

STATEMENT OF SCOPE

Department of Veterans Affairs

Rule No.: VA 18

Relating to: Education Assistance Program 45.50 (2m) (f)

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The proposed rule change relates to the Registered Nurse (RN) Education Stipend Program VA 18.

The purpose of the proposed rule is to convert the existing rule VA 18 to encompass all staff professional development. This rule change will create an application and approval process for the Licensed Practical Nurse (LPN) professional development and create a loan repayment system.

The Nurse Education Assistance Program will have two purposes, to provide stipends to those participants wishing to become an LPN or RN and establish a repayment plan for those who do not complete the program. The Legislative Audit Bureau (Report 11-3) recommended the Department develop and promulgate rules for: (1) the Licensed Practical Nurse Stipend Program that are similar to Ch. VA 18, Wis. Adm. Code, which governs the Registered Nurse Education Stipend Program; and (2) include application procedures, eligibility criteria, maximum stipend amounts, and repayment requirements for participants who do not fulfill their commitments.

The proposed rule change will allow those qualified and interested in becoming an LPN or RN to obtain education stipends, and have a repayment strategy for those who do not finish the education program. The Program will operate on an as needed basis determined by the Secretary and be titled the Nurse Education Assistance Program.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Chapter VA 18, The Registered Nurse Education Stipend Program, currently provides stipends to both LPNs and RNs. This program gives state funds to enable veteran homes to facilitate recruitment and retention of nursing staff. The retention of experienced nursing staff helps to ensure the provision of quality care to nursing home residents, reduces the Department's recruiting and training costs, and facilitates the efficient operation of the veteran homes. Chapter VA 18 lays out the program in its entirety but only mentions RNs and not LPNs.

The Department proposes to open this program to all prospective LPNs and RNs alike. Amended Chapter VA 18 would include the accompanying application procedures, eligibility criteria, maximum stipend amounts, and repayment requirements for participants who do not fulfill their commitments. Chapter VA 18 would also include a repayment plan to collect unpaid debts from program participants who failed to complete the program. The Education Repayment plan is for collecting debts from former employees, and program participants who are required to repay their stipends.

The Legislative Audit Bureau (LAB) recommended that the rules be promulgated. However, there are numerous ways to structure a program to achieve the statutory purpose. The goals are staff development and retention; accordingly, possible policy alternatives could open up the program to interested persons outside the homes employment, and/or run for a different time period with different rates for reimbursement.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 45.50 (2m)(f), Stats., permits the Department of Veteran Affairs to develop a program to provide stipends to individuals to attend school and receive the necessary credentials to become employed at veterans homes. It further requires the department to promulgate rules related to the program, including the application process, eligibility criteria, stipend amount, repayment provisions, and other provisions that the department determines are necessary to administer the program.

Section 227.10(1), Stats., directs each agency to promulgate as a rule each statement of policy to govern its enforcement and interpretation of a statute.

Section 227.10 (2m), Stats., directs each agency to promulgate rules for the implementation or enforcement of any standard, requirement, or threshold.

Under s. 230.046, Stats., entitled, "Training programs," which applies to current state employees, it states in pertinent part:

(1) Declaration of policy. In order to promote efficiency and economy in the operation of the state government, to provide means for the development of maximum proficiency by employees thereof, to establish and maintain the highest standards of performance in the transaction of the state's business...it is necessary and desirable in the public interest that self-improvement be supplemented and extended by state-sponsored training programs. The objective of these programs is to develop skills, knowledge, and abilities which will best qualify state employees for effective performance of their official duties, and to retain skilled and efficient state employees in order to continually improve the quality of public service. ...

(3) Training programs. Each appointing authority may do any of the following:

(a) Provide off-the-job specialized training courses during working hours to designated employees without loss of pay.

(b) Provide specialized training to qualified persons through educational stipends in lieu of pay, but in no event shall a monthly stipend exceed the minimum pay of the position for which training is undertaken. ...

(5) Initiation of programs. Unless otherwise empowered by law, any agency desiring to initiate a training program under sub. (3) shall ensure that:

(a) Unencumbered appropriated funds are available or funds have been so provided by the joint committee on finance;

(b) Training costs estimated to exceed \$500, excluding the compensation of participants, have been included in the budget and approved by the legislature or the joint committee on finance, and such costs will be encumbered for training purposes on the records of the agency;

(c) An agreement has been entered into by the trainee and the appointing authority relative to employment with the state, together with such other terms and conditions as may be necessary under the rules of the director whenever on-the-job trainees are employed; and

(d) The immediate and necessary work requirements of the agency will not be seriously handicapped because of such training program.

Under Wisconsin Administrative Code, § ER 44.06, entitled, "Tuition and fees refund program," it states in pertinent part:

When an employee participates in employee training and educational activities with the prior approval of the appointing authority, the following minimum standards for refund of tuition, necessary fees and time off from work shall apply:

(1) Job-related training and educational activities. Attendance of employees at job-related training and educational activities shall be without loss of pay and shall be at the employer's expense.

(2) Career-related training and educational activities. Upon successful completion of career-related training and educational activities, the employer may reimburse the employee for tuition, registration fees, laboratory costs, books and required student fees, except those fees paid for student activity, health or athletic events. The reimbursement level shall be agreed upon prior to attendance at the activity. Time off for career-related training and educational activities may be granted without loss of pay or taken as authorized accrued leave or compensatory time off, or may be accommodated through the use of alternative work patterns.

(3) Personal development training and educational activities. When an employee's objectives are to engage in training or education related to personal development training and educational activities, the employer shall not reimburse the employee for any cost associated with these activities. Time off for personal development training and educational activities may be granted by the appointing authority. If granted, such time off shall be without pay, taken as authorized accrued leave or compensatory time off, or may be accommodated through the use of alternative work patterns.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

Approximately 120 hours of the Department of Veterans Affairs staff time will be needed to develop rule.

6. List with description of all entities that may be affected by the proposed rule :

Entities that may be affected by proposed rule amendment will be individuals who apply to the stipend programs, administration, program coordinator, designated supervisors, members of the Review/Selection committees and veterans homes.

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

The stipend program is entirely administered under the authority of state law. There is no existing or proposed federal regulation that has any bearing upon the proposed rule.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

No new impact. The program is already implemented the rule changes just cement these existing policies.

Contact Person: Kelly Brady, paralegal, Office of Legal Counsel, Department of Veterans Affairs, 608-266-0518, Kelly.Brady@dva.wisconsin.gov.