

Report From Agency

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 08-086
DEPARTMENT OF SAFETY AND : (S. 227.19 (3), Stats.)
PROFESSIONAL SERVICES :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCES TO APPLICABLE FORMS:

No new or revised forms are required by the proposed rule.

III. FISCAL ESTIMATES:

The Department finds that this proposed rule will have no significant fiscal impact on the private sector, on the State of Wisconsin or on local units of government.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

2007 Wisconsin Act 104 (2007 Senate Bill 142) was enacted on March 14, 2008. The Act required massage therapists and bodywork therapists, along with several other professions, to become proficient in the use of automated external defibrillators (AED) as a prerequisite for licensure or certification. The non-statutory provisions of the Act directed the Department to promulgate emergency rules which would remain in effect until the permanent rules were promulgated. As a result, emergency rules have been in effect since September 10, 2008. The proposed rule carries out the health and welfare purpose of the Act by adding to the administrative rules provisions requiring initial and renewal applicants for massage therapy and bodywork therapy credentials to become proficient in the use of AEDs through instruction in an approved program.

V. NOTICE OF PUBLIC HEARING:

The Department held a public hearing on April 13, 2009 and accepted written comments until the date of the public hearing.

SUMMARY OF PUBLIC HEARING COMMENTS AND WRITTEN COMMENTS:

No interested persons presented testimony at the public hearing and the Department did not receive any written comments from the public regarding the proposed rule.

DEPARTMENT RESPONSE TO PUBLIC HEARING COMMENTS AND WRITTEN COMMENTS:

The Department made no changes to the proposed rules as a result of the public hearing because no interested persons presented testimony at the public hearing and the Department did not receive any written comments from the public regarding the proposed rule.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 1. a. The rule does not directly specify what evidence is satisfactory to the department to show that an applicant has current proficiency in the use of an automated external defibrillator. Perhaps reference to “proficiency . . . achieved through a successful completion of a course of instruction provided by . . .” is intended implicitly to be included in the rule; if so it should be made explicit.

Response: This recommendation has not been accepted. It is not necessary to directly specify to applicants what evidence is satisfactory to illustrate proficiency in meeting the AED requirement as the plain language of the rule indicates proficiency is to be achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38), Stats.

Comment 2. b. Is there sufficient information regarding where access to approved individuals, organizations, or institutions of higher education may be obtained to include that information in a note? Compare the note to s. RL 91.01 (3) (a).

Response: No such information was ascertainable.

Comment 3. It appears that ch. RL 93.02 should be amended to include the current proficiency requirement as it applies to renewal applications. See s. 460.07 (2) (d), Stats. It is assumed the language for the renewal requirement can correspond to the language for the initial application requirement.

Response: This recommendation has been accepted and a second provision has been added to extend the requirement to renewal applicants.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

The proposed rule will not have a significant economic impact on small businesses, as defined in s. 227.114(1), Stats.