

☛ 09hr_SC-PHSILTCJC_CRule_09-115_pt01



Details:

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Public Health, Senior Issues, Long-Term Care, and Job Creation (SC-PHSILTCJC)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

**Committee on Public Health, Senior Issues, Long-Term Care,
and Job Creation**

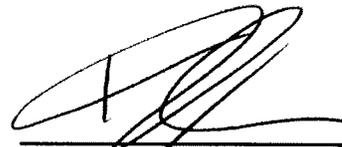
Clearinghouse Rule 09-115

Relating to fees for copies of health care provider records, registration of sanitarians, safety, maintenance and operation of public swimming pools and water attractions, and child support cooperation for food stamps, and affecting small businesses.

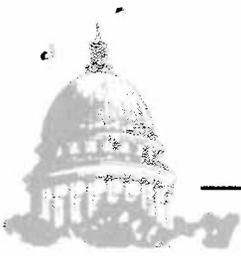
Submitted by Department of Health Services.

February 09, 2010 Referred to Committee on Public Health, Senior Issues, Long-Term Care, and Job Creation.

March 9, 2010 No action taken.



Russell DeLong
Committee Clerk



WISCONSIN STATE SENATE

TIM CARPENTER

SENATOR – 3RD DISTRICT

State Capitol • PO Box 7882 • Madison, WI 53707-7882 • Phone: (608) 266-8535

February 11, 2010

Senator Spencer Coggs

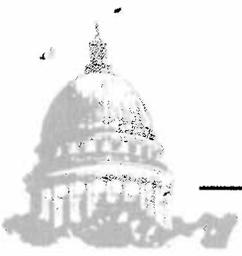
Dear: Senator Coggs

In accordance with provisions of the Wisconsin Statutes for ClearingHouse Rules, you are hereby notified that on February 9th, 2010 ClearingHouse Rule Senate 09-115 was referred to the Committee on Public Health, Senior Issues, Long-Term Care and Job Creation.

If you have any concerns or wish to make an objection to ClearingHouse Rule Senate 09-115 please contact me as soon as possible or at least 5 days before the 30 day review period expires on March 11th, 2010.

Best wishes,

Tim Carpenter
State Senator



WISCONSIN STATE SENATE

TIM CARPENTER

SENATOR – 3RD DISTRICT

State Capitol • PO Box 7882 • Madison, WI 53707-7882 • Phone: (608) 266-8535

February 11, 2010

Senator Kathleen Vinehout

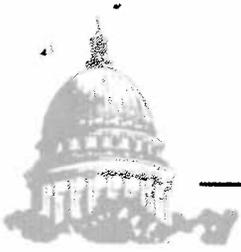
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February 11, 2010

Senator Dale Schultz

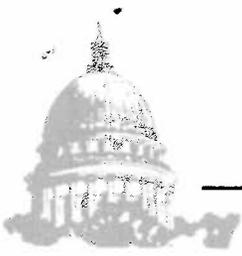
Dear: Senator Schultz

In accordance with provisions of the Wisconsin Statutes for ClearingHouse Rules, you are hereby notified that on February 9th, 2010 ClearingHouse Rule Senate 09-115 was referred to the Committee on Public Health, Senior Issues, Long-Term Care and Job Creation.

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Best wishes,

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State Senator



WISCONSIN STATE SENATE

TIM CARPENTER

SENATOR – 3RD DISTRICT

State Capitol • PO Box 7882 • Madison, WI 53707-7882 • Phone: (608) 266-8535

February 11, 2010

Senator Dan Kapanke

Dear: Senator Kapanke

In accordance with provisions of the Wisconsin Statutes for ClearingHouse Rules, you are hereby notified that on February 9th, 2010 ClearingHouse Rule Senate 09-115 was referred to the Committee on Public Health, Senior Issues, Long-Term Care and Job Creation.

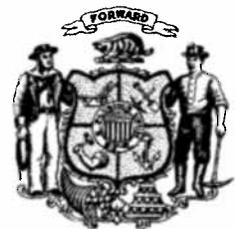
If you have any concerns or wish to make an objection to ClearingHouse Rule Senate 09-115 please contact me as soon as possible or at least 5 days before the 30 day review period expires on March 11th, 2010.

