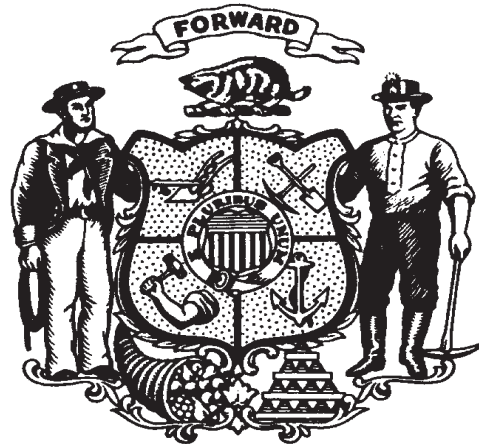


Wisconsin Administrative Register

No. 567



Publication Date: March 14, 2003

Effective Date: March 15, 2003



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Emergency rules now in effect

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.

Agriculture, Trade & Consumer Protection

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

Commerce

(Financial Resources 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
Extension Through: March 10, 2003

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
Extension Through: March 31, 2003

Employee Trust Funds

Rules adopted amending **s. ETF 20.25 (1) (a) and (2)** regarding the date as of which annual post-retirement annuity adjustments under ss. 40.27 (2) and 40.28 (2), Stats., will occur.

Finding of emergency

The Department of Employee Trust Funds, Employee Trust Fund Board, Teachers Retirement Board and Wisconsin Retirement Board find that an emergency exists and that an administrative rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

Without emergency rule-making it will not be possible to avoid short-term harm to individual WRS annuitants who will already bear the effects of the market downturn though a zero percent fixed annuity dividend and a double-digit negative variable change.

The first annuity dividends actually affected by the 2002 rule-making (CR #02-049) are the dividends otherwise payable on March 1, 2003. Projections indicate that the fixed division dividend will likely be 0%, largely because of the effect of three years of market declines. The annual change to variable division annuities, which is more volatile because it reflects only the past year’s market performance, will be negative and in the range of -26% to -30%. This means that the portion of an annuitant’s annuity payable from the fixed

division will not increase during 2003, while, if the annuitant receives a portion of his or her annuity from the variable annuity division, that portion of the annuity will be markedly reduced. Annuitants are concerned about the short-term effect of cuts to their annuities being made effective a month earlier this year than was the case in previous years.

The change from April 1 to March 1 was initiated with the best of intentions, primarily to get the additional money from dividend increases into the hands of annuitants as quickly as possible. In retrospect, the timing is unfortunate. When drafting of the rule began in early 2002, the year-end market earnings were unknown and a third consecutive year of market losses could not be predicted. The continued deterioration of investment returns in the latter part of 2002 has magnified the adverse, short-term effect of this change in the timing of dividends; that is, the size of the negative variable adjustment is larger.

Publication Date: February 27, 2003
Effective Date: February 28, 2003
Expiration Date: July 28, 2003

Health and Family Services (2) (Medical Assistance, Chs. HFS 100—)

1. 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
Extension Through: March 29, 2003

2. Rules adopted revising **chs. HFS 101 to 107**, relating to the Medicaid Family Planning Demonstration Project.

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:

On June 25, 1999, the Department submitted a request for a waiver of federal law to the Centers for Medicare and Medicaid Services (CMS), the agency within the United States Department of Health and Human Services that controls states' use of Medicaid funds. On June 14, 2002, the Centers for Medicaid and Medicare granted the waiver, effective January 1, 2003. The waiver allows the state to expand Medicaid services by providing coverage of family planning services for females of child-bearing age who would not otherwise be eligible for Medicaid coverage. Under the waiver, a woman of child-bearing age whose income does not exceed 185% of the federal poverty line will be eligible for most of the family planning services currently available under Medicaid, as described in s. HFS 107.21. Through this expansion of coverage, the Department hopes to reduce the number of unwanted pregnancies in Wisconsin.

Department rules for the operation of the Family Planning Demonstration Project must be in effect before the program begins. The program statute, section 49.45 (24r) of the statutes, became effective on October 14, 1997. It directed the Department to request a federal waiver of certain requirements of the federal Medicaid Program to permit the Department to implement the Family Planning Demonstration Project not later than July 1, 1998, or the effective date of the waiver, whichever date was later. After CMS granted the waiver, the Department determined that the Family Planning Demonstration Project could not be implemented prior to January 1, 2003, and CMS approved this starting date. Upon approval of the waiver, the Department began developing policies for the project and subsequently the rules, which are in this order. The Department is publishing the rules by emergency order so the rules take effect in February 2003, rather than at the later date required by promulgating permanent rules. In so doing, the Department can provide health care coverage already authorized by CMS as quickly as possible to women currently not receiving family planning services and unable to pay for them. The Department is also proceeding with promulgating these rule changes on a permanent basis through a proposed permanent rulemaking order.

Publication Date: January 31, 2003
Effective Date: January 31, 2003
Expiration Date: June 30, 2003

Health and Family Services (3) (Health, Chs. HFS 110—)

1. 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

2. Rules adopted amending **chs. HFS 110 to 113**, relating to licensing of EMT's and certification of first responders, incorporating responding to acts of terrorism as a training component.

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:

2001 Wisconsin Act 109 amended section 146.50 (6) (a) 2., (b) 2. and (8) (b) 3. by adding the requirement that as of January 1, 2003, to receive an initial or renewed EMS license or first responder certification, the applicant must have received training in 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.)

The required rule changes will remove any question of whether the department had the authority to require persons to receive training for acts of terrorism. Such training is needed to promote the public's health and safety and due to the statutory effective date of January 1, 2003, the department is promulgating these rule changes through an emergency order. The department is also proceeding with promulgating these rule changes on a permanent basis through a proposed permanent rulemaking order.

Publication Date: December 31, 2002
Effective Date: December 31, 2002
Expiration Date: May 30, 2003
Hearing Date: February 17, 2003

3. Rules adopted revising **ch. HFS 163**, relating to certification for the identification, removal and reduction of lead-based paint hazards.

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. A statement of the facts constituting the emergency is as follows:

The presence of lead in paint and soil is believed to contribute to the level of lead found in the blood of persons, particularly children, living in the area. The federal Environmental Protection Agency (EPA) maintains regulations intended to reduce environmental lead hazards principally by:

- Specifying the thresholds for an environment to be considered as presenting a lead-based paint hazard; and
- Requiring training and certification of persons who perform lead hazard reduction activities or lead investigation activities so those persons are best able to prevent exposure of building occupants to hazardous levels of lead.

The federal government may authorize a state to administer its own lead training and certification program if the state has regulations governing certification of persons for the identification, removal and reduction of lead-based paint hazards that are as protective as those specified in the EPA regulations.

In Wisconsin, the Department of Health and Family Services administers the lead training and certification program. The Department has established administrative rules under chapter HFS 163 to guide its administration of the program. In 2000, the Department began work to extensively revise ch. HFS 163 to implement 1999 Wisconsin Act 113, which established a program for registering lead-free and lead-safe properties. The proposed rule was released for public review and comment on December 12, 2000. On January 5, 2001, in volume 66, number 4 of the Federal Register (66 FR 1206-1239), the EPA published regulations that established standards for lead-based paint hazards under 40 CFR Part 745, Subparts D and L, and required states with authorized lead training and certification programs under 40 CFR Part 745, Subpart Q, to implement the regulations by February 5, 2003. Because the proposed rule had already been released for public review and comment and the EPA standards for lead-based paint hazards would affect the lead-safe property standards under ch. HFS 163, the Department decided to educate the public about the new EPA standards for lead-based paint hazards before revising the rule to reflect the new EPA standards. If Wisconsin is to continue administering its program of training and certification of persons performing lead abatement and lead investigation activities (in lieu of a program operated by the EPA), the Department must revise ch. HFS 163 by February 3, 2003 to comply with those most recent and final federal regulations at 40 CFR Part 745, Subparts D, L and Q.

If the Department does not make these changes to ch. HFS 163, Wisconsin could lose some or all of its Federal lead grant funding and EPA's authorization for the Department's lead program. Since the federal regulation provides the first measurable definition of a lead-based paint hazard, the Department needs to adopt this definition in order to protect the state's citizens.

