

Report From Agency

RULEMAKING REPORT TO LEGISLATURE

CLEARINGHOUSE RULE 18-014

Ch. DHS 140

Basis and Purpose of Proposed Rule

The department, through the Division of Public Health (DPH), oversees the provision of public health services throughout the state. It is the lead agency for public health and maintains the public health system in cooperation with local health departments and the 11 federally recognized tribes which operate health programs.

There are currently 86 local health departments in Wisconsin—a mix of county and city units—that are responsible for implementing public health programs and providing public health services at the community level. Local health departments are divided into 3 levels (I, II, and III) based on the number and type of services they provide. The number of LHDs at each level is fluid and may change as the current DHS 140 review process progresses. As of September 14, 2017, there were 3 Level I departments, 50 Level II departments and 33 Level III departments in Wisconsin.

Chapter DHS 140 specifies the required services for Levels I, II, and III local health departments, and additional required services for Level II and Level III local health departments. The required services include surveillance, investigation, control and prevention of communicable disease, other disease prevention, health promotion, and human health hazard and control. This chapter has not been updated since the rule was created in 1998. The field and science of public health have evolved, making the currently stated services outdated. The outdated required services in Chapter DHS 140 do not reflect modern services currently provided by local health departments within their jurisdictions. Additionally, some portions of the rule are unclear and are redundant.

The objective of the proposed rulemaking is to revise the required services of Levels I, II, and III local health departments. The department proposes this revision to clarify the rule, remove any duplication, and reflect current trends and practices in public health and required services of local health departments. Through this rule revision, Wisconsin statutes 250 and 251 are further defined and strengthened.

The proposed changes in required services are based on the Foundational Public Health Services Model, nationally recognized for modernizing public health practice. The model encompasses a basic set of public health services that should be made available in all jurisdictions. It consists of the following services essential to all health departments: assessment, all hazards preparedness and response, communications, policy development and support, community partnership development, organizational competencies, communicable disease control, chronic disease and injury prevention, environmental public health, maternal child and family health and access and linkage with clinical healthcare. Inclusion of the Foundational Public Health Services Model within Chapter DHS 140 lays a solid foundation of the minimum level of services for local health departments to protect and promote the health and safety of the people of Wisconsin.

The department also proposes to incorporate updated references, including the most recent public health agenda. Chapter DHS 140 includes numerous citations to a previous version of the state public health agenda, which are now outdated. It also incorporates concepts that align with nationally public health accreditation requirements.

The proposed rule change will impact local health departments. The impact is expected to be insignificant for most departments. There is no change to proposed Level I services as they are required by statute and current rule or are services that local health departments are already providing. The food safety and recreational licensing program was transferred from the Department of Health Services to the Department of Agriculture Trade and Consumer Protection. This transfer led to the necessity to remove the Level III food safety and recreational licensing requirement from Chapter DHS 140 which may result in a slight increase in the number of Level III local health departments.

No reasonable alternatives exist to the rulemaking. Without proposed revisions to Chapter DHS 140, the array of services provided by Wisconsin local health departments will be outdated and will fail to reflect current, national trends and practices in public health

Department Response to Legislative Council Rules Clearinghouse Recommendations

The Department has reviewed and accepted all Legislative Council Rules Clearinghouse Recommendations.

Final Regulatory Flexibility Analysis

The issues raised by each small business during the public hearing(s).

The proposed rules will not have an economic impact on small businesses.

Any changes in the rule as a result of an alternative suggested by a small business and the reasons for rejecting any of those alternatives.

N/A

The nature of any reports and estimated cost of their preparation by small businesses that must comply with the rule.

N/A

The nature and estimated costs of other measures and investments that will be required by small businesses in complying with the rule.

N/A

The reason for including or not including in the proposed rule any of the following methods for reducing the rule's impact on small businesses, including additional cost, if any, to the department for administering or enforcing a rule which includes methods for reducing the rule's impact on small businesses and the impact on public health, safety and welfare, if any, caused by including methods in rules

N/A

Changes to the Analysis or Fiscal Estimate/Economic Impact Analysis

Analysis

N/A

Fiscal Estimate/Economic Impact Analysis

N/A

Public Hearing Summary

The department began accepting public comments on the proposed rule via the Wisconsin Legislature Administrative Rules website, and through the Department's Administrative Rules Website on October 23, 2017. A public hearing was held on March 8, 2018, in Wisconsin Dells, WI. Public comments on the proposed rule were accepted until March 8, 2018

List of the persons who appeared or registered for or against the Proposed Rule at the Public Hearing.

