasingly high costs pose to the elderly by creating section 49.688 of the statutes. Section 49.688 directs the Department to develop and administer the program of prescription drug benefits for the elderly that has come to be known as “SeniorCare.” The statute also directs the Department to develop administrative

rules for implementing SeniorCare, which the Department has done by creating a new chapter of administrative rules, HFS 109. The rules address a variety of issues associated with operating the program in accordance with section 49.688, Stats., including specifying:

- what prescription drugs are covered;
- who is eligible for benefits and services;
- how the Department determines household income for the program’s eligibility determination;
- how the Department monitors compliance by pharmacists and pharmacies; and
- mechanisms for preventing fraud and abuse.

The Department drafted these rules to parallel the prescription drug provisions of the existing Medicaid rules in chs. HFS 101 to 108. The Department developed the program’s administrative elements in consultation with an advisory committee composed of representatives of physicians, counties, seniors and pharmacies.

While the Department is currently in the process of promulgating ch. HFS 109 as permanent rules, s. 49.688 (5) (a) and (7) (a), Stats., mandate the initiation of some SeniorCare program elements beginning on September 1, 2002. To meet this deadline, the Department is issuing ch. HFS 109 as emergency rules to preserve the public welfare.

**Publication Date:** September 1, 2002  
**Effective Date:** September 1, 2002  
**Expiration Date:** January 29, 2003  
**Hearing Date:** October 10, 2002

### Health and Family Services (Health, Chs. HFS 110—)

Rules adopted creating **s. HFS 115.04 (9) to (13)**, relating to screening newborn infants for congenital disorders.

#### Finding of emergency

The Department of Health and Family Services finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The early identification of particular congenital and metabolic disorders that are harmful or fatal to persons with the disorders is critical to mitigating the negative effects of such disorders. Therefore, Wisconsin Statute 253.13 requires that every infant born be subjected to blood tests for congenital and metabolic disorders, as specified in administrative rules promulgated by the Department. Parents, however, may refuse to have their infants screened for religious reasons. The Department has issued ch. HFS 115, Screening of Newborns for Congenital and Metabolic Disorders, to administer this statutory requirement. Currently, s. HFS 115.04 lists eight congenital and metabolic disorders for which the state hygiene laboratory must test newborn blood samples.

In determining whether to add or delete disorders from the list under s. HFS 115.04, s. HFS 115.06 directs the Department to seek the advice of persons who have expertise and experience with congenital and metabolic disorders. For this purpose, the Department established the Wisconsin Newborn Screening Umbrella Advisory Group. Section HFS 115.06 also lists six criteria on which the Department must base its decision to add to or delete disorders from s. HFS 115.04. These criteria are:

1. Characteristics of the specific disorder, including disease incidence, morbidity and mortality.

2. The availability of effective therapy and potential for successful treatment.

3. Characteristics of the test, including sensitivity, specificity, feasibility for mass screening and cost.

4. The availability of mechanisms for determining the effectiveness of test procedures.

5. Characteristics of the screening program, including the ability to collect and analyze specimens reliably and promptly, the ability to report test results quickly and accurately and the existence of adequate follow–up and management programs.

6. The expected benefits to children and society in relation to the risks and costs associated with testing for the specific condition.

In consideration of these criteria, the Wisconsin Newborn Screening Umbrella Advisory Group recently recommended that the Department add five aminoacidopathies, i.e., amino acid–related disorders, to the eight disorders currently screened for and listed in s. HFS 115.04. These disorders are:

- Maple Syrup Urine Disease;
- Homocystinuria;
- Tyrosinemia;
- Citrullinemia; and
- Argininosuccinic Acidemia.

Persons with these disorders can experience serious medical consequences such as failure–to–thrive, developmental delays, seizures, mental retardation and death.

The additional costs associated with these five additional screening tests is less than a dollar per baby screened because the amino acids in the blood sample are measured simultaneously with the acylcarnitines for Fatty Acid Oxidation and Organic Acidemias. In the absence of this screening, the Department estimates the annual Wisconsin costs for these disorders to be \$144,909. The Department also estimates the annual Wisconsin costs of this screening to be \$29,134. Therefore, the cost benefit from these five screening tests is \$115,775.

The Advisory Group also recommended that the Department immediately begin screening newborns for these additional disorders. Before this testing can begin, the Department must change its rules to add the five new disorders to the existing list under s. HFS 115.04. Permanent rules require six or more months to take effect. Collectively, these disorders occur, on average, once in every 30,000 births. Given an annual birthrate of about 68,000 in Wisconsin, delaying the effective date of these rules by six or more months may result in one to three persons being born with one of these five disorders and that fact escaping detection. To eliminate this possibility and ensure that newborn testing begins as soon as possible, the Department has chosen to promulgate this rule change on an emergency basis while the Department promulgates a permanent rule.

While the Department is currently in the process of promulgating these amendments to the permanent rules, the Department must implement these changes immediately to preserve the public health. Therefore, the Department is issuing these identical amendments as an emergency order.

**Publication Date:** October 12, 2002  
**Effective Date:** October 12, 2002  
**Expiration Date:** March 11, 2003  
**Hearing Date:** December 17, 2002

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## Natural Resources (4) (Fish, Game, etc., Chs. NR 1–)

1. Rules adopted revising **chs. NR 10 and 45**, relating to the control and management of chronic wasting disease.

### Finding of emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The state legislature has delegated to the department rule–making authority in 2001 Wisconsin Act 108 to control the spread of Chronic Wasting Disease (CWD) in Wisconsin. CWD poses a risk to the health of the state’s deer herd and citizens and is a threat to the economic infrastructure of the department, the state, it citizens and businesses.

