

97-132-HFS 140-LOCAL HEALTH
DEPT.



Tommy G. Thompson
Governor

Joe Leean
Secretary



State of Wisconsin

Department of Health and Family Services

OFFICE OF LEGAL COUNSEL

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May 7, 1998

The Honorable Brian Rude, President
Wisconsin State Senate
1 East Main, Suite 402
Madison, WI 53702

The Honorable Scott Jensen, Speaker
Wisconsin State Assembly
1 East Main, Suite 402
Madison, WI 53702

Re: Clearinghouse Rule 97-132
HFS 140, relating to required services of local health departments.

Gentlemen:

In accordance with the provisions of s. 227.19(2), Stats., you are hereby notified that the above-mentioned rule is in final draft form. This notice and the report required by s. 227.19(3), Stats., are submitted herewith in triplicate.

The rule was submitted to the Legislative Council for review under s. 227.15, Stats. A copy of the Council's report is also enclosed.

If you have any questions about the rule, please contact Margaret Schmelzer at 266-0877.

Sincerely,

Paul E. Menge
Administrative Rules Manager

cc. Gary Poulson, Deputy Revisor of Statutes
✓ Senator Robert Welch, JCRAR
Representative Glenn Grothman, JCRAR
Margaret Schmelzer, Division of Health
Kevin Lewis, Secretary's Office

PROPOSED ADMINISTRATIVE RULES – HFS 140
ANALYSIS FOR LEGISLATIVE STANDING COMMITTEES
PURSUANT TO S. 227.19 (3), STATS.

Need for Rules

This order identifies the services that are to be provided by local health departments. A local health department, as defined in s. 250.01(4), Stats., is usually a city, county or city-county department, but could also be a village or town health department, a multiple county health department or part of a county human services department under s. 46.23, Stats. At the beginning of 1998 there were at most 104 local health departments in the state.

Every area of the state and all people living in the state or visiting Wisconsin or traveling through the state are served, at times directly but more often indirectly, by local health departments working cooperatively with the Department's Division of Health to maintain a statewide system of resources and services directed at protecting the public's health.

Section 251.20, Stats., directs the Department to promulgate rules that specify required services for each of three levels of local health departments.

For Level I local health departments, s. 251.05(2)(a), Stats., already states that they are to provide at least services for surveillance, investigation, control and prevention of communicable diseases, prevention of other disease, health promotion and human health hazard control, and ss. 250.06(1) and 251.04(8), Stats., require all local health departments to have a generalized public health nursing program. Section s. 251.05(2)(b) and (c), Stats., state that Level II and Level III local health departments are to provide at least the services that Level I departments are to provide and, in addition, services that the Department specifies by rule which, according to s. 251.20(2) and (3), Stats., are to include, for Level II departments, services that address at least one objective from each of seven sections of the Department's 1990 publication, *Healthier People in Wisconsin: A Public Health Agenda for the Year 2000* and, for Level III departments, services that address at least 3 objectives from each of those seven sections in that publication. There are 320 total objectives included in those sections of *Healthier People in Wisconsin*.

The proposed rules state that a Level I local health department must operate a general public health nursing program; act to prevent and control communicable disease, including carrying out all duties imposed on local health departments by ch. HFS 144, relating to immunization of students, and on local health officers by ch. HSS 145, relating to control of communicable diseases; provide services directed at preventing other diseases; provide services to promote health; act to abate or remove human health hazards; and report incidents of environmental contamination to the Department and provide any services as may be required by the Department by rule to prevent the future

incidence of occupational disease, environmental disease or exposure to human health hazards.

A Level II local health department is to provide those services and provide services that address at least 7 objectives set out in *Healthier People in Wisconsin*.

A Level III local health department is one that will provide all services required of a Level I local health department, provide services that address at least 21 objectives set out in *Healthier People in Wisconsin*, serve as the Department's agent in issuing licenses to and making investigations and inspections of tattoo and body-piercing establishments, and serve also as the Department's agent in issuing permits to and making investigations and inspections of various recreational, lodging and food service establishments.

The rules conclude with a process for the state health officer to designate the level of a local health department.

Responses to Clearinghouse Recommendations

All comments of the Legislative Council's Rules Clearinghouse were accepted, except the following:

1.(a) Comment: To make HFS 140.04 (1) (e) 2. consistent with s. 254.59, Stats., relating to the abatement or removal of human health hazards located on private premises, add the statutory provision in s. 254.59 (1), Stats., regarding a reasonable period of time to the rule.

Response: No change. The rule references the whole of s. 254.59, Stats., and states only the core of the statutory requirement. Several other conditions are included in the statute besides "within a reasonable period of time." In fact, sub. (2) states what that reasonable period of time is, namely, immediately following 30 days after the owner and occupant of the property are notified and so ordered by registered mail from the local health officer. The local health officer's responsibility is not limited to sub. (1).

2.b. Comment: "Assessment" is defined in HFS 140.03 (1) as "the regular, systematic collection, assembly, analysis and dissemination of information on the health of the community." The term is then used in HFS 140.04 (1) (a) 1.—a public health nurse may "participate in assessments of community health," and in HFS 140.04 (1) (a) 3. a.—a public health nurse may provide or arrange for continuity of health care for individuals and families through, among other things, "assessment of their current and emerging health care needs." The definition does not apply for the second use of the term. Modify the definition, use a different term in HFS 140.04 (1) (a) 3. a. or perhaps eliminate the definition and incorporate its terms into HFS 140.04 (1) (a) 1.

Response: The defined term has been changed to “community health assessment.” That term is now used two times in HFS 140.

2.c. Comment: Three terms defined in HFS 140.03 appear not to be used in HFS 140, namely, health promotion, other disease prevention, and public health system. Unless a term is used, a definition should not be included for it.

Response: Variants of “health promotion” (services and actions to promote health, services to promote health) are found in the rules. Also the term appears in s.251.05 (2) (a), Stats., as a type of service that Level I local health departments are required to provide. “Other disease prevention” is also specified in s. 251.05 (2) (a), Stats., and a variant (services to prevent other diseases) is a paragraph title. “Public health system” is now used in HFS 140.04 (1) (intro.).

2.e. Comment: At three places in HFS 140 there is a requirement that a local health department submit an annual report to the Department in a format or on a form prescribed by the Department. Include a reference to any form in a note to the rule. Attach a copy of the form to the rule or include a statement indicating where a copy of the form may be obtained at no charge.

