

**CHAPTER 75  
MISCELLANEOUS HEALTH PROVISIONS**

TABLE

75-01	Definition
75-1	Self-service Laundries; Hours
75-5	Bed and Breakfast Establishments
75-15	Ambulance Certification Regulations
75-17	False Communications; Emergency Medical Service Systems
75-19	Conversion Therapy Prohibited
75-20	Swimming Pools and Places
75-21	Massage Establishment Regulation
75-23	Tattooing and Body-Piercing
75-30	Reinspection
75-40	Environmental Health Board

**75-01. Definitions.** In this chapter:

1. COMMISSIONER means the commissioner of health, his or her designated representative within the health department, or any other city official to whom the commissioner's functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

2. DEPARTMENT means the health department or any department to which health department functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

**75-1. Self-service Laundries; Hours.**

1. DEFINITIONS. The following definitions shall apply in the interpretations and enforcement of this chapter:

a. "Attended" as used in relation to self-service laundries shall mean that either the applicant, or his employees, or other designated responsible persons are present in the establishment during all hours it is open to the public.

c. "Self-service laundry" shall mean, unless specifically stated otherwise, to include all establishments or parts thereof used by the general public for the purpose of washing or drying clothing or other fabrics.

d. "Unattended" as used in relation to self-service laundries means all those that are not attended.

2. REGISTRATION REQUIRED.

a. It shall be unlawful for any person to establish, maintain or operate a self-service laundry at a specific location in the city without a current and valid registration issued by the city clerk.

b. The person establishing, maintaining or operating a self-service laundry shall pay a registration certificate fee specified in s. 81-67. An additional weighing and measuring license fee specified in s. 81-135 shall be paid for each timing device used to establish self-laundry charges.

3. EXEMPTION. This section shall not apply to a self-service laundry in a residential building if the facilities of the laundry are intended for use by the residential occupants of that building, except that it shall apply to store units occupied in part for residential purposes.

4. APPLICATION. See s. 85-12 for application requirements.

5. PLAN OF OPERATION. An application for a registration certificate shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

## 75-1-6 Miscellaneous Health Provisions

j. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

**6. CHANGES TO BE REPORTED.** See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

**7. REGISTRATION FEE.** See ch. 81 for the required registration certificate fee.

**8. AGE QUALIFICATION.** No registration certificate shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

**9. DISQUALIFICATION.** Whenever any application is denied, or a registration certificate is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

**10. INVESTIGATION.** Each application for a new registration certificate shall be referred to the chief of police and the commissioner of neighborhood services for investigation in accordance with s. 85-21-2.

**11. OBJECTION.** If the local common council member, chief of police or commissioner recommends against an application, no registration certificate shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, chief or commissioner. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a certificate should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

**12. ISSUANCE.** See s. 85-12.5 for provisions relating to the issuance of a registration certificate.

**13. POSTING.** Each registration certificate shall be posted in a conspicuous place on the premises.

**14. TRANSFER.** See s. 85-19 for provisions relating to the transfer of a registration certificate and the change of certificate holder names.

**15. RENEWAL.** Application for renewal of a registration certificate shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the chief of police. If the applicant still meets

the licensing qualifications, the certificate shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the certificate, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

**16. REVOCATION OR SUSPENSION OF CERTIFICATE.** Any registration certificate issued under this section may be suspended or revoked for cause by the common council after notice to the certificate holder and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

**17. SAFETY AND SANITARY REGULATIONS.**

a. Washers and dryers shall be so constructed that they will cease to function when the door is open, with the exception of the fill and agitate cycles in top-load washers. Washers and dryers shall be installed under the provisions of the national electric code except where it is specifically provided otherwise by the city. Provision shall also be made so that in case of a blower motor or gas control failure, the dryer will shut off automatically.

b. All dryers shall be so constructed so as to be capable of having their doors open from the interior thereof upon the application of outward pressure against such doors.

c. Boilers shall be provided with a low-water cut-off device to protect the boiler from burning out should a low-water condition occur.

d. The platform for washers shall be so designed that any water spilling out shall be properly drained. The floor of the establishment shall be sufficiently and properly covered with a nonabsorbent paint or cement or other impervious material. Areas such as basements, offices and storage places shall have locked doors.

e. Store layout, design and lighting for the installations constructed after January 1, 1976, shall be so planned as to provide visibility of the interior of the unattended store from the street or sidewalk. Heating, ventilating and lighting shall be provided as required by the building and zoning code. If the store has a rear entrance from a parking area, an outside floodlight shall be so provided to satisfactorily illuminate the area leading to the rear of the store.

f. The premises and its facilities shall be kept reasonably clean and sanitary. Refuse disposal cans in unattended stores shall be provided and so designed that the covers shall be self-closing.

## Miscellaneous Health Provisions 75-5

g. An approved fire extinguisher shall be installed in all unattended establishments when so ordered by the commissioner of neighborhood services.

h. Soft drink vending machines in unattended stores shall be of the type which dispenses from the machine directly in or into non-glass containers and be properly licensed under the provisions of the code. Licensed vending machines in the premises on January 1, 1976, and not of the types specified shall be exempt from this provision as long as they are in good working condition and until they are replaced.

i. Posting of information regarding the coin-operated machines shall comply with the applicable provisions of s. 82-19.

j. It shall be unlawful for any person to misuse the equipment or facilities provided for public use in a self-service laundry.

k. Only persons who are using a self-service laundry for its intended purpose, or attendants or repair persons shall be authorized on the premises. It shall be unlawful for any other person to loiter on the premises.

L. No self-service laundry shall be permitted to remain open between the hours of 10 p.m. and 6 a.m. unless an adult person is upon and in charge of the premises at all times.

**18. NUISANCE.** Every public self-service laundry which is not maintained and conducted as hereinbefore provided shall be declared a public nuisance and abated in the same manner as every other nuisance.

**19. RESPONSIBILITY.** The person to whom the registration certificate is issued shall be responsible for the premises and for the acts of attendants or employees on the premises with respect to this section.

**20. PENALTY.** Any person, persons, firm or corporation who shall violate this section relating to the regulation of self-service laundries shall upon conviction thereof be fined not less than \$25, plus the costs of prosecution, and not more than \$200, plus the costs of prosecution, and in default of payment thereof, may be imprisoned as provided by law.

### **75-5. Bed and Breakfast Establishments.**

**1. PERMIT REQUIRED.** No person may operate any bed and breakfast establishment without first having obtained a permit from the department.

**2. APPLICATION.** Application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

**3. TRANSFERABILITY.** Permits shall not be transferable from one person to another or from one premises to another.

**4. PLAN OF OPERATION.** An application for a bed and breakfast establishment permit shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Information required by the health department to complete a public health plan review.

k. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

**5. CHANGES TO BE REPORTED.**

a. Application. A permit holder shall notify the city clerk whenever there is a change in any information that is reported on the application form or renewal application form. The permit holder shall make this notification in writing within 10 days after the change occurs.

b. Plan of Operation. If, after the permit has been issued, the permit holder wishes to deviate from the plan of operation that was submitted with the original application, the permit holder shall file a written request with the city clerk which states the nature of the change. No change shall take place until the request is approved through issuance of a new permit.

## 75-5-6 Miscellaneous Health Provisions

**6. PERMIT FEE.** See ch. 81 for the required permit fee.

**7. AGE QUALIFICATION.** No permit shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

**8. DISQUALIFICATION.** Whenever any application is denied, or a permit is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

**9. INVESTIGATION.** Each application for a new permit shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health in accordance with s. 85-21-2. All applicants for bed and breakfast establishment licenses shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

**10. OBJECTION.** An objection to issuance of a permit shall be based on the factors set forth in s. 85-2.7-4. If the local common council member, chief of police or commissioner recommends against an application, no permit shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, chief or commissioner. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

**11. ISSUANCE.** See s. 85-12.5 for provisions relating to the issuance of a permit.

**12. POSTING.** Each permit shall be posted in a conspicuous place on the premises.

**13. TRANSFER.** See s. 85-19 for provisions relating to the transfer of a permit and the change of permit holder names.

**14. RENEWAL.** Application for renewal of a permit shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the chief of police. If the applicant still meets the qualifications for a permit, the permit shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the permit, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

**15. REVOCATION OR SUSPENSION OF PERMIT.** Any permit issued under this section may be suspended or revoked for cause by the common council after notice to the permit holder and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

### **16. REGULATIONS.**

a. Adoption of State Code. The city of Milwaukee adopts ch. ATCP 73, Wis. Adm. Code, as amended.

b. Ice Handling. If ice is provided for persons provided accommodations, it shall be handled, transported, stored and dispensed in such a manner as to be protected against contamination.

c. Toilet and Bathing Facilities. Toilets, showers or baths serving more than one guest room shall be accessible through the room in which the guest is staying or through a public access way without having to enter through rooms occupied by other persons. All toilet, shower or bathroom doors shall be provided with locks and provide total privacy to an occupant of the room.

d. Guest Rooms. Guest room doors shall be equipped with locks for which guests will be provided keys. If more than one guest room exists, doors shall be clearly numbered or otherwise identified.

e. Furnishings. Clean bed linen in good repair shall be provided for guests who are provided accommodations, and shall be changed between guests and as often as necessary.

f. Animals. Animals shall not be allowed in any room or area in which food is prepared, stored or served.

g. Unvented Furnaces and Space Heaters. The use of unvented furnaces and space heaters fueled by natural gas, kerosene, alcohol or other fuel is prohibited.

