



**Scott Walker, Governor**  
**Dave Ross, Secretary**

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**AUCTIONEER BOARD**  
**Room 121A, 1400 E. Washington Avenue, Madison**  
**Contact: Brittany Lewin (608) 266-2112**  
**January 14, 2014**

*The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Board.*

**AGENDA**

**9:30 A.M.**

**OPEN SESSION – CALL TO ORDER – ROLL CALL**

**A. Adoption of Agenda (1-3)**

**B. Approval of Minutes of October 15, 2013 (4-6)**

**C. Election of Board Officers and Appointment of Liaisons – Discussion and Action (7-14)**

**D. Administrative Updates**

- 1) Staff Updates

**E. Legislative/Administrative Rule Matters – Discussion and Consideration**

- 1) Legislative Report for CR 13-056 and Proposed Final Draft of Rules (15-22)

**F. Items Added After Preparation of Agenda**

- 1) Introductions, Announcements and Recognition
- 2) Presentations of Petition(s) for Summary Suspension
- 3) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 4) Presentation of Final Decisions
- 5) Disciplinary Matters
- 6) Administrative Matters
- 7) Education and Examination Matters
- 8) Credentialing Matters
- 9) Class 1 Hearing(s)
- 10) Practice Matters
- 11) Legislative/Administrative Rule Matters
- 12) Liaison Report(s)
- 13) Informational Item(s)
- 14) Speaking Engagement(s), Travel, or Public Relation Request(s)

## **G. Public Comments**

**CONVENE TO CLOSED SESSION to deliberate on cases following hearing (Wis. Stat. s. 19.85(1)(a),); to consider licensure or certification of individuals (Wis. Stat s. 19.85(1)(b), Stats.; to consider closing disciplinary investigations with administrative warnings (Wis. Stat. s. 19.85 (1)(b), and 440.205,); to consider individual histories or disciplinary data (Wis. Stat. s. 19.85 (1)(f),); and to confer with legal counsel (Wis. Stat. s. 19.85(1)(g),).**

## **H. Deliberation on Proposed Stipulations, Final Decisions and Orders**

- 1) 12 AUC 015 – Stephanie George **(23-26)**
  - o Case Advisor – Timothy Sweeney
- 2) 13 AUC 015 – Gary M. Hines **(27-32)**
  - o Case Advisor – James Wenzler

## **I. DLSC Matters**

- 1) Case Status Report **(33-34)**
- 2) Case Closing(s)
  - a) 12 AUC 015 (D.K.G. and S.G)
  - b) 13 AUC 009 (R.B. and R.N.S.)

## **J. Deliberation of Items Received After Preparation of the Agenda**

- 1) Disciplinary Matters
- 2) Education and Examination Matters
- 3) Credentialing Matters
- 4) Class 1 Hearings
- 5) Monitoring Matters
- 6) Professional Assistance Procedure (PAP) Matters
- 7) Petition(s) for Summary Suspensions
- 8) Petition(s) for Extension of Time
- 9) Proposed Stipulations, Final Decisions and Orders
- 10) Administrative Warnings
- 11) Proposed Decisions
- 12) Matters Relating to Costs
- 13) Motions
- 14) Petitions for Rehearing
- 15) Case Closings
- 16) Appearances from Requests Received or Renewed

## **K. Consulting with Legal Counsel**

**RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

**ADJOURNMENT**

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**AUCTIONEER BOARD  
MEETING MINUTES  
OCTOBER 15, 2013**

**PRESENT:** Patrick McNamara, Ronald Polacek (via phone at 9:34 a.m.), Randy Stockwell, Timothy Sweeney, Jerry Thiel (via phone)

**EXCUSED:** James Wenzler

**STAFF:** Angela Hellenbrand, Executive Director; Karen Rude-Evans, Bureau Assistant

**CALL TO ORDER**

Timothy Sweeney, Chair, called the meeting to order at 9:27 a.m. A quorum of four (4) members was confirmed.

**ADOPTION OF AGENDA**

**MOTION:** Patrick McNamara moved, seconded by Randy Stockwell, to adopt the agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES OF APRIL 16, 2013**

**MOTION:** Patrick McNamara moved, seconded by Randy Stockwell, to approve the minutes of April 16, 2013 as written. Motion carried unanimously.

**CLOSED SESSION**

Chair Timothy Sweeney read the motion to convene to closed session.