Response: This is unnecessary. The 104 or so local health departments work closely with the Department to protect the public’s health and know where to go for guidance, copies and answers to questions. The rules now refer to three reports instead of one and to prescribed formats for two of the reports rather than forms, and state that the prescribed formats are available from the Department.

4.a. Comment: Given the title of HFS 140 and the fact that the rules are said to interpret s. 251.05 (2) to (6), Stats., it is not clear why HFS 140 does not explicitly deal with all the duties imposed on local health departments by s. 251.05 (3), Stats.

Response: The rules concern required services. Not all duties of a local health department, as set out in s. 251.05 (3), Stats., are services in that sense. An example is “development of public health policies and procedures.” Another is assuring access to high priority services. Gathering and making available information on the health of the community is already covered in the rules, but a specific reference to s. 251.05 (3) (a), Stats., has been added to HFS 140.04 (1) (c) (intro.). Also, a requirement to complete the annual survey of local health departments for the Wisconsin public health data system has been included in HFS 140.04 (3).

4.f. Comment: HFS 140.04 (1) (c) 2. refers to disseminating “department-endorsed” prevention guidance and training persons in “department-endorsed” prevention techniques. How is the DHFS endorsement received? Add a provision in the rules to explain this.

Response: No change. The Department has sufficient authority under s. 250.04, Stats., in regard to general supervision throughout the state of the health of citizens to develop, approve, endorse and recommend prevention guidance and prevention techniques. This is provided through consultation, technical assistance and training in public health, which under s. 250.04 (6), Stats., the Department is obliged to provide to local health departments. No special process is needed in the rules whereby the Department endorses prevention guidance and prevention techniques.

4.g. Comment: HFS 140.04 (1) (f) provides that a local health department must report and investigate occurrences of occupational disease, environmental disease or exposure to a human health hazard “as required by any rules of the department promulgated under ss. 250.04 (7) and 254.02 (5), Stats.” Cross-reference the rules themselves. If they have not yet been promulgated, it appears to be premature to include this provision. If the Department chooses not to delete the provision, it would be helpful to at least add a note explaining that such rules do not currently exist.

Response: There are draft rules, HFS 166, but they will not be promulgated for some time. However, it is appropriate that local health agencies be aware that there could be specific reporting and investigating requirements in the future in these areas as there are now for communicable diseases. The paragraph has been amended slightly to make clear that there are no rules now in effect.

5.a. Comment: In the seventh line of the fourth paragraph of the Analysis part of the rulemaking order, it appears that the first use of “and” should be deleted and that a semicolon should be inserted preceding the last use of “and” on that line. The change appears needed to separate the items in a series.

Response: No change. The two items referred to in fact go together – that is, reporting and follow-up services.

5.c.2. Comment: In regard to the general concept of having someone other than staff of the local health department actually provide services, note that s. 251.04 (1), Stats., specifies that a local board of health, not the local health department, may contract or subcontract to provide public health services and further specifies that the contractor’s staff must meet the appropriate qualifications for positions in a level I local health department.

Response: No change. The rules state, in several places, “arrange for,” which may or may not involve contracting. Of course all contracting must be approved by the local board of health or other local governing authority, pursuant to the cited statute, and the contractor’s staff must meet the appropriate qualifications for positions in a Level I local health department.

5.f. Comment: HFS 140.04 (1) (a) 3. b. indicates that there must be development of effective, efficient and equitable nursing plans of care for families and

individuals who will be receiving services “for a period of time.” What must that time period be? Unless the rules say, it is not clear what nursing plans must be developed.

Response: No change. By the phrase, “for a period of time,” the Department means that nursing care for a condition is provided more than on a one-time basis. How long the period of time will be in the particular case is determined by the public health nurse on the basis of professional judgment.

5.h. Comment: HFS 140.05 (1) (b) (intro.) indicates that a level II local health department must “maintain documentation” of all the listed items, and HFS 140.06 (1) (b) (intro.) indicates that a level III local health department must “show evidence” of all the listed items. The items listed in each section are nearly identical. It is not clear, in the one case, how long the documentation must be maintained, or in the other case to whom the evidence must be shown. Further, it is not clear what difference is intended between the requirement to “maintain documentation” versus the requirement to “show evidence.” Clarify.

Response: HFS 140.05 (1) (b) (intro.) has been changed to “show evidence,” so now the same phrase is used in both places. The evidence comprises a public record and so may be examined by any person upon request. The evidence will be scrutinized by the Department in its review under HFS 140.07 (1) of the operations of the local health agency.

Public Hearings

The Department held 5 public hearings on proposed ch. HFS 140, Required Services of Local Health Departments. Those hearings were also on the related proposed revision of ch. HFS 139, Qualifications of Public Health Professionals Employed by Local Health Departments. The hearings were held in Greenfield, Merrill, Green Bay, Eau Claire and Madison in December 1997 and January 1998. Forty-nine persons attended, and 38 of them either testified on proposed chs. HFS 139 and 140 or submitted written comments on them during the public review period that ended on January 9, 1998. Twenty-two other persons did not attend a hearing but sent in written comments during the public review period. Most of the comments received by the Department were on proposed ch. HFS 140. A complete list of persons who attended a hearing or sent written comments to the Department during the public review period can be found in an attachment to this document, along with a summary of the comments received on ch. HFS 140 and the Department’s responses to those comments.

In response to comments received during public review of proposed ch. HFS 140, the Department did all of the following:

-added a guidance statement for environmental health programs to the rules that is like the guidance statement for public health nursing programs in the proposed rules;

-extended from 60 days to 120 days the maximum time that a local health department has after the end of a calendar year to submit annual reports to the Department;

-added more description about the content of the annual reports;

-deleted the requirement that Level II local health departments serve as agents of DHFS for regulation of tattoo and body-piercing establishments and practitioners; and

-added a laboratory services requirement for Level III local health departments.

Final Regulatory Flexibility Analysis

These rules will not directly affect small businesses as “small business” is defined in s. 227.114 (1) (a), Stats.

The rules apply to the Department, to local governments that operate public health departments, to local boards of health that govern local health departments and to local public health departments.