**17. NOTICES OF VIOLATION.** If upon inspection the commissioner finds that any establishment is conducted or managed in violation of this section, or the laws of the state of Wisconsin, the commissioner shall serve a written order upon the permit holder, agent or employee in charge of the premises notifying of the violation.

**18. EMERGENCY SUSPENSION.** The emergency suspension procedures of s. 75-23-19 may be applicable to a bed and breakfast establishment permit if the situation warrants an emergency suspension.

19. PENALTY. Any person violating this section shall be subject to a penalty specified under s. 61-11.

**75-15. Ambulance Certification Regulations.**

1. DEFINITIONS. In this section:
- a. "Advanced life support" ("ALS") means advanced life support as defined in s. DHS 112.03(1), Wis. Adm. Code.
  - b. "Agreement" means the ambulance service standards agreement identified in sub. 2-b-2.
  - c. "Ambulance" means a certified emergency vehicle used to transport sick, disabled or injured individuals as defined in ss. 146.50(1)(am) and 340.01(3)(i), Wis. Stats.
  - d. "Ambulance rate" means the base fee for ambulance conveyance which cannot be exceeded by certified providers on city authorized dispatch.
  - e. "Basic life support" ("BLS") means basic life support as defined in s. DHS 110.03(7), Wis. Adm. Code.
  - f. "Board" means the ambulance service board.
  - g. "Certified provider" means a provider from the private sector that applied for and obtained a certificate to supply services within the Milwaukee emergency medical services system as a certified provider.
  - h. "Committee" means the committee designated by the common council as responsible for ambulance service regulations.
  - i. "Emergency medical services" (EMS) means those services which are required as a result of an unforeseen attack of illness or an injury. These include rescue, ambulance, hospital emergency department, communications and public education services.
  - j. "EMT" means emergency medical technician as defined in s. DHS 110.03(14), Wis. Adm. Code.
  - k. "Fire department" means the city of Milwaukee fire department.
  - L. "Incident" means each event that causes MFD dispatch, through its usual procedures to refer a request for ambulance transport service to a certified provider, by telephone or other electronic means.
  - m. "Milwaukee emergency medical services system" means a system composed of fire department personnel and equipment, and private sector personnel and equipment for the purpose of providing advanced life support and basic life support responses and conveyances within city limits.

n. "Milwaukee fire department dispatch" ("MFD dispatch") means the dispatch center operated by the fire department at any location for receiving and dispatching all calls for emergency medical assistance.

- o. "Private sector" means any person, firm, partnership or corporation within the city providing ambulance services on a fee-for-service basis.
- p. "Service area" means a geographically defined area within the city assigned in accordance with sub. 13.

**2. AMBULANCE SERVICE BOARD.**

- a. Establishment. An 11-member ambulance service board is established consisting of:
  - a-1. A member of the public safety and health committee appointed by the president of the common council.
  - a-2. City health commissioner or designee.
  - a-3. Public member appointed by the mayor and confirmed by the common council. This member shall serve a term coterminous with that of the mayor. The mayor shall make his or her appointment within 60 days after commencement of a new common council-mayoral term or within 60 days after a vacancy in the board occurs, whichever is later.
  - a-4. Homeland security director or designee.
  - a-5. Milwaukee fire department medical director. This member shall not participate in disciplinary matters.
  - a-6. Representatives of the 5 hospital systems of Advocate Aurora, Ascension, Children's Hospital, Froedert and the Medical College of Wisconsin, and Veterans Health Administration. A hospital representative shall not be a current medical director of a provider.
  - a-7. Designee of the Milwaukee county medical society EMS committee by action of the committee, who shall not be a current medical director of a provider.
- b. Duties.
  - b-1. The board shall advise the committee on all matters pertaining to issuance, renewal, suspension, revocation and reinstatement of certified provider certificates, and shall, consistent with sub. 13, assist in the development and modification of service plans.
  - b-2. The board, with the assistance of the city attorney, the chief of the fire department and the certified providers shall oversee development and implementation of the agreement between the city and the certified providers, for specifying appropriate rules,

### 75-15-3 Miscellaneous Health Provisions

regulations, procedures and service standards as required for the safe operation of the Milwaukee emergency medical services system.

c. The city clerk's office shall staff the board.

**3. CERTIFICATION.** No one from the private sector shall within the city act as a certified provider within the Milwaukee emergency medical services system without first having obtained a certificate as provided under this section. This section applies only to private sector providers supplying services to the city of Milwaukee emergency medical services system.

**4. APPLICATION FOR CERTIFICATION AS CERTIFIED PROVIDER AND SERVICE AREA.** a. Application for certificates as a certified provider under this section shall be filed with the health department on forms approved by the committee. The board and the committee are authorized to require sufficient information to determine the qualifications of the applicant to engage in the business of providing basic life support and advanced life support ambulance conveyances to the Milwaukee emergency medical services system. The application signed in proper form shall be presented to the common council for referral to the committee for its recommendation.

b. Each applicant shall furnish his or her name, date of birth, address, employer's name and address, a statement as to whether the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance other than traffic violations, and any other information required by the committee, subject to s. 111.335, Wis. Stats. All applicants for certificates as certified providers shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

c. The fire department shall promulgate an appropriate initial or renewal application form to all providers by not later than September 1 of each year. All applications for initial or renewal certification shall be filed not later than September 30, to be eligible for certification for the next service period.

**5. FEES.** An applicant filing an initial application for a certificate as a certified provider or an application for renewal shall pay the fee required in ch. 60.

**6. INVESTIGATION.** Upon receipt of the application for a certificate as a certified provider, the matter shall be referred to the chief of police, who shall cause an investigation of the applicant's moral character to be made for the protection of the public health, welfare and

safety. As part of the investigation, the chief of police shall report to the health department all convictions, other than traffic violations, of the applicant, together with any other information in the possession of the police department as to the business conduct and moral character of the applicant.

**7. HEARING.** a. Upon referral of an application for certification as a certified provider from the common council to the committee, the committee shall schedule a hearing thereon. Prior to the hearing, the committee shall submit the application to the board for its consideration and advice.

b. The applicant shall receive notice of the hearing not less than 10 days prior to the hearing. At the hearing, the applicant may be represented by counsel, present witnesses and cross-examine any adverse witnesses under oath, and receive a transcript of the hearing at the applicant's expense.

c. At the conclusion of the hearing, a recommendation shall be made by the committee to the common council. Any member of the committee who votes to deny an application shall state the basis for the vote on the record.

**8. CERTIFICATE ISSUANCE.** The health department shall issue to each person qualifying under this section a certificate as a certified provider on which there shall be the person's true first name, surname and middle initial, the number of the certificate, and the period of time for which the certificate is valid. The certificate shall be in such form so to avoid alteration. The certificate shall be maintained by the provider and be exhibited to any person requesting to see it. Furthermore, the health department shall assign to each qualified person a series of numbers, which shall be used to identify the provider's ambulances. These numbers shall be placed on the front doors of the ambulances and shall be at least 5 inches high and in a color to contrast with the background on which it is placed.

**9. APPROVAL OR DENIAL OF CERTIFICATE.** a. The committee may recommend the denial of any application for certification as a certified provider for any of the following reasons:

a-1. The applicant is not of good character.

a-2. The applicant has violated any of the required or prohibited practices set forth in this section.

a-3. The applicant's previous certificate has been revoked for any reason whatsoever.

## Miscellaneous Health Provisions 75-15-10

a-4. The applicant's inability to substantially understand the required business regulations provided by this section.

a-5. The qualifications of the applicant, when compared with the qualifications of applicants receiving a recommendation of approval, is deficient in any material respect.

a-6. The applicant's failure in the past or refusal in the future to act in accordance with this section or with the terms of the agreement.

a-7. The applicant's physical location for operations is not within the city limits.

b. The common council may upon receipt of the recommendations of the committee for approval or denial of applications for certification as certified providers, grant the number of certificates which, in its discretion and judgment, the public welfare, safety and interest require. Thereafter, a list of those providers granted certification as certified providers by the common council shall be provided to the board for designation of service area assignments in a manner consistent with sub. 13.

**10. INSPECTION.** No ambulance shall be granted a permit to operate under the terms of this section until it has been inspected and found to be in a thoroughly safe condition for the transportation of the sick and injured. The inspection shall be made by the Wisconsin department of transportation, division of state patrol, which shall determine that the ambulance complies with all the requirements set forth in s. 46.50, Wis. Stats. Verification of the inspection shall be provided to the board at the annual certification hearing.

**11. FINANCIAL RESPONSIBILITY.**

a. A certified provider shall furnish the city with a certificate of insurance, issued by a company authorized to do business in the state of Wisconsin, confirming that the certified provider has been issued a current policy insuring the provider against loss or damage that may result to any person or property, the policy of insurance to be in the limits of \$1,000,000 for any one person injured or killed, \$3,000,000 for all persons injured or killed in case of one accident resulting in bodily injury or death of more than one person, and \$3,000,000 for injury or destruction to the property of others in the case of accident. The policy shall guarantee payment of any final judgment rendered against the provider within the limits provided in this paragraph irrespective of the financial responsibility or any act of omission of the certified provider. The city of Milwaukee shall be named as an additional insured.

b. Cancellation. All certificates shall be executed by an insurance company licensed to do business in the state of Wisconsin. All certificates shall be approved as to form and execution by the city attorney before they are accepted by the health department, and shall contain a provision or endorsement by which the insurance carrier shall be required to notify the fire department by registered mail or personal service of the cancellation of the insurance policy. Notice of cancellation shall be received by the fire department at least 30 days prior to the effective date of cancellation. If at any time the policy of insurance is cancelled by the issuing company, or the authority of the issuing company to do business in the state of Wisconsin is revoked, the fire chief shall require the certified provider to replace the policy with another policy satisfactory to the chief, and in default thereof the certified provider's certificate issued under this section shall be suspended until proof of valid policy is presented by a certified provider.

c. Exceptions. Private sector providers, not participating within the city emergency medical services system, need not file the insurance required herein.