**MOTION:** Ronald Polacek moved, seconded by Randy Stockwell, to convene to closed session to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.). Roll Call Vote: Patrick McNamara - yes; Ronald Polacek-yes; Randy Stockwell-yes; Timothy Sweeney-yes; Jerry Thiel - yes. Motion carried unanimously.

Open session recessed at 9:39 a.m.

**RECONVENE TO OPEN SESSION**

**MOTION:** Patrick McNamara moved, seconded by Randy Stockwell, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 9:54 a.m.

**CASE CLOSING(S)**

**MOTION:** Timothy Sweeney moved, seconded by Randy Stockwell, to close case 13 AUC 003 for no violation for respondent R.B. and a copy of SPS 121.07 will be sent to the respondent. Motion carried unanimously.

**MOTION:** Randy Stockwell moved, seconded by Timothy Sweeney, to close case 13 AUC 003 for compliance gained (P2) for respondent R.N.S. and a copy of SPS 121.07 will be sent to the respondent. Motion carried unanimously.

**ADJOURNMENT**

**MOTION:** Patrick McNamara moved, seconded by Randy Stockwell, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:01 a.m.

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**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  <b>Brittany Lewin Executive Director</b>		2) Date When Request Submitted: <b>1/2/14</b>  Items will be considered late if submitted after 12:00 p.m. and less than: ▪ 8 work days before the meeting	
3) Name of Board, Committee, Council, Sections: Auctioneer Board			
4) Meeting Date: <b>1/14/14</b>	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Election of Board Officers and Appointment of Liaisons – Discussion and Consideration</b>	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both		8) Is an appearance before the Board being scheduled? If yes, who is appearing?  <input type="checkbox"/> Yes by _____ (name)  <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:
10) Describe the issue and action that should be addressed:  <b>Election of Board Officers (Chair, Vice-Chair and Secretary) and appointment of liaisons.</b>			
11) <b>Authorization</b>			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  Ashley Horton  Department Monitor Division of Legal Services and Compliance		2) Date When Request Submitted:  December 20, 2013  Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections:			
4) Meeting Date:	5) Attachments:  <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  Monitoring: Appointment of Monitoring Liaison and Delegated Authority Motion	
7) Place Item in:  <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled?  <input type="checkbox"/> Yes ( <a href="#">Fill out Board Appearance Request</a> ) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:  1. Appointment of 2014 Monitoring Liaison  2. Delegated Authority Motion:  <i>“_____ moved, seconded by _____ to adopt/reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today’s agenda packet.”</i>			
11) <span style="float: right;">Authorization</span>  <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">  </div> <div style="text-align: right;">             December 20, 2013           </div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div>Signature of person making this request</div> <div>Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div>Supervisor (if required)</div> <div>Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div>Executive Director signature (indicates approval to add post agenda deadline item to agenda)</div> <div>Date</div> </div>			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

## Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

The Monitoring Liaison is a board designee who works with department monitors to enforce the Board's orders as explained below.

### Current Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board:

1. Grant a temporary reduction in random drug screen frequency upon Respondent's request if he/she is unemployed and is otherwise compliant with Board order. The Department Monitor will draft an order and sign on behalf of the Liaison. The temporary reduction will be in effect until Respondent secures employment in the profession.
2. Grant a stay of suspension if Respondent is eligible per the Board order. The Department Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board order. The Department Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board approval. The Department Monitor will notify Respondent of the Liaison's decision.
5. Grant a maximum 90-day extension, if warranted and requested in writing by Respondent, to complete Board-ordered CE, pay proceeding costs, and/or pay forfeitures upon Respondent's request.

### Current Authorities Delegated to the Department Monitor

The Department Monitor may take the following actions on behalf of the Board, draft an order and sign:

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
2. Suspend the license if Respondent has not completed Board-ordered CE and/or paid costs and forfeitures within the time specified by the Board order. The Department Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.

### Clarification

1. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. (This is consistent with current practice.)

**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  Ashley Horton  Department Monitor Division of Legal Services and Compliance		<b>2) Date When Request Submitted:</b>  December 20, 2013  Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
<b>3) Name of Board, Committee, Council, Sections:</b>			
<b>4) Meeting Date:</b>	<b>5) Attachments:</b>  <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b>  Appointment of Professional Assistance Procedure (PAP) Liaison	
<b>7) Place Item in:</b>  <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled?</b>  <input type="checkbox"/> Yes ( <a href="#">Fill out Board Appearance Request</a> ) <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b>  Appointment of 2014 PAP Liaison - see <i>Wis. Admin. Code SPS ch. 7, attached, for Liaison duties</i>			
<b>11)</b>  		Authorization   December 20, 2013	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

## Chapter SPS 7

### PROFESSIONAL ASSISTANCE PROCEDURE

SPS 7.01	Authority and intent.	SPS 7.07	Intradepartmental referral.
SPS 7.02	Definitions.	SPS 7.08	Records.
SPS 7.03	Referral to and eligibility for the procedure.	SPS 7.09	Report.
SPS 7.04	Requirements for participation.	SPS 7.10	Applicability of procedures to direct licensing by the department.
SPS 7.05	Agreement for participation.	SPS 7.11	Approval of drug testing programs.
SPS 7.06	Standards for approval of treatment facilities or individual therapists.		