SUMMARY OF PUBLIC HEARINGS ON
PROPOSED HFS 140, REQUIRED SERVICES OF
LOCAL HEALTH DEPARTMENTS

December 1, 2, 8 and 11, 1997 & January 7, 1998

A. ALL PERSONS WHO ATTENDED HEARINGS ON HFS 139 AND HFS 140 OR SUBMITTED WRITTEN COMMENTS ON THE PROPOSED RULES DURING THE PUBLIC REVIEW PERIOD (Note: The number preceding a name is used in Part B of this document to indicate the person who offered the comment)

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| 1. Deborah Schier, Community PHA
Oak Creek Health Department
Oak Creek WI | Public hearing testimony and
written comments – HFS 139, 140 |
| 1a. Deborah Schier, President
Assn of PH Nurse Administrators of
Milwaukee County & SE Wisconsin
Oak Creek WI | Written comments – HFS 139, 140 |
| 2. Marcia Meilicke
South Milwaukee Board of Health
South Milwaukee WI | Observation only |
| 3. Sandra Badgerow (self)
Kenosha County Division of Health
Kenosha WI | Observation only |
| 4. Frank G. Matteo, Health Officer
Kenosha County Division of Health
Kenosha WI | Public hearing testimony and
written comments – HFS 139, 140 |
| 5. Terry Brandenburg (self)
West Allis Health Department
West Allis WI | Public hearing testimony and
written comments – HFS 139, 140 |
| 6. Loyce C. Robinson, President
Wisconsin Environmental Health Assn.
Milwaukee WI | Public hearing testimony and
written comments – HFS 139, 140 |
| 7. Delores P. Harder (self)
West Bend WI | Observation only |

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| 8. Cheryl Mazamanian, Health Officer
Western Racine County Health Dept.
Burlington WI | Public hearing testimony and
written comments – HFS 140 |
| 9. Cynthia Tomasello
Shorewood Health Department
Shorewood WI | Observation only |
| 10. Nancy Kreuser, Health Officer
Wauwatosa Health Department
Wauwatosa WI | Observation and written
comments – HFS 139, 140 |
| 11. Jane Peterson
North Shore Health Department
Brown Deer WI | Observation only |
| 12. Ellen Krueger (self)
North Shore Health Department
Brown Deer WI | Observation only |
| 13. Nancy Healy
Germantown WI | Public hearing testimony and
written comments – HFS 139, 140 |
| 14. Joan Lietz (self)
Greendale Health Department
Greendale WI | Observation and written
comment – HFS 139, 140 |
| 15. William W. Wucherer, Health Officer
Franklin Health Department
Franklin WI | Public hearing testimony and
written comments – HFS 139, 140 |
| 16. Glenda S. Madlom
Port Washington WI | Observation and written
comment – HFS 139, 140 |
| 17. Carol Wantuch
Cudahy Health Department
Cudahy WI | Observation and written
comment – HFS 139, 140 |
| 18. Katie Callen
Ozaukee County Health Department
Mequon WI | Observation and written
comment – HFS 139, 140 |
| 19. Kathyne Sutliff
Oneida County Health Department
Rhinelander WI | Public hearing testimony –
HFS 139, 140 |

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| 20. George A. Million, Health Officer
Marathon County Health Department
Wausau, WI | Public hearing testimony -
HFS 139, 140 |
| 21. Tom Wittkopf, Environmental Health Officer
Marathon County Health Department
Wausau WI | Public hearing testimony and
written comments - HFS 139, 140 |
| 22. Anthony Fraundorf, Environmental Health
Specialist
Lincoln County Health Department
Merrill WI | Public hearing testimony and
written comments - HFS 139, 140 |
| 23. Greta Rusch (self)
Lincoln County Health Department
Merrill WI | Observation only |
| 24. Lorraine Noll, Associate Prof.-Nursing
UW - Green Bay
Green Bay WI | Public hearing testimony and
written comments - HFS 139, 140 |
| 25. John H. Paul (self)
Green Bay WI | Public hearing testimony and
written comment - HFS 140 |
| 26. Amy Wergin
Manitowoc County Board of Health | Public hearing testimony - HFS 140 |
| 27. Marty Adams (self)
Brown County Health Department
Green Bay WI | Public hearing testimony - HFS 140 |
| 28. Jan Tjaden
Sheboygan County Division of Public Health
Sheboygan WI | Observation and written comment -
HFS 139, 140 |
| 29. Diane Cappozzo
Fond du Lac County Health Department
Fond du Lac WI | Public hearing testimony - HFS 140 |
| 30. Pamela Schmelze
Waushara County Health Department
Wautoma WI | Public hearing testimony - HFS 140 |
| 31. June Roehl, Chair
Waushara County Board of Health
Wautoma WI | Observation and written comments -
HFS 139, 140 |

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| 32. Sharon M. Prissel
Pepin County Health Department
Durand WI | Public hearing testimony and written
comments – HFS 139 |
| 33. Carol A. Larson
Burnett County Health Department
Siren WI | Observation only |
| 34. Barbara Nelson
St. Croix County DHHS
New Richmond WI | Observation only |
| 35. Billie La Bumbard
Washburn County Public Health/Home Care
Spooner WI | Observation and written
comments - HFS 140 |
| 36. Doug Mormann, Director
LaCrosse County Health Department
LaCrosse WI | Public hearing testimony and
written comments – HFS 139, 140 |
| 37. Jim Ryder, Director
Eau Claire City-County Health Department
Eau Claire WI | Public hearing testimony and
written comments – HFS 139,140 |
| 38. Mary Ann Murphy, Director of Nursing
Eau Claire City-County Health Department
Eau Claire WI | Public hearing testimony and
written comments – HFS 140 |
| 39. Daryl Farmer, Director of Environmental
Health
Eau Claire City-County Health Department
Eau Claire WI | Written comments – HFS 139, 140 |
| 40. Gretchen Sampson
Polk County Health Department
Balsam Lake WI | Public hearing testimony – HFS 140 |
| 41. Tim Ringhand (self)
Chippewa County Health Department
Chippewa Falls WI | Public hearing testimony – HFS 140 |
| 42. Tommye Schneider
Madison Department of Public Health
Madison WI | Public hearing testimony and
written comment – HFS 139, 140 |