The most significant modification to the rules pertains to the permissible level of residual lead dust in window troughs. The current lead-safe property standards expressed under s. HFS 163.42 allow a higher level of lead dust in window troughs than is permissible in corresponding EPA regulations and also do not require properties to be free of soil-lead hazards. Making the changes to s. HFS 163.42 through this order will mean that persons removing lead-based paint hazards may need to clean window troughs more thoroughly to reduce the dust-lead levels and also may need to cover bare

soil. Most lead investigation professionals in Wisconsin already perform lead investigation work in conformance with the more stringent lead levels specified in EPA's regulations to ensure a more protective environment for residents, especially when conducting clearance following abatement activities. Conformance with the more stringent EPA regulations is also currently required when lead hazard reduction work is performed using federal funds. Since most lead investigation professionals already use the more protective EPA standards, the rule changes should have little effect on persons conducting lead investigation or abatement activities.

Among the changes the Department is making through this order, the most significant are the following:

1. Prior to this order, section HFS 163.14 (5) (c) 8. required that, following lead abatement, a window well or trough may contain no more than 800 micrograms of lead dust per square foot. The revised EPA regulations specify a maximum level of 400 micrograms per square foot. To comply with federal regulations, the Department is reducing the permissible threshold to 400 micrograms per square foot.

2. Prior to this order, section HFS 163.15 (2) specified that a lead hazard is present in soil when the arithmetic mean for laboratory results for samples of bare soil is equal to or greater than 2,000 parts per million. The EPA revised regulations state that a lead hazard is present in soil when bare soil in a play area contains total lead content equal to or exceeding 400 parts per million or when bare soil in the rest of the yard contains an average of 1,200 parts per million of lead. To comply with the federal regulations, the Department is reducing the permissible threshold to that specified by the EPA.

3. The Department is adding standards, as section HFS 163.15 (3), for determining when a lead-based paint hazard exists.

4. The Department is modifying section HFS 163.42 (1) (b) and (c) to require that all exterior painted components, regardless of their height above the ground, be free of deteriorated paint unless the paint is proved to be lead-free.

5. The Department is revising its standards for lead-safe property under s. HFS 163.42 (1) (f) and (j) to reflect these lower levels for lead in dust and soil.

6. Finally, the Department is revising section HFS 163.42 (1) (j) to require that there be no soil-lead hazard on registered lead-safe property.

Publication Date: January 3, 2003

Effective Date: January 3, 2003

Expiration Date: June 2, 2003

Hearing Date: April 2, 2003

[See Notice This Register]

Insurance

Rules adopted amending s. **Ins 3.39**, relating to Medicare Supplement insurance policies.

Finding of emergency

The commissioner of insurance ("Commissioner") finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety and welfare. The facts constituting the emergency are as follows:

These changes clarify the persons eligible who have the right to have policies guaranteed issued. The changes track the recent revisions in the NAIC model act implementing the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act ("BIPA"), by January 1, 2003. In order to

provide more certainty and provide guaranteed issue to the appropriate persons in Wisconsin, it is necessary that the changes be put into effect as soon as possible. In addition, since insurers are required to be in compliance with the Federal law, implementing this rule effective on the same date will allow insurers to modify their policies one time rather than two.

The Commissioner is sending contemporaneously with this Emergency Rule, the permanent rule, Clearinghouse No. 02-118, to the Legislature for review. A hearing on the permanent rule, pursuant to published notice thereof, was held on November 7, 2002. The Office has received comment and revised the rule as necessary to incorporate comments from the public and as contained within the Clearinghouse Report.

Publication Date: December 16, 2002
Effective Date: December 16, 2002
Expiration Date: May 14, 2003

Natural Resources (5) (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, its 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 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 affects 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
Extension Through: April 30, 2003

3. 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

4. Rules adopted revising **chs. NR 16 and 19** and creating **ch. NR 14**, relating to captive wildlife.

Finding of emergency

2001 Wis. Act 56 was not enacted until April of 2002. It required standards for captive animals held under licenses issued under ch. 169, Stats., to be in place by January 1, 2003, the effective date of the change from licensing under ch. 29, Stats., to ch. 169, Stats. As the use of the permanent rule process would not allow these standards to be in place by January 1, 2003, the Department had no choice but to use the emergency rule procedures. Failure to have standards in place would result in the lack of humane care standards for wild animals held in captivity and the lack of pen standards necessary to prevent the interactions between captive and wild animals.

Publication Date: December 20, 2002
Effective Date: January 1, 2003
Expiration Date: May 31, 2003
Hearing Date: January 16, 2003

5. Rules adopted revising **ss. NR 10.07 (2), 12.06 and 19.60**, 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, its citizens and businesses. This rule is needed to reduce the deer herd in the CWD eradication zone further than accomplished through the hunting seasons to help prevent the spread of CWD.

Initial Applicability. This emergency rule repeals and recreates portions of the original CWD emergency rule order (WM-32-02 (E)) which was adopted by the Natural Resources Board in June 2002. The effective period of this emergency rule will coincide with the effective period of the original CWD emergency rule order which has been extended by the Legislative Joint Committee on the Review of Administrative Rules until April 1, 2003, pursuant to 2001, Wisconsin Act 108.

Publication Date: January 11, 2003
Effective Date: January 11, 2003
Expiration Date: April 1, 2003
Hearing Date: February 11, 2003

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 rules 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
Hearing Date: March 7, 2003

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
Extension Through: May 1, 2003

Workforce Development (Public Works Const. Contracts, Chs. DWD 290-294)

Rules adopted amending s. DWD 290.155 (1), relating to the annual adjustment of thresholds for application of prevailing wage rates.

Finding of Emergency

The Department of Workforce Development 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 facts constituting the emergency is:

The Department of Workforce Development is acting under its statutory authority to annually adjust thresholds for the application of prevailing wage laws on public works projects. The thresholds are adjusted in accordance with any change in construction costs since the last adjustment. The last adjustment was initially by emergency rule in January 2002 based on changes in the construction cost index in 2001. The Department uses the construction cost index in the December issue of the *Engineering News-Record*, a national construction trade publication, to determine the change in construction costs over the previous year. The current construction cost index indicates a 2.7% increase in construction costs in 2002. This increase in construction costs results in an increase in the threshold for application of the prevailing wage laws from \$36,000 to \$37,000 for single-trade projects and from \$175,000 to \$180,000 for multi-trade projects.

If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately 7 months, until the conclusion of the permanent rule-making process. Between January 1, 2003, and August 1, 2003, a single-trade project with a minimum

estimated project cost of more than \$36,000 but less than \$37,000 or a multi-trade project with an estimated cost of more than \$175,000 but less than \$180,000 would not be exempt from the prevailing wage laws, as they would be if the emergency rule were promulgated. The threshold adjustments for application of the prevailing wage laws are based on national construction cost statistics and are unlikely to be changed by the permanent rule-making process. The

Department is proceeding with this emergency rule to avoid imposing an additional administrative burden on local governments and state agencies.

Publication Date: December 27, 2002

Effective Date: January 1, 2003

Expiration Date: May 31, 2003

Hearing Date: February 27, 2003

Scope statements

Commerce

Subject

Chs. Comm 20–25, relating to Uniform (1–2 Family) Dwelling Code.

Objective of the rule. The Uniform Dwelling Code establishes statewide uniform construction and inspection rules for one– and 2–family dwellings.

The statutes require the department to review the rules of the Uniform Dwelling Code every two years. The department is required to revise the rules after consultation with the Uniform Dwelling Code Council, which is appointed by the Governor. The code update being scoped herein is expected to be implemented in April 2005.

The objective of the rule is to have a clearly understood code that reflects application of current construction and remodeling practices, products, standards, model codes, and materials.

Policy analysis

Existing policies. The Uniform Dwelling Code, chs. Comm 20–25, establishes statewide uniform construction and inspection rules for one– and 2–family dwellings. To ensure the health, safety and welfare of Wisconsin citizens using and residing in one– and 2–family dwellings, the code and adopted standards must be viable and current.

