

**PETITION TO REPEAL UNAUTHORIZED RULE**  
**Clearinghouse Rule 18-042**

The Department of Health Services hereby petitions the Joint Committee for Review of Administrative Rules to use the process provided in s. 227.26 (4), Stats. The Department has determined that s. DHS 104.04 is an “unauthorized rule.” The Department submits the following analysis and proposed rule:

**I. ANALYSIS**

**A. Statute/s that the proposed rule interprets**

None.

**B. Statute/s that authorizes promulgation**

Section 227.26 (4), Stats.

**C. Related statute/s**

None.

**D. Related rule/s**

None.

**E. Explanation of the agency's authority to promulgate the proposed rule**

The proposed rule, which repeals language s. DHS 104.04, is authorized by s. 227.26 (4), Stats.

**F. Brief summary of the proposed rule**

Section 49.45 (3) (i), Stats., was repealed by 2005 WI Act 25. This statute provided that the Department must require a second medical opinion to reimburse a provider for selected elective surgical procedures. The proposed rule repeals s. DHS 104.04 which implemented this requirement.

**G. Electronic mail address and telephone number of agency contact person**

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**II. PROPOSED RULE**

**SECTION 1.** DHS 104.04 is repealed.

**SECTION 2. 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.