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| 43. Linda S. Adrian
Grant County Health Department
Lancaster WI | Public hearing testimony and
written comments - HFS 139, 140 |
| 44. Gail Chamberlain
Jefferson County Health Department
Jefferson WI | Public hearing testimony and
written comment – HFS 139, 140 |
| 45. Debbie Siegenthaler, Director
Lafayette County Health Department
Darlington WI | Observation and written comment -
HFS 139, 140 |
| 46. Nancy Bergey (self)
Monroe WI | Observation only |
| 47. Elizabeth Johnson, Director
Vernon County Health Department
Viroqua WI | Public hearing testimony and
written comments – HFS 139, 140 |
| 48. June E. Meudt, Director
Iowa County Health Department
Dodgeville WI | Observation and written comments -
HFS 139, 140 |
| 49. Gareth R. Johnson (self)
Stoughton WI | Observation and written comment –
HFS 139, 140 |
| 50. Lowell Haugen
Sauk County Board
Baraboo WI | Observation only |
| 51. Bev Muhlenbeck, Director
Sauk County Health Department
Baraboo WI | Written comments – HFS 139, 140 |
| 52. Rosemary Roy, Health Officer
Calumet County Health Department
Chilton WI | Written comments – HFS 139, 140 |
| 53. Linda L. McFarlin, Health Officer
Adams County Public Health
Friendship WI | Written comments – HFS 139, 140 |
| 54. Barbara Theis, Director
Juneau County Health Department
Mauston WI | Written comments – HFS 139, 140 |

55. Patricia Seefeldt, President
Rock County Board of Health
Janesville WI
Written comments – HFS 139, 140
56. Diane Muri, Public Health Administrator
Racine Department of Public health
Racine WI
Written comments – HFS 139, 140
57. Betty J. Novy, Clerk-Treasurer
Village of Rochester
Rochester WI
Written comments – HFS 140
58. James E. Moyer, Town Chairman
Town of Yorkville
Union Grove WI
Written comments – HFS 139, 140
59. Dale Gauerke, Supervisor
Town of Waterford
Waterford WI
Written comments – HFS 140
60. Colin and Laura Thacker (selves)
Kenosha WI
Written comments – Agree with
WEHA Board (#6) comments -
HFS 139, 140
61. Ruby Dow (self)
Mauston WI
Written comments – Agree with
WEHA Board (#6) comments –
HFS 139, 140
62. Mike Carder, Environmental Health Supv.
Portage County Health & Human Services
Department
Stevens Point WI
Written comments – HFS 139, 140
63. Mary L. Myszka, Region 4 Vice-President
National Environmental Health Assn.
Wausau WI
Written comments – HFS 139, 140
64. LeRoy Jonas, Chairman
Marathon County Board of Health
Wausau WI
Board resolution – HFS 139, 140
65. John Stroesenreuther (self)
Merrill WI
Written comments – Agree with
WEHA Board (#6) comments –
HFS 139, 140

66. Jim Steinhoff, Environmental Health Services Supervisor
Madison Department of Public Health
Madison WI
Written comments – HFS 139, 140
67. Nancy J. Westphal, Health Officer
Appleton Health Department
Appleton WI
Written comments – HFS 139, 140
68. Karen Levandoski, Director
Dunn County Health Department
Menomonie WI
Written comments – HFS 139, 140
69. Eau Claire City-County Board of Health
Eau Claire WI
Board resolution – HFS 139, 140
70. Sarah Diedrick-Kasdorf, Legislative Associate
Wisconsin Counties Association
Monona WI
Written comments – HFS 139, 140
71. Lila Seager, President
LaCrosse County Board of Health
LaCrosse WI
Written comments – HFS 139, 140

B. PUBLIC HEARING COMMENTS ON PROPOSED HFS 140 AND DEPARTMENT RESPONSES

Rule #	Comment/Commentors	Department Response
1. HFS 140 – general	Add a guidance statement for the environmental health program similar to the guidance statement for the general public health nursing program. (1a, 4, 5, 6, 13, 19 – 22, 29, 36, 37, 39, 42, 44, 60, 61, 63, 64, 65)	Agreed. This will be included in HFS 140.06.
2. HFS 140 – general	Add guidance statements for each of the three public health core functions of assessment, policy development and assurance as identified by the NIH Institute of Medicine. (4, 5, 13, 17, 19, 30, 36, 38, 40, 41, 71)	No change. Not appropriate for rules.
3. HFS 140 – general	Specify parameters for state health planning required under s.250.07, Stats., to make sure that there is clarity about state and local public health priorities and how the overall process will be carried out. Local health departments want assurance that they will be included in the process. (10, 18, 29, 31, 36, 40, 43, 45, 47 – 49, 51, 53 – 55, 57 – 59, 68)	No change. The rules are not about DHFS responsibilities, but rather services of local health departments.
4. HFS 140 – general	What are incentives for Level I departments to move to level 2, and for Level 2 departments to move to level 3? (30, 31)	There are none at this time.

5. HFS 140 – general
 Correct the statement in the Analysis part of the rulemaking order that the only county exempt from the requirement to have a county health department is Milwaukee County. Racine County is also exempt. (56)
 Racine county is not exempt. See s. 251.02 (1), Stats.
6. HFS 140 – general
 Quickly approve the proposed rules. (36, 71)
 Acknowledged.
7. HFS 140.04(1)(a)
 (intro.)
 Change “may” to “shall” or in some other way strengthen the language in reference to the services of local public health nurses. (18, 38, 40)
 Changed to “may be directed by the appropriate local authority to do any of the following:” This and addition of a Note after par. (a) more clearly state the intention of the Department. A similar change has been made to HFS 140.06 (1) (e) regarding the services of environmental health staff. Both statements are, then, clearly “guidance statements,” which is how they are commonly referenced.
8. HFS 140.04(1)(a)
 (intro.)
 Supports “may” language for public health nurse services. This recognizes that the local governing board is the employer and may not want public health nurses performing certain services. (1)
 “May” language has been retained.