New policies. This code review will identify potential code revisions necessary to:

- Address code requirement clarity problems that have been discovered since the last code review.
- Reformat and update ch. Comm 20 to clarify administrative requirements.
- Update design and construction requirements for foundations, roofs, ceilings, and masonry walls.
- Address water resistance requirements for foundation walls and roof coverings.
- Clarify issues relating to insulation R–values and vapor retarder placement.
- Address code requirements relative to safety, health, and welfare which are substantially different from the national model building codes.
- Address other issues as approved by the Office of the Secretary.

Analysis of policy alternatives. The department has identified the following alternatives:

- The Department could leave the code as written. However, the Department believes that using the code as it stands now would leave designers, builders and local inspectors unsure of how to comply with the code, and unaware of how newer materials and standards should be regulated and applied. This alternative conflicts with s. 101.63 (5), Stats.
- The Department could, after consulting with the council, adopt current standards, correct code clarity problems, incorporate code interpretations that have developed since the last code change, incorporate new construction practices, products, standards or materials, and incorporate new code requirements into the next code package. These proposed changes would fulfill the objective of protecting public

health, safety and welfare. The Department recommends this alternative.

Statutory authority

Applicable sections of Wisconsin Statutes:

101.60 Establishes statewide construction standards for 1–2 family dwellings

101.63 Requires department to establish standards for construction and inspection

101.63 (5) Requires department to biennially review rules

101.64 (3) Permits department to revise rules after consulting with UDC council

101.70 Establishes statewide standards for manufactured 1–2 family dwellings

101.73 Requires department to establish standards for construction and inspection

101.73 (8) Requires department to biennially review rules

101.74 (3) Permits department to revise rules after consulting with UDC council

Staff time required

The following is the estimated work time between 12/02 and 4/05 that staff will be involved in these code change issues.

Dwelling code council meetings – Average of 40 hr. x 8 meetings	= 320 hr.
Code topics research, language drafts –	= 400 hr.
Hearings, responses, revisions, etc. –	= 240 hr.
<u>Environmental assessment –</u>	<u>= 20 hr.</u>
Total	= 980 hr.

Commerce

Subject

Chapters Comm 61 to 65, relating to the Wisconsin Commercial Building Code.

Objective of the rule. To clarify, simplify, or modify various provisions of the Wisconsin Commercial Building Code.

Policy analysis

The Wisconsin Commercial Building Code, chs. Comm 61 to 65, contains standards for the design, construction, maintenance, and inspection of public buildings and places of employment. These chapters, which were developed in 2001 and became effective on July 1, 2002, replaced previous requirements for these facilities with model–code requirements that are substantially in use elsewhere in this country. Those model–code requirements of the International Code Council® were published in 2000.

The primary purpose of the Commercial Building Code is to protect public health, safety, and welfare. Periodic review and update of the Code is necessary to ensure that the Code still achieves that purpose. In addition, the review and update allows the opportunity to recognize new construction products and practices.

The only feasible alternative at this point in time would be a temporary delay in the rule–review process. This delay would reduce the public benefits that would otherwise occur by beginning this review now.

Statutory authority

Sections 101.02 (1) and (15), and 101.14 (4) (a), Stats.

Staff time required

The Department estimates approximately 400 hours will be needed to perform the review and develop any needed rule changes. This time includes drafting the changes – in consultation with the Commercial Building Code Council – and processing the changes through public hearings, legislative review, and adoption. The Department will assign existing staff to perform the review and develop the rule changes, and no other resources will be needed.

Commerce**Subject**

Chapters Comm 61 to 65, relating to Multifamily Dwellings and the Wisconsin Commercial Building Code.

Objective of the rule. Under s. 101.973 (2), Stats., the Department of Commerce is required to biennially review the rules governing the design and construction of multifamily dwellings. The Department of Commerce in conjunction with the Multifamily Dwelling Code Council is to begin the review of the rules this spring. Upon completion of the review, if rules revisions are deemed warranted, the Department will clarify, simplify, or modify various provisions of the Wisconsin Commercial Building Code.

Policy analysis

Chapters Comm 61 to 65 contain the Department's requirements for the design, construction, maintenance, and inspection of public buildings, including multifamily dwellings. These chapters, which were developed in 2001 and became effective on July 1, 2002, replaced previous requirements for these facilities with model-code requirements that are substantially in use elsewhere in this country. Those model-code requirements of the International Code Council® were published in 2000.

The primary purpose of the Commercial Building Code is to protect public health, safety and welfare. Periodic review and update of the code is necessary to ensure that the code still achieves that purpose. In addition, the review and update allows the opportunity to recognize new construction products and practices.

The only feasible alternative at this point in time would be a temporary delay in the rule-review process. This delay would deviate from the statutory timeline for performing this review, and would reduce the public benefits that would otherwise occur by beginning this review now.

Statutory authority

Sections 101.02 (1), 101.02 (15), 101.14 (4) (a) and (4m), and 101.973 (1) and (2), Stats.

Staff time required

The Department estimates approximately 500 hours will be needed to perform the rule review and to develop any resulting rule changes. This time includes drafting the changes – in consultation with the Multifamily Dwelling Code Council and the Commercial Building Code Council – and processing the changes through public hearings, legislative review, and adoption. The Department will assign existing staff to perform the review and to develop any resulting rule changes. Other than reimbursement of incidental transportation and meal expenses for some of the council members, no additional resources will be needed.

Commerce**Subject**

Chapter Comm 91, relating to Sanitation Systems and Devices.

Objective of the rule. To establish standards that the owner of a specialty event center must meet for achieving the equal speed of access to toilets which is required under s. 101.128 (2), Stats.

Policy analysis

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.

Section 101.128 (2), Stats., requires the Department to promulgate rules for establishing standards that the owner of a facility where the public congregates must meet to ensure that women there have a speed of access to toilets which equals the speed of the access the men have.

The definition of a facility where the public congregates, in s. 101.128 (1), Stats., includes (1) specialty event centers, such as open arenas for concerts or rallies, which do not have permanent structures where the public assembles, and (2) other facilities, which have permanent structures for assemblies.

The Department's standards for equal access to toilets at facilities with permanent structures are contained in chs. Comm 61 to 65, which establish minimum criteria for design and construction of public buildings and places of employment.

The proposed rule would establish standards for equal access to toilets at specialty event centers, where there are no permanent structures for assemblies.

The only feasible alternative at this point in time would be a temporary delay in the rulemaking process. This delay would not satisfy the statutory requirement to establish the standards, and would reduce the public benefits that would otherwise occur by beginning this rulemaking now.

Statutory authority

Sections 101.02 (1) and 101.128 (2), Stats.

Staff time required

The Department estimates approximately 50 hours will be needed to perform the rulemaking. This time includes drafting the rules and processing them through public hearings, legislative review, and adoption. The Department will assign existing staff to perform the rulemaking, and no additional resources will be needed.

Dentistry Examining Board**Subject**

Practice of dental hygiene when dentist not in facility.

Policy analysis

Objective of the Rule. The board intends to clarify its rule concerning services that a dental hygienist may perform during the time that the dentist is away from the office, such as when the dentist is on vacation. The governing Wisconsin law was enacted in 1990 in s. 447.06 (2) (c), Stats. It provides that a hygienist may practice dental hygiene or perform remediable procedures if a dentist is not present in a dental office only if certain conditions are met. The rule will clarify these conditions, consistent with statutory requirements.

This change would not require the board to approve every new specialty when there is one developed in the future.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 447.06 (2) (c), Stats.

Staff time required

100 hours.

**Marriage and Family Therapy, Professional
Counseling and Social Work Examining Board**

Subject

Objective of the Rule. To allow a person holding a temporary certificate or license to continue holding the temporary credential, even if the person takes and fails the required examination, until (1) the expiration of 9 months, or (2) the person passes the exam.

Policy analysis

Current statutory authority for temporary social work credentials in s. 457.14, Stats., limits the duration of the credential to 9 months, which may be renewed once. A temporary credential is available to an applicant who meets all the requirements for certification/licensure except passing the required exam. By rule, s. MPSW 3.11, Wis. Adm. Code, the social worker section has removed the renewal option, and has made the temporary credential expire if the applicant takes and fails the exam. The section wishes to change the rule so that a person may re–take the exam without losing the temporary credential.

