Wisconsin Department of Safety and Professional Services
Division of Policy Development
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Tony Evers, Governor
Dawn B. Crim, Secretary

CEMETERY BOARD
Room N208, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Christian Albouras (608) 266-2112
May 14, 2019

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

AGENDA

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-3)

B. Approval of Minutes of June 21, 2018 (4-8)

C. Administrative Matters – Discussion and Consideration (9-15)
1. Board, Department, and Staff Updates
2. Election of Officers, Appointment of Liaisons, and Delegation of Authorities
3. Board Member – Term Expiration Date
   a. Kathleen Cantu – 7/1/2012
   b. Patricia Grathen – 7/1/2022
   c. Francis Groh – 7/1/2020
   d. John Reinemann – 7/1/2020
   e. Bernard Schroedl – 7/1/2021
   f. Cemetery Member – Vacant

D. Legislative and Administrative Rule Matters (16-33)
1. Review of Submitted 2017 Wisconsin Act 108 Report
2. Discussion of Possible Scopes Statements
   a. CB 2, Relating to Minimum Time Periods for Maintenance of Burial Records
   b. CB 4, Relating to Change of Trustee of Care Funds and Preneed Trust Funds
   c. CB 6, Relating to Mausoleums
3. Legislation and Pending or Possible Rulemaking Projects

E. Board Review of the Wisconsin Occupational Licensing Study Legislative Report (34-117)

F. Deliberation on Items Added After Preparation of Agenda
1. Introductions, Announcements and Recognition
2. Nominations, Elections, and Appointments
3. Administrative Matters
4. Election of Officers

5. Appointment of Liaisons and Alternates
6. Delegation of Authorities
7. Education and Examination Matters
8. Credentialing Matters
9. Practice Matters
10. Legislative and 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

G. 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.).

H. Division of Legal Services and Compliance Matters

1. Case Closing(s)

a. 17 RLC 005 – S.C.A. and C.W.S. **(118-121)**

I. 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 Orders
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

J. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

ADJOURNMENT

NEXT SCHEDULED MEETING: AUGUST 20, 2019

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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. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

CEMETERY BOARD
MEETING MINUTES
JUNE 21, 2018

PRESENT: Patricia Grathen *(via GoToMeeting)*, Francis Groh *(via GoToMeeting)*, John Reinemann, Bernard Schroedl *(via GoToMeeting)*

EXCUSED: Kathleen Cantu

STAFF: Dan Williams, Executive Director; Greg DiMiceli, Administrative Rules Coordinator; Pete Anderson, Bureau Assistant and other Department staff.

CALL TO ORDER

Francis Groh, Chair, called the meeting to order at 10:32 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

MOTION: John Reinemann moved, seconded by Patricia Grathen, to approve the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF SEPTEMBER 28, 2017

MOTION: Bernard Schroedl moved, seconded by Patricia Grathen, to approve the minutes of September 28, 2017 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Election of Officers

NOMINATION: John Reinemann nominated the 2017 slate of officers to continue in 2018.

Nomination carried by unanimous consent.

The 2017 Slate of Officers were re-elected to continue in 2018.

ELECTION RESULTS	
Board Chair	Francis Groh
Vice Chair	Bernard Schroedl
Secretary	Patricia Grathen

DRAFT

Appointment of Liaisons and Alternates

LIAISON APPOINTMENTS	
Credentialing Liaisons	Bernard Schroedl Alternate – Francis Groh
Monitoring Liaison	Bernard Schroedl
Legislative Liaisons	Francis Groh, John Reinemann
Annual Report Liaison	Francis Groh
Conveyance Liaison	Francis Groh
Screening Panel	Patricia Grathen, Francis Groh Alternate – Bernard Schroedl

MOTION: Bernard Schroedl moved, seconded by John Reinemann, to affirm the election of the Slate from year 2017 for year 2018 as well as the appointment of liaisons. Motion carried unanimously.

Delegation of Authorities

Conveyance Liaison Delegation

MOTION: Patricia Grathen moved, seconded by Bernard Schroedl, to delegate authority to the Conveyance Liaison to review any requests submitted to the Cemetery Board under Wis. Stats. 157.08(2)(b), request additional information as necessary, and make the final decision to approve or object. Motion carried unanimously.

Document Signature Delegation

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to delegate authority to the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair, chief presiding officer, or longest serving member of the Board, has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Board delegates the authority to Executive Director, or designee, to sign the name of any Board member on documents as necessary and appropriate. Motion carried unanimously.

Delegated Authority for Urgent Matters

MOTION: Patricia Grathen moved, seconded by John Reinemann, that, in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chair (or, in the absence of the Chair, 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.

Monitoring Delegations

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to adopt the "Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor" document as presented. Motion carried unanimously.

Credentialing Authority Delegations

Delegation of Authority to Credentialing Liaison (Generic)

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to delegate authority to the Credentialing Liaisons to make all credentialing decisions. Motion carried unanimously.