Best wishes,

Tim Carpenter
State Senator



WISCONSIN STATE LEGISLATURE



ADMINISTRATIVE RULES - TRANSMITTAL

CLEARINGHOUSE RULE: 09-115

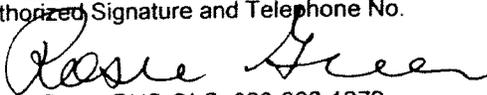
DHS 117, 160, 172, 253, relating to relating to fees for copies of health care provider records, registration of sanitarians, safety, maintenance and operation of public swimming pools and water attractions, and child support cooperation for food stamps, and affecting small businesses.

TYPE OF TRANSMITTAL: Notice that Proposed Rules are in Final Draft Form

DOCUMENTS TRANSMITTED:

- Statement of Scope
- Initial Proposed Rules and Clearinghouse Transmittal
- Fiscal Estimate
- Public Hearing Notice
- Final Proposed Rules
- Legislative Report
- Adopted Permanent Rules, Certification and Summary
- Adopted Emergency Rules and Certification
- Request to Extend Emergency rules
- Modifications to Rules
- Request to Incorporate Standards

Documents Transmitted To:	Date of Transmittal	Manner of Transmittal		
		Email	Hand-delivery	Other
<input checked="" type="checkbox"/> Legislative Reference Bureau	February 5, 2010	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Legislative Rules Clearinghouse	February 5, 2010	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Department of Administration	February 5, 2010	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Small Bus. Reg. Review Board/Ombudsman	February 5, 2010	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Chief Clerk – Assembly	February 5, 2010	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Chief Clerk – Senate	February 5, 2010	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> JCRAR – Senate	February 5, 2010	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> JCRAR – Assembly	February 5, 2010	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Department of Justice		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Authorized Signature and Telephone No.  Rosie Greer, DHS-OLC, 608-266-1279	Date 2/5/10
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**ADMINISTRATIVE RULES
DEPARTMENT OF HEALTH SERVICES
REPORT TO THE LEGISLATURE
CLEARINGHOUSE RULE 09-115
CHS. DHS 117, 160, 253, and 172**

Basis and Purpose of Proposed Rule

Chapter 227.11 (2) (a), Stats., provides state agencies with general rulemaking authority to promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

Similar to the legislature's need to periodically make corrections and minor revisions to the Wisconsin statutes, the Department must periodically make such revisions to the department's section of the Wisconsin administrative code and to its administrative rules. The changes made under this order are due to changes made to state law or rules and are intended to have little or no substantive effect on persons regulated by the rules.

The legislature, under 2009 Act 28, established a fee schedule for medical record copies under s. 146.83, Stats., which replaces the medical record copy fee schedule established by the department under ch. DHS 117. Under this order, the department repeals ch. DHS 117.

The legislature, under 2005 Act 25, transferred authority to regulate sanitarians to the department of regulation and licensing (DRL). DRL subsequently promulgated chs. RL 174 to 177 to regulate sanitarians. The department's rules for sanitarians are under ch. DHS 160. Under this order, the department repeals ch. DHS 160.

The legislature, under 2007 Act 20, repealed s. 49.79 (2) (a), Stats., the child support cooperation requirement for food stamp eligibility. The department's rules for implementing these requirements are under ch. DHS 253. Under this order, the department repeals ch. DHS 253.

The department of commerce repealed and recreated ch. Comm 90 (Clearinghouse Rule 08-056) which resulted in the renumbering of various sections of that chapter. Chapter DHS 172 includes cross-references to a number of sections in ch. Comm 90. In addition to inaccurate cross-references, the DHS 172 contains language in need of correction or clarification. Under this order, the department updates the cross-references, and revises language in ch. DHS 172.

Responses to Legislative Council Rules Clearinghouse Recommendations

The department accepted the comment(s) made by the Legislative Council Rules Clearinghouse and modified the proposed rule where suggested.

Final Regulatory Flexibility Analysis

The rules will not have a fiscal effect on businesses.