**Publication Date:** July 3, 2002  
**Effective Date:** July 3, 2002  
**Expiration Date:** November 30, 2002  
**Hearing Date:** August 12, 2002  
**Extension Through:** April 1, 2003

2. Rules adopted revising **ch. NR 10**, relating to the 2002 migratory game bird season.

### 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. The federal government and state legislature have delegated to the appropriate agencies rule–making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid–August of each year. This order is designed to bring the state hunting regulations to conformity with the federal regulations. Normal rule–making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

**Publication Date:** August 30, 2002  
**Effective Date:** August 30, 2002  
**Expiration Date:** January 27, 2003  
**Hearing Date:** September 26, 2002

3. Rules adopted repealing and recreating **s. NR 20.20 (49) (d) and (61) (c)**, relating to the closure of carp fishing on Cedar Lake and connected waters in Polk and St. Croix counties.

### Finding of emergency

The Department of Natural Resources finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

Spring viremia of carp virus is of international animal health concern. The virus effects fishes in the minnow family in nature. Minnows are extremely important forage fish for many important sport fishes in Wisconsin and are also important to the bait and aquaculture industries. Assuring the health of minnow populations and preventing the spread to other waters is important in preserving the welfare of Wisconsin citizens by protecting popular and economically



valuable sport and bait fisheries. Little is currently known about the extent of the virus and until we can increase our knowledge, this closure will limit the potential spread from transport of fish and/or their parts and fluids.

**Publication Date:** October 3, 2002  
**Effective Date:** October 3, 2002  
**Expiration Date:** March 2, 2003  
**Hearing Date:** November 11, 2002

4. Rules adopted amending s. NR 25.06 (1) (a) 1. to 3., relating to commercial fishing in Lake Superior.

#### Finding of emergency

The waters of Lake Superior were not part of the extensive off–reservation treaty rights litigation known as the Voigt case. The parties stipulated that the Lake Superior rights would be dealt with, to the extent possible, by agreement rather than litigation. This rule represents the implementation of the most recent negotiated amendments to the agreement between the State and the Red Cliff and Bad River Bands. These amendments incorporate the results of a new population estimate that was not available previously. In order to comply with the terms of the agreement, the State must change its quotas and commercial fishing regulations at the earliest possible date. Failure of the State to do so will not only deprive state fishers of increased harvest opportunities available under the agreement, but could also jeopardize the agreement, putting the entire Lake Superior fishery at risk of litigation.

**Publication Date:** November 1, 2002  
**Effective Date:** November 1, 2002  
**Expiration Date:** March 31, 2003  
**Hearing Date:** December 13, 2002

## Nursing

Rules adopted creating s. N 4.10, relating to malpractice insurance coverage for nurse–midwives.

#### Exemption from finding of emergency

Under Section 13 of 2001 Wisconsin Act 52, the Board of Nursing is directed to use the procedure under s. 227.24, Stats., in promulgating the rules required under s. 441.15 (5) (b) of the statutes. Under that procedure, the Board of Nursing may promulgate this rule for the period before permanent rules become effective. The Board of Nursing need not provide evidence of the necessity of preservation of the public peace, health, safety, or welfare in promulgating this rule.

#### Analysis prepared by the Department of Regulation

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2), Stats., and ss. 441.15 (2) (c), 441.15 (3) (a) 3. and 411.15 (5), as created by 2001 Wisconsin Act 52, and s. 441.15 (3) (bm), as amended by 2001 Wisconsin Act 52.

Statutes interpreted: s. 441.15 (2) (c), 441.15 (3) (a) 3., 441.15 (3) (bm) and 441.15 (5) (b), Stats.

2001 Wisconsin Act 52 makes a number of changes to the provisions affecting nurse–midwives, including that licensed nurse–midwives carry malpractice insurance in an amount determined by rule to be promulgated by the Board of Nursing. This rule establishes those requirements relating to malpractice coverage for nurse–midwives.

Using the procedure under s. 227.24, Stats., the Board of Nursing will promulgate the rules as created by 2001

Wisconsin Act 52, for the period before permanent rules become effective.

**Publication Date:** November 5, 2002  
**Effective Date:** November 5, 2002  
**Expiration Date:** April 4, 2003

## State Treasurer

Rules adopted creating ch. Treas 1 relating to the Wisconsin College Savings Program Board.

#### Exemption from finding of emergency

Section 15 (1), 2001 Wis. Act 7 provides an exemption from a finding of emergency for the adoption of ch. Treas 1.

#### Analysis prepared by the Office of the State Treasurer

Statutory authority: Section 14.64 (2) (e), Stats., and section 15, 2001 Wis. Act 7.

Statutes interpreted: s. 14.64 *et seq.*, Stats.

The Wisconsin College Savings Program Board establishes a rule for the operation of the College Savings Program. The rule is designed to grant flexibility to program participants wherever possible, while enabling the State and its private–sector partners to administer the program in a manner that protects the program’s financial integrity and viability. Maintaining eligibility as a “qualified tuition program” pursuant to section 529 of the Internal Revenue Code [26 USC 529] is another primary objective. “529” programs are eligible for a number of federal tax benefits that are attractive to families saving for future college costs. Significant features of the rule are addressed below:

Sections Treas 1.03, 1.04 and 1.05 describe who may open an account and how to open an account. Section Treas 1.06 discusses designating a successor owner and describes how to change ownership of an account. Sections Treas 1.07 and 1.08 define the account beneficiary and how to change the beneficiary on an account.