**Note:** Chapter RL 7 was renumbered chapter SPS 7 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671

**SPS 7.01 Authority and intent.** (1) The rules in this chapter are adopted pursuant to authority in ss. 15.08 (5) (b), 15.30, 146.82, 227.11 and 440.03, Stats.

(2) The intent of the department in adopting rules in this chapter is to protect the public from credential holders who are impaired by reason of their abuse of alcohol or other drugs by promoting early identification of chemically dependent professionals and encouraging rehabilitation. This goal will be advanced by providing an option that may be used in conjunction with the formal disciplinary process for qualified credential holders committed to their own recovery. This procedure is intended to apply when allegations are made that a credential holder has practiced a profession while impaired by alcohol or other drugs or whose ability to practice is impaired by alcohol or other drugs or when a credential holder contacts the department and requests to participate in the procedure. It may be used in conjunction with the formal disciplinary process in situations where allegations exist that a credential holder has committed misconduct, negligence or violations of law, other than practice while impaired by alcohol or other drugs. The procedure may then be utilized to promote early identification of chemically dependent professionals and encourage their rehabilitation. Finally, the department's procedure does not seek to diminish the prosecution of serious violations but rather it attempts to address the problem of alcohol and other drug abuse within the enforcement jurisdiction of the department.

(3) In administering this program, the department intends to encourage board members to share professional expertise so that all boards in the department have access to a range of professional expertise to handle problems involving impaired professionals.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (2), Register, July, 1996, No. 487, eff. 8-1-96; CR 10-081: am. (2) Register December 2010 No. 660, eff. 1-1-11.

**SPS 7.02 Definitions.** In this chapter:

(1) "Board" means any board, examining board or affiliated credentialing board attached to the department.

(2) "Board liaison" means the board member designated by the board or the secretary or the secretary's designee as responsible for approving credential holders for the professional assistance procedure under s. SPS 7.03, for monitoring compliance with the requirements for participation under s. SPS 7.04, and for performing other responsibilities delegated to the board liaison under these rules.

(2a) "Coordinator" means a department employee who coordinates the professional assistance procedure.

(2b) "Credential holder" means a person holding any license, permit, certificate or registration granted by the department or any board. For purposes of this chapter, "credential holder" includes a person with a pending application for a credential for a period not to exceed one year from the date the application for the credential was submitted to the department.

(3) "Department" means the department of safety and professional services.

(4) "Division" means the division of enforcement in the department.

(5) "Informal complaint" means any written information submitted by any person to the division, department or any board which requests that a disciplinary proceeding be commenced against a credential holder or which alleges facts, which if true, warrant discipline. "Informal complaint" includes requests for disciplinary proceedings under s. 440.20, Stats.

(6) "Medical review officer" means a medical doctor or doctor of osteopathy who is a licensed physician and who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with an individual's medical history and any other relevant biomedical information.

(7) "Procedure" means the professional assistance procedure.

(8) "Program" means any entity approved by the department to provide the full scope of drug testing services for the department.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (1), (2), (5), cr. (2a), (2b), r. (6), Register, July, 1996, No. 487, eff. 8-1-96; cr. (6) and (8), Register, January, 2001, No. 541, eff. 2-1-01; CR 10-081: am. (1) to (2b), (7) Register December 2010 No. 660, eff. 1-1-11; correction in (2), (3) made under s. 13.92 (4) (b) 6., Register November 2011 No. 671.

**SPS 7.03 Referral to and eligibility for the procedure.** (1) A credential holder who contacts the department and requests to participate in the procedure shall be referred to the board liaison and the coordinator for determination of acceptance into the procedure.

(2) A credential holder who has been referred to the procedure and considered for eligibility shall be provided with an application for participation.

