



STATE OF WISCONSIN
Department of Justice

**PROPOSED ORDER OF
THE WISCONSIN DEPARTMENT OF JUSTICE
TO ADOPT RULES**

The Wisconsin Department of Justice (“DOJ”) proposes an order to create ch. Jus 22, relating to peer support teams and critical incident stress management teams. The statement of scope for these rules, SS 083-24, was approved by the Governor on July 11, 2024, and published in the Administrative Register, No. 823B, on July 29, 2024. The Governor approved these rules on _____.

**ANALYSIS PREPARED BY THE
WISCONSIN DEPARTMENT OF JUSTICE**

Statutes interpreted: s. 165.875, Stats.

Statutory authority: ss. 227.11(2)(a) and 165.875(2)(c), Stats.

Explanation of agency authority:

The proposed promulgation of these rules is supported by ss. 227.11(2)(a) and 165.875(2)(c), Stats.

Section 227.11(2)(a), Stats., provides:

(2) Rule-making authority is expressly conferred as follows:

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the

agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.

2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.

3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

Section 165.875(2)(c), Stats. provides:

(2) Creation; operation.

(a) The department of justice shall establish and implement a program for the establishment of peer support teams and critical incident stress management services teams. The department of justice shall organize a program of training for membership on a peer support team to provide peer support services.

(b) In order to qualify as a peer support team member or a critical incident stress management services team member, an individual shall attend a peer support training program provided through the department of justice as described under par. (a) or, at a minimum, a training program by a credentialed health care provider who, through education, training, or experience, is qualified to provide peer support training or critical incident stress management services training. An individual may not provide peer support services or critical incident stress management services unless that individual successfully completes a peer support or critical incident stress management services training program.

(c) The department of justice shall promulgate rules to implement this section, including all of the following:

1. Procedures for establishment of a peer support team or a critical incident stress management services team.

2. Procedures for designation of individuals to be peer support team members, critical incident stress management services team members, or both.

These statutes confer on DOJ the power to promulgate rules interpreting provisions in s. 165.875, Stats. that are to be enforced or administered by DOJ to effectuate the purpose of those statutory provisions, as long as the rules do not exceed the bounds of correct interpretation of the governing statutes.

DOJ finds that the rules here proposed:

- do not exceed the bounds of correct interpretation of s. 165.875, Stats.;
- are authorized by ss. 227.11(2)(a) and 165.875(2)(c), Stats. and are not based on authority derived from any other statutory or nonstatutory statements or declarations of legislative intent, purpose, findings, or policy;
- are authorized as necessary interpretations of the specific requirements of s. 165.875, Stats. and 2023 Wis. Act 220 and are not based on authority derived from any other general powers or duties of DOJ; and
- do not impose any standards or requirements that are more restrictive than the standards and requirements contained in s. 165.875, Stats.

For these reasons, the proposed rules are authorized by ss. 227.11(2)(a) and 165.875(2)(c), Stats.

Related statutes or rules: s. 165.875, Stats.

Plain-language analysis:

The objective of the proposed rules is to implement the requirements of 2023 Wisconsin Act 220, which requires DOJ to establish and implement a program for the establishment of peer support teams and critical incident stress management teams and to promulgate rules that establish procedures for establishing a peer support team or a critical incident stress management team and procedures for individuals to become members of peer support or critical incident stress management teams. The rules also establish training requirements for team members, a process for certification and recertification of team members, and a process for certification and recertification of instructors.

The proposed rule has 4 substantive sections, which are described below.

Jus 22.03 establishes the qualifications for membership on a peer support team or critical incident stress management team. Members are required to obtain 16 hours of training to qualify as a team member. The initial certification lasts for 3 years plus whatever time remains until the end of the state fiscal year.

Jus 22.04 establishes the requirements and process for recertification as a team member. Members are required to receive a total of 24 hours of training over the 3-year period with at least 8 hours in each of the final 3 years of their certification.

Jus 22.05 establishes the qualification for instructors for peer support and critical incident stress management trainings. Instructors can be certified based on 3 years or 6,000 hours of occupational experience as a law enforcement officer, tribal law enforcement officer, jail officer, juvenile detention officer, fire fighter, dispatcher, emergency medical responder, emergency medical services practitioner, public safety personnel, ambulance service provider personnel, or civilian employee or volunteer member of a law enforcement agency; membership on a team; and completion of a peer support training course that meets the department-approved 16-hour

curriculum. In addition, a credentialed health care provider may be certified based on training, education, or experience that qualifies them to provide peer support or critical incident stress management training. It also provides a process under which instructors seek certification and recertification as instructors.

Jus 22.06 establishes requirements for agencies that establish peer support or critical incident stress management teams. Agencies are to develop written guidelines for their teams that address the selection and removal of members, the maintenance of confidentiality, and training requirements for team membership. Agencies are also to identify a team leader for each team and provide the team leader's name and contact information to the department. The section also includes a process by which agencies seek certification and recertification of their teams. This section also makes clear that agencies may create regional teams that encompass multiple agencies.

