

ADMINISTRATIVE RULES – FISCAL ESTIMATE

1. Fiscal Estimate Version

[X] Original [] Updated [] Corrected

2. Administrative Rule Chapter Title and Number

DHS 12, 83, 88, 124, 127, 148, 165 relating to Caregiver Background Checks, Community-Based Resident Subject

To repeal DHS 12, Appendix A, DHS 124, Appendix A, and DHS 165, and to make corrections to DHS 12, 83, 88, 124, 127 and 148.

4. State Fiscal Effect:

[X] No Fiscal Effect [] Indeterminate [] Increase Existing Revenues [] Decrease Existing Revenues [] Increase Costs [] Decrease Costs [] Yes [] No May be possible to absorb within agency's budget.

5. Fund Sources Affected:

[] GPR [] FED [] PRO [] PRS [] SEG [] SEG-S

6. Affected Ch. 20, Stats. Appropriations:

7. Local Government Fiscal Effect:

[X] No Fiscal Effect [] Indeterminate [] Increase Revenues [] Decrease Revenues [] Increase Costs [] Decrease Costs

8. Local Government Units Affected:

[] Towns [] Villages [] Cities [] Counties [] School Districts [] WTCS Districts [] Others:

9. Private Sector Fiscal Effect (small businesses only):

[X] No Fiscal Effect [] Indeterminate [] Increase Revenues [] Decrease Revenues [] Yes [] No May have significant economic impact on a substantial number of small businesses [] Increase Costs [] Decrease Costs [] Yes [] No May have significant economic impact on a substantial number of small businesses

10. Types of Small Businesses Affected:

Not applicable.

11. Fiscal Analysis Summary

Similar to the legislature's need to periodically make corrections and minor revisions to the Wisconsin statutes, the Department must periodically make such revisions to the Department's section of the Wisconsin administrative rules. The changes made under this order are due to changes made to state law or rules and to correct or remove outdated rule provisions and cross-references and are intended to have little or no substantive effect on persons regulated by the rules.

Chapter DHS 12, Appendix A, is a list of Wisconsin crimes and other offenses that the legislature under s. 50.065, Stats., determined either require rehabilitation review approval before a person may work as a caregiver, reside as a non-client resident at or contract with an entity, or that act to permanently bar a person from receiving approval to be a foster parent. Over the years, the legislature has revised the crimes and offenses listed in s. 50.065, Stats., making Appendix A incomplete and outdated. To ensure

that the list of crimes and offenses listed by the department is available to the public in an accurate and timely manner, the department intends to repeal Appendix A and publish the list of crimes and offenses affecting caregiver eligibility on the department's website at dhs.wisconsin.gov. The department also intends to update the list of entities, as defined under s. 50.065, which are subject to the caregiver background law, clarify rule provisions and correct a cross-reference.

The department intends to amend ch. DHS 83 to clarify and correct certain provisions in this rule relating to health monitoring, administrator training, resident assessment, doors and construction type, make other minor changes and update charts, cross-references and links. The department also intends to update Appendix A to reflect current contact information.

The legislature, under 2007 Wisconsin Act 20, repealed ss. 50.033 (2r), (2s) and (2t), Stats., making the provisions in ss. DHS 88.06 (1) (a) 4. and (4) no longer valid. Chapter DHS 88.06 (1) (a) 4. and (4) requires an adult family home to provide information and referral of a prospective resident to the aging and disability resource center. The department intends to remove these requirements from ch. DHS 88, correct a cross reference and amend Appendix A to reflect current contact information.

Section DHS 124.14 (3) (a) 16. relating to anatomical gifts contains a cross-reference to s. DHS 124.05 (3) (i) 1. which was repealed in a recent revision of ch. DHS 124. Under this order, the department intends to correct the cross reference and refer to the patient's health agent as defined in s. 157.06 (2) (a), Stats. The department also intends to repeal the outdated standard in Appendix A, the Food and Nutrition Board, National Academy of Sciences, Recommended Daily Dietary Allowances, revised 1980 and amend the reference to the standard in DHS 124.16 (5) (c).

The legislature, under 1997 Wisconsin Act 252, repealed s. 49.45 (6r), Stats., making the definition of ambulatory surgical center at s. DHS 127.02 (2) no longer valid. Under this order, the department intends to adopt the federal definition given under 42 CFR 416.2, which defines an ambulatory surgical center (ASC) to mean any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization, has an agreement with the Centers of Medicare and Medicaid Services (CMS) to participate in Medicare as an ASC, and meets the conditions set forth in subparts B and C.

The legislature, under 2009 Wisconsin Act 142, removed certain barriers to donating prescription drug samples and expanded the drug repository program to allow individuals to donate unused prescription medications that are in the original packaging, not just drugs to treat cancer and other chronic diseases as previously specified. Under this order, the department intends to amend ch. DHS 148 to reflect these changes.

The department proposes to repeal ch. DHS 165 because the department has no statutory authority for the rule. In Wisconsin, laboratories are monitored under federal regulations contained in 42 CFR 493 and 42 CFR 1310 to 405.1317.

12. Long-Range Fiscal Implications

None known.

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