Section Treas 1.09 details how to make contributions to an account, including minimum and maximum contribution limits, and how to “rollover” an account balance to another section 529 program. IRS requirements relating to investment direction are also detailed.

Sections Treas 1.11, 1.12 and 1.13 describe account withdrawals, distributions and refunds. Special circumstances are also provided for in these sections, such as the death or disability of the beneficiary or receipt of a scholarship by a beneficiary. Section Treas 1.14 sets forth conditions under which the Board may terminate an owner’s account. Sections Treas 1.15 and 1.16 address related fees and penalties.

**Publication Date:** January 7, 2002  
**Effective Date:** January 7, 2002  
**Expiration Date:** See Section 15, 2001 Wis. Act 7  
**Hearing Date:** March 5, 2002

## Veterans Affairs

Rules adopted amending s. VA 12.02 (7) and (16), relating to the maximum loan amount under the personal loan program.

#### Finding of Emergency

The Department of Veterans Affairs finds that an emergency exists and that a rule is necessary for the

immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is as follows:

The Department administers a personal loan program that may be used by veterans and their dependents for various statutory purposes. The purposes include debt consolidation, payment of delinquent child support, education expenses, and medical and funeral expenses, and the purchase of a mobile home or business property. The current maximum loan amount, set by the Department at sec. VA 12.02 (7), Wis. Adm. Code, is \$10,000. The permissible statutory maximum loan amount may be \$15,000, as set by the Department by administrative rule.

The Department proposes to raise the amount to the statutory maximum for several compelling reasons. Raising the maximum loan amount will help stimulate the economy by providing additional resources for veterans and their

families. Due to the state of the economy, veterans and their families have a significant need for financial assistance in the form of below market interest rate loans. Additionally, the personal loan program is the primary source of revenue for the veterans trust fund. Immediate infusion of additional assets in the form of personal loans will provide significant financial support for the trust fund. It is expected that increasing the maximum loan amount will result in approximately \$4,000,000 of new loan assets over the 8–month period in which it would take to promulgate this rule change using the regular promulgation procedure.

**Publication Date: August 5, 2002**

**Effective Date: August 5, 2002**

**Expiration Date: January 2, 2003**

**Hearing Date: December 6, 2002**

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## Scope statements

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### Corrections

#### Subject

Chapter DOC 348 (Huber Facilities)—Relating to huber facilities and work camps.

#### Policy Analysis

The objective of the rule is to amend:

- physical environment requirements to be consistent with industry standards for equipment, materials, and space allocation;
- fire safety requirements to be consistent with Department of Commerce (formerly, Department of Industry, Labor and Human Relations) regulations; and
- provisions relating to medical records, health screening, and diet.

In addition, the objective of the rule is to create:

- variance language similar to s. DOC 350.16;
- requirements for written policies and procedures similar to s. DOC 350.17; and
- minimum standards for work camps in accordance with s. 303.10, Stats.

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

Chapter DOC 348 sets forth with specificity the physical environment and space allocation requirements for jails and houses of correction. The rule will:

- revise physical requirements by identifying equipment and materials commensurate with inmate security risk, industry standards, and level of supervision;
- establish a minimum square footage requirement for day room, multi–purpose, and sleeping space per occupant;
- establish the maximum length of stay in receiving cells and holding rooms;
- incorporate Department of Commerce requirements for natural lighting and door and lock controls.

Chapter DOC 348 contains minimum fire safety standards. The rule will:

- remove the requirement for self contained breathing apparatus;
- require jails to develop fire protection and evacuation policies and procedures in conjunction with local fire departments;
- make fire inspection requirements consistent with Department of Commerce rules; and
- require documentation of inspection requests, completed inspections, and staff training on facility fire protection and evacuation policies and procedures and equipment.

Chapter DOC 348 contains policies and procedures and minimum standards relating to health care. The rule will:

- establish requirements for health care space within the secure perimeter of new or substantially remodeled jail or house of correction;
- require the development of policies and procedures for the housing of inmates who have contagious diseases, including physical plant requirements which meet Department of Commerce and federal OSHA standards;
- require the development of policies and procedures for the laundering of inmate clothing, including underclothing; and
- clarify the definition of health care and medical care for inmates.

Currently, ch. DOC 348 does not contain a provision for variance. The rule will provide for variance language which is similar to the provision under s. DOC 350.16.

Currently, ch. DOC 348 does not contain requirements for written policies and procedures. The rule will require written policies and procedures similar to the requirement under s. DOC 350.17.

1995 Act 281 created the concept of work camps. The rule will define and establish minimum standards for this type of facility.

The alternatives to the proposed policy would result in not clarifying or updating existing rule provisions.

#### Statutory authority

Sections 301.36, 301.37, and 303.10, Stats.

#### Staff time required

The Department estimates that it will take approximately 100 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

### Health and Family Services

#### Subject

To repeal, to renumber, to renumber and amend, to amend, to repeal and recreate, or to create rules in chs. HFS 101 to 108 relating to Medicaid providers.

