



**VIRTUAL/TELECONFERENCE
REAL ESTATE EXAMINING BOARD
Virtual, 4822 Madison Yards Way, Madison
Adam Barr (608) 266-2112
February 18, 2021**

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 record of the actions of the Board.

AGENDA

10:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-4)**
- B. Approval of Minutes of December 10, 2020 (5-7)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns
- D. Introductions, Announcements and Recognition
- E. Administrative Matters**
 - 1) Department, Staff and Board Updates
 - 2) Annual Policy Review **(8)**
 - 3) Election of Officers, Appointment of Liaisons and Alternates, Delegation of Authorities **(9-19)**
 - 4) Board Members – Term Expiration Dates
 - a. Lacy, Cathy – 7/1/2021
 - b. Larson, Robert – 7/1/2021
 - c. Lauer, Elizabeth – 7/1/2022
 - d. Pierce, Dennis – 7/1/2013
 - e. Richie, Thomas – 7/1/2022
 - f. Webster, Robert – 7/1/2020
- F. Legislative and Policy Matters – Discussion and Consideration
- G. Administrative Rules Matters – Discussion and Consideration (20)**
 - 1) Preparation of the Biennial Report Under s. 227.29, Wis. Stats. **(21-23)**
 - 2) REEB 24 Relating to Conduct and Ethical Practices **(24-32)**
 - 3) Pending or Possible Rulemaking Projects **(33)**
- H. Report and Possible Action from the Real Estate Contractual Forms Advisory Council**
 - 1) WB-12 – Farm Offer to Purchase

I. Real Estate Curriculum and Examination Council Update – Discussion and Consideration

J. Credentialing Matters – Discussion and Consideration

- 1) Reciprocal Credentials Issued Between Meetings

K. COVID-19 – Discussion and Consideration

L. Newsletter Process and Planning – Discussion and Consideration

M. Discussion and Consideration of Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Administrative Matters
- 3) Election of Officers
- 4) Appointment of Liaisons and Alternates
- 5) Delegation of Authorities
- 6) Education and Examination Matters
- 7) Credentialing Matters
- 8) Practice Matters
- 9) Legislative and Policy Matters
- 10) Administrative Rule Matters
- 11) Liaison Reports
- 12) Board Liaison Training and Appointment of Mentors
- 13) Informational Items
- 14) Division of Legal Services and Compliance (DLSC) Matters
- 15) Presentations of Petitions for Summary Suspension
- 16) Petitions for Designation of Hearing Examiner
- 17) Presentation of Stipulations, Final Decisions and Orders
- 18) Presentation of Proposed Final Decisions and Orders
- 19) Presentation of Interim Orders
- 20) Petitions for Re-Hearing
- 21) Petitions for Assessments
- 22) Petitions to Vacate Orders
- 23) Requests for Disciplinary Proceeding Presentations
- 24) Motions
- 25) Petitions
- 26) Appearances from Requests Received or Renewed
- 27) Speaking Engagements, Travel, or Public Relation Requests, and Reports

N. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), 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.).

O. Deliberation on Department of Legal Services and Compliance (DLSC) Matters

1) Stipulations on Final Decisions and Orders

- a. 18 REB 019 – Mallory S. Beckman **(34-40)**
- b. 19 REB 028 – Donald E. Orth, Washington Properties, Inc. **(41-46)**

- 2) **Case Closings**
 - a. 19 REB 063 – R.J.C. **(47-51)**
 - b. 19 REB 116 – D.D.P. **(52-55)**
- 3) **Monitoring Matters (56-57)**
 - a. Benjamin Dreher – Requesting Full Licensure **(58-76)**
 - b. Constance Miles – Requesting Full Licensure **(77-96)**
 - c. Danielle Whitman – Requesting Full Licensure **(97-112)**

P. Deliberation on Matters Related to Matters Fixing Costs

- 1) Jennifer A. Holiday (DHA Case Number SPS-19-0045/DLSC Case Number 17 REB 124) **(113-132)**

Q. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Order
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

R. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

T. Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT MEETING: APRIL 15, 2021

 MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the deaf or hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
REAL ESTATE EXAMINING BOARD
MEETING MINUTES
DECEMBER 10, 2020**

PRESENT: Robert Larson, Cathy Lacy, Elizabeth Lauer, Dennis Pierce, Thomas Richie, Robert Webster (*disconnected at 12:00 p.m., and reconnected at 12:10 p.m.*)

STAFF: Valerie Payne, Executive Director; Yolanda McGowan, Board Legal Counsel; Kassandra Walbrun, Administrative Rules Coordinator; Megan Glaeser, Bureau Assistant; and Other Department Staff

CALL TO ORDER

Thomas Richie, Chairperson, called the meeting to order at 10:07 a.m. A quorum was confirmed with six (6) members present.

ADOPTION OF AGENDA

Amendments to the Agenda:

- Under item “M. Deliberation on Department of Legal Services and Compliance (DLSC) Matters” ADD: “Stipulations, Final Decisions and Orders; a. 19 REB 138 – Michael J. Ariola”
AMEND TO “19 REB 128 – Michael J. Ariola”

MOTION: Dennis Pierce moved, seconded by Cathy Lacy, to adopt the Agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF OCTOBER 29, 2020

Amendments to the Minutes:

- Remove public comments and internal note

MOTION: Robert Larson moved, seconded by Dennis Pierce, to approve the Minutes of October 29, 2020 as amended. Motion carried unanimously.

ADMINISTRATIVE RULES MATTERS

REEB 12 Service Member, Former Service Member and Service Member Spouse Reciprocal License (2019 Act 143)

MOTION: Cathy Lacy moved, seconded by Elizabeth Lauer, to authorize the Chairperson to approve the preliminary rule draft of REEB 12, relating to reciprocal credentials for service members, former service members, and their spouses, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

CLOSED SESSION

MOTION: Cathy moved, seconded by Elizabeth, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), 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.). Thomas Richie, Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Robert Larson-yes; Cathy Lacy -yes; Elizabeth Lauer-yes; Dennis Pierce-yes; Thomas Richie-yes; and Robert Webster-yes. Motion carried unanimously.

