

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<b>1. Type of Estimate and Analysis</b> <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	<b>2. Date</b> 6/19/19
<b>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)</b> DHS 131Hospices	
<b>4. Subject</b> Hospices	
<b>5. Fund Sources Affected</b> <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	<b>6. Chapter 20, Stats. Appropriations Affected</b> N/A
<b>7. Fiscal Effect of Implementing the Rule</b> <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	
<b>8. The Rule Will Impact the Following (Check All That Apply)</b> <input type="checkbox"/> State's Economy <input 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 <b>(if checked, complete Attachment A)</b>	
<b>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).</b> \$0	
<b>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)?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>11. Policy Problem Addressed by the Rule</b> <p>Prior to 2015 Wisconsin Act 55 ("Act 55"), hospices were required to submit a fee and request for plan review to the Department of Safety and Professional Services (DSPS) for any capital construction or remodeling of structures owned or leased for operation of a hospice. Act 55 created s. 50.92 (3m), Stats., which assigned this responsibility to the Department of Health Services ("department") and directed the department to promulgate rules establishing a fee schedule for plan reviews. The department proposed to revise the rule to establish a fee schedule for plan reviews and to update, correct, or remove any outdated rule provisions or cross-references. In addition, the department proposes to update outdated standards relating to discharge planning, patient assessment, physician's orders, bereavement services and physical environment.</p>	
<b>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.</b> <p>Wisconsin has 84 hospices that may be affected by this rule. Seventy-three are federally certified for Medicare, 11 are state licensed only. The department formed an Advisory Committee consisting of hospice administrators, the President of the Hospice Organizations Palliative Experts (HOPE) of Wisconsin. Members of the Advisory Committee were approved by the Governor's Office of Regulatory Compliance. The public was notified of all Advisory Committee meetings pursuant to Wisconsin's Open Meetings law. Committee members reviewed the initial draft and their comments guided the development of the proposed rule. In addition, the department requested comments on the economic impact of the proposed rule by publishing a solicitation in the Administrative Register and on its website.</p>	
<b>13. Identify the Local Governmental Units that Participated in the Development of this EIA.</b> None.	
<b>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)</b>	

## **ADMINISTRATIVE RULES**

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There will be a fiscal impact on new hospices or current hospices who choose to significantly remodel the hospice.

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

The rule will comply with 2015 Wisconsin Act 55 and strengthen the department's ability to ensure the health and safety of patients residing in hospices.

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

The rule will comply with 2015 Wisconsin Act 55 and strengthen the department's ability to ensure the health and safety of patients residing in hospices.

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

Title 42 CFR 418 contains the Federal Medicare Hospice Conditions of Participation. These regulations establish conditions and standards for the operation of hospices that primarily provide palliative and supportive care to an individual with terminal illness where he or she lives and if necessary arranges for or provides short-term inpatient care and treatment or respite care. State regulations are comparable and the intent of these regulations is to foster safe and adequate care and treatment of patients by hospice agencies. There are no federal regulations governing plan review.

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

##### Illinois:

Illinois licensure law for hospices is found in Title 77, Chapter I, subchapter b, Part 280 Hospice Programs. Illinois State Code requires that all hospices be licensed and offer the required services of nursing, medical social work, spiritual counseling, bereavement and volunteer services. These services must be available on a 24-hour basis to the extent necessary to meet the needs of individuals for care that is reasonable and necessary for the palliation and management of terminal illness and related conditions. A hospice patient's plan of care must be established and maintained for each individual admitted to a hospice program and the services provided to an individual must be in accordance with the person's plan of care. Bereavement services may be coordinated with the family's clergy, if any, as well as with the other community resources judged by the hospice care team to be useful to the family unless the family declines. The hospice must ensure that each patient has an attending physician. The hospice program must have each patient or his or her representative complete and sign a form indicating the name of the attending physician responsible for the patient's care. Hospices that provide residential services must submit drawings for the proposed hospice residence for review and must be in compliance with the requirements of the NFPA 101, Chapter 33, Existing Board and Care Occupancies. Hospice must be in full compliance with the local building codes and fire safety protection requirements. Additional standards are provided related to exits, number of patients per bedroom, toilet and bathroom facilities, isolation areas, waste disposal, water supply, sewage disposal and plumbing systems.

##### Iowa:

Iowa hospice regulations consist of Iowa Administrative Code 481, Chapter 53 Hospice License Standards. Services provided to the hospice patient and his or her family include, nursing services, patient care coordination, social services, counselling services, volunteer services, spiritual counseling and bereavement services. The patient or family must designate an attending physician who is responsible for managing necessary medical care. The attending physician is responsible for the medical component of the plan of care, participating in developing and revising the plan of care, arranging for continuity of the medical management and monitoring the condition of the patient and family. Prior to or on the day of admission the attending physician and at least one member of the interdisciplinary team must develop a initial plan based on the needs of the patient and family. Within seven days of admission the interdisciplinary team must assess the needs of the patient and family and develop a comprehensive written plan of care. Bereavement services must

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be available to each family after the death of the patient and must be provided in accordance with family needs. Bereavement series must include identification of the types of help or intervention to be provided, contact with the family after the death as requested by their needs as documented in the plan of care, a process to assess family reaction and hospice referrals for intervention deemed appropriate.