Changes to the Analysis or Fiscal Estimate

Analysis

“No changes were made to the rule’s analysis”

Fiscal Estimate

“No changes were made to the fiscal estimate”.

Public Hearing Summary

Under s. 227. 16 (2) (e), Stats., the department did not hold a public hearing. As permitted under s. 227. 16 (2) (e), Stats., the department issued notice to the public that the department intended to adopt the order as proposed without public hearing unless within 30 days after publication of the notice in the Wisconsin Administrative Register on January 1, 2010, the department is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule. A petition for hearing was not received by the department.

SECTION 22. EFFECTIVE DATE: This rule 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 Services

Dated:

Karen E Timberlake, Department Secretary

SEAL:

(2) Note: A request for an alternative location for a telephone or another system of communication that provides access to emergency service during hours of pool operation may be made under s. DHS ~~173.02 (2)~~ 172.03 (2).

SECTION 16. DHS 172.29 (3) (f) is amended to read:

DHS 172.29 (3) (f) Minors under the age of 6 ~~and under~~ are not permitted in the whirlpool.

SECTION 17. DHS 172.33 (1) (d) and (g), (2) (a) Note, and (4) (c) Note are amended to read:

DHS 172.33 (1) (d) *Hosing*. Hosing shall be provided in adequate lengths to flush the entire pool deck. All hose bibbs shall be protected against backsiphonage by the proper installation of an approved backflow prevention device as required under s. Comm ~~90.13 (6)~~ 90.16 (4).

(g) *Drinking fountain*. Each drinking fountain required under ~~ss. s. Comm 90.09 (3) and 90.16~~ 90.19 shall be maintained in clean and sanitary condition.

(2) (a) Note: See ~~chapter s. Comm-90~~ 90.19 for additional information.

(4) (c) Note: Refer to ~~chapter s. Comm-90~~ 90.16 for department of commerce installation requirements.

SECTION 18. DHS 172.34 (5) Note is amended to read:

DHS 172.34 (5) Note: See ~~chapter s. Comm-90~~ 90.18 (4) for additional rules relating to the outdoor pool enclosure.

SECTION 19. DHS 172.35 (1) and (2) are amended to read:

DHS 172.35 (1) All waterslides and pool slides shall be designed and installed as required in s. Comm ~~90.30~~ 90.31.

(2) Waterslide and pool slide lubrication shall be in accordance with s. Comm ~~90.30 (4)~~ 90.31 (4). Run-out slide flume lubrication systems shall comply with the requirements in s. Comm ~~90.206 (3) (b) 2. and 3~~ 90.31 (4) (a).

SECTION 20. DHS 172.36 (2) (a) is amended to read:

DHS 172.36 (2) (a) If access to the interactive play attraction is not restricted by an enclosure, an attendant shall be present to provide periodic supervision.

SECTION 21. Chapter DHS 253 is repealed.

attendant on top and bottom of run-out.

Less than 6 feet clear view of terminus end: No attendant or lifeguard required

6. Waterslide:

Greater than 6 feet: Attendant on top of the slide, lifeguard on bottom and means of 2-way communication between attendants and lifeguards.

Less than 6 feet with a clear view of terminus end and no obstructions around slide: At least one lifeguard.

Wading Pools Wading pools do not require a lifeguard or attendant unless there is a large obstruction per ss. Comm ~~90.18 (3)~~90.20 (4) and ~~90.30 (3)~~ (90.31 (3)).

Exercise Pools Exercise pools do not require a lifeguard or attendant.

Whirlpools If a whirlpool is located within a water attraction complex, at least one attendant shall provide periodic supervision of the whirlpool. If a whirlpool is not guarded or attended with an attendant assigned at all times, a sign shall be posted that states in letters that are at least 4 inches high: Non-guarded area.

Therapy Pools At least one attendant who has current CPR certification is required for a therapy.

Interactive Play An interactive play attraction not restricted by an enclosure shall have at least one attendant on the premises. The attendant shall provide periodic supervision of the water attraction as specified in the staffing plan.
Attraction (Splash Pads)

SECTION 14m. DHS 172.23-B Note under “Wading Pools” is repealed.

