



The First 30 Days: The COVID-19 Public Health Emergency in Wisconsin



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Introduction

On March 12, 2020, Governor Tony Evers declared a public health emergency in the state of Wisconsin. The Wisconsin Statutes grant the governor various powers during such an emergency; the statutes also grant the Department of Health Services broad powers to control outbreaks and epidemics of communicable diseases, independent of a declared public health emergency. This publication summarizes these statutory powers and how they have been invoked over the first 30 days of the public health emergency. Accordingly, it may help readers understand how the legislature's adoption of a joint resolution to extend or revoke the governor's declaration would affect each emergency order and state agency.

To this end, part I summarizes the powers of the governor and DHS under statute. Part II summarizes Executive Order #72 and subsequent emergency orders to date and specifies the statutory authority under which each order was issued. Finally, part III summarizes agency and local government powers and actions authorized by Executive Order #72 and subsequent emergency orders to date.

I. Statutory authorities

Authority of the governor

Under Wis. Stat. § [323.10](#), the governor may declare a state of emergency “if he or she determines that an emergency resulting from a disaster or the imminent threat of a disaster exists.” In addition to authorizing the governor to take certain actions described under Wis. Stat. ch. [323](#) and summarized below, such a declaration makes effective various statutory provisions that cross-reference Wis. Stat. § [323.10](#).¹

A state of emergency declaration related to public health requires a finding by the governor of a public health emergency, as defined under Wis. Stat. § [323.02 \(16\)](#). In the case of a communicable disease such as COVID-19, a public health emergency is the occurrence or imminent threat of an illness or health condition that is believed to be caused by a novel or previously controlled or eradicated biological agent and that poses a high probability of a large number of deaths or serious or long-term disabilities among humans. In short, the governor's declaration requires that the public health emergency be caused by a certain type of agent accompanied by risk of a degree of harm meeting the statutory threshold.

The governor's duties and powers during a state of emergency are described under Wis. Stat. § [323.12](#). They include the power to “issue such orders as he or she deems necessary for the security of persons and property” and the power to “suspend the provisions of any administrative rule if the strict compliance with that rule would prevent, hinder, or delay necessary actions to respond to the disaster” under Wis. Stat. § [323.12 \(4\)](#).²

1. Relevant cross-references are discussed in the succeeding sections of this publication that describe actions that are taken by agencies and local governments during the state of emergency declared under [Executive Order #72](#). Other cross-references include Wis. Stat. § [36.25 \(11\) \(cm\)](#), relating to the creation and maintenance of a roster of scientists and other experts who are willing to work for the Laboratory of Hygiene during a public health emergency; Wis. Stat. § [101.985 \(2\) \(c\)](#), relating to emergency licensing of elevator mechanics; Wis. Stat. § [230.34 \(1\) \(ax\) 1.](#), relating to the authority of state agency officers to discharge employees; Wis. Stat. § [234.88 \(1\) \(a\)](#), relating to emergency heating assistance loan guarantees; Wis. Stat. § [234.905 \(1\) \(cm\)](#), relating to agricultural production disaster assistance loan guarantees; Wis. Stat. § [301.19 \(4\)](#), relating to restrictions on modifications to juvenile correctional facilities; and Wis. Stat. § [895.51 \(2m\)](#), relating to civil liability for death or injury caused by qualified emergency household products.

2. While these statutory powers are broad, there are limits. See Wisconsin Legislature v. Evers, No. 2020AP608-OA, [Order issued April 6, 2020](#),

Under Wis. Stat. § [323.10](#), a state of emergency must not exceed 60 days, unless extended by joint resolution of the legislature. The executive order declaring a state of emergency may be revoked at the discretion of either the governor by executive order or the legislature by joint resolution.³

To date, the governor has invoked his authority under ch. [323](#) in issuing the following orders: Executive Order #72, Executive Order #74, and Emergency Orders 2, 3, 7, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24.

Authority of the Department of Health Services

If the governor declares a state of emergency related to public health under Wis. Stat. § [323.10](#), the governor may designate DHS as the lead state agency to respond to that emergency. The powers and duties of DHS under these circumstances are described under Wis. Stat. § [250.042](#).

However, DHS has broad authority to control communicable diseases under Wis. Stat. § [252.02](#), and this authority is independent of the authority of the governor to declare a state of emergency related to public health under Wis. Stat. § [323.10](#). Specifically, Wis. Stat. § [252.02 \(3\)](#) allows DHS to close schools and forbid public gatherings in schools, churches, and other places to control outbreaks and epidemics. Wis. Stat. § [252.02 \(6\)](#) allows DHS also to “authorize and implement all emergency measures necessary to control communicable diseases.”

The purpose of a measure taken under Wis. Stat. § [252.02 \(3\)](#) must be to control outbreaks and epidemics, whereas the purpose of a measure taken under Wis. Stat. § [252.02 \(6\)](#) must be to control communicable diseases. The statutes do not define “communicable disease” but instead defer to DHS, which specifies a list of diseases that are communicable.⁴ Nor do the statutes define “epidemic” and “outbreak,” but a DHS rule defines an “outbreak” to be an “unusual aggregation of health events that are grouped together in a short time period and limited geographic area.”⁵ Defining an event as an outbreak or epidemic, although significant, does not require the same risk of the degree of harm required by the public health emergency under Wis. Stat. § [323.10](#). Therefore, DHS’s authority under Wis. Stat. § [252.02](#) has a lower threshold than that of the public health emergency finding required under Wis. Stat. § [323.10](#).

DHS may exercise its authority under Wis. Stat. § [252.02](#) in the absence of any state of emergency declaration by the governor. The authority of DHS, therefore, does not automatically expire with the expiration of the state of emergency under Wis. Stat. § [323.10](#).

To date, the governor and the secretary-designee of health services have invoked the powers of DHS under Wis. Stat. § [252.02](#) in issuing the following orders: Emergency Orders 6, 12 (which supersedes Emergency Orders 1, 4, 5, and 8), 14, 15, 16, 18, 19, 20, and 21.

enjoining the portion of Executive Order #74 issued by the governor on April 6, 2020, that ordered the suspension of in-person voting for the April 7, 2020, election.

3. Under Wis. Stat. § [250.03 \(3\) \(a\)](#), if a state of emergency relating to public health is declared, DHS must report to the legislature and the governor no later than 90 days after the termination of the state of emergency on the emergency powers used and expenses incurred by DHS during the emergency.

4. Wis. Admin. Code ch. DHS [145, Appendix A](#).

5. Wis. Admin. Code DHS § [145.03 \(20\)](#).

II. Executive and emergency orders

Executive Order #72 (March 12, 2020)—Relating to a proclamation declaring a health emergency in response to the COVID-19 Coronavirus. Issued under the authority of the Wisconsin Constitution and the Statutes, specifically Wis. Stat. §§ [100.305](#), [321.39](#), [323.10](#), [323.12](#), and [323.13](#).

The executive order proclaims that a state public health emergency exists, as defined in Wis. Stat. § [323.02 \(16\)](#), and designates DHS as the lead agency to respond to the emergency. The order directs DHS to take all necessary and appropriate measures to prevent and respond to incidents of COVID-19. It also provides for the suspension of any administrative rule the secretary of health services determines would prevent, hinder, or delay necessary actions to respond to the emergency. All state agencies are directed to assist in the response, as appropriate.

The order further authorizes the Wisconsin adjutant general to activate the Wisconsin National Guard, as “necessary and appropriate,” to assist in responding to the public health emergency, under the authority provided in Wis. Stat. § [321.39](#).

Finally, the order proclaims that a period of abnormal economic disruption exists in the state for the purposes of Wis. Stat. § [100.305](#), which prohibits manufacturers, producers, suppliers, wholesalers, distributors, and retailers from price gouging. The Department of Agriculture, Trade and Consumer Protection is directed to enforce the price gouging statute during the period of abnormal economic disruption, pursuant to Wis. Stat. § [100.305](#) and Wis. Admin. Code ch. ATCP [106](#).

Executive Order #73 (April 3, 2020)—Relating to a special session of the legislature to provide for an all-mail spring election and special election for the Seventh Congressional District during the COVID-19 pandemic. Issued under the authority of Article IV, [section 11](#), and Article V, [section 4](#), of the Wisconsin Constitution.

The order calls for a special session of the legislature commencing at 4 p.m. on April 4, to consider and act upon legislation to postpone the April 7 election until May 19, postpone the May 12 special election for the Seventh Congressional District until May 19, restrict in-person voting for the May 19 election, make various changes to absentee ballot procedures and other elections procedures, and authorize individuals currently in an office to be filled based on the results of the spring election to continue fulfilling the duties of those offices until certain conditions specified under the order are met. This order was not issued under the authority of the statutory sections summarized in part I of this publication.

Executive Order #74 (April 6, 2020)—Relating to suspending in-person voting on April 7, 2020, due to the COVID-19 pandemic. Issued under the authority of the Wisconsin Constitution and the Statutes, specifically the [Preamble](#), Article IV, [section 11](#), Article V, [section 1](#), and Article V, [section 4](#), of the Wisconsin Constitution and Wis. Stat. § [323.12 \(4\) \(b\)](#).

The executive order provides for the suspension of in-person voting on April 7 until June 9, unless the legislature passes and the governor approves a different date for in-person voting. It authorizes Wis-

consin voters to continue to receive absentee ballots until the fifth day immediately preceding the new in-person election date, and specifies procedures for voters to deliver ballots and clerks to provide and receive ballots. Under the order, ballots already cast in the April 7 election remain valid and will be tallied in conjunction with in-person voting on the new in-person election date.

The order authorizes individuals currently serving in an office to be filled based upon the results of the new in-person election date to continue fulfilling the duties of those offices until three business days after county, municipal, and school district clerks issue certificates of election, once the deadline to file a petition for recount and appeal of recount has passed.

Finally, the order calls for a special session of the legislature to commence at 2 p.m. on April 7, solely to consider and act upon legislation to set a new in-person election date.

Later in the day on April 6, the state supreme court enjoined the provisions of Executive Order #74 in their entirety, with the exception of the provision calling for a special session of the legislature. In setting forth its reasoning, the court stated with respect to Wis. Stat. § [323.12 \(4\) \(b\)](#), “nothing in [this subsection] grants the governor the power to suspend or rewrite statutes in the broad fashion asserted here, what amounts to ignoring or rewriting statutory provisions governing mandatory election dates, mandatory election procedures, and terms of elected office.”⁶

Emergency Order 1 (March 13, 2020)—Order for statewide school closure. Issued under the authority of Wis. Stat. § [252.02 \(3\)](#).

Under the order, all public and private Wisconsin schools were ordered to close for purposes of pupil instruction and extracurricular activities, beginning on March 18, with an anticipated reopening on April 6, subject to change pending further information. This order has been superseded by [EMO 12](#), the “Safer at Home” order, issued on March 24.

Emergency Order 2 (March 14, 2020)—Order for Department of Transportation permits to assist with grocery supply efforts. Issued under the authority of Wis. Stat. § [323.12 \(4\)](#).

The order authorizes DOT to issue overweight permits for the transportation of inventory to supply grocery retailers affected by the COVID-19 pandemic. Overweight permits issued under the order are valid on all Wisconsin highways, with certain exceptions. The order prohibits DOT from charging any fee for permits issued under the order. EMO 2 also authorizes the waiver of fees to obtain a 72-hour trip permit for vehicles traveling into the state that are not registered in Wisconsin or enrolled in the International Registration Plan or the International Fuel Tax Agreement. These provisions of the order expired on March 28.

