

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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| <p>1. Type of Estimate and Analysis<br/><input checked="" type="checkbox"/> Original   <input type="checkbox"/> Updated   <input type="checkbox"/> Corrected</p>   | <p>2. Date<br/>10/05/2020</p>   |
| <p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)<br/>DHS 75 Community Substance Use Services</p>   |   |
| <p>4. Subject<br/>Community Substance Use Services</p>   |   |
| <p>5. Fund Sources Affected<br/><input type="checkbox"/> GPR   <input type="checkbox"/> FED   <input checked="" type="checkbox"/> PRO   <input type="checkbox"/> PRS   <input type="checkbox"/> SEG   <input type="checkbox"/> SEG-S</p>   | <p>6. Chapter 20, Stats. Appropriations Affected<br/>20.435 (6)(jm)</p> |
| <p>7. Fiscal Effect of Implementing the Rule<br/><input type="checkbox"/> No Fiscal Effect   <input type="checkbox"/> Increase Existing Revenues   <input checked="" type="checkbox"/> Increase Costs   <input type="checkbox"/> Decrease Costs<br/><input type="checkbox"/> Indeterminate   <input checked="" type="checkbox"/> Decrease Existing Revenues   <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget</p>  |   |
| <p>8. The Rule Will Impact the Following (Check All That Apply)<br/><input type="checkbox"/> State's Economy   <input checked="" type="checkbox"/> Specific Businesses/Sectors<br/><input checked="" type="checkbox"/> Local Government Units   <input type="checkbox"/> Public Utility Rate Payers<br/><input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>   |   |
| <p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).<br/>\$(421,800)</p>  |   |
| <p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)?<br/><input type="checkbox"/> Yes   <input checked="" type="checkbox"/> No</p>   |   |
| <p>11. Policy Problem Addressed by the Rule<br/>The proposed rule responds to 2017 Executive Order #228, and recommendations from the Governor's Task Force on Opioid Abuse, to update the rule to reflect current industry standards, including integrated behavioral health services and the treatment of opioid use disorders. The proposed rule better aligns with revised professional credentialing requirements, service delivery changes, other behavioral health administrative rules, and telehealth service delivery.</p>   |   |
| <p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.<br/>The proposed rule may affect public and private substance abuse prevention and treatment providers, health systems, behavioral health providers, and Wisconsin counties and tribes. A public commenting period was held from July 27, 2020 until August 26, 2020, pursuant to s. 227.137(3), Wis. Stats. The comment period was publicly noticed and promoted through statewide and regional meetings, statewide provider email lists, outreach and promotion to stakeholder groups, and providing departmental contacts through email or online meetings. The department received a total of 18 comments in response to the solicitation.</p> |   |
| <p>13. Identify the Local Governmental Units that Participated in the Development of this EIA.<br/>Local county human service departments and Wisconsin tribes participated in the development of the economic impact analysis through representation on the advisory committee, as well as submission of comments during the economic impact public comment period. Departmental representatives solicited input in meetings with the Wisconsin County Human Services Association's Behavioral Health PAC, the State Council on Alcohol and Other Drug Abuse, the Tribal State Collaborative for Positive Change, and through Department of Health Services Area Administration meetings.</p>   |   |
| <p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)<br/>The proposed rule results in a total cost savings of approximately \$420,000 statewide due to reduced staffing requirements and reduced certification requirements. It should be noted, however, that the proposed rule will impact</p>  |   |

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community substance use providers differently depending on the type of service for which the agency is certified. The proposed rule reduces certification requirements for substance use prevention services, integrated substance use and mental health outpatient services, emergency services, ambulatory detoxification services, and substance use services provided in medical settings. The proposed rule increases certification requirements for intoxicated driver services, intensive outpatient treatment services, and office-based opioid treatment services. The proposed rule removes the requirement for a medical director for outpatient substance use services and outpatient integrated behavioral health services. The proposed rule requires for the overdose-reversal medication Naloxone to be kept on-site for substance use treatment programs. The proposed rule allows for the option of reduced certification requirements for residential substance use treatment services. The proposed rule increases staffing requirements for opioid treatment programs and also expands required laboratory testing services, which may be associated with an increased cost. The proposed rule also expands allowable treatment services and providers, which may result in opportunities for increased reimbursement, however those amounts have not been included in the analysis, as current Medicaid policy does not yet have coded reimbursement for all of the newly included services and provider types. Implementation of the revised rule and conversion for updated policies and procedures may be associated with administrative costs for staff time and training, which will be mediated through technical assistance offered by the department of health services.

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### 15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The proposed rule is compliant with the Governor's directives in 2017 Executive Order 228. Furthermore, the proposed rule updates outdated language, improves flexibility of service delivery for providers and consumers of services, better aligns with industry standards for treatment levels of care and updated policies related to provider credentialing and Medicaid reimbursement, and integrates improved practices regarding treatment of opioid use disorders. Given the aforementioned needs for updates that better align with the current behavioral health system of care, there are no reasonable alternatives to rule-making.

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### 16. Long Range Implications of Implementing the Rule

The proposed rule will simplify and clarify behavioral health services and certification and increase access to care. The proposed rule intends to broaden allowable services and provider types and develop opportunities for increased reimbursement. The proposed rule will incorporate improved practices for the treatment of opioid use disorders to reduce overdose deaths and the impact of the opioid epidemic in WI.

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### 17. Compare With Approaches Being Used by Federal Government

The proposed rule aligns with federal requirements and recommendations regarding priority admissions for treatment services, integrated behavioral health treatment services, and best practices for the treatment of opioid use disorders.

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### 18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Neighboring states' rules already incorporate many of the provisions of the proposed revised rule. Illinois, Iowa, and Minnesota rules align with American Society of Addiction Medicine levels of care. Minnesota's administrative rules for behavioral health include options for integrated treatment and service delivery for substance use and mental health conditions in one setting. Minnesota's rules also contain similar best practice standards for the treatment of opioid use disorders, including maintaining a standing order for Naloxone.

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| <h3>19. Contact Name</h3> <p>Sarah Coyle</p> | <h3>20. Contact Phone Number</h3> <p>(608) 266-2715</p> |
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### ATTACHMENT A

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

Prevention Services: Approximate cost savings of \$150/year per facility.

Outpatient Services: Approximate cost savings of \$10,000/year per facility

Opioid Treatment Programs: Approximate cost increase of \$10,000/year per facility.

Residential Services that choose to certify under new residential facility requirements: Approximate \$0 net change in the first year, since reduced certification costs may be offset by facility modifications required. Approximate cost savings in subsequent years of \$1200/year per facility.

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses  
See sections 12 and 13 in the Fiscal Estimate and Economic Impact Analysis.

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

Alignment with other standards and rules, and opportunities for a single combined certification, when multiple certifications may apply.

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

The proposed rule reduces staffing requirements for small businesses that offer outpatient substance use services. The proposed rule reduces or removes the requirement for certification for some community substance use services. The proposed rule also reduces prescriptiveness by allowing agencies to develop policies and procedures related to specific standards, rather than outlining detailed requirements.

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5. Describe the Rule's Enforcement Provisions

The Division of Quality Assurance within the Department of Health Services oversees certification and compliance for the rule.

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes     No
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