Delegation of Authority to DSPS When Rule and Statute Criteria is Met

MOTION: Bernard Schroedl moved, seconded by Patricia Grathen, to delegate credentialing authority to DSPS to act upon applications that meet the criteria of Rule and Statute and thereby would not need further Board or Board liaison review. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Patricia Grathen moved, seconded by John Reinemann, that the Board counsel or another department attorney is formally authorized to serve as the Board's designee for purposes of Wis. Admin Code § SPS 1.08(1). Motion carried unanimously.

Annual Report Liaison Delegation

MOTION: Bernard Schroedl moved, seconded by John Reinemann, to delegate authority to the Annual Report Liaison to review with DSPS staff annual reports and make recommendations as needed. DSPS staff will follow-up with the Annual Report Liaison as to recommendations that were made. Motion carried unanimously.

Legislative Liaison Delegation

MOTION: Patricia Grathen moved, seconded by John Reinemann, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters with approval of the Chair. Motion carried unanimously.

LEGISLATIVE AND ADMINISTRATIVE RULE MATTERS

Adoption of CB 1-5, Relating to Mausoleums and Burial Records

MOTION: Bernard Schroedl moved, seconded by Patricia Grathen, to approve the Adoption Order for Clearinghouse Rule 17-050, relating to mausoleums and burial records. Motion carried unanimously.

REQUEST BY WHEATLAND TOWNSHIP FOR EASEMENT

MOTION: John Reinemann moved, seconded by Patricia Grathen, to approve the request by the Town of Wheatland pursuant to Wisconsin Statute (s. 157.08(2)(b)). Motion carried unanimously.

CONVENE TO CLOSED SESSION

MOTION: John Reinemann moved, seconded by Bernard Schroedl, 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.). Francis Groh, Chair, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Patricia Grathen-yes; Francis Groh-yes; John Reinemann-yes; and Bernard Schroedl-yes. Motion carried unanimously.

The Board convened into Closed Session at 11:21 a.m.

RECONVENE TO OPEN SESSION

MOTION: John Reinemann moved, seconded by Patricia Grathen, to reconvene in open session. Motion carried unanimously.

The Board reconvened into Open Session at 11:25 a.m.

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

MOTION: Patricia Grathen moved, seconded by Bernard Schroedl, 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.)

DELIBERATION ON DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Case Closing

17 RLC 007 – C.C.A.

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to close DLSC case number 17 RLC 007, against C.C.A., for Prosecutorial Discretion (P2). Motion carried unanimously.

ADJOURNMENT

MOTION: Bernard Schroedl moved, seconded by Patricia Grathen, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:27 a.m.

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Maximilian Turner, Bureau Assistant	2) Date When Request Submitted: 2/15/19 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Cemetery Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
2/26/2019	☒ Yes ☐ No	Administrative Matters: 1) Election of Officers 2) Appointment of Liaisons and Alternates 3) Delegation of Authorities

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes ☒ No	N/A

10) Describe the issue and action that should be addressed:

1) The Board should conduct Election of its Officers for 2019
2) The new Chairperson should review and appoint/reappoint Liaisons and Alternates as appropriate, the Board should affirm appointments by motion
3) The Board should review and then consider continuation or modification of previously delegated authorities

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.

Revised 12/2016

CEMETERY BOARD

2018 Elections and Liaison Appointments

2018 ELECTION RESULTS	
Board Chair	Francis Groh
Vice Chair	Bernard Schroedl
Secretary	Patricia Grathen
2018 LIAISON APPOINTMENTS	
Credentialing Liaisons	Bernard Schroedl Alternate – Francis Groh
Monitoring Liaison	Bernard Schroedl
Legislative Liaisons	Francis Groh, John Reinemann
Annual Report Liaison	Francis Groh
Conveyance Liaison	Francis Groh
Screening Panel	Patricia Grathen, Francis Groh Alternate – Bernard Schroedl

DELEGATION MOTIONS

Conveyance Liaison Delegation

MOTION: Patricia Grathen moved, seconded by Bernard Schroedl, to delegate authority to the Conveyance Liaison to review any requests submitted to the Cemetery Board under Wis. Stats. 157.08(2)(b), request additional information as necessary, and make the final decision to approve or object. Motion carried unanimously.

Document Signature Delegation

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to delegate authority to the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair, chief presiding officer, or longest serving member of the Board, has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Board delegates the authority to Executive Director, or designee, to sign the name of any Board member on documents as necessary and appropriate. Motion carried unanimously.

Delegated Authority for Urgent Matters

MOTION: Patricia Grathen moved, seconded by John Reinemann, that, in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chair (or, in the absence of the Chair, 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.

Monitoring Delegations

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to adopt the "Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor" document as presented. Motion carried unanimously.

Credentialing Authority Delegations

Delegation of Authority to Credentialing Liaison (Generic)

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to delegate authority to the Credentialing Liaisons to make all credentialing decisions. Motion carried unanimously.