Finally, EMO 2 provides that interstate and intrastate carriers providing direct emergency relief to supply grocery retailers are relieved from motor carrier safety regulations under administrative rule and federal law. This relief is valid for the duration of the motor carrier’s assistance in the relief effort, or until April 11, or for the duration of Executive Order #72, whichever is less.

6. Wisconsin Legislature vs. Evers, No. 2020AP608-OA, April 6, 2020.

Emergency Order 3 (March 15, 2020)—Order for Department of Children and Families administrative rule suspension and emergency orders. Issued under the authority of Wis. Stat. § [323.12 \(4\)](#).

The order suspends several Department of Children and Families rules in Wis. Admin. Code chs. DCF [52](#), [56](#), [57](#), [201](#), [202](#), [250](#), [251](#), and [252](#). Most of these rule suspensions remove various restrictions and standards for child care centers or qualification requirements for child care providers in order to streamline access to care for essential workers. The order suspends additional rules related to health and dental examinations for children in certain residential care centers and group homes. The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

Emergency Order 4 (March 16, 2020)—Order prohibiting mass gatherings of 50 people or more. Issued under the authority of Wis. Stat. § [252.02 \(3\)](#).

The order places a statewide moratorium on all public and private mass gatherings of 50 or more people, with certain exemptions, to mitigate the spread of COVID-19, effective at 12:01 a.m. on March 17. This order was superseded by [EMO 12](#), the “Safer at Home” order, issued on March 24.

Emergency Order 5 (March 17, 2020)—Order prohibiting mass gatherings of 10 people or more. Issued under the authority of Wis. Stat. § [252.02 \(3\)](#).

The order places a statewide moratorium on all public and private mass gatherings of 10 people or more, with certain exemptions, to mitigate the spread of COVID-19, effective at 5 p.m. on March 17. The order also closes bars and restaurants except for take-out or delivery service, effective at 5 p.m. on March 18. This order was superseded by [EMO 12](#), the “Safer at Home” order, issued on March 24.

Emergency Order 6 (March 18, 2020)—Order restricting the size of child care settings. Issued under the authority of Wis. Stat. § [252.02 \(3\)](#).

Under the order, child care settings are limited to 10 staff and 50 children at a time effective at 8 a.m. on March 19. Child care settings that continue to operate must follow [DCF Guidance Order #2](#), which lays out the proper response to various scenarios regarding COVID-19 transmission in the child care facility or the community at large. The order states that parents and guardians must follow DHS social distancing guidance, to the extent possible, while picking up and dropping off children at a child care setting. Finally, the order encourages child care settings to prioritize access to their services for essential workers, including first responders and health care providers. The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

Emergency Order 7 (March 18, 2020)—Order to the Department of Workforce Development regarding unemployment insurance. Issued under the authority of Wis. Stat. § [323.12 \(4\)](#).

The order directs DWD to institute changes in the administration of unemployment insurance. Namely, the order provides for temporary exceptions to work-related eligibility requirements under Wis. Stat. § [108.04 \(1\) \(a\)](#) to [\(bm\)](#) and Wis. Admin. Code chs. DWD [127](#) and [128](#). The order is effective for the duration of the public health emergency or until supplanted by rule promulgation. DWD filed a

[statement of scope](#) on March 23 for a proposed emergency rule relating to this order. If the emergency rule goes into effect, it will supplant EMO 7.

[Emergency Order 8](#) (March 20, 2020)—Updated mass gathering ban. Issued under the authority of Wis. Stat. § [252.02 \(3\)](#).

The order updates [EMO 5](#)—which banned mass gatherings of 10 people or more, with certain exemptions—to provide additional information and clarification regarding specific entities and exemptions. This order was superseded by [EMO 12](#), the “Safer at Home” order, issued on March 24.

[Emergency Order 9](#) (March 20, 2020)—Order to the Department of Corrections. Issued under the authority of Wis. Stat. § [323.12 \(4\)](#).

Under the order, DOC must stop admissions to all state prisons and juvenile facilities. The secretary of corrections may order the ban lifted, in full or in part, and may rescind a prior order to lift the ban, in full or in part. The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

[Emergency Order 10](#) (March 21, 2020)—Department of Public Instruction administration rule suspension and emergency orders. Issued under the authority of Wis. Stat. § [323.12 \(4\)](#).

The order suspends four DPI rules pertaining to various standards and deadlines. First, the order suspends Wis. Admin. Code PI § [8.01 \(4\) \(b\) 1. to 7. and \(c\)](#), thereby allowing DPI to more easily waive requirements relating to hours of direct pupil instruction. Second, it suspends Wis. Admin. Code PI § [34.021 \(1\) \(d\)](#) to allow students in teacher preparation programs to graduate on time without meeting certain testing requirements. Finally, the order suspends the deadlines for choice schools to provide enrollment audits and for school boards to apply for Four-Year-Old Kindergarten Grants under Wis. Admin. Code PI §§ [35.07 \(1\) \(b\)](#) and [38.23 \(1\) \(a\)](#), respectively. Companion orders to these last two rule suspensions authorize the superintendent of public instruction to establish new deadlines. The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

[Emergency Order 11](#) (March 22, 2020)—Public Service Commission administrative rule suspensions. Issued under the authority of Wis. Stat. § [323.12 \(4\)](#).

The order suspends several PSC rules in Wis. Admin. Code chs. PSC [113](#), [134](#), and [185](#) pertaining to service rules for electrical, gas, and water utilities. These rule suspensions allow the PSC to waive late fees, temporarily suspend disconnections of service, prohibit utilities from requiring a cash deposit to obtain service for customers with unpaid balances, expand the use of deferred payment agreements to include commercial, farm, and industrial customers, and streamline the process for applying for utility service. The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

[Emergency Order 12](#) (March 24, 2020)—Safer at Home order. Issued under the authority of Wis. Stat. § [252.02 \(3\)](#) and [\(6\)](#).

The order prohibits all nonessential travel, with some exceptions, effective at 8 a.m. on March 25 until 8 a.m. on April 24, or until a superseding order is issued. All individuals present in the state of Wisconsin are ordered to stay at home or at their place of residence, with certain exceptions. Individuals using shared or outdoor spaces other than their home or residence must maintain social distance of at least six feet from any other person, except from family members in a single living unit or other household members. The order states that persons may leave their homes or residences only for the following functions, which are defined in the order: (1) essential activities; (2) essential government functions; (3) to operate essential businesses and operations; (4) to perform nonessential minimum basic operations; (5) essential travel; and (6) special situations.

Under the order, all for-profit and nonprofit businesses deemed nonessential, per the criteria of the order, are required to cease all activities at facilities located within the state, except for continuing minimum basic operations as defined in the order, or any operations consisting exclusively of employees or contractors working from home. Essential businesses and operations continuing to operate must comply with social distancing requirements to the extent possible.

Except for the limited purposes expressly permitted, the order prohibits all public and private gatherings of any number of people unless the people are part of a single household or living unit. The order also closes public and private K–12 schools and public libraries, with some exceptions, and closes several types of public amusement facilities as well as salons and spas.

The order is enforceable by any local law enforcement official, and violation or obstruction of the order is punishable by a fine of up to \$250, imprisonment for up to 30 days, or both, pursuant to Wis. Stat. § [252.25](#).

Emergency Order 13 (March 27, 2020)—Order to the Department of Workforce Development regarding minor work permits. Issued under the authority of Wis. Stat. § [323.12 \(4\)](#).

The order creates certain exceptions to child labor permits during a public health emergency, as specified under Wis. Admin. Code DWD § [270.05 \(2\)](#). Under the order, employers of minors who are 14 and 15 years old are not required to obtain permits if they obtain certain information, including proof of age for the minor, consent from the minor’s parent or guardian, a copy of the minor’s social security card, and various information about employment and the job duties to be performed. Employers must notify DWD of employment of such minors via e-mail and include certain information specified above. After the public health emergency concludes, the same employers must file for permit applications for minors employed under this order, and must pay related fees required under Wis. Admin. Code DWD § [270.08](#). The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

Emergency Order 14 (March 27, 2020)—Relating to extending the Department of Transportation emergency permits to assist with grocery supply efforts. Issued under the authority of Wis. Stat. §§ [323.12 \(4\)](#) and [252.02](#).

The order extends DOT's authority to issue overweight permits for the transportation of inventory to supply grocery retailers affected by the COVID-19 pandemic until April 11. It also modifies [EMO 2](#) to provide that overweight permits issued under the order are not valid on highways with Class B weight limit postings. The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

[Emergency Order 15](#) (March 27, 2020)—Temporary ban on evictions and foreclosures. Issued under the authority of Wis. Stat. §§ [323.12 \(4\)](#) and [252.02](#).

Under the order, landlords are prohibited from doing any of the following based on a failure to pay rent: (1) serving a notice terminating a tenancy; (2) commencing a civil action of eviction; or (3) delivering a writ of restitution to the sheriff. The order allows a landlord to serve a notice terminating a tenancy, commence a civil action of eviction, or deliver a writ of restitution to the sheriff for a reason other than a failure to pay rent only if the landlord produces an affidavit attesting that the action is based on a reasonable belief that the failure to proceed would result in an imminent threat of serious physical harm to another person. Sheriffs are prohibited from acting on a writ of restitution without such an affidavit. The order does not affect the operation of Wis. Stat. § [704.25](#), which allows a landlord to evict a tenant if the tenant holds over after the expiration of a lease.

In addition, the emergency order prohibits mortgagees from commencing a civil action to foreclose upon real estate or from requesting or scheduling a sheriff's sale of the mortgaged premises. Sheriffs are prohibited from conducting these sheriff's sales and from acting on any order of foreclosure or writ of assistance related to foreclosure. The order clarifies that it should not be construed to relieve a person from any of his or her obligations under a mortgage or to affect the ability to commence a civil action to foreclose upon real estate under Wis. Stat. § [846.102](#).

The order remains in effect for 60 days.

[Emergency Order 16](#) (March 27, 2020)—Relating to certain health care providers and Department of Safety and Professional Services credentialing. Issued under the authority of Wis. Stat. §§ [323.12 \(4\)](#) and [252.02](#).

The order authorizes interstate reciprocity so that out-of-state health care providers may practice in Wisconsin under certain conditions without first obtaining a temporary or permanent license from DSPS. Under the order, physicians practicing telemedicine in the state must meet requirements outlined under Wis. Admin. Code ch. Med [24](#) regardless of whether they have been licensed by the Wisconsin Medical Examining Board. Additionally, the order extends the temporary licenses of certain health care providers for 30 days beyond the declared emergency, and directs DSPS to identify and contact health care providers with recently expired licenses who may be eligible for renewal and may return to the workforce during the declared emergency. The order also provides DSPS with discretion to suspend any fee or assessment provided for in administrative rules related to health care provider credentialing when there is a demonstrable need. Finally, the order suspends administrative rules related to the practice of

telemedicine and the licensing or credentialing of physician assistants, nurses, and other health care providers.

The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

[Emergency Order 17](#) (March 27, 2020)—Department of Natural Resources administrative rule suspension. Issued under the authority of Wis. Stat. § [323.12 \(4\)](#).

The order authorizes the suspension of DNR's administrative rule requiring a nutrient management plan under Wis. Adm. Code NR § [151.07 \(3\)](#). Under the order, DNR may suspend this requirement for small and medium non-permitted farms that seek permission to dispose of unused milk if the farmer (1) demonstrates to DNR's satisfaction that they do not have sufficient available storage capacity for unused milk; (2) demonstrates to DNR's satisfaction that it cannot comply with the current nutrient management plan when land-applying the milk; and (3) applies the milk in a manner that complies with all other applicable rules. The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

[Emergency Order 18](#) (March 30, 2020)—Department of Children and Families administrative rule suspensions. Issued under the authority of Wis. Stat. §§ [323.12 \(4\)](#) and [252.02](#).