**12. REQUIREMENTS.** All certified providers shall adhere to the following general conditions and specifications concerning Milwaukee emergency medical service systems incidents:

a. Seek reimbursement from those requesting service from the Milwaukee emergency medical services system or any third-party payer, and provide the most economical service in accordance with accepted medical practice. The city will not be responsible for collection or payment of any charge for services rendered by reason of its having dispatched the service relative to this section, with the exception of services provided to those individuals pursuant to sub. 18.

b. Not pursue beyond a reasonable limit compensation for conveyance where a conveyed party has demonstrated an inability to pay the service charge.

c. Charge an ambulance rate, which is approved by the common council. The approval of the ambulance rate may be taken in conjunction with the common council's approval of the ambulance service plan, in accordance with the ambulance rate provisions of sub. 14.

d. Charge fees for equipment and procedures other than the rates established under par. c. The fees shall be determined by the fire department and approved by the common

## 75-15-13 Miscellaneous Health Provisions

council. The fire department shall review the fees on an annual basis, with any necessary adjustments being submitted to the common council for approval in conjunction with approval of the ambulance rate under par. c.

**13. SERVICE AREAS.** a. Criteria. In establishing and re-establishing the number and geographical boundaries of the service areas, the common council shall endeavor to provide effective ambulance service within the Milwaukee emergency medical services system. The common council shall take into consideration all the information obtained through the certification process, including the service capacities of each prospective provider and the previous performances, if any, of each certified provider.

b. Assignment of Service Areas.

b-1. Service Plan Development. Following common council certification of one or more providers from the private sector as certified providers, the fire department shall propose a service plan and transmit it to the board which shall develop a proposed service plan to be utilized during the next service period. In developing the service plan, the fire department and board shall take into consideration all the information obtained through the certification process, including the service capacities of each certified provider and the previous performances, if any, by each certified provider. The plan shall include the number of service areas, the geographical size and boundaries of each service area, and a designation of a certified provider for assignment to each service area. The number of service areas shall be determined by the best interests of the Milwaukee emergency medical services system. The geographical size and boundaries of each service area shall be determined by the service capabilities and past performance of each certified provider to be assigned to a service area. Each certified provider designated for service area assignment shall, within 15 days of announcement by the board of its proposed service plan, file a written response of its acceptance or objection to the plan. Each certified provider accepting the plan shall also file with the board a properly executed agreement. The board shall thereafter submit the plan to the committee for its review and recommendation to the common council. Upon approval by the common council of any service plan for the next scheduled service period, the plan shall be implemented by the Milwaukee emergency medical services system for that period, subject to subd. 2.

b-2. Duration. Service plans shall be approved by the common council annually commencing on January 1, 2008. Notwithstanding such approval, the board shall recommend modifications of the size of the service areas and assignments of certified providers to service areas during the pendency of any service period, and the common council, with the recommendation of the board, shall modify any service plan during the pendency of any service period, if it is determined that one or more certified providers are not meeting the requirements of the agreement. The board shall also review the service plan and geographical size and boundaries of each service area on an annual basis, to determine if the certified providers are complying with requirements of the agreement and if service area adjustments are necessary. The board shall provide the common council with the board's reasons for recommending or not recommending any changes in the service plan or service areas subsequent to the board's annual review.

c. Revocation of Service Area. In addition to any revocation under the agreement or sub. 19, the board shall revoke the assignment of any service area for any certified provider no longer certified.

**14. DETERMINING RATES BILLED BY PRIVATE SECTOR PROVIDERS.** a. The fire department annually shall review and report to the common council by April 1 with respect to the ambulance conveyance rate established under par. c and recommend, if appropriate, an adjustment in the conveyance rate.

b. Upon request, the legislative reference bureau shall provide the fire department with information from health-related cost indexes, including the medical care component of the Chicago-Naperville-Elgin, IL-IN-WI and the Minneapolis-St. Paul-Bloomington, MN-WI consumer price index issued by the U.S. bureau of labor statistics.

c. The rate charged for conveyance by private providers, or when the fire department provides BLS transports with an ALS apparatus due to turn-back or other extenuating circumstances, shall be as follows:

c-1. For patients who are residents of the city of Milwaukee, for basic life support, \$740 and, for basic life support-emergency, \$740. When patients require treatment without transport, a \$237 basic life support non-transport fee shall apply.



**Miscellaneous Health Provisions 75-15-15**

c-2. For patients who are not residents of the city of Milwaukee, for basic life support, \$856 and, for basic life support-emergency, \$856. When patients require treatment without transport, a \$341 basic life support non-transport fee shall apply.

c-3. In addition to the charges provided in subds. c-1 and 2, a charge of \$20.14 per mile shall be assessed for mileage, mileage to be defined as the distance traveled with the patient in the ambulance from the point of patient origin to destination.

d. In those instances where a certified provider has a contract with any insurer or health maintenance organization with respect to establishment of fees for ambulance services for persons insured through the organization, the fees established in the contract shall take precedence over those in par. c and sub. 15, and the certified provider shall charge only those fees established in the contract.

**15. BASIC LIFE SUPPORT ANCILLARY CHARGES BILLED BY PRIVATE SECTOR PROVIDERS.** Pursuant to sub. 12-d, certified providers are authorized to charge the following:

- a. Ancillary charges.
- a-1. Airway supplies: \$27.07.
- a-2. Ventilation and CPR supplies: \$396.68.
- a-3. Bandaging and Trauma Treatment supplies: \$23.05.
- a-4. Personal Protection Equipment supplies: \$35.00.
- a-5. Obstetrics and Child Delivery supplies: \$245.21.
- a-6. Splinting and Immobilization supplies: \$496.98.
- a-7. Oxygen Therapy and supplies: \$106.63.
- a-8. BLS supplies (COVID decontamination or other routine supplies) \$35.00.
- a-9. CPAP Mask supplies: \$56.85.
- b. Drug charges. Drugs allowed by the state of Wisconsin emergency medical technician basic scope of practice and approved by the Milwaukee county council on emergency medical services, shall be charged at the same rates established under sub. 17.

**16. CHARGES FOR ADVANCED LIFE SUPPORT PATIENT SERVICES DELIVERED BY PRIVATE PROVIDERS.** Whenever a certified provider performs an advanced life support conveyance under the agreement, the

certified provider is authorized to charge the same rates as established for the fire department, pursuant to sub. 17-a and b. When performing an advanced life support, certified providers are authorized to charge the same ancillary charges established for the fire department under sub. 17-c and d. These charges shall in no way be construed so as to circumvent the role of the fire department as the designated responder to advanced life support service calls.

**17. CHARGES FOR PATIENT SERVICES DELIVERED BY THE FIRE DEPARTMENT.** The fire department shall bill for and collect all revenues generated from advanced life support conveyances and service provisions using fee schedules that have been adopted by the common council. The rate charged for conveyance and services delivered by fire department paramedic fleet shall be as follows:

- a. For advanced life support for patients who are residents of Milwaukee county:
  - a-1. Paramedic non-invasive service or treatment without conveyance: \$284.24.
  - a-2. Paramedic invasive service or treatment without conveyance: \$284.24.
  - a-3. Paramedic service with transport Level ALS-1: \$879.89.
  - a-4. Paramedic service with transport Level ALS-2: \$967.67.
- b. For advanced life support for patients who are not residents of Milwaukee county:
  - b-1. Paramedic non-invasive service or treatment without conveyance: \$400.24.
  - b-2. Paramedic invasive service or treatment without conveyance: \$400.24.
  - b-3. Paramedic service with transport Level ALS-1: \$991.71.
  - b-4. Paramedic service with transport Level ALS-2: \$1141.14.
- c. Advanced life support ancillary charges:
  - c-1. ALS supplies: \$100.36.
  - c-2. Intubation supplies: \$184.66.
  - c-3. I.V. and supplies: \$75.89.
  - c-4. Defibrillation supplies: \$225.73.
  - c-5. EKG and supplies: \$194.38.
  - c-6. Oxygen and supplies: \$106.63.
- d. Drugs included in the Milwaukee county office of emergency management, emergency medical services program adopted by the Milwaukee county association of fire chiefs and the intergovernmental cooperation council of Milwaukee county:

## 75-15-18 Miscellaneous Health Provisions

d-1. Items approved in Drugs, Group 1: Acetaminophen (1000 mg tablet & 160 mg/5 mL Liquid), Albuterol (2.5mg)/Ipratropium (0.5mg)/3 mL (.83%), Amioderone HCl (150mg), Aspirin (chewable 81 mg), Atropine Sulfate (0.3 mg), Calcium Gluconate (10 ml), Dextrose 10% (D10), Dextrose 5% (D5), Duoneb, IV-D5W, Glucose (oral gel 15 g), IV-Sodium Normal Saline (bags & capped), Ondansetron Tabs, Ondansetron IV/IO, shall be charged a rate of \$40.78.