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

In 2021, the federal government enacted the “Confidentiality Opportunities for Peer Support Counseling Act,” also known as the “COPS Counseling Act.” Public Law 117–60, codified at 34 U.S.C §§ 50901–02. The law applies to federal law enforcement agencies and officers. 34 U.S.C. § 50901(a)(1)–(2). It makes peer support communications confidential by prohibiting, with some exceptions, peer support specialists and participants from “disclos[ing] the contents of a peer support communication to an individual who was not a party to the peer support communication.” 34 U.S.C. § 50901(b). This provision is similar to the peer support privilege enacted in 2023 Wisconsin Act 220 and codified at Wis. Stat. § 905.095.

The COPS Counseling Act also provided that the U.S. Attorney General, “in coordination with the Secretary of Health and Human Services, shall develop a report on best practices and professional standards for peer support counseling programs and first responder agencies.” 34 U.S.C. § 50902(b). The statute required the report to include advice on establishing and operating peer support counseling programs and training and certifying peer support specialists; a code of ethics for peer support specialists; recommendations for continuing education for peer support specialists; advice on disclosing to first responders any confidentiality rights of peer support participants; and information on the different types of peer support counseling programs in use by first responder agencies, any differences in peer support counseling programs offered across categories of first responders, and the important role senior first responders play in supporting access to mental health resources. 34 U.S.C. § 50902(b)(1)–(5). To “encourage the implementation of peer support counseling agencies and peer support counseling programs in first responder agencies,” the statute required the U.S. Attorney General to make the best practices report available on the federal DOJ website and provide a list of training programs on the federal DOJ website. 34 U.S.C. § 50902(c).

Comparison with rules in adjacent states:

Iowa, Michigan, and Minnesota have a privilege for peer support communications similar to the peer support privilege enacted in 2023 Wisconsin Act 220 and codified at Wis. Stat. § 905.095.

See Iowa Code § 622.10(9); Mich. Comp. Laws § 333.20982; Minn. Stat. § 181.9731. Illinois has not enacted such a law.

These states have not required a state agency to promulgate rules on peer support teams or critical incident stress management teams.

Summary of factual data and analytical methodologies: The rules are predicated on the language of s. 165.875, Stats. The purpose of the rule is to create ch. Jus 22 to implement 2023 Wisconsin Act 220.

Fiscal estimate: DOJ has prepared a fiscal estimate that is being filed herewith.

Effect on small business: The rules will have no effect on small businesses.

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Place where comments are to be submitted and deadline for submission: Comments were required to be submitted to the contact person shown above or via the internet address stated in the public hearing notice for these rules, no later than June 2, 2026. Information regarding submission of comments and accessing the public hearing was published in the Wisconsin Administrative Register.

TEXT OF THE RULE

SECTION 1. Jus 22 is created to read:

PEER SUPPORT AND CRITICAL INCIDENT STRESS MANAGEMENT TEAMS

JUS 22.01. Authority. The Wisconsin Department of Justice has promulgated this chapter pursuant to the authority granted by s. 165.875 (2) (c), Stats.

JUS 22.02. Definitions. In this chapter:

(1) “Agency” has the meaning given in s. 165.875 (1) (a), Stats.

- (2) “Credentialed health care provider” means a licensed health care provider who, through education, training, or experience, is qualified to provide peer support training or critical incident stress management training.
- (3) “Critical incident” has the meaning given in s. 165.875 (1) (e), Stats.
- (4) “Critical incident stress management services” has the meaning given in s. 165.875 (1) (f), Stats.
- (5) “Critical incident stress management services team leader” means the individual selected to lead an agency’s critical incident stress management services team.
- (6) “Critical incident stress management services team member” has the meaning given in s. 165.875 (1) (g), Stats.
- (7) “Department” means the Wisconsin Department of Justice.
- (8) “Peer support services” has the meaning given in s. 165.875 (1) (p), Stats.
- (9) “Peer support team member” has the meaning given in s. 165.875 (1) (q), Stats.
- (10) “Trained” has the meaning given in s. 165.875 (1) (t), Stats.

JUS 22.03. Qualifications for membership on a peer support team or critical incident stress management team.

(1) The department has approved a basic peer support training course curriculum, requiring a minimum of 16 hours of training. The department may amend the training course curriculum over time.

Note: Information about the department-approved curriculum is available at <https://wilenet.widj.gov/resources/wi-doj-statewide-peer-support>.