The order suspends required timelines or time limits relating to child safety and permanence and W-2 worker training outlined in DCF administrative rules. The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

[Emergency Order 19](#) (April 2, 2020)—Appropriate use of COVID-19 information by law enforcement agencies, first responders, and public safety workers. Issued under the authority of Wis. Stat. §§ [323.12 \(4\)](#) and [252.02](#).

The order specifies that the Department of Justice interprets Wis. Stat. §§ [146.82 \(5\) \(c\) 3.](#) and [146.816 \(2\) \(b\) 4.](#) to allow for the disclosure of protected health information to public safety personnel in certain limited situations. Under the order, local health officers, as designated under Wis. Stat. § [251.06](#), must report the address of any person known to have tested positive for COVID-19 to any dispatch center that could receive a call for service at that address. Dispatch centers must provide the same information to any specified public safety personnel that makes a contact at such an address for a legitimate purpose related to public safety.

Under the order, recipients of this information about persons known to have tested positive for COVID-19 may use the information for limited purposes only. Moreover, they must not use the information as a basis to refuse a call for service. Recipients must also ensure that this information remains confidential and is not disseminated over any open channel of communication accessible to other parties. The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

Emergency Order 20 (April 3, 2020)—Relating to modification of Emergency Order 16. Issued under the authority of Wis. Stat. §§ [323.12 \(4\)](#) and [252.02](#).

This order modifies certain provisions of EMO 16, relating to certain health care providers and DSPS credentialing.

First, the order modifies certain definitions provided under [EMO 16](#). Under the order, “health care provider” has the meaning given in Wis. Stat. § [146.81 \(1\) \(a\)](#) to [\(hp\)](#). This definition includes certain speech-language pathologists, audiologists, massage therapists, and bodywork therapists not included under [EMO 16](#). The order also modifies the meaning of “temporary license” to include an Interstate Reciprocity Temporary License.

Second, the order modifies certain provisions of [EMO 16](#) related to temporary credentialing. It specifies that a health care provider must apply for a temporary or permanent health care license within 30 days of first working at a health care facility under the provisions of [EMO 16](#). The health care facility must notify DSPS within 10 days of a health care provider practicing at its facility under the provisions of [EMO 16](#). Finally, a temporary license granted under this order, or any otherwise valid license that expires during the public health emergency, must remain valid for 30 days after the conclusion of the declared emergency. This provision takes effect retroactively to include licenses that were current before March 12 but have since expired.

The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

Emergency Order 21 (April 3, 2020)—Relating to the Department of Health Services administrative rule suspensions and order. Issued under the authority of Wis. Stat. §§ [323.12 \(4\)](#) and [252.02 \(6\)](#).

The order suspends several DHS rules in Wis. Admin. Code chs. DHS [75](#), [83](#), [88](#), [110](#), [129](#), [131](#), [132](#), and [133](#) to loosen various health care and emergency services workforce restrictions and requirements during the public health emergency. Specifically, the order suspends several rules related to Emergency Medical Services (EMS) professionals’ licensure and certification, as well as required EMS equipment and staffing levels. The order also suspends various requirements for the following entities: home health agencies, hospices, nursing homes, nurse aide training programs, feeding assistant programs, community-based residential facilities, adult family homes, and narcotic treatment programs for opiate addiction.

In addition, EMO 21 allows DHS to suspend any fee or assessment provided for in the administrative rules related to emergency medical services credentialing where there is a demonstrable need. The order instructs DHS to broadly interpret “demonstrable need” in favor of increasing the availability of emergency medical services. The order states that a waiver may need to be obtained if any of the rule suspensions outlined in the order conflict with existing federal regulation.

Emergency Order 22 (April 9, 2020)—Relating to Certain Timelines Established by the Department of Safety and Professional Services. Issued under the authority of Wis. Stat. § [323.12 \(4\)](#).

The order suspends various DSPS administrative rules related to inspections, permits, and licensing to loosen time requirements and eliminate in-person contact requirements that do not meet social

distancing requirements provided under [EMO 12](#). Specifically, the order suspends rules in Wis. Admin. Code ch. Accy [2](#), ch. PT [5](#), and chs. SPS [314](#), [316](#), [318](#), [320](#), [327](#), [361](#), [382](#), and [383](#). The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

[Emergency Order 23](#) (April 9, 2020)—Related to the Department of Veterans Affairs Assistance to Needy Veterans Program. Issued under the authority of Wis. Stat. § [323.12 \(4\) \(b\)](#) and [\(d\)](#).

The order suspends nine rules related to the Assistance to Needy Veterans Grant (ANVG) program, administered by the Department of Veterans Affairs under Wis. Admin. Code VA § [2.01](#). The ANVG program provides health care grants and subsistence aid to low income veterans and their families. EMO 23 suspends various program requirements and restrictions to streamline and expand access to ANVG aid. The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

[Emergency Order 24](#) (April 10, 2020)—Relating to the Department of Transportation Emergency Overweight Commodity Permits. Issued under the authority of Wis. Stat. § [323.12 \(4\) \(b\)](#) and [\(d\)](#).

Under the order, DOT may issue overweight permits and must waive related fees. Namely, permits may be issued for motor carriers in critical infrastructure service sectors, as identified by the U.S. Cybersecurity & Infrastructure Security Agency. Additionally, permits authorized under [EMO 14](#) are automatically converted to permits under this order. These permits are valid on all Wisconsin highways, with certain exceptions. EMO 24 also extends and expands various provisions of [EMO 2](#), relieving carriers providing direct relief assistance from certain motor carrier safety regulations under administrative rule and federal law,⁷ and waiving fees to obtain a 72-hour trip permit for certain vehicles traveling into Wisconsin.⁸

Permits issued under EMO 24 are effective for the duration of the public health emergency declared in [Executive Order #72](#) and terminate upon its conclusion. Other provisions of the order also remain in effect until the conclusion of the declared public health emergency.

III. Agencies

DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

Executive order 72. On March 12, [Executive Order # 72](#) proclaimed a period of abnormal economic disruption in the state of Wisconsin. The order activates Wis. Stat. § [100.305](#) and Wis. Admin. Code ch. ATCP [106](#), which prohibit manufacturers, producers, suppliers, wholesalers, distributors, and retailers from selling, or offering to sell, consumer goods or services at unreasonably excessive prices. In other words, the order prohibits “price gouging.” DATCP, or DOJ in consultation with DATCP, enforce price

7. See Wis. Admin. Code chs. Trans. [325](#) and [327](#) for relevant administrative rule provisions and 49 C.F.R. §§ [390 to 399](#) for relevant federal regulations.

8. Wis. Stat. §§ [341.405](#), [341.41 \(7\)](#), and [341.45 \(4g\)](#).

gouging.⁹ DATCP announced its first round of enforcement actions against suspected price gougers on March 25.¹⁰

Emergency orders. On March 27, Governor Evers and DHS Secretary-designee Palm issued [EMO 15](#), which generally prohibits landlords from initiating or following through on the process of evicting a tenant. The order allows a landlord, under Wis. Stat. § [704.25](#), to evict a tenant who holds over after the expiration of a lease, or to evict a tenant if he or she poses an imminent threat of serious physical harm to another person. The order does not relieve tenants from their obligation to pay rent or from any other obligation under their lease, and does not affect any other provisions under Wis. Stat. ch. [704](#) or Wis. Admin. Code ch. ATCP [134](#).

DEPARTMENT OF CHILDREN AND FAMILIES

Emergency orders. On March 15, Governor Evers issued [EMO 3](#), ordering the suspension of various DCF administrative rules. Some suspensions are associated with companion order directives. Generally, these actions relax certain staffing, admissions, administration, and licensure restrictions in order to make child care more accessible to workers who need it. The order states that provisions contained in the order are subject to further guidance and recommendations from DHS.

EMO 3 partially or fully suspended several rules, some with companion orders. A rule is fully suspended unless otherwise noted.

- Wis. Admin. Code DCF § [56.02 \(2\) \(b\) 7. a.](#) sets requirements for the panel size responsible for approving exception requests in foster care system.
- Wis. Admin. Code DCF § [52.21 \(8\) \(a\)](#) requires health and dental exam within certain time frames and circumstances for children and youth placed in residential care centers.
- Wis. Admin. Code DCF § [52.45 \(1\) \(a\)](#) and [\(b\)](#) requires ongoing physical and dental exams HealthCheck program recommended frequencies for children and youth placed in residential care centers.
- Wis. Admin. Code DCF § [57.19 \(7\)](#) requires health examination within a certain time frame for children placed in group homes.
- Wis. Admin. Code DCF § [57.26](#) requires dental examination within a certain time frame for children placed in group homes.
- Wis. Admin. Code DCF § [52.12 \(1\) \(c\) 2.](#) and [3.](#) sets hour limits on staff scheduling in residential care centers.
- Wis. Admin. Code DCF § [202.08 \(5\) \(c\)](#) (see [Emergency Rule 1918](#), § 79) restricts hours of care for individual in-home or family child care providers.
- Wis. Admin. Code DCF § [201.039 \(1\)](#) establishes standards for assessing child care needs.
- Wis. Admin. Code DCF § [201.039 \(5\)](#) establishes requirements for authorizing payment for child care services provided in a child's home.

9. Wis. Stat. § [100.305 \(4m\)](#).

10. Wisconsin Department of Agriculture, Trade, and Consumer Protection, "[DATCP Takes Action on Price Gouging Complaints](#)," press release, March 25, 2020, <https://datcp.wi.gov/>.

- Wis. Admin. Code DCF § [201.039 \(6\)](#) prohibits payment for child care services when the provider is a parent of the child or resides with the child.
- Wis. Admin. Code DCF § [201.039 \(7\)](#) establishes requirements for authorizing payments for care of a child whose parent is a child care provider.
- Wis. Admin. Code DCF § [201.039 \(8\)](#) prohibits payment for child care services by a certified provider if the child’s parent or a person who resides with the child is employed at the same location.
- Wis. Admin. Code DCF § [201.039 \(9\)](#) limits hours of child care per child per day.
- Wis. Admin. Code DCF § [201.08](#) authorizes DCF to set a schedule for parent copayments for parents who receive a child care subsidy.
 - Companion order: The secretary of children and families may impose an amended copayment schedule and may waive copayments for some or all groups in the existing schedule.
- Wis. Admin. Code DCF § 251.055 (1) (b) to (e) and (i) (see [Emergency Rule 1918](#), § 246) establishes standards for supervision in group child care centers.
- Wis. Admin. Code DCF § 250.055 (see [Emergency Rule 1918](#), § 145) establishes standards for supervision and grouping of children in family child care centers.
- Wis. Admin. Code DCF § 251.055 (2) (b) to (d) (see [Emergency Rule 1918](#), § 246) establishes standards for grouping of children in group child care centers.
- Wis. Admin. Code DCF § 251.06 (1) (see [Emergency Rule 1918](#), §§ 247-249) establishes building requirements for group child care centers.
 - Suspended, except for the first sentence of Wis. Admin. Code DCF § 251.06 (1) (a), which states, “The building in which a center is located shall comply with applicable state and local building codes.”
- Wis. Admin. Code DCF § 250.06 (1) (see [Emergency Rule 1918](#), § 146) establishes building requirements for family child care centers.
 - Suspended, except for the first sentence of Wis. Admin. Code DCF § 250.06 (1) (a), which states, “Family child care centers located in a building that is not a one or 2-family dwelling shall conform to the applicable Wisconsin commercial building codes.”
- Wis. Admin. Code DCF § [251.04 \(1\)](#) requires group child care centers to comply with the restrictions for care in their license.
- Wis. Admin. Code DCF § [250.04 \(1\)](#) requires family child care centers to comply with the restrictions for care in their license.
- Wis. Admin. Code DCF § [202.08 \(6\) \(b\)](#) sets limits on the number of children that may be in the care of a certified family child care operator.
- Wis. Admin. Code DCF § [250.03 \(9\)](#) defines “family child care center” or “center.”
 - Companion order: “Family child care center” or “center” shall be defined as a facility where a person provides care and supervision for at least four children.
- Wis. Admin. Code DCF § [202.08 \(6\) \(e\) 2.](#) restricts when a certified in-home child care operator may care for children who do not reside in the home.
- Wis. Admin. Code DCF § 251.07 (5) (see [Emergency Rule 1918](#), §§ 279-288) sets requirements for meals and snacks provided in group child care centers.
- Wis. Admin. Code DCF § 251.05 (3) (d) to (g), (i), and (j) (see [Emergency Rule 1918](#), § 245) sets requirements and qualifications for certain staff at group child care centers.