#### Policy Analysis

The rule will enhance provisions in chs. HFS 101 to 108, to control fraud and abuse by Medicaid providers. -While the existing code clearly prohibits fraud and abuse, this rulemaking effort will include new or enhanced mechanisms concerning provider certification and decertification, successor liability, surety bonds, overpayment recovery, and provider records. The rulemaking effort will implement ss. 49.45 (2) (a) 10. 11. 12. and (b) 6m. 7. 8. and 9., 49.45 (3) (g) and (h), and 49.45 (21), Stats.

#### Statutory authority

The department's authority to create these rules is found in ss. 49.45 (2) (a) 10. c., 11. b., 12. b. and (b) 6m., 7. 8. and 9., s. 49.45 (3) (g) 2. and (h) 1n., 49.45 (21) (e), and s. 227.11 (2) Stats.

#### Staff time required

Approximately 60 hours.

## Health and Family Services

### Subject

To repeal, to renumber, to renumber and amend, to amend, to repeal and recreate, or to create rules relating to Wis. Admin. Code ch. HFS 178 relating to campgrounds.

### Policy Analysis

The Department of Health and Family Services (Department) or designated local health departments administer and enforce the licensing of all public campgrounds under Wis. Admin. Code ch. HFS 178. The Department has not significantly modified ch. HFS 178 since 1985. Since then the camping industry has changed significantly to require modifying the existing rules.

To ensure the development of appropriate rule modifications, the Department will convene a committee of industry and regulatory personnel to advise the Department.

The Department is proposing the following changes:

1. Update Wis. Admin. Code s. HFS 178.03, to include a definition of primitive camping, and update the current definitions of camping, camping units and permanent structures. New definitions will be proposed to reflect changes in the camping industry.

2. Correct the “Note” to Wis. Admin. Code s. HFS 178.07. The address of the State Lab of Hygiene has changed from 465 Henry Mall, Madison, Wisconsin, to 2601 Agricultural Drive, Madison, Wisconsin.

3. Remove the “Note” under Wis. Admin. Code s. HFS 178.08 (1). Regulations regarding public sewer connections were taken out of Wis. Admin. Code ch. Comm. 83, and are currently handled at the local level.

4. Change the references in the code from the Department of Industry, Labor and Human Relations, to the Department of Commerce.

5. Update Wis. Admin. Code s. HFS 178.16 (special event campgrounds) to reflect current rules of the Department of Commerce or include a general reference to rules of the Department of Commerce, and to create more stringent requirements regarding potable water, toilets, and wastewater disposal.

### Statutory authority

Statutory authority to promulgate ch. HFS 178 rules relating to the safety, maintenance and operation of campgrounds is found in ss. 227.11 (2), 250.04 (1) and (7) and 254.47, Stats.

### Staff time required

The Department estimates that the work associated with preparing a proposed rulemaking order will require approximately 500 hours of staff time over a one year period to convene and conduct meetings of an advisory rule committee and prepare the rulemaking order and fiscal estimate.

## Health and Family Services

### Subject

To amend HFS 196 Appendix, commonly known as the Wisconsin Food Code (WFC), relating to the certification of food managers.

### Policy Analysis

Chapter 12 of HFS 196 Appendix, establishes the requirements for certification of food managers. Section 254.71, Stats., and the WFC requires the operator or at least one manager of a food establishment to have achieved a minimum proficiency in food safety through classroom training and examination. The classroom session and examination are administered by independent organizations such as the Tavern League of Wisconsin and the Wisconsin Restaurant Association, or by technical colleges utilizing an examination approved by the department. In order for an individual to be certified, proof of passing the examination is required to be submitted to the department along with a \$10 certification fee. The certificate may be renewed, within 6 months of the expiration date, by completing a department–approved recertification training course and payment of a \$10 recertification fee. Certification and recertification is valid for a period of 5 years.

The department proposes to amend ch. 12, of HFS 196 Appendix, to do all of the following:

1. Increase the certification and recertification fee from \$10 for 5 years to \$25 for 5 years, effective July 1, 2003, with an additional increase to \$30 for 5 years effective July 1, 2004.

2. Revise the recertification requirements to be equal to the requirements of the initial certification.

3. Grant automatic approval to create and administer written examinations on food protection practices to testing service organizations that are accredited by the National Conference for Food Protection (NCFP), the recognized authority for setting national standards in food safety.

4. Exempt from the examination requirement individuals, including licensed dietitians and nutritionists, who hold a 4–year degree in food science or food safety.

#### Justification:

1. Fee Increase: The current fee of \$10 for certification and recertification was established at the conception of the CFM program in 1994. The cost of maintaining and verifying the registry of certified food managers has increased since then. Health inspectors and certificate holders frequently contact the department to check on the status of a misplaced certificate, to request duplicates, or to determine when renewal is due. The department estimates that central office support staff spend 46 hours per week on the certification program. Additional costs related to the program are incurred at each annual inspection. The department estimates that a 5–year certificate issued for \$10 costs the state more than \$70 over its 5–year life. The additional revenue generated from these fee increases will enable the department to maintain the current registry, and to respond in a timely manner to information requests regarding CFMs. Neighboring states currently charge up to \$35 for 5–year certificates or renewals.

2. Recertification Requirements: The current recertification requirement is 3 hours of classroom instruction and an examination on the information presented. There are no requirements concerning the content of the examination, nor are individuals required to achieve a passing grade on the examination. The department believes that recertification requirements that are at least as stringent as the initial certification requirements will increase the level of food safety in each food service operation by reminding the CFM of processes or procedures that may have been forgotten, as well as addressing new trends and problems.

