

Report From Agency

RULEMAKING REPORT TO LEGISLATURE

CLEARINGHOUSE RULE CR 20-028

Ch. DHS 110

Basis and Purpose of Proposed Rule

The Department of Health Services ("The department") is required to administer a comprehensive statewide emergency medical services ("EMS") system including the education and training, licensure and certification, and operational requirements of both EMS practitioners and service providers. Requirements for education, training, licensure, certification, and operations are established in Ch. DHS 110. The department is directed by ss. 256.08 (4) (g) and 256.15 (6) (b) 2., Stats., to promulgate any rule changes necessary to implement recommendations from the emergency medical services board and by various legislative acts to promulgate rules to implement statute. The proposed changes to Chapter DHS 110 modify the administrative rule to conform to recent statutory changes with respect to the certification and licensing of individuals with criminal conviction records, licensing exemptions for out-of-state emergency medical service providers, the naming convention for all levels of emergency medical services professionals, and the transition from a two-year certification to a three-year certification and licensing cycle for emergency medical services providers and professionals of all levels.

The proposed changes also create new administrative rules in response to recent legislation for opioid antagonist training and licensing of community emergency medical service providers, community emergency medical services practitioners, and community paramedics.

The proposed changes increase consistency within the administrative rule regarding cardiopulmonary resuscitation requirements for initial and renewal certification and licensing of emergency medical services professionals. Additionally, the proposed changes add additional flexibility in ambulance staffing configurations and additional operational plan and special event plan requirements for emergency medical service providers. The proposed changes also update definitions and language throughout the administrative rule to conform to the common medical terminology or national standards.

Department Response to Legislative Council Rules Clearinghouse Recommendations

The proposed rule order was modified to accept all the recommendations from the Legislative Council Rules Clearinghouse.

Final Regulatory Flexibility Analysis

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

Public testimony in the public hearing was from individual members of the public, stakeholders and small business owners or leaders. No issues were raised by the small business owners/leaders who appeared at the public hearing

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.

No changes were made because the proposed rule will not have an economic impact on small businesses.

The nature of any reports and estimated cost of their preparation by small businesses that must comply with the rule. No reports or estimated costs were prepared because the proposed rule will not have an economic impact on small businesses.

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

There are no estimated costs or anticipated other measures or investments for small businesses because the proposed rule will not have an economic impact on small businesses.

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

None of these methods were contemplated because the proposed rule will not have an economic impact on small businesses.

Changes to the Analysis or Fiscal Estimate/Economic Impact Analysis

Analysis

Following receipt and review of the Legislative Council's recommendations, the department made the following changes to the analysis portion of the proposed rule order:

- Revised the caption analysis section formatting for consistency with the Administrative Rules Procedures Manual.
- Updated the statutory authority section to include s. 256.15 (6) (b) 2., Stats.
- Updated the plain language analysis section to include a more thorough explanation of the changes made to the proposed rule.
- Standardized the terminology used to reflect current statute throughout the proposed rule order.

Fiscal Estimate/Economic Impact Analysis

There were no changes made to the fiscal estimate/economic impact analysis as a result of the public hearing and economic impact commenting period.

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 5, 2020. A public hearing was held on October 21, 2020, in a virtual public hearing via Zoom. Public comments on the proposed rule were accepted until October 21, 2020.

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

Registrant	Position Taken (Support or Opposed)
Christopher Anderson representing the Professional Ambulance Association of Wisconsin	Supports the proposed revisions
Tom Fennell representing Mayo Clinic Ambulance Service	Opposes DHS 110. 34(8) regarding cross-state reporting
Frank Garritano	Proposed additional language regarding tactical EMS
Brian Litza representing Fox Valley Technical College and State EMS Board	Opposes predetermination of criminal history based on current staffing of EMS Section and time needed and added requirements for medical directors
Jerry Biggart representing Professional Fire Fighters of Wisconsin	Supports the proposed revisions
Nicole Fehringer	Opposes increase in initial and continuing education hours
Thomas Renz representing Barnes Ambulance	Opposes increase in training hours
Tim Bantes representing the Wisconsin State Fire Chiefs Association	Supports the proposed revisions but asked that the board certification requirement for medical directors be re-visited as it could cause a hardship on rural services
Mary Schneider	Opposes increase in educational hours
Paul Munns	Requested that state become part of the Mark King Initiative
Wanda Bauer	Supports additional education hours if it results in more skill proficiency
Irene Botts representing Barnes EMS	Opposes increase in educational hours
Phil Schneider representing Rusk County Ambulance	Opposes increase in educational hours
Greg West representing Waukesha County Technical College and Wisconsin EMS Board	Clarified the proposed rule does not reference an increase in initial education hours and that any proposed increase in continuing education hours is now for the three-year licensure period, not two. The hours are actually less per year than before.
Jay McDonald representing Red Cliff EMS	Supports increase in educational hours if it results in better prepared providers for rural setting