9. HFS 140.04(1)(a) What is meant by “nursing plans of care?” This term does not lend itself to population-based services. (43, 45, 47, 48, 51, 53 – 55, 68)
- Nursing plans of care are to be prepared when services are provided to individuals and families over a period of time.
10. HFS 140.04(1)(a) What is the “documentation” that is required in the general public health nursing program guidance statement? (1, 19, 31)
- The two references to documentation concern documenting responses of people to services as a means of evaluating service effectiveness.
11. HFS 140.04(1)(a) Do not include “managed care” in the general public health nursing program guidance statement. (19, 31)
- “Managed care” is not mentioned in the proposed rules.
12. HFS 140.04(1)(a) Refer in the rules to “managed care.” (8, 56 – 59)
Critical to address at least the broader aspects of managed care to ensure successful collaboration between local health departments and managed care organizations. (56)
- No change. Rules are directive. It is not clear what these rules should direct local health departments to do in the area of managed care or what addressing in the rules “at least the broader aspects of managed care to ensure successful collaboration” might mean.
13. HFS 140.04(1)(c) How often and when should the local department inform local elected officials, educators and the general public about the incidence and prevalence of “other diseases” (chronic diseases and injuries) that are the leading causes of disability and premature death in the community? Is this at the local department’s discretion? (1)
- The rule states that this should be done. The expectation is that it be done from time to time, when appropriate for an occasion and when necessary. How often and when is left to the judgment of the local department.

14. HFS 140.04(1)(c) It is clear in the rules that this is the local health department's responsibility.
- Be clear that it is the local health department's responsibility to disseminate throughout the community the results of the community needs assessment. Dissemination of this information must be under the control of the local health department. (43, 45, 47 – 49, 51, 53 – 55, 68)
15. HFS 140.04(3)
HFS 140.05(3) &
HFS 140.06(2) Agreed. This has been changed to 120 days.
- Allow more time than 60 days after the end of the calendar year for a local health department to submit the required annual report to the department. (8, 10, 18, 19, 29, 37, 43 – 45, 47 – 49, 51, 53 – 56, 59, 68)
16. HFS 140.04(3)
HFS 140.05(3) &
HFS 140.06(2) These subsections of proposed HFS 140 have been modified to specify three reports, one a copy of the local public health department's annual report if required by the local governing authority, another the current annual survey of local health departments, and the third a descriptive report on activities of the local health department in the past year with special attention to progress and performance toward
- Include in the rules an outline of the required data to be reported, or further define what the format is. Include also a commitment by the Department to publish the data within a certain time period. (43, 45, 47, 48, 51, 53 – 55, 56, 68)

achieving objectives identified in the community health assessment. The Department strives to publish local health survey data quickly but depends on complete reporting. The Department published 1996 data in October 1997.

No change. The Department in HFS 140 is only specifying required services, as directed by s. 251.20, Stats.

No change. The rules should be changed when there is, and provided there is, a replacement document. That document might be set up in a different way and use different terminology.

Community health priorities are the result of community-wide activities that look at all aspects of current and emerging health threats and needs in the community. While it may be that some community-identified priorities are clustered under a few of the chapters in *Healthier People in Wisconsin*,

Add the following under required services for a Level II department and a Level III department: "That the local health department demonstrates an administrative infrastructure sufficient to support the delivery of public health services." (5)

In referring to *Healthier People in Wisconsin*, add phrase, "or successor document," so that the rules will not have to be changed when there is a new document. (1)

What if citizens in identifying objectives identify objectives in only one category? Will it be held against the local health department for following the wishes of people in the community? (1)

17. HFS 140.05 & HFS 140.06

18. HFS 140.05(1)(b) & HFS 140.06(1)(b)

19. HFS 140.05(1)(b)

the Public Health Agenda is flexible enough that community priorities can be linked to more than one chapter. For Level I departments, community health assessments are required but not the identification of objectives using the framework of that report.

Agreed.

20. HFS 140.05(1)(c) Do not require Level II health departments to be agents of DHFS for the purpose of regulating tattoo and body-piercing establishments and practitioners. (28, 31, 35, 52, 67)

21. HFS 140.05(1)(c) & HFS 140.06(1)(d) Do not require Level II and III health departments to be agents of DHFS for the purpose of regulating tattoo and body-piercing establishments and practitioners. (1a, 10, 15, 24, 25 - 27, 29, 56, 57, 70)

Agreed for Level II departments. Level III local health departments are to be full-service departments, and the Legislature has decided that this regulation is of public health importance. The Department will provide training for agent staff.

22. HFS 140.06 For a Level III department, incorporate expectations that laboratory services will be made available, especially for testing for water quality and food quality, and for gonorrhea testing. (36, 71)

Agreed, except without specifying what testing is for.

23. HFS 140.06(1)(c) Why is only a Level III department the level of department that can be DHFS' agent for environmental sanitation inspections? Many Level II departments are doing a good job. (1)
24. HFS 140.07 What process will the Department use to determine the levels of local health departments? How will the determination be made? What are the standards, the criteria? (1, 1a, 8, 31, 36, 43, 45, 47 - 49, 51-55, 57, 68, 71)
- Only Level III departments are required to be the Department's agents for this purpose. A Level II department may choose to enter into an agreement with the Department to do this. See HFS 140.05 (2), Optional Services.
- An outline of the process is in HFS 140.07. The standards are in HFS 140.04 to 140.06.

PROPOSED RULES

PROPOSED ORDER OF THE DEPARTMENT OF HEALTH AND FAMILY SERVICES CREATING RULES

To create chapter HFS 140, relating to required services of local health departments.

Analysis Prepared by the Department of Health and Family Services

This order identifies the services that are to be provided by local health departments. A local health department, as defined in s. 250.01(4), Stats., is usually a city, county or city-county department, but could also be a village or town health department, a multiple county health department or part of a county human services department under s. 46.23, Stats. At the beginning of 1998 there were at most 104 local health departments in the state.

Under ch. 251, Stats., every county in Wisconsin except Milwaukee County must have a county health department. A county health department is to serve all areas of the county not served by a city health department established before January 1, 1994, or by a town or village health department. A county health department may take the form of a city-county health department or a multiple-county health department. In Milwaukee County, each city and village is to have its own local health department except that a city or village may contract for services with the local health department of another city or village in the county. Every area of the state, then, and all people living in the state or visiting Wisconsin or traveling through the state are served, at times directly but more often indirectly, by local public health agencies working cooperatively with the Department's Division of Health to maintain a statewide system of resources and services directed at protecting the public's health.