3. Change in Examination Approval: The department believes that it is more appropriate for course materials and examinations to be approved by the NCFP. The NCFP has

more expertise and knowledge in this field. Additionally many states are moving in this direction, resulting in improved consistency and uniformity from one jurisdiction to another.

4. Exemption from Examination Requirement: The food manager certification course is an entry–level course that holders of a 4–year college degree in food science or food safety would have taken and passed in their first year of college.

**Statutory authority**

Section 254.74 (1) and 254.71 (6), Stats., authorizes the department to prescribe rules for restaurants and to enforce those rules for the purpose of protecting public health and safety.

**Staff time required**

Approximately 144 hours.

## Health and Family Services

**Subject**

To amend chapters HFS 110, 111, 112 and 113, relating to the licensing of emergency medical technicians and the certification of first responders to incorporate responding to acts of terrorism as a training component required for initial or renewed licensure or certification.

**Policy Analysis**

2001 Wisconsin Act 109 amended the statutes relating to emergency medical technician and first responder training to include training for response to acts of terrorism. Section 146.50 (6) (b) 2. of the statutes specifically directs the Department, in conjunction with the technical college system board, to promulgate rules specifying training, education, or examination requirements for training in response to acts of terrorism. The training must be completed by all persons desiring to receive an initial or renewed license or certification after January 1, 2003. To enforce and administer this statutory requirement, the Department must revise the

administrative rules associated with the licensing of Emergency Medical Technicians (EMTs) – Basic and EMTs– Basic IV (found in ch. HFS 110), EMTs– Intermediate (found in ch. HFS 111), EMTs – Paramedic (found in ch. HFS 112) and First Responders (found in ch. HFS 113.)

**Statutory authority**

Sections 146.50 (6) (b) 2. and (13) and 250.04 (7).

**Staff time required**

The Department estimates that about 5 hours will be needed to develop the proposed rules.

## Psychology Examining Board

**Subject**

*Objective of the rule:*

1. To remove a rarely–used provision under which the Board may be asked to provide to provide an interim determination of an applicant’s qualifications.

2. To broaden the language prohibiting sexual misconduct by psychologists.

**Policy Analysis**

Section Psy 2.09 (5) permits an applicant to request an interim determination of his/her qualifications. The provision has been used only once in recent memory. The Board would be able to consider such a request even in the absence of the code provision and it is unnecessary.

Section Psy 5.01 (14) currently prohibits “engaging in sexual contact, sexual conduct, or any other behavior which could reasonably be construed as seductive.” The Board wishes to expand this language to clearly prohibit “exploitative” or “romantic” conduct, including kissing.

**Statutory authority**

Sections 15.08 (5) (b), 227.11 (2) and 455.08, Stats.

**Staff time required**

100 hours.

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## Rule–making notices

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### Notice of Hearings

#### Agriculture, Trade and Consumer Protection

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on proposed rule changes to ch. ATCP 92, Wis. Adm. Code. The hearings will be held at the times and places shown below. The public is invited to attend and make comments on the proposed rule. Following the public hearings, the hearing record will remain open until **February 21, 2003** for submittal of additional written comments. Please submit written comments to the attention of Judy Cardin, Regulation & Safety Section, Division of Trade and Consumer Protection, 2811 Agriculture Drive, PO Box 8911, Madison, WI 53708–8911.

A copy of the proposed rule may be obtained free of charge by contacting the Department of Agriculture, Trade and Consumer Protection at the address above or by calling 608–224–4944. Copies will also be available at the public hearings.

Access for those with physical disabilities is available at all hearing locations. An interpreter for the hearing impaired will be available on request for the hearings. Please make reservations for a hearing interpreter at least ten days prior to the hearing date by writing to Kelly Smithback, Division of Trade and Consumer Protection, 2811 Agriculture Drive, PO Box 8911, Madison, WI 53708 or by contacting the message relay system (TDD) at 224–5058.

#### Hearing Information:

##### Eau Claire area

**Tuesday, January 14**, beginning at 12:30 p.m.  
DATCP Regional Office, Main Conference Rm  
3610 Oakwood Hills Parkway  
Eau Claire, WI 54701

##### Madison area

**Thursday, January 16**, beginning at 10:00 a.m.  
Prairie Oak State Office Building, DATCP Board Room  
2811 Agriculture Drive  
Madison, WI 53708

##### Green Bay area

**Tuesday, January 22**, beginning at 1:00 p.m.  
DATCP Regional Office, Conference Rm 152–A  
200 N Jefferson St, Suite 146–A  
Green Bay, WI 54301

#### Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

Statutory Authority: ss. 93.07 (1), 93.15 (1), 98.03 (2), 98.16 (3), 98.18 (1h), (2) and (3), and 100.20 (2), Stats.

Statutes Interpreted: ss. 93.15, 98.02 to 98.05, 98.16, 98.18 and 100.20, Stats.

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers Wisconsin's weights and measures program, to ensure that commercial weights and measures are accurate. DATCP also supervises municipal weights and measures inspection programs. DATCP licenses vehicle scale operators and weights and measures service companies. DATCP has adopted rules, under ch. ATCP 92, Wis. Adm. Code, related to commercial weighing and measuring devices.

