

## 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> May 15, 2025								
<b>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)</b> DHS 31, 105, and 107, emergency rules for crisis urgent care and observation facilities									
<b>4. Subject</b> crisis urgent care and observation facilities									
<b>5. Fund Sources Affected</b> <input checked="" type="checkbox"/> GPR <input checked="" 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> s. 20.435(5)(ck), numeric 520								
<b>7. Fiscal Effect of Implementing the Rule</b> <table style="width: 100%;"><tr><td><input type="checkbox"/> No Fiscal Effect</td><td><input type="checkbox"/> Increase Existing Revenues</td><td><input checked="" type="checkbox"/> Increase Costs</td><td><input type="checkbox"/> Decrease Costs</td></tr><tr><td><input type="checkbox"/> Indeterminate</td><td><input type="checkbox"/> Decrease Existing Revenues</td><td colspan="2"><input type="checkbox"/> Could Absorb Within Agency's Budget</td></tr></table>		<input type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" 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	
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<b>8. The Rule Will Impact the Following (Check All That Apply)</b> <table style="width: 100%;"><tr><td><input checked="" type="checkbox"/> State's Economy</td><td><input checked="" type="checkbox"/> Specific Businesses/Sectors</td></tr><tr><td><input checked="" type="checkbox"/> Local Government Units</td><td><input type="checkbox"/> Public Utility Rate Payers</td></tr><tr><td colspan="2"><input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b></td></tr></table>		<input checked="" 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 type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>			
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<input 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> \$124,400.									
<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> Not applicable - this determination must be made "for the purpose of s. 227.139," and s. 227.139 does not apply to emergency rules, per s. 227.139 (3), Stats.									
<b>11. Policy Problem Addressed by the Rule</b> <p>The Department proposes to create an emergency and permanent rule for the certification and operation of crisis urgent care and observation facilities ("CUCOFs"), which are a new type of facility created by 2023 Wis. Act 249. CUCOFs are intended to fill a gap in crisis services by offering persons in crisis a no-wrong door option to receive immediate crisis intervention services. A CUCOF is defined as a treatment facility that admits an individual to prevent, de-escalate, or treat the individual's mental health or substance use disorder and includes the necessary structure and staff to support the individual's needs relating to the mental health or substance use disorder. A CUCOF will be able to accept voluntary and involuntary admissions to minimize the involvement of law enforcement and medical emergency services, including wait times in hospital emergency rooms, and avoid unnecessary inpatient hospitalizations.</p> <p>Act 249 also included provisions for the Department to create "a grant program to award grants to develop and support [CUCOFs]. The primary goal in enacting this emergency rule is to commence this grant program, which entails the Department posting a grant funding opportunity, receiving applications for the grant, reviewing applications, and awarding grant funds to a recipient. It is expected that the corresponding permanent rule will take effect when or before this emergency rule expires.</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> DHS contacted the following to solicit public comment: <ul style="list-style-type: none"><li>- County staff, advocates for people with mental health and substance use concerns, tribal nation staff, and others interested in DCTS work (10,111 email addresses)</li><li>- Wisconsin Crisis Intervention Network (including people who work in crisis services or are interested in crisis services (692 email addresses)</li><li>- Behavioral Health Providers who work at DHS 35 certified and DHS 75 certified clinics (4,378 email addresses)</li><li>- Peer Specialists (7,447 email addresses)</li></ul>									

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- 988 Suicide & Crisis Lifeline including people interested in 988 and broader crisis work (9,487 email addresses)
  - DMS Medicaid Behavioral Health Services list. (7,373 email addresses)
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13. Identify the Local Governmental Units that Participated in the Development of this EIA.

County human service departments were included in solicitation for public comment.

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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)

As explained in section 11 of this fiscal estimate, the primary purpose for promulgating the emergency rule is to commence administering the grant program before the permanent rule takes effect. As such, the anticipated costs to providers of behavioral health services, such as county crisis programs and contracted providers, emergency departments, and psychiatric inpatient units as a result of the emergency rule are the costs of submitting an application for a grant. It is unclear how many applicants are anticipated, but the overall fiscal impact of administering this program during the duration of the emergency rule is expected to be \$124,400.

The corresponding permanent rule has the potential to impact Medical Assistance providers of behavioral health services including county crisis programs and contracted providers, emergency departments, and psychiatric inpatient units. Interested providers will have the opportunity to provide crisis services traditionally operated by counties or county contracted providers external from a county based program. Persons and families in crisis with an urgent crisis need will have the option of accessing services at a CUCOF as an alternative to an emergency department or county services. One requirement of a CUCOF is that persons referred will not need to meet the medical clearance requirement. This is expected to result in less time spent by law enforcement and staff coordinating care for and transporting persons in crisis, thus lowering staff costs. With the introduction of a CUCOF as a facility-based treatment option, private and public inpatient mental health facilities may see a reduction in admissions and associated revenue. The corresponding permanent rule is also expected to have an effect on counties in which a CUCOF is operating: because CUCOFs can accept emergency detentions under s. 51.15, Stats., counties could see an increase on administrative costs related to jurisdictional due process required under s. 51.15, Stats.