(3) All informal complaints involving allegations of impairment due to alcohol or chemical dependency shall be screened and investigated pursuant to s. SPS 2.035. After investigation, informal complaints involving impairment may be referred to the procedure along with a summary of the investigative results in the form of a draft statement of conduct to be used as a basis for the statement of conduct under s. SPS 7.05 (1) (a) and considered for eligibility for the procedure or for formal disciplinary proceedings under ch. SPS 2. The credential holder shall be provided with a written explanation of the credential holder's options for resolution of the matter through participation in the procedure and of the formal disciplinary process pursuant to ch. SPS 2.

(4) Eligibility for the procedure shall be determined by the board liaison and coordinator who shall review all relevant materials including investigative results and the credential holder's application for participation. Eligibility shall be determined upon criteria developed by the coordinator in consultation with the disciplinary authority. The decision on eligibility shall be consistent with the purposes of these procedures as described in s. SPS 7.01 (2). Credential holders who have committed violations of law may be eligible for the procedure. The board liaison shall have

responsibility to make the determination of eligibility for the procedure.

(5) The credential holder shall obtain a comprehensive assessment for chemical dependency from a treatment facility or individual therapist approved under s. [SPS 7.06](#). The credential holder shall arrange for the treatment facility or individual therapist to file a copy of its assessment with the board liaison or coordinator. The board liaison and the credential holder may agree to waive this requirement. The obtaining of the assessment shall not delay admission into the procedure.

(6) If a credential holder is determined to be ineligible for the procedure, the credential holder may be referred to the division for prosecution.

(7) A credential holder determined to be ineligible for the procedure by the board liaison or the department may, within 10 days of notice of the determination, request the credentialing authority to review the adverse determination.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (2) to (6), Register, July, 1996, No. 487, eff. 8-1-96; CR 10-081: renum. (1) and (3) to (6) to be (3) to (7) and am. (3) to (6), cr. (1), am. (2) Register December 2010 No. 660, eff. 1-1-11; correction in (3), (4), (5) made under s. [13.92 \(4\) \(b\) 7., Stats., Register November 2011 No. 671.](#)

**SPS 7.04 Requirements for participation. (1)** A credential holder who participates in the procedure shall:

- (a) Sign an agreement for participation under s. [SPS 7.05](#).
- (b) Remain free of alcohol, controlled substances, and prescription drugs, unless prescribed for a valid medical purpose.
- (c) Timely enroll and participate in a program for the treatment of chemical dependency conducted by a facility or individual therapist approved pursuant to s. [SPS 7.06](#).
- (d) Comply with any treatment recommendations and work restrictions or conditions deemed necessary by the board liaison or department.
- (e) Submit random monitored physiological specimens for the purpose of screening for alcohol or controlled substances provided by a drug testing program approved by the department under s. [SPS 7.11](#), as required.
- (f) Execute releases valid under state and federal law to allow access to the credential holder's counseling, treatment and monitoring records.
- (g) Have the credential holder's supervising therapist and work supervisors file quarterly reports with the coordinator.
- (h) Notify the coordinator of any changes in the credential holder's employer within 5 days.
- (i) File quarterly reports documenting the credential holder's attendance at meetings of self-help groups such as alcoholics anonymous or narcotics anonymous.

(2) If the board liaison or department determines, based on consultation with the person authorized to provide treatment to the credential holder or monitor the credential holder's enrollment or participation in the procedure, or monitor any drug screening requirements or restrictions on employment under sub. (1), that a credential holder participating in the procedure has failed to meet any of the requirements set under sub. (1), the board liaison may refer the credential holder to the division. A failure to maintain abstinence is considered a relapse and shall be reviewed by the board liaison to determine whether the credential holder should be referred to the division. The board liaison may review the complete record in making this determination.

(3) If a credential holder violates the agreement and no referral to the division occurs, then a new admission under s. [SPS 7.05 \(1\) \(a\)](#) shall be obtained for relapses and for misconduct, negligence or violations of law which are substantial. If a new admission is not obtained, then a referral to the division by the coordinator shall occur.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. Register, July, 1996, No. 487, eff. 8-1-96; am. (1) (e), Register, January, 2001, No. 541, eff. 2-1-01; CR 10-081: am. (1) (e), (f), (2), (3) Register December 2010 No. 660, eff. 1-1-11;

correction in (1) (a), (c), (e), (3) made under s. [13.92 \(4\) \(b\) 7., Stats., Register November 2011 No. 671.](#)

**SPS 7.05 Agreement for participation. (1)** The agreement for participation in the procedure shall at a minimum include:

(a) A statement describing conduct the credential holder agrees occurred relating to participation in the procedure and an agreement that the statement may be used as evidence in any disciplinary proceeding under ch. [SPS 2](#).