Section 251.20, Stats., directs the Department to promulgate rules that specify required services for each of three levels of local health departments. Actually, for Level I local health departments, s. 251.05(2)(a), Stats., already states that they are to provide at least services for surveillance, investigation, control and prevention of communicable diseases, prevention of other disease, health promotion and human health hazard control, and ss. 250.06(1) and 251.04(8), Stats., require all local health departments to have a generalized public health nursing program. And s. 251.05 (2)(b) and (c), Stats., state that Level II and Level III local health departments are to provide at least the services that Level I departments are to provide and, in addition, services that the Department specifies by rule which, according to s. 251.20(2) and (3), Stats., are to include, for Level II departments, services that address at least one objective from each of seven sections of the Department's 1990 publication, *Healthier People in Wisconsin: A Public Health Agenda for the Year 2000* and, for Level III departments, services that address at least 3 objectives from each of those seven sections in that publication. There are 320 total objectives included in those sections of *Healthier People in Wisconsin*.

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The rules state that a Level I local health department must operate a general public health nursing program; act to prevent and control communicable disease, including carrying out all duties imposed on local health departments by ch. HFS 144, relating to immunization of students, and on local health officers by ch. HFS 145, relating to control of communicable diseases; provide services directed at preventing other diseases; provide services to promote health; act to abate or remove human health hazards; and report incidents of environmental contamination to the Department and provide any services as may be required by the Department by rule to prevent the future incidence of occupational disease, environmental disease or exposure to human health hazards.

A Level II local health department is to provide all services required of a Level I local health department and, in addition, services that address at least 7 objectives set out in *Healthier People in Wisconsin: A Public Health Agenda for the Year 2000*.

A Level III local health department is one that will provide all services required of a Level I local health department and provide services that address at least 21 objectives set out in *Healthier People in Wisconsin*, serve as the Department's agent in issuing licenses to and making investigations and inspections of tattoo and body-piercing establishments, and serve also as the Department's agent in issuing permits to and making investigations and inspections of various recreational, lodging and food service establishments.

The rules conclude with a process for the state health officer to designate the level of a local health department.

The Department's authority to create these rules is found in ss. 250.04(7) and 251.20, Stats. The rules interpret ss. 250.02(1), 251.04(8), 251.05, 251.06(3)(b), (f) and (i) and 251.20, Stats.

SECTION 1. Chapter HFS 140 is created to read:

CHAPTER HFS 140

REQUIRED SERVICES OF LOCAL HEALTH DEPARTMENTS

- HFS 140.01 Authority and Purpose
- HFS 140.02 Applicability
- HFS 140.03 Definitions
- HFS 140.04 Level I Local Health Department
- HFS 140.05 Level II Local Health Department
- HFS 140.06 Level III Local Health Department
- HFS 140.07 Designation of Level of Local Health Department

HFS 140.01 AUTHORITY AND PURPOSE. This chapter is promulgated under the authority of s. 251.20, Stats., which directs the department to specify by rule required services for each of 3 levels of local health departments. Under s. 251.05 (2), Stats., all local health departments are to provide at least level I services, while level II and level III local health departments are to provide additional services.

HFS 140.02 APPLICABILITY. This chapter applies to the department and local health departments. Sections HFS 140.01 to 140.04 and 140.07 apply to all local health departments. Section HFS 140.05 applies to a level II local health department. Section HFS 140.06 applies to a level III local health department.

HFS 140.03 DEFINITIONS. In this chapter:

(1) “Community health assessment” means the regular, systematic collection, assembly, analysis and dissemination of information on the health of the community.

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

(3) “Epidemiological investigation” means the systematic examination and detailed inquiry into the circumstances and causal factors associated with a given disease or injury.

(4) “Environmental health program” means the assessment, management, control and prevention of environmental factors that may adversely affect the health, comfort, safety or well-being of individuals within the jurisdiction of the local health department by individuals qualified under s. 250.05 Stats., and ch. HFS 139.

(5) “General public health nursing program” means the organization and delivery of public health nursing services by public health nurses qualified under s. 250.06 (1), Stats., and s. HFS 139.07 to individuals within the jurisdiction of the local health department.

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(6) “Health promotion” means programs and services that increase the public understanding of health, assist in the development of more positive health practices and enhance or maintain the health of the community as a whole.

(7) “Human health hazard” means a substance, activity or condition that is known to have the potential to cause acute or chronic illness or death if exposure to the substance, activity or condition is not abated or removed.

(8) “Local health department” means an agency of local government that has any of the forms specified in s. 250.01 (4), Stats.

(9) “Local health officer” means the person in charge of a local health department who meets the qualifications and is responsible for carrying out the duties established under s. 251.06, Stats.

(10) “Other disease prevention” means programs and services that reduce the risk of disease, disability, injury or premature death caused by such factors as risky behaviors, poor health practices or environmental agents of disease.

(11) “Public health system” means organized community efforts aimed at the prevention of disease and the promotion and protection of health, including activities of public and private agencies and voluntary organizations and individuals.

(12) “State health officer” means the individual appointed under s. 250.02(1), Stats., by the secretary of the department to develop public health policy for the state and direct state public health programs.

(13) “Surveillance” means the ongoing systematic collection, analysis, and interpretation of data concerning disease, injuries or human health hazards, and the timely dissemination of these data to persons responsible for preventing and controlling disease or injury and others who need to know.

HFS 140.04 LEVEL I LOCAL HEALTH DEPARTMENT. (1) **REQUIRED SERVICES.** A level I local health department shall assume leadership responsibility for developing and maintaining the public health system for the area of jurisdiction of the local health department and shall provide or arrange for provision of at least the following services:

(a) **Public health nursing services.** Nursing services through a general public health nursing program. Public health nurses who conduct the program may be directed by the appropriate local authority to do any of the following:

1. Participate in community health assessments; collect, review and analyze data on community health; and undertake case-finding to identify population groups, families and individuals at high risk of illness, injury, disability or premature death.

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2. Participate and provide collaborative public health nursing expertise in the development of community plans that include identification of community health priorities, goals and objectives to address current and emerging threats to the health of individuals, families, vulnerable population groups and the community as a whole, and contribute to planning efforts that support community strengths and assets.

3. Participate in the development of programs and services for vulnerable population groups that are based on evaluation of surveillance data and other factors that increase actual or potential risk of illness, disability, injury or premature death.

4. Provide or arrange for the availability of services and actions to promote, maintain or restore health and prevent disease and injury that are directed at current and emerging needs of the community, vulnerable population groups and families and individuals referred by physicians and other health care providers, health maintenance organizations and other sources for health education or follow-up care.

