

STATEMENT OF SCOPE
WISCONSIN DEPARTMENT OF HEALTH SERVICES

CHAPTER: DHS 110

RELATING TO: Emergency medical services licensing, certification, and training requirements

RULE TYPE: Permanent

SCOPE TYPE: Revised

SUMMARY

I. Description of rule objective/s

The Department proposes to revise ch. DHS 110 to address conflict with various legislative enactments and to clarify or correct existing rule provisions in light of current practices and technology.

The proposed revisions include the following objectives:

- Revise naming conventions for emergency medical services (EMS) levels to comply with 2017 Wisconsin Act 12.
- Extend licensing from two years to three years to comply with 2017 Wisconsin Act 350.
- Clarify when criminal conviction history or arrest history substantially relate to the duties of an emergency medical services professional and affect an individual's licensure status or eligibility.
- Ensure consistency between statute and administrative rule on the reciprocity licensure process. Section 256.15 (7), Stats., allows for licensing personnel from other jurisdictions if the standards for those jurisdictions are at least substantially equivalent to Wisconsin standards. The current rule does not specifically identify what would make standards substantially similar to Wisconsin standards.
- Correct inconsistencies relating to the local credentialing agreement and clarify how the agreement relates to minimum ambulance staffing requirements. Explicitly state that a minimum ambulance crew must consist of at least two EMS practitioners credentialed to that ambulance service.
- Amend ambulance staffing requirements to comply with 2015 Wisconsin Act 113 and 2017 Wisconsin Act 97, and based on state and national staffing shortages of emergency medical service practitioners. Repeal the current two paramedic staffing requirement for paramedic services.
- Update sections relating to special event coverage to address evolving needs regarding special events. Create provisions addressing mass casualty incidents (MCI) and mass casualty incident planning for significant events. Require that the special event providers give adequate notice to the primary 9-1-1 ambulance service or obtain their approval. Create provisions to address mass casualty readiness and planning for large scale events because of the inherent risk of a mass casualty incident at a large scale gathering.
- Improve clarity and consistency between requirements for cardiopulmonary resuscitation (CPR), advanced cardiac life support (ACLS), and pediatric advanced life support (PALS), as they relate to initial licensing, license renewal, professional responsibility, and training center training

permits.

- Revise provisions relating to the service operational plan to meet evolving operational plan needs (updates will reflect transition of the operational plan from paper into an electronic format) and in response to several statutory changes affecting service operations since the last rule revision, including 2013 Wisconsin Act 200, 2015 Wisconsin Act 26, 2015 Wisconsin Act 83, 2015 Wisconsin Act 113, 2017 Wisconsin Act 66, and 2017 Wisconsin Act 97. 2013 Wisconsin Act 200 expands the use of opioid antagonists. 2015 Wisconsin Act 26 revises the number of times out of state ambulance service providers could originate and terminate patient transports within the state. 2015 Wisconsin Act 83 clarifies licensing exemptions for individuals and services licensed outside of Wisconsin that provide mutual aid within Wisconsin. 2015 Wisconsin Act 113 modifies ambulance staffing requirements to allow for the use of an emergency medical responder (EMR) for services meeting certain population requirements. 2017 Wisconsin Act 66 authorizes community emergency medical services and community paramedic programs. 2017 Wisconsin Act 97 allows rural services to utilize a flexible ambulance staffing model.
- Clarify Wisconsin ambulance run data system (WARDS) reporting requirement at the EMR level to indicate when reports are required.
- Clarify accreditation requirements for paramedic training to indicate when initial training for endorsements on a paramedic license must be completed at an accredited training center.
- Update WARDS reporting provisions to provide that any third party software used by a service must be National Emergency Medical Services Information System (NEMSIS) compliant so that it can interface with the state WARDS system. In addition, replace references to the obsolete WARDS database to the current WARDS Elite system.
- Update and create provisions relating to service medical direction and relating to responsibilities of medical directors in response to 2017 Wisconsin Act 66, which authorizes community EMS and community paramedicine. Medical direction for these programs will be substantially different from traditional EMS medical direction because it involves ongoing patient involvement in a non-emergency setting.
- Update provision on accepted Cardio Pulmonary Resuscitation (CPR) and automated external defibrillator (AED) training to ensure it reflects all organizations currently accepted to provide CPR and AED instruction for EMR and EMS practitioners.
- Revise local credentialing agreement in response to changes in the operational plan process. Repeal references to the first aid scope of practice in sections relating to the local credentialing agreement process, as first aid is not regulated by the EMS Section.
- Revise instructor II requirements to clarify instructor training, education, and certification requirements, and provide more specific guidance on what constitutes accepted equivalent instructor training. This section should include accepted equivalent instructor training and/or a definition of what equivalent instructor training would require under the rule.
- Repeal references to initial education for Intermediate level, as it is no longer being offered or supported by the National Registry of Emergency Medical Technicians.

