

## 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 08/20/19</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Section DHS 75.15 (9) (a) -- Community Substance Abuse Service Standards</p>	
<p>4. Subject Repeal current prohibition of Opiate Treatment Providers from also providing non-narcotic treatment-based medical services.</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 N/A</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 type="checkbox"/> Local Government Units   <input type="checkbox"/> Public Utility Rate Payers <input 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 Wisconsin is in the midst of a growing crisis related to the misuse of opioids. There is an urgent need to address this crisis by repealing the current provision that limits the type of medical service providers that may seek certification as Opiate Treatment Providers (OTPs) to provide substance abuse prevention, intervention, and treatment-related narcotic services to individuals with opioid use disorders throughout all geographic regions of Wisconsin. There is presently a significant need for OTPs in the northern and western regions of Wisconsin. A map of the current OTPs and additional related information is available at <a href="https://www.dhs.wisconsin.gov/opioids/find-treatment.htm">https://www.dhs.wisconsin.gov/opioids/find-treatment.htm</a>.</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. From October 22, 2018 through November 5, 2018, the department solicited information and comments from various business entities and other groups on the fiscal and economic impact of the proposed repeal of s. DHS 75.15 (9) (a). Entities, sectors, and groups that may be affected by the proposed rule and were contacted for comments include: consumers of substance use disorder services and their family members; organizations that represent consumers of substance use disorder services; Wisconsin county and tribal agencies that provide substance use disorder services; substance use treatment providers that receive funding under ch. 51, Wis. Stats. and that are governed or certified under ch. DHS 75; other professionals involved in substance use disorder prevention, treatment and recovery services; and healthcare insurers and health care provider organizations and associations. The solicitation was published in the Administrative Register on October 22, 2018. In addition, the solicitation and a draft of the proposed rule were published on the department's administrative rules website (<a href="https://dhs.wisconsin.gov/rules/permanent.htm">https://dhs.wisconsin.gov/rules/permanent.htm</a>).</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. On October 22, 2018, the department posted the proposed rule order to the department's administrative rules website (<a href="https://www.dhs.wisconsin.gov/rules/permanent.htm">https://www.dhs.wisconsin.gov/rules/permanent.htm</a>), to solicit comments on the fiscal and economic impact of the proposed rule from stakeholders. The comment period ran from October 22, 2018 through November 5, 2018. The</p>	

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department received no comments on the economic impact of this proposed rule either via SurveyGizmo on the administrative rule website or through emails submitted to Division of Care & Treatment Services staff. No local governmental units participated in the development of this economic impact analysis.

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### 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 is anticipated to have no economic or fiscal impact in terms of costs imposed on narcotic treatment and other substance use disorder service providers. The proposed rule is expected to create business and service opportunities for additional medical service providers in the substance use disorder field.

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### 15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Repealing s. DHS 75.15 (9) (a) will permit a wider array of medical providers to seek certification under ch. DHS 75 as OTPs, enabling more providers to offer narcotic-based treatment to persons with substance use disorders. No reasonable alternative exists to implementing the proposed repeal as a joint emergency/permanent rulemaking initiative. While the department could combine the repeal of s. DHS 75.15 (9) (a) during a more comprehensive revision of ch. DHS 75, the complexity and scope of this large-scale rulemaking project would require much greater time to elapse before the repeal would be effected, leaving the current opioid crisis unaddressed. Furthermore, the department could continue to promote awareness of the need for additional medical service entities to provide narcotic-based medication assisted treatment. However, the existence of s. DHS 75.15 (9) (a) would continue to constitute a barrier for many providers that would otherwise seek certification as an OTP.

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### 16. Long Range Implications of Implementing the Rule

The department anticipates that additional medical service providers in the substance use disorder field will seek certification as OTPs to provide medication and other narcotic-related treatment and services to persons with opioid use disorders, particularly in the northern and western regions of Wisconsin. The expansion is needed to more effectively and comprehensively address the growing crisis of opioid misuse statewide.

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### 17. Compare With Approaches Being Used by Federal Government

Under 21 C.F.R. Section 291 and 42 C.F.R. Sec. 8, medical providers may seek federal certification as an Opiate Treatment Program (OTP). The January 2015 Federal Guidelines for Opioid Treatment Programs, Substance Abuse and Mental Health Services Administration, page 43, states, "It is highly recommended, but not required, that OTPs provide basic primary care onsite. OTP physicians can prescribe medication as appropriate for co-occurring medical and psychiatric disorders." See <https://store.samhsa.gov/system/files/pep15-fedguideotp.pdf>.

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

Illinois: Section 2060.413 of the Illinois Administrative Code governs medical services. Part 2060 of the Administrative Code addresses alcoholism and substance abuse treatment and intervention licenses. Subsection 2060.413 (h) (1) states that any treatment service that uses methadone or LAAM for the treatment of opioid addiction shall comply with the provisions of 21 C.F.R § 291.505. Subsection 2060.413 (h) (3) states that organizations shall obtain prior written approval from the state department of human services for exceptions as referenced in 21 C.F.R § 505 relative to more than a three day supply of take-home medication and shall utilize the Department's Schedule H when requesting such exceptions. (See Section 2060.413, subs (h) (1) and (h) (3), Illinois Administrative Code.)

Iowa does not appear to have an administrative rule addressing whether entities that provide treatment-related narcotic services can also provide medical services not directly related to narcotic treatment.

Michigan does not appear to have an administrative rule addressing whether entities that provide treatment-related narcotic services can also provide medical services not directly related to narcotic treatment.

Minnesota: Section 245G.08 within Chapter 245G (Chemical Dependency Licensed Treatment Facilities) of Minnesota's statutes addresses medical services. Subdivision 3, Standing order protocol, states that a health care services license holder that maintains a supply of naloxone available for emergency treatment of opioid overdose must have a written

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standing order protocol by a physical licensed under chapter 147 of the state statutes, that permits license holder to maintain a supply of naloxone on site. Subdivision 4, Consultation services, states that a license holder must have access to and document the availability of a licensed mental health professional to provide diagnostic assessment and treatment planning assistance. Under Subdivision 5, a license holder must meet the requirements in this subdivision if a service provided includes the administration of medication. See 245G.08, Subd (3), (4), and (5), 2018 Minnesota Statutes.

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19. Contact Name

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20. Contact Phone Number

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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)

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

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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

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5. Describe the Rule's Enforcement Provisions

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

- Yes    No
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