d-2. Items approved in Drugs, Group 2: Diphenhydramine 50 mg, Dopamine, EPL 1 mg/10 mL IV, EPI 1 mg/cc IV, Lidocaine Drip 1 gm/25 mL, Lidocaine HCl (2%) 50 mg, Sodium Bicarbonate (50 CC), shall be charged a rate of \$46.95.

d-3. Items approved in Drugs, Group 3: Fentanyl, Ketamine (Pediatric) Infusion, Ketorolac 30 mg/1 mL, Midazolam HCl 1 mg, Nitroglycerine Spray 0.4 mg IV, Norepinephrine 4 mg/4mL, shall be charged a rate of \$60.55.

e. Other items shall be charged at the following rates:

e-1.	Adenosine:	\$113.69.
e-2.	Glucagon, up to 1 mg:	\$113.69.
e-3.	Dexamethasone 20mg/5mL:	\$74.15.
e-4.	E-Z IO:	\$152.01.
e-5.	Patient ID & Tracking:	\$3.97.
e-6.	Hydroxocobalamin (Cyano-kit):	\$1141.84.
e-7.	CPAP mask supplies:	\$56.85.
e-8.	Airway Supplies:	\$27.07
e-9.	Ventilation and CPR Supplies:	\$396.68.
e-10.	Bandaging and Trauma Supplies:	\$23.05.
e-11.	Personal Protective Supplies:	\$35.00.
e-12.	Obstetrics and Child Delivery Supplies:	\$245.21.
e-13.	Splinting and Immobilization Supplies:	\$496.98.

f. For lift assistance, access and conveyance of bariatric patients:

f-1. When the fire department provides basic life support transport, with an ALS apparatus, for a bariatric patient, the department is authorized to charge the rate specified in subd. a-3 or b-3 as appropriate.

f-2. When the fire department Heavy Urban Rescue Team is required to alter a structure, the department is authorized to charge a supplemental charge of \$600 to cover the costs of supplemental materials and equipment.

f-3. When the licensed provider is dispatched to a commercial property or a skilled nursing facility to perform a lift assist for a patient not requiring transport, the department is authorized to charge the rate outlined in sub. 14-c-1 or 14-c-2 as appropriate to the facility.

g. When the fire department provides advanced life support services to a cardiac arrest patient who is not resuscitated in the field, the department is authorized to charge the rate specified in subd. a-4 or b-4, as appropriate.

h. In addition to the charges provided in pars. a to e, a mileage charge indicated in sub. 14-c-3 shall be assessed for the distance traveled with the patient in the ambulance from the point of patient origin to destination.

**18. CONVEYANCE OF POLICE PRISONERS AND THOSE IN PROTECTIVE CUSTODY.** Certified providers under contract with the city for payment for conveyance of police prisoners for medical treatment, those incapacitated persons in protective custody and those in need of emergency detention, in situations where the person conveyed is unable to pay for conveyance shall be paid a rate equal to 60% of the conveyance rate and mileage charge in sub. 14 and 60% of the services fees charged in sub. 15. Charges for services rendered by the fire department under this subsection shall be paid a rate equal to 60% of all patient services delivered by the department pursuant to sub. 17.

**19. VIOLATIONS.** a. Suspension and Revocation. The common council may, subsequent to a hearing conducted by the committee, suspend, revoke, deny or not renew a certificate issued under this section for any reasonable cause which shall be in the best interests and good order of the city, including, but not limited to, the following findings:

a-1. Conviction of a violation of this section.

a-2. Where the committee, on hearing of evidence, determines that the certified provider has been violating any of the provisions of this section even though the certified provider may not have been convicted in a court for this violation.

a-3. Conviction of a criminal statute or city ordinance involving moral turpitude.

a-4. Violation of a city ordinance where the violation is connected with or a part of carrying on the business for which the certificate is issued.

## Miscellaneous Health Provisions 75-15-20

a-5. Failure to obtain any permit required under the ordinances of the city or laws of the state of Wisconsin, or employing persons not authorized to do any specific work as required under the ordinances of the city, or the laws of the state of Wisconsin.

a-6. Failure to comply with any of the provisions of the agreement.

b. Hearing.

b-1. Whenever the committee has scheduled a hearing for determining whether to recommend suspension or revocation of a certified provider's certificate, the certified provider shall receive written notice of the hearing not less than 10 days prior to the hearing. The notice shall specify the nature of the complaint against the certified provider.

b-2. The certified provider may attend the hearing and be represented by counsel, may present witnesses and confront and cross-examine any adverse witnesses under oath, and may obtain a transcript of the hearing at the certified provider's own expense.

b-3. At the conclusion of the hearing, the committee shall make its recommendation to the common council. If the recommendation is to suspend or revoke a certified provider's certificate, each member of the committee voting in favor of the action shall state the basis therefore on the record.

b-4. The certified provider shall be provided with written notice of any recommendation of the committee. If the recommendation is to suspend or revoke the certified provider's certificate, the provider may, within 10 days of the notice, appeal the recommendation by filing written notice with the city clerk. If notice of appeal is filed, a copy of the transcript of the hearing shall be provided to each common council member at least 3 days prior to the common council vote on whether to accept or reject the recommendation of the committee.

c. Penalty. Anyone who acts as a certified provider without having obtained a certificate to do so, or who violates any other part of this section, shall upon conviction be subject to a forfeiture of not less than \$100 nor more than \$250, and in default of payment, be committed to the county jail or house of correction for a period of time not to exceed 10 days. Each day in which any person shall operate as a certified provider without having obtained a certificate, or after revocation of the same, shall constitute a separate offense.

**20. ANNUAL REPORT.** The fire chief shall present an annual status report to the common council on all fire department advanced life support billing activities, including descriptions of the amounts invoiced, collected and outstanding, no later than June 30 commencing June 30, 2008.

**21. HIGH UTILIZERS.** City of Milwaukee residents, identified through the quality control process of the fire department, private provider, or a healthcare partner, whose usage of the EMS system falls at or above the 95th percentile shall be enrolled in a program to assess the needs of the individual and identify ways to monitor and improve the individual's personal health in an effort to reduce the individual's utilization of the EMS system. Evaluation and intervention shall include members of medical direction, the applicable hospital systems represented in sub. 2-a-6, and the personal physician of the indicated patient, with discussions and plans to be held in private to protect the individual's privacy. The fire department may utilize resources within its mobile integrated health system and the health department to facilitate positive outcomes for these patients.

**22. COMMUNITY HEALTHCARE ACCESS PROGRAM (CHAP) REFERRAL.** The fire department shall, upon identifying that a patient lacks health insurance, refer the patient to the health department's CHAP administrator, transmitting the necessary information for the referral through a secure electronic medium, for the purpose of identifying an appropriate health insurance plan, and reducing the financial burden of the residents of the city of Milwaukee.

**23. HEALTH INFORMATION EXCHANGE (HIE) CONTRIBUTION.** The health department, in its operation of clinics, and the fire department, in its operation of an EMS system, shall contribute appropriate patient information to the state of Wisconsin health information exchange for the purpose enabling access to the patient's longitudinal care record, promoting positive health outcomes through prevention, and providing patient records to supplemental clinicians, providers and healthcare systems in accordance with the centers for medicare and medicaid services (CMS) interoperability and patient access final rule (CMS-9115-F). Patients may opt out of contributing their information at the site of care in accordance with HIE policies.

## 75-17 Miscellaneous Health Provisions

### 75-17. False Communications; Emergency Medical Service Systems.

1. UNLAWFUL. It shall be unlawful for any person within the city to give, or cause to be given, a false communication, knowing the same to be false, requesting ambulance conveyance for emergency medical assistance as provided for in s. 75-15.

2. PENALTY. Any person guilty of the violation of this section shall, upon conviction thereof, be fined a sum of not more than \$500, and in default of payment of such fine and costs shall be imprisoned in the house of correction of Milwaukee county for not more than 30 days.

### 75-19. Conversion Therapy Prohibited.

1. DEFINITIONS. In this section:

a. "Person" means any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business organization.

b. "Conversion therapy" means any practices or treatments offered or rendered to consumers for a fee, including psychological counseling, that seeks to change a person's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. "Conversion therapy" does not include counseling that provides assistance to a person undergoing gender transition, or counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity.

2. UNLAWFUL. It is unlawful for any person to practice conversion therapy with anyone under 18 years of age.

3. RULES AND REGULATIONS. The department is authorized to promulgate any rules and regulations it deems necessary to implement and enforce the provisions of this section.

4. PENALTY. Any person convicted of violating this section shall be subject to a forfeiture of not less than \$500 nor more than \$1,000 for each violation, and in default of payment thereof shall be imprisoned as provided

by law. For purposes of this section, each day a person is found to have practiced conversion therapy shall be considered a separate violation.

### 75-20. Swimming Pools and Places.

1. ADOPTION OF STATE CODE. Except as otherwise provided in this section, the city of Milwaukee adopts ch. SPS 390, and ch. ATCP 76, Wis. Adm. Code, as amended, as part of this code.