SECTION 15. DHS 172.26 (1) (b) and (c) and (2) Note are amended to read:

DHS 172.26 (1) (b) For each basin of water over 4 feet in length and over 2 feet deep, a ~~shepard's~~shepherd's crook-type pole shall be provided. In addition, for each lifeguard chair, or for a pool 30 feet or more in width that does not have lifeguard chairs, at least one of the following shall be provided:

(c) The safety rope required in s. Comm ~~90.08 (4)~~90.18 (1) shall remain in place except during a lifeguarded activity or adult only lap swim. The responsible supervisor shall ensure the rope is in place during required times.

such as alligator feet should not be included in determining the length.
3. A non-tethered floatable. Non-tethered floatables do not include tire inner tubes used in leisure rivers or waterslides.

Leisure Rivers At least one attendant is required at the entrance of the leisure river. The attendant shall have a clear line of sight for all areas of the river, or additional attendants are required so that all areas of the river are in view of at least one attendant.

Vanishing Edge Pools At least one lifeguard regardless of the square footage, unless the water attraction is limited to adult use only.

Vortex Pools and Current Pools At least one lifeguard is required whenever the pool is occupied by a patron.

Wave Pools At least one lifeguard is required regardless of the square footage of the pool. Additional lifeguard staffing shall be based on the patron load requirements in Table DHS 172.23-A.

Pools with a Visual Obstruction At least one attendant is required if the pool has a visual obstruction larger than 10 feet in length by 6 feet in height by 5 feet in width or if the visual obstruction covers more than 20 percent of the pool's basin.

Pools with Diving Boards or Platforms At least one lifeguard for every 2 diving boards or platforms in the same pool.

Pools with Slides

1. Children's Slide: No attendant is required.
2. Poolslide: Greater than 4 feet but less than 6 feet in height, which drops into water greater than 4 feet deep: At least one lifeguard.
3. Poolslide: Less than 6 feet in height, with an obstructed view of slide terminus at 43 inches at entry point: At least one lifeguard.
4. Drop slide: Less than 6 feet in height: At least one lifeguard
5. Run-out slide:
Greater than 6 feet in height clear view of the terminus end: At least one attendant on top platform.
Greater than 6 feet obstructed view of the terminus end: At least one

SECTION 9. DHS 172.14 (2) (c) 8. Note is repealed.

SECTION 10. DHS 172.15 (1) is amended to read:

DHS 172.15 (1) **CHLORINE GENERATORS.** Chlorine generators shall be NSF approved and installed according to NSF and manufacturer instructions. An additional disinfection system shall remain on line to provide the capacity to superchlorinate the water as ~~specified in s. Comm 90.12 (1) (e)~~ and maintain the required sanitizer residual.

SECTION 11. DHS 172.17 (3) is amended to read:

DHS 172.17 (3) The disinfectant testing reagent shall be diethyl-p-phenylene diamine (DPD) in powder or liquid form. A test kit using the titrimetric method (FAS-DPD) for chlorine and bromine testing and colorimetric comparators used for additional water testing shall be approved by the department and shall provide for accurate comparison in the required range for each test as stated in s. DHS 172.14 (4). The test equipment shall provide for direct measurement of free and combined chlorine from 0 to 10 ppm in increments of 0.2 ppm. If bromine is used, the testing equipment shall provide for direct measurement of total bromine from 0 to 20 ppm in increments of ~~0.2~~ 0.5 ppm.

SECTION 12. DHS 172.19 (4) (b) is amended to read:

DHS 172.19 (4) (b) Except as provided in par. (d), the water temperature of an indoor pool shall be between 72°F. (~~25~~22°C.) and 95°F. (35°C.). The minimum water temperature for an outdoor pool shall be 65°F. (18°C.).

SECTION 13. DHS 172.22 (2) (b) 1. and 3. are amended to read:

- DHS 172.22 (2) (b) 1. American Red Cross ~~Water Park Lifeguard~~ Training certificate.
- 3. National Pool and Water park International Lifeguard Training Program certificate.