This rule modifies current weights and measures rules, and creates new requirements. Among other things, this rule does the following:

- Establishes uniform weights and measures inspection procedures, to promote uniform statewide application of weights and measures laws. The uniform procedures apply to state and municipal weights and measures programs. The uniform procedures are based on standards developed by the National Institute of Standards and Technology (NIST).
- Requires state inspectors, municipal inspectors and private service companies to use testing equipment and weight standards that comply with NIST specifications, tolerances and regulations.
- Requires municipal inspectors to attend training on NIST procedures and related subjects.
- Clarifies licensing requirements for private weights and measures service companies, and increases annual license fees.
- Increases annual license fees for vehicle scale operators.
- Establishes a technician certification program for technicians employed by private weights and measures service companies. Technicians must pass an open–book examination developed by the Central Weights and Measures Association. There is an examination fee of \$25.

#### State and Municipal Programs

DATCP enforces state weights and measures laws. Under s. 98.04, Stats., municipalities with a population of more than 5,000 must establish their own programs or contract with DATCP for weights and measures services. Currently, 18 municipalities have their own programs.

This rule establishes minimum standards for state and municipal weights and measures programs, in order to ensure reasonable statewide uniformity. This rule includes the following new requirements:

- Uniform Inspection Procedures. Under this rule, state and municipal programs must inspect packaged commodities, liquid measuring devices, scales, pricing systems, timing devices and linear measuring devices. (Currently, some municipal programs do not perform some of these inspections.) State and municipal inspectors must follow uniform testing and sampling procedures spelled out in state law and applicable NIST handbooks.
- Inspection Equipment. This rule requires inspectors to use test equipment and weight standards that meet NIST requirements. DATCP or a NIST–certified laboratory must test and certify test equipment and weight standards at least once every 2 years. DATCP may set a different testing interval for specialized equipment or weight standards.
- Training Requirement. Under this rule, state and municipal inspectors must participate in DATCP–sponsored training to stay current with changing weights and measures standards and procedures.
- Sealing Procedure. This rule clarifies the procedure for “sealing” a weighing or measuring device after the device is inspected.
- Reporting Requirements. This rule clarifies current municipal reporting requirements. Municipalities are currently required to submit annual reports to DATCP. DATCP uses these reports to help identify weights and measures compliance problems, priorities and program needs.

### Weights and Measures Service Companies

DATCP currently licenses weights and measures service companies under s. 98.18, Stats. This rule increases license fees and establishes minimum licensing standards.

#### • License Required

This rule clarifies that a weights and measures service company must hold a DATCP license to install, service, test or calibrate commercial weighing or measuring devices.

A service company must apply for a license and pay required fees, according to this rule. DATCP may deny, suspend or revoke a license for reasons specified in this rule.

#### • License Fee

Under current law, weights and measures service companies pay the following annual license fees:

- \$100 for companies that service only their own commercial weighing and measuring devices.
- \$200 for companies that service weighing and measuring devices “for hire.” A “for hire” company must also pay a supplementary license fee of \$50 for each additional business location, if the company operates from more than one location.

This rule increases license fees for service companies. This rule establishes an annual fee of \$250 for every company. A “for hire” service company must pay a supplementary fee of \$75 for each additional business location, if the company operates from more than one location.

#### • Technician Certification

This rule creates a certification program for weights and measures service technicians. A weights and measures service company is responsible for having its technicians certified. Under this rule, a technician may not do any of the following unless the technician is certified:

- Restore to service a weighing or measuring device rejected by a state or municipal inspector.
- Place a new commercial weighing or measuring device in service.
- Verify the accuracy of a commercial weighing or measuring device.

A technician must be certified in one or more appropriate categories, based on the types of devices that the technician services. The Central Weights and Measures Association (CWMA) has developed certification exams that test a person’s working knowledge of NIST standards and procedures (NIST Handbook 44) in various categories. Six midwestern states have adopted the CWMA technician certification program. Technicians who successfully complete the exam are recognized as “certified technicians” in participating states.

This rule requires certified technicians to pass the CWMA technician certification exam (or another exam approved by DATCP) in each applicable category once every 5 years. There is a \$25 exam fee. The Wisconsin Department of Employment Relations, City and County Testing Unit, will administer the exam for DATCP. Exams are administered at locations statewide.

#### • Equipment Testing Procedures

Under this rule, weights and measures service companies must follow NIST testing procedures when they test weighing and measuring devices. Service companies must affix security seals to devices placed in service. Security seals must identify the name of the service company and technician that serviced the device.

This rule requires service companies to use testing equipment and standards that meet NIST requirements. Equipment and standards must be tested and certified at least once every 2 years by DATCP’s metrology laboratory, or by a NIST–certified laboratory.

#### • Recordkeeping and Reporting.

Under this rule, a weights and measures service company must prepare a written report whenever the company installs, services, tests or calibrates a weighing or measuring device. The technician who does the work must prepare and sign the report. The report must include relevant information required by this rule.

Within 7 business days after it completes the work, the service company must give a copy of the report to the owner or operator of the device. If the service company restores a “rejected” device to service, the service company must also give a copy to DATCP or to the municipality that rejected the device. The service company must keep a copy of the report for at least 3 years.

• **Prohibited Practices.** No person who sells, installs, services, tests or calibrates a weighing or measuring device may do any of the following:

- Cause the device to be incorrect.
- Misrepresent that the device is correct.
- Misrepresent, directly or by implication, that the person has determined whether the device is correct.
- Fail to comply with this chapter or ch. 98, Stats.
- Remove any reject tag or mark applied by a state or municipal inspector unless the person first does one of the following:
  - \* Adjusts the device to make it correct.
  - \* Obtains express authorization from DATCP or, if the reject tag or mark was applied by a municipal inspector, from that municipality.