The Board convened into Closed Session at 11:26 a.m.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Review of Administrative Warning

10:00 A.M. APPEARANCE – Renee Parton, DLSC Attorney, Debra Weiss, Meagher & Greer, PLLP, Attorney for Respondent, V.M.B.: 20 REB 004 – V.M.B.

MOTION: Robert Webster moved, seconded by Cathy Lacy, to affirm the issuance of the administrative warning in the matter of V.M.B., DLSC Case Number 20 REB 004. Motion carried unanimously.

(Robert Webster disconnected at 12:00 p.m. for the remainder of Closed Session)

Consider Rescinding Administrative Warning

17 REB 122 – R.V.P.M.

MOTION: Robert Larson moved, seconded by Thomas Richie, to rescind the administrative warning in the matter of R.V.P.M., DLSC Case Number 17 REB 122, as it was issued in error. Motion carried unanimously.

MOTION: Cathy Lacy moved, seconded by Robert Larson, to close DLSC Case Number 17 REB 122, against R.V.P.M., for No Violation. Motion carried unanimously.

Case Closings

18 REB 143 – J.K., P.O., O.&C.

MOTION: Thomas Richie moved, seconded by Dennis Pierce, to close DLSC Case Number 18 REB 143, against J.K., P.O. & O.&C., for Insufficient Evidence. Motion carried unanimously.

Stipulations, Final Decisions and Orders

19 REB 128 – Michael J. Ariola

MOTION: Robert Larson moved, seconded by Thomas Richie, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Michael J. Ariola, DLSC Case Number 19 REB 128. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Elizabeth Lauer moved, seconded by Cathy Lacy, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 12:10 p.m.

(Robert Webster reconnected at 12:10 p.m.)

**VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION,
IF VOTING IS APPROPRIATE**

MOTION: Cathy Lacy moved, seconded by Robert Larson, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

ADJOURNMENT

MOTION: Cathy Lacy moved, seconded by Elizabeth Lauer, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:13 p.m.

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

AGENDA REQUEST FORM

| | | | |
|---|--|---|--|
| 1) Name and Title of Person Submitting the Request: Kimberly Wood, Program Assistant Supervisor-Adv. | | 2) Date When Request Submitted: 12/29/2020 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small> | |
| 3) Name of Board, Committee, Council, Sections: All Boards | | | |
| 4) Meeting Date: | 5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 6) How should the item be titled on the agenda page? Annual Policy Review | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session | 8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <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: Please be advised of the following Annual Policy Review items: <ol style="list-style-type: none"> 1. Attendance/Quorum: Thank you for your service and for your commitment to meeting attendance. If you cannot attend a meeting or if you have scheduling conflicts impacting your attendance, please let us know ASAP. Timely notification is appreciated as quorum is required for our Boards, Sections and Councils to meet pursuant to Open Meetings Law. 2. Walking Quorum: Please refrain from discussing Board/Section/Council business with other members outside of legally noticed meetings so to avoid walking quorum issues pursuant to Open Meetings Law. 3. Agenda Deadlines: Please communicate agenda topics to your Executive Director before the agenda submission deadline which is 8 business days prior to a meeting. 4. Travel Voucher and Per Diem Submissions: Please submit all Per Diem and Reimbursement claims to DSPS within 30 days of the close of each month in which expenses are incurred. 5. Lodging Accommodations/Hotel Cancellation Policy: Lodging accommodations are available to eligible members. Standard eligibility: member must leave home before 6:00 a.m. to attend a meeting by the indicated start time. <ul style="list-style-type: none"> • If a member cannot attend a meeting it is their responsibility to cancel their reservation within the applicable cancellation timeframe. If a meeting is changed to occur remotely or is cancelled or rescheduled DSPS staff will cancel or modify reservations as appropriate. 6. Inclement Weather Policy: In the event of inclement weather the agency may change a meeting from an in-person venue to one that is executed remotely. | | | |
| 11) Authorization | | | |
| <i>Kimberly Wood</i> | | 12/29/2020 | |
| 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: <ol style="list-style-type: none"> 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. | | | |

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

AGENDA REQUEST FORM

| | | | |
|---|--|--|--|
| 1) Name and Title of Person Submitting the Request: Megan Glaeser, Bureau Assistant | | 2) Date When Request Submitted: 9 February 2021 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small> | |
| 3) Name of Board, Committee, Council, Sections: Real Estate Examining Board | | | |
| 4) Meeting Date: 18 February 2021 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? Administrative Matters 1) Election of Officers, Appointment of Liaisons and Alternates, Delegation of Authorities | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session | 8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <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: 1) The Board should conduct Election Officers: Chairperson, Vice Chairperson & Secretary 2) The newly elected Chairperson should review and appoint/reappoint Liaisons and Alternates as appropriate 3) The Board should review and then consider its existing delegated authorities and any proposals for modification of delegations. a. Credentialing Delegations (Questions: Sarah Norberg) b. Monitoring Delegations (Questions: Amy Mayo) c. Pre-Screening Delegations (Questions: Renee Parton) | | | |
| 11) Authorization | | | |
| Megan Glaeser | | 9 February 2021 | |
| 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. | | | |

Real Estate Examining Board 2020 Elections, Liaisons, and Delegated Authorities

| 2020 ELECTION RESULTS | |
|-------------------------|----------------|
| Chairperson | Thomas Richie |
| Vice Chairperson | Robert Webster |
| Secretary | Dennis Pierce |

| 2020 LIAISON APPOINTMENTS | |
|---|--|
| Credentialing Liaison | Thomas Richie <i>Alternate:</i> Elizabeth Lauer |
| Office of Education and Examinations Liaison | Robert Larson <i>Alternate:</i> Robert Webster |
| Monitoring Liaison | Robert Larson <i>Alternate:</i> Elizabeth Lauer |
| Professional Assistance Procedure (PAP) Liaison | Robert Webster <i>Alternate:</i> Dennis Pierce |
| Legislative Liaison | Robert Webster |
| Travel Liaison | Thomas Richie <i>Alternate:</i> Elizabeth Lauer |
| Newsletter or Digest Liaison | Thomas Richie |
| 2020 COMMITTEE MEMBER APPOINTMENTS | |
| Real Estate Rules Committee | Thomas Richie, Robert Webster |
| Real Estate Contractual Forms Advisory Committee Chairperson | Robert Larson |

| | |
|---|---|
| Council on Real Estate Curriculum and Examination Representative | Elizabeth Lauer |
| 2020 SCREENING PANEL | |
| Screening Panel Team 1 | Dennis Pierce and Robert Webster |
| Screening Panel Team 2 | Thomas Richie and Elizabeth Lauer |
| Screening Panel Team 3 | Dennis Pierce, Robert Larson and Cathy Lacy |