Statutory authority

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

Staff time required

100 hours.

**Marriage and Family Therapy, Professional
Counseling and Social Work Examining Board**

Subject

Objective of the Rule. To revise imprecise language describing the supervised practice of social work in s. MPSW 4.01 (3), Wis. Adm. Code.

Policy analysis

Section MPSW 4.01 (3) describes the supervised practice of social work as including three “activities.” The descriptions of those activities are overlapping and imprecise. The proposed rule change will simply re–word the descriptions.

Statutory authority

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

Staff time required

70 hours.

**Marriage and Family Therapy, Professional
Counseling and Social Work Examining Board**

Subject

Objective of the Rule. To create specific record–keeping requirements for marriage and family therapists, professional counselors, and social workers.

Policy analysis

Section MPSW 20.02 defines unprofessional conduct for marriage and family therapists, professional counselors, and social workers. Section MPSW 20.02 (18) creates a requirement that the practitioner “maintain adequate records

relating to services provided a client in the course of a professional relationship”, but no further or detailed guidance is given in statute or rule. The board wishes to develop specific record–keeping requirements.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 457.03 (2), Stats.

Staff time required

75 hours.

**Marriage and Family Therapy, Professional
Counseling and Social Work Examining Board**

Subject

Objective of the Rule. 1. To modify language of an existing rule, to clarify a requirement for the supervised practice of marriage and family therapy.

2. To modify language of an existing rule, to revise the temporary marriage and family therapy license.

Policy analysis

1. The current language of the rule requires “a minimum of one hour of face–to–face supervision for each 10 hours of supervised practice.” The phrase “supervised practice” is ambiguous in the context of the rule. The proposed change will likely be to revise the rule to read “a minimum of one hour of face–to–face supervision for each 10 client contact hours.”

2. The section wishes to change the limitations of the temporary license to allow the holder to take the licensure exam more than once while holding the temporary license. The proposed changes will likely be (a) to revise the one discretionary renewal so that it may be obtained without the delay involved in obtaining section approval, (b) to remove the requirement that the temporary license be returned upon notification of examination failure, and (c) to delete the last sentence.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 457.03 (1), Stats.

Staff time required

100 hours.

Medical Examining Board

Subject

Endorsement of licensure based on having taken and passed the LMCC examination taken prior to 1978 and is board certified at the time of application by a specialty board acceptable to the board.

Objective of the Rule. Create an additional administrative rule to provide another avenue for licensure by endorsement.

Policy analysis

The proposed rule would outline the requirements that must be met before a license can be issued under this new rule.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 448.05 (1) and (2), Stats.

Staff time required

40 hours.

Natural Resources

Subject

Chapter NR 10 pertaining to seasons and daily bag limits for migratory game bird hunting.

Policy analysis

The rule changes the basic migratory game bird hunting season to comply with changes required by the United States Fish and Wildlife Service and suggested by the public during the public hearing process.

Statutory authority

S. 29.014, Stats.

Staff time required

Approximately 120 hours will be needed by the Department to develop the rule prior to and following the hearings.

Veterinary Examining Board**Subject**

Time frame required for admission to examinations.

Objective of the Rule. Revise the rule to change the admission time for graduates from 6 to 8 months within graduation date to allow them to take their National examinations and to be consistent with our current contact with National Boards.

Policy analysis

This rule change will outline the requirements that must be met before a last year veterinary student can be admitted to examination.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 453.03 (1), Stats.

Staff time required

100 hours.

Submittal of rules to legislative council clearinghouse

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

Medical Examining Board

Rule Submittal Date

On February 17, 2003, the Medical Examining Board submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The proposed rule relates to the licensure and regulation of perfusionists.

Agency Procedure for Promulgation

A public hearing is required and will be held March 19, 2003, at 8:45 a.m. in Room 179A, 1400 East Washington Avenue, Madison, WI 53702.

Contact

Pamela Haack, Paralegal, Office of Administrative Rules, (608) 266-0495.

Veterans Affairs

Rules Submittal Date:

On February 26, 2003, the Wisconsin Department of Veterans Affairs submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse amending s. VA 2.01 (2) (b) 2. of the Wisconsin

Administrative Code. The proposed rule relates to the expenditure limitation for dentures under the health care aid grant program.

Analysis

The amendment of s. VA 2.01 (2) (b) 2. enables the department of veterans affairs to expend up to 50% of the annual appropriation of the health care aid grant program for dentures. Currently, the code provision limits expenditures for dentures to 25% of the annual appropriation. The department has been forced to close the denture portion of the program within the first month of recent fiscal years because of the significant demand for dentures and the expenditure limitation. Increasing the expenditure limitation will help to address this demand while maintaining funding for other covered services.

Agency Procedure for Promulgation:

A public hearing is required. The Office of the Secretary is primarily responsible for preparing the rule.

Contact

John Rosinski
Chief Legal Counsel
(608) 266-7916

Rule-making notices

Notice of Hearings

Health and Family Services (Community Services, Chs. HFS 30—) [CR 03-010]

Notice is hereby given that, pursuant to ss. 227.16 (1), 227.17, and 227.18, Stats., the Department of Health and Family Services will hold a public hearing on the proposed order of the Department creating Ch. HFS 39, relating to voluntarily relinquishing custody of a newborn who is 72 hours old or younger.

Hearing Information

The public hearings will be held:

Date & Time Location

April 7, 2003 Bureau of Milwaukee Child Welfare, Site 3
1:00 p.m. 6111 N. Teutonia Avenue
Milwaukee, WI 53209

April 8, 2003 Room B-139
1:00 p.m. 1 West Wilson Street
Madison, WI 53708

The hearing sites are fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Family Services

The proposed order creates rules under the authority of s. 48.195 (6), Stats., to guide the process by which a parent may voluntarily relinquish custody of a newborn who is 72 hours old or younger and sets forth the process by which a law enforcement officer, emergency medical technician, or hospital staff member may take custody of the newborn. The proposed order, as does s. 48.195 (2) (c), Stats., prohibits any officer, employee, or agent of this state or of a political subdivision of this state from attempting to locate or ascertain the identity of a parent who voluntarily relinquishes custody of a newborn or of any person who assists the parent in that relinquishment, unless the officer, employee, or agent has reasonable cause to suspect that the newborn has been the victim of abuse or neglect, as defined in ss. 48.02 (1) and 48.981 (1) (d), Stats., or that a person assisting the parent has or is attempting to coerce or induce the parent into relinquishing custody of the newborn. This does not prevent the parent or person assisting the parent from providing such information voluntarily. Nothing in the proposed order is intended to affect the manner in which a law enforcement officer, emergency medical technician, or hospital staff member performs the duties prescribed by law, licensure or certification to be performed by a law enforcement officer, emergency medical technician, or hospital staff member.

Initial Regulatory Flexibility Analysis

The proposed order will not have a significant economic impact on small businesses.

Fiscal estimate

The proposed order will implement the new statutory provisions at s. 48.195, Stats. Under the law and the rule, a person can relinquish custody of a newborn to a law enforcement officer, emergency medical technician or a hospital staff member. The purpose of the law is to prevent

a parent from abandoning a child in a place where the child would be at substantial risk of death. Prior to the law, these abandoned children either would have died or would have been found and placed in foster care. The new law should decrease the number of child deaths and increase the number of children placed safely in foster care. If the number of children in foster care increases, costs will increase for county human services or social services department and for Department of Health and Family Services, which operates the child protective services system in Milwaukee County. Given the very small numbers of such cases, there will be little change in the number of children placed in foster care and, therefore, there will be little or no increase in costs. However, any change in costs are the result of the new statutory provision and not this rule.

Contact Person

To find out more about the hearing or to request a copy of the proposed rules, write, phone or e-mail:

Cynthia Emerson
Policy Coordination Section
Division of Children and Family Services
Department of Health and Family Services
P.O. Box 8916
Madison, WI 53708-8916
(608) 266-8001
emerscl@dhsf.state.wi.us

If you are hearing or visually impaired, do not speak English, or have circumstances that might make communication at a hearing difficult and if you, therefore, require an interpreter or a non-English, large print or taped version of the hearing document, contact the person at the address or phone number given above at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written comments received by mail or e-mail at an above address no later than April 18, 2003 will be given the same consideration as testimony presented at a hearing.