- Wis. Admin. Code DCF § 250.05 (3) (see [Emergency Rule 1918](#), § 144) sets requirements and qualifications for family child care centers.
 - Companion order: All family child care center providers shall comply with the requirements of Wis. Admin. Code DCF § 251.05 (a) to (c) (see [Emergency Rule 1918](#), § 245).
- Wis. Admin. Code DCF § 250.05 (2) (see [Emergency Rule 1918](#), § 144) sets requirements for family child care center staff recordkeeping.
 - Companion order: Family child care centers shall comply with Wis. Admin. Code DCF § 251.05 (2) (a) 1. (see [Emergency Rule 1918](#), § 245) for staff records.
- Wis. Admin. Code DCF § 251.05 (2) (see [Emergency Rule 1918](#), § 245) sets requirements for group child care center staff recordkeeping.
 - Companion order: Group child care centers shall comply with Wis. Admin. Code DCF § 251.05 (2) (a) 1. for staff records.
- Wis. Admin. Code DCF § 251.04 (6) (see [Emergency Rule 1918](#), §§ 239-241) sets requirements for group child care center child recordkeeping.
 - Companion order: Group child care centers shall comply with Wis. Admin. Code DCF § 251.04 (6) (a) 1. and 2. (see [Emergency Rule 1918](#), § 135) for children’s records.
- Wis. Admin. Code DCF § 250.04 (6) (see [Emergency Rule 1918](#), §§ 135–137) sets requirements for family child care center child recordkeeping.
 - Companion order: Family child care centers shall comply with Wis. Admin. Code DCF § 251.04 (6) (a) 1. and 2. (see [Emergency Rule 1918](#), § 135) for children’s records.
- Wis. Admin. Code DCF § [152.06 \(2\)](#) and [\(3\)](#) regulates when a lien threshold has been met or exceeded and sets a lien amount.

On March 18, DHS Secretary-designee Palm issued [EMO 6](#), limiting child care settings to operating with a maximum of 10 staff and 50 children present at a time, under the authority of Wis. Stat. § [252.02 \(3\)](#). Child care settings that continue operation must follow [DCF Guidance Order #2](#) or any superseding orders, as well as all other state statutes and administrative rules as modified by [EMO 3](#). Under the order, parents and guardians are required to practice social distancing during pick-up and drop-off.

On March 24, DHS Secretary-designee Palm issued [EMO 12](#), which considered child care settings “essential businesses and operations” allowed to remain open under the order. Under the order, EMO 6 remains in place, but in addition, child care settings must prioritize care for families under a tier system:

Tier 1: employees, contractors, and other support staff working in health care.

Tier 2: employees, contractors, and other staff in vital areas including military; long term care; residential care; pharmacies; child care; child welfare; government operations; public safety and critical infrastructure such as sanitation, transportation, utilities, telecommunications; grocery and food services; supply chain operations; and other sectors as determined by the secretary of children and families.

EMO 12 also redefines “child care settings” to include “all licensed and certified child care providers who may provide care for any age or ages of children up to 13 years of age, unless specially licensed for children with disabilities up to 19 years of age.”

On March 30, Governor Evers and DHS Secretary-designee Palm issued [EMO 18](#), which suspends additional DCF rules while leaving EMO 3, EMO 6, and EMO 12 in effect. EMO 18 suspends a number of rules that require DCF or local agencies to take certain actions within specified periods.

EMO 18 partially or fully suspended the following rules:

- Wis. Admin. Code DCF § [40.03 \(2\) \(f\)](#) establishes the timeline for review of an initial determination by DCF.
—Partially suspended to eliminate the 45-day requirement.
- Wis. Admin. Code DCF § [40.03 \(2\) \(h\)](#) establishes when a review of an initial determination may be rescheduled.
—Partially suspended to eliminate the 45-day requirement.
- Wis. Admin. Code DCF § [56.09 \(4\) \(a\)](#) requires a medical and dental exam in accordance with the HealthCheck program within 30 days after a foster child placement.
- Wis. Admin. Code DCF § [59.01 \(4\)](#) gives DCF discretion to make exceptions to administrative rules for licensing shelter care facilities and sets limits to that discretion.
—Partially suspended to permit exceptions to Wis. Admin. Code DCF § [59.05 \(3\)](#).
- Wis. Admin. Code DCF § [54.04 \(2\) \(c\)](#) sets deadlines for a physical exam of a child receiving social services from DCF.
—Partially suspended to eliminate requirement for physical examination within 90 days prior to initial acceptance or 48 hours after acceptance suspended. Wis. Admin. Code DCF § [54.04 \(2\) \(c\) 1.](#) to [4.](#) remains in effect.
- Wis. Admin. Code DCF § [103.03 \(1\) \(a\)](#) sets requirements for initial W-2 worker training.
—Partially suspended to eliminate requirement for initial training within with the first six months of employment.

DEPARTMENT OF CORRECTIONS

Emergency orders. On March 20, Governor Evers issued [EMO 9](#), directing DOC to implement a moratorium on admissions to state prisons and juvenile facilities under its operations, under the authority of Wis. Stat. § [323.12 \(4\)](#). In a subsequent press release, DOC announced that it would suspend admissions, effective March 23, with some exceptions for “essential transfers.”¹¹

DEPARTMENT OF HEALTH SERVICES

Executive order 72. The [executive order](#) issued by Governor Evers on March 12 declares a public health emergency under Wis. Stat. § [323.10](#) and designates DHS as the lead state agency to respond to the emergency. Together, the declaration and this designation provide DHS with certain powers and duties described under Wis. Stat. §§ [250.042](#), [252.041](#), [157.055](#), and [252.06 \(4\) \(b\)](#).

Under Wis. Stat. § [250.042](#), if the governor designates DHS as the lead state agency to respond to

11. Wisconsin Department of Corrections, “[Suspension of Admissions to the State Prisons and Juvenile Facilities Operated by the Department of Corrections](#),” press release, March 21, 2020, <http://www.doc.wi.gov/>.

a public health emergency, DHS must act as the public health authority for the duration of the state of emergency. As the public health authority, DHS must do the following:

- Ensure that emergency operations are conducted using the incident command system under Wis. Stat. § [323.13 \(1\) \(b\)](#).
- Inform state residents of all of the following: (1) when a state of emergency related to public health has been declared or is terminated; (2) how to protect themselves from a public health emergency; and (3) what actions DHS is taking to control the public health emergency. This information must be provided by “all available and reasonable means calculated to inform the general public,” including reasonable efforts to make the information accessible to individuals with disabilities and in the primary languages of individuals who do not understand English.
- Consult with local health departments and with individual health care providers, to the extent possible.

In addition, as the public health authority, under Wis. Stat. § [250.042](#), DHS may do the following:

- Designate a local health department as an agent of DHS and confer upon it the powers and duties of the public health authority.
- Purchase, store, or distribute antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies that DHS determines are advisable to control a public health emergency.
- Order any individual to receive a vaccination, as specified under Wis. Stat. § [252.041](#), unless it is reasonably likely to lead to cause serious harm to the individual or, for reasons of religion or conscience, the individual refuses to obtain the vaccination. Under Wis. Stat. § [252.041 \(1\) \(b\)](#), DHS may isolate or quarantine any individual who is unable or unwilling to receive a vaccination for these reasons.

Under Wis. Stat. § [157.055](#), DHS, as the public health authority, may also take certain actions related to the disposal of human remains. These actions include issuing and enforcing orders that are reasonable and necessary to provide for the safe disposal of human remains and taking possession and control of any human remains.

When DHS acts as a public health authority under Wis. Stat. § [250.042](#), certain isolation and quarantine provisions apply. These provisions, outlined in Wis. Stat. § [252.06 \(4\) \(b\)](#), provide that no person, other than a person authorized by the public health authority or an agent of the public health authority, may enter an isolation or quarantine premises. Violation of this restriction is subject to a fine of up to \$10,000, imprisonment for up to nine months, or both. Any person who enters an isolation or quarantine premises, whether authorized or not, may themselves be subject to isolation or quarantine.

Finally, Wis. Stat. ch. [257](#) provides that certain volunteer practitioners serving on behalf of DHS or other specified entities during a state of emergency declared under Wis. Stat. § [323.10](#) are considered employees of the state for worker’s compensation benefits under ch. [102](#) and for other liability purposes, as long as several other conditions are met.

Emergency orders. [EMO 21](#), issued by Governor Evers and DHS Secretary-designee Palm on April 3, suspends various health care and emergency services workforce restrictions and requirements. These

partially or fully suspended rules fall into nine different categories, as outlined below. A rule is fully suspended unless otherwise noted.

A. Emergency Medical Services (EMS)

- Wis. Admin. Code DHS § [110.06 \(1\) \(c\) 1](#), establishes timelines for completing training as a precedent to licensure or certification as an EMS professional.
 - Partially suspended to eliminate requirement that an individual trained in Wisconsin must have completed curriculum within the 24 months immediately preceding application submission.
- Wis. Admin. Code DHS § [110.07 \(1\) \(d\)](#) establishes precondition for renewal of EMS licensure or certification.
 - Companion order: DHS prohibited from taking enforcement action under Wis. Admin. Code DHS § [110.54](#) for failure to maintain certifications pursuant to the suspension
- Wis. Admin. Code DHS § [110.09 \(intro.\)](#) and [\(1\)](#) establishes June 30 of even-numbered years as the expiration date of current licenses and certifications of EMS professionals and provides for related fees.
 - Partially suspended with companion order: The late fee is suspended. The secretary of health services may delay the June 30 deadline to later in calendar year 2020 if delay is necessary to respond to COVID-19.
- Wis. Admin. Code DHS § [110.09 \(2\) \(a\) 2](#), and [3](#), establishes requirements for reinstatement of a license or certificate.
- Wis. Admin. Code DHS § [110.13 \(5\)](#) requires an EMT-intermediate or EMT-paramedic to maintain current certification in advanced cardiac life support.
 - Partially suspended with companion order: Any certification that expires during the duration of the public health emergency is extended to 60 days after the termination of the public health emergency. DHS is further prohibited from taking enforcement action under Wis. Admin. Code DHS § [110.54](#) for failure to maintain certifications pursuant the suspension.
- Wis. Admin. Code DHS § [110.15 \(3\) \(c\)](#) prohibits renewal of EMT training permits.
 - Companion order: Any certification that expires during the duration of the public health emergency is extended to 60 days after the termination of the public health emergency. The department is prohibited from taking enforcement action under Wis. Admin. Code DHS § [110.54](#) for failure to maintain certifications pursuant to this suspension.
- Wis. Admin. Code DHS § [110.16 \(1\) \(a\)](#) provides for fees for late renewal of EMS certificates or licenses.
- Wis. Admin. Code DHS § [110.18 \(3\)](#) requires EMS training centers to renew certification by June 30 of even-numbered years.
 - Partially suspended with companion order: The secretary of health services may delay the June 30 deadline to later in calendar year 2020 if delay is necessary to respond to COVID-19. The department is prohibited from taking enforcement action under Wis. Admin. Code DHS § [110.54](#) for failure to maintain certifications pursuant to this suspension.
- Wis. Admin. Code DHS § [110.50 \(1\) \(d\) 1](#), [3](#), and [4](#), requires certain staffing numbers for paramedic ambulances.
- Wis. Admin. Code DHS § [110.50 \(1\) \(f\)](#) requires staffing levels for EMS nontransporting EMT services.
- Wis. Admin. Code DHS § [110.50 \(3\) \(a\)](#) requires specific staffing and equipment levels for reserve ambulances.