5. Document and evaluate the responses of the community or vulnerable population groups to public health nursing services and actions directed at the community or those groups.

6. Provide or arrange for continuity of health care for individuals and families requesting or referred for nursing services and provide them with or otherwise arrange for the availability of timely, cost-effective and quality nursing and clinical preventive services through all of the following:

- a. Assessment of their current and emerging health care needs.
- b. Development of effective, efficient and equitable nursing plans of care for families and individuals who will be receiving services for a period of time.
- c. Implementation of nursing plans of care and collaboration with other agencies and organizations, as necessary, to achieve goals included in the plans of care.
- d. Documentation and evaluation of the responses of families and individuals to public health nursing services and actions, in order to provide evidence of professional nursing services provided, determine progress toward goal achievement for a particular family or individual and provide a basis for updating that family's or individual's nursing plan of care.

Note: The Department recommends that local boards of health and other local governing authorities employ the public health nurse responsibilities set out in par. (a) as the basic framework for carrying out the statutorily mandated generalized public health nursing program.

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(b) Services to prevent and control communicable disease. 1. Activities required of local health departments under ch. HFS 144, relating to immunization of students.

2. Activities required of local health officers under ch. HFS 145, relating to control of communicable diseases, including the conduct of epidemiological investigations as directed by the department and measures taken to prevent, exercise surveillance over and control diseases transmitted by animals and insects.

Note: Section 254.51, Stats., directs the Department to promulgate rules that establish measures for prevention, surveillance and control of human disease resulting from animal-borne and vector-borne transmission, and directs local health departments to enforce those rules. The particular diseases are included in the list of reportable communicable diseases in Appendix A to ch. HFS 145, and therefore local health officers are responsible under ch. HFS 145 for investigating those diseases and employing appropriate methods of control of them as they are for other communicable diseases covered by that chapter.

3. Maintenance of a surveillance system for communicable diseases reportable under ch. HFS 145.

(c) Services to prevent other diseases. Development and delivery of services to reduce the incidence or prevalence of the chronic diseases or injuries that are the leading causes of disability and premature death in the jurisdiction of the local health department, the chronic diseases or injuries for which resources are available to the local health department from the department or the chronic diseases or injuries identified through a community needs assessment under s. 251.04(6)(a), Stats., as priority public health problems, or by the regular and systematic collection of information on the health of the community as required under s. 251.05(3)(a), Stats. These services shall include all of the following:

1. Informing local elected officials, educators and the general public about the incidence and prevalence of these diseases and injuries in the community.

2. Disseminating department-endorsed prevention guidance related to these diseases and injuries, including information about behaviors known to reduce the risk of contracting them, and training interested members of the public in department-endorsed prevention techniques.

3. Arranging screening, referral and follow-up for population groups for which these activities are recognized by the department as effective in preventing chronic diseases and injuries.

4. Implementing measures or programs designed to promote behavior that is known to prevent or delay the onset of chronic disease or prevent or ameliorate injuries.

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(d) Services to promote health. Disseminate information to the community or ensure that information is disseminated to the community about the causes, nature and prevention of diseases and health conditions prevalent in the community or for which the incidence could become significant in the community, and about how to maintain and improve health.

(e) Abatement or removal of human health hazards. 1. Pursuant to s. 251.06(3)(f), Stats., investigate and supervise the sanitary conditions of all premises within the local health department's jurisdictional area.

2. Pursuant to s. 254.59, Stats., order the abatement or removal of human health hazards found on private premises and, if an owner or occupant fails to comply, enter the premises and abate or remove or contract for the abating or removal of the human health hazard. As permitted under s. 254.593, Stats., the local health department may declare that specified housing that is dilapidated, unsafe or unsanitary is a human health hazard and proceed in accordance with s. 254.59, Stats., to have the human health hazard abated or removed.

(f) Services to prevent the future incidence of occupational disease, environmental disease and human health hazard exposure. Reporting and investigation of occurrences of occupational disease, environmental disease or exposure to a human health hazard, as required by any rules the department may promulgate under ss. 250.04(7) and 254.02(5), Stats.

(2) **OPTIONAL SERVICES.** A level I local health department may provide any services, in addition to the services required under sub. (1), that a level II local health department is required to provide under s. HFS 140.05 or a level III local health department is required to provide under s. HFS 140.06.

(3) **ANNUAL REPORTS.** Within 120 days after the close of the calendar year, a level I local health department shall submit the following reports to the department:

(a) A copy of the local health department's annual report for the preceding calendar year, if required by the local governing body.

(b) Annual survey of local health departments for the Wisconsin public health data system in a format prescribed by the department.

(c) A report, in a format prescribed by the department, on the activities of the local health department for the preceding calendar year, including a narrative which describes the progress and performance toward achieving the objectives that the local health department has identified as part of its community health assessment process.

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HFS 140.05 LEVEL II LOCAL HEALTH DEPARTMENT. (1) REQUIRED SERVICES. A level II local health department shall do all of the following:

(a) Provide or arrange for provision of all services required under s. HFS 140.04 for a level I local health department.

(b) Provide or arrange for the provision of services that address at least one objective from each section of sections 2 to 8 of *Healthier People in Wisconsin: A Public Health Agenda for the Year 2000*, published in February 1990 by the Wisconsin division of health. A level II local health department shall show evidence of all of the following:

1. That each objective has been selected through a process which is based on assessed need, incorporates the views of citizens and leaders from the public and private sectors of the community, and formally recognizes that the objective is a public health priority for the community.

2. That the local health department has identified resources or services which it will commit to achieving the objectives.

3. That contemporary public health practices of proven merit are being used to provide services to the community to achieve the objectives.

4. That the local health department has established a process whereby it will evaluate and report to the community on progress and performance toward achieving the objectives.

Note: The publication, *Healthier People in Wisconsin: A Public Health Agenda for the Year 2000*, may be consulted at the offices of the Department's Bureau of Public Health, the Revisor of Statutes Bureau or the Secretary of State, or at any public library.

(2) OPTIONAL SERVICES. A level II local health department may provide any services, in addition to the services required under sub. (1), that a level III local health department is required to provide under s. HFS 140.06.