Notice of Proposed Rule

Health and Family Services (Community Services, Chs. HFS 30—) [CR 03-001]

Notice is hereby given that pursuant to ss. 46.297, Stats., and according to the procedures set forth in s. 227.16 (2) (e), Stats., the Department of Health and Family Services will repeal and recreate ch. HFS 78, relating to the telecommunications assistance program for deaf, deafblind and severely hard of hearing persons' purchase of telecommunications equipment, as herein proposed, without public hearing, unless a petition for a hearing is received by the Department within 30 days after the publication of this notice on **March 15, 2003**. A petition for a hearing will be accepted if signed by any of the following who will be affected by the proposed rule: 25 persons; the representative of an association that represents a farm, labor, business or professional group; or a municipality.

Contact Person

If you have any questions about this rule or about filing a written petition for a hearing, contact Alice Sykora, Bureau

for Deaf and Hard of Hearing, P.O. Box 7851, Madison, WI 53707-7851, 608-266-3168 TTY or via email at sykoram@dhfs.state.wi.us.

Analysis Prepared by the Department of Health & Family Services

Under Wisconsin statute at ss. 196.218 and 46.297, Stats., and pursuant to administrative rules under s. PSC 160.071 and Ch. HFS 78, respectively, Wisconsin operates two programs persons with hearing loss may use to obtain financial assistance for purchasing telecommunications equipment. The Public Service Commission (PSC) administers one program, known as the Telecommunications Equipment Purchase Program (TEPP) and the Department of Health and Family Services administers the other, known as the Telecommunication Assistance Program (TAP.) Both programs receive periodic legislative appropriations from which the financial assistance is provided to approved applicants. The PSC's TEPP program's funding is substantially larger than that available for the Department's TAP program. Moreover, the PSC's TEPP program requires applicants to pay \$100 towards the purchase of telecommunications equipment. To both conserve the limited TAP program funds and to better integrate the TAP program with the PSC TEPP program, with certain exceptions, the Department proposes reducing the existing assistance limit of \$600 per voucher to a maximum of \$100 per voucher, to be used in meeting the copayment requirement of the TEPP program. By so doing, the TAP program's more limited resources may be conserved, thereby extending the TAP program benefits to a greater number of potential recipients. To also make ch. HFS 78 more consistent with s. PSC 160.071, the Department proposes reducing the waiting period for subsequent applications from four years to three.

The current rules also limit TAP program financial assistance to one person per household. That constraint has prevented other household members with otherwise qualifying needs from receiving TAP program assistance. Moreover, the current household limitation is narrower than that used by PSC for the TEPP program. To better unify the eligibility criteria between the two programs, the Department proposes to modify the rule to eliminate the one person per household constraint and to expand the eligibility for financial assistance by loosening the definition of who shares a household with a deaf or severely hard of hearing person. The Department proposes to eliminate financial assistance for the installation of telecommunications equipment. Finally, the Department also proposes to update the terminology used to refer to deaf and severely hard of hearing persons.

The Department's authority to repeal and recreate these rules is found in s. 46.297 (4) (a), Stats. The rules interpret s. 46.297, Stats.

Text of Proposed Rules

SECTION 1. Chapter HFS 78 is repealed and recreated to read:

Chapter HFS 78

TELECOMMUNICATION ASSISTANCE FOR DEAF, DEAFBLIND AND SEVERELY HARD OF HEARING PERSONS

- HFS 78.01 Authority and purpose.
- HFS 78.02 Applicability.
- HFS 78.03 Definitions.
- HFS 78.04 Application procedure.
- HFS 78.05 Eligibility requirements.
- HFS 78.06 TAP assistance restrictions.

HFS 78.07 Purchase and care of telecommunications devices.

HFS 78.01 Authority and purpose. This chapter is promulgated under the authority of s. 46.297 (4), Stats., for the purpose of implementing the telecommunication assistance program (TAP) for persons who are deaf, deafblind or severely hard of hearing. The chapter sets forth eligibility requirements, uniform application procedures, criteria for granting assistance and policies relating to the purchase and maintenance of the telecommunications equipment.

HFS 78.02 Applicability. This chapter applies to the department and to all deaf, deafblind and severely hard of hearing persons who apply to the department for program funding for the purchase of telecommunication equipment for their homes.

HFS 78.03 Definitions. In this chapter:

(1) "Deaf, deafblind or severely hard of hearing" means a hearing loss significant enough to prevent the individual from using the telephone system without technological adaptations that facilitate effective communication in a visual or audible mode.

(2) "Department" means the Wisconsin department of health and family services.

(3) "Household" means a residence unit whose members share a common living arrangement.

(4) "Public service commission" or "PSC" means the Wisconsin public service commission.

(5) "TAP manager" means the department's staff member responsible for developing and implementing TAP.

(6) "Telecommunication assistance program" or "TAP" means a financial assistance program created by s. 46.297, Stats., for the purpose of making telecommunication devices available to deaf, deafblind and severely hard of hearing persons who do not have the means to afford these devices.

(7) "Telecommunication device" or "device" means any technology needed by a deaf, deafblind or severely hard of hearing person to facilitate his or her use of a telephone.

(8) "Telecommunication Equipment Purchase Program" or "TEPP" means the financial assistance program under s. 196.218, Stats., and administered by the public service commission under s. PSC 160.071 to provide financial assistance to customers with a disability who have special needs certification in the purchase of equipment needed to personally access and use essential services of the telecommunications network.

(9) "Wisconsin adjusted gross income" has the meaning prescribed in s. 71.01 (13), Stats.

HFS 78.04 Application procedure. (1) APPLICATION FORM AND HEARING LOSS DOCUMENTATION. To apply for assistance from TAP, the applicant shall submit the following materials to the department as an application package:

- (a) A completed PSC TEPP application form; and
- (b) A completed department certification of hearing loss form or an audiogram from a certified audiologist.

Note: The Department TAP Program uses the PSC TEPP application form, Telecommunication Equipment Purchase Program Application. Both the TEPP application form and the Department certification of hearing loss form, Hearing Loss Certification, may be requested from the TAP Manager, Bureau for the Deaf and Hard of Hearing, Division of Supportive Living, P.O. Box 7851, Madison, Wisconsin 53707-7851. The forms are also available for downloading at: <http://www.dhfs.state.wi.us/sensory/TAP/TAP.html>.

Upon completing the Telecommunication Equipment Purchase Program Application, applicants should send or fax

the form to the address or fax number given on the form. Upon completing the hearing loss certification form, applicants should send or fax the form to the TAP Manager at the address given above.

(2) **PROCESSING TAP APPLICATIONS.** The department shall process applications for TAP services in the following manner:

(a) The department shall accept an application at any time except as provided in s. HFS 78.06 (3).

(b) The department shall review applications in the order they are received to determine whether the application is complete and includes all required attachments.

(c) When the department finds an application to be complete, the TAP manager shall date and sign the application.

(d) The department shall send the applicant written notification of the department's decision on his or her application within 30 calendar days after the department determines the application complete.

(e) If the department denies assistance to the applicant, the applicant may reapply if, due to a change in conditions, the applicant meets eligibility requirements under s. HFS 78.05.

(f) Except as provided under par. (g), if the department approves issuing a TAP voucher to the applicant, the applicant shall apply the voucher to the \$100 co-payment requirement of the telecommunications equipment purchase program administered by the public service commission for all eligible applicants.

(g) A voucher recipient under s. PSC 160.071 (1) (b) 1. who is not required to make a copayment under s. PSC 160.071 (1) (c) is not eligible for a TAP voucher.

HFS 78.05 Eligibility requirements. An applicant shall meet the following requirements to be eligible for TAP assistance:

(1) **CERTIFICATION OF HEARING LOSS.** The applicant shall be certified as deaf, deafblind or severely hard of hearing by a licensed physician, an audiologist who is certified by the American speech and hearing association or a coordinator of deaf and hard of hearing services who is employed by the department's division of supportive living.

(2) **RESIDENCY.** An applicant shall be either a Wisconsin resident or a tax dependent of a Wisconsin resident.