Delegation of Authority to DSPS When Rule and Statute Criteria is Met

MOTION: Bernard Schroedl moved, seconded by Patricia Grathen, to delegate credentialing authority to DSPS to act upon applications that meet the criteria of Rule and Statute and thereby would not need further Board or Board liaison review. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Patricia Grathen moved, seconded by John Reinemann, that the Board counsel or another department attorney is formally authorized to serve as the Board's designee for purposes of Wis. Admin Code § SPS 1.08(1). Motion carried unanimously.

Annual Report Liaison Delegation

MOTION: Bernard Schroedl moved, seconded by John Reinemann, to delegate authority to the Annual Report Liaison to review with DSPS staff annual reports and make recommendations as needed. DSPS staff will follow-up with the Annual Report Liaison as to recommendations that were made. Motion carried unanimously.

Legislative Liaison Delegation

MOTION: Patricia Grathen moved, seconded by John Reinemann, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters with approval of the Chair. Motion carried unanimously.

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Ashley Ayres Monitoring and Intake Supervisor Division of Legal Services and Compliance	December 20, 2018 **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:
Cemetery Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
February 26, 2019	☒ Yes ☐ No	Appointment of Monitoring Liaison and Delegated Authority Motion

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session ☐ Both	☐ Yes (Fill out Board Appearance Request) ☒ No	

10) Describe the issue and action that should be addressed:

Adopt or reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today's agenda packet.

11) Authorization

Ashley Ayres — December 20, 2018

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.

Revised 10/12

Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

The Monitoring Liaison ("Liaison") is a Board/Section designee who works with department monitors 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/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 <u>one 90-day extension</u>, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing 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 full reinstatement of licensure if Respondent has fully complied with all terms of the order <u>without deviation</u>. The Monitor will draft an order and obtain the signature or written authorization from the Liaison.

8. Grant or deny a request to appear before the Board/Section in closed session.

9. Board Monitoring Liaison may determine whether Respondent's petition is eligible for consideration by the full Board/Section.

10. *(Except Pharmacy)* 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. *(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.

    a. Year 1: 49 screens (including 1 hair test, if required by original order)
    b. Year 2: 36 screens (plus 1 hair test, if required by original order)
    c. 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

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

13. *(Except Nursing)* – Board Monitoring 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 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 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 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.

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Jon Derenne Administrative Rules Coordinator	5/2/2019 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Cemetery Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
May 14, 2019	☒ Yes ☐ No	Legislative and Administrative Rule Matters 1. Review of submitted 2017 Act 108 report and discussion of possible scopes related to the report findings including: -CB 2 relating to minimum time periods for maintenance of burial records -CB 4 relating to change of trustee of care funds and preneed trust funds -CB 6 relating to mausoleums. 2. Informational update on Cemetery Board position statements. 3. Updates on legislation and pending or possible rulemaking projects.

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes ☒ No	

10) Describe the issue and action that should be addressed:

2017 Act 108 amended s. 227.29, Stats., to require that rule-making agencies submit a biennial report to review administrative rules. The specific criteria used to determine what rules must be included on the report are provided in the statute. The report was submitted by the Acting Board Chair on March 25, 2019. A copy of the report is attached.

As a result, the Board needs to discuss and consider possible scopes related to the Act 108 report findings. The relevant rules (CB 2, 4, and 6) and statutory authority are included.

The rules coordinator will provide the Board with an informational update on the Cemetery Board Position Statements page.

11) Authorization

Jon Derenne 5/2/2019

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

Revised 12/2016

Bernard Schroedl
Acting Chairperson

Patricia Grathen
Secretary

CEMETERY BOARD

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March 21, 2019

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

Representative Joan Ballweg, Assembly Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 210 North, State Capitol
Madison, WI 53702

RE: Report Submitted in Compliance with s. 227.29 (1), Stats.

Dear Senator Nass and Representative Ballweg:

This report has been prepared and submitted in compliance with s. 227.29 (1), Stats.

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

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are unauthorized rules, 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 agency's administrative rules, the agency has determined that no promulgated rules are rules created where the authority to promulgate the rule has been restricted.

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

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are obsolete or rendered unnecessary.

IV. Rules that are duplicative or, 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:

Rule	Citation or the text of the statute, regulation, or ruling	Action taken to address or reason for not taking an action

CB 2.06	This rule is in conflict with a state statute. Section 157.62 (5) requires the Board to establish rules for maintaining burial records, including minimum time periods for maintaining those records. The rules establish requirements for burial records, but do not provide a minimum time period that the cemetery authority must maintain this information as required by the statute.	This matter will be included on the next meeting agenda when the Board regains quorum.
CB 6.08	This rule is conflict with a state statute. The provision prohibits a person from selling mausoleum space until all inspection defects are corrected and the final inspection report indicates compliance with approved plans. However, s.157.12 (2) (b), Stats. implies that the sale of mausoleum space while the Board has given temporary certification is allowed.	