

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF
DEPARTMENT OF SAFETY : SAFETY AND PROFESSIONAL
PROFESSIONAL SERVICES : SERVICES
: (CLEARINGHOUSE RULE 08-086)

ORDER

The Wisconsin Department of Safety and Professional Services (formerly the Department of Regulation and Licensing) proposes an order to create SPS 91.01(3) (k) and SPS 93.02 (4), relating to training and proficiency in the use of automated external defibrillators for licensure as a massage therapist or bodywork therapist.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 460.04 (2) (e), 460.05 (1) (i), 460.07(2) (d) Stats.,

Statutory authority:

Sections 227.11 (2) (a), and 460.04 (2) (e), Stats., 2007 Wisconsin Act 104

Explanation of agency authority:

Section 227.11 (2) (a) confers upon agencies general power to promulgate rules interpreting the provisions of statutes administered or enforced by an agency. 2007 Wisconsin Act 104 amends ch. 460, Stats., which regulates the profession of massage therapy and bodywork therapy. The Act requires the Department of Safety and Professional Services, formerly the Department of Regulation and Licensing, to promulgate administrative rules requiring initial applicants and renewal applicants to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial licensure or renewal. Therefore, the Department is authorized both generally and specifically to promulgate these proposed rules.

Related statute or rule:

Wis. Admin. Code §91.01 and §93.02

Plain language analysis:

The massage therapy and bodywork therapy administrative rules regarding application for licensure, reciprocal licensure and renewal do not have a requirement for training and proficiency in the use of automated external defibrillators (AED). This proposed rule-making implements 2007 Wisconsin Act 104, requiring initial applicants and renewal applicants for a massage therapist or bodywork therapist credential to be proficient in the use of AED's through the completion of an approved instruction program prior to initial licensure or renewal.

SECTION 1 creates a requirement for applicants for a massage therapist or bodywork therapist credential to be proficient in the use of automated external defibrillators AEDs through the completion of an approved instruction program prior to initial certification.

SECTION 2 creates a requirement for renewal applicants for a massage therapist or bodywork therapist credential to be proficient in the use of AEDs, through the completion of an approved instruction program. The requirement for renewal applicants is the same as the requirement for initial applicants.

Summary of, and comparison with, existing or proposed federal legislation:

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states:

Minnesota:

Minnesota maintains general oversight of the practice of massage therapy and body work through Minn. Stat. §146A, the Unlicensed Complementary and Alternative Health Care Practices Act. This act identifies body work, massage and massage therapy as encompassed within the, "broad domain of complementary and alternative healing methods and treatments". Minn. Stat. §146A.01 Subd. 4 Legislative oversight is administered through the Office of Unlicensed Complementary and Alternative Health Care Practice within the Department of Health. Although, massage therapy and bodywork practitioners are not required to obtain licensure, certification, or registration; the Office of Unlicensed Complementary and Alternative Health Care Practice may receive and investigate complaints and impose discipline.

Michigan:

Michigan does not require certification or training in the use of AEDs for licensure of massage therapists. Massage therapists are licensed under MCL 333.17957 of the Public Health Code.

Iowa:

Laws and rules for Iowa do not require automated external defibrillator (AED) training. One of the requirements for Iowa licensure is proof of current CPR and First Aid cards, chapter 131, 131.2(6) states: The applicant shall submit proof of completion of a cardiopulmonary resuscitation (CPR) course and a first-aid course that were certified by the American Red Cross, by the American Heart Association, or by the National Safety Council. One of the following shall be required:

- a. Official transcript documenting completion of a CPR class and a first-aid class within one year prior to submitting the application for licensure; or
- b. Copy of the current certification card(s) or renewal card(s).

Illinois:

Illinois does not require proficiency and training in the use of AEDs as a requirement for licensure and renewal of massage therapists. Massage Therapists are licensed under Title 68: Professions & Occupations: Chap. VII, Dept. of Financial and Professional Regulation, Subchapter B, Professions and Occupations Part 1284 Massage Licensing Act, ss. 1284.30 Application for Licensure and 1284.60 Renewals

Summary of factual data and analytical methodologies:

2007 Wisconsin Act 104 created a requirement for applicants for a credential as a massage therapist or bodywork therapist to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial certification. This requirement of the Act has been set forth in the newly created rule provisions as directed by the legislature.

Analysis and supporting documents used to determine effect on small business or in preparation of economic report:

Training for AED certification and renewal of certification varies. The American Red Cross Badger Chapter in Madison, Wisconsin offers adult CPR/AED classes for \$70.00. The certification is valid for two years. Although similar courses are offered by various providers, based on these figures, AED certification costs for a certified massage therapist could cost approximately \$70.00 for the certification biennium (initial biennium in which AED certification was achieved).

Anticipated costs incurred by the private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that this rule will require staff time in Board Services, Division of Management Services, Office of Exams, and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$3,032.

Effect on small business:

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Jeffrey.Weigand@wisconsin.gov or by calling (608) 266-9794.

Agency contact person:

Shawn Leatherwood, Paralegal, Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at Shancethea.Leatherwood@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Shawn Leatherwood, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to Shancethea.Leatherwood@wisconsin.gov. Comments must be received on or before _____, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. SPS 91.01 (3) (k) is created to read:

SPS 91.01 (3) (k) Has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38), Stats., to provide the instruction.

SECTION 2. SPS 93.02 (4) is created to read:

SPS 93.02 (4) Evidence satisfactory to the board that he or she has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38), Stats., to provide the instruction.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Date _____ Agency _____
Dave Ross, Secretary
Department of Safety and Professional Services

Date _____ Board _____
Elizabeth Krizenesky, Chairperson
Massage Therapy Bodywork Therapy Affiliated Examining Board

CHR 08-086 MTBT AED Requirement