### Vehicle Scales

DATCP currently licenses vehicle scale operators under s. 98.16, Stats. The current license fee is \$60 per year per vehicle scale. This rule increases the license fee to \$100 per year per vehicle scale.

#### Standards Incorporated by Reference

Pursuant to s. 227.21, Stats., DATCP will request permission from the attorney general and the revisor of statutes to incorporate the following standards by reference in this rule:

- The national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices), 2003 edition.
- The national institute of standards and technology handbook 133 (checking the net contents of packaged goods), 2003 edition.
- Section 7 “test procedures” from the chapter titled “examination procedure for price verification,” national institute of standards and technology handbook 130 (uniform laws and regulation in the areas of legal metrology and engine fuel quality), 2003 edition.

Copies of these standards are on file with DATCP, the secretary of state and the revisor of statutes.

#### Fiscal Estimate

Weights and measures service companies and vehicle scale operators are licensed and regulated by DATCP under Chapter 98 of the Statutes. Current law authorizes the department to adjust license fees by rule.

Currently, the department licenses an estimated 2011 vehicle scales and 208 service companies. These license fees generate an estimated \$160,000 annually for DATCP’s weights and measures inspection program. The proposed fee increases for vehicle scales and service companies are expected to generate an additional \$97,000.

This rule also includes a requirement for certification of service company technicians, consistent with a voluntary service company technician testing program developed by the

Central Weights and Measures Association. The rule imposes a \$25 processing for testing and certification, and requires recertification of technicians every five years. DATCP has identified approximately 1,164 technicians employed by service companies. An estimated 800 technicians are likely to participate in the service company technician testing and certification program. The processing fee will generate about \$20,000 during each five–year interval, and cover costs associated with administration and grading of the tests.

#### **Initial Regulatory Flexibility Analysis**

This rule will affect vehicle scale operators and weights and measures service companies, many of which are small businesses. The proposed fee increases for vehicle scale operators and private and “for hire” service companies are needed to ensure accurate weights and measures in this state. Testing and record keeping requirements in the rule are consistent with NIST standards and surrounding states, and considered as good business practices within the industry. The rule does not present an unreasonable burden to affected businesses.

### **Notice of Hearing**

#### **Dentistry Examining Board**

[CR 02–138]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Dentistry Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 447.04 (1) (a) 6. and (2) (a) 6., Stats., and interpreting s. 447.04 (1) (a) 6. and (2) (a) 6., Stats., the Dentistry Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal the Note following s. DE 6.02 (4) (c); and to amend s. DE 6.02 (4) (c), relating to dental specialties.

#### **Hearing Date, Time and Location**

Date: **January 8, 2003**  
 Time: 9:00 a.m.  
 Location: 1400 East Washington Avenue  
 Room 179A  
 Madison, Wisconsin

#### **Appearances at the Hearing**

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. Written comments must be received by January 22, 2003 to be included in the record of rule–making proceedings.

#### **Analysis prepared by the Department of Regulation and Licensing.**

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 447.04 (1) (a) 6. and (2) (a) 6., Wis. Stats.

Statutes interpreted: s. 447.04 (1) (a) 6. and (2) (a) 6., Wis. Stats.

In this proposed rule–making order the Dentistry Examining Board amends its rules relating to dental specialties. Section 1 amends s. DE 6.02 (4) (c) to indicate that if the American Dental Association recognizes the dental specialty the board would not need to approve it. This rule–making order would not require the board to approve every new specialty when there is one developed in the future whereby the Note would need to be amended each time there is a new specialty developed.

Section 2 deletes the Note following s. DE 6.02 (4) (c) which states the board recognizes the following dental specialties: endodontics, oral and maxillofacial surgery, oral

pathology, orthodontics, pedodontics, periodontics, prosthodontics and public health.

#### **TEXT OF RULE**

SECTION 1. DE 6.02 (4) (c) is amended to read:

DE 6.02 (4) (c) Notice of a practice as a specialist in a dental specialty unless the dentist has successfully completed a post–doctorate course approved by the commission on dental accreditation of the American dental association in a specialty recognized by the board American dental association. This limitation does not apply to a dentist who announced a limitation of practice prior to 1967.

SECTION 2. The Note following DE 6.02 (4) (c) is repealed.

#### **Fiscal Estimate**

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

#### **Initial Regulatory Flexibility Analysis**

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Wis. Stat.

#### **Copies of Rule and Contact Person**

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266–0495.

### **Notice of Hearing**

#### **Dentistry Examining Board**

[CR 02–139]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Dentistry Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and 447.04 (1) (c) 2., Stats., as created by 2001 Wisconsin Act 16 and amended by 2001 Wisconsin Act 109, and interpreting s. 447.04 (1) (c) 2., Stats., the Dentistry Examining Board will hold a public hearing at the time and place indicated below to consider an order to create s. DE 2.015, relating to faculty licenses.

#### **Hearing Date, Time and Location**

Date: **January 8, 2003**  
 Time: 9:00 a.m.  
 Location: 1400 East Washington Avenue  
 Room 179A  
 Madison, Wisconsin

#### **Appearances at the Hearing**

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. Written comments must be received by January 22, 2003 to be included in the record of rule–making proceedings.

#### **Analysis prepared by the Department of Regulation and Licensing.**

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), Stats., and s. 447.04 (1) (c) 2., Stats., as created by 2001 Wisconsin Act 16 and amended by 2001 Wisconsin Act 109.



Statutes interpreted: s. 447.04 (1) (c) 2., Stats.