- Partially suspended to remove requirement that ambulance service providers obtain approval from DHS to staff and operate reserve ambulances at a lower service level appropriate to the licensure level of the available staff.
- Wis. Admin. Code DHS § [110.50 \(3\) \(b\)](#) requires specific staffing levels and scope of practice for reserve ambulances in a two-paramedic system.
- Wis. Admin. Code DHS § [110.28 \(4\)](#) requires EMS Instructor II certified professionals to renew the instructor certification by June 30 of even numbered years.
 - Partially suspended with companion order: The secretary of health services may delay the June 30 deadline to later in calendar year 2020 if delay is necessary to respond to COVID-19.
- Wis. Admin. Code DHS § [110.31 \(2\)](#) provides that certifications as an EMS Instructor II expire on June 30 of even-numbered years.
 - Partially suspended with companion order: The secretary of health services may delay the June 30 deadline to later in calendar year 2020 if delay is necessary to respond to COVID-19.
- Wis. Admin. Code DHS § [110.34 \(16\)](#) prohibits interfacility transport in situations where a provider is not licensed to provide interfacility transports.

B. Home Health Agencies

- Wis. Admin. Code DHS §§ [133.06 \(4\) \(a\)](#) and [133.17 \(4\)](#) set Home Health Agencies’ (HHA) training and orientation requirements.
 - Companion order: Every employee shall be oriented to the agency and the job for which he or she is hired.
- Wis. Admin. Code DHS §§ [133.18](#) and [105.16 \(2\) \(b\)](#) require HHA supervisory visits.
- Wis. Admin. Code DHS § [133.20 \(3\)](#) requires review of a patient’s plan of care.
 - Partially suspended with companion order: Any necessary visit from RNs associated with the 60-day review process may be completed via telephone or videoconferencing during the public health emergency.

C. Hospices

- Wis. Admin. Code DHS § [131.15](#) authorizes hospice inspections, investigations, and enforcement.
 - Suspended, except for cases of immediate jeopardy as defined in Wis. Stat. § [50.01 \(Ing\)](#), with companion order: Requirement under Wis. Stat. § [50.92 \(3\)](#) to inspect hospice prior to issuance of license remains in place.
- Wis. Admin. Code DHS § [131.22](#) requires quality assessment and performance improvement activities.
 - Companion order: General requirement in Wis. Admin. Code DHS § [131.31 \(2\)](#) for staff to be oriented to their responsibilities remains in place.
- Wis. Admin. Code DHS § [131.31 \(3\)](#) requires training on orientation program contents.
 - Companion order: General requirement in Wis. Admin. Code DHS § [131.31 \(2\)](#) for staff to be oriented to their responsibilities remains in place.

D. Nursing Homes

- Wis. Admin. Code DHS § [132.44 \(1\) \(a\)](#) requires an orientation program for employees.
 - Partially suspended to remove requirement that employees receive orientation to the facilities and its

policies and the requirement that employees be oriented to residents' rights under Wis. Admin. Code DHS § [132.31](#) and to their position and duties by the time they have worked 30 days.

- Wis. Admin. Code DHS § [132.53 \(2\) \(a\) 2.](#) authorizes nursing homes to discharge patients due to non-payment.
- Wis. Admin. Code DHS § [132.42 \(3\) \(a\)](#) requires employees to be certified in writing by a physician, physician assistant, or advanced nurse practitioner.
 - Partially suspended with companion order: Employees can also be certified by a facility registered nurse.
- Wis. Admin. Code DHS § [132.53 \(5\)](#) establishes bed-hold requirements.
- Wis. Admin. Code DHS § [132.54](#) requires notice for the transfer of a patient between rooms or beds within a facility.
 - Suspended for transfers due to COVID-19 issues.

E. Nurse Aide Training Programs

- Wis. Admin. Code DHS § [129.05 \(2\) \(b\)](#) requires onsite preliminary approvals and reviews of training programs by DHS.
- Wis. Admin. Code DHS § [129.06 \(1\) \(a\)](#) provides the standards for instructors of nurse aide training programs.
 - Partially suspended to eliminate experience requirements with companion order: Wis. Admin. Code DHS § [129.03 \(37\)](#) is commensurately suspended insofar as it conflicts with this suspension.
- Wis. Admin. Code DHS § [129.06 \(1\) \(e\)](#) sets standards for primary instructors of nurse aide training programs to attend a preapproved training course.
- Wis. Admin. Code DHS § [129.07 \(2\) \(b\)](#) sets program standards for 120-hour training program.
 - Partially suspended with companion order: A minimum of 16 hours of training in topics identified in Wis. Admin. Code DHS § [129.07 \(2\) \(b\) 2.](#) before direct contact with clients is authorized.
- Wis. Admin. Code DHS § [129.03 \(8\)](#) defines a clinical setting.
 - Companion order: Clinical setting for the purposes of the chapter is the equivalent of “supervised practical training” under 42 CFR 483.152 (a) (3).
- Wis. Admin. Code DHS § [129.09 \(5\) \(a\)](#) provides eligibility for inclusion on the registry within 120 days of beginning employment.
- Wis. Admin. Code DHS § [129.03 \(30\) \(a\)](#) defines nurse aide.
 - Partially suspended to remove reference to supervision from a registered nurse or licensed nurse.
- Wis. Admin. Code DHS § [129.03 \(30\) \(a\) 4.](#) defines nurse aide.
 - Partially suspended to remove reference to employment by a health care provider from the definition of nurse aide.

F. Feeding Assistant Programs

- Wis. Admin. Code ch. DHS [129, subchapter III](#) relating to feeding assistants.
 - Partially suspended with companion order: Facilities may utilize nonnurse aides to provide feeding assistance to individuals who do not have complications with eating or swallowing.

G. Community-Based Residential Facilities (CBRFs)

- Wis. Admin. Code DHS § [83.16 \(2\)](#) requires resident care staff to be 18 years old.

—Companion order: “Resident care staff” may be 16 and 17 years of age so long as they meet Wis. Admin. Code ch. DHS [83](#) training requirements, do not work alone, do not pass medications, and work under supervision.

- Wis. Admin. Code DHS § [83.47 \(2\) \(d\)](#) and [\(e\)](#) establishes requirements for fire drills and other evacuations.

H. Adult Family Homes (AFHs)

- Wis. Admin. Code DHS § [88.05 \(4\) \(a\)](#) sets requirements for annual fire extinguisher inspection.
- Wis. Admin. Code DHS § [88.05 \(4\) \(d\) 2. c.](#) sets requirements for fire drills.
- Wis. Admin. Code DHS § [88.04 \(1\) \(b\)](#) requires resident care staff be 18 years old.
 - Companion order: “Resident care staff” may be 16 and 17 years of age so long as they meet ch. DHS [88](#) training requirements, do not work alone, do not pass medications, and work under supervision.

I. Narcotic Treatment Service for Opiate Addiction

- Wis. Admin. Code DHS § [75.15 \(4\) \(a\)](#) sets requirements for a program’s medical director accessibility and responsiveness.
 - Partially suspended to remove requirement that physician must be readily accessible and able to respond in person within 45 minutes.
- Wis. Admin. Code DHS § [75.15 \(4\) \(b\)](#) requires RN be on staff to supervise dosing process and other functions.
 - Partially suspended with companion order: The service shall have a registered nurse on staff, either onsite or remotely, to supervise the dosing process and to perform other functions delegated by the physician.
- Wis. Admin. Code DHS § [75.15 \(4\) \(d\)](#) requires counseling staff to be supervised by a clinical supervisor and sets a maximum counselor-to-patient ratio.
 - Partially suspended to remove requirement of ratio of at least one counselor to 50 patients in the service. Companion order: The secretary of health services may set a maximum counselor to patient ratio.
- Wis. Admin. Code DHS § [75.15 \(5\) \(h\)](#) requires treatment programs to notify the state authority prior to treating nonresidents, self-pay patients.
- Wis. Admin. Code DHS § [75.15 \(13\) \(b\)](#) requires opioid treatment programs to monitor a patient’s drug levels in plasma or serum on regular intervals and when doses above 100 milligrams are provided.
 - Partially suspended to remove requirement for determinations to be made at three months, six months, and annually subsequently. Companion order: The secretary of health services may require plasma and serum drug level determinations for patients with split dosages and who receive additional take-home doses.
- Wis. Admin. Code DHS § [75.15 \(17\) \(a\)](#) requires tuberculosis (TB) screens.
 - Partially suspended with companion order: Treatment providers shall screen patients using a risk assessment tool for TB to determine if patients need to be referred for a TB test.
- Wis. Admin. Code DHS § [75.15 \(17\) \(c\)](#) requires screenings for viral hepatitis and sexually transmitted diseases (STDs) in OTP.

—Partially suspended with companion order: Treatment providers shall screen patients using a risk assessment tool for viral hepatitis and STDs to determine if patients need to be referred for appropriate testing and subsequent follow-up.

In addition, EMO 21 allows DHS to suspend any fee or assessment provided for in the administrative rules related to emergency medical services credentialing where there is a demonstrable need. The order instructs DHS to broadly interpret “demonstrable need” in favor of increasing the availability of emergency medical services. The order states that a waiver may need to be obtained if any of the rule suspensions outlined in the order conflict with existing federal regulation.

Note that, to date, the governor and the secretary-designee of health services have invoked the powers of DHS under Wis. Stat. § [252.02](#) in issuing Emergency Orders 6, 12 (which supersedes Emergency Orders 1, 4, 5, and 8), 14, 15, 16, 18, 19, 20, and 21.

DEPARTMENT OF MILITARY AFFAIRS

Executive order 72. The [order](#), issued on March 12, authorizes the adjutant general to activate the Wisconsin National Guard as “necessary and appropriate” to assist in responding to the public health emergency, using authority provided in Wis. Stat. § [321.39](#). By statute, the governor must also direct the Division of Emergency Management under the Department of Military Affairs to coordinate emergency management activities, per Wis. Stat. § [323.12 \(3\)](#).

The duties of the Division of Emergency Management and related personnel during an emergency are specified under Wis. Stat. ch. [323](#). Under Wis. Stat. § [323.13](#), the adjutant general must direct and coordinate emergency management activities. Under the adjutant general’s direction, the Wisconsin National Guard has performed a number of functions in response to the public health emergency, including transporting personal protective equipment, addressing personnel shortages at senior living facilities, and assisting in logistics for the spring election.¹²

DEPARTMENT OF NATURAL RESOURCES

Emergency orders. [EMO 17](#), issued by Governor Evers on March 27, authorizes the suspension of DNR’s administrative rule requiring a nutrient management plan under Wis. Adm. Code NR § [151.07 \(3\)](#). Under the order, DNR may suspend this requirement for small and medium non-permitted farms that seek permission to dispose of unused milk if the farmer (1) demonstrates to DNR’s satisfaction that the farmer does not have sufficient available storage capacity for unused milk; (2) demonstrates to DNR’s satisfaction that the farmer cannot comply with the current nutrient management plan when land-applying the milk; and (3) applies the milk in a manner that complies with all other applicable rules. This authority is valid for the duration of [Executive Order #72](#).