SECTION 14. Table DHS 172.23 B is amended to read:

Table DHS 172.23-B

Required Number of Lifeguards and Attendants Based on Pool Type

Pool Type	Lifeguard and Attendant Staffing Requirements
Activity Pools	At least one lifeguard is required if the pool contains one of the following: <ul style="list-style-type: none">1. A pad walk.2. A tethered floatable more than 18 inches long in 2 directions. Appendages

Water Attraction Other Than Those Specified	1.0 ppm	3.0 ppm
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Water Attraction Other Than Those Specified With Stabilizer	1.5 ppm	N/A
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Plunge Pools and Wave Pools

Plunge and Wave Pool	2.0 ppm	5.0ppm
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Plunge/ Wave Pool With Stabilizer	3.0 ppm	N/A
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Interactive Play Attractions

Interactive Play Attraction	2.0 ppm	5.0 ppm
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Interactive Play Attraction With Stabilizer	3.0 ppm	7.0 ppm
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Waterslides and Pool Slides

Waterslides and Pool Slides	2.0 ppm	5.0 ppm
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Waterslides With Stabilizer	3.0 ppm	N/A
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Table DHS 172.14
 Minimum Disinfectant Residuals

Swimming and Activity Pools	Minimum Free Chlorine Residual	Total Bromine
Swimming and Activity Pool	1.0 ppm	3.0 ppm
Swimming and Activity Pool With Stabilizer	1.5 ppm	N/A
Wading Pools		
Wading Pool	2.0 ppm	4.0 ppm
Wading Pool With Stabilizer	3.0 ppm	N/A
Whirlpool, Exercise, Therapy Pools		
<u>Whirlpool, Exercise, or Therapy Pool</u>	3.0 ppm	7.0 ppm
Whirlpool With Stabilizer	4.0 ppm	N/A
Water Attractions Other Than Those Specified		

SECTION 6. Table DHS 172.11-B is repealed and recreated to read:

Table DHS 172.11-B
Maximum Turnover Time for Therapy and Exercise Pools

Temperature in ° F. Load (° C.)	(gals/person) ^a	Maximum Turnover Time (hours)
≤72-93 (22-33 ° C.)	> 2,500	4
≤72-93 (22-33 ° C.)	> 450	2
≤72-93 (22-33 ° C.)	< 450	1
>93-104 (33-40 ° C.)	N/A	0.5

N/A = not applicable.

^a The number is equal to posted patron load.

SECTION 7. DHS 172.13 (1) (intro.) and (a) are amended to read:

DHS 172.13 (1) GENERAL. ~~As required in s. Comm 90.12 (1) (b), all~~ All disinfectant feeders shall be approved by the department of commerce and installed according to the manufacturer's directions; and used only with the disinfectant recommended by the manufacturer and meet all of the following requirements:

(a) Feeders shall be automatic, easily adjustable, capable of providing the required chemical residuals, equipped with flow control valves upstream and downstream from the feeder, easily disassembled for cleaning and maintenance, durable, and capable of accurate feeding ~~with a rate of flow meter installed to accurately measure the flow through the feeder system.~~

SECTION 8. Table DHS 172.14 is amended to read:

TEXT OF PROPOSED RULE

SECTION 1. Chapter DHS 117 is repealed.

SECTION 2. Chapter DHS 160 is repealed.

SECTION 3. DHS 172.04 (13), (27) (c) 1., (39), (40), and (45) are amended to read:

DHS 172.04 (13) "Deep portion" means a ~~water depth greater than 5.5~~ portion of a pool having a design water depth greater than 5 feet.

(27) (c) 1. A certificate from the American Red Cross "~~CPR for the Professional Reseuer~~CPR-AED for Lifeguards" course.

(39) "Pool and water attraction area" means, in an outdoor facility, the pool or water attraction and the area within the basin's enclosure and, in an indoor facility, the pool or water attraction and the required deck as specified in s. ~~Comm 90.09~~ Comm 90.13 (1) ~~&~~and (2).

(40) "Pool slide" means a slide where the drop from the slide terminus to water is less than 20 inches (50.8 centimeters) and the flume carries less than 100 gallons of water per minute.