(3) **INCOME ELIGIBILITY.** (a) The Wisconsin adjusted gross income of the applicant's family as reported for Wisconsin income tax purposes for the most recent annual tax reporting period shall be equal to or less than 200% of the poverty line established under 42 USC 9902 (2) as updated annually or more often by the secretary of the U.S. department of health and human services.

(b) If an applicant is claimed as a dependent for income tax purposes, the adjusted gross income of the person or persons claiming the applicant as a dependent shall be listed on the application form and shall be used to determine income eligibility.

(4) **TELEPHONE SERVICE.** The applicant shall have telephone service at home, except that if the applicant does not have telephone service in the home at the time of application for TAP assistance, the applicant shall submit a copy of the telephone service installation bill before the department issues a voucher to the applicant.

(5) **RESIDENTS IN NURSING HOMES OR INSTITUTIONS.** An applicant living in a nursing home or

institution may be considered for TAP assistance only if the applicant has personal telephone service. In this subsection, "personal telephone service" means that the telephone is located in the applicant's assigned bedroom and the telephone is registered on behalf and for the use of the applicant.

(6) **PERSONS ELIGIBLE FOR OR RECEIVING SERVICES FROM THE DEPARTMENT OF WORKFORCE DEVELOPMENT.** A person eligible for or receiving services from the department of workforce development's division of vocational rehabilitation shall first be evaluated by that division to determine if the person is eligible for a telecommunication device under the vocational rehabilitation program, and if denied, may apply for assistance from TAP.

HFS 78.06 TAP assistance restrictions. The following restrictions apply to the provision of TAP assistance:

(1) Eligible applicants shall be granted TAP assistance on a first-come, first-served basis subject to availability of funds.

(2) Any person who is deaf, deafblind or severely hard of hearing and shares a household with other persons who are deaf, deafblind or severely hard of hearing may be a recipient of TAP assistance.

(3) A recipient of TAP assistance may not reapply for assistance more often than once every 3 years.

HFS 78.07 Purchase and care of telecommunication devices. (1) **PURCHASE OF DEVICES.** If the department approves the issuance of a TAP voucher to an eligible applicant, the voucher may not exceed \$100.

(2) **WARRANTY AND MAINTENANCE OF DEVICES.** (a) The recipient may purchase only a device that is warranted by the manufacturer or distributor for a period of not less than one year.

(b) Recipients shall maintain the device when the warranty expires.

(c) Recipients shall purchase batteries, paper for the printer, and other general supplies necessary for operation of the device.

(3) **OWNERSHIP OF DEVICES.** Any telecommunication device purchased through TAP shall be the property of the recipient.

Fiscal Estimate

The proposed rule makes the following changes to the TAP program:

1. Reduce the waiting period for subsequent applications from 4 years to 3 years to be compatible with the PSC's TEPP program.

2. Remove the limit on the number of eligible applicants per household.

3. Reduce the existing assistance limit of \$600 per voucher to a maximum of \$100 per voucher, to be used in meeting the \$100 copayment requirement of the TEPP program.

4. Eliminate financial assistance for the installation of telecommunications equipment.

The TAP program has a sum-certain budget of \$80,000 GPR. While the rule changes may affect the number of people served in the program and the amount paid to each client, the changes will not increase or decrease total expenditures for the program.

Initial Regulatory Flexibility Analysis

The rule changes will not affect small businesses as defined in s. 227.114 (1) (a), Stats.

Notice of Hearing
Health and Family Services
(Health, Chs. HFS 110—)

[CR 03-019]

Notice is hereby given that, pursuant to ss. 254.167, 254.172, 254.179 (1) (a) and (2), and 227.24(1), Stats., the Department of Health and Family Services will hold a public hearing to consider the amendment of ch. HFS 163, Wis. Admin. Code, relating to the abatement of lead-contaminated soil and the standards defining lead-based paint hazards, and the emergency administrative rules taking effect on the same subject on January 3, 2003. The rules interpret ss. 254.167, 254.172 and 254.179, Stats.

Hearing Date, Time and Location

April 2, 2003 Room B139
 Wednesday State Office Building
 10:00 a.m. to 12:00 p.m. 1 West Wilson Street
Madison, WI

The public hearing site is fully accessible to people with disabilities. Parking that accommodates people with disabilities is available in the parking lot behind the building, in the Monona Terrace Convention Center Parking Ramp, or in the Government East (Doty Street) Parking Ram, which is accessible from Pinckney Street and Wilson Street. People with disabilities may enter the building directly from the parking lot at the west end of the building or from Wilson Street through the side entrance at the east end of the building.

Analysis Prepared by the Department of Health and Family Services

The presence of lead in paint and soil is believed to contribute to the level of lead found in the blood of persons, particularly children, living in the area. The federal Environmental Protection Agency (EPA) maintains regulations intended to reduce environmental lead hazards principally by:

- Specifying the thresholds for an environment to be considered as presenting a lead-based paint hazard; and
- Requiring training and certification of persons who perform lead hazard reduction activities or lead investigation activities so those persons are best able to prevent exposure of building occupants to hazardous levels of lead.

The federal government may authorize a state to administer its own lead training and certification program if the state has regulations governing certification of persons for the identification, removal and reduction of lead-based paint hazards that are as protective as those specified in the EPA regulations.

In Wisconsin, the Department of Health and Family Services administers the lead training and certification program. The Department has established administrative rules under ch. HFS 163 to guide its administration of the program. In 2000, the Department began work to extensively revise ch. HFS 163 to implement 1999 Wisconsin Act 113, which established a program for registering lead-free and lead-safe properties. The proposed rule was released for public review and comment on December 12, 2000. On January 5, 2001, in volume 66, number 4 of the Federal Register (66 FR 1206-1239), the EPA published regulations that established standards for lead-based paint hazards under 40 CFR Part 745, Subparts D and L, and required states with authorized lead training and certification programs under 40 CFR Part 745, Subpart Q, to implement the regulations by February 5, 2003. Because the proposed rule had already been released for public review and comment, and the EPA

standards for lead-based paint hazards would affect the lead-safe property standards under ch. HFS 163, the Department decided to educate the public about the new EPA standards for lead-based paint hazards before revising the rule to reflect the new EPA standards. If Wisconsin is to continue administering its program of training and certification of persons performing lead abatement and lead investigation activities (in lieu of a program operated by the EPA), the Department must revise ch. HFS 163 to comply with those most recent and final federal regulations at 40 CFR Part 745, Subparts D, L and Q.

The most significant proposed modification to the rules pertains to the permissible level of residual lead dust in window troughs. The current lead-safe property standards expressed under s. HFS 163.42 allow a higher level of lead dust in window troughs than is permissible in corresponding EPA regulations and also do not require properties to be free of soil-lead hazards. Making the changes to s. HFS 163.42 the Department proposes will mean that persons removing lead-based paint hazards may need to clean window troughs more thoroughly to reduce the dust-lead levels and also may need to cover bare soil. Most lead investigation professionals in Wisconsin already perform lead investigation work in conformance with the more stringent lead levels specified in EPA's regulations to ensure a more protective environment for residents, especially when conducting clearance following abatement activities. Conformance with the more stringent EPA regulations is also currently required when lead hazard reduction work is performed using federal funds. Since most lead investigation professionals already use the more protective EPA standards, the proposed rule revisions should have little effect on persons conducting lead investigation or abatement activities.

Among the changes the Department is proposing through this order, the most significant are the following:

1. Currently, s. HFS 163.14 (1) (g) only describes the protocol that applies when soil abatement is conducted by removal of soil. To comply with federal regulations, the Department proposes to specify the protocol that must be followed when soil abatement is conducted by covering the soil. Temporary lead hazard reduction of soil-lead, such as covering bare soil with vegetation or landscaping materials, remains an option but is not addressed in regulation.

2. Currently, s. HFS 163.14 (5) (c) 8. requires that, following lead abatement, a window well or trough may contain no more than 800 micrograms of lead dust per square foot. The revised EPA regulations specify a maximum level of 400 micrograms per square foot. To comply with federal regulations, the Department proposes to reduce the permissible threshold to 400 micrograms per square foot.