Nathan Riehl representing Black Creek Rescue Service	Opposes requirement for advanced cardiac life support for medical directors and AEMT
Dana Sechler representing the DHS 110 Advisory Committee	Supports proposed revisions, outlined the process the committee went through and noted the concerns expressed were valid but some fell outside the scope of the revision project.
Jim Baker representing Curtis Ambulance/Medix Ambulance	Opposes requirement for two years of experience to qualify for critical care paramedic. Recommends one year to match entry requirements for critical care training program.
Jack Mlnarik representing DePere Fire Department	Opposes proposed revision to DHS 110.50 and two-paramedic staffing. Supports eliminating this requirement entirely.

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
110.04(21e)	EMD is not a protocol or a policy but a process or system	Deleted "policy or protocol" and insert "process"
110.04(45)	"National standard curriculum is no longer used. Appropriate term would be "National EMS Education Standards".	Replaced all references to "national standard curriculum" with "National EMS Education Standards"
110.05(1)(c) and (d)	Felt to be unenforceable	Required by Wis. Stat. Ch. 256.15(2)
110.06(1)(f)	Believes criminal history predetermination is not possible in timely fashion for students and not possible given limited staffing in EMS Section	Language was added to be compliant with Wis. 2017 Act 278
110.066(b)	Believes this section is unenforceable.	Standard language for applications and self-attestations
110.07(1)(c)	Does not agree with the increase in continuing education hours	The proposal includes decreasing the hours for emergency medical responder from 18 to 16 hours, and increases for EMT from 30 to 40 hours, advanced EMT from 42 to 50 hours and paramedic from 48 to 60 hours. The licensure period has increased from two years to three years as of July 1, 2020, allowing the practitioner an additional 12 months to obtain the required hours. The EMS profession has continued to evolve over the years but the continuing education requirements have not kept pace.
110.088(2)(c)	Opposes two years of experience as a paramedic as prerequisite to critical care paramedic.	Experience requirement as a prerequisite to critical care paramedic removed based on public comment and the difficulty such a requirement would create for critical care training programs.
110.34(8)	Believes there should be a list of advanced skills for EMRs with documentation of all patient contacts in WARDS	A list of advanced skills could be developed and maintained by the EMS Section
110.34(9m)	Limit only to those patients who are picked up from a location in Wisconsin to avoid duplication of data in National EMS Information System	Data is de-duplicated by NEMSIS to avoid this issue. No change recommended.
110.41(1)(intro)	No list of accrediting bodies as mentioned in the rule	List of accrediting bodies to be developed and maintained by the EMS Section.
110.42	Add language regarding tactical EMS	Outside the statement of scope of work for this revision
110.49(1)(b)	Remove requirement of ACLS and PALS courses if medical director is board certified	Requirement of ACLS and PALS courses for board-eligible or board certified physicians is redundant and will be removed.
110.49(1)(c)	Needs to be consistent with 110.49(1)(b) and opposition to subspecialty requirement for medical directors	Language changed to be consistent and subspecialty requirement removed.
110.49(1)(f)	Recommend requiring medical director course only if not board eligible or board certified	Language changed to reflect required only if not board eligible or board certified.
110.49(1)(fm)	Opposes requirement for active practice in emergency department for EMS medical directors	Language removed based on public comment and difficulty for rural areas to meet.

110.50(1)(d)	Opposes two-paramedic rule revision as proposed. Believes it to be waste of valuable resources and should be eliminated.	Consensus of working group was to revise as proposed. No change recommended but believe this is an issue that is best addressed by the locality and not administrative rule.
110.50(2)	Correct typo	No typo found

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