The overall cost of building a suitable facility for a CUCOF and operating a CUCOF are currently indeterminate, as the Department is actively soliciting feedback from businesses, associations representing businesses, local governmental units, and individuals that may be affected by the proposed permanent rule in accordance with s. 227.137 (3), Stats. More detail will be provided in the economic impact analysis for the proposed permanent rule when the permanent rule is ready for submission to Legislative Council in accordance with s. 227.15 (1), Stats.

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

The benefits of implementing the rule are more accessible, 24/7 crisis services available to people when they need them. CUCOFs will help to supplement existing county based crisis services and will provide an alternative to emergency departments and inpatient facilities. Benefits include the ability for providers, independent of a county, to provide facility based and medicaid reimbursable crisis services.

There are no reasonable alternatives to the proposed rulemaking. The Wisconsin Legislature has explicitly directed the Department to promulgate rules for the certification of crisis urgent care and observation facilities.

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16. Long Range Implications of Implementing the Rule

The proposed rule changes will provide an additional resource to persons in crisis and a quicker access to services for community partners assisting in the facilitation of care for persons in crisis. The long range implication of expanded access to crisis services may result in county crisis programs, contracted agencies, emergency departments, and inpatient psychiatric units seeing fewer admissions into their programs and facilities. An additional long range implication may include decreased wait time law enforcement assisting with the care coordination and transportation needs of individuals in crisis.

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

There appears to be no existing or proposed federal regulations that address the activities to be regulated by the proposed rules.

Federally qualified health care centers can provide mental health services and may provide crisis support however, they function differently than a CUCOF as they are an outpatient level of care and unable to provide facility-based observation and stabilization support.

Although a small number of clinics in Wisconsin are operating under the Substance Abuse and Mental Health Services Administration (SAMHSA), Certified Community Behavioral Health Clinics (CCBHCs) grant program, neither CMS nor SAMHSA provide actual certification. CCBHCs are designed to provide a comprehensive array of behavioral health and substance use services, including crisis intervention services. CCBHCs and CUCOFs are different in that CUCOFs are very specific to crisis needs, services, and interventions while CCBHCs serve a broader array of outpatient and rehabilitative services not required of CUCOFs. Additionally, CUCOFs are required to serve involuntary individuals in a secured setting while CCBHCs are not.

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

**Illinois:** Illinois certifies triage centers and crisis stabilization units through Ill. Admin. Code tit. 77 p. 380. Under section 380.300 of these rules, “triage centers shall provide an immediate assessment of consumers who present in psychiatric distress, as an alternative to emergency room treatment or hospitalization, and shall connect the consumer with community based services and treatment when considered necessary”. Under section 380.310 of these rules, crisis stabilization units “shall provide safety, structure and the support necessary, including peer support, to help a consumer to stabilize a psychiatric episode”. Triage centers are similar in that they are intended to provide immediate assessment of clients in crisis as an alternative to an emergency room or hospitalization and provide connections and referrals to other community-based treatment services. Triage centers are different in that they do not accept law enforcement referrals or involuntary admissions and have a maximum length of stay of 23 hours. Crisis stabilization units are similar to CUCOFs in that they are intended to assist in stabilizing persons with acute psychiatric symptoms. Crisis stabilization units are different from CUCOFs in that they do not accept involuntary persons and have a maximum length of stay of 21 days.

**Iowa:** Iowa certifies crisis stabilization residential services through Iowa Admin. Code r. 441-24.39 (225C). Under these rules, crisis stabilization residential services are short-term services provided in facility-based settings of no more than 16 beds. The goal of these facilities is to stabilize and reintegrate the individual back into the community. Crisis stabilization residential services are similar in that the intended length of stay is less than five days. Crisis stabilization residential services are different from CUCOFs because that they do not admit involuntary individuals.

**Michigan:** Michigan certifies crisis stabilization units under their mental health code, specifically Mich. Admin. Code r. 330.1971. Under these rules, crisis stabilization units are crisis receiving and stabilization facilities that provide an alternative to emergency departments for individuals who can be stabilized typically within several hours but in no longer than 72 hours. Crisis stabilization units are similar to CUCOFs in that they accept all referrals and do not require medical clearance prior to admission, having the capacity to carry out limited medical evaluative functions. Crisis stabilization units are different from CUCOFs in that services may be provided for a period of up to 72 hours, after which the individual must be provided with the clinically appropriate level of care.

**Minnesota:** Minnesota licenses residential crisis stabilization facilities under Minn. Stat. s. 245I.23. The statutes regulate “residential crisis stabilization that provides structure and support to adult clients in a community living environment when a client has experienced a mental health crisis and needs short term services to ensure that the client can safely return to the client’s home or precrisis living environment with additional services and supports identified in the client’s

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crisis assessment". These facilities are similar to CUCOFs in that facilities can choose to operate involuntary programs. These facilities are different from CUCOFs because involuntary programs are not required, and they can only accept adult clients.

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This document can be made available in alternate formats to individuals with disabilities upon request.

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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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