2. DEFINITIONS. In this section:

a. "Approved" means approved by, or in accordance with, regulations established by the commissioner.

b. "Automatic" means a mechanical action which does not rely upon human control during normal operations, except for maintenance or occasional readjustment.

c. "Beach" means any swimming place used for swimming, wading, or other full or partial body contact created at a naturally occurring body or source of water, the flow of which is not regulated or fully controllable.

d. "Commissioner" means the commissioner of health, the commissioner of neighborhood services or any other city official to whom the function of regulating swimming pools and swimming places has been delegated pursuant to a memorandum of understanding.

e. "Cross connection" means any arrangement whereby a potable water system is connected, either directly or indirectly, to another water system, sewer system or any system containing another fluid, in such a manner that the possibility exists, under proper conditions, that the fluids of one system could contaminate the other.

f. "Enclosure" means an approved structure or barrier which defines the limits of a given area and contains points of ingress and egress.

g. "Hose bib" means a valved plumbing fitting connected to a water supply and threaded for hose connection.

h. "Person" means any person, firm, partnership, association, corporation, company, contractor, governmental agency, club or organization of any kind.

i. "Pool depth" means the depth of the water at a given point in the pool which shall extend vertically from the pool floor to the horizontal axis of the overflow point of the pool.

j. "Potable water" means water which is safe to drink by reason of applicable health standards.

k. "Private swimming place" means any swimming place maintained only for the exclusive use of no more than 2 individual residential quarters and their occasional guests, is capable of having a pool depth of 36 inches and has a potential volume of at least 3,965 gallons.

L. "Public swimming place" means any swimming place other than a private installation. This includes a municipal, county, association, club, camp, school, motel, hotel, bed and breakfast, apartment building and a similar installation, whether or not a fee is charged for use. A public pool shall not include a pool drained to waste, cleaned and refilled with fresh potable water prior to use by each individual.

m. "Strainer basket" means a device designed to filter large material from the pool water before such water enters the pump and other water treatment equipment.

n. "Swimming place" means that portion of a body of water used, in whole or in part, for swimming, wading, or recreational bathing, together with all shores, adjacent areas, buildings, equipment and appurtenances pertaining to such place.

o. "Swimming pool" means a structure, basin, chamber or tank used for wading, swimming, diving, water recreation, therapy or bathing, whether installed or erected above or below ground elevation and whether temporary or permanent, whether indoors or outdoors.

**3. AUTHORITY.** Authority for the control of swimming places is vested in the commissioner. The commissioner is authorized to examine public and private swimming places during all periods of operation. The commissioner is also authorized to test the water for any type of contamination that may endanger the public. Swimming places shall include natural, artificial, prefabricated, permanent, or movable swimming places and their facilities.

**4. RULES AND REGULATIONS.** The commissioner is authorized and empowered to make and adopt written rules and regulations necessary for the proper enforcement of this section and to assure the health and safety of the public. A copy of all rules and regulations shall be kept on file in the office of the commissioner, in the office of the city clerk and in the legislative reference bureau.

**5. POSTING OF NOTICES TO BUYERS REQUIRED.** Stores or businesses selling private pools to be constructed within the

city, whether above or below ground, shall have posted on the premises in a prominent and conspicuous manner in the vicinity of the swimming pool display, a placard stating as follows: "IMPORTANT NOTICE TO POTENTIAL PRIVATE SWIMMING POOL BUYERS: The city of Milwaukee has limitations and regulations, including the requirement of an installation permit, for private swimming pool construction. These regulations apply to all pools installed in the ground and to all pools installed above the ground which have a potential depth of 36 inches or a potential volume of 3,965 gallons. To determine the limitations concerning such pools and to obtain permits, prior to installation, contact the Milwaukee Department of Neighborhood Services, Nuisance and Environmental Health Division."

**6. PERMIT REQUIRED.** In addition to the requirements of ch. SPS 390, Wis. Adm. Code, no person shall construct, install, enlarge, establish, maintain or make any alteration to any public swimming place or any outdoor private swimming place without a pool construction permit issued by the commissioner.

a. Application.

a-1. Any person wishing to obtain a permit for a private pool under this section shall file an application on forms provided by the commissioner. The application shall be accompanied by the fees required in s. 60-83.

a-2. Any person wishing to obtain a permit for a public pool under this section shall file an application on forms provided by the commissioner. The application shall be accompanied by one set of plans and specifications which will be retained by the commissioner and the plan examination fee required in s. 60-83. The plans and specifications shall be prepared by a registered architect or engineer. The names and addresses of the owner and the architect or engineer, and the location of the swimming place shall be filed with the application. Plans shall be drawn to a scale and accompanied by sufficiently detailed specifications so as to permit a comprehensive engineering review including the piping and hydraulic details and shall include:

a-2-a. Plans and sectional views with all necessary dimensions of the pool, servicing facilities and surrounding area.

a-2-b. A piping diagram showing all appurtenances including chemical treatment facilities in sufficient detail as well as pertinent elevation data to permit a full analysis of the system.

## 75-20-7 Miscellaneous Health Provisions

a-2-c. An electrical layout diagram for the entire installation, if applicable.

a-2-d. Specifications which shall contain details on all treatment equipment, including catalogue identification of pumps, chlorinators, chemical feeders, filters, strainers and all related equipment.

a-2-e. Operating data which shall include flow rates, heads, metering valves and their locations, flow diagram, locations of flow meters, pressure gauges, thermometers, test cocks and sight glasses, along with the system for disposal of pool water.

a-2-f. Such other items as may be required by the commissioner to properly evaluate the swimming pool within the purposes of this section.

a-3. All permits for swimming places shall be approved by the commissioner prior to construction.

b. Revocation. The commissioner reserves the right to revoke a permit.

c. Right of Appeal. Before a permit is revoked, the person to whom the permit has been issued shall be served pursuant to s. 200-12-3 a notice in writing from the commissioner enumerating instances of failure to comply with the regulations. Any person so affected shall be granted a hearing on the matter before the commissioner, provided that such person shall file in the office of the commissioner a written petition requesting such hearing and setting for a statement of the grounds thereof within 20 days after the day the notice was served.

d. Changes Approved. Upon issuance of the permit, construction shall be undertaken subject to the conditions of the permit and in accordance with the plans as approved. No change or modification of any item governed by any provision of this section, or the rules and regulations adopted pursuant thereto, shall be made without having obtained express written approval from the commissioner.

e. Permit Lapse. Except as regulated herein, if any construction for which a permit has been issued is not started within 6 months from the date of the issuance of the permit, or if construction ceases for more than 6 months, then the permit shall lapse and be void and no construction shall be begun or resumed until a new permit is obtained and the fees prescribed in this section paid therefor.

7. PUBLIC POOLS. No public swimming place shall be permitted to operate until approved by the commissioner in accordance with the requirements of this section and the rules and regulations adopted thereto.

a. License Required. No public swimming place shall be used until a valid license to operate has been obtained from the commissioner. When all applicable provisions of this section have been complied with by the applicant, the commissioner shall issue a license to operate a swimming place upon payment of the fee required in s. 60-81. The license shall be issued annually by the commissioner after an inspection reveals that the swimming place is in full compliance with this section and the rules and regulations adopted pursuant thereto.

a-1. License Displayed. The license shall be publicly displayed on the premises. The license may contain whatever limitations are deemed necessary by the commissioner for the protection of the public.

a-2. Exemptions. Beaches posted during the entire swimming season "SWIM AT YOUR OWN RISK - LIFEGUARDS NOT PROVIDED", shall not be required to obtain a license. Such beaches shall comply with the provisions of sub. 14-d when applicable.

b. Suspension.

b-1. Noncompliance. The commissioner shall have the authority to suspend the license issued to any person upon evidence of the failure of the person to operate or maintain the swimming place in conformity with this section and the rules and regulations adopted pursuant thereto. No license shall be suspended by the commissioner until written notice has first been served pursuant to s. 200-12-3 on the licensee advising the licensee of the violations of these provisions and rules and regulations adopted pursuant thereto and allowing him or her a reasonable period of time to correct the conditions. When, in the opinion of the commissioner, failure to operate or maintain the swimming place in conformity with this section and the rules and regulations adopted pursuant hereto has resulted in a serious and immediate hazard to the health or safety of any person, the commissioner shall have the right summarily to suspend the operating license. Upon suspension of the license, the swimming place shall remain closed until such time as compliance has been obtained and the license reinstated.

b-2. Hearings. The commissioner may revoke any license for failure to comply with the regulations referred to in this section or when the license has been obtained through nondisclosure, misrepresentation or misstatement of a material fact. Before a license is revoked, the person to whom the license has been issued shall be served pursuant to s. 200-12-3 notice in writing from the commissioner

enumerating instances of failure to comply with the regulations. The owner or operator affected by any notice which has been issued in connection with the enforcement of any provision of this section or any rule or regulations adopted pursuant thereto may request and shall be granted a hearing on the matter before the commissioner, provided that the person shall file in the office of the commissioner a written petition requesting a hearing and setting forth a statement of the grounds therefor within 20 days after the day the notice was served. Within 10 days of receipt of a petition, the commissioner shall set a time and place for a hearing and shall give the petitioner written notice thereof. At the hearing, the petitioner shall be given an opportunity to be heard and to show cause why the notice should be modified or withdrawn. The hearing before the commissioner shall be commenced not later than 30 days after the date on which the petition was filed, provided that upon written application of the petitioner to the commissioner, the commissioner may postpone the date of the hearing for a reasonable time beyond such 30 day period if in the commissioner's judgment the petitioner has submitted a good and sufficient reason for such postponement. The commissioner may also postpone the hearing to gather testimony and data. The commissioner shall have the power to administer oaths and affirmations in connection with the conduct of any hearing held in accordance with this subdivision.