Delegation of Authorities

Screening Authority

MOTION: Robert Webster moved, seconded by Robert Larson, to delegate to the screening attorney the authority to close cases that do not clearly present a provable violation and cases that do not merit review by the full panel to the screening attorney. Cases that the screening attorney has the authority to close include cases where there is a lack of jurisdiction, where the Board has already taken action on the matter (duplicate case, Board has taken action in regard to the credential holder that addressed the conduct and further action is unnecessary), cases where there is no legal violation of the statutes/regulations, or cases where there is not enough evidence to prove a violation and additional investigation will not yield a different result. The screening attorney is also delegated the authority to immediately open any case where they believe there is an immediate risk of harm, the materials on their face warrant discipline (such as failure to respond), or cases that have a provable violation. Motion carried unanimously.

Document Signature Delegations

MOTION: Robert Webster moved, seconded by Dennis Pierce, to delegate authority to the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to sign documents on behalf of the Board in order to carry out its duties. Motion carried unanimously.

MOTION: Robert Webster moved, seconded by Dennis Pierce, in order to carry out duties of the Board, the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that

succession) has the ability to delegate signature authority for purposes of facilitating the completion of assignments during or between meetings. The members of the Board hereby delegate to the Executive Director or DPD Division Administrator, the authority to sign on behalf of a board member as necessary. Motion carried unanimously.

Delegated Authority for Urgent Matters

MOTION: Robert Webster moved, seconded by Robert Larson, that in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

Delegation to Chief Legal Counsel Due to of Loss of Quorum

MOTION: Robert Webster moved, seconded by Dennis Pierce, to delegate the review of disciplinary cases to the Department's Chief Legal Counsel due to lack of/loss of quorum. Motion carried unanimously.

Monitoring Delegations

MOTION: Robert Webster moved, seconded by Dennis Pierce, to adopt the "Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor" as presented in the February 20, 2020 agenda materials. Motion carried unanimously.

Credentialing Authority Delegations

MOTION: Robert Larson moved, seconded by Robert Webster, to delegate authority to the Credentialing Liaison to review and make the final decision regarding predetermination conviction review requests. Motion carried unanimously.

MOTION: Dennis Pierce moved, seconded by Elizabeth Lauer, to delegate authority to the DSPS attorneys and paralegals to review and approve applications with up to two OWIs, each 5 or more years old, that are not substantially related to the practice of real estate. Motion carried unanimously.

MOTION: Robert Larson moved, seconded by Dennis Pierce, to delegate authority to the DSPS attorneys and paralegals to review and approve applications with ordinance violations, which are not substantially related to the practice of real estate, including but not limited to:

1. Littering

2. Loitering
3. Up to two (2) Underage Drinking offenses
4. Resisting/Obstructing an Officer
5. Public Urination
6. Disorderly Conduct
7. Trespassing
8. Disturbing the Peace
9. Operating after Suspension/Revocation
10. OWI 1st (over 2 years prior to the date of application; ordinance violation in WI or misdemeanor in other states)

Motion carried unanimously.

Delegation of Authority to Credentialing Liaison

MOTION: Robert Larson moved, seconded by Elizabeth Lauer, to delegate authority to the Credentialing Liaison(s) to serve as a liaison between DSPS and the Board and to act on behalf of the Board in regard to credentialing applications or questions presented to them. Motion carried unanimously.

Delegation of Authority to DSPS When Credentialing Criteria is Met

MOTION: Robert Webster moved, seconded by Dennis Pierce, to delegate credentialing authority to DSPS to act upon applications that meet all credentialing statutory and regulatory requirements without Board or Board liaison review. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Robert Webster moved, seconded by Dennis Pierce, that the Department's Attorney Supervisors, DLSC Administrator, or their designee are authorized to serve as the Board's designee for purposes of reviewing and acting on requests for hearing as a result of a denial of a credential. Motion carried unanimously.

Voluntary Surrenders

MOTION: Robert Webster moved, seconded by Elizabeth Lauer, to delegate authority to the assigned case advisor to accept or refuse a request for voluntary surrender pursuant to Wis. Stat. § 440.19 for a credential holder who has a pending complaint or disciplinary matter. Motion carried unanimously.

Education, Continuing Education and/or Examination Delegation(s)

MOTION: Dennis Pierce moved, seconded by Robert Webster, to delegate authority to the Education, Continuing Education and/or Examination Liaison(s) to address all issues related to education, continuing education, and examinations. Motion carried unanimously.

Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Related Bodies

MOTION: Robert Larson moved, seconded by Thomas Richie, to authorize DSPS staff to provide national regulatory related bodies with all Board member contact information that DSPS retains on file. Motion carried unanimously.

Optional Renewal Notice Insert Delegation

MOTION: Dennis Pierce moved, seconded by Elizabeth Lauer to designate the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to provide a brief statement or link relating to board-related business within the license renewal notice at the Board's or Board designee's request. Motion carried unanimously.

Rules Committee Delegation

MOTION: Robert Webster moved, seconded by Robert Larson, to grant the Rules Committee the ability to address all rulemaking as related to drafting and making recommendations to the full Board. Motion carried unanimously.

Legislative Liaison Delegation

MOTION: Elizabeth Lauer moved, seconded by Robert Webster, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

Travel Delegation

MOTION: Elizabeth Lauer moved, seconded by Thomas Richie, to delegate authority to the Travel Liaison to approve any board member travel. Motion carried unanimously.

Real Estate Business Entity Applications Delegation

MOTION: Dennis Pierce moved, seconded by Cathy Lacy, to delegate authority to the DSPS attorneys and paralegals to review and approve Real Estate Business Entity Applications in which the identified licensed Broker Business Representatives have previously been approved for a full Real Estate Broker credential or renewal after criminal background check and there has been no criminal activity since the previous license/renewal approval. Motion carried unanimously.

Newsletter or Digest Delegation

MOTION: Cathy Lacy moved, seconded by Thomas Richie, to delegate authority to the newsletter or digest liaison to handle all matters relating to newsletters or digests. Motion carried unanimously.

Roles and Authorities Delegated for Monitoring

The Monitoring Liaison (“Liaison”) is a Board/Section designee who works with department monitors (“Monitor”) to enforce Board/Section orders as explained below.

~~Current~~ Authorities Delegated to the Monitoring Liaison

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

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/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The 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/Section order. 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. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/disciplinary/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing/disciplinary/remedial education.
6. Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.
7. Grant a maximum of one extension, if warranted and requested in writing by Respondent, to complete a Board/Section-ordered evaluation or exam.
- ~~7.~~8. Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain ~~the signature of~~ written authorization from the Liaison to sign on their behalf.
- ~~8.~~9. Grant or deny a request to appear before the Board/Section in closed session.
- ~~9.~~10. Board Monitoring The Liaison may determine whether Respondent’s petition is eligible for consideration by the full Board/Section.
- ~~10.~~11. (*Except Pharmacy and Medical*) Accept Respondent’s written request to surrender credential. If accepted by the Liaison, Monitor will consult with Board Counsel to determine if a stipulation is necessary. If a stipulation is not necessary, Monitor will draft an order and sign on behalf of the Liaison. If denied by the Liaison, the request to surrender credential will go to the full Board for review.

~~11.12.~~ *(Except Pharmacy)* Grant Respondent's petition for a reduction in drug screens per the standard schedule, below. If approved, Monitor will draft an order and sign on behalf of the Liaison. Orders that do not start at 49 screens will still follow the same standard schedule.

- a. ~~Initial Year 1:~~ 49 screens (including 1 hair test, if required by original order)
- b. ~~1st Reduction Year 2:~~ 36 screens (plus 1 hair test, if required by original order)
- c. ~~2nd Reduction Year 3:~~ 28 screens plus 1 hair test
- d. ~~Year 4:~~ ~~28 screens plus 1 hair test~~
- e. ~~Year 5:~~ ~~14 screens plus 1 hair test~~
- d. 3rd Reduction: 14 screens plus 1 hair test

~~12.13.~~ *(Dentistry only)* Ability to approve or deny all requests from a respondent.

~~13.14.~~ *(Except Nursing)* ~~Board Monitoring~~ The Liaison may approve or deny Respondent's request to be excused from drug and alcohol testing for work, travel, etc.

~~Current~~ Authorities Delegated to the Department Monitor

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

1. Grant full reinstatement of licensure if education ~~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/Section-ordered education ~~CE~~ and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof of completion and/or payment have been received.
3. Suspend the license (or remove stay of suspension) if Respondent fails to enroll and participate in an Approved Program for drug and alcohol testing within 30 days of the order, or if Respondent ceases participation in the Approved Program without Board approval. This delegated authority only pertains to respondents who must comply with drug and/or alcohol testing requirements.

Authorities Delegated to Board Legal Counsel

Board Legal Counsel may take the following actions on behalf of the Board/Section:

1. Sign Monitoring orders that result from Board/Section meetings on behalf of the Board/Section Chair.

PROPOSED 2021 CREDENTIALING DELEGATION MOTIONS

Delegation of Authority to Credentialing Liaison

MOTION: to delegate authority to the Credentialing Liaison(s) to serve as a liaison between the Department and the Board and to act on behalf of the Board in regard to credentialing applications or questions presented to them, including the signing of documents related to applications.

Delegation of Authority to DSPS When Credentialing Criteria is Met

MOTION: to delegate credentialing authority to the Department to act upon applications that meet all credentialing statutory and regulatory requirements without Board or Board liaison review.

Delegation of Authority for Predetermination Reviews

MOTION: to delegate authority to the Department Attorneys to make decisions regarding predetermination applications pursuant to Wis. Stat. § 111.335(4)(f).

Delegation of Authority for Conviction Reviews

MOTION: to delegate authority to the Department Attorneys to review and approve applications with convictions which are not substantially related to the practice of real estate.

Or, alternatively,

MOTION: to delegate authority to Department Paralegals to review and approve applications with [optional: up to X] municipal/ordinance violations which are not substantially related to the practice of real estate.

MOTION: to delegate authority to Department Attorneys to review and approve applications with [optional: up to X] municipal/ordinance violations and misdemeanors [optional: each more than X years old and] which are not substantially related to the practice of real estate.

Or, alternatively,

MOTION: to delegate authority to Department Attorneys and Paralegals to review and approve applications with up to two OWIs, each 5 or more years old, that are not substantially related to the practice of real estate.

MOTION: to delegate authority to Department Attorneys and Paralegals to review and approve applications with ordinance violations, which are not substantially related to the practice of real estate, including but not limited to:

1. Littering
2. Loitering
3. Up to two (2) Underage Drinking offenses
4. Resisting/Obstructing an Officer
5. Public Urination
6. Disorderly Conduct
7. Trespassing
8. Disturbing the Peace
9. Operating after Suspension/Revocation
10. OWI 1st (over 2 years prior to the date of application; ordinance violation in WI or misdemeanor in other states)

Delegation to DSPS When Applicant's History Has Been Previously Reviewed

MOTION: to delegate authority to Department staff to approve applications where criminal background checks have been approved for a previous real estate credential and there is no new conviction record.

MOTION: to delegate authority to Department staff to approve Real Estate Business Entity Applications in which the identified licensed Broker Business Representatives have previously been approved for a full Real Estate Broker credential or renewal after criminal background check and there has been no criminal activity since the previous license/renewal approval.

Delegated Authority for Application Denial Reviews

MOTION: to delegate authority to the Department's Attorney Supervisors to serve as the Board's designee for purposes of reviewing and acting on requests for hearing as a result of a denial of a credential.

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

AGENDA REQUEST FORM

| | | | |
|---|--|--|--|
| 1) Name and title of person submitting the request: Kassandra Walbrun, Administrative Rules Coordinator | | 2) Date when request submitted: 02/04/2020 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small> | |
| 3) Name of Board, Committee, Council, Sections: Real Estate Examining Board | | | |
| 4) Meeting Date: 2/18/2021 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? Administrative Rule Matters 1. Preparation of the 2021 Biennial Report pursuant to s. 227.29, Stats. (2017 Act 108) 2. REEB 24 Relating to Conduct and Ethical Practices 3. Updates on Pending or Possible Rulemaking Projects | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session | 8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: 1. Discuss DRAFT 2021 Biennial Report. (Report attached pdf) 2. Review preliminary rule draft for REEB 24 Conduct and Ethical Practices. (Attached rule draft) 3. Review of pending rule projects. (table attachment pdf) | | | |
| 11) Authorization <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <i>Kassandra Walbrun</i> <hr/> Signature of person making this request </div> <div style="width: 35%; text-align: right;"> 2/4/2021 <hr/> Date </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 60%;"> <hr/> Supervisor (if required) </div> <div style="width: 35%; text-align: right;"> <hr/> Date </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 70%;"> <hr/> Executive Director signature (indicates approval to add post agenda deadline item to agenda) </div> <div style="width: 30%; text-align: right;"> <hr/> 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. | | | |

Thomas Richie
Chairperson

Robert Webster
Vice Chairperson

Dennis Pierce
Secretary

REAL ESTATE EXAMINING BOARD



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DRAFT

March **xx**, 2021

Senator Stephen Nass, Senate Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 10 South, State Capitol
Madison, WI 53702

Representative Adam Neylon, Assembly Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 204 North, State Capitol
Madison, WI 53702

RE: Biennial Report Submitted in Compliance with s. 227.29, Wisconsin Statutes

Dear Senator Nass and Representative Neylon:

This report has been prepared and submitted in compliance with s. 227.29, Wis. Stats.

I. Unauthorized rules, as defined in s. 227.26 (4) (a), Stats.:

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules are unauthorized, as defined in s. 227.26 (4) (a), Stats.

II. Rules for which the authority to promulgate has been restricted:

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules have restricted authority.

III. Rules that are obsolete or that have been rendered unnecessary:

IV. Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction:

V. Rules that are economically burdensome:

COMMENTS FOR REEB REVIEW:

REEB 12.01 Applications

(2) ACTION ON COMPLETED APPLICATIONS. The board shall review and make a determination on an original application for a license within 60 business days after a completed application is received by the department. An application is completed when all materials necessary to make a determination on the application and all materials requested by the board have been received.

Question: Is 60 business days burdensome?

Question: Do we need to include application info on reciprocal licensure?

REEB 12.013 Salesperson application requirements.

(3) RECIPROCITY. An applicant who is licensed as a salesperson in a state or territory that has entered into a reciprocal agreement with this state shall be licensed according to the terms of the reciprocal agreement.

Question: Do we need to include info on reciprocal licensure?

REEB 15.04 (2)

A typo found. "... transactions that are utilized, prepared, or receive.... by the licensee"

Comment: "receive" should have a d added to it.

REEB 16.03 Approved Forms

(1) In addition to forms prepared and approved by the board pursuant to s. 452.05 (1) (b), Stats., the board approves the following forms for use by brokers:

(d) Forms prepared by governmental, quasi-governmental, and tribal agencies for use in programs administered by them under authority provided by law.

Question: Is the use of quasi-governmental obsolete and what does it mean?

18.02 Definitions

(4) Depository Institution (under Note: Section 452.12(1)(b), stats.

Question: Is this obsolete regarding the existence of savings and loans – however, the statutory reference still exists.

(6) "Real estate trust funds" means any cash, checks, share drafts, drafts, or notes received by a firm or licensee on behalf of a principal or any other person including any of the following:"

Question: are "share drafts, drafts" considered obsolete?

REEB 18.031 Deposits and Types of Accounts

Question: Do we need to somewhere in this section address the ability and use of funds being *electronically deposited*?

REEB 24.03

(1) Discrimination

Question: This is more of question now that NAR taken this much further - do we need to incorporate it into our Discrimination policies? It talks about applicable federal, state or local fair housing but NAR now includes personal actions on the part of individuals especially as it relates to their social media posts and especially if it shows any type of hate speech or discriminatory language.

REEB 25.023

Item 1 (Contracts) f 2

Is the word Pre-printed obsolete? Since most everything is done online now is there a better word to use? Should we address digital applications.

VI. 2019 Report Follow-Up

| Rule | Description of why the rule is obsolete or has been rendered unnecessary. | Action taken to address or reason for not taking an action |
|-------------------|--|---|
| REEB 12.017(3)(a) | Apprenticeships no longer exist. | REEB 12 is undergoing a rule revision. Scope Statement 097-20 |
| Rule | Duplicative, in conflict or superseded by statute, regulation, or ruling. | Action taken to address or reason for not taking an action |
| REEB 12.011 | Duplicative with s. SPS 4.035 | REEB 12 is undergoing a rule revision. Scope Statement 097-20 |
| REEB 24.04 | Duplicative and superseded by s. 452.136, Stats. | REEB 24 is undergoing a comprehensive rule revision. Scope Statement 075-19 |

Sincerely,

Thomas Richie
Chairperson

STATE OF WISCONSIN
REAL ESTATE EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : REAL ESTATE EXAMINING BOARD
REAL ESTATE EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Real Estate Examining Board to repeal REEB 24.04, 25.028 (2) (d) 2., 25.033 (13) (b) 2., 25.038 (4) (b), 24.07 (8) (a) 1., 1g., and 1r., 24.13 (2) (b); to renumber REEB 24.13 (2) (a); to amend REEB 24.01 (2), 24.02 (13m), (14), (16), (18) and (19), 24.03 (2) (a) and (c), 24.05 (5) (a) 3., 24.07 (1) (a) and (c), 24.07 (8) (d) (title), 1., 2., and (8) (e) 1., 24.075 (3) (c), 24.08, 24.085, 24.09, 24.12 (1) and (2), 24.13 (1) and (2) (title), (3) (b), and (5), 24.15, 24.17 (1), (2m), and (3); and to create REEB 24.02 (15m) and (16m), 24.07 (8) (a) 1m., 24.13 (3) (c), relating to the conduct and ethical practices of licensees.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 452.07, 452.14, and 452.135, Stats.

Statutory authority: ss. 15.08 (5) (b) and 452.07 (1), Stats.

Explanation of agency authority:

Each examining board shall promulgate rules for its own guidance and for the guidance of the profession to which it pertains and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular profession. [s. 15.08 (5) (b), Stats.]

The board shall promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice. [s. 452.07 (1), Stats.]

Related statute or rule: Chapter REEB 24

Plain language analysis:

The proposed rule includes a comprehensive review of the chapter to ensure statutory compliance and to ensure it is current with professional standards and practices.

Section 1. is revised to improve grammatical clarity.

Section 2. is revised for updates to the practice.

Section 3. is revised to include a new definition.

Section 4. is revised for grammatical clarity.

Section 5. is created to include a new definition of structure. This definition clarifies licensee requirements for real estate inspections.

Section 6. is revised for clarity and current practices.

Section 7. is revised to clarify that the role of an assisting licensee shall be documented.

Section 8. related to is deleted for current standards of practice.

Section 9. deletes cross references related to advertising deleted under Section 8.

Section 10. repeals provisions related to improve consistency with current statutes under s. 452.19, Stats.

Section 11. is revised to include other parties representing a seller as it relates to disclosure requirements.

Section 12. is revised to clarify that if a licensee is not granted access to a property, the licensee shall inspect the real estate prior to closing.

Section 13. deletes the provisions related to negotiations and disclosure to improve consistency with s. 452.135 (1) and (2), Stats. that a firm may not negotiate on behalf of a party who is not the firm's client unless the firm provides to the party a copy of the disclosure to customers.

Section 14. is created to improve consistency with s. 452.135, Stats. regarding licensees providing a written disclosure statement to customers.

Section 15 is revised to improve the title to reflect provisions in the section and add language to clarify disclosure statement requirements when a buyer's firm has exclusive right to locate and a seller's limited service listing with the seller's firm.

Section 16 is revised to clarify the intent includes the agreement with a home builder and a licensee, not a contractor. The current language can be confused with contractor for improvements rather than new home construction.

Section 17 is revised to clarify language related to written agreements to update for current practices.

Section 18 and Section 19 are revised to improve grammatical clarity.

Section 20 is revised for clarity and to remove the description of "right of first refusal" as it is not current practice.

Section 21 is revised to identify that specific instructions are written and to improve the title for the section to better address the section content.

Section 22 is renumbered.

Section 23 repeals the provision related to written disclosure to be consistent with s. 435.135, Stats.

Section 24 is revised to improve grammatical clarity.

Section 25 creates a provision that clarifies that licensees must present all written proposals to a customer unless otherwise directed by the customer in writing and must not withhold any written proposal. This provision is added to improve consistency with s. 435.135, Stats.

Section 26 and 27 are revised to improve grammatical clarity.

Section 28 is revised to improve grammatical clarity and consistency with s. 452.25, Stats. related to conviction of a felony to bar licensure related to the Real Estate Examining Board orders.

Section 29 is the effective date of the changes to take effect on the first day of the month following publication in the Wisconsin Administrative Register.

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

None

Comparison with rules in adjacent states:

Illinois: Illinois provides criteria for unprofessional conduct for real estate brokers, salespersons, and other real estate professions as governed under the Illinois Real Estate License Act of 2000 and updated in 2019 under 225 ILCS 454/Art. 20. Further administrative rules outline additional direction for the provisions found under the laws.

<https://www.ilga.gov/commission/jcar/admincode/068/068014500I09000R.html>

Iowa: Iowa provides for unprofessional conduct for real estate brokers and salesperson under IC §543B. (<https://www.legis.iowa.gov/DOCS/ACO/IC/LINC/Chapter.543b.pdf>.) Iowa's Administrative Rules 193E.18 further detail disciplinary and investigatory review in matters such as grounds for discipline and sanctions.

<https://www.legis.iowa.gov/law/administrativeRules/rules?agency=193E&chapter=18&pubDate=01-13-2021>

Michigan: Michigan Laws under 299-1980, Section 339.501-339.559 and Michigan Administrative Rule R 339 Article 5 outlines provisions concerning complaints, disciplinary procedures, and other related issues for real estate professions. Complaints on violations of the occupational codes in Michigan can be filed through the Bureau of Professional Licensing in the Department of Licensing and Regulatory Affairs.

[http://www.legislature.mi.gov/\(S\(1ikbjpybafgho5pahhxyzkcp\)\)/mileg.aspx?page=getObject&objectName=mcl-299-1980-5](http://www.legislature.mi.gov/(S(1ikbjpybafgho5pahhxyzkcp))/mileg.aspx?page=getObject&objectName=mcl-299-1980-5)

Minnesota: Minnesota has adopted standards of conduct for real estate professionals found under s. 82.73, MN Statutes. <https://www.revisor.mn.gov/statutes/cite/82.73> and disciplinary procedures entitled “Denial, Suspension and Revocation of Licensure” under s. 82.82, Stats. <https://www.revisor.mn.gov/statutes/cite/82.82>

Summary of factual data and analytical methodologies:

The Board issues a variety of orders, for example issuing a limited license order to allow an applicant to practice with certain limitations in place instead of denying the license entirely. This proposed order clarifies and updates unprofessional conduct provisions to meet current practice.

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

Fiscal Estimate and Economic Impact Analysis:

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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Kassandra Walbrun, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4463; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Kassandra Walbrun, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held on _____ to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. REEB 24.01 (2) is amended to read:

REEB 24.01 (2) The intent of the board in adopting the rules in this chapter is to establish minimum standards of conduct for real estate licensees and to define ~~that~~ conduct ~~which~~ that may result in board discipline pursuant to s. 452.14, Stats.

SECTION 2. REEB 24.02 (13m) and (14) are amended to read:

REEB 24.02 (13m) “Principal firm” means a firm ~~who~~ that engages a subagent to provide brokerage services in a transaction.