(45) "Superchlorination" means the addition of an oxidizing product such as chlorine to pool water ~~to raise the level of the oxidizer~~ to raise the level of oxidizer to at least 10 ppm. "Superchlorination" is sometimes referred to as "superoxidation".

SECTION 4. DHS 172.05 (4) (a) 4. is amended to read:

DHS 172.05 (4) (a) 4. A statement from an engineer who worked on the pool indicating that it was completed in accordance with the pool's construction plan under s. ~~Comm 90.04~~90.05 (1) (c).

SECTION 5. DHS 172.11 (1) is amended to read:

DHS 172.11 (1) GENERAL. ~~As required by s. Comm 90.11, each~~ Each pool shall have a water recirculation system with disinfection treatment and filtration equipment consisting of overflow gutters or skimmers, main drains, inlets, pumps, piping, and filters. The system shall be operated continuously except for seasonal closing or during periods of necessary maintenance.

SECTION 5m. DHS 172.11 (1) Note is repealed and recreated to read:

DHS 172.11 (1) Note: See s. Comm 90.14 for design requirements for the recirculation system.

Place where comments are to be submitted and deadline for submission:

The Department of Health Services will adopt the rules in this order without public hearing or comment unless within 30 days after January 1, 2010, the Department of Health Services is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

General questions may be submitted to:

Rosie Greer
Department of Health Services
608-266-1279
Rosie.greer@dhs.wi.gov

regulate sanitarians. The department's rules for sanitarians are under ch. DHS 160. Under this order, the department repeals ch. DHS 160.

The legislature, under 2007 Act 20, repealed s. 49.79 (2) (a), Stats., the child support cooperation requirement for food stamp eligibility. The department's rules for implementing these requirements are under ch. DHS 253. Under this order, the department repeals ch. DHS 253.

The department of commerce repealed and recreated ch. Comm 90 (Clearinghouse Rule 08-056) which resulted in the renumbering of various sections of that chapter. Chapter DHS 172 includes cross-references to a number of sections in ch. Comm 90. In addition to inaccurate cross-references, the DHS 172 contains language in need of correction or clarification. Under this order, the department updates the cross-references, and revises language in ch. DHS 172.

Summary of, and comparison with, existing or proposed federal regulations:

Not applicable.

Comparison with rules in adjacent states:

Illinois:

Not applicable.

Iowa:

Not applicable.

Michigan:

Not applicable.

Minnesota:

Not applicable.

Summary of factual data and analytical methodologies:

The department reviewed statutes, Acts, and the rules presented in this order to determine which rules needed to be repealed or revised.

Analysis and supporting documents used to determine effect on small business:

The rules will not have a fiscal effect on businesses.

Effect on small business:

The rules will not have a fiscal effect on businesses.

Agency contact person:

Rosie Greer

Department of Health Services

608-266-1279

Rosie.greer@dhs.wi.gov

**PROPOSED ORDER OF
DEPARTMENT OF HEALTH SERVICES
TO ADOPT RULES**

The Wisconsin Department of Health Services proposes to **repeal** ch. DHS 117, ch. DHS 160, DHS 172.14 (2) (c) 8. Note, and ch. DHS 253; to **amend** DHS 172.04 (13), (27) (c) 1., (39), (40), and (45), 172.05 (4) (a) 4., 172.11 (1) and 172.13 (1) (intro.) and (a), Table DHS 172.14, 172.15 (1), 172.19 (4) (b), 172.22 (2) (b) 1. and 3., Table DHS 172.23 B, 172.26 (1) (b) and (c) and (2) Note, 172.29 (3) (f), 172.33 (1) (d) and (g), (2) (a) Note, and (4) (c) Note, 172.34 (5) Note, 172.35 (1) and (2), and 172.36 (2) (a), and to **repeal and recreate** Table DHS 172.11-B, and DHS 172.11 Note, relating to fees for copies of health care provider records, registration of sanitarians, safety, maintenance and operation of public swimming pools and water attractions, and child support cooperation for food stamps, and affecting small businesses.

SUMMARY OF PROPOSED RULE

Statute interpreted:

Not applicable.

