

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Original    Updated    Corrected

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2. Administrative Rule Chapter, Title and Number

DHS 129 relating to certification of programs for training and testing nurse aides, medication aides and feeding assistants.

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3. Subject

Certification of programs for training and testing nurse aides, medication aides and feeding assistants.

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4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

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5. Chapter 20, Stats. Appropriations Affected

N/A

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6. Fiscal Effect of Implementing the Rule

No Fiscal Effect    Increase Existing Revenues    Increase Costs  
 Indeterminate    Decrease Existing Revenues    Could Absorb Within Agency's Budget  
 Decrease Cost

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7. The Rule Will Impact the Following (Check All That Apply)

State's Economy    Specific Businesses/Sectors  
 Local Government Units    Public Utility Rate Payers  
 Small Businesses

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes    No

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9. Policy Problem Addressed by the Rule

Currently, under chapter DHS 129, a person must have completed 120 hours of instruction through a department-approved nurse aide training program and pass a competency examination in order to be employed as a nurse aide in Wisconsin. However, s. 146.40 (3g), Stats., as created by 2013 Wisconsin Act 357, directed the department to establish standards, by rule, for the approval of instructional programs that provide a pathway to certification for nurse aides who have received similar instruction in another state (hereinafter "bridge programs"). Bridge programs are intended to be combined with instruction received in another state and result in training that is substantially equivalent to that obtained through a department-approved, Wisconsin program. The department hereby intends to establish standards for approval of bridge programs, as directed by the Wisconsin Legislature. Pursuant to the authority granted in s. 146.40 (5) Stats., the department also intends to revise existing standards of approval for instructional programs to address requirements relating to training hours in a clinical setting and curriculum requirements addressing the needs of persons with dementia, the effects of certain medications, restorative services, and client rights.

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10. 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.

As of July 25, 2016, 120 nurse aide training programs are operated by various entity types within state. The type of entity and number of programs is provided in the table below.

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ENTITY TYPE	NUMBER
Nursing homes	24
Wisconsin Technical Colleges	47
High schools	12
Home health agency	1
Hospitals	7
Facilities serving people with developmental disabilities	4
Universities	5
Private	19
USDA Forest Service	1
Total	120

The department formed an advisory committee consisting of department staff, staff from the Board on Aging and Long-Term Care – Ombudsman Program, the Department of Workforce Development, LeadingAge Wisconsin, the Wisconsin Health Care Association, the Wisconsin Technical College System and private industry. Members of the Advisory Committee were approved by the Governor’s Office of Regulatory Compliance. The public was notified of all Advisory Committee meetings pursuant to Wisconsin’s Open Meetings law.

Committee members reviewed the initial draft and their comments guided the development of the proposed rule. In addition, the department requested comments on the economic impact of the proposed rule by publishing a solicitation in the Administrative Register and on its website. The department did not receive comments on the proposed rule.

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11. Identify the local governmental units that participated in the development of this EIA.

None.

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12. 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)

None.

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

The rule will be consistent with s. 146.40 (3g), Stats., as created by 2013 Wisconsin Act 357, directing the department to establish standards, by rule, for the approval of instructional programs that provide a pathway to certification for nurse aides who have received similar instruction in another state. These revisions are necessary in order to comply with the statute and provide greater flexibility to nurse aides in meeting regulatory requirements.

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14. Long Range Implications of Implementing the Rule

The rule will be consistent with the statutory at s. 146.40 (3g), Stats., as created by 2013 Wisconsin Act 357, directing the department to establish standards, by rule, for the approval of instructional programs that provide a pathway to certification for nurse aides who have received similar instruction in another state. These revisions are

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necessary in order to comply with the statute and provide greater flexibility to nurse aides in meeting regulatory requirements.

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

Federal conditions of participation for the registry of nurse aides, nurse aide training and testing programs, and training of paid feeding assistants are contained in 42 CFR 483.150 through 483.160. These regulations establish conditions and standards for the approval of nurse aide training and competency evaluation programs, for the maintenance and operation of a registry, and for conducting training and testing programs for nurse aides and paid feeding assistants. State and federal regulations for registry services and training and testing of nurse aide and paid feeding assistants are comparable, however the department intends to supplement these requirements to address therapeutic interventions and non-pharmacological pain control interventions, techniques of restorative nursing, client rights and reporting abuse or neglect of a client or misappropriation of a client's property.

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

#### **Illinois:**

Illinois adopted significant portions of the federal regulation including the standards for the denial, suspension and revocation of program approval in 77 Admin Code 395, Long-Term Care Assistants and Aides Training Programs Code. Illinois specifies a comprehensive list of topics that must be addressed in any approved program including patient rights, communication, psychological needs of patient and family, hand washing, body mechanics, basic anatomy, nutrition, etc. Each set of topics includes course objectives and proficiency measures.

#### **Iowa:**

Iowa Code Chapter 81 – 16 Nurse Aide Requirements and Training and Testing Program closely mirrors federal requirements by including standards for denial, suspension and revocation of program approval. Like Illinois, Iowa code contains an extensive list of topics that must be included in any approved training program including bathing, dressing, toileting, assistance with eating, skin care, transfers, responding to behaviors, restorative care and avoiding the need for restraints.

#### **Michigan:**

Michigan has no state rule regarding certified nurse aide training programs or maintenance of a registry and relies solely on federal regulation.

#### **Minnesota:**

Minnesota has no state rule regarding certified nurse aide training programs or maintenance of a registry and relies solely on federal regulation.

All searches conducted July 2016.

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