Registrant	Position Taken (Support or Opposed)
Ann Christiansen	Support
Margaret Gesner	Support
Elizabeth "Lieske" Giese	Neither
Sara Baars	Neither

Summary of Public Comments to the Proposed Rule and the Agency’s response to those comments, and an explanation of any modification made in the proposed rule as a result of public comments or testimony received at the Public Hearing.

Rule Provision	Public Comment	Department Response
General	DHS received 16 comments regarding economic impact. It was determined that most comments were a result of misinterpretation of proposed rule language.	Current proposed rule language was reviewed and clarified to ensure there was not an economic impact to local health departments. There are no implementation costs associated with the rule promulgation. Revisions to chapter DHS 140 are expected to have no net fiscal or economic impact on the public health system in Wisconsin and on the Department. As local health departments change levels in response to the proposed designations, total funding provided from the state will remain constant, but reallocated proportionally among Level I, II, and III departments.
General	DHS received 57 constructive comments related to confusion on requirements for public health department leveling, language redundancy, and phrasing of proposed rule language.	The Department has updated the initial proposed rule text to clarify requirements of levels I, II, and III by incorporating “minimum services” into level I requirements and removing any redundancies.
General	DHS received 12 constructive comments related to clarification of terminology.	The Department clarified the proposed rule text to remove need for definition and included statutory references to already existing definitions.
General	DHS received 4 constructive comments related to inclusion of statutory references.	The Department revised proposed rule text to include statutory references to already existing definitions.
General	DHS received 7 constructive comments related the Level III environmental health services and agent status requirements.	The Department revised proposed rule text to allow more flexibility and broaden the scope of the environmental health services requirement of Level III health departments. Agent status requirements are outside of the scope of this rule revision. The food safety and recreational licensing program was transferred to the Department of Agriculture Trade and Consumer Protection. This transfer led to the necessity to remove the level III food safety and recreational licensing requirement.
General	DHS received 1 clarifying comment related to qualifications of a local health officer.	Statute 251.06(1)(c)2 includes public administration as a qualified health officer and includes reference to public health work. The intent is to keep this broad to allow for modernization of the public health workforce.
General	DHS received 2 clarifying comments related to voluntary public health accreditation.	The Department does not require voluntary public health accreditation to the Public Health Accreditation Board (PHAB). Accreditation is a set of national standards above the minimum requirements set forth by Wisconsin statute and administrative code.

General	DHS received 22 supportive comments for proposed rule language. Commenters were in favor of the inclusion of language that supports the modernization of public health through the foundational public health services model and better defines the concepts of: community health assessment and improvement planning, health equity, cultural responsiveness, partnerships, workforce development, quality improvement, performance management, the minimum requirements for public health nursing, and the focus on science and evidence-based practices.	
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Summary of Items Submitted with this Report to the Legislature

Below is a checklist of the items that are attached to or included in this report to the legislature under s. 227.19 (3), Stats.

Documents/Information	Included in Report	Attached	Not Applicable
Final proposed rule -- Rule Summary and Rule Text		X	
Department response to Rules Clearinghouse recommendations	X		
Final Regulatory Flexibility Analysis			X
Changes to the Analysis or Fiscal Estimate/Economic Impact Analysis			X
Public Hearing Summary	X		
List of Public Hearing Attendees and Commenters	X		
Summary of Public Comments and Department Responses	X		
Fiscal Estimate/Economic Impact Analysis		X	
Revised Fiscal Estimate/Economic Impact Analysis			X
Small Business Regulatory Review Board (SBRRB) statement, suggested changes, or other material, and reports made under s. 227.14 (2g), Stats. and Department's response			X
Department of Administration (DOA) report under s. 227.115 (2), Stats., on rules affecting housing			X
DOA report under s. 227.137 (6), Stats., on rules with economic impact of \$20 MM or more			X
Public Safety Commission (PSC) energy impact report under s. 227.117 (2), Stats. and the Department's response, including a description of changes made to the rule			X