**8. FEES; SWIMMING POOLS AND PLACES.** See ss. 60-81 and 60-83 for the required fees.

**9. PERMIT TRANSFER NOT ALLOWED.** No permit or license for a public swimming place which has been issued under this section shall be transferable.

**10. NUISANCES.** Nothing in this section shall be construed or interpreted to in any way impair or limit the authority of the city to define and declare nuisances or of the commissioner to cause the removal or abatement of nuisances by summary proceedings or other appropriate proceedings.

**11. FLOODING; POOL DRAINAGE.** When draining water from a swimming pool, the pool owner shall take steps that are necessary to prevent water from being discharged onto neighboring properties. If swimming pool water is drained in a manner that causes flooding or damage on neighboring properties, it shall be deemed a nuisance and a violation of this section and shall be subject to the penalties in sub. 17.

**12. PUBLIC POOL REQUIREMENTS.** In addition to the provisions of ch. SPS 390, Wis. Adm. Code, and ch. DHS 172, Wis. Adm. Code, public swimming places shall comply with the requirements listed in this subsection.

a. **Attendant Required.** Public swimming places with pools that have a surface area of less than 2,000 square feet shall provide an attendant at all times that the pool is not locked and secured from public access. Exemptions from this provision may be granted by the commissioner or his or her designee in cases where the operator can demonstrate that access to the pool will be controlled to prevent unauthorized access.

b. **Warning Device.** A red light shall be provided in the pool area which shall be actuated whenever the recirculation pump ceases to supply water to the filter. The light shall be readily visible to attendants or operators and patrons when an attendant is not provided. A sign shall be posted immediately below the light when an attendant is not provided indicating the person to contact if the light is on.

c. **Automatic Water Level Control.** A device shall be provided which automatically maintains the water level in the pool at the level which is optimum for proper skimming. The water inlet shall be installed to prevent a cross connection with the potable water supply.

d. **Strainer Basket.** A spare strainer basket shall be provided for each filter pump.

e. **Cartridge Filters.** When used, a spare set of cartridge filters shall be provided on site.

f. **Trained Operator.** Trained operator required at pools: certificate of competency required. Every public swimming place shall be operated under the supervision of a trained operator. The commissioner may require a certificate of competency obtained through attendance and successful completion of a swimming pool operator's training course approved by the commissioner as evidence of compliance with this section.

g. **Drinking Fountains.** In addition to the drinking fountain requirements of ch. SPS 390, Wis. Adm. Code, public swimming places with water surface areas greater than 2000 square feet shall provide a low mounted drinking fountain for use by children.

h. **Temperature Gauges.** Where a water heater is provided, fixed temperature gauges shall be installed on the supply and return lines of the recirculation system. The gauges shall be installed and maintained to be easily read by the operator.

## 75-20-13 Miscellaneous Health Provisions

i. Health and Safety Hazards Not Covered. The commissioner reserves the right to require correction of any health or safety hazard or nuisance which may be found that is not covered in this code.

j. Animals. No animals shall be allowed in any swimming pool at any time insofar as the regulation of the same is possible.

### 13. PRIVATE OUTDOOR SWIMMING PLACE REQUIREMENTS.

a. Cross Connection With Water Supply. There shall be no cross connections between the city water supply and the swimming pool water or the pool recirculation system. Approved back flow prevention shall be supplied for all threaded hose bibs.

b. Cross Connection With Sewer System. There shall be no cross connections or submerged inlets between the swimming pool or pool system and any other reservoir or conduit which holds or transmits polluted materials.

c. Sewer and Waste Water.

c-1. The sewer or waste water system shall be adequate to serve the swimming pool system and facility.

c-2. No inground swimming pool shall be installed within 25 feet of a septic system or 50 feet of a soil absorption system.

d. Proper Pool Enclosure Required. Every private swimming pool shall, at all times, be properly enclosed so as to prevent children and animals from entering such pools when unattended. The enclosure shall meet the requirements of this paragraph.

d-1. The vertical water enclosing wall of the swimming pool may serve as an approved barrier if it is a non-climbable solid wall of durable material. Such walls shall extend more than 3 feet above the level of the ground immediately adjacent to the pool on all sides of the pool. Such a solid wall barrier shall not be located within 6 feet of any other wall, tree, deck, fence or other object which can be readily climbed and used by children to enter the pool. Ladders, platforms and other devices used to access the pool shall be removed or secured to prevent child access when the pool is not in use.

d-2. An approved barrier shall consist of a properly erected and maintained non-climbable wall or fence at least 48 inches in height which entirely surrounds the pool. The wall or fence shall be constructed so that a 4 inch-diameter sphere cannot be passed through any opening. Every fence shall be constructed in accordance with ss. 239-2 and 245-4.5. Every wall or fence

shall be located not less than 4 feet from the vertical, water enclosing wall of the pool. All gates in the walls or fences shall be self-closing and self-latching and shall be at least 48 inches above the ground level. The gate latch release mechanism shall be mounted on the pool side of the gate at least 3 inches from the top of the gate. The gate latch shall be guarded or made inaccessible to children to prevent them from reaching through rather than over the gate and activating the mechanism. The gate shall be open out from the pool area. A natural barrier, hedge or wall of a structure or other protective device may be used in lieu of a fence or wall if approved by the commissioner and if the degree of protection is not less than that afforded by a wall, fence, gate and latch as described herein.

e. Electrical Service Conductor Clearance. A pool shall be placed to maintain the distances to electrical service conductors required in NFPA 70, ch. 1, articles 680-8 and 680-10.

### 14. PUBLIC BEACHES.

a. Location. Public beaches shall be located to the best extent possible to minimize exposure to pollutants and safety hazards.

a-1. Public beaches shall be located to allow ready supervision of the entire area and appurtenances.

b. Design and Construction.

b-1. Swimming areas shall contain a gradually sloped bottom with no sudden drop-offs in water 5 1/2 feet or less. The bottom material shall be sand or other fine particle that does not produce a safety hazard.

b-2. When possible, the swimming area shall be marked at the 5 1/2-foot depth point with solidly anchored brightly colored floats no more than 6 feet on center. The entire off shore boundary of the swimming area should be encompassed by a floating lifeline.

b-3. The beach shall slope gradually to the swimming area and be composed of sand or other approved material.

b-4. When lifeguards are provided, a plan showing the location and number of lifeguards and guard stands, safety equipment, first aid equipment and first aid stations shall be submitted to the commissioner for approval. Lifeguards shall be provided during hours that the beach is officially open to the public. Where lifeguards are not provided, the beach shall be posted: "LIFEGUARDS NOT PROVIDED, SWIM AT YOUR OWN RISK."



## Miscellaneous Health Provisions 75-21

b-5. Bulletin boards or other approved structures shall be provided nearby to post safety rules, water quality recommendations and water temperatures. Bulletin boards shall also be provided to post conspicuous notices when the beach is closed and to inform patrons that a life guard is not being provided and swimming is at their own risk.

c. Maintenance of Beach and Swimming Areas.

c-1. Before the beach area is to be used each season, the sand shall be sifted or otherwise treated to remove all material that would constitute a hazard.

c-2. At the beginning of each swimming season, the bottom of the swimming area shall be inspected and all materials that may cause a health or safety hazard shall be removed.

c-3. During the swimming season, the beach and swimming area shall be inspected daily, except during inclement weather, and all weeds, weed mats, animal matter, glass, paper and other foreign material shall be removed. Signs shall be posted which indicate the period when daily inspections are conducted.

c-4. Cladophora mats shall be removed from the beach area as soon as possible. While any mats are present, approved signs shall be posted that recommend that swimmers should not enter the water as safe access to the water does not exist due to the cladophora hazard.

d. Sanitary Facilities.

d-1. Showers and dressing rooms, when supplied, shall be constructed of water impervious materials. Floors and walls shall be smooth and easily cleaned with no cracks. Floors shall be non-slip and constructed to provide immediate drainage. Showers and dressing rooms shall be kept clean and disinfected.

d-2. Separate toilet facilities shall be provided nearby for both sexes. The male toilet room shall be provided with one water closet, one urinal and one lavatory for each 16,000 square feet of beach area. The female toilet room shall be provided with 2 toilets and one lavatory for each 16,000 feet of beach area.

**15. BIOLOGICAL AND CHEMICAL HAZARDS.** To preserve the public health the commissioner may test or otherwise evaluate the water quality at any beach or public swimming place, or require that the operator test the water at any beach or swimming place for contamination that may endanger the patrons or the public. The commissioner may post water

quality recommendations or require that recommendations be posted by the operator. The commissioner shall also have the authority to have the swimming place closed to swimming to protect the health of the patrons and the public.

**16. COMPETITIVE CODES.** The provisions of this section shall not abrogate the responsibility of any person to comply with any provision of the Wisconsin state codes or other applicable city code. Where there is a conflict in these codes, the most stringent regulation shall apply.