12. Army Captain Joe. Trovato, “[Wisconsin National Guard Takes on New COVID-19 Missions](#),” U.S. Department of Defense, April 2, 2020, <http://www.defense.gov>.

DEPARTMENT OF PUBLIC INSTRUCTION

Emergency orders. On March 13, DHS Secretary-designee Palm issued [EMO 1](#), ordering the closure of all public and private schools, effective March 18, with an anticipated reopening of April 6. On March 17, Secretary-designee Palm issued [EMO 5](#), extending the closure of public and private schools until the end of the public health emergency declared under [Executive Order #72](#), or until lifted by a subsequent order. Under [EMO 12](#), issued on March 24, schools must remain closed for pupil instruction and extracurricular activities, but may continue to be used for essential government functions and food distribution. The order specifies the duration of the school closures as lasting until 8 a.m. on April 24 or until a superseding order is issued.

Additionally, [EMO 10](#) suspends four of DPI's administrative rules:

- Wis. Admin. Code PI § [8.01 \(4\) \(b\) 1.](#) to [7.](#) and [\(c\)](#) allows DPI to more easily waive requirements relating to hours of direct pupil instruction. Normally, school boards must schedule and hold a certain number of hours of direct instruction over each school year.¹³ The suspended rules stipulate the procedure for acquiring a waiver from those requirements. Now, the waiver is a [simple online form](#).
- Wis. Admin. Code PI § [34.021 \(1\) \(d\)](#) allows students in teacher preparation programs to graduate on time without meeting certain testing requirements. Normally, students in teacher preparation programs must be tested on a “research-based performance assessment approved by the state superintendent.” The order suspends this requirement.
- Wis. Admin. Code PI § [35.07 \(1\) \(b\)](#) removes deadlines for choice schools to provide enrollment audits. Normally, schools in the Milwaukee school choice program must submit their January enrollment to DPI by May 1 or June 30.¹⁴ Under the order, the superintendent of public instruction can set new deadlines for these submissions. These enrollment statistics are used to determine how much these choice schools are owed for enrolling eligible pupils.¹⁵
- Wis. Admin. Code PI § [38.23 \(1\) \(a\)](#) suspends the deadline for school board applications for Four-Year-Old Kindergarten Grants. Under Wis. Stat. § [115.445](#), DPI distributes two-year grants to school boards for the implementation of four-year-old kindergarten. School boards must submit applications for these grants by the fourth Monday in March. The order suspends that deadline and allows the superintendent of public instruction to set new deadlines.

DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

Emergency orders. On March 27, Governor Evers and DHS Secretary-designee Palm issued [EMO 16](#), pertaining to the licensing and credentialing of health care professionals. The order authorizes interstate reciprocity so that out-of-state health care providers may practice in Wisconsin under certain conditions without first obtaining a temporary or permanent license from DSPS. Under the order, the requirements outlined in Wis. Admin. Code ch. Med [24](#) apply to physicians practicing telemedicine in the state regardless of whether they have been licensed by the Wisconsin Medical Examining Board.

13. Wis. Stat. § [121.02 \(1\) \(f\)](#) and Wis. Admin. Code PI § [8.01 \(2\) \(f\)](#)

14. The earlier deadline applies to schools that also participate in the Statewide and Racine choice programs.

15. Wis. Admin. Code. PI § [35.078 \(4\) \(a\)](#).

EMO 16 also extends the existing temporary licenses of certain health care providers for 30 days beyond the declared emergency, and it directs DSPS to identify and contact health care providers with recently expired licenses who may be eligible for renewal and may wish to return to the workforce during the declared emergency. Eligible providers who previously worked in “practice areas of need,” as determined by DSPS and DHS, are to be prioritized when conducting outreach under the order. The order also provides DSPS with discretion to suspend any fee or assessment provided for in administrative rules related to health care provider credentialing when there is a demonstrable need.

In addition to these measures, EMO 16 suspends various administrative rules related to the practice of telemedicine and the licensing or credentialing of physician assistants, nurses, and other health care providers. The following rules are suspended—fully or partially—under the order. These rules fall into five different categories within the order, as outlined below. A rule is fully suspended unless otherwise noted.

A. Temporary licenses

- Wis. Admin. Code Med § [3.04](#) sets practice limitations on holders of visiting physician licenses in Wisconsin.
 - Partially suspended with a companion order that eliminates practice limitations on holders of visiting physician licenses in Wisconsin.

B. Telemedicine

- Wis. Admin. Code Med §§ [24.04](#) and [24.07 \(1\) \(a\)](#) require physicians using telemedicine to treat patients in Wisconsin to be licensed by the Medical Examining Board.

C. Physician Assistants

- Wis. Admin. Code Med § [8.05 \(4\)](#) requires physician assistants to notify the Medical Examining Board within 20 days of any change to a supervising physician or podiatrist.
 - Partially suspended with a companion order that gives physician assistants 40 days to notify the board.
- Wis. Admin. Code Med § [8.07 \(1\)](#) establishes scope and limitations of physician assistant practice.
 - Partially suspended with a companion order that temporarily authorizes physician assistants to delegate tasks to other health care providers, provided that the health care providers have the experience, training, education, and capabilities to complete the tasks.
- Wis. Admin. Code Med § [8.07 \(3\)](#) requires a supervising physician or podiatrist to be readily identifiable by the physician assistant through procedures commonly employed in the physician assistant’s practice.
- Wis. Admin. Code Med § [8.10 \(1\)](#) prohibits supervising physicians or podiatrists from supervising more than four on-duty physician assistants at any time.
 - Partially suspended with a companion order that allows supervising physicians or podiatrists to supervise eight on-duty physician assistants at any time.

D. Nursing

- Wis. Admin. Code N § [1.08 \(5m\) \(b\)](#) limits utilization of simulation for more than 50 percent of nurse training clinical learning requirements.
- Wis. Admin. Code N § [2.31 \(3\)](#) requires nurses that are seeking temporary permits to have official transcripts submitted directly from the educational institution to DSPS.

- Wis. Admin. Code N § [2.34](#) sets the duration of temporary licenses.
 - Partially suspended with a companion order providing that an issued temporary license will remain valid until end of emergency or six months after availability of NCLEX, whichever occurs last.
- Wis. Admin. Code N § [2.40 \(2\) \(a\) to \(c\)](#) sets requirements for credential renewal within five years of expiration.
 - Partially suspended with a companion order that temporarily waives fees for credential renewals and eliminates the requirement that registered nurses complete the nursing workforce survey to the satisfaction of the Medical Examining Board.
- Wis. Admin. Code N § [2.40 \(3\) \(a\) to \(d\)](#) sets requirements for credential renewal after five years of expiration.
 - Partially suspended with a companion order that temporarily waives certain fees, eliminates the requirement that registered nurses complete the nursing workforce survey to the satisfaction of the Medical Examining Board, as well as the requirement that registered nurses complete a refresher course or provide documentation of employment as a registered nurse within the last five years.
- Wis. Admin. Code N § [8.10 \(2\)](#) and [\(7\)](#) requires advanced practice nurse prescribers work in collaborative relationships with at least one physician or dentist.

E. Recently Expired Credentials or Licenses

- Wis. Admin. Code Med § [14.06 \(2\) \(a\)](#) establishes requirements for renewal of a lapsed license from the Medical Examining Board within five years of expiration.
 - Partially suspended with a companion order that temporarily eliminates the requirement that health care providers licensed by the Medical Examining Board fulfill continuing education requirements prior to receiving a license renewal.
- Wis. Admin. Code Rad § [5.01 \(1\)](#) and [\(2\)](#) sets continuing education requirements for radiographers.
 - Partially suspended with a companion order that temporarily eliminates the requirement that radiographers and LXMO permit holders whose licenses or permits have expired meet continuing education requirements to receive license or permit renewals.
- Wis. Admin. Code MPSW § [1.08 \(2\)](#) sets requirements for those seeking to renew their credentials through the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board within five years of the expiration date.
 - Partially suspended with a companion order that temporarily eliminates the continuing education requirement and the late renewal fee.
- Wis. Admin. Code Psy § [4.06 \(1\)](#) sets requirements for those seeking to renew lapsed licenses through the Psychology Examining Board.
 - Partially suspended with a companion order that temporarily eliminates the requirement to complete 40 hours of continuing education within two years prior to renewal.
- Wis. Admin. Code Phar § [5.05 \(2\) \(a\)](#) and [\(b\)](#) sets requirements for license renewal for from the Pharmacy Examining Board within five years of expiration.
 - Partially suspended with a companion order that temporarily eliminates late renewal fees and continuing education requirements.

- Wis. Admin. Code Chir § [3.02 \(2\)](#) sets requirements for license renewal from the Chiropractic Examining Board within five years of expiration.
 - Partially suspended with a companion order that temporarily eliminates late renewal fees.
- Wis. Admin. Code DE § [2.03 \(5\) \(a\) 2. to 4.](#) establishes requirements for individuals seeking to renew their licenses through the Dentistry Examining Board within five years of expiration.
 - Partially suspended with a companion order that temporarily eliminates late renewal fees and certain other requirements.
- Wis. Admin. Code PT § [8.05 \(1\)](#) establishes requirements for license renewal from the Physical Therapy Examining Board within five years of expiration.
 - Partially suspended with a companion order that temporarily eliminates continuing education requirements.

[EMO 20](#), issued by Governor Evers and DHS Secretary-designee Palm on April 3, modifies several provisions of [EMO 16](#), relating to certain health care providers and DSPTS credentialing. Namely, the order modifies certain definitions provided under [EMO 16](#). Under the order, “health care provider” has the meaning given in Wis. Stat. § [146.81 \(1\) \(a\) to \(hp\)](#). This definition includes certain speech-language pathologists, audiologists, massage therapists, and bodywork therapists not included under [EMO 16](#). The order also modifies the meaning of “temporary license” to include an Interstate Reciprocity Temporary License.

Additionally, the order specifies that a health care provider must apply for a temporary or permanent health care license within 30 days of first working at a health care facility under the provisions of [EMO 16](#). The health care facility must notify DSPTS within 10 days of a health care provider practicing at its facility under the provisions of [EMO 16](#). Finally, a temporary license granted under this order, or any otherwise valid license that expires during the public health emergency, must remain valid for 30 days after the conclusion of the declared emergency. This provision takes effect retroactively to include licenses that were current before March 12 but have since expired. The order remains in effect for the duration of the public health emergency declared in [Executive Order #72](#).

[EMO 22](#), issued by Governor Evers on April 9, orders the suspension of several DSPTS administrative rules. Some suspensions are associated with companion order directives. Generally, these actions loosen time requirements related to inspections, permits, and plans, and eliminate in-person contact requirements that do not meet social distancing requirements provided under [EMO 12](#).

The following rules are fully suspended, unless noted, with companion orders indicated:

- Wis. Admin. Code PT § [5.01 \(2\) \(b\)](#) requires face-to-face contact with a physical therapist assistant at least every 14 calendar days as part of general supervision of physical therapist assistants, unless the physical therapy examining board approves another type of contact.
 - Partially suspended to eliminate requirement that contact be face-to-face.
- Wis. Admin. Code PT § [5.01 \(2\) \(h\)](#) requires on-site assessment and reevaluation of patient treatment as part of general supervision of physical therapist assistants.
 - Partially suspended to eliminate requirement that assessment and reevaluation of patient treatment be conducted on site.