### Michigan:

Michigan regulates hospices in Hospice and Hospice Residences R 325. At the time of admission to a hospice, the patient must be under the care of a physician who is responsible for providing for medical care. The hospice must enter all physician orders and services rendered in the patient and family record. The hospice registered nurse must complete an initial assessment of the patient's condition within 48 hours after the election of hospice care. The interdisciplinary group must complete a comprehensive assessment no later than 5 calendar days after the election of hospice care and identify the patient's immediate physical, psychosocial, emotional and spiritual needs. The development of comprehensive patient care plan of care for each hospice patient and family must commence within 24 hours of admission. Bereavement and spiritual services must be available 7 days a week and must be available to the family for not less than 13 months following the death of the patient. All plans, specification and operation narratives of new buildings, additions, major building changes and conversion of existing facilities to use as a hospice residence shall be submitted to the Department of Licensing and Regulatory Affairs for review to assure compliance with the laws and rules for Hospice and Hospice Residences. The Department of Licensing and Regulatory Affairs must approve plans and specifications if they meet the requirements of section 20145 of the code, MCL 333.20145, and these rules for Hospice and Hospice Residences. Construction of new buildings, additions and major building changes and conversion may not begin until the plans and specification have been approved by the department and a construction permit has been issued for the construction to begin. Additional standards are provided for resident bedrooms, light fixtures, toilet and bathing facility, nurse call system and isolation rooms. The water system, and the disposal of sewage and liquid and solid waste must be in compliance with state regulation. Fire safety and disaster planning must comply with sections 20156 and 21413 (3) (c) of 1978 PA 368, MCL 333.20156 and 333.20156 and 333.21413 (3) (c).

### Minnesota:

Minnesota regulates hospices in Minn. Stat. § 4664. No hospice may accept a person as a hospice patient unless the licensee has staff sufficient to qualifications and numbers to adequately provide hospice services. If the licensee discharges or transfers a hospice patient the reason for the discharge or transfer must be documented in the clinical record and include the reason why the transfer is necessary and why the patient's needs cannot be met by the hospice. A written notice must be given to the patient or responsible person at least ten days in advance of termination of services. The hospice provider must ensure that each hospice patient and hospice patient's family has a current assessment. The assessment must address the physical, nutritional, emotional, social, spiritual, pain, symptom management, medication and social needs of the hospice patient and hospice patient's family during the final stages of illness, dying and bereavement. Counseling services must be adequate in frequency to meet the needs of the patient and the patient's family. The hospice provider must provide a planned program of supportive services and bereavement counseling under the supervision of a qualified professional according to the qualifications identified by hospice policy. The service must be available to families following the death of the hospice patient. Physical services must be available and adequate in frequency to meet the general medical needs of the hospice patient to the extent that these needs are not met by the attending physician.

19. Contact Name Pat Benesh	20. Contact Phone Number 608 264-9896
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This document can be made available in alternate formats to individuals with disabilities upon request.

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

### 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)

2015 Wisconsin Act 55 created s. 50.92 (3m), Stats., which assigned the responsibility for plan review to the department and directed the department to promulgate rules establishing a fee schedule for plan reviews. DHS 131 is revised to establish a fee schedule for plan reviews. These provisions will have no fiscal impact on current providers.

DHS proposes to adopt the current Department of Safety and Professional Services (DSPS) plan review fee table without a multiplier to cover the DHS plan review cost of the Wisconsin Commercial Building Code. Using the DSPS fee table recognizes the similar scope of the DHS review. DHS further proposes to maintain a separate fee table to cover the additional costs associated with plan review for the physical environment requirements in DHS 124 and the Life Safety Code. The fee table includes cost ranges with decrease fees for smaller projects with the bulk of the revenue coming from projects costing \$1 million or more. This proposal meets the Department's goals of covering program costs and maintaining a minimal cash balance.

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses  
The department used the following sources to draft the rules:

1. The department formed an advisory committee composed of representatives of the Hospice Organization and Palliative Experts (HOPE) of Wisconsin and hospices. Representatives from these organizations were provided a copy of the initial draft of the rule and asked for comments.

2. The department solicited information and advice from individuals, businesses, associations representing businesses, and local governmental units who may be affected by the proposed rule for use in analyzing and determining the economic impact that the rules would have on businesses, individuals, public utility rate payers, local governmental units, and the state's economy as a whole from 05/28/19-06/11/19. The department received no comments.

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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:

See the comments in numbers 1 and 4 that show the agency's consideration to reduce the impact of the rules on small businesses.

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

The department did not include proposed rules in the final rule draft that were not found acceptable by the Advisory Committee.

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5. Describe the Rule's Enforcement Provisions

The enforcement provisions for DHS 131 are contained in Wis. Stats. ch. 50, Subchapter VI, Hospices.

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

- Yes    No
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