**17. PENALTIES.** a. Any person who violates subs. 1 to 15 or any rule or order of the commissioner issued under these subsections shall upon conviction be subject to the penalties specified in s. 61-11.

b. Lien. If any owner or agent fails, omits, neglects or refuses to obey any order from the department of health or the department of neighborhood services, the appropriate department may take such steps as are necessary to remove the nuisance or hazard. Pursuant to s. 66.0627, Wis. Stats., a special charge shall be made against the subject property for the nuisance or hazard abatement and shall be due and payable 30 days after billing or if not paid within that time become a lien on the subject property. The lien shall automatically be extended upon the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to the special charge. The special charge shall not be payable in installments.

c. Appeal. Appeal of the determination of the commissioner imposing special charges against premises may be submitted to the administrative review appeals board as provided by s. 320-11. Appeals filed pursuant to this section shall be filed no later than 30 days after the special charges are imposed.

### **75-21. Massage Establishment Regulation.**

**1. DEFINITIONS.** In this section:

a. "Commissioner" means the commissioner of health or an authorized representative.

b. "Massage" means the manipulation of the soft tissue of the body for therapeutic purposes and may include but is not limited to effleurage, petrissage, tapotement, compression, vibration, friction, stroking or

## 75-21-2 Miscellaneous Health Provisions

kneading, either by hand or with mechanical or electrical apparatus, for the purpose of body massage. This may include the use of oil, salt glows, hot and cold packs and other recognized forms of massage therapy. The term does not include diagnosis or any service or procedure for which a license to practice medicine is required by law.

c. "Massage establishment" means a place where massage, as defined in sub. b, is performed.

**2. LICENSE REQUIRED.** No person may carry on the business of operating a massage establishment without a valid license issued under this section for each place of business.

**3. EXEMPTIONS.** This section does not apply to:

a. Physicians, surgeons, chiropractors, osteopaths or physical therapists licensed or registered to practice their respective professions under the laws of the state of Wisconsin.

b. Barbers and cosmetologists licensed under the laws of the state of Wisconsin, provided that such massage practiced is limited to the head and scalp.

c. Accredited high schools and colleges and coaches and trainers therein while acting within the scope of their employment.

d. Trainers of any amateur, semi-professional athlete or athletic team.

e. Organizations formed exclusively for the purpose of ballet performance and instruction which have received tax-exempt status from the U.S. internal revenue service, upon the presentation of documentation of such status to the health department.

**4. APPLICATION.** License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

**5. PLAN OF OPERATION.** An application for a massage establishment license shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

**6. CHANGES TO BE REPORTED.**

See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

**7. LICENSE FEE.** See ch. 81 for the required license fee.

**8. AGE QUALIFICATION.** No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

**9. DISQUALIFICATION.** Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

**10. FINGERPRINTING AND INVESTIGATION REQUIREMENTS.** Each application for a new license shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health in accordance with s. 85-21.

**11. OBJECTION.** An objection to issuance of a license shall be based on the factors set forth in s. 85-2.7-4. If the local common council member, chief of police or commissioner recommends against an application, no permit shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, chief or commissioner. An appeal shall be forwarded by the city clerk to the licensing

## Miscellaneous Health Provisions 75-23

committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

**12. ISSUANCE.** See s. 85-12.5 for provisions relating to the issuance of a license.

**13. POSTING.** Each license shall be posted in a conspicuous place on the premises.

**14. TRANSFER.** See s. 85-19 for provisions relating to the transfer of a license and change of licensee names.

**15. RENEWAL.** Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the chief of police. If the applicant still meets the licensing qualifications, the license shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

**16. REVOCATION OR SUSPENSION OF LICENSE.** Any license issued under this section may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

**17. INSURANCE.** Every license applicant shall, at the time of applying for the license, file with the city clerk a certificate of general liability and property damage insurance in the sum of not less than \$25,000 per person/\$50,000 per accident bodily injury liability or combined single limit of not less than \$60,000 per occurrence.

**18. MASSAGE ESTABLISHMENT FACILITY REQUIREMENTS.** Every massage establishment shall maintain facilities meeting the following requirements:

a. The establishment shall have a minimum of one washbasin.

b. The massage room shall have a minimum of 40 foot-candles of lighting for the purpose of observing possible contra-indications of massage.

c. Massage tables shall have a surface which is impervious to liquids and shall be furnished with linen, either disposable or washable, which are changed for each client.

d. Doors to rooms where massage is administered shall be unlocked during business hours.

e. For the purpose of ascertaining compliance with this section and conducting

routine inspections, police officers, health inspectors and building inspectors shall have the right of entry onto the premises of any massage establishment during business hours.

**19. MASSAGE ESTABLISHMENT OPERATION.** Massage establishments shall comply with the following operation requirements:

a. An establishment may not commence operations before 6 a.m., and the hours of operation may not extend later than 10 p.m. These hours shall pertain to on-site massages.

b. Massage establishments shall prominently and publicly display their licenses on the premises during all business hours.

c. Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens and proper storage areas for such linens. Soiled linens and paper towels shall be deposited in receptacles.

d. Massage shall not be given unless a client's genitals are fully covered by linens or towels at all times. Female clients shall also have their breasts covered at all times.

**20. PROHIBITED PRACTICES.** No operator of a massage establishment may allow massages of the genital area of any patron or the breasts of any female patron.

**21. EMERGENCY SUSPENSION.** The emergency suspension procedures of s. 75-23-19 may be applicable to a massage establishment license if the situation warrants an emergency suspension.

**22. PENALTY.** a. Any person violating this section shall be subject to a forfeiture specified under s. 61-15.

b. Citations may be issued for all violations of this section with or without prior notice. The stipulation, forfeiture and court procedure set forth in s. 50-25 shall apply.

### **75-23. Tattooing and Body-Piercing.**

#### **1. COMMON COUNCIL FINDINGS.**

The common council finds that:

a. It is important to the health, safety and welfare of all residents of Milwaukee to promote safe and adequate care and treatment for individuals who receive tattoos or body piercing.

b. Tattooing and body piercing can expose individuals to communicable disease or infection unless great care is taken to ensure the cleanliness of the instruments and techniques used.

## 75-23-2 Miscellaneous Health Provisions

c. Some tattooing and body-piercing activities may be performed in such a dangerous and unsafe manner that protection of public health and safety requires the city to immediately abate the danger and suspend the activities without notice.

### 2. DEFINITIONS. In this section:

a. "Body piercer" means a person who performs body piercing on another.

b. "Body piercing" means perforating any human body part or human tissue, except an ear, and placing a foreign object in the perforation in order to prevent the perforation from closing.

c. "Dentist" means an individual licensed under s. 447.03(1), Wis. Stats.

d. "Department" means the health department.

e. "Physician" means an individual licensed to practice medicine and surgery under s. 448.03(1), Wis. Stats.

f. "Tattoo" has the meaning given in s. 948.70(1)(b), Wis. Stats.

g. "Tattooist" means a person who tattoos another.

h. "Variance" means a written document approved by the department that authorizes a modification or waiver of one or more regulatory requirements, if in the opinion of the department the modification will not result in a health hazard or nuisance.

3. STATE STATUTES AND ADMINISTRATIVE CODE ADOPTED. The city of Milwaukee adopts ch. DHS 173, Wis. Adm. Code, as amended, as part of this code. The city of Milwaukee adopts ss. 252.23, 252.24, 252.245 and 948.70, Wis. Stats., as part of this code.

4. DEPARTMENT AS AGENT OF STATE. The department is authorized to act as an agent of the Wisconsin department of health and family services, as authorized under ss. 52.23, 252.24 and 252.245, Wis. Stats., and ch. DHS 173, Wis. Admin. Code subject to the agreement required under s. 252.245(1), Wis. Stats. The department is authorized, as agent of the state, to enforce the tattooing and body-piercing regulations of ss. 252.23, 252.24, 252.245 and 948.70, Wis. Stats., and ch. DHS 173, Wis. Adm. Code subject to the agreement required under s. 252.245(1), Wis. Stats.

5. LICENSE REQUIRED. a. Except as provided in par. b, no person may tattoo or attempt to tattoo another, designate or represent himself or herself as a tattooist or use or assume the title "tattooist" and no tattoo establishment may be operated unless the person and the establishment are licensed under this section or

applicable Wisconsin statute. No person may pierce the body of or attempt to pierce the body of another, designate or represent himself or herself as a body piercer or use or assume the title "body piercer" and no body-piercing establishment may be operated unless the person and the establishment are licensed under this section or applicable Wisconsin statute.

b. The licensure requirement of par. a does not apply to a dentist or to a physician who, in the course of the dentist's or physician's professional practice, tattoos or offers to tattoo an individual or who pierces the body of or offers to pierce the body of an individual.

6. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

7. PLAN OF OPERATION. An application for a license required under this section shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Information required by the health department to complete a public health plan review, which shall include:

j-1. A floor plan indicating the procedure areas, restroom, hand washing sinks, customer lounge /reception area, equipment sterilization room with associated sinks and sterilization equipment, mop sink and utility sink area.