(b) An acknowledgement by the credential holder of the need for treatment for chemical dependency;

(c) An agreement to participate at the credential holder's expense in an approved treatment regimen.

(d) An agreement to submit to random monitored drug screens provided by a drug testing program approved by the department under s. [SPS 7.11](#) at the credential holder's expense, if deemed necessary by the board liaison.

(e) An agreement to submit to practice restrictions at any time during the treatment regimen as deemed necessary by the board liaison.

(f) An agreement to furnish the coordinator with signed consents for release of information from treatment providers and employers authorizing the release of information to the coordinator and board liaison for the purpose of monitoring the credential holder's participation in the procedure.

(g) An agreement to authorize the board liaison or coordinator to release information described in pars. (a), (c) and (e), the fact that a credential holder has been dismissed under s. [SPS 7.07 \(3\) \(a\)](#) or violated terms of the agreement in s. [SPS 7.04 \(1\) \(b\) to \(e\)](#) and (h) concerning the credential holder's participation in the procedure to the employer, therapist or treatment facility identified by the credential holder and an agreement to authorize the coordinator to release the results of random monitored drug screens under par. (d) to the therapist identified by the credential holder.

(h) An agreement to participate in the procedure for a period of time as established by the board.

(2) The board liaison may include additional requirements for an individual credential holder, if the circumstances of the informal complaint or the credential holder's condition warrant additional safeguards.

(3) The board or board liaison may include a promise of confidentiality that all or certain records shall remain closed and not available for public inspection and copying. Any promise is subject to s. [SPS 7.08](#) and ends upon a referral to the division. Information and records may be made available to staff within the department on an as-needed basis, to be determined by the coordinator.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (1) (a) to (g) and (2), Register, July, 1996, No. 487, eff. 8-1-96; am. (1) (d), Register, January, 2001, No. 541, eff. 2-1-01; CR 10-081: am. (3) Register December 2010 No. 660, eff. 1-1-11; correction in (1) (a), (d), (g), (3) made under s. [13.92 \(4\) \(b\) 7., Stats., Register November 2011 No. 671.](#)

**SPS 7.06 Standards for approval of treatment facilities or individual therapists. (1)** The board or board liaison shall approve a treatment facility designated by a credential holder for the purpose of participation in the procedure if:

(a) The facility is certified by appropriate national or state certification agencies.

(b) The treatment program focus at the facility is on the individual with drug and alcohol abuse problems.

(c) Facility treatment plans and protocols are available to the board liaison and coordinator.

(d) The facility, through the credential holder's supervising therapist, agrees to file reports as required, including quarterly progress reports and immediate reports if a credential holder withdraws from therapy, relapses, or is believed to be in an unsafe condition to practice.

(2) As an alternative to participation by means of a treatment facility, a credential holder may designate an individual therapist for the purpose of participation in the procedure. The board liaison shall approve an individual therapist who:

(a) Has credentials and experience determined by the board liaison to be in the credential holder's area of need.

(b) Agrees to perform an appropriate assessment of the credential holder's therapeutic needs and to establish and implement a comprehensive treatment regimen for the credential holder.

(c) Forwards copies of the therapist's treatment regimen and office protocols to the coordinator.

(d) Agrees to file reports as required to the coordinator, including quarterly progress reports and immediate reports if a credential holder withdraws from therapy, relapses, or is believed to be in an unsafe condition to practice.

(3) If a board liaison does not approve a treatment facility or therapist as requested by the credential holder, the credential holder may, within 10 days of notice of the determination, request the board to review the board liaison's adverse determination.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. Register, July, 1996, No. 487, eff. 8-1-96; r. (1) (d) and (2) (d), renum. (1) (e) and (2) (e) to be (1) (d) and (2) (d) and am., Register, January, 2001, No. 541, eff. 2-1-01.

**SPS 7.07 Intradepartmental referral.** (2) The division may refer individuals named in informal complaints to the board liaison for acceptance into the procedure.

(3) The board liaison may refer cases involving the following to the division for investigation or prosecution:

(a) Credential holders participating in the procedure who fail to meet the requirements of their rehabilitation program.

(b) Credential holders who apply and who are determined to be ineligible for the procedure where the board liaison is in possession of information indicating misconduct, negligence or a violation of law.

(c) Credential holders who do not complete an agreement for participation where the board liaison is in possession of information indicating misconduct, negligence or a violation of law.

