

**STATE OF WISCONSIN
MEDICAL EXAMINING BOARD**

IN THE MATTER OF RULEMAKING	:	
PROCEEDINGS BEFORE THE	:	REPORT TO THE LEGISLATURE
MEDICAL EXAMINING BOARD	:	CR 23-038

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The objective of the proposed rules is to implement the statutory changes from 2021 Wisconsin Act 158. The Department is creating, in collaboration with the Department of Veteran Affairs, Board of Nursing, and Medical Examining Board, chapter SPS 11, that provides for the establishment and administration of the military medical personnel program created in statute by 2021 Wisconsin Act 158. The new chapter will include the requirements for program eligibility, expiration, and reporting and complaints.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Department of Safety and Professional Services held a public hearing on August 21, 2023. No public comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date June 26, 2023
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) SPS 11 - Permanent Rule	
4. Subject Military Medical Personnel	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected s. 20.165(1)(hg)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <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 type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$N/A	
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	
11. Policy Problem Addressed by the Rule 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.	
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. The rule was posted on the Department's website for 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. N/A	
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) DSPS estimates a total of \$11,000 in one-time costs and \$10,900 in annual costs for staffing and an indeterminate one-time IT impact to implement the rule. The estimated one-time staffing need for .2 limited term employee (LTE) is for staff to undertake such tasks as sites and forms updates and training on new requirements. The estimated annual staffing need for .1 full time employee (FTE) is to accommodate additional applications and legal processing due to the implementation of the rule. The one-time and annual estimated costs cannot be absorbed in the currently appropriated agency budget.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefits of implementing this rule are that the Department of Safety and Professional Services' section of the Administrative Code will be aligned with Wisconsin State Statutes.	
16. Long Range Implications of Implementing the Rule The long range implications of implementing this rule are to establish minimum standards for administration of the military medical personnel program in Wisconsin.	

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

17. Compare With Approaches Being Used by Federal Government

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

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

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.

19. Contact Name

Sofia Anderson, Administrative Rules Coordinator

20. Contact Phone Number

(608) 261-4463

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

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

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)

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

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:

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

5. Describe the Rule's Enforcement Provisions

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

☐ Yes ☐ No

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	DEPARTMENT OF SAFETY AND
DEPARTMENT OF SAFETY AND	:	PROFESSIONAL SERVICES
PROFESSIONAL SERVICES	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 23-038)

PROPOSED 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.

ANALYSIS

Statutes interpreted: Section 440.077, Stats.

Statutory authority: Section 440.077 (5), Stats.

Explanation of agency authority:

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, that provides for the establishment and administration of the military medical personnel program created in statute by 2021 Wisconsin Act 158. The new chapter will include the requirements for program eligibility, expiration, and reporting and complaints.

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

None

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.

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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 and Economic Impact Analysis is attached.

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.

TEXT OF RULE

SECTION 1. Chapter SPS 11 is created to read:

Chapter SPS 11
MILITARY MEDICAL PERSONNEL PROGRAM

SPS 11.01 Authorization. The rules in this chapter are adopted pursuant s. 440.077 (5), Stats.

SPS 11.02 Definitions. In this chapter:

- (1) "Basic patient care" has the meaning given in s. Med 26.02 (4).
- (2) "Department" means the department of safety and professional services.
- (3) "Licensed supervising practitioner" has the meaning given in s. Med 26.02 (7).
- (4) "Military medical personnel program participant" means a military medical personnel who qualifies in the program created under s. 440.077 (2) (a), Stats.

SPS 11.03 Program.

(1) **ELIGIBILITY.** A participant may temporarily perform certain basic patient care under the supervision of a licensed supervising practitioner and as stated under s. Med 26.04. In order to participate in the program, an applicant shall submit to the department all of the following:

(a) 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.

(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 the participant initiating basic patient care.

(c) Proof of military service and general or honorable discharge within the 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.** A participant shall submit a signed reasonable timeline consistent with s. 440.077 (3) (c), Stats., that describes the actions the military medical personnel intend to take to obtain licensure in the state considering the requirements to obtain the license and any other relevant factors. A reasonable timeline is subject to approval by the Medical Examining Board under s. Med 26.05 (e).

SPS 11.04 Expiration. A participant shall become ineligible for this program beginning on the day after the end of the estimated timeline to obtain licensure submitted under s. SPS 11.03 (1) (a). A 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 26.06.

SPS 11.05 Compliance, Reporting, and complaints. (1) Pursuant to ch. Med 26, the medical examining board may receive and investigate complaints against participants, and may suspend or terminate a participant's authority to perform delegated clinical acts.


(2) Failure to comply with the terms of this chapter and ch. Med 26, may result in disciplinary proceedings against the licensed supervising practitioner who delegated clinical acts to the participant. The board issuing the supervising practitioner's license shall apply the standards for supervising practitioners who participate in the program outlined in s. Med 26.04 and determine if discipline is warranted under that board's statutes and rules. Pursuant to Med 26, the Medical Examining Board may also terminate or suspend a military medical personnel program participant's ability to perform delegated clinical acts.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

This Proposed Order of the Department of Safety and Professional Services is approved for submission to the Governor and Legislature.

Dated 10/11/2023



Secretary
Department of Safety and Professional Services