## Miscellaneous Health Provisions 75-23-7.5

j-2. An equipment list of all items to be used during a tattoo or body art procedure or used for sterilization.

j-3. A list of all finish materials used on floors, walls, ceilings, counter tops, storage cabinets and procedural tables and surfaces.

j-4. A lighting plan, showing locations of light fixtures and specifications of fixtures to be used.

j-5. A plan for sharps disposal.

j-6. An insect and rodent control plan.

j-7. An infection prevention and control plan, including either a copy of the initial spore test results or a request for a variance if all disposable equipment is to be used.

j-8. A copy of the practitioner licenses for all artists.

j-9. A copy of the client log, consent form, aftercare instructions, and age limitation sign to be used.

k. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

**7.5. VARIANCE.** a. At the commissioner's discretion, if strict adherence to any state regulation adopted in s. 75-23-3 is impractical for a particular tattoo or body-piercing operation, the commissioner may approve a variance for that tattoo or body-piercing operation if the commissioner is provided with satisfactory proof that the granting of the variance will not jeopardize public health, safety, or welfare.

b. Application for a variance shall be submitted in writing to the commissioner on a form provided by the department. The application shall be accompanied by the documentation specified in par. e.

c. Upon receipt of a complete application, the commissioner shall review the request and grant or deny the request in writing within 30 days. If a variance is granted, the commissioner shall maintain a copy of the variance in the tattoo or body-piercing operation's file.

d. A variance shall be considered a change to a tattoo or body-piercing operation's operational plan requiring review and approval.

e. Documentation supporting a proposed variance shall include each of the following:

e-1. A description of the proposed variance from this chapter, or state regulations, citing relevant section numbers.

e-2. A description of how the potential public health hazards and nuisances addressed by the code requirement from which the variance is sought will be alternatively addressed if the variance is granted.

e-3. A hazard analysis and critical control points plan if relevant to the variance request or required by the commissioner.

f. A variance to health regulatory requirements shall be valid for 5 years from the date of issuance unless revoked for non-compliance. An operator wishing to extend a variance approval shall submit a variance renewal request. Failure to file a request for variance renewal prior to expiration shall result in the application being considered a new application.

g. Failure by an operator to adhere to the terms of modification or variance approval shall be grounds for corrective enforcement, including, but not limited to, revocation of the variance approval.

**8. CHANGES TO BE REPORTED.** See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

**9. LICENSE FEE.** See ch. 81 for the required license fee.

**10. AGE QUALIFICATION.** No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

**11. DISQUALIFICATION.** Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

**12. FINGERPRINTING AND INVESTIGATION REQUIREMENTS.** Each application for a new license shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health in accordance with s. 85-21.

**13. OBJECTION.** An objection to issuance of a license shall be based on the factors set forth in s. 85-2.7-4. If the local common council member, chief of police or commissioner recommends against an application, no permit shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, chief or commissioner. An appeal shall be forwarded by the city clerk to the licensing

## 75-23-14 Miscellaneous Health Provisions

committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

**14. ISSUANCE.** See s. 85-12.5 for provisions relating to the issuance of a license.

**15. POSTING.** Each license shall be posted in a conspicuous place on the premises.

**16. TRANSFER.** See s. 85-19 for provisions relating to the transfer of a license and change of licensee names.

**17. RENEWAL.** Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the chief of police. If the applicant still meets the licensing qualifications, the license shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

**18. REVOCATION OR SUSPENSION OF LICENSE.** Any license issued under this section may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

**19. EMERGENCY SUSPENSION.**

a. Whenever the department finds that the activities of a licensee constitute an immediate danger to public health, the department may immediately act to abate that danger and may immediately suspend without notice a license issued under this section. Activities that constitute an immediate danger to public health include, but are not limited to, use of unsterile needles or instruments, lack of properly operating sterilization equipment on the premises or infections that the department has attributed to the activities of the licensee.

b-1. An emergency suspension shall be for no longer than 14 calendar days. The department may, before expiration of an emergency suspension, determine that the immediate danger to public health continues to exist, and that the temporary order shall remain in effect after the expiration date of the original emergency suspension until a hearing has been concluded and the environmental health board has made a decision on the matter.

b-2. The department may inform the licensee in writing, at the time the suspension is imposed or at any later time prior to the expiration of the emergency suspension, that the

suspension may be continued after the expiration date if the department determines that the immediate danger to public health continues to exist.

c. Whenever an emergency suspension is imposed, the department shall at the same time provide written notice to the licensee that the environmental health board shall hold a hearing on the suspension. The notice shall specify either the date of the hearing or a telephone number and address where this information can be obtained. The notice shall state that a written notice of hearing shall be mailed to the licensee.

d. The board, by certified mail, return receipt requested, shall mail a written notice of hearing to a licensee whose license has been suspended under this subsection. The notice shall be mailed to the address on the application or a more recent address furnished in writing by the licensee to the department, which shall constitute service on the licensee or the licensee's agent. The notice shall be sent to the applicant so that the applicant has at least 4 calendar days' notice of the hearing. The notice shall specify the date, time and location of the hearing. The notice shall state that the licensee shall be given an opportunity to respond to and challenge any reason for suspension, to present witnesses under oath and to confront and cross-examine opposing witnesses under oath. The notice shall state that the licensee may be represented by an attorney of the licensee's choice at the licensee's expense, if the licensee so wishes.

e. The board shall hold a hearing on the suspension not more than 14 calendar days after the imposition of the suspension. After the hearing, the board shall determine whether the suspension shall be discontinued or continued. The hearing shall be a due process hearing under sub. 20.

f. The hearing under par. e need not be held if the licensee and the department mutually agree that no purpose would be served by a hearing.

**20. DUE PROCESS HEARING.** a. At the hearing, the board chair shall open the meeting by stating that a notice was sent and shall make the notice part of the record. The chair shall advise the appellant that the appellant has an option to proceed with a due process hearing, represented by counsel, with all testimony both direct and cross-examination under oath, or that the appellant may simply make a statement to the board.

## Miscellaneous Health Provisions 75-30

b. A due process hearing shall be conducted in the following manner:

b-1. All witnesses shall be sworn in.

b-2. The chair shall ask the department to proceed first.

b-3. The appellant shall be permitted an opportunity to cross-examine.

b-4. After the conclusion of the department's testimony, the appellant shall be permitted to present the appellant's own witnesses, subject to cross-examination.

b-5. Board members may ask questions of witnesses.

b-6. Both the department and the appellant shall be permitted brief summary statements.

c. The decision of the board regarding the appellant shall be based only on evidence presented at the hearing. Probative evidence concerning whether or not the appeal should be upheld may be presented on the factors enumerated in sub. 9-b or 11-a, whichever is applicable.

d. The board may decide whether the department's decision shall be upheld, modified or reversed immediately following the hearing or at a later date. Written notice of the board's decision, including the specific reasons for the decision, shall be mailed to the appellant. The notice shall be mailed to the address on the application or a more recent address furnished in writing by the appellant to the department.

**21. ENFORCEMENT.** a. The department shall enforce this section by issuance of orders and citations. A citation may be issued for a violation of this section without prior issuance of an order for that violation.

b. The police department shall enforce this section by issuance of citations.

**22. PENALTIES.** a. Except as otherwise provided in par. b, a person who violates this section or fails to comply with an order issued under this section shall be subject to a forfeiture not to exceed \$500 for each violation or failure to comply.

b. Any person who tattoos or offers to tattoo a person under 18 years of age shall be subject to a forfeiture not to exceed \$200.

**75-30. Reinspection.** 1. Any responsible party who receives notification of the assessment of reinspection fees shall remit the fees to the department within 15 days of mailing or service of the notification of charges. Failure to remit in full

within this time period may subject the responsible party to an action to collect the sum in a civil action. An alternative to the commencement of a civil action collection may be enforced as follows:

a. Where the responsible party is operating under a license or permit issued by the department and the reinspection fee is assessed, failure to pay the reinspection fee as required is declared just cause for the commissioner to suspend such license or permit following notification to the responsible party.

b. No license or permit shall be issued or renewed by the department for any operation which has an outstanding unpaid reinspection fee.

**2.** Any responsible party who receives notification of the assessment of reinspection fees may appeal such assessments as to appropriateness or amount by the following procedure:

a. Within 10 days of mailing or service of the notification of the reinspection assessment, the responsible party shall notify the commissioner in writing that he or she is appealing the assessment and setting forth the reasons for appeal.

b. The commissioner shall within 7 days of receipt of the appeal notify the responsible party by mail of the date and time of a hearing to consider the appeal.

c. The commissioner shall consider the testimony of the responsible party and that of the department's representatives responsible for the issuance of the order, the report of the reinspection and subsequent reinspection assessment fees. The commissioner may affirm, modify or cancel the charges as may be proper in the circumstances. The action taken shall be reduced to writing and mailed to the responsible party within 10 days. Such notification shall inform the responsible party that if the party is not satisfied with the decision, he or she may appeal pursuant to the procedure set forth in s. 320-11.

### **75-40. Environmental Health Board.**

**1. ESTABLISHMENT.** An environmental health board is established consisting of 3 members appointed by the health commissioner. At least 2 members shall be professional environmental health personnel. Members are not required to be city residents. Elected officials and city employees who serve on the board shall not receive remuneration.

## **75-40-2 Miscellaneous Health Provisions**

**2.** DUTIES. a. The environmental health board shall serve as an appeal board with respect to the nonrenewal, suspension or revocation of permits and licenses issued under chs. 66 and 75 except for those under ss. 75-15 and 75-23 and under ss. 76-20, 84-45 and 84-48, and with respect to the denial or granting with conditions of permits applied for under s. 66-12-5.

b. The environmental health board shall serve as an appeal board for appeals of an order or other action of the health department or the health commissioner pursuant to s. 66-22-13.

**3.** FUNCTION. Each board member serves as an officer of the city exercising a quasi-judicial function within the scope of s. 893.80, Wis. Stats.

For legislative history of chapter 75, contact the Municipal Research Library.