(d) Credential holders initially referred by the division to the board liaison who fail to complete an agreement for participation.

(e) Credential holders who request early termination of an agreement for participation. In making the decision if a referral should occur, the board liaison shall consider whether the credential holder's therapist approves the early termination and whether this opinion is supported by a second therapist selected by the department who shall always be consulted and shall concur.

(4) The board liaison shall refer credential holders who relapse in the context of the work setting to the division for investigation and prosecution. A credential holder referred under this subsection who has not been dismissed from the procedure may continue to participate in the procedure.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (1), (3) (a) to (d), Register, July, 1996, No. 487, eff. 8-1-96; CR 10-081: r. (1), am. (3) (a), (b), (c), cr. (3) (e), (4) Register December 2010 No. 660, eff. 1-1-11.

**SPS 7.08 Records.** (1) CUSTODIAN. All records relating to the procedure including applications for participation, agreements for participation and reports of participation shall be maintained in the custody of the department secretary or the secretary's designee.

(2) AVAILABILITY OF PROCEDURE RECORDS FOR PUBLIC INSPECTION. Any requests to inspect procedure records shall be made to the custodian. The custodian shall evaluate each request on a case by case basis using the applicable law relating to open records and giving appropriate weight to relevant factors in order to determine whether public interest in nondisclosure outweighs the public interest in access to the records, including the reputational interests of the credential holder, the importance of confidentiality to the functional integrity of the procedure, the existence of any promise of confidentiality, statutory or common law rules which

accord a status of confidentiality to the records and the likelihood that release of the records will impede an investigation. The fact of a credential holder's participation in the procedure and the status of that participation may be disclosed to credentialing authorities of other jurisdictions.

(3) TREATMENT RECORDS. Treatment records concerning individuals who are receiving or who at any time have received services for mental illness, developmental disabilities, alcoholism, or drug dependence which are maintained by the department, by county departments under s. 51.42 or 51.437, Stats., and their staffs and by treatment facilities are confidential under s. 51.30, Stats., and shall not be made available for public inspection.

(4) PATIENT HEALTH CARE RECORDS. Patient health care records are confidential under s. 146.82, Stats., and shall not be made available to the public without the informed consent of the patient or of a person authorized by the patient or as provided under s. 146.82 (2), Stats.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (2), Register, July, 1996, No. 487, eff. 8-1-96; CR 10-081: am. (2) Register December 2010 No. 660, eff. 1-1-11.

**SPS 7.09 Report.** The board liaison or coordinator shall report on the procedure to the board at least twice a year and if requested to do so by a board.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. Register, July, 1996, No. 487, eff. 8-1-96.

**SPS 7.10 Applicability of procedures to direct licensing by the department.** This procedure may be used by the department in resolving complaints against persons licensed directly by the department if the department has authority to discipline the credential holder. In such cases, the department secretary shall have the authority and responsibility of the "board" as the term is used in the procedure and shall designate an employee to perform the responsibilities of the "board liaison."

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. Register, July, 1996, No. 487, eff. 8-1-96.

**SPS 7.11 Approval of drug testing programs.** The department shall approve drug testing programs for use by credential holders who participate in drug and alcohol monitoring programs pursuant to agreements between the department or boards and credential holders, or pursuant to disciplinary orders. To be approved as a drug testing program for the department, programs shall satisfactorily meet all of the following standards in the areas of program administration, collection site administration, laboratory requirements and reporting requirements:

(1) Program administration requirements are:

(a) The program shall enroll participants by setting up an account, establishing a method of payment and supplying pre-printed chain-of-custody forms.

(b) The program shall provide the participant with the address and phone number of the nearest collection sites and shall assist in locating a qualified collection site when traveling outside the local area.

(c) Random selection of days when participants shall provide specimens shall begin upon enrollment and the program shall notify designated department staff that selection has begun.

(d) The program shall maintain a nationwide toll-free access or an internet website that is operational 24 hours per day, 7 days per week to inform participants of when to provide specimens and is able to document the date and time of contacts by credential holders.

(e) The program shall maintain and make available to the department and treatment providers through an internet website data that are updated on a daily basis verifying the date and time each participant was notified after random selection to provide a specimen, the date, time and location each specimen was collected, the results of drug screen and whether or not the participant complied as directed.

(f) The program shall maintain internal and external quality of test results and other services.

(g) The program shall maintain the confidentiality of participants in accordance with s. 146.82, Stats.

(h) The program shall inform participants of the total cost for each drug screen including the cost for program administration, collection, transportation, analysis, reporting and confirmation. Total cost shall not include the services of a medical review officer.

