

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original   <input type="checkbox"/> Updated   <input type="checkbox"/> Corrected</p>	<p>2. Date 11/07/2022</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DHS 34, 35, 36, 61, and 63</p>	
<p>4. Subject Allowing non-expiring certificates and biennial reporting and submission of fees</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR   <input type="checkbox"/> FED   <input type="checkbox"/> PRO   <input type="checkbox"/> PRS   <input type="checkbox"/> SEG   <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected Not applicable</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect   <input type="checkbox"/> Increase Existing Revenues   <input type="checkbox"/> Increase Costs   <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate   <input type="checkbox"/> Decrease Existing Revenues   <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy   <input checked="" type="checkbox"/> Specific Businesses/Sectors <input checked="" type="checkbox"/> Local Government Units   <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes   <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule Chapters DHS 34, 35, 36, 61 and 63 pertain to behavioral health services provided on emergency, outpatient, and community bases. Chapters 34, 35, 36 and 63 currently require a program to recertify every one, two, or three years, depending on the governing rule. Such recertification processes are a burden to the department and service providers due to their lack of uniformity and costs to implement. Chapter DHS 61 does not have certification language although it does have policies for decertification and certificate termination. The goal in modifying these rules are to create a more uniform, easy-to-apply standard and to reduce administrative burdens on the department and regulatory burdens on certified facilities. The department therefore proposes to revise these chapters to make certification requirements uniform, allow non-expiring certificates, and allow for biennial reporting and submission of fees.</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The department directly solicited comments on the economic impact of the proposed rule changes from a wide range of behavioral health providers, stakeholder advocates, county human services, and tribal leaders. Additionally, the department solicited comments on the economic impact of the proposed rule changes from all other parties interested in providing comments by publishing a solicitation for public comment in the Administrative Register and on the department's website running from 10/24/2022 until 11/7/2022.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The proposed rule changes pose minimal impact to behavioral health providers. Providers will have a reduced burden in recertification processes due to the implementation of non-expiring certificates and biennial reporting and submission of fees.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule</p>	

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The department proposes that the various recertification standards and requirements contained in chs. DHS 34, 35, 36, 61 and 63 be revised to create a new, uniform duration of certification for each rule specified which would remain valid until suspended or revoked by the department. Revising the rules in this manner will help align the department's other certification standards, which will further reduce regulatory and administrative burdens on the department and service providers. Additionally, the department proposes these rules be updated to require that, as a condition of retaining certification, all certified programs submit a biennial report and payment of certification continuation fees every 24 months, on a date determined by the department.

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16. Long Range Implications of Implementing the Rule

The proposed rule will simplify and streamline agency recertification processes for as long as this rule change remains in effect.

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17. Compare With Approaches Being Used by Federal Government

Not applicable. The federal government does not certify Wisconsin behavioral health programs.

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18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

Illinois law has a highly complicated array of requirements based on the type of program or facility. The state administrative code does not have consistency across certification requirements or processes.

Iowa:

There is a uniform accreditation process for all mental health agencies. This includes a provisional 270-day accreditation period. The state then performs a detailed review of the application, including an on-site performance compliance review. This review is scored and the length of accreditation is based on the score. A score of 80% or higher is granted a three-year accreditation. A score of 70-79% is granted a one-year accreditation with a corrective action plan. A score of 60-69% is granted a provisional 180-day accreditation. An agency is denied an accreditation if their score is below 59%.

Michigan:

Michigan Licensing and Regulatory Affairs grants licenses for substance use disorder programs and facilities which must be renewed annually by August 1. This is a uniform and streamlined online process. Mental health programs fall under separate authority and there is a more varied process based on the agency or program type.

Minnesota:

Minnesota statute requires licenses for residential and non-residential programs, however, there are many types of programs that do not require a license, including outpatient mental health services. The process therefore is based on program type and type of consumers served.

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19. Contact Name

Sarah Coyle, Division of Care and Treatment Services,  
sarah.coyle@dhs.wisconsin.gov

20. Contact Phone Number

608-266-2715

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### ATTACHMENT A

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule changes have the potential to impact behavioral health providers that are small businesses. These providers will have a minor reduction in recertification burdens and more streamlined reporting requirements under the proposed rule.

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

The department solicited the input of behavioral health providers, including small businesses, throughout the recertification proposed rule change process.

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

The goal in modifying these rules is to create a more uniform, easy-to-apply standard and to reduce administrative burdens on the department and regulatory burdens on certified facilities. The department therefore proposes to accomplish this through the following methods: make certification requirements uniform, allow non-expiring certificates, and allow for biennial reporting and submission of fees.

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5. Describe the Rule's Enforcement Provisions

The proposed rule changes will be enforced through standard Division of Quality Assurance program certification activities.

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes     No
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