(2) To qualify as a peer support team member or a critical incident stress management services team member, an individual shall do all of the following:

- (a) Complete a peer support training course that meets the department-approved 16-hour curriculum and is taught by an instructor approved by the department or a training program of at least 16 hours provided by a credentialed health care provider.
- (b) Provide to the leadership of their agency a copy of the certification of completing either a training course that meets the department-approved curriculum or training by a credentialed health care provider.

(3) Alternatively, an individual may meet the requirements in sub. (2) if the individual's agency verifies that, prior to the effective date of this chapter . . . [LRB inserts date], the individual completed a training course that meets the department-approved curriculum or a peer support training program of at least 16 hours provided by a health care provider.

(4) An agency head or their designee may officially designate an individual as a member of a peer support team or critical incident stress management team after the individual has met the requirements of sub. (2) or (3) and any additional requirements for team membership set forth in the agency's written guidelines under s. JUS 22.06 (2).

(5) Designation of a peer support team member or critical incident stress management team member takes effect on the date the designation is made by the agency head or their designee and continues for the remainder of the state fiscal year in which the designation is made and the following 3 state fiscal years.

(6) Membership on a peer support team or a critical incident stress management team is not limited to current employees of an agency and may include other individuals who have been trained in peer support services or critical incident stress management as provided in sub. (2) or (3), such as individuals who have retired from active service. Agencies may establish eligibility criteria in their written guidelines under s. JUS 22.06 (2) regarding who can join their peer support team and critical incident stress management team.

JUS 22.04. Recertification for continued membership on a peer support team or critical incident stress management team.

(1) To maintain qualification to serve on a peer support team or critical incident stress management team, each individual must complete 8 hours of training during each of the last 3 years of their current certification. The training must be on topics relevant to peer support or critical incident stress management, wellness, or suicide prevention. An individual who fails to complete this requirement shall be removed from the team and is not eligible to serve on a peer support team or critical incident stress management team until the 24 hours of training have been completed.

(2) The content of the training shall be at the discretion of the agency, determined by the agency's head or a leader of the peer support team or critical incident stress management team.

(3) An agency may credit an individual's time spent teaching toward this requirement, although an individual may only receive 8 hours of credit for teaching the same course or program during the period of their current certification.

(4) Each agency shall maintain records adequate to determine that the members of its peer support teams and critical incident stress management teams have satisfied the requirements of this section.

JUS 22.05. Approval of peer support and critical incident stress management instructors.

(1) INSTRUCTOR CERTIFICATION REQUIREMENTS.

(a) An applicant for instructor certification who is not seeking to be certified as a credentialed health care provider shall meet all of the following requirements:

1. Provide evidence to the department of 3 years of full-time experience or 6,000 hours of occupational experience as a law enforcement officer, tribal law enforcement officer, jail officer, juvenile detention officer, fire fighter, dispatcher, emergency medical responder, emergency medical services practitioner, public safety personnel, ambulance service provider personnel, or civilian employee or volunteer member of a law enforcement agency.
2. Currently be an active member of a peer support team or critical incident stress management team or concurrently be accepted for membership on a peer support team or critical incident stress management services team.
3. Have completed a peer support training course that meets the department-approved 16-hour curriculum.

(b) An applicant seeking to be certified as a credentialed health care provider must have training, education, or experience qualifying them to provide peer support or critical incident stress management training.

(2) INSTRUCTOR CERTIFICATION PROCESS.

(a) To apply for certification as an instructor for peer support or critical incident stress management training, an applicant who is not seeking certification as a credentialed health care provider shall submit to the department all of the following:

1. An Instructor Certification Request form, Form DOJ-PS-817.

Note: Form DOJ-PS-817 is available at <https://wilenet.widoj.gov/resources/wid-j-statewide-peer-support>.

2. A letter from an agency head supporting the instructor's application, or a letter from a team leader of the peer support team or critical incident stress management team of which they are a member supporting the instructor's application.

(b) To apply for certification as a credentialed health care provider, the applicant shall submit to the department all of the following:

1. Documentation showing the training, education, or experience qualifying the applicant to provide peer support or critical incident stress management training.
2. Proof of a valid Wisconsin license showing they are a credentialed health care provider or, for an individual who has retired from their health care profession, proof of the Wisconsin license at the time of the applicant's retirement.

3. A letter from an agency that intends to use the applicant as an instructor.

(c) The department shall decide whether to certify an applicant as an instructor based on the requirements in this section.

(d) Certification begins when the department certifies the applicant and continues for the remainder of the state fiscal year and the following 3 state fiscal years.

(3) INSTRUCTOR RECERTIFICATION.

(a) To be recertified, an applicant for recertification as an instructor shall meet the following requirements:

1. Have instructed using the department-approved curriculum at least twice during their current certification period.

2. Only for an applicant certified as a credentialed health care provider who is not retired, provide proof that the applicant has maintained the applicant's license.