(i) The program shall immediately report to the department if the program, laboratory or any collection site fails to comply with this section. The department may remove a program from the approved list if the program fails to comply with this section.

(j) The program shall make available to the department experts to support a test result for 5 years after the test results are released to the department.

(k) The program shall not sell or otherwise transfer or transmit names and other personal identification information of the participants to other persons or entities without permission from the department. The program shall not solicit from participants presently or formerly in the monitoring program or otherwise contact participants except for purposes consistent with administering the program and only with permission from the department.

(L) The program and laboratory shall not disclose to the participant or the public the specific drugs tested.

**(2) Collection site administration requirements are:**

(a) The program shall locate, train and monitor collection sites for compliance with the U.S. department of transportation collection protocol under 49 CFR 40.

(b) The program shall require delivery of specimens to the laboratory within 24 hours of collection.

**(3) Laboratory requirements are:**

(a) The program shall utilize a laboratory that is certified by the U.S. department of health and human services, substance abuse and mental health services administration under 49 CFR 40. If the laboratory has had adverse or corrective action, the department shall evaluate the laboratory's compliance on a case by case basis.

(b) The program shall utilize a laboratory capable of analyzing specimens for drugs specified by the department.

(c) Testing of specimens shall be initiated within 48 hours of pickup by courier.

(d) All positive drug screens shall be confirmed utilizing gas chromatography in combination with mass spectrometry, mass spectrometry, or another approved method.

(e) The laboratory shall allow department personnel to tour facilities where participant specimens are tested.

**(4) The requirements for reporting of results are:**

(a) The program shall provide results of each specimen to designated department personnel within 24 hours of processing.

(b) The program shall inform designated department personnel of confirmed positive test results on the same day the test results are confirmed or by the next business day if the results are confirmed after hours, on the weekend or on a state or federal holiday.

(c) The program shall fax, e-mail or electronically transmit laboratory copies of drug test results at the request of the department.

(d) The program shall provide a medical review officer upon request and at the expense of the participant, to review disputed positive test results.

(e) The program shall provide chain-of-custody transfer of disputed specimens to an approved independent laboratory for retesting at the request of the participant or the department.

**History:** Cr. Register, January, 2001, No. 541, eff. 2-1-01; CR 10-081: am. (1) (d), (e) Register December 2010 No. 660, eff. 1-1-11.

**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  <b>Shawn Leatherwood</b>		<b>2) Date When Request Submitted:</b>  <b>January 6, 2014</b>	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 08 work days before the meeting for all others</li> </ul>	
<b>3) Name of Board, Committee, Council, Sections:</b> Auctioneer Board			
<b>4) Meeting Date:</b>  <b>January 14, 2014</b>	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b>  <b>Legislative matter: Legislative Report for CR 13-056 and Proposed final draft of rules</b>	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled? If yes, who is appearing?</b>  <input type="checkbox"/> Yes by _____ (name)  <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>  N/A	
<b>10) Describe the issue and action that should be addressed:</b>  The Board will review the Legislative report and decide whether to submit a dissenting report pursuant to Wis. Stats. s. 480.06 (4).			
<b>11)</b> <b>Shawn Leatherwood</b>	<b>Authorization</b>		<b>January 6, 2014</b>
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date
<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

**STATE OF WISCONSIN  
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

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**IN THE MATTER OF RULE-MAKING :**  
**PROCEEDINGS BEFORE THE :** **REPORT TO THE LEGISLATURE**  
**DEPARTMENT OF SAFETY AND :** **CR 13-056**  
**PROFESSIONAL SERVICES :**  
:

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**I. THE PROPOSED RULE:**

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

**II. REFERENCE TO APPLICABLE FORMS:**

None.

**III. FISCAL ESTIMATE AND EIA:**

The Fiscal Estimate and EIA are attached.

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

The Auctioneer Board reviewed Wis. Admin. Code s. SPS 128.04 (6) and determined that the rule limited the number of eligible course instructors to auctioneers registered in this state, who have actively practiced auctioneering for the past five years, attorneys that practices in the area of auctioneering, or appraisers approved by the Appraiser Qualifications Board. This list excludes many other qualified professional from sharing their knowledge with auctioneers. For example, auctioneers would benefit from licensed real estate salespersons that could provide continuing education on real estate matters.