3. Currently, s. HFS 163.15 (2) specifies that a lead hazard is present in soil when the arithmetic mean for laboratory results for samples of bare soil is equal to or greater than 2,000 parts per million. The EPA revised regulations state that a lead hazard is present in soil when bare soil in a play area contains total lead content equal to or exceeding 400 parts per million or when bare soil in the rest of the yard contains an average of 1,200 parts per million of lead. To comply with the federal regulations, the Department proposes to reduce the permissible threshold to that specified by the EPA.

4. The Department proposes adding standards, as s. HFS 163.15 (3), for determining when a lead-based paint hazard exists.

5. The Department proposes modifying s. HFS 163.42 (1) (b) and (c) to require that all exterior painted components, regardless of their height above the ground, be free of deteriorated paint unless the paint is proved to be lead-free.

6. The Department proposes to revise its standards for lead-safe property under s. HFS 163.42 (1) (f) and (j) to reflect these lower levels for lead in dust and soil.

7. Finally, the Department proposes to revise s. HFS 163.42 (1) (j) to require that there be no soil-lead hazard on registered lead-safe property.

Fiscal Estimate

The proposed rule revisions do not require any governmental entity to perform an activity; they simply revise the standards that define lead-based paint hazards in bare soil and in dust found in window troughs.

Initial Regulatory Flexibility Analysis

These rules apply when certified lead investigation professionals determine whether a pre-1978 property contains lead-based paint hazards. This determination may affect the owners of pre-1978 housing when remediation of lead-based paint hazards is ordered or when provisions under s. 254.171, Stats. apply. Under s. 254.171, Stats., a property owner must obtain a lead-free certificate or lead-safe certificate for the affected dwelling unit when the property owner receives written notice that a child under 6 years of age residing at the property has an elevated blood lead level.

Remediation of lead-contaminated bare soil or additional cleaning of the interiors of dwellings may be required to comply with the standards in these rules. Because remediation of bare soil can be accomplished by covering the soil with vegetation or landscaping material, the fiscal impact to property owners is expected to be minimal.

The rules were reviewed by the Lead Technical Advisory Committee, which approved them as submitted. Because the amendments are required to comply with regulations of the U.S. Environmental Protection Agency, alternatives were not considered.

Copies of the Rule and Contact Person

To find out more about the hearing, to request a copy of the emergency rule, proposed rule or fiscal estimate, or to submit written comments, write, phone or email:

Gail Boushon, Administrative Unit Supervisor

Asbestos and Lead Section

Room 137, 1 West Wilson Street

P.O. Box 2659

Madison WI 53701-2659

Telephone: (608)267-2289, or 266-1511 (TTY) if you are hearing impaired

Fax: (608) 266-9711

Email: boushga@dhfs.state.wi.us

The emergency rule and proposed permanent upon which the Department is soliciting comments and which will be the subject of this hearing are posted on the Internet at the Department's administrative rules website at: http://www.dhfs.state.wi.us/News/Rules/Emergency_Rules/Emergency_Rules.htm

and

http://www.dhfs.state.wi.us/News/Rules/Proposed_Final_Rules/Proposed_Rule_Index.htm

If you are hearing or visually impaired, are not English-speaking, or have circumstances which might make communication at a hearing difficult and if you, therefore, require an interpreter, or a non-English, large print or taped version of the hearing document, contact the person at the address or phone number above. A person requesting a non-English or sign language interpreter should make that request at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written comments on the proposed rules received at the above address no later than April 11, 2003, will be given the same consideration as testimony presented at a hearing.

Notice of Hearing

Hearing and Speech Examining Board [CR 03-025]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Hearing and Speech Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting ss. 459.22 (1) (e), 459.24 (3m) and 459.34 (2), Stats., the Hearing and Speech Examining Board will hold a public hearing at the time and place indicated below to consider an order to renumber s. HAS 6.14 (1) (a) 2. a. to d., 3. (intro); to renumber and amend s. HAS 6.14 (1) (a) 4.; to amend chs. HAS 2 (title), HAS 3 (title), HAS 4 (title) and HAS 5 (title), s. HAS 6.14 (1) (a) 1. and 2., (1) (b) 5. and 11., (2) (a) 2., (3) (a) (intro.) and 4.; to create ss. HAS 6.02 (4g) and (5g), 6.14 (1) (b) 13., 14. and 15., 6.18 (2) (d), (e) and (f), (3) (y), relating to definitions, grounds for discipline and minor and technical changes.

Hearing Date, Time and Location

Date: **March 28, 2003**

Time: 9:00 a.m.

Location: 1400 East Washington Avenue
179A
Madison, WI

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 April 11, 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) and 227.11 (2), Stats.

Statutes interpreted: ss. 459.22 (1) (e), 459.24 (3m) and 459.34 (2), Stats.

In this proposed rule-making order, the Hearing and Speech Examining Board amends numerous provisions contained in ch. HAS 6, including the definition of "assist in the practice of speech-language" under s. HAS 6.14 (1) (a), and the definition of "direct supervision of unlicensed individuals" (by speech-language pathologists) under s. HAS 6.14 (3) (a).

In addition, a definition is being created in s. HAS 6.02, to define "full terms of sale" and "personal guarantee." The board is also creating several additional grounds for discipline of audiologists and speech-language pathologists in s. HAS 6.18.

Additional minor and technical changes are being made to the rules for purposes of clarity, grammar, form, style and placement in the administrative code.

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), Stats.

Copies of the 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.

Submittal of proposed rules to the legislature

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

**Architects, Landscape Architects, Professional
Engineers, Designers and Land Surveyors
(CR 02-111)**

Ch. A-E 3, relating to architectural interns.

**Regulation and Licensing
(CR 02-103)**

Ch. RL 222, relating to extension of disciplinary action
time limits.

**Transportation
(CR 03-004)**

Ch. Trans 403, relating to the Scholarship and Loan
Repayment Incentive Grant Program.

Rule orders filed with the revisor of statutes bureau

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.

Commerce
(CR 02-002)

An order affecting chs. Comm 2, 34, 81, 82, 84 and 90, relating to the Wisconsin Uniform Plumbing Code; Fees; Amusement Rides; and Design and Construction of Public Swimming Pools.

Effective 5-1-03.

Commerce
(CR 02-072)

An order affecting ch. Comm 16, relating to electrical construction.

Effective 5-1-03.

Commerce
(CR 02-116)

An order creating ch. Comm 118, relating to the Agricultural Development Zone Program.

Effective 4-1-03.

Educational Approval Board
(CR 02-135)

An order affecting chs. EAB 1, 3, 4, 7, 8, 10 and 11, relating to the regulation of for-profit postsecondary schools; out-of-state, non-profit colleges and universities; and in-state, non-profit institutions incorporated after 1991.

Effective 5-1-03.

Veterans Affairs
(CR 02-130)

An order affecting ch. VA 12, relating to establishing interest rates and the maximum loan amount under the personal loan program.

Effective 5-1-03.

Public notice

Natural Resources

List of Pollutants w/ Possible Surface Water Quality Criteria Changes in Calendar Year 2004

(s. 281.15 (2) (a), Stats.)

