

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	DEPARTMENT OF SAFETY AND
DEPARTMENT OF SAFETY AND	:	PROFESSIONAL SERVICES
PROFESSIONAL SERVICES	:	ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 049-22, was approved by the Governor on May 26, 2022, published in Register 798A3 on June 20, 2022, and approved by the Department of Safety and Professional Services on May 10, 2022. This emergency rule was approved by the Governor on *.

ORDER

An order of the Department of Safety and Professional Services to create SPS 11, relating to military medical personnel.

Analysis prepared by the Department of Safety and Professional Services.

EXEMPTION FROM FINDING OF EMERGENCY

2021 Wisconsin Act 158, Section 6. (1) provides that “the department of safety and professional services may promulgate emergency rules under s. 227.24 to implement s. 440.077 (5). Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in effect until December 1, 2023, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the department of safety and professional services is not required to provide evidence that promulgating a rule under this subsection as emergency rules is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.”

ANALYSIS

Statutes interpreted: Sections 440.077, Stats.

Statutory authority: Sections 227.11 (2) (a), 440.077 (2) (a) and 440.077 (5), Stats.

Explanation of agency authority:

Section 227.11 (2) (a), Stats., states that “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute...”

Section 440.077 (2) (a), Stats., states that the department shall establish a program in collaboration with the department of veterans affairs, medical examining board, and board of nursing “in which military medical personnel may temporarily perform certain skilled health services while supervised in an inpatient health care facility, outpatient health care facility, community–based residential facility, or a residential care apartment complex without having to obtain a license under s. 441.06, 441.10, 448.04, 448.61, or 448.974.”

Section 440.077 (5), Stats., provides that the department may promulgate any rules necessary for the administration of this section.

Related statute or rule: None.

Plain language analysis:

The department is creating, in collaboration with the Department of Veteran Affairs, Board of Nursing, and Medical Examining Board, chapter SPS 11 within the SPS suite, that provides for the establishment and administration of the military medical personnel program created in statute by 2021 Wisconsin Act 158.

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

The federal regulations that govern the U.S. armed forces are included under Title 32 of US Code of Federal Regulations.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:

N/A

Comparison with rules in adjacent states:

Illinois: Neither the Illinois statutes nor the administrative rules for medical practice include requirements for military medical personnel. The Illinois Service Member Employment and Reemployment Rights Acts includes general provisions for employment for all military personnel, but none are specific to medical or healthcare practice [330 Illinois Compiled Statutes ch. 61].

Iowa: The Iowa Administrative Code includes rules relating to medical practice. These requirements also include rules on military service and veteran reciprocity. Military service members can apply to have their service and training counted for credit toward licensure as a medical physician or surgeon, osteopathic physician or surgeon, or licensed acupuncturist. Veterans can apply for provisional licensure to service members who are licensed in another jurisdiction with a credential that is not substantially equivalent to an

Iowa license. This provisional license allows for that Veteran to obtain the additional experience or education needed for a regular Iowa license. Iowa also has rules for reciprocal licensure for veterans and their spouses that are licensed in other jurisdictions and that license is substantially equivalent to an Iowa license [653 Iowa Administrative Code ch. 18]. The Iowa statutes and rules for medicine and surgery do not include requirements specifically for military medical personnel supervision and practice.

Michigan: The Michigan rules for medicine do not include requirements specifically for military medical personnel supervision and practice.

Minnesota: Chapter 197 of the Minnesota Statutes includes requirements for expedited licensing processing and temporary licensure for former and current military personnel. The expedited licensing process is for those service members who are otherwise qualified to obtain licensure in an efficient manner. The temporary license process allows certain qualified service members who are licensed in another state to practice while waiting for a regular license to be granted [Minnesota Statutes ch. 197]. The Minnesota statutes and rules for medicine do not include requirements specifically for military medical personnel supervision and practice.

Summary of factual data and analytical methodologies:

The department consulted with the Department of Veteran Affairs, Board of Nursing, and Medical Examining Board, to implement 2021 Wisconsin Act 158.

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

The rule was posted on the department's website for 14 days to solicit economic impact comments from small businesses. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate will be attached upon completion.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing to be held on a date to be determined to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chapter SPS 11 is created to read:

Chapter SPS 11
MILITARY MEDICAL PERSONNEL PROGRAM

SPS 11.01 Authorization. The following rules are adopted by the department of safety and professional services pursuant to ss. 227.11 (2) and 440.077 (2) (a), Stats.

SPS 11.02 Definitions. In this chapter:

- (1) “Basic patient care” has the meaning given in s. Med 26.02 (4).
- (2) “Licensed supervising practitioner” has the meaning given in s. Med 26.02 (7)
- (3) “Military medical personnel program participant” has the meaning given in s. Med 26.02 (9).

SPS 11.03 Program.

(1) **ELIGIBILITY.** A military medical personnel program participant may temporarily perform certain basic patient care under the supervision of a licensed supervising practitioner and as stated under s. Med 26.03, and shall submit to the department all of the following:

- (a) A verified statement with an estimated timeline to obtain licensure from the Medical Examining Board, the Podiatry Affiliated Credentialing Board, the Physician Assistant Affiliated Credentialing Board, or the Board of Nursing, as specified in s. 440.077 (3) (a), Stats.
- (b) An attestation that a signed Memorandum of Understanding as outlined in s. Med 26.04 has been filed with their employer. This document shall be made available to the department upon request and to any licensed supervising practitioner prior to program participant initiating basic patient care.

(c) Proof of military service and general or honorable discharge status no earlier than 12 months prior to the date the person signed the memorandum of understanding specified in s. Med 26.04 (1).

(2) **TIMELINE TO OBTAIN LICENSURE.** Each military medical personnel program participant shall submit a reasonable timeline to obtain licensure in the state considering the requirements to obtain the license and any other relevant factors.

SPS 11.04 Expiration. Each military medical personnel program participant shall become ineligible for this program beginning on the day after the participant agreed to obtain licensure in Wisconsin under SPS 11.03 (1) (a). Each participant may be granted a one-time extension upon request to the Medical Examining Board as stated in s. 440.077 (3) (d), Stats and outlined in s. Med 26.05.

SPS 11.05 Reporting and complaints. (1) Pursuant ch. Med 26, the medical examining board may receive and investigate complaints against military medical personnel program participants, and may suspend or terminate a military medical personnel program participant's authority to perform basic patient care.

(2) Failure to comply with the terms of this section and ch. Med 26, may result in disciplinary proceedings against the licensed supervising practitioner who delegated basic patient care to the military medical personnel program participant.

SECTION 2. EFFECTIVE DATE. Pursuant to 2021 Wisconsin Act 158 section 6 (1), this emergency rule shall take effect upon publication in the official state newspaper and remain in effect until December 1, 2023, or until the date on which permanent rules take effect, whichever is sooner.

(END OF TEXT OF RULE)

Dated 3/6/2023



Secretary