(b) To apply for recertification as an instructor, the instructor shall, no later than 3 months before the expiration of the current certification period, submit to the department all of the following:

1. An Instructor Recertification Request and Credentialed Instructor Recertification form, Form DOJ-PS-818.

Note: Form DOJ-PS-818 is available at <https://wilenet.widobj.gov/resources/widobj-statewide-peer-support>.

2. A letter supporting the instructor's recertification from an agency for whom the instructor has taught during the current certification period.

(c) The department shall decide whether to recertify an applicant as an instructor based on the requirements in this section.

(d) Recertification as an instructor begins when the department recertifies the applicant and continues for the remainder of the state fiscal year and the following 3 state fiscal years.

(4) DOCUMENTATION REQUIREMENTS FOR INSTRUCTORS.

(a) For each course taught, the instructor must collect the name of each trainee, the employing or sponsoring agency for that trainee, and the primary email address used by the trainee.

(b) For each course taught, the instructor must provide a certificate of completion to each trainee who completes the class that includes the title, location and date of the class, the student's name, and the name and signature of the instructor.

JUS 22.06. Requirements for agencies regarding peer support teams and critical incident stress management teams.

(1) ESTABLISHMENT OF A TEAM. To establish a peer support team or a critical incident stress management team within the meaning of s. 165.875, Stats., an agency must comply with the requirements of this section.

(2) AGENCY GUIDELINES.

(a) An agency that establishes a peer support team shall develop written guidelines for the peer support team and its peer support team members. These guidelines shall be available to the public and all members of the team.

(b) An agency that establishes a critical incident stress management team shall develop written guidelines for the critical incident stress management team and critical incident stress management team members. These guidelines shall be available to the public and all members of the team.

(c) The agency's guidelines shall address the selection and removal of members, the maintenance of confidentiality, and the training requirements for team membership.

(3) TEAM LEADER. The agency shall identify a team leader to oversee the peer support team or critical incident stress management team and provide the team leader's name and contact information to the department.

(4) CERTIFICATION PROCESS.

(a) To apply for certification of a peer support team or critical incident stress management team, an agency shall submit to the department all of the following:

1. An Agency Certification Request form, Form DOJ-PS-900.

Note: Form DOJ-PS-900 is available at <https://wilenet.widobj.gov/resources/widobj-statewide-peer-support>.

2. A letter from the agency administrator verifying that all members of the peer support or critical incident stress management team have met the training requirements in this chapter.

3. A copy of the agency's guidelines for the peer support team or critical incident stress management team for which the agency is seeking certification.

(b) The department shall decide whether to certify a team based on the requirements in this section.

(c) Certification begins when the department certifies the team and continues for the remainder of the state fiscal year and the following 3 state fiscal years.

(5) PROCESS FOR RECERTIFICATION.

(a) To apply for recertification of a peer support team or critical incident stress management team, an agency shall submit to the department all of the following:

1. An Agency Recertification Request form, Form DOJ-PS-925.

Note: Form DOJ-PS-925 is available at <https://wilenet.widobj.gov/resources/widobj-statewide-peer-support>.

2. A letter from the agency administrator verifying that all members of the peer support or critical incident stress management team have met the training requirements in this chapter.

3. If the agency's guidelines for the peer support team or critical incident stress management team for which the agency is seeking certification have changed since the team was last certified by the department, a copy of the current guidelines.

(b) The department shall decide whether to recertify a team based on the requirements in this section.

(c) Recertification begins when the department recertifies the team and continues for the remainder of the state fiscal year and the following 3 state fiscal years.

(6) TRAINING.

(a) *New team member.* It is the agency's responsibility to ensure an individual has received the required training prior to becoming an active team member and to maintain records of the individual's training.

(b) *Continuing team members.* It is the agency's responsibility to ensure a team member has received the required training to remain an active team member and to maintain records of the team member's training.

(7) REGIONAL TEAMS.

(a) A regional peer support team or critical incident stress management team may encompass multiple agencies.

(b) A regional team shall identify a regional team coordinator who shall coordinate with all the agencies that are part of the regional team.

(c) The agencies that are part of a regional team shall establish written guidelines as described in sub. (2) (c) for the regional team and regional team members. The regional team coordinator shall make the written guidelines available to all regional team members and to all agencies encompassed in the regional team. Each agency that is part of a regional team shall ensure that the agency's own guidelines are consistent with the regional team's written guidelines.

(d) Members of regional teams are responsible for complying with the regional team's written guidelines and with any guidelines established by their own agencies.

(e) Each agency that is part of a regional team is responsible for ensuring that its members that are part of the regional team have met the training requirements for membership on a team and for retaining records of its members' training.

SECTION 2. EFFECTIVE DATE. These rules take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2) (intro.), Stats.

(END OF TEXT OF THE RULE)

WISCONSIN DEPARTMENT OF
JUSTICE

Dated: _____

Agency: _____

Joshua L. Kaul
Attorney General