Statutory authority:

Chapter 227.11 (2) (a), Stats.

Explanation of agency authority:

Chapter 227.11 (2) (a), Stats., provides state agencies with general rulemaking authority to promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

Related statute or rule:

Not applicable.

Plain language analysis:

Similar to the legislature's need to periodically make corrections and minor revisions to the Wisconsin statutes, the Department must periodically make such revisions to the Department's section of the Wisconsin administrative code and to its administrative rules. The changes made under this order are due to changes made to state law or rules and are intended to have little or no substantive effect on persons regulated by the rules.

The legislature, under 2009 Act 28, established a fee schedule for medical record copies under s. 146.83, Stats., which replaces the medical record copy fee schedule established by the department under ch. DHS 117. Under this order, the department repeals ch. DHS 117.

The legislature, under 2005 Act 25, transferred authority to regulate sanitarians to the department of regulation and licensing (DRL). DRL subsequently promulgated chs. RL 174 to 177 to

ADMINISTRATIVE RULES – FISCAL ESTIMATE

1. Fiscal Estimate Version

Original Updated Corrected

2. Administrative Rule Chapter Title and Number

DHS 117, 160, 172, and 253, relating to medical records copying fees; registration of sanitarians; operation of public swimming pools and water attractions; and child support operation for food stamps, respectively and child support operation for food stamps, respectively.

3. Subject

To repeal chs. DHS 117, 160, and 253, and to make corrections to DHS 172.

4. State Fiscal Effect:

<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Yes <input type="checkbox"/> No May be possible to absorb within agency's budget.
		<input type="checkbox"/> Decrease Costs

5. Fund Sources Affected:

GPR FED PRO PRS SEG SEG-S

6. Affected Ch. 20, Stats. Appropriations:

7. Local Government Fiscal Effect:

<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Revenues	<input type="checkbox"/> Decrease Costs

8. Local Government Units Affected:

Towns Villages Cities Counties School Districts WTCS Districts Others:

9. Private Sector Fiscal Effect (small businesses only):

<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Revenues	<input type="checkbox"/> Yes <input type="checkbox"/> No May have significant economic impact on a substantial number of small businesses
	<input type="checkbox"/> Yes <input type="checkbox"/> No May have significant economic impact on a substantial number of small businesses	<input type="checkbox"/> Decrease Costs

10. Types of Small Businesses Affected:

Not applicable.

11. Fiscal Analysis Summary

Similar to the legislature's need to periodically make corrections and minor revisions to the Wisconsin statutes, the Department must periodically make such revisions to the Department's section of the Wisconsin administrative code and to its administrative rules. The changes made under this order are due to changes made to state law or rules and are intended to have little or no substantive effect on persons regulated by the rules.

The legislature, under 2009 Act 28, established a fee schedule for medical record copies under s. 146.83, Stats., which replaces the medical record copy fee schedule established by the department under ch. DHS 117. Under this order, the department repeals ch. DHS 117.

The legislature, under 2005 Act 25, transferred authority to regulate sanitarians to the department of regulation and licensing (DRL). DRL subsequently promulgated chs. RL 174 to 177 to regulate sanitarians. The department's rules for sanitarians are under ch. DHS 160. Under this order, the department repeals ch. DHS 160.

The legislature, under 2007 Act 20, repealed s. 49.79 (2) (a), Stats., the child support cooperation requirement for food stamp eligibility. The department's rules for implementing these requirements are under ch. DHS 253. Under this order, the department repeals ch. DHS 253.

The department of commerce repealed and recreated ch. Comm 90 (Clearinghouse Rule 08-056) which resulted in the renumbering of various sections of that chapter. Chapter DHS 172 includes cross-references to a number of sections in ch. Comm 90. In addition to inaccurate cross-references, the DHS 172 contains language in need of correction or clarification. Under this order, the department updates the cross-references, and revises language in ch. DHS 172.

12. Long-Range Fiscal Implications

None known.

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Signature - DHS Secretary or Designee <i>Karen S. Blanke</i>	Telephone Number <i>6-9622</i>	Date <i>12/18/09</i>