

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 9/24/19
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DHS 124 Hospitals	
4. Subject Hospitals	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected N/A
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$The new provisions will have no fiscal impact on current providers.	
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)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule Beginning July 1, 2016, pursuant to s. 50.36 (1m) (a), (b), and (c), Stats., the department may not, except for s. DHS 124.24 (3), enforce any of the rules contained in s. DHS 124.40 or subch. II, III, or IV of ch. DHS 124. Also effective July 1, 2016, s. 50.36 (1), Stats., requires the department to use and enforce Medicare conditions of participation for hospitals as the minimum standards that apply to hospitals and interpret the conditions for Medicare participation for hospitals using guidelines adopted by the federal Centers for Medicare and Medicaid Services unless the department determines that a different interpretation is reasonably necessary to protect public health and safety. The department may promulgate additional rules if they are necessary to provide safe and adequate care and treatment of hospital patients and to protect the health and safety of the patients and employees, per s. 50.36 (1), Stats. The department determined that the following rule changes are necessary to ensure a safe and adequate environment for hospital patients and employees and to protect the health and welfare of the patients and employees. The rule would affect hospitals licensed by the State of Wisconsin.	
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. Wisconsin has 164 hospitals that may be affected by this rule. All hospitals are federally certified for Medicaid. The department formed an Advisory Committee consisting of representatives from the Wisconsin Hospital Association (WHA), Wisconsin Public Psychiatric Hospital and the Wisconsin Health Care Engineering Association. The public was notified of all Advisory Committee meetings pursuant to Wisconsin's Open Meeting law. Committee members prepared initial drafts that were reviewed at the Advisory Committee meetings. 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.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local	

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Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

There will be a fiscal impact on new hospitals or current hospitals who choose to significantly remodel the hospital.

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

The rule will use the provision s. 50.36 (1m) (a), (b), and (c), Stats., to strengthen the department's ability to ensure the health and safety of patients receiving services in hospitals.

16. Long Range Implications of Implementing the Rule

The rule will use the provision s. 50.36 (1m) (a), (b), and (c), Stats., to strengthen the department's ability to ensure the health and safety of patients receiving services in hospitals.

17. Compare With Approaches Being Used by Federal Government

Title 42 CFR 482 contains the Federal Medicare Hospital Conditions of Participation. These regulations establish conditions and standards for the operation of hospitals that provides inpatient, overnight care on a 24-hour-a-day basis, or on an as-needed basis in the case of a critical access hospital. A hospital provides for the diagnosis and treatment of and medical or surgical care for, 3 or more nonrelated individuals, designated suffering from illness, disease, injury or disability, whether physical or mental, or who are pregnant. There are no federal regulations governing plan review.

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

Illinois:

Plans of correction/waivers/variances: Illinois has no administrative code regarding plans of correction, waivers and variances.

Maternity and neonatal care: Illinois has extensive regulations regarding obstetric departments including standards related to accommodations and facilities for obstetric patients, personnel requirements medical personnel, procedures for care of mother and infants, identification of infants, pharmacy services, caesarean birth, labor, delivery, recovery and postpartum care, records and infant feeding.

Patient rights in critical access hospitals: Illinois has no administrative code regarding patient rights in critical access hospitals.

Freestanding emergency departments: Illinois has extensive regulations for freestanding emergency centers and a Certificate of Need program that reviews all applications for freestanding emergency centers. Illinois law allows a maximum of 10 freestanding emergency centers in the state.

Physical Environment: Illinois has extensive rules regarding hospital physical environment that address orientation and follow-up training for staff in the principles of asepsis, cross-infection and safe practices, adequacy of space and the structure and equipment kept in good repair and maintained in operating condition at all times. Emergency eclectic service and weekly inspections and testing of emergency generator are mandated. Standards also address the adequacy of water supply regulated by thermostatic or other control devices, ventilation, heating air condition and air exchange systems provide and maintained in good repaint and operating in a manner which will prevent the spread of infection and provide patient comfort. All sewage and liquid wastes are to be disposed of in a municipal sewage system where such facilities are available.

Plan review and fee schedule: The Illinois Department of Public Health, Design and Construction Section, is responsible for plan review for licensed hospitals. A certificate of need review board approval is required prior to plan review of any new construction involving additional bed capacity. Local municipalities individually enforce the state's commercial building code. Plan review fees are based on a total of estimated fixed equipment value and the cost of construction.

Iowa:

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Plans of correction/waivers/variances: Iowa has no administrative code regarding plans of correction, waivers and variances.

Maternity and neonatal care: Iowa has no administrative code regarding maternity and neonatal care.

Patient rights in critical access hospitals: Iowa has no administrative code regarding patient rights in critical access hospitals.

Freestanding emergency departments: Iowa has no administrative code regarding freestanding emergency departments.

Physical Environment: Iowa has no administrative code regarding physical environment.

Plan review and fee schedule: The Iowa State Fire Marshall Division, State Building Code Bureau requires all hospital projects involving federal regulations for new buildings, additions to existing buildings, remodeling or renovation of existing buildings and change of occupancy to undergo a plan review and inspection. Plan review fees are based on a total of estimated material, labor, and construction costs.