(3) ANNUAL REPORTS. Within 120 days after the close of the calendar year, a level II local health department shall submit the following reports to the department:

(a) A copy of the local health department's annual report for the preceding calendar year, if required by the local governing body.

(b) Annual survey of local health departments for the Wisconsin public health data system in a format prescribed by the department.

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(c) A report, in a format prescribed by the department, on the activities of the local health department for the preceding calendar year, including a narrative which describes the progress and performance toward achieving the objectives identified as part of its community health assessment and that are linked to one objective from each section of sections 2 to 8 of *Healthier People in Wisconsin: A Public Health Agenda for the Year 2000*.

HFS 140.06 LEVEL III LOCAL HEALTH DEPARTMENT. (1) REQUIRED SERVICES. A level III local health department shall do all of the following:

(a) Provide or arrange for provision of all services required under s. HFS 140.04 for a level I local health department.

(b) Provide or arrange for the provision of services that address at least 3 objectives from each section of sections 2 to 8 of *Healthier People in Wisconsin: A Public Health Agenda for the Year 2000*, published in February 1990 by the Wisconsin division of health. A level III local health department shall show evidence of all of the following:

1. That each objective has been selected through a process which is based on assessed need, incorporates the views of citizens and leaders from the public and private sectors of the community, and formally recognizes that the objective is a public health priority for the community.

2. That the local health department has identified resources or services which it will commit to achieving the objectives.

3. That contemporary public health practices of proven merit are being used to provide services to the community to achieve the objectives.

4. That the local health department has established a process by which it will evaluate and report to the community on progress and performance toward achieving the objectives.

Note: The publication, *Healthier People in Wisconsin: A Public Health Agenda for the Year 2000*, may be consulted at the offices of the Department's Bureau of Public Health, the Revisor of Statutes Bureau or the Secretary of State, or at any public library.

(c) Conduct inspections and investigations, issue permits and enforce the department's environmental sanitation rules, chs. HFS 172, 175, 178, 195, 196, 197 and 198, upon entering into an agreement with the department under s. 254.69, Stats., and ch. HSS 192 to serve as the department's agent for this purpose in the local health department's area of jurisdiction.

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(d) Conduct inspections and investigations, issue licenses and enforce the department's rules, ch. HFS 173, promulgated under ss. 252.23(4) and 252.24(4), Stats., for regulation of tattooists and tattoo establishments and regulation of body piercers and body-piercing establishments, upon entering into an agreement with the department under s. 252.245, Stats., to serve as the department's agent for this purpose in the local health department's area of jurisdiction.

(e) Conduct an environmental health program as directed by the local board of health or other local governing body. Environmental health staff who conduct the program may be directed by the appropriate local authority to do any of the following:

1. Participate in community health assessments; collect, review and analyze environmental and community health data; and undertake management, control and prevention of environmental factors that may adversely affect the health, safety or well-being of individuals or the community.

2. Participate and provide collaborative environmental health expertise in the development of community plans that include identification of community health priorities, goals and objectives to address current and emerging environmental threats to the health of individuals, families, vulnerable population groups and the community as a whole, and contribute to planning efforts that support community strengths and assets.

3. Provide or arrange for the availability of services authorized under ch. 254, Stats., such as for toxic substances, indoor air quality, animal borne or vector borne disease and human health hazards.

4. Implement agreements with state agencies to provide or arrange for environmental health services authorized under state statute such as for administering state rules governing retail food establishments, private wells, safe drinking water, rabies prevention and air pollution control.

5. Document findings, recommendations and requirements based on environmental health inspections and inquiries.

6. Administer regulations adopted and designated by the board of health or other local governing body.

Note: The Department recommends that local boards of health and other local governing authorities employ the environmental health staff responsibilities set out in par. (e) as the basic framework for carrying out the required environmental health program.

(f) Provide or arrange for public health laboratory services appropriate to local health department resources and services that support current and emerging threats to

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the health of the community that are consistent with current state and federal rules governing public health laboratories.

(2) ANNUAL REPORTS. Within 120 days after the close of the calendar year, a level III local health department shall submit the following reports to the department:

(a) A copy of the local health department's annual report for the preceding calendar year, if required by the local governing body.

(b) Annual survey of local health departments for the Wisconsin public health data system in a format prescribed by the department.

(c) A report, in a format prescribed by the department, on the activities of the local health department for the preceding calendar year, including a narrative which describes the progress and performance toward achieving the objectives identified as part of its community health assessment and that are linked to 3 objectives from each section of sections 2 to 8 of *Healthier People in Wisconsin: A Public Health Agenda for the Year 2000*.

HFS 140.07 DESIGNATION OF LEVEL OF LOCAL HEALTH DEPARTMENT. (1) Under the authority of s. 251.20 (1), Stats., the department shall direct a process to formally review the operations of all local health departments in a county or municipality at least every 5 years. A review of the operations of a local health department shall result in a written finding issued by the state health officer as to whether the local health department satisfies the requirements for a level I, II or III local health department.

(2) In directing the review under sub. (1), the state health officer shall use department personnel and other appropriate local health officials who have expertise in the field of public health and are knowledgeable about the requirements for local health departments.

(3) The written finding under sub. (1) shall include any recommendations for improvement in staffing, functions and practices.

(4) When the written finding under sub. (1) is that a local health department meets the requirements for a level I, II or III local health department, the finding shall be in force for 5 years, unless the governing body of the county or municipality takes action which would change the findings of the review.

(5) When the written finding under sub. (1) is that a local health department does not meet the requirements for a level I local health department under s. 251.05 (2) (a), Stats., and s. HFS 140.04, the department shall do all of the following:

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(a) Inform the governing body of the county or municipality in writing of the finding and allow the governing body a period of time, as determined by the state health officer but not to exceed one year, to correct the identified deficiencies.

(b) Provide necessary technical assistance to help the governing body of the county or municipality remedy the identified deficiencies so that the local health department will comply with all level I local health department staffing functions and practices.

(c) Conduct a formal review to ensure that the deficiencies have been corrected. If the deficiencies are not corrected, the department shall take appropriate action under s. 250.04(2) or 252.03(3), Stats.

(6) A local health department established under ch. 251, Stats., shall be presumed to be a level I local health department until found by the department to be otherwise following a review under sub.(1).

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2), Stats.

Wisconsin Department of Health and
Family Services

Dated:

By: _____
Joseph Leean
Secretary

SEAL: