



**STATE OF WISCONSIN**  
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**Governor Scott Walker      Secretary Dave Ross**

**HEARING AND SPEECH EXAMINING BOARD**  
**Room 121A, 1400 E. Washington Avenue, Madison**  
**Contact: Dan Williams (608) 266-2112**  
**April 22, 2013**

*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**

**1:00 p.m.**

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

**A. Adoption of Agenda (1-2)**

**B. Approval of Minutes-January 7, 2013 (3-7)**

**C. Administrative Matters – Discussion and Consideration:**

- 1) Liaison Authority and Signature Process
  - a. Credentialing (9)
  - b. DLSC-Monitoring (10-12)
- 2) Paperless Initiative (13-16)
- 3) Staff Update

**D. Legislative/Administrative Rule Matters – Discussion and Consideration:**

- 1) Executive Order 61 (17-19)
- 2) Legislative and/or Rules Matters (21)
- 3) Position Statements (23-26)
- 4) Right the Rules (27)

**E. Discussion and Consideration of DSPS Application Guidelines (29)**

**F. Informational Items**

- 1) Okie Allen Report on Appearance at the Alliance for Hearing Professionals-Discussion and Consideration (31)

**G. 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) Executive Director Matters

- 7) Education and Examination Matters
- 8) Credentialing Matters
- 9) Class 1 Hearing(s)
- 10) Practice Matters
- 11) Legislation/Administrative Rule Matters
- 12) Liaison Report(s)
- 13) Informational Item(s)
- 14) Speaking Engagement(s), Travel, or Public Relation Request(s)

H. Public Comments

**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.)**

**I. Deliberation on Administrative Warning(s):**

- 1) 12 HAD 005/MES (33)

J. DLSC Matters:

- 1) Case Status Report
- 2) Case Closing(s)
  - a. **12 HAD 005/AB (35-40)**

K. Deliberation of Items Received After Preparation of 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) Formal Complaints
- 16) Case Closings
- 17) Appearances from Requests Received or Renewed

L. Consulting with Legal Counsel

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

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

N. Board Member and Case Advisor Training Overview-Discussion and Consideration (41-52)

**ADJOURNMENT**

**HEARING AND SPEECH EXAMINING BOARD  
MINUTES  
JANUARY 7, 2013**

**PRESENT:** Samuel Gubbels, Doreen Jensen, Steven Klapperich, Edward Korabic, Tom Sather, Patricia Willis and Peter Zellmer

**EXCUSED:** Okie Allen

**STAFF:** Mojgan Hall, Executive Director; David Carlson, Communications Specialist; and other Department Staff

**CALL TO ORDER**

Peter Zellmer, Chair, called the meeting to order at 1:07 p.m. A quorum of six (7) was present.

**APPROVAL OF AGENDA**

**MOTION:** Tom Sather moved, seconded by Samuel Gubbels, to approve the agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES OF October 1, 2012**

**MOTION:** Doreen Jensen moved, seconded by Samuel Gubbels, to approve the Minutes of October 1, 2012 as corrected. Motion carried unanimously.

**EXECUTIVE DIRECTOR MATTERS**

**MOTION:** Peter Zellmer moved, seconded by Patricia Willis, to grant authority to the Board's Executive Director to sign Orders and Letters upon Board approval and on behalf of, and authorized by, the Board Chair. Motion carried unanimously.

**ELECTION OF OFFICERS FOR 2013**

**CHAIR**

**NOMINATION:** Peter Zellmer nominated Steven Klapperich as Board Chair, Doreen Jensen as Vice Chair and Samuel Gubbels as Secretary.

Mojgan Hall called three times for other nominations for the offices of Board Chair, Vice Chair and Secretary. The nominations were approved by the Board unanimously. Steve Klapperich was elected as Board Chair. Doreen Jensen was elected as Vice Chair. Samuel Gubbels was elected as Secretary.

<b>2013 ELECTION RESULTS</b>	
Chair	Steve Klapperich
Vice Chair	Doreen Jensen
Secretary	Samuel Gubbels

### **PUBLIC HEARING HAS 6**

Peter Zellmer called the public hearing to order at 1:18 p.m. and gave introductory remarks related to the purpose of the hearing and then invited public comment. Being that there were no individuals present wishing to speak, Peter Zellmer adjourned the public hearing at 1:20 p.m.

### **REVIEW AND RESPOND TO CLEARINGHOUSE REPORT AND PUBLIC HEARING COMMENTS**

**MOTION:** Edward Korabic moved, seconded by Patricia Willis, to accept the changes to HAS 6 recommended by the Wisconsin Legislative Council Rules Clearinghouse as presented to the Board. Motion carried unanimously.

**MOTION:** Peter Zellmer, seconded by Pat, to designate Steven Klapperich to approve the Legislative report and rule draft for HAS 6 to submit to the Legislature. Motion carried unanimously.

Steven Klapperich assumed the Chair's position at 1:38 p.m.

### **BOARD MEMBER APPOINTMENTS**

Steven Klapperich made the following board member appointments for 2013.

Hearing and Speech Examining Board  
January 7, 2013  
Meeting Minutes  
Page 2 of 5

- **Screening Panel:** Steven Klapperich, Ed Korabic, Patricia Willis, Tom Sather , Peter Zellmer
- **Credentialing Liaisons:** Doreen Jensen, Ed Korabic, Patricia Willis, Peter Zellmer and Okie Allen
- **Division of Legal Services and Compliance Monitoring Liaison:** Doreen Jensen
- **Division of Legal Services and Compliance Professional Assistance Procedure (PAP) Liaison:** Samuel Gubbels
- **Practice FAQ Advisor:** Ed Korabic
- **Website Liaison:** Ed Korabic
- **Practice Question Liaison:** Doreen Jensen, Ed Korabic, Patricia Willis and Okie Allen
- **Continuing Education (CE) Liaison:**
  - 1) Hearing Instrument Specialist and Audiologist Courses: Doreen Jensen and Steve Klapperich
  - 2) Speech-Language Pathology Courses: Patricia Willis and Tom Sather
- **Exam Liaison:** Okie Allen
- **Legislative Liaison:** Doreen Jensen and Tom Sather
- **Digest Advisor:** Patricia Willis

**MOTION:** Peter Zellmer moved, seconded by Samuel Gubbels, to acknowledge the appointments. Motion carried unanimously.

### **TRAVEL REQUESTS**

**MOTION:** Peter Zellmer moved, seconded by Samuel Gubbels, to appoint Okie Allen to represent the Board at the January 2013 meeting of the Alliance of Hearing Professionals. Motion carried unanimously.

### **PUBLIC COMMENTS**

**MOTION:** Ed Korabic moved, seconded by Doreen Jensen, to appoint Peter Zellmer and Patricia Willis to assist Sharon Henes in exploring whether rule promulgation is necessary to address temporary license and multiple supervision issues. Motion carried unanimously.

### **LEGISLATION AND ADMINISTRATIVE RULE MATTERS**

**MOTION:** Peter Zellmer moved, seconded by Patricia Willis to have each board member review a chapter of the HAS rules in accordance with Executive Order 61 and provide their report to Mojgan Hall by April 1, 2013. Motion carried unanimously.

### **CLOSED SESSION**

**MOTION:** Peter Zellmer moved, seconded by Ed Korabic, to convene to closed session to deliberate on cases following hearing (Wis. Stat. § 19.85 (1) (a)); to consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b) and Wis. Stat. § 440.205); consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)) and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Motion carried unanimously in a roll call vote. Samuel Gubbels-yes; Doreen Jensen-yes; Steven Klapperich-yes; Edward Korabic-yes; Thomas Sather; Patricia Willis-yes; and Peter Zellmer-yes.

Open session recessed at 3:20 p.m.

### **RECONVENE INTO OPEN SESSION**

**MOTION:** Ed Korabic moved, seconded by Peter Zellmer, to reconvene into open session. Motion carried unanimously.

Open session reconvened at 3:48 p.m.

### **VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION**

#### **DELIBERATION ON ADMINISTRATIVE WARNING(S)**

**MOTION:** Peter Zellmer moved, seconded by Steven Klapperich, to issue an Administrative Warning in case number **12 HAD 008**. Motion carried unanimously.

**MOTION:** Ed Korabic moved, seconded by Doreen Jensen, to issue an Administrative Warning in case number **12 HAD 011**. Motion carried unanimously.

### **CASE CLOSINGS**

**MOTION:** Peter Zellmer moved, seconded by Tom Sather , to close case 12 HAD 009 for No Violation. Motion carried unanimously.

### **GRANTING OF LICENSES**

**MOTION:** Peter Zellmer moved, seconded by Ed Korabic, that the Board ratify the scores and give Steven Klapperich the authorization to grant the licenses. Motion carried unanimously.

### **ADJOURNMENT**

**MOTION:** Peter Zellmer moved, seconded by Tom Sather , to adjourn the meeting. Motion carried unanimously.

Meeting adjourned at 4:05 p.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>Dan Williams</b>		2) Date When Request Submitted: <b>4/3/13</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>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections:  <b>WI HEARING and SPEECH EXAMINING BOARD</b>			
4) Meeting Date:  <b>4/22/13</b>	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Administrative Matters – 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 <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:  N/A	
10) Describe the issue and action that should be addressed:  <ol style="list-style-type: none"> <li>1) <b>Liaison authority and signature process</b> <ol style="list-style-type: none"> <li>a) <b>Credentialing</b> / The DSPS credentialing staff will appear and provide the Board with an overview of the credentialing process for the credentials under its purview. Additionally, the Board should work to define the role(s) of its credentialing liaison(s) in an effort to clarify its expectations in terms of credentialing liaison work.</li> <li>b) <b>DLSC</b> / DLSC monitoring staff will appear and discuss the attached document.</li> </ol> </li> <li>2) <b>Paperless update</b> / Brief presentation of how Board Members can sign up for SharePoint access as a part of the paperless initiative, as well as instructions for using DSPS laptops.</li> <li>3) <b>Staff update</b></li> </ol> <p><b>Motion from last meeting:</b></p> <ul style="list-style-type: none"> <li>○ <b><u>Credentialing Liaisons:</u></b> Doreen Jensen, Ed Korabic, Patricia Willis, Peter Zellmer and Okie Allen</li> <li>○</li> <li>○ <b><u>DLSC Monitoring Liaison:</u></b> Doreen Jensen</li> <li>○</li> </ul>			

**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:  April 4, 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:  Hearing and Speech Examining Board			
4) Meeting Date:  April 22, 2013	5) Attachments:  <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  Monitoring Liaison Roles and Delegated Authorities	
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 checked="" type="checkbox"/> Yes ( <a href="#">Fill out Board Appearance Request</a> ) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:  Discuss the new model language and related delegated authorities.			
11) Authorization			
		April 4, 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	
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.			

## **Monitoring Liaison Roles and Proposed Delegated Authorities**

### **Board Monitoring Liaison's Roles**

Board Monitoring Liaison is a board designee working with department monitors to carry out the Board's orders. The roles of the Board Monitoring Liaison include but are not limited to:

1. Granting stay of suspension, as provided under the order, when Respondent demonstrates sufficient proof of compliance;
2. Removing stay of suspension, as provided under the order, when Respondent repeatedly or substantially violates the order (i.e. positive drug screen results, concerned work reports, etc.); and
3. Granting or denying approval, as provided under the order, when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. to satisfy order requirements.

### **Proposed Delegated Authorities to Department Monitor and Board Monitoring Liaison**

Department Monitor may draft and sign Board orders on behalf of the Board Monitoring Liaison **ONLY** under the following circumstances:

1. To remove the CE limitation on Respondent's license if he/she has completed the required, and approved, hours and the CE is sole condition of the limitation. A petition may be required for the CE limitation to be removed.
2. To suspend the license if Respondent does not pay costs and/or forfeiture or does not complete CE course(s) within the time specified by the Board order. When the licensee is in compliance with the order, the Department Monitor may remove the suspension. \*see "Model Language" on next page
3. To grant a stay of suspension (*with permission from the Board Monitoring Liaison*).
4. To remove the stay of suspension (*with permission from the Board Monitoring Liaison*) if there are repeated or substantial violations of the Board order. The stay may be reinstated when the Board Liaison determines that Respondent is in compliance with the order.
5. To grant a temporary reduction in random drug screen frequency if Respondent is unemployed and is otherwise compliant with Board order (*with permission from the Board Monitoring Liaison*). The temporary reduction may be in effect until Respondent secures employment in the profession.
6. To grant a maximum 90-day extension to complete Board-ordered CE (*with permission from the Board Monitoring Liaison*).
7. To grant a maximum 90-day extension to pay proceeding costs (*with permission from the Board Monitoring Liaison*).

\*This is the language used in stipulated Final Decision and Orders to inform respondents that failure to pay the costs and/or complete the required continuing education may result in an immediate suspension of their credential:

**Model Language**

Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board, in its discretion, may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. *(If the order includes costs, forfeitures or continuing education add the next clause)* In the event Respondent fails to timely submit (payment of the costs or payment of the forfeiture as ordered or fails to comply with the ordered continuing education) as set forth above, the Respondent's license (# ) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with (payment of the costs or forfeiture or completion of the continuing education).

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

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  <b>Matthew C. Niehaus, Bureau Assistant</b>		2) Date When Request Submitted:  <b>2/4/2013</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>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections:  <b>Hearing &amp; Speech Examining Board</b>			
4) Meeting Date:  <b>4/22/2013</b>	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Paperless Initiative</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?  <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:  <b>Brief presentation of how Board Members can sign up for SharePoint access as a part of the paperless initiative, as well as instructions for using DSPS laptops.</b>			
11) Authorization			
<b>Matthew C. Niehaus</b>			
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			
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.			

## How to register for a username/password on <http://register.wisconsin.gov> .

In order to access the Board SharePoint site, Board Members must obtain a State of WI/DOA username/password from this site <http://register.wisconsin.gov> . Once registered, Board Members will be provided a DOA credential under the Wisconsin External (wiext) domain. This account is intended to provide users with access to multiple State of Wisconsin web applications, including the DSPS SharePoint site.

To Begin, use the 'Self Registration' link

DOA/Wisconsin Logon Management System - Windows Internet Explorer provided by State of Wisconsin

http://register.wisconsin.gov/AccountManagement/

wisconsin.gov home state agencies subject directory

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Main Menu | Help | FAQ

### DOA/Wisconsin Logon Management System

The DOA/Wisconsin Logon Management System allows authorized individuals to access many DOA Internet applications using a single ID and password. When access to information or services is restricted to protect your privacy or the privacy of others, you will be asked to provide your DOA/Wisconsin Logon and password. Your DOA/Wisconsin Logon and password verifies your identity so that we can provide you with access to your information and services and prevent access by unauthorized individuals.

#### User Acceptance Agreement

Please note that only certain types of information will be stored in your user profile, as described in the [User Acceptance Agreement](#). Your user profile will never contain records such as driving history, tax information, unemployment compensation, vehicle registrations or prison records.

#### Sign Up for your DOA/Wisconsin Logon

[Self Registration](#) (Request a DOA/Wisconsin Logon and Password.)

Self Registration allows you to create **your personal** DOA/Wisconsin Logon. This is your key to doing secure business with DOA over the Internet.

#### Change / Update Your Information

[Profile Management](#) allows you to change your account information, e-mail address and other information.

#### Change Your Password

[Password Management](#) allows you to change your password.

#### Forgot Your Logon ID or Password?

[Logon ID/Password Recovery](#) allows you to recover a forgotten DOA/Wisconsin Logon and/or Password.

Updated February 6, 2009  
DET - Bureau of Business Applications Services  
Content Contact: [BRAS/BA](#)

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**Not sure if you already have DOA/State of WI account?**

Use the 'Forgot Your Logon ID or Password' link to check

After accepting the user agreement, complete the 'Account Creation' form.

Indicate 'SharePoint' under the section entitled, 'Systems You Will Access'

**Account Creation**

\* Indicates Required Field

**Profile Information**

First Name  \*

Middle Initial

Last Name  \*

Suffix

E-Mail  \*

Use this format 6085551234

Phone  ext.

Mailing Address

Street Address

City

State/Province

Zip Code  -

**Systems You Will Access**

Use your mouse to highlight the system that you want to access.

Systems  \*

**Account Information**

Your Logon ID must be between 5-20 characters and **CAN** be a combination of letters and numbers. Your Logon ID must not contain spaces or special characters.

Logon ID  \*

Your Password must be 7-20 characters long and **MUST** contain a combination of letters and either numbers or special characters (except the @ ? / signs). Passwords are case sensitive. Your Password cannot contain the Logon ID.

[Password Tip](#)

Password  \*

Re-enter Password  \*

**Logon ID/Password Recovery**

Enter a question and answer for use if you forget your DOA/Wisconsin Logon ID or Password. Your Secret Question and Secret Answer cannot contain your password. [Secret Question and Answer Tip](#)

Secret Question  \*

Secret Answer  \*

**Verification**

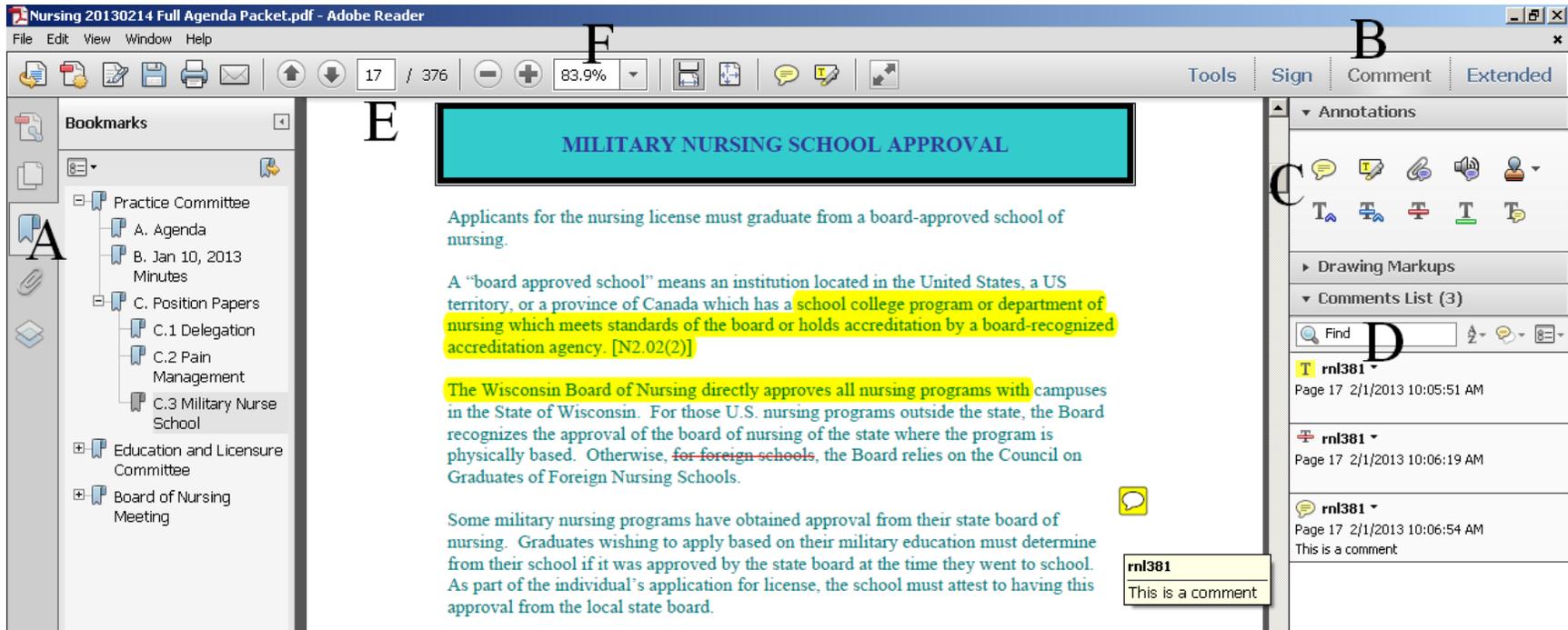
This step helps prevent automated registrations. If you cannot see the number below [click here](#).

**80542** Please enter the number as it is shown in the box to the left.  \*

**Please use a login ID of your first initial followed by your middle initial followed by your last name, as in the example to the left.**

**Remember your logon ID, as you will need to provide that to DSPS staff in order for you to receive proper access rights.**

**Once you have been granted permission to access the Board's website, you should receive an automated 'Welcome to SharePoint' email with a link to the site.**



Above is an example of an agenda packet page, with some features you can access through Adobe Reader.

**A: Bookmarks** – When the Bureau Assistant creates the Agenda Packet, it is possible to place in bookmarks for quick reference during meetings. You can expand and minimize categories to better enable you to jump from section to section of your agenda here.

**B: Comment** – On specially designated .pdf files, it is possible for Adobe Reader to be given comment privileges. This allows a Board member to make comments on documents, as well as edit, highlight, or insert text in suitable files. Please note, if the file is a scanned copy, it is likely that the highlight and text editing features will not be usable. The comment feature will still work in such an issue.

**C: Annotations & Drawing Markups** – These are the different options you can use to mark up your document for your reference. If you mouse over an option, it will give a brief description of what it can do for you. Feel free to experiment and find out what works best for you!

**D: Comments List** – Quickly jump between your comments by selecting them in this list. Never again will you miss out on a note during a discussion with this handy tool.

**E: Page List** – No more rifling through papers in order to track down that page someone mentioned! With this handy bar, you can simply type in the page you are looking for, hit enter, and Adobe Reader will take you directly to the page.

**F: Zoom** – Having trouble reading something? You can zoom in and out on a document with this bar. The plus and minus signs to the left can be used to make quick adjustments as well.

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

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  <b>Dan Williams</b>		2) Date When Request Submitted: <b>3/12/13</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>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections:  <b>WI HEARING and SPEECH EXAMINING BOARD</b>			
4) Meeting Date:  <b>4/22/13</b>	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Executive Order 61 – 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 <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:  N/A	
10) Describe the issue and action that should be addressed:  <b>Motion from last meeting:</b>  <div style="padding-left: 40px;"> <b>MOTION: Peter Zellmer moved, seconded by Patricia Willis to have each board member review a chapter of the HAS rules in accordance with Executive Order 61 and provide their report to Mojgan Hall by April 1, 2013. Motion carried unanimously.</b> </div>			
11) Authorization			
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			
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 Executive Assistant prior to the start of a meeting.			

## Hearing and Speech Executive Order 61 Feedback

See chapter assignments below:

### HAS 1 Licensure of Hearing Instrument Specialists (Steve)

Regarding HAS 1, I see no issues that need to be addressed at this time.

### HAS 2 Trainees (Doreen)

<u>PROVISION</u>	<u>COMMENTS</u>
(1) Application	No change
(2) Permit practice limitations	No Change
(3) Renewal	Make the permit renewable upon request without having to show cause. The fee would still be required and The trainee would have to make written request via mail or online.
*Note that I could not find a permit renew request form on the site. Is there a form for this? If not, one could be created to allow the trainee to submit his/her request electronically. Permit renewal is still subject to payment of all fees.	
(4) Number of trainees per License Holder	I gave this some thought—to Increase this, however, our first mandate is public safety and multiple trainees, in my opinion have the potential for harm.
(5) Revocation	No change
<b>HAS2.02</b>	No change

### HAS 3 Examinations (Tom)

As per the Wisconsin Hearing and Speech Examining Board, chapters 1-8 of the HAS Code Book are in the process of being reviewed to determine any potential benefit to the Wisconsin small business community in accordance with Executive Order #61 relating to job creation and small business expansion. The primary content of Chapter HAS 3 relates to protocols and procedures for examination. At this point, to the best of my knowledge, these examinations are being procured by Wisconsin Speech and Hearing Board members, and there is not opportunity for any modifications that would be of benefit to the Wisconsin small business community.

### HAS 4 Measurement of Human Hearing (Sam)

Regarding chapter 4 - Questions that we could discuss briefly as a group at some point regarding the impact on small businesses

- HAS 4.03 - Are there audiometers that are less expensive that would perform at acceptable but somewhat lower standards than those specified? I suspect not and given the critical importance of standardization in audiometry I think that this likely is a moot point but thought that I would bring it up for discussion.
- -HAS 4.03(3) - "... not less than every 12 months." Perhaps this frequency of calibration of equipment presents a burden for small businesses I suppose. I am not sure of the costs associated

with equipment re-calibration but potentially this may get expensive for small business owners. As such, might there be room to decrease the frequency of required calibrations without jeopardizing the standardization and reproducibility of audiograms. Is this period of required calibrations similar to other states? Do most audiometers end up needing significant changes when calibrated every year?

- -HAS 4.04 - "...and documented within 6 months prior This requirement could potentially present a burden for audiologists and HIS as they need to repeat an audiogram prior to fitting HA's if the patients hearing was last tested greater than 6 months previously. I am not sure if this may place a burden on the profession and/or i-f they lose money as a result of needing to repeat audiograms prior to fitting HA's. Is this requirement similar to other states? Where does it come from- ASHA recommendations? Personally it seems prudent for this requirement to be in place given the fact that many hearing losses can progress over this type of time period but again, maybe increasing this to less than one year would still provide adequate protection for the public and lessen any burden on small business owners.

#### HAS 5 Unprofessional Conduct (Peter)

I have thoroughly read through Chapters 5 and 7 of the Code. I did not find anything that in my opinion would hinder new job creation or small business expansion. I did not find any parts or language in the rules that would place unnecessary burdens on small businesses.

#### HAS 6 Licensure of S-L Pathologists, Audiologist and Temp Licenses (Pat)

I've reviewed my assigned chapter 6 and I don't see any rules that place an unnecessary burden on small businesses or rules that hinder job growth/creation.

#### HAS 7 Requirements for Renewal (Peter)

I have thoroughly read through Chapters 5 and 7 of the Code. I did not find anything that in my opinion would hinder new job creation or small business expansion. I did not find any parts or language in the rules that would place unnecessary burdens on small businesses.

#### HAS 8 Continuing Education Requirements (Ed)

I have reviewed Chapter HAS 8 CONTINUING EDUCATION REQUIREMENTS. See: [https://docs.legis.wisconsin.gov/code/admin\\_code/has/8/04/7/2](https://docs.legis.wisconsin.gov/code/admin_code/has/8/04/7/2) It is my opinion that this rule would not unnecessarily burden small business, their growth, and job creation.

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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>Dan Williams</b>		2) Date When Request Submitted: <b>3/12/13</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>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections:  <b>WI HEARING and SPEECH EXAMINING BOARD</b>			
4) Meeting Date:  <b>4/22/13</b>	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Legislative and/or Rule Matters – 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 <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:  N/A	
10) Describe the issue and action that should be addressed:  <b>Motion from last meeting:</b>  <p style="text-align: center;"><b>MOTION: Ed Korabic moved, seconded by Doreen Jensen, to appoint Peter Zellmer and Patricia Willis to assist Sharon Henes in exploring whether rule promulgation is necessary to address temporary license and multiple supervision issues. Motion carried unanimously.</b></p> <p><b>At this meeting there will be a discussion and possible action as to:</b></p> <ul style="list-style-type: none"> <li>• <b>Temporary license and multiple supervisors</b></li> <li>• <b>Possible amendment of HAS 6.10, audiology temporary license due to 2009 Act 356</b></li> </ul>			
11) <span style="float: right;">Authorization</span>   <hr/> Signature of person making this request <span style="float: right;">Date</span>  <hr/> Supervisor (if required) <span style="float: right;">Date</span>  <hr/> Executive Director signature (indicates approval to add post agenda deadline item to agenda) <span style="float: right;">Date</span>			
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 Executive Assistant prior to the start of a meeting.			

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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>Dan Williams</b>		2) Date When Request Submitted: <b>4/3/13</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>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections:  <b>WISCONSIN HEARING and SPEECH EXAMINING BOARD</b>			
4) Meeting Date:  <b>4/22/13</b>	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Position Statements – 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 <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:  N/A	
10) Describe the issue and action that should be addressed:  <b>In 2013 the Board will review the Position Statements currently on the DSPS website (Hearing and Speech page) to determine whether they should remain, be revised, or pulled entirely. These statements were transferred over from the old website in November-2012.</b>			
11) Authorization			
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	



## STATE OF WISCONSIN

Department of Safety and Professional Services  
1400 E Washington Ave.  
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PO Box 8935  
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**Governor Scott Walker      Secretary Dave Ross**

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### **Positions Statements Related to Speech Language Pathology Issued by the Hearing and Speech Examining Board**

Licenseses must meet a new CE requirement prior to their next license renewal in January 2013. The overall number of required CE hours has **not** changed. The new requirement simply states that two (2) of the 20 hours of CE must be in Ethics. The remaining CE hours may be obtained from any other course approved by the Hearing and Speech Examining Board.

A list of Board approved CE courses for the current biennium which runs from 2/1/2011 through 1/31/2013 can be found on the web at [www.dsps.wi.gov](http://www.dsps.wi.gov)

#### **WHAT IS THE PRIMARY SOURCE OF WISCONSIN LAW THAT GOVERNS THE REGULATION OF SPEECH AND LANGUAGE PATHOLOGISTS WHO WORK IN SCHOOL SETTING?**

Speech and language pathologists who work primarily in school settings are licensed by the Department of Public Instruction. Refer to Chapters [115](#) and [118](#), Wis. Stats. and [Chapter PI 34](#), Wis. Adm. Code.

#### **WHAT CONSTITUTES THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY?**

As defined by [Wis Stat. 459.20 \(5\)](#), the practice of speech-language pathology means applying principles, methods or procedures of prevention, identification, evaluation, consultation, intervention, instruction or research related to speech, language, cognition or swallowing or any abnormal condition involving speech, articulation, fluency, voice, verbal or written language, auditory comprehension, cognition or communication or oral, pharyngeal or laryngeal sensorimotor competencies.

#### **HOW LONG ARE SPEECH-LANGUAGE PATHOLOGISTS REQUIRED TO MAINTAIN RECORDS OF PROFESSIONAL SERVICES RENDERED AND PRODUCTS DISPENSED?**

Speech-language pathologists are required to maintain records of professional services rendered and products dispensed for a period of 5 years. Refer to s. [HAS 6.18 \(2\) \(n\)](#), Wis. Adm. Code.

**ARE SPEECH-LANGUAGE PATHOLOGISTS REQUIRED TO OBTAIN AND MAINTAIN A MEMBERSHIP WITH THE AMERICAN SPEECH-LANGUAGE HEARING ASSOCIATION (ASHA) IN ORDER TO OBTAIN AND MAINTAIN A LICENSE TO PRACTICE SPEECH-LANGUAGE PATHOLOGY IN WISCONSIN?**

No.

**IS TREATING A CLIENT SOLELY BY CORRESPONDENCE GROUNDS FOR DISCIPLINE?**

Yes, this is considered unprofessional conduct. See [Ch HAS 6.18 \(2\)\(m\)](#), Wisc Admin Code.

**WHAT ARE SOME OTHER GROUNDS FOR DISCIPLINE?**

Grounds for discipline are stipulated in [Ch HAS 6.18](#), Wisc Admin Code and [Wis Stat. 459.34](#).

**DOES THE EXAMINING BOARD HAVE THE AUTHORITY TO ASSESS FORFEITURE IN DISCIPLINARY PROCEEDINGS?**

Yes. In addition to or in lieu of a reprimand or denial, limitation, suspension or revocation of a license or permit, the examining board may assess against an applicant, licensee or permittee a forfeiture of not less than \$100 nor more than \$2,500 for each violation enumerated under [s. 459.34 \(3\)](#), Wis. Stats.

**DOES A SPEECH LANGUAGE PATHOLOGIST (SLP) WORKING IN A SCHOOL IN WISCONSIN HAVE TO BE LICENSED IN THE SAME MANNER AS AN SLP WORKING IN A CLINICAL/REHAB SETTING?**

Usually not. If a speech-language pathologist works only in the public school setting (and there is no billing for their service), they would only need a DPI license. If they see students in the school, and the school bills Medicaid for those services, then the clinician also needs a DRL license. If the clinician does any service outside the public school, e.g., sees clients privately for work over the summer, they again need the DRL license. See [Wis Stat. 459.2 \(f\)](#).

**ARE SPEECH-LANGUAGE PATHOLOGISTS PERMITTED TO PERFORM NEWBORN HEARING SCREENING USING AUDITORY BRAINSTEM EVOKED RESPONSE PROCEDURES?**

Speech-language pathologists licensed in the State of Wisconsin who have the appropriate training may perform newborn hearing screening using auditory brainstem evoked response in collaboration with an audiologist. Judgments and descriptive statements about the results of such screening should be limited to a determination as to whether the individual has passed. Individuals who do not pass the screening shall be referred for evaluation and management.

**HEARING AIDS PURCHASED THROUGH MAIL ORDER OR ON THE INTERNET APPEAR TO BE LESS EXPENSIVE THAN THOSE AVAILABLE FROM LOCAL**

**AUDIOLOGISTS OR HEARING INSTRUMENT SPECIALISTS. IS IT ADVISABLE TO PURCHASE HEARING AIDS THROUGH MAIL ORDER OR ON THE INTERNET?**

It is highly recommended that you purchase hearing aids in person rather than through mail order or on the internet. It is critical that you first have your hearing evaluated by a licensed hearing health care professional - either an audiologist or hearing instrument specialist – to determine your hearing health care needs. If it is determined that your hearing loss is due to an underlying medical condition, you will be referred to a physician for medical evaluation and treatment. If it is determined that your hearing loss can be treated with hearing aids, the hearing health care professional will select and fit you with the most appropriate hearing aids for your hearing loss, and then provide you with essential follow-up services. A professional relationship between you and a licensed hearing health care professional is important to insure successful use of, and satisfaction with, hearing aids. For more information about hearing aids, visit the consumer web sites of the American Academy of Audiology (<http://www.howsyourhearing.org/>) and the International Hearing Society ([http://ihsinfo.org/IhsV2/Hearing\\_Health\\_Info/Index.cfm](http://ihsinfo.org/IhsV2/Hearing_Health_Info/Index.cfm)).

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

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  <b>Dan Williams</b>		2) Date When Request Submitted: <b>4/4/13</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>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections:  <b>Wisconsin Hearing and Speech Examining Board</b>			
4) Meeting Date:  <b>4/22/13</b>	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Right the Rules – 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 <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:  N/A
10) Describe the issue and action that should be addressed:  Dear Representative Severson,  I am the newly elected Chairperson of the Hearing and Speech Examining Board. The members of the Board have been asked to review the H&S rules in response to Governor Walker's executive order 61. We will be completing that task shortly.  I understand that as part of the Right the Rules effort, you and your committee have been asked to review the H&S regulations. I would like to offer my assistance on behalf of the H&S Board to be of any service I possibly can. I look forward to working with you. Sincerely,  Steven J Klapperich, H.I.S.			
11) Authorization			
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	

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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>Dave Carlson</b>		2) Date When Request Submitted:  <b>4/15/2013</b>	
		Items will be considered late if submitted after 4:30 p.m. and less than: ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others	
3) Name of Board, Committee, Council, Sections:  <b>Hearing and Speech Examining Board</b>			
4) Meeting Date:  <b>4/22/13</b>	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? <b>Discussion and Consideration of DSPS Application Guidelines</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?  <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:  <b>Chair Steve Klapperich made the following request for this agenda item:</b> <b>It has been brought to my attention that the information in the DSPS application guidelines requires applications and fees to be received by DSPS 30 days prior to exam dates. An application for this upcoming test date was initially denied because the candidate was told we needed an additional 10 days for processing. Fortunately the issue was resolved. Perhaps we need to change the information in the guidelines to read 40 or 45 days in advance if that is actually the required time for processing. Thanks.</b> <b>Steve</b>			
11) Authorization			
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			
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.			

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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>Dan Williams</b>		2) Date When Request Submitted: <b>3/4/13</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>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections:  <b>WI HEARING and SPEECH EXAMINING BOARD</b>			
4) Meeting Date:  <b>4/22/13</b>	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Okie Allen report as to the appearance at the Alliance for Hearing Professionals – 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 <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:  N/A	
10) Describe the issue and action that should be addressed:  <b>Motion from last meeting:</b>  <p style="text-align: center;"><b>MOTION: Peter Zellmer moved, seconded by Samuel Gubbels, to appoint Okie Allen to represent the Board at the January 2013 meeting of the Alliance of Hearing Professionals. Motion carried unanimously.</b></p>			
11) Authorization			
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	
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 Executive Assistant prior to the start of a meeting.			

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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  Hannah Whaley, Investigator On behalf of Attorney Laura M. Varriale Division of Legal Services and Compliance		<b>2) Date When Request Submitted:</b>  April 3, 2013 <small>Items will be considered late if submitted after 4:30 p.m. and less than:</small> <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> Hearing and Speech Examining Board			
<b>4) Meeting Date:</b> April 22, 2013	<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> Case Advisor Training Overview	
<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 checked="" type="checkbox"/> Yes by Attorney Laura M. Varriale (name) <input 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>			
<b>11) 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			
<b>Directions for including supporting documents:</b> <ol style="list-style-type: none"> <li>1. This form should be attached to any documents submitted to the agenda.</li> <li>2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director.</li> <li>3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.</li> </ol>			



**OVERVIEW OF  
DPS REGULATORY  
STRUCTURE**

## The Department and the Boards

The **Department** of Safety and Professional Services (Department) and the attached Boards are distinct legal entities with different functions, working toward the same goal.

The Department was created to perform a wide range of duties, including providing legal expertise and administrative support to the Boards. Legal expertise is provided to the Boards in three ways: by a legal counsel, who has a fiduciary responsibility to provide legal advice to the board in exercising its duties and responsibilities; by the assignment of an administrative law judge when disciplinary action goes to a formal hearing; and by the prosecutor of each case opened for investigation.

The Department provides administrative support by the assignment of an Executive Director, Bureau Assistant and Rules Coordinator to each board. These staff members manage board meeting agendas, handle a range of board related business and serve as a liaison between the board and the Department.

The Division of Legal Services and Compliance (**DLSC**) is the part of the Department tasked with the responsibility of enforcing licensee compliance with State laws and professional codes. DLSC is the physical extension of Boards' authority in disciplining misconduct. DLSC works collaboratively as the Board's partner in ensuring that fair and just discipline is imposed on violators of professional rules in a way that accomplishes the State's goals in protection, deterrence and rehabilitation.

**Boards** are established to perform many functions, including setting entry and practice standards through rule-making and regulating the professions through disciplinary actions. Within disciplinary actions, individual Board members may have two roles: the judicial role of a final decision-maker and the consultant role of case advisor.

As a consultant, the case advisor of a particular case assists DLSC's prosecuting attorney with professional expertise on the licensee's misconduct and necessary discipline to bring the licensee into compliance. If the attorney and licensee reach an informal resolution, the Board as a whole (including the case advisor of that case) will hear relevant facts, as the judge, and determine whether the agreed-upon resolution is sufficient. The consulting and judicial roles must be kept distinct and separate. To blur the line between the roles violates due process. Many of the safeguards and specific prohibitions are discussed below.

### Common terms/definitions

- Respondent
- Licensee

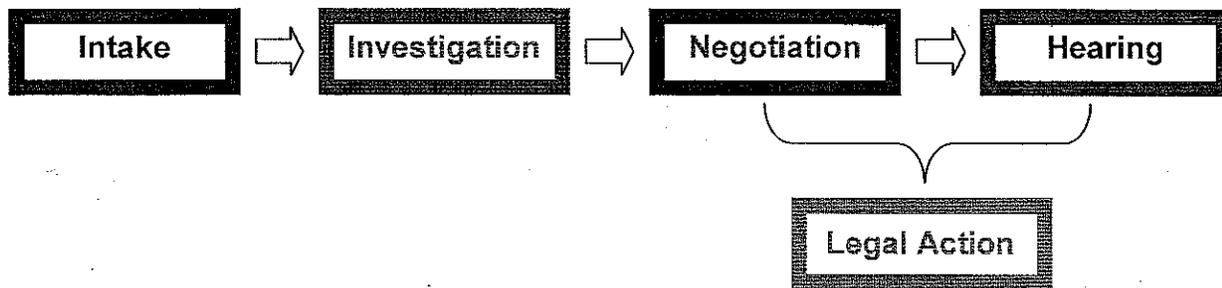
## The Disciplinary Process

The Department operates on a complaint driven process, meaning all compliance actions are results of submitted complaints against alleged licensee misconduct, not from the Department's active search for misconduct. The Complaint itself may come from a variety of sources, such as consumers, professionals, or other cases that alerted us to misconduct of another licensee.

The State of Wisconsin recognizes and respects an individual's interest in earning a living. However, the individual's interest must be balanced with the public's interest in obtaining services that are safe and effective. In disciplining licensees, the State has three goals:

- 1. Protect the public;**
- 2. Deter the conduct; and**
- 3. Rehabilitate the respondent.**

The State does not punish licensees for misconduct, but provides them with the necessary tools and opportunities to regain compliance. This protects both the public's and the individual's interests.



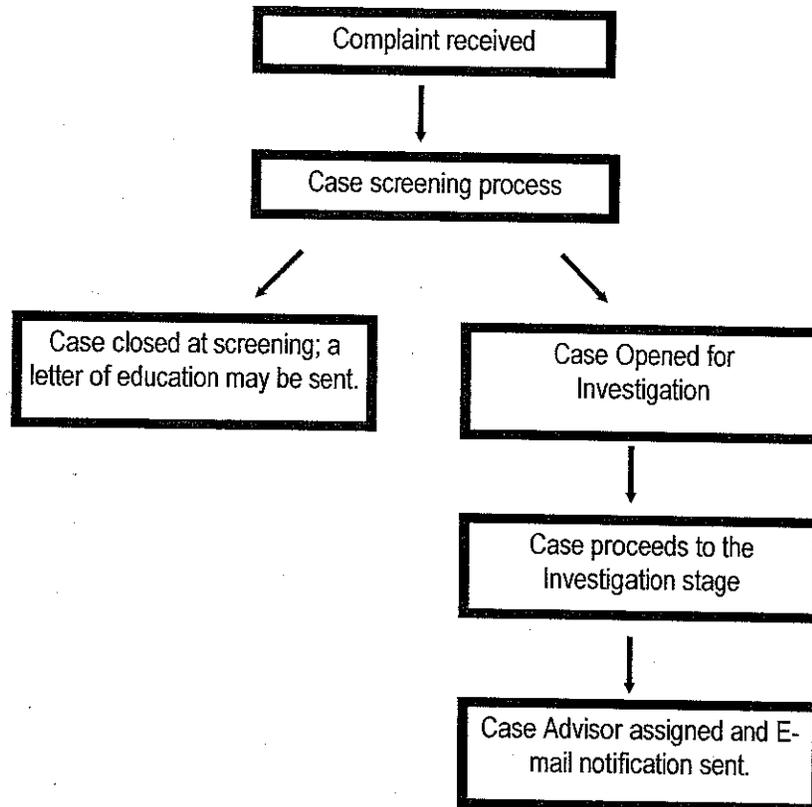
### Intake Process

The Intake stage is the first stage in the case handling process.

As a complaint is received by the Department, Intake Staff collect relevant information (such as records, follow-up from the Complainant if the information is incomplete or an initial response from the accused licensee) and send the complaint to the Screening Panel, which may consist of several Board members and a DLSC attorney. The Screening panel, at a predetermined time, will confer and determine whether, from the information provided, a violation may have occurred. The panel may consider many factors, such as the seriousness of the allegations, the harm or threat of harm, whether the dispute is already resolved, and whether the matter is primarily a civil or private dispute. If a complaint does not warrant further action, it is closed under appropriate codes depending on the facts of the case, and a letter is sent out to the parties. If a complaint does have merit, or require further investigation, the case is opened and goes on to the Investigation stage.

The Intake stage is especially important as a gatekeeper against trivial complaints and cases without proof. This stage protects licensed professionals from meritless attacks on their

reputation and livelihood. In certain circumstances, a licensee may be close to violating a professional standard, but did not violate it. Through the Screening process, the Panel may choose to issue a letter of education that warns the licensee of the risks of his conduct to prevent future violations.



### Case Assigning

When a case is opened, a case advisor will be assigned, along with an investigator, paralegal and attorney. The advisor can be assigned to a particular case by:

1. The screening panel - initial assignment made by screening panel during screening.
2. DLSC staff - when a conflict is identified or replacement for a previous case advisor is necessary, another case advisor will be assigned.
3. Expertise - in some cases the case advisor is assigned (either by the screening panel or DLSC) based on his or her expertise in a particular area relevant to the case. In cases where professional expertise is not required, a Public Member may be assigned as the advisor.
4. General rotation - case advisor assignments are made generally based on a rotation system so that the caseload is distributed as evenly as possible among board members.

5. Geographical area – case advisor is assigned based on *not* being in the same geographical area as Respondent [Exception: Real Estate Appraisers are assigned by geographical area due to the importance of local area knowledge].

Once assigned, the advisor will receive an email or letter from the Intake staff with notification of the assignment. The notification will include the case number, name of the Complainant, Respondent, original complaint and all supplemental information obtained since the complaint was received. At this time, the assigned advisor should review the materials and determine if there is any conflict of interest or bias that would require reassignment. If a conflict does exist, or if the advisor is uncertain if one exists, the advisor should contact DLSC staff immediately.

### Forms of “Discipline”

It is important to understand and remember that almost all professionals hold a certain level of pride in their professional career. The State does not regulate professionals to all operate at the highest standard possible, which is a system better controlled by the market and individual professional’s reputation. Instead, we regulate professionals to operate *above the minimum standard*. At times, licensees may be careless, incompetent or reckless. As the embodiment of the profession, Boards must make sure that the imposed discipline is appropriate to address the misconduct when the entire circumstance is taken into account. In addition to formal discipline, Boards also have non-disciplinary options that may more appropriately correct the licensee’s failure. The case must always be reviewed and determined case-by-case, taking into account all facts specific to that particular case.

### Forms of Informal Discipline: Useful Non-Disciplinary Tools

1. Case Closure: Prosecutorial Discretion
  - a. Sometimes, the simple act of opening a case against the licensee is enough to alert the licensee to improve his practices.
  - b. Some examples of situations:
    - i. The incident in question was not seriously harmful to the public;
    - ii. Compliance with the statutes or rules has been gained;
    - iii. The expenditure of resources to pursue the violation greatly exceeds the value to the public in pursuing the matter; or
    - iv. The Board has taken action in regard to the licensee that addressed the conduct and no further action is necessary.
2. Remedial Education
  - a. Requiring licensee to complete education that addresses his failure through a Board Order that does not include specific finding of a violation.
  - b. Remedial education allows the licensee to gain compliance with less embarrassment to his or her professional pride.
3. Administrative Warning:
  - a. Requires that the misconduct is a minor violation, and the misconduct is a first occurrence for the licensee (Wis. Admin. Code ch. SPS 8)

- b. The fact that the warning was issued is a public record, but the content of the warning is private and confidential.
  - c. Licensee may request review of the warning within 20 days and make an appearance before the Board. If a warning is appealed, the Board may re-examine the case and request DLSC to pursue a different resolution, if warranted.
4. The Professional Assistance Procedure (PAP):
- a. PAP is an alternative to formal disciplinary process for an impaired professional; it encourages individuals to seek help for their impairment in a non-disciplinary environment.
  - b. If an individual is released from PAP for failure to comply with the program, the Department Monitor at that time may refer the individual to DLSC for formal disciplinary procedures, if appropriate.

### Forms of Formal Discipline

If the licensee's misconduct cannot be corrected with a non-disciplinary option, or if the misconduct is common enough that all licensees within the profession must be alerted to its substandard nature, formal discipline may be warranted.

1. Reprimand – to “publicly warn the holder of a credential” (Wis. Stat. § 440.01(1)(e))
2. Limited License – to “impose conditions and requirements upon the holder of the credential, and to restrict the scope of the holder’s practice” (Wis. Stat. § 440.01(1)(d))
  - a. A credential can be limited in many ways, allowing Boards to creatively and most appropriately address the credential holder’s deficiency. For example:
    - i. Education – can the misconduct be resolved by re-education?
    - ii. Testing – can the misconduct be resolved by re-testing?
    - iii. Assessment or Treatment – can the licensee practice safely and competently if AODA impairment is treated?
    - iv. Supervision, Work Reports or Auditing
    - v. Other options by limiting:
      1. Practice scope
      2. Geographic practice area
      3. Types of procedures
      4. Types of clients
  - b. Time period – can be permanent or for a set period of time (e.g. until education is completed, testing passed, or licensee is deemed safe to practice).
  - c. Measurability – when determining the appropriate limitation, please choose limitations that are clearly measurable and enforceable. Establish guidelines on how the licensee can show his or her compliance with the Board’s intended restrictions.
3. Suspension – to “completely and absolutely withdraw and withhold for a period of time all rights, privileges and authority previously conferred by the credential” (Wis. Stat. § 440.01(h))
  - a. Suspension should only be used when the conduct was egregious, as it is a form of deterrence rather than rehabilitation.

- b. Suspensions can be imposed by length of time, completion of other Board requirements, or indefinitely, requiring a successful petition to the Board to lift the suspension.
- 4. Revocation or Voluntary Surrender – to revoke is to “completely and absolutely terminate the credential and all rights, privileges and authority previously conferred by the credential” (Wis. Stat. § 440.01(f))
  - a. Revocation is only appropriate for the most serious conduct
  - b. Not all revocations are permanent: licensees may re-apply (but it is up to the Board whether a license will be granted) unless the Order specifically prohibits or limits it.
  - c. Voluntary surrender is essentially identical to a revocation, except that it causes less embarrassment.
- 5. Voluntary Surrender or Retirement without a Finding of Violation
  - a. There are instances where, regardless of the egregiousness of the conduct, the licensee wishes to stop practicing.
  - b. In these circumstances, the licensee can retire or surrender his or her license without a formal finding of violation.
- 6. Forfeiture or Citations - some boards have the ability to impose monetary forfeitures or citations, which serve a deterrent function rather than rehabilitative.

The legal team assigned to a case will always assist the Case Advisor in determining the most appropriate discipline. The legal team may have additional information such as historical data and recent trend or change in discipline for similar conduct. Also, because the legal team has direct interactions with respondents, the team may have important insight as to what may be the most efficient and effective way to bring a particular respondent into compliance.