Michigan:

Plans of correction/waivers/variances: Michigan has no administrative code regarding plans of correction, waivers and variances.

Maternity and neonatal care: Michigan has rules for maternity hospitals and departments that require hospitals to meet physical plant standards, establish minimum policies regarding the use and administration of medications, and provide required equipment and supplies, post-delivery and nursery procedures, care provided to the mother and the maintenance of medical records.

Patient rights in critical access hospitals: Michigan has no administrative code regarding patient rights in critical access hospitals.

Freestanding emergency departments: Michigan has no administrative code regarding freestanding emergency departments.

Physical Environment: Michigan has no administrative code regarding physical environment.

Plan review and fee schedule: The Michigan Department of Licensing and Regulatory Affairs, Health Facility Engineering Section, provides plan review and inspection services for the design and construction of hospitals to ensure the safe, efficient, and effective delivery of healthcare. Plan review fees are based on a total of estimated fixed equipment value, professional fees, and the cost of construction.

Minnesota:

Plans of correction/waivers/variances: Minnesota has no administrative code regarding plans of correction, waivers and variances.

Maternity and neonatal care: Minnesota has rules for obstetrical department that establish minimum delivery room size, illumination, beds, equipment and obstetrical isolation facilities. Additional rules establish criteria for newborn nursery, bassinets, observation window, incubators and formula preparation.

Patient rights in critical access hospitals: Minnesota has no administrative code regarding critical access hospitals.

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Freestanding emergency departments: Minnesota has no administrative code regarding freestanding emergency departments.

Physical Environment: Minnesota has general rules that require the hospital structure and equipment to be kept in good repair and operational all times with regarding for the health, treatment and comfort and safety of the patient and personnel. The rule provides standards that address heating, laundry, lighting, emergency lighting, stairways and ramps, storage, ventilation, walls, floors and ceilings. The rule also established standards for water facilities regarding adequacy of supply, sewage disposal, plumbing and the number and location of toilets, handwashing and bathing facilities.

Plan review and fee schedule: The Minnesota Department of Industry and Department of Health provide plan review and inspection services for hospital physical plant state licensure and federal certification requirements. The scope of these responsibilities encompasses both construction of new spaces and modifications to existing spaces. Plan review fees are based on a total of estimated material, labor, and construction costs.

19. Contact Name

Pat Benesh

20. Contact Phone Number

608 264-9896

This document can be made available in alternate formats to individuals with disabilities upon request.

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ATTACHMENT A

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)

Beginning July 1, 2016, pursuant to s. 50.36 (1m) (a), (b), and (c), Stats., the department may not, except for s. DHS 124.24 (3), enforce any of the rules contained in s. DHS 124.40 or subch. II, III, or IV of ch. DHS 124. Also effective July 1, 2016, s. 50.36 (1), Stats., requires the department to use and enforce Medicare conditions of participation for hospitals as the minimum standards that apply to hospitals and interpret the conditions for Medicare participation for hospitals using guidelines adopted by the federal Centers for Medicare and Medicaid Services unless the department determines that a different interpretation is reasonably necessary to protect public health and safety. The department may promulgate additional rules if they are necessary to provide safe and adequate care and treatment of hospital patients and to protect the health and safety of the patients and employees, per s. 50.36 (1), Stats.

The department has determined that additional rules are necessary to ensure a safe and adequate environment for hospital patients and employees and to protect the health and welfare of the patients and employees. The rule would affect hospitals licensed by the State of Wisconsin.

DHS proposes to adopt the current Department of Safety and Professional Services (DSPS) plan review fee table without a multiplier to cover the DHS plan review cost of the Wisconsin Commercial Building Code. Using the DSPS fee table recognizes the similar scope of the DHS review. DHS further proposes to maintain a separate fee table to cover the additional costs associated with plan review for the physical environment requirements in DHS 124 and the Life Safety Code. The fee table includes cost ranges with decrease fees for smaller projects with the bulk of the revenue coming from projects costing \$1 million or more. This proposal meets the Department's goals of covering program costs and maintaining a minimal cash balance. These provisions will have no fiscal impact on current providers.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

The department relied on all of the following sources to draft the proposed rule and to determine the impact on small businesses.

1. The department solicited comments from representatives of the Wisconsin Hospital Association, Wisconsin Public Psychiatric Hospital, and Wisconsin Healthcare Engineering Association. Representatives from these organizations reviewed the initial draft of the rule.

2. DHS databases including the ASPEN Information System which contains demographic, licensing, program, and compliance history of hospitals in Wisconsin.

3. The department solicited information and advice from individuals, businesses, associations representing businesses, and local governmental units who may be affected by the proposed rule for use in analyzing and determining the economic impact that the rules would have on businesses, individuals, public utility rate payers, local governmental units, and the state's economy as a whole from 08/19/19 - 09/03/19. The department received one comment.

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

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- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

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

Not applicable.

5. Describe the Rule's Enforcement Provisions

The enforcement provisions for DHS 131 are contained in Wis. Stats. ch. 50, Subchapter II Hospitals.

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

Yes No