- Wis. Admin. Code SPS § [320.09 \(11\)](#) requires approval or denial of certain permit applications for one- and two-family dwellings within 10 business days of receipt of all required application documents and completion of all other requirements.
 - Partially suspended to eliminate 10-day time requirement and instead require approval or denial within “a reasonable amount of time.”
- Wis. Admin. Code SPS § [361.41 \(1\) \(a\)](#) requires on-site inspections of public buildings and places of employment to be conducted within five business days following a request.
 - Partially suspended to eliminate five-day time requirement and instead require approval or denial within “a reasonable amount of time.”
- Wis. Admin. Code SPS § [361.41 \(3\)](#) requires inspection of a mausoleum to be conducted within 30 days of receiving notice of its construction or conversion.
 - Partially suspended to eliminate 30-day time requirement and instead require approval or denial within “a reasonable amount of time.”
- Wis. Admin. Code SPS § [318.1011 \(2\) \(b\)](#) requires permits for elevators, escalators, and lift devices to be issued within 10 business days of completing and filing an inspection report.
 - Partially suspended to eliminate 10-day time requirement and instead require issuance within “a reasonable amount of time.”
- Wis. Admin. Code SPS § [327.10 \(6\)](#) requires approval or denial of certain camping unit building permits within 10 business days of receipt of all materials necessary to process the application.
 - Partially suspended to eliminate 10-day time requirement and instead require approval or denial within “a reasonable amount of time.”
- Wis. Admin. Code SPS § [316.013 \(3\) \(c\) 1.](#) authorizes concealment or energizing of electrical wiring to proceed if inspection has not been completed within two businesses days after notification is received.
 - Companion order: A master electrician may issue an affidavit to the utility company in lieu of an inspection under Wis. Admin. Code SPS § 316.013 (3).
- Wis. Admin. Code SPS § [361.30 \(1\) \(b\)](#) provides exceptions to requirements for plan submittal and review under Wis. Admin. Code SPS § 361.30 (1), namely for certain single-story buildings and fire service drill towers.
 - Expanded to include buildings of critical need necessary for providing medical care in response to the public health emergency.
- Wis. Admin. Code SPS § [314.01 \(13\) \(b\) 3.](#) requires fire prevention inspections to be conducted at least once in each non-overlapping six-month period per calendar year.
 - Companion order: Any postponed inspections must be made up and prioritized after the conclusion of the public health emergency.
- Wis. Admin. Code SPS § [314.01 \(13\) \(c\)](#) requires each fire department to provide public fire education services.
 - Companion order: Public fire education services may be postponed during the public health emergency. Fire departments should continue to provide online and telephone fire prevention services, support, and resources, if available.

- Wis. Admin. Code SPS § [314.01 \(14\) \(c\)](#) establishes requirements related to fire department dues entitlement self-certification.
 - Companion order: Self-certifications for 2019 may be received until June 1, 2020.
- Wis. Admin. Code SPS § [318.1007 \(2\)](#) requires paper copies of plan submissions and permits electronic submission in a format acceptable to the department.
 - Partially suspended to require electronic submission of plans.
 - Companion order: Plans under various sections mandating submission of multiple copies of paper plans, specified in the order, may be e-mailed to addresses specified in the order.
- Wis. Admin. Code SPS § [361.31](#) relates to plan submissions.
 - Partially suspended to require electronic submission of plans.
 - Companion order: Plans under various sections mandating submission of multiple copies of paper plans, specified in the order, may be e-mailed to addresses specified in the order.
- Wis. Admin. Code SPS § [382.20 \(4\)](#) relates to plan submissions.
 - Partially suspended to require electronic submission of plans.
 - Companion order: Plans under various sections mandating submission of multiple copies of paper plans, specified in the order, may be e-mailed to addresses specified in the order.
- Wis. Admin. Code SPS § [383.22 \(2\)](#) relates to plan submissions.
 - Partially suspended to require electronic submission of plans.
 - Companion order: Plans under various sections mandating submission of multiple copies of paper plans, specified in the order, may be e-mailed to addresses specified in the order.
- Wis. Admin. Code Accy § [2.304](#) establishes requirements related to the uniform certified public accountant examination.
 - Partially suspended to extend certain time requirements from 18 months to 24 months.

DEPARTMENT OF TRANSPORTATION

Emergency orders. On March 14, Governor Evers issued [EMO 2](#), authorizing DOT to issue overweight permits for the transportation of inventory to supply grocery retailers affected by the COVID-19 pandemic. Overweight permits issued under the order are valid on all Wisconsin highways, including highways that are part of the national system of interstate and defense highways, but excluding Class II highways,¹⁶ bridges with posted weight limits, and local highways with posted special and seasonal weight limits. Overweight permits issued under the order may authorize operation of vehicles that exceed the statutory gross axle, gross axle combination, or gross vehicle weight limitations¹⁷ by no more than 10 percent and with a maximum gross weight of no more than 88,000 pounds. The order prohibits DOT from charging any fee for permits issued under this order. This authority expired on March 28.

EMO 2 authorizes the waiver of fees to obtain a 72-hour trip permit for vehicles traveling into Wis-

16. A Class II highway is one that, because of weakness of the roadbed due to deterioration or climatic conditions or other special or temporary condition, would likely be seriously damaged or destroyed in the absence of weight limitations. Wis. Stat. § [349.16 \(1\) \(a\)](#) and [DOT HMM 06-05-10](#).

17. See Wis. Stat. §§ [348.15](#) and [348.16](#).

consin that are not registered in Wisconsin¹⁸ or enrolled in the International Registration Plan¹⁹ or the International Fuel Tax Agreement.²⁰ This authority expired on March 28. EMO 2 also provides that interstate and intrastate carriers providing direct emergency relief to supply grocery retailers are relieved from motor carrier safety regulations under administrative rule and federal law.²¹ This relief is valid for the duration of the motor carrier's assistance in the relief effort, or until April 11, or for the duration of [Executive Order #72](#), whichever is less.

On March 27, Governor Evers and DHS Secretary-designee Palm issued [EMO 14](#), which extends DOT's authority to issue overweight permits for the transportation of inventory to supply grocery retailers affected by the COVID-19 pandemic, with the authority expiring on March 28. EMO 14 extends this authority to April 11. It also modifies EMO 2 to provide that overweight permits issued under the order are not valid on highways with Class B weight limit postings.²²

Governor Evers issued [EMO 24](#) on April 10, authorizing DOT to issue overweight permits and requiring DOT to waive related fees. Namely, DOT may issue permits for motor carriers in critical infrastructure service sectors, as identified by the U.S. Cybersecurity & Infrastructure Security Agency.

Permits issued under EMO 24 may authorize weights of not more than 12.5 percent greater than the gross single axle weight, gross axle group weight, or gross vehicle weight limitations specified under statute.²³ They may not authorize the operation of any vehicle or combination of vehicles with any single axle gross weight in excess of 22,500 pounds or a gross vehicle weight in excess of 90,000 pounds. Additionally, permits issued under [EMO 14](#) are automatically converted to permits under EMO 24. Permits issued under EMO 24 are valid on all Wisconsin highways, but are not valid on Class II highways, bridges with posted weight limits, local highways with posted special and seasonal weight limits, and class B highways.

EMO 24 extends and expands various expired provisions of [EMO 2](#), relieving certain carriers providing direct relief assistance from motor carrier safety regulations under administrative rule and federal law,²⁴ and waiving fees to obtain a 72-hour trip permit for certain vehicles traveling into Wisconsin.²⁵ These provisions are applicable to the entire group covered by EMO 24, rather than the group originally covered by [EMO 2](#).

Permits issued under EMO 24 are effective for the duration of the public health emergency declared in [Executive Order #72](#) and terminate upon its conclusion. Other provisions of the order also remain in effect until the conclusion of the declared public health emergency.

18. Wis. Stat. § [341.41 \(7\)](#).

19. Wis. Stat. § [341.405](#).

20. Wis. Stat. § [341.45 \(4g\)](#).

21. See Wis. Admin. Code chs. Trans. [325](#) and [327](#) for relevant administrative rule provisions and 49 C.F.R. §§ [390 to 399](#) for relevant federal regulations. Note that the relief from federal regulations is subject to 49 C.F.R. § [390.23](#), which establishes time limit and driver responsibilities for operating with relief from regulations.

22. Wis. Stat. §§ [348.16](#) and [349.15](#).

23. See Wis. Stat. § [348.15 \(3\) \(b\)](#) and [\(c\)](#).

24. See Wis. Admin. Code chs. Trans. [325](#) and [327](#) for relevant administrative rule provisions and 49 C.F.R. §§ [390 to 399](#) for relevant federal regulations.

25. Wis. Stat. §§ [341.405](#), [341.41 \(7\)](#), and [341.45 \(4g\)](#).

DEPARTMENT OF VETERANS AFFAIRS

Emergency orders. On April 9, Governor Evers issued [EMO 23](#), which suspends various rules related to the Assistance to Needy Veterans Grant (ANVG) program. The ANVG program provides aid to low-income veterans and their families in the form of health care grants and subsistence payments. The rule suspensions eliminate certain program restrictions as well as eligibility and application requirements to streamline and expand access to the ANVG program. Specifically, the following rules are fully or partially suspended under the order:

- Wis. Admin. Code VA § [2.01 \(1\) \(d\)](#) defines “available liquid assets” for the purposes of Wis. Admin. Code VA § [2.01 \(3\) \(c\)](#), which provides that DVA may approve a payment by a veteran as part of the total amount owed to a provider if the veteran has sufficient available liquid assets, among other conditions.
—Partially suspended to remove reference to cash value of life insurance policies and liquid investments, including stocks and bonds and amounts deposited in any retirement plans.
- Wis. Admin. Code VA § [2.01 \(1\) \(e\)](#) defines “declaration of aid” for the purposes of Wis. Admin. Code VA § [2.01 \(2\) \(a\)](#), which requires the submission of certain forms as part of an ANVG program application.
—Partially suspended to eliminate the requirement that the declaration of aid must be signed by an authorized county official.
- Wis. Admin. Code VA § [2.01 \(1\) \(i\)](#) defines “description of benefits” as a written determination that an applicant is eligible for health care aid or subsistence aid or both.
—Partially suspended to remove the 90-day expiration of a description of benefits.
- Wis. Admin. Code VA § [2.01 \(1\) \(k\)](#) defines “economic emergency” for the purpose of determining ANVG program eligibility.
- Wis. Admin. Code VA § [2.01 \(2\) \(a\)](#) establishes certain grant application requirements—including the verification of certain information on a declaration of aid form—and provides for application termination if certain requirements are not met.
—Partially suspended to eliminate requirement that an applicant submit a declaration of aid and any other documentation requested by the department and to eliminate the provision providing for application termination.
- Wis. Admin. Code VA § [2.01 \(2\) \(b\) 1.](#) establishes certain program eligibility requirements and restrictions.
—Partially suspended to eliminate the applicant income maximum, the 90-day window of care restriction, and the requirement that applicants submit an invoice.
- Wis. Admin. Code VA § [2.01 \(2\) \(b\) 3.](#) requires spouses and dependents claiming eligibility to provide certain proof of loss of income, including proof that an economic emergency has occurred during the service member’s activation or deployment.
—Partially suspended to eliminate proof of economic emergency requirement.
- Wis. Admin. Code VA § [2.01 \(3\) \(a\)](#) establishes certain limitations for health care aid provided under the program.
—Partially suspended to eliminate the following provision: A health care provider may provide health care within 90 days after DVA confirms that the applicant is eligible only after a description of benefits has been transmitted to the applicant or the county veterans service officer.