After making this determination, the Auctioneer Board advised the Department to promulgate a rule that would broaden the scope of potential course instructors. Pursuant to s. 480.04, Stats., the Auctioneer Board does not have rule-making authority but acts as an advisor to the Department of Safety and Professional Services in rule-making matters. By promulgating these proposed rules, the Department and the Auctioneer Board seek to enlarge the pool of eligible course instructors to those persons that are experts in their field, possess the required years of experience, and conducts a course that has been approved by the Department.

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

The Department held a public hearing on October 15, 2013. No one from the public testified at the public hearing or submitted written comments.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

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

**VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:**

None.

STATE OF WISCONSIN  
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : DEPARTMENT OF SAFETY AND  
DEPARTMENT OF SAFETY AND : PROFESSIONAL SERVICES  
PROFESSIONAL SERVICES : ADOPTING RULES  
: (CLEARINGHOUSE RULE 13-056 )

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PROPOSED ORDER

An order of the Department of Safety and Professional Services to amend s. SPS 128.04 (6) (a) and to create s. SPS 128.04 (6) (d), relating to auctioneer continuing education course instructors.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:**

ss. 480.04 (1) and (2), 480.08 (6), Stats.

**Statutory authority:**

ss. 15.405 (3), 480.08 (6), Stats.

**Explanation of agency authority:**

Per section 480.08 (6), Stats., the department may promulgate rules governing the requirements and procedures for auctioneers obtaining continuing education. Under s. 480.04 (1), Stats., the Auctioneer Board may advise the Department on matters relating to auctioneers. The topic of these proposed rules is the requirement concerning instructors administering continuing education courses. Therefore, the Department is authorized both generally and specifically to promulgate these proposed rules.

**Related statute or rule:**

Section SPS 128.04 Wis.Adm. Code

**Plain language analysis:**

Currently, per Wis. Admin. Code s. SPS 128.04 (6), course instructors offering continuing education for auctioneers in Wisconsin must be either an auctioneer registered in this state, actively practicing auctioneering for the past five years; or an attorney that practices in the area of auctioneering, or an appraiser approved by the Appraiser Qualifications Board (AQB). The Auctioneer Board reviewed s. SPS 128.04 (6) and determined that the rule limited the number of eligible course instructors by excluding instructors from other disciplines that may be knowledgeable about auctioneering. By promulgating these proposed rules, the Department and the Auctioneer Board seek to enlarge the pool of eligible instructors to those who are experts in their field, have 5 years of experience, and have a course approved by the Department.

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

None.

**Comparison with rules in adjacent states:**

**Illinois:** In Illinois auctioneers are regulated by the Department of Financial and Professional Regulation, Division of Professional Regulation. Continuing education courses must be approved by the Division. Illinois further requires that continuing education must be, "developed and presented by persons with education and/or experience in subject matter of the CE course". 68 Ill. Adm. Code 1440.310 (b) (8) (c).

**Iowa:** Iowa does not regulate continuing education requirements for auctioneers.

**Michigan:** Michigan does not regulate continuing education requirements for auctioneers.

**Minnesota:** Minnesota does not regulate the continuing education requirements for auctioneers.

**Summary of factual data and analytical methodologies:**

The Auctioneer Board reviewed Wis. Admin. Code s. SPS 128.04 and determined a revision to the rule was necessary because the rule limited the type of course instructors that may conduct continuing education in Wisconsin. The pool of eligible instructors is currently restricted to auctioneers registered in Wisconsin, attorneys who are engaged in the field of auctioneering law, and appraisers approved by the AQB. The Board sought to enlarge the pool of course instructors by drafting this proposed rule. No other factual data or analytical methodologies were used.

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

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis are attached.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

**Agency contact person:**

Shawn Leatherwood, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

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

Comments may be submitted to Shawn Leatherwood Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Shancethea.L Leatherwood@wisconsin.gov. Comments must be received on or before October 15, 2013 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. SPS 128.04 (6) (a) is amended to read:

**SPS 128.04 (6) (a)** Be an auctioneer registered in this state who is currently practicing auctioneering, and who has engaged in such practices for at least 5 years.

SECTION 2. SPS 128.04 (6) (d) is created to read:

**SPS 128.04 (6) (d)** Be an instructor in a course approved under s. SPS 128.04 (1) and be a person, in good standing in the jurisdiction in which he or she is credentialed, with at least 5 years of education and experience in the subject matter of the approved course.

SECTION 3. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)  
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This Proposed Order of the Department of Safety and Professional Services is approved for submission to the Governor and Legislature.

Dated \_\_\_\_\_

Agency \_\_\_\_\_

Secretary Ross  
Department of Safety and Professional  
Services

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