Report From Agency

DEPARTMENT OF HEALTH SERVICES
REPORT TO THE LEGISLATURE

CLEARINGHOUSE RULE 13-028

Ch. DHS 132, Nursing Homes

Basis and Purpose of Proposed Rule

Section 50.04 (8), Stats., created by 2011 Wisconsin Act 70, explicitly authorizes the department to: 1) distribute moneys from the appropriation account under s. 20.435 (6) (g), Stats., for innovative projects designed to protect the property and the health, safety, and welfare of residents in nursing homes and to improve the efficiency and cost effectiveness of the operation of facilities so as to improve the quality of life, care, and treatment of residents; 2) establish and maintain a quality assurance and improvement committee (committee) to review proposals and award moneys for innovative projects that are approved by the committee; and 3) promulgate rules to guide the actions of the committee.

In reviewing the requirements of s. 50.04 (8), Stats., the department determined that s. DHS 132.16 meets the intent and purpose of s. 50.04 (8), Stats. The department interpreting, s. 49.499, Stats., under the authority provided in ss. 50.02 (2) (a) and s. 227.11 (2), Stats. (2007-2008), created s. DHS 132.16 effective September 1, 2007, to direct the establishment of a quality assurance and improvement committee and to guide the actions of the committee, including when reviewing proposals and awarding moneys for innovative projects.

Because the department believes that s. DHS 132.16 (1) and the committee established thereunder meet the purpose of s. 50.04 (8), Stats., as created by 2011 Wisconsin Act 70. The department proposes only to amend s. DHS 132.16 (1) to insert a cross-reference to s. 50.04 (8) Stats., as indication of the department's now explicit authority to establish and maintain a committee to review proposals and award moneys for projects, and to promulgate rules to guide the actions of the committee.

Department Response to Legislative Council Rules Clearinghouse Recommendations

The department accepts the recommendation(s) made by the Legislative Council Rules Clearinghouse and has modified the proposed rules where suggested except as follows.

Clearinghouse Comment 2. a.: Section 227.14 (2) (a) 3., Stats., requires, in the analysis that accompanies the proposed rule, a summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule. Section 227.14 (2) (a) 4.,Stats., requires a comparison with similar rules in Illinois, Iowa, Michigan, and Minnesota. The proposed rule's analysis does not contain a statement of whether or not similar federal or state rules exist, and, if they do exist, a summary of the rules and comparison with the proposed rule.

Department Response**:** No change was made. The rules required under s. 50.04 (8) (b)., Stats., already exist in s. DHS 132.16 (1). During promulgation of the rules in 2007, the department analyzed federal and adjacent state regulations pursuant to s. 227.14 (2) (a) 3. and 4. Stats. The department's current proposal is only to insert a cross-reference into existing rules to identify its now explicit authority for rules on the creation and guidance of a quality assurance committee.

Final Regulatory Flexibility Analysis

The issues raised by each small business during the public hearing(s).

The department did not hold a public hearing nor did the department formally accept public comments on the proposed rule as permitted under s. 227.16 (2) (b), Stats.

Any changes in the rule as a result of an alternative suggested by a small business and the reasons for rejecting any of those alternatives.

As permitted under s. 227.16 (2) (b), Stats., the department did not hold a public hearing nor did the department formally accept public comments on the proposed rule.

The nature of any reports and estimated cost of their preparation by small businesses that must comply with the rule.

The proposed rule change does not require reports or reporting.

The nature and estimated costs of other measures and investments that will be required by small businesses in complying with the rule.

The proposed rule change will have no effect on businesses.

The reason for including or not including in the proposed rule any of the following methods for reducing the rule's impact on small businesses, including additional cost, if any, to the department for administering or enforcing a rule which includes methods for reducing the rule's impact on small businesses and the impact on public health, safety and welfare, if any, caused by including methods in rules.

The proposed rule change will have no effect on businesses.

Changes to the Analysis or Fiscal Estimate/Economic Impact Analysis

Analysis

No changes were made to the rule's analysis.

Fiscal Estimate/Economic Impact Analysis
No changes were made to the fiscal estimate/economic impact analysis.

Public Hearing Summary

As permitted under s. 227.16 (2) (b), Stats., the department did not hold a public hearing nor did the department formally accept public comments on the proposed rule.

Summary of Items Submitted with this Report to the Legislature

Below is a checklist of the items that are attached to or included in this report to the legislature under s. 227.19 (3), Stats.

Documents/Information	**Included in the Body of the Report**	**Attached to the Report**	**Not Received by DHS**	**Not Applicable**
Final proposed rule -- Rule Summary and Rule Text Note: If a form has been revised or created as part of this rulemaking, a reference to the form and a description of how a copy of the form may be obtained is included in a note in the rule.		X		
Department response to Rules Clearinghouse recommendations	X			
Final Regulatory Flexibility Analysis	X			
Changes to the Analysis or Fiscal Estimate/Economic Impact Analysis	X			
Public Hearing Summary	X			
List of Public Hearing Attendees and Commenters	X			
Summary of Public Comments and Department Responses	X			
Fiscal Estimate/Economic Impact Analysis	X			
Revised Fiscal Estimate/Economic Impact Analysis				X
Small Business Regulatory Review Board (SBRRB) statement, suggested changes, or other material, and reports made under s. 227.14 (2g), Stats.			X	

Documents/Information	Included in the Body of the Report	Attached to the Report	Not Received by DHS	Not Applicable
The Department of Health Services' response to the SBRRB's statement, suggested changes, or other material and reports made under s. 227.14 (2g), Stats.				X
Department of Administration (DOA) report under s. 227.115 (2), Stats., on rules affecting housing			X	
DOA report under s. 227.137 (6), Stats., on rules with economic impact of $20 MM or more			X	
Public Safety Commission (PSC) energy impact report under s. 227.117 (2), Stats.			X	
The Department of Health Services' response to the PSC's energy impact report under s. 227.117 (2), Stats., including a description of changes made to the rule				X