REEB 24.02 (14) “Qualified third party” means a federal, state or local governmental agency, or any person whom the ~~broker, salesperson~~ licensee or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report described in s. 452.23 (2) (b), Stats.

SECTION 3. REEB 24.02 (15m) is created to read:

REEB 24.02 (15m) “Structure” means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, stairway, walkway, patio, deck, retaining wall, porch, or fire pit.

SECTION 4. REEB 24.02 (16) is amended to read:

REEB 24.02 (16) “Real estate practice” means engaging in conduct ~~which~~ that requires a license under ch. 452, Stats.

SECTION 5. REEB 24.02 (16m) is created to read:

REEB 24.02 (16m) “Right of first refusal” means the right of a person to have the first opportunity to purchase or lease real property.

SECTION 6. REEB 24.02 (18) and (19) are amended to read:

REEB 24.02 (18) “Transaction” means the sale, exchange, purchase or rental of, or the granting or acceptance of an option to ~~sell~~, exchange, purchase or rent, an interest in real estate, a business, or a business opportunity.

REEB 24.02 (19) “Written proposal” means any written document provided by one party to another during the course of a transaction, including ~~but not limited to~~ notices, offers, counteroffers, options, exchanges, rental agreements, and amendments.

SECTION 7. REEB 24.03 (2) (a) and (c) are amended to read:

REEB 24.03 (2) (a) Licensees shall not provide services ~~which~~ that the licensee is not competent to provide unless the licensee engages the assistance of ~~one~~ another licensee who is competent. Any person engaged to provide such assistance shall be identified and that person’s contribution shall be described in the documents or records related to the transaction.

REEB 24.03 (c) Licensees shall be knowledgeable regarding laws, public policies and current market conditions on real estate matters and shall assist, guide, and advise the ~~buying or selling~~ public based upon parties on these factors.

SECTION 8. REEB 24.04 is repealed. *Drafting Comment: Option to insert the statutory reference instead?*

SECTION 9. REEB 25.028 (2) (d) 2., REEB 25.033 (13) (b) 2., and REEB 25.038 (4) (b) are repealed. *Drafting Comment: References to 24.04. Ask the Board if they still want education to include advertising educational references. MOVE TO END OF LIST SECTIONS...*

SECTION 10. REEB 24.05 (1) is repealed.

****Question regarding these repealed references in REEB 24.075 (3) (a) and (b)**

SECTION 11. REEB 24.05 (5) (a) 3. is amended to read:

REEB 24.05 (5) (a) 3. Any other negotiation with the seller, ~~or the listing firm~~ or other party or firm representing the other party.

SECTION 12. REEB 24.07 (1) (a) and (c) are amended to read:

REEB 24.07 (1) (a) *General requirement.* A licensee, when engaging in real estate practice ~~which that~~ involves real estate improved with a structure, shall conduct a reasonably competent and diligent inspection of accessible areas of the structure and immediately surrounding areas of the property to detect observable, material adverse facts. A licensee, when engaging in real estate practice ~~which that~~ involves vacant land, shall, if the vacant land is accessible, conduct a reasonably competent and diligent inspection of the vacant land to detect observable material adverse facts.

REEB 24.07 (c) *Other licensees.* Licensees, other than listing firms, shall inspect the real estate as required by ~~sub. (1) this subsection prior to or during the showing of the property,~~ unless the licensee is not ~~given~~ granted access for a showing by the seller. If the licensee is not granted access, the licensee shall inspect the real estate as required by sub. (1) this subsection prior to closing.

SECTION 13. REEB 24.07 (8) (a) 1., 1g. and 1r. is repealed.

SECTION 14. REEB 24.07 (8) (a) 1m. created to read:

REEB 24.07 (8) (a) General requirements. ~~1.~~ 1m. A firm or licensee shall provide a written disclosure statement at the time required as prescribed under s. 452.135, Stats.

SECTION 15. REEB 24.07 (8) (d) (title), 1., 2., and (8) (e) 1. are amended to read:

REEB 24.07 (8) (d) (title) ~~Subagency arrangements~~ Disclosure statements.

REEB 24.07 (8) (d) 1. A listing firm shall provide a disclosure statement to a customer as required in s. 452.135 (1), Stats., to the buyer if negotiations are being conducted directly with the buyer and not through a buyers firm unless the buyer's firm has an exclusive right to locate buyer agency agreement.

REEB 24.07 (8) (d) 2. A buyer's firm shall provide a disclosure statement to a customer as required in s. 452.135 (1), Stats., to a seller if negotiations are being conducted directly with the seller and not through a seller's firm, unless the seller has a limited service listing with the seller's firm.

REEB 24.07 (8) (e) 1. A licensee who is entering into agency agreements for lease or property management contracts shall provide to ~~his or her clients~~ the client the disclosure statement as required in s. 452.135 (2), Stats.

SECTION 16. REEB 24.075 (3) (c) is amended to read:

REEB 24.075 (3) (c) The agreement is a bona fide effort to maintain development quality or architectural uniformity and no consideration passes from ~~contractor~~ a builder to licensee for soliciting this agreement.

SECTION 17. REEB 24.08 is amended to read:

REEB 24.08 **Agreements to be in writing.** A licensee shall put in writing all listing contracts, guaranteed sales agreements, buyer agency agreements, offers to purchase, property management agreements, ~~option contracts~~ options, financial obligations and any other ~~commitments~~ written proposals regarding transactions, expressing the exact agreement of the parties unless the writing is completed by the parties or their attorneys or the writing is outside the scope of the licensee's authority under ch. REEB 16.

SECTION 18. REEB 24.085 is amended to read:

REEB 24.085 **False portrayal of interest, prohibited.** No licensee shall draft or use any document ~~which~~ that the licensee knows falsely portrays an interest in real estate.

SECTION 19. REEB 24.09 is amended to read:

REEB 24.09 **Securing agency agreements.** ~~A Licensees~~ licensee may not mislead a potential client regarding the benefits ~~which~~ that might be realized ~~through the use of~~ by using the licensee's services. A licensee also may not mislead a potential client regarding the market value of real estate or a business opportunity to be leased, rented, purchased, optioned, or sold under an agency agreement.