In this proposed rule-making order the Dentistry Examining Board creates s. DE 2.015, relating to faculty licenses. In 2001 Wisconsin Act 109, new legislation was passed authorizing the Dentistry Examining Board to grant a license to practice dentistry as a faculty member at a school of dentistry in this state.

Section DE 2.015 (1) (a) to (e) outlines what the applicant must submit to the board in order to be granted a faculty license to practice dentistry. Section DE 2.015 (2) specifies what the license holder is authorized to do with the license. And s. DE 2.015 (3) states a faculty license is no longer in effect if the license holder ceases to be employed as a full-time faculty member at a school of dentistry.

#### TEXT OF RULE

DE 2.015 Faculty license. (1) The board shall grant a license to practice dentistry to an applicant who is licensed in good standing to practice dentistry in another jurisdiction of the United States or Canada upon presentation of the license and who does all of the following:

- (a) Submits an application on a form provided by the board.
- (b) Pays the fee specified in s. 440.05 (2), Stats.
- (c) Submits a written certification from the dean of a school of dentistry in this state that the applicant has been offered employment as a full-time faculty member at that school of dentistry.
- (d) Makes satisfactory responses during any interview that the examining board may require that demonstrate, to the satisfaction of the dentistry board, that the applicant is competent to practice dentistry.
- (e) Discloses all discipline which has ever been taken against the applicant in any jurisdiction shown in reports from

the national practitioner data bank and the American association of dental examiners.

(2) A license granted under sub. (1) authorizes the license holder to practice dentistry only within a primary educational facility that is physically located within a school of dentistry in this state. A license granted under sub. (1) shall not be transferable to another school of dentistry in this state.

(3) A license granted under sub. (1) is no longer in effect if the license holder ceases to be employed as a full-time faculty member at a school of dentistry in this state. The dean of a school of dentistry in this state shall notify the board in writing within 30 days of the date on which the employment of a faculty member licensed under sub. (1) is terminated.

#### Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

#### Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Wis. Stat.

#### Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495.

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## Rule orders filed with the revisor of statutes bureau

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*The following administrative rule orders have been filed with the Revisor of Statutes 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 Revisor of Statutes Bureau at gary.poulson@legis.state.wi.us or (608) 266-7275 for updated information on the effective dates for the listed rule orders.*

**Insurance  
(CR 02-051)**

An order affecting ch. Ins 3, relating to transitional treatment.  
Effective 1-1-03.

**Natural Resources  
(CR 01-144)**

An order affecting ch. NR 150, relating to wetland conservation activities.  
Effective 2-1-03.

**Natural Resources  
(CR 02-015)**

An order affecting chs. NR 299, 300, 351 and 352, relating to permit and water quality certification time limits, exempt activities in nonfederal wetlands and the identification and delineation of nonfederal wetlands.  
Effective 2-1-03.

**Natural Resources  
(CR 02-062)**

An order affecting ch. NR 544, relating to a pilot program

for alternative method of compliance with solid waste recycling requirements.  
Effective 2-1-03.

**Natural Resources  
(CR 02-073)**

An order affecting ch. NR 20, relating to fishing on the inland and outlying waters of Wisconsin.  
Effective 2-1-03.

**Public Defender  
(CR 02-110)**

An order affecting ch. PD 1, relating to provisional appointment of private attorneys seeking certification for appellate appointments.  
Effective 1-1-03.

**Public Instruction  
(CR 02-032)**

An order creating ch. PI 28, relating to providing access to the 4th, 8th and 10th grade Knowledge and Concepts Examinations and the High School Graduation Test.  
Effective 1-1-03.

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## Public notice

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### **Financial Institutions – Savings Institutions**

#### **Notice of Interest Rate on Required Residential Mortgage Loan Escrow Accounts For 2003**

Under Section 138.052 (5) (a), Stats., with some exceptions, a bank, credit union, savings bank, savings and loan association, or mortgage banker, which originates a residential mortgage loan requiring an escrow account to assure the payment of taxes or insurance, shall pay interest on the outstanding principal of the escrow.

Section 138.052 (5) (am) 2., Stats., directs the Department of Financial Institutions, Division of Savings Institutions, to determine annually the required interest rate. The rate is based on the average interest rate paid by Wisconsin depository institutions on passbook savings accounts.

The Department of Financial Institutions, Division of Savings Institutions, has calculated the interest rate required to be paid on escrow accounts under Section 138.052 (5), Stats., to be **1.39%** for 2003. This interest rate shall remain in effect through December 31, 2003.

**Contact Person:**

Mr. Michael J. Mach  
Department of Financial Institutions  
Telephone (608) 266-0451

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## Notice of suspension of an administrative rule

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The Joint Committee for the Review of Administrative Rules met in Executive Session on November 7, 2002 and adopted the following motions:

- 1. The Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 6. and 227.26 (2) (d), Stats., suspends the following two portions of s. NR 47.913 (2) (a) and (b), relating to the gypsy moth suppression program:**

(a) “40 contiguous acres in a compact and regular shape or be of at least”.

(b) “of publicly owned land surrounded by ineligible land”.

[The action of the Joint Committee provides that s. NR 47.913 (2) (a) will read: “be of at least 20 acres.”]

**Motion Carried: 10 Ayes, 0 Noes.**

- 2. The Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 5. and 6. and 227.26 (2) (d), Stats., suspends s. Tax 11.12 (7) (a), relating to imposition of the state sales and use tax on the sale of game birds to game farms or clubs.**

**Motion Carried: 10 Ayes, 0 Noes.**

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