- Wis. Admin. Code VA § [2.01 \(3\) \(b\)](#) establishes certain limitations for subsistence aid payments provided under the program.
 - Partially suspended to eliminate requirement that an applicant must submit an application within 120 days after a verified loss of income.

DEPARTMENT OF WORKFORCE DEVELOPMENT

Emergency orders. On March 18, Governor Evers issued [EMO 7](#), directing DWD to apply certain exceptions to requirements for UI claimants. Namely, DWD must consider a claimant for UI available for suitable work under certain circumstances, including if the claimant is unable to return to work due to medical quarantine or perceived symptoms of COVID-19. DWD must also consider the same circumstances good cause for not reporting for an eligibility review under Wis. Admin. Code DWD § [128.03](#).

Additionally, the order creates an exemption to work-related eligibility requirements under Wis. Stat. § [108.04 \(1\) \(a\)](#) to [\(bm\)](#). Normally, an employee may be ineligible for benefits or subject to benefit reductions if an employer calls on the claimant to work and he or she is unavailable or unable to perform work. Under the order, no work is considered available when a public health emergency exists; additionally, an employee is not considered absent from work if quarantined or exhibiting COVID-19 symptoms that prevent the employee from reporting from work. In short, the order effectively exempts claimants from having to report for available work.

The order also effectively exempts claimants from work-search requirements under Wis. Admin. Code DWD § [127.01](#). Normally, a claimant must complete at least four work-search actions per week to be eligible for benefits. Under the order, the existence of a public health emergency constitutes four work-search actions for the purposes of meeting requirements under this section.

EMO 7 is effective for the duration of the public health emergency or until supplanted by rule promulgation. DWD filed a [statement of scope](#) on March 23 for a proposed emergency rule relating to this order. If the emergency rule goes into effect, it will supplant EMO 7.

On March 26, Governor Evers issued [EMO 13](#), temporarily waiving certain child labor permit requirements for minors who are 14 and 15 years old, under the authority of Wis. Stat. § [323.12 \(4\)](#). Specifically, the order made effective certain exceptions to child labor permits during a public health emergency, as specified in Wis. Admin. Code DWD § [270.05 \(2\)](#), provided employers meet certain requirements. In order to take advantage of this waiver, an employer must have all of the following before hiring the minor: proof of the minor's age; a written document, signed by the employer or an agent, that shows the employer's intent to hire the minor, including duties, hours, and time of day the minor will work, also signed by the minor's parent or guardian; and a copy of the minor's social security card. After obtaining this documentation, the employer is required to e-mail DWD with documentation and an attestation that the minor has begun work. Within 30 days of the conclusion of the public health emergency, employers are required to file a permit application on behalf of each minor employee hired and allowed to work, and make the required payment for the work permit.

OFFICE OF THE COMMISSIONER OF INSURANCE

Emergency orders. On March 27, Governor Evers and DHS Secretary-designee Palm issued [EMO 16](#), related to DSPS credentialing of various health care providers. The order directs OCI to work with health care providers practicing under the interstate reciprocity provisions of the order. It further directs OCI to continue working with malpractice insurance carriers to facilitate coverage outside traditional health care facility settings and with health insurers to minimize out-of-network barriers for insured patients seeking telemedicine services.

PUBLIC SERVICE COMMISSION

Emergency orders. Governor Evers issued [EMO 11](#) on March 22, suspending the following rules:

- Wis. Admin. Code PSC § [113.0301 \(1m\)](#) authorizes electrical utilities to disconnect or refuse residential connections for certain specified reasons.
- Wis. Admin. Code PSC § [113.0302 \(2\)](#) authorizes electrical utilities to disconnect or refuse commercial and farm connections for reasons unrelated to safety.
- Wis. Admin. Code PSC § [113.0402 \(1\) \(a\)](#) authorizes electrical utilities to require certain customers with unpaid balances to provide a cash deposit or other guarantee before providing new residential service to those customers.
 - Partially suspended to eliminate exceptions under which a utility may require a cash deposit or other guarantee as a condition of new residential service.
- Wis. Admin. Code PSC § [113.0404 \(1\)](#) makes it optional for electrical utilities to offer deferred payment agreements to nonresidential customers.
 - Partially suspended to eliminate requirement for a utility to offer deferred payment agreements to residential accounts only.
- Wis. Admin. Code PSC § [113.0406 \(1\) \(i\) 6.](#) prohibits electrical public utilities from waiving late fees.
- Wis. Admin. Code PSC § [113.0408 \(3\) \(a\)](#) authorizes electrical utilities to require applicants for service to provide documents proving identity and residency.
- Wis. Admin. Code PSC § [134.051 \(3\) \(a\)](#) authorizes gas utilities to require applicants for service to provide documents proving identity and residency.
- Wis. Admin. Code PSC § [134.061 \(1\) \(a\)](#) authorizes gas utilities to require certain customers with unpaid balances to provide a cash deposit or other guarantee before providing new residential service to those customers.
 - Partially suspended to eliminate exceptions under which a utility may require a cash deposit or other guarantee as a condition of new residential service.
- Wis. Admin. Code PSC § [134.062 \(1\)](#) authorizes gas utilities to disconnect or refuse residential connections for reasons unrelated to safety.
- Wis. Admin. Code PSC § [134.0622 \(2\)](#) authorizes gas utilities to disconnect or refuse commercial and farm connections for reasons unrelated to safety.

- Wis. Admin. Code PSC § [134.063 \(1\)](#) makes it optional for gas utilities to offer deferred payment agreements or budget payment plans to nonresidential customers.
 - Partially suspended to eliminate requirement for a utility to offer deferred payment agreements to residential accounts only.
- Wis. Admin. Code PSC § [134.13 \(1\) \(i\) 5.](#) prohibits gas utilities from waiving late fees.
- Wis. Admin. Code PSC § [185.30 \(3\) \(a\)](#) authorizes water utilities to require applicants for service to provide documents proving identity and residency.
- Wis. Admin. Code PSC § [185.33 \(16\)](#) makes it optional for water utilities to offer budget payment plans to nonresidential customers.
 - Partially suspended to eliminate requirement for a utility to offer budget payment plans to residential accounts only.
- Wis. Admin. Code PSC § [185.36 \(1\) \(a\)](#) authorizes water utilities to require certain customers with unpaid balances to provide a cash deposit or other guarantee before providing new residential service to those customers.
 - Partially suspended to eliminate exceptions under which a utility may require a cash deposit or other guarantee as a condition of new residential service.
- Wis. Admin. Code PSC § [185.37 \(2\)](#) authorizes water utilities to disconnect or refuse residential connections for reasons unrelated to safety.
- Wis. Admin. Code PSC § [185.38 \(1\)](#) requires water utilities to offer deferred payment agreements to residential accounts and encourages water utilities to provide such agreements to nonresidential accounts at their discretion.
 - Partially suspended to eliminate encouragement of water utilities to offer deferred payment agreements to nonresidential accounts at their discretion.

WISCONSIN ECONOMIC DEVELOPMENT CORPORATION

Emergency orders. [EMO 12](#), issued by DHS Secretary-designee Palm on March 24, stated that “non-essential business and operations must cease.” However, the order created a process by which businesses not considered “essential” under the order could apply to WEDC to request designation as such. Accordingly, WEDC began fielding requests from businesses to be designated “essential” following issuance of the order.²⁶

WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY

Emergency orders. Per [EMO 15](#), which bans the commencement of most eviction and foreclosure actions in general, WHEDA states that it will not proceed with any new foreclosure referrals.²⁷ For homeowners with WHEDA bond-supported mortgages, WHEDA states that “forbearance options . . . allow

26. Wisconsin Economic Development Corporation, “[Essential Business Designation Inquiry](#)” (form), first accessed March 24, 2020, <http://www.wedc.org>.

27. Wisconsin Housing and Economic Development Authority, “[WHEDA FAQs for Homeowners, Renters, Housing Providers in Response to COVID-19](#),” accessed April 1, 2020, <http://www.wheda.com>.

for reduced and/or suspended mortgage payments for a period of time followed up by a permanent loss mitigation option to bring the account current.”²⁸

LOCAL GOVERNMENT

Executive order 72. By statute, a declaration of emergency by the governor authorizes local governments to take certain actions under Wis. Stat. § [323.14 \(3\) \(b\)](#). Specifically, a local unit of government “may employ personnel, facilities, and other resources . . . to cope with the problems that resulted in the governor declaring the emergency.” Additionally, under Wis. Stat. § [66.0602 \(3\) \(e\) 8.](#), a political subdivision may exceed its levy limit in order to pay for unreimbursed expenses related to an emergency declared by the governor.²⁹ [Executive Order #72](#) placed these provisions into effect.

Emergency orders. [EMO 8](#), issued on March 20, restricts mass gatherings and permits any local law enforcement official, including sheriffs, to enforce the order.³⁰

[EMO 12](#), issued on March 24, supersedes [EMO 8](#). The order not only requires individuals to stay at home, but also requires the cessation of nonessential business and operations, and permits any local law enforcement official, including sheriffs, to enforce the order.³¹ Most importantly, the order supersedes local orders in conflict.³²

[EMO 15](#), issued on March 17, limits a sheriff’s actions with regard to evictions, foreclosures, and sheriff’s sales.³³

[EMO 19](#), issued on April 2, directs local health officers, as designated under Wis. Stat. § [251.06](#), to report the address of any person known to have tested positive for COVID-19 to any dispatch center that could receive a call for service at that address. Dispatch centers must provide the same information to any specified public safety personnel that makes a contact at such an address for a legitimate purpose related to public safety. Under the order, recipients of this information may use it for limited purposes and are prohibited from using it as a basis to refuse a call for service. Recipients must also ensure that this information remains confidential and is not disseminated over any open channel of communication accessible to other parties. The order remains effective for the duration of the public health emergency declared in [Executive Order #72](#).

Please note that governing bodies of local government units, as well as local health officers, possess certain statutory authorities relating to emergencies, independent of a declared state of emergency. Under Wis. Stat. § [323.11](#), the governing body of a local unit of government may declare an emergency within the borders of the local unit of government. Such a declaration confers upon the local unit of government “the general authority to order . . . whatever is necessary and expedient for the health, safety, protection,

28. Wisconsin Housing and Economic Development Authority, “[WHEDA FAQs for Homeowners, Renters, Housing Providers in Response to COVID-19](#),” accessed April 1, 2020, <http://www.wheda.com>.

29. Other cross-references under ch. 66 to a declared state of emergency under Wis. Stat. § 323.10 include §§ [66.03125 \(3\)](#), [66.0312 \(3\)](#), and [66.0314 \(2\) \(a\)](#).

30. [Emergency Order 8](#), Section 2.

31. [Emergency Order 12](#), Section 17.

32. [Emergency Order 12](#), Section 19.

33. [Emergency Order 15](#), Sections 8 and 9.

and welfare of persons and property within the local unit of government in the emergency,” including the power to “bar, restrict, or remove all unnecessary traffic, both vehicular and pedestrian, from the highways.”³⁴ Additionally, local health officers are authorized to exercise certain powers during an outbreak or epidemic, per Wis. Stat. ch. [252](#). Specifically, local health officers are required to “take all measures necessary to prevent, suppress and control communicable diseases” and “may do what is reasonable and necessary for the prevention and suppression of disease,” including “forbid[ding] public gatherings when deemed necessary to control outbreaks or epidemics,” as well as requiring the isolation or quarantining of certain patients. ■

34. Wis. Stat. § [323.14 \(4\)](#).