SECTION 20. REEB 24.12 (1) and (2) are amended to read:

REEB 24.12 (1) Except as provided in sub. (2), a licensee acting as a principal or an agent in a real estate or business opportunity transaction shall not disclose any of the terms of one prospective buyer's offer to purchase, exchange agreement or option ~~contract proposal~~ to any other prospective buyer or to any person with the intent that this information be disclosed to any other prospective buyer. Licensees shall encourage all prospective buyers to submit their best offers. A licensee may, but is not required to, disclose information known by the licensee

regarding the existence of other offers on the property, ~~the fact that a seller has accepted an offer,~~ that the offer is subject to contingencies, and that the offer is subject to a clause requiring removal of certain contingencies upon the occurrence of an event such as receipt, acceptance, or conditional acceptance of another offer.

~~REEB 24.12 (2) As used in this subsection, "right of first refusal" means the right of a person to have the first opportunity to purchase or lease real property. "Right of first refusal" does not mean a so-called "bump clause" which is a contingency provision in a purchase agreement that requires the prospective buyer to remove certain contingencies in the buyer's purchase agreement or to relinquish the buyer's primary status to a secondary offer. If a licensee is providing brokerage services in a transaction and the licensee has knowledge that the property is subject to a right of first refusal, the licensee shall disclose the right of first refusal, in writing and in a timely manner, to all persons seeking to acquire an interest subject to the right of first refusal. After disclosure of the right of first refusal to a party seeking to acquire an interest in the property, the licensee may deliver a copy of that party's subsequent offer to purchase, exchange agreement, option contract or lease proposal to the party holding the right of first refusal.~~

SECTION 21. REEB 24.13 (1), and (2) (title), are amended to read:

REEB 24.13 (1) Licensees shall not refuse to draft or submit any written proposal unless the terms of the written proposal would be contrary to specific written instructions of the other party.

REEB 24.13 (2) (title) ~~WITHHOLDING WRITTEN PROPOSALS PROHIBITED~~ ACCESS TO PROPERTY.

SECTION 22. REEB 24.13 (2) (a) is renumbered to REEB 24.13 (2)

SECTION 23. REEB 24.13 (2) (b) is repealed.

SECTION 24. REEB 24.13 (3) (b) is amended to read:

REEB 24.13 (3) (b) A listing licensed ~~individual~~ broker acting as a sole proprietor or licensee associated with a listing firm may not submit ~~his or her own~~ a personal written proposal or offer to purchase a property ~~which~~ that the firm has listed if the licensee has knowledge of the terms of any pending offer, except that a firm may arrange for a guaranteed sale at the time of listing.

SECTION 25. REEB 24.13 (3) (c) is created to read:

REEB 24.13 (3) (c) Licensees shall promptly present all written proposals received to the licensee's client or customer unless the presentation would be contrary to specific written instructions from the licensee's client or customer. Licensees shall not withhold any written proposal from presentation pending the party's action on a written proposal previously presented.

SECTION 26. REEB 24.13 (5) is amended to read:

REEB 24.13 (5) NEGOTIATION THROUGH FIRM. A licensee may not negotiate a sale or lease of real estate directly with a party if the licensee knows that the party has an unexpired written contract in connection with the real estate ~~which~~ that grants to another licensee an exclusive right

to sell, lease, or negotiate. All negotiations shall be conducted with the firm holding the exclusive right to sell, lease, or negotiate, and not with the party, except with the consent of the firm or where the absence of the firm, or other similar circumstances, reasonably compels direct negotiation with the party. A listing firm has no duty to investigate whether a buyer has granted a buyer's agent an exclusive right to negotiate.

SECTION 27. REEB 24.15 is amended to read:

REEB 24.15 **Adequate funds required.** Licensees ~~shall~~ may not issue checks upon business or trust accounts ~~which~~ that contain insufficient funds.

SECTION 28. REEB 24.17 (1), (2m) and (3) are amended to read:

REEB 24.17 (1) Licensees may not violate, or aid or abet the violation of, any law the circumstances of which substantially relate to the practices of a real estate licensee. A licensee, who has been convicted of a crime, shall send to the board, within 48 hours after the judgment of conviction, a copy of the complaint or other information ~~which~~ that describes the nature of the crime and the judgment of conviction in order that the board may determine whether the circumstances of the crime of which the licensee was convicted are substantially related to the practice of a real estate licensee, pursuant to s. 111.335 (3) (a), Stats.

REEB 24.17 (2m) The board may revoke a license ~~or registration on the basis of~~ based on a conviction of a felony that is a bar to licensure ~~or registration~~ under s. 452.25 (1) (a), Stats.

REEB 24.17 (3) VIOLATION OF STATUTES, ADMINISTRATIVE CODE AND ~~DISCIPLINARY BOARD~~ ORDERS. Licensees ~~shall~~ may not violate any provisions or terms or conditions of, or aid or abet the violation of ch. 452, Stats., chs. REEB 11 to 25 or any ~~disciplinary~~ order of, the board.

SECTION 29. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

| Summary of Real Estate Examining Board Current Administrative Rule Projects | | | | | | |
|--|--------------|-----------------------|--------------|---|---|---|
| CH Rule Number | Scope Number | Scope expiration Date | RULE Project | Relating Clause | Stage | Comments |
| | 098-20 | 1/27/2023 | REEB 12 | Reciprocal credentials for service members, former service members, and their spouses | 08. Drafting rule. | Preparing EIA for comment period. |
| | 097-20 | 1/27/2023 | REEB 12 | 2019 Biennial Report modifications (predetermination and broker requirements) | 10. Preliminary rule draft and EIA submitted to Clearinghouse for review. | No EIA comments received. Rule submitted to clearinghouse. |
| | 075-19 | 2/12/2022 | REEB 24 | Conduct and Ethical Practices | 08. Drafting rule. | |
| | 101-18 | 3/4/2021 | REEB 24.04 | Advertising, statutory changes | 08. Drafting rule. | <i>This project was combined with larger REEB 24 project.</i> |
| CR 19-128 | 007-19 | 7/14/2021 | REEB 25 | Obsolete References | 19. Rule effective date: 02/01/2021 | Submitted to LRB on 12/22/2020 |