### Summary Suspensions

Summary suspension is a special tool that allows us to suspend a licensee without a stipulated agreement and before a full hearing. Because this tool circumvents certain due process, it can be used only when the facts establish that the licensee has engaged in and/or is likely to engage in conduct that threatens the health, safety or welfare of the public, which requires emergency suspension.

If a Board uses summary suspension, a formal complaint must be filed shortly after and a hearing held promptly. It is critical that all evidence is ready for the hearing.

Obtaining a summary suspension against a licensee does not necessarily mean that licensee has indeed engaged in misconduct; it only means that we have enough reason to believe he did, **AND** that he will continue to do so, placing the public in danger. Without evidence that the dangerous conduct will continue unless the licensee is suspended, summary suspension should not be granted.

### Informal Settlement Conferences

Another special tool ...

## Costs

The Department has the authority to recoup time and money spent on a case if discipline is ultimately imposed. Costs include recovery for investigator, paralegal and attorney time, Administrative Law Judge's time if the matter goes to hearing, witness fees, postage, costs paid out for certified copies of records, court reporter fees, etc.

## Case Advisor Role

The board member, while acting as a case advisor, has the responsibility to:

1. review the case materials;
2. identify additional materials required in order to make a determination;
3. provide expert and technical advice and assistance to the DLSC staff;
4. assist the attorney in determining the merits of the case;
5. assist the attorney in determining whether a violation occurred;
6. assist the attorney in determining the appropriate discipline if a violation occurred; and
7. assist with finding expert witnesses.

The case advisor is the prosecuting attorney's consultant in determining if a violation occurred, what is the exact nature of that violation, the egregiousness of the violation, and what is necessary to bring the violator back into compliance. While the prosecuting attorney is an expert of the law, without the case advisor's expertise in a particular professional field, the attorney will be unable to adequately determine the facts of the case.

The most important factor in ensuring efficient and effective discipline of a licensee is clear communication between the case advisor and the legal team. With clear direction and expertise, the case advisor can assist the team's investigation and imposition of appropriate discipline. The case advisor and the legal team assigned to a particular case should maintain open communication through telephone, email, fax or regular mail. Complex issues may require telephone discussions. The legal team would always be happy to set up a phone conference at the case advisor's convenience. Communication between the case advisor and the legal team is an on-going process, as the case advisor's expertise may be needed each time new information is discovered.

The case advisor should provide the legal team with an opinion or request for additional information within **two (2) weeks** of receiving the investigative materials (**3 days for appraisers**). Timeliness is critical, allowing the legal team to conduct additional investigation or collect evidence as needed. Licensees also wish to have their cases resolved as soon as possible, as any case open against their license may jeopardize their employment or professional pride and reputation. If a case advisor knows there may be a delay, or if an unexpected event occurs, please contact your legal team immediately and we can set a new date for completion or discuss case transfer options.

The case advisor's opinion/communication should be clear and answer each of these questions: is additional information required? Did a violation occur? What is the violation? What would a *minimally competent* licensee have done in the same circumstance? How egregious is this conduct? What is the root issue? What would adequately address this issue and bring the licensee into compliance?

Please keep in mind that the violation often is not as clear to the legal team as to someone within the particular profession. However, the case advisor's analysis should serve to clear up any confusion or lack of understanding.

Being privy to private (oftentimes unproven) information, the case advisor has a duty to maintain confidentiality. Pending cases cannot be discussed with other board members, colleagues or friends.

#### Curbside consults with other experts

Occasionally, an issue may arise that is outside the case advisor's specialty or area of expertise. In certain circumstances, the advisor may consult with a colleague in that particular field or specialty in order to form an opinion on the violation and appropriate discipline. However, there are two prohibitions:

1. consultations may not be with another board member
2. do not disclose any identifying information specific to the case

If other questions or concerns arise with who may be consulted, the case advisor should discuss those concerns with the legal team assigned to that case.

#### Ex-Parte Communication

As both a board member (who act as the decision maker or "judge") and a case advisor (who act as the expert witness), it is essential that all decisions or recommendations are made with objectivity. The advisor must protect against conflicts of interest, as well as the *perception* of a conflict. As such, the board member/advisor must not communicate with individuals involved in a pending case (including complainant(s), respondent(s) and witness(es)).

If a party of a case (whether it's assigned to you or not) attempts to contact you, please advise him or her that you cannot discuss the case with them, and inform your legal team immediately.

#### Case Advisor Participation in Board Deliberations

When a proposed resolution (whether as a result of a stipulated agreement by the respondent or a proposed decision by the Administrative Law Judge) is before the board for consideration, the board member that served as advisor for the case may or may not be a part of the deliberation, depending on what type of case it is:

- Proposed stipulations, administrative warnings or case closures – the case advisor may participate in discussions and may vote on the matter. The advisor should be prepared to speak in support of the agreed upon resolution, discipline or closure. The advisor can always contact the case’s attorney prior to the meeting in order to refresh his or her memory on why a particular discipline is the most appropriate one.
- Proposed decision following an evidentiary hearing – the case advisor may not participate in discussions. The advisor likely has access to information that was not presented or admitted as evidence during the hearing, and it would be unfair and unjust to the licensee for the advisor to report on conclusions or information that was not proven at the hearing.

### Disposal of Materials

All materials you receive during the course of the case investigation and disposition are confidential. They should be kept in a secure location and not shared with others. When the case is closed, you may destroy all copies or return them to the Division of Legal Services and Compliance for disposal.

*Caution: Please make certain that none of the materials to be destroyed are originals. If they are, please return these items to the Division of Legal Services and Compliance.*

### PURPOSE, MISSION AND CORE VALUES

Purpose: The purpose of the Department of Safety and Professional Services is to ensure:

- The safety of consumers of licensed professional services;
- Licensure to competent professionals;
- Compliance with professional and industry standards; and
- Safety in the construction and use of public and private buildings.

DLSC promotes safety through complaint intake and the investigation, inspection, audit and discipline of regulated professionals and businesses. We provide legal services to professional boards, monitor order compliance and administer a program for impaired professionals. Our stakeholders are the public, boards, regulated professionals/businesses and Agency divisions.

Mission: We provide legal services to ensure consumer protection and we courteously assist professionals in achieving compliance with professional standards. We are responsive and respectful to all stakeholders and fiscally responsible to the taxpayers, boards and licensed professionals who bear our financial burden.

Core Values: Our core values are:

- **Integrity:** We treat each other and our stakeholders with courtesy, ensuring decency, honesty and fairness in all of our efforts and communications. We competently and enthusiastically provide our services in a fair and fiscally prudent manner.

- **Accountability:** We take personal responsibility for our results through objective standards, which help us to deliver measureable results within expected timelines.
- **Teamwork:** We foster a winning environment and healthy culture by taking pride in our work, displaying a sense of urgency in our mission and elevating Team success above self. We ensure success through strong relationships with our stakeholders.
- **Service:** We provide exemplary customer-service and value to our stakeholders through effectively responding to their needs in a timely and courteous manner.
- **Continuous Improvement:** We embrace innovative solutions for the continuous improvement of services and efficiency, and we demand an environment of operational excellence and a culture of positive enthusiasm.

### Conclusion

We are here to assist case advisors and board members every step of the way to accomplish our joint mission. We thank you for your voluntary service to the State of Wisconsin and your commitment to your profession.