- Ensure compliance with 2017 Wisconsin Act 96, by allowing community emergency services, community paramedicine, EMS, community EMS practitioners, and community paramedics.
- Ensure compliance with 2015 Wisconsin Act 113, by allowing emergency medical responders to staff ambulances in communities meeting specific size restrictions.
- Ensure compliance with 2017 Wisconsin Act 97, by allowing flexible staffing of rural ambulances.
- Allow tiered responses by ambulance services based on dispatch information. Currently, services are required to respond to all first out 9-1-1 calls at the level of their licensure, regardless of the nature of the call or the patient's condition. Allowing tiered response would enable services to send basic life support units on calls where dispatch information indicates the patient can be appropriately managed by basic life support.
- Ensure compliance with 2015 Wisconsin Act 26, by exempting certain out of state ambulance services from license requirements and correct provisions regarding the number of transports before a Wisconsin license is required.
- Clarify when a cross-border/interstate call is required to be entered into WARDS, including the addition of any necessary definitions.
- Ensure compliance with 2013 Wisconsin Act 200, by including provisions relating to opioid antagonists and training.
- Ensure compliance with 2017 Wisconsin Act 166, by allowing emergency medical responders and emergency medical service practitioners to render first aid to domestic animals.
- Clarify different types of licensed EMS service providers (9-1-1, interfacility, intercept, air medical, community EMS, tactical emergency medical services (TEMS), etc.). The current rule is unclear on how EMS service providers are licensed when providing multiple types of service. This change would provide better clarity for the Department as to how services should be licensed, allow services to demonstrate to the public the services they are licensed to provide, and improve data collection.

II. Existing policies relevant to the rule

The current rule contains provisions that require revisions in light of various new legislative enactments. These enactments affect naming conventions, licensing terms, staffing requirements, operational plans, community emergency services, ambulance staffing in communities meeting specific size restrictions, flexible staffing of rural ambulances, exempting certain out of state ambulance services from license requirements, opioid antagonists and training, and first aid to domestic animals.

In addition, the current rule contains provisions that require clarification or amendment in light of current practices. The Department proposes to clarify criminal conviction history or arrest history substantially related to the duties of an emergency medical services professional and effect on an individual's licensure status or eligibility.

III. Policies proposed to be included in the rule

The Department proposes to update naming conventions and extend licensing from two years to three years.

IV. Analysis of policy alternative

There are no viable policy alternatives, as the proposed revisions to ch. DHS 110 conform the rule to statute and clarify areas of ambiguity in the current rule.

V. Statutory authority for the rule

a. Explanation of authority to promulgate the proposed rule

The Department is authorized to promulgate the rule based upon explicit statutory language.

b. Statute/s that authorize/s the promulgation of the proposed rule

The Department is authorized to promulgate the rule based upon the following statutory sections:

Section 256.15 (13), Wis. Stats, reads:

RULES.

- (a) The department may promulgate rules necessary for administration of this section.
- (b) The department shall promulgate rules under subs. (8) (b), (c) and (e) and (8m).
- (c) The department shall promulgate rules that specify actions that emergency medical services practitioners may undertake after December 31, 1995, including rules that specify the required involvement of physicians in actions undertaken by emergency medical services practitioners.

Section 227.11 (2) (a), Wis. Stats reads:

Rule-making authority is expressly conferred on an agency as follows:

- i. Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:
 - 1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
 - 2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
 - 3. A statutory provision containing a specific standard, requirement, or threshold does not confer rule-making authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.
- ii. Each agency may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure.
- iii. Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating the policies as rules which the agency shall follow until they are amended or repealed. A rule promulgated in accordance with this paragraph is valid only to the extent that the agency has discretion to base an individual decision on the policy expressed in the rule.
- iv. An agency may promulgate rules implementing or interpreting a statute that it will enforce or administer after publication of the statute but prior to the statute's effective date. A rule

promulgated under this paragraph may not take effect prior to the effective date of the statute that it implements or interprets.

- v. An agency may not inform a member of the public in writing that a rule is or will be in effect unless the rule has been filed under s. 227.20 or unless the member of the public requests that information.

c. Statute/s or rule/s that will affect the proposed rule or be affected by it

2013 Wisconsin Act 200, 2015 Wisconsin Act 26, 2015 Wisconsin Act 83, 2015 Wisconsin Act 113, 2017 Wisconsin Act 12, 2017 Wisconsin Act 66, 2017 Wisconsin Act 97, 2017 Wisconsin Act 350

VI. Estimates of the amount of time that state employees will spend to develop the rule and other necessary resources

State employees are estimated to spend up to 2080 work hours developing the rule changes.

VII. Description of all of the entities that may be affected by the rule, including any local governmental units, businesses, economic sectors, or public utility ratepayers who may reasonably be anticipated to be affected by the rule

The proposed changes are anticipated to affect approximately eight hundred licensed ambulance services and emergency medical responders groups and approximately 17,619 individual licensed emergency medical service practitioners throughout the state.

VIII. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule

There appear to be no existing or proposed federal regulations that address the activities to be regulated by the proposed rule.

IX. Anticipated economic impact, locally or statewide

The proposed rule will have minimal or no economic impact.

X. Agency contacts

Division Administrative Rule Coordinator:

Susan Uttech

State Public Health Standards Director

(608) 267-3561

Susan.Uttech@dhs.wisconsin.gov

Project Lead:

Mark Mandler

EMS Regional Coordinator

(608) 266-8853

Mark.Mandler@dhs.wisconsin.gov