	Substance	Status of Activity	Projected Date of Change
1	Ammonia	External Advisory Committee efforts completed in December 2002. Staff actively writing associated Administrative Rule language w/ changes to Chapters NR 105 and NR 106.	Public hearings anticipated in Summer/Fall 2003. Rule adoption in anticipated in 2004.
2	Atrazine	Staff Literature Review Only – U.S. EPA Activity w/ Unspecified Timeline	No formal adoption anticipated in 2003. Possible activity in 2004.
3	Bacteria (<i>E. coli</i>)	External Advisory Committee being formed in Spring 2003	No formal revision to Wisconsin anticipated in 2003. Projected for CY 2004.
4	Cadmium	U.S. EPA completed revision to federal criteria in April 2001. No specified date for required change to state water quality criteria.	No formal revision to Wisconsin criteria anticipated in 2003. Possible revisions in 2004.
5	Copper	Minor changes necessitated by federal Great Lakes Water Quality Initiative (3/23/1995). Staff have performed necessary criterion recalculations.	Undetermined. Possible revisions to NR 105 in 2004.
6	Endrin	Minor changes necessitated by federal Great Lakes Water Quality Initiative (3/23/1995). Staff have performed necessary criterion recalculations.	Undetermined. Possible revisions to NR 105 in Fall 2004.
7	Heat/ Temperature	External Advisory Committee actively engaged in revisions to water quality criteria for heat/temperature and development of an implementation plan. Anticipated changes to NR 102 and NR 106.	Possible public hearings in Fall 2003 with subsequent rule adoption in early 2004.
8	Nickel	Minor changes necessitated by federal Great Lakes Water Quality Initiative (3/23/1995). Staff have performed necessary criterion recalculations.	Undetermined. Possible revisions to NR 105 in 2004.
9	PAHs (Polycyclic Aromatic Hydrocarbons)	Case-by-case NPDES Permit Review	Possible adoption in 2004.
10	PBDEs (Polybrominated Diphenyl Ethers)	Staff conducting field investigations during Summer 2003	Possible adoption in 2004.
11	Selenium	Minor changes necessitated by federal Great Lakes Water Quality Initiative (3/23/1995). Staff have performed necessary criterion recalculations.	Undetermined. Possible revisions to NR 105 in 2004.
12	Whole Effluent Toxicity	Changes necessitated by federal Great Lakes Water Quality Initiative (3/23/1995).	Undetermined. Possible revisions to NR 105 in 2004.

For more information, contact:

Bob Masnado

Wisconsin Department of Natural Resources

(608) 267-7662

Workforce Development

2003 CHILD CARE COPAY SCHEDULE

Child Care Co-Payment Schedule for Licensed and Certified Care																			
Look down the column of the appropriate family size until you find the gross family monthly income level at or just less than the family income. Look to the right to find the appropriate co-payment by family and type of care.																			
	Gross Monthly Family Income									Weekly Licensed Care Co-Pay Amount Children in Subsidized Care:					Weekly Certified Care Co-Pay Amount Children in Subsidized Care:				
	Family Size:																		
	2	3	4	5	6	7	8	9	10 or more	1	2	3	4	5 or more	1	2	3	4	5 or more
70% FPL	\$707	\$890	\$1,073	\$1,257	\$1,440	\$1,623	\$1,806	\$1,989	\$2,172	4	8	12	15	20	2	6	9	11	14
75% FPL	\$758	\$954	\$1,150	\$1,346	\$1,543	\$1,739	\$1,935	\$2,131	\$2,328	4	10	14	19	23	3	7	10	13	15
80% FPL	\$808	\$1,017	\$1,227	\$1,436	\$1,645	\$1,855	\$2,064	\$2,273	\$2,483	7	11	15	21	26	5	8	11	16	18
85% FPL	\$859	\$1,081	\$1,303	\$1,526	\$1,748	\$1,971	\$2,193	\$2,415	\$2,638	10	14	19	23	29	7	10	13	16	20
90% FPL	\$909	\$1,145	\$1,380	\$1,616	\$1,851	\$2,087	\$2,322	\$2,558	\$2,793	11	18	23	29	34	8	12	15	20	25
95% FPL	\$960	\$1,208	\$1,457	\$1,705	\$1,954	\$2,202	\$2,451	\$2,700	\$2,948	14	21	29	35	42	10	15	20	25	29
100% FPL	\$1,010	\$1,272	\$1,533	\$1,795	\$2,057	\$2,318	\$2,580	\$2,842	\$3,103	16	23	30	38	44	11	15	21	27	31
105% FPL	\$1,061	\$1,335	\$1,610	\$1,885	\$2,160	\$2,434	\$2,709	\$2,984	\$3,259	19	25	33	40	47	13	18	23	28	34
110% FPL	\$1,111	\$1,399	\$1,687	\$1,975	\$2,262	\$2,550	\$2,838	\$3,126	\$3,414	21	29	35	42	49	15	20	24	29	35
115% FPL	\$1,162	\$1,462	\$1,763	\$2,064	\$2,365	\$2,666	\$2,967	\$3,268	\$3,569	23	30	38	45	51	16	21	27	31	37
120% FPL	\$1,212	\$1,526	\$1,840	\$2,154	\$2,468	\$2,782	\$3,096	\$3,410	\$3,724	25	33	40	47	55	18	23	28	34	38
125% FPL	\$1,263	\$1,590	\$1,917	\$2,244	\$2,571	\$2,898	\$3,225	\$3,552	\$3,879	29	34	42	49	56	20	24	29	34	39
130% FPL	\$1,313	\$1,653	\$1,993	\$2,334	\$2,674	\$3,014	\$3,354	\$3,694	\$4,034	30	39	47	55	63	21	27	33	38	45
135% FPL	\$1,364	\$1,717	\$2,070	\$2,423	\$2,777	\$3,130	\$3,483	\$3,836	\$4,190	33	42	51	61	70	23	29	37	42	49
140% FPL	\$1,414	\$1,780	\$2,147	\$2,513	\$2,879	\$3,246	\$3,612	\$3,978	\$4,345	34	44	54	63	74	24	31	38	44	51
145% FPL	\$1,465	\$1,844	\$2,223	\$2,603	\$2,982	\$3,362	\$3,741	\$4,120	\$4,500	37	47	55	65	75	27	33	39	47	52
150% FPL	\$1,515	\$1,908	\$2,300	\$2,693	\$3,085	\$3,478	\$3,870	\$4,263	\$4,655	40	49	59	68	78	27	34	41	48	55
155% FPL	\$1,566	\$1,971	\$2,377	\$2,782	\$3,188	\$3,593	\$3,999	\$4,405	\$4,810	42	51	61	70	80	29	37	42	49	56
160% FPL	\$1,616	\$2,035	\$2,453	\$2,872	\$3,291	\$3,709	\$4,128	\$4,547	\$4,965	44	54	63	73	83	31	38	45	51	58
165% FPL	\$1,667	\$2,098	\$2,530	\$2,962	\$3,394	\$3,825	\$4,257	\$4,689	\$5,121	45	56	65	74	84	32	39	46	52	59
170% FPL	\$1,717	\$2,162	\$2,607	\$3,052	\$3,496	\$3,941	\$4,386	\$4,831	\$5,276	46	59	68	78	87	33	41	48	55	60
175% FPL	\$1,768	\$2,225	\$2,683	\$3,141	\$3,599	\$4,057	\$4,515	\$4,973	\$5,431	48	60	70	80	89	33	42	49	56	62
180% FPL	\$1,818	\$2,289	\$2,760	\$3,231	\$3,702	\$4,173	\$4,644	\$5,115	\$5,586	50	62	73	83	91	34	44	51	58	65
185% FPL	\$1,869	\$2,353	\$2,837	\$3,321	\$3,805	\$4,289	\$4,773	\$5,257	\$5,741	51	64	75	84	94	35	47	52	59	65
-----185% of the Federal Poverty Level-----																			
190% FPL	\$1,919	\$2,416	\$2,913	\$3,411	\$3,908	\$4,405	\$4,902	\$5,399	\$5,896	52	65	78	86	95	37	48	54	60	68
195% FPL	\$1,970	\$2,480	\$2,990	\$3,500	\$4,011	\$4,521	\$5,031	\$5,541	\$6,052	54	67	80	89	99	38	49	56	63	69
200% FPL	\$2,020	\$2,543	\$3,067	\$3,590	\$4,113	\$4,637	\$5,160	\$5,683	\$6,207	55	69	82	91	100	39	51	58	64	70
<<<-----200% of the Federal Poverty Level----->>>																			

Note: The copayment rate for teen parents who are not Learnfare participants is minimum copay and is found by selecting the lowest income line (70%) FPL and then finding the copayment listed, under either licensed care or certified care, for the appropriate number of children. Parents who have left a W-2 employment position for unsubsidized work also qualify for the minimum copay for one month. Families with children who are authorized for 20 hours or less are subject to one half of their share of the family copay listed above for those children. No copay is required for parents who participate in Learnfare or Food Stamp Employment and Training. Foster parents do not have a copayment responsibility for the foster children in their care. Kinship care relatives caring for a child under court order do not have a copayment responsibility. Kinship care relatives caring for a child without a court order pay the minimum copay, unless they are receiving a child care subsidy for another child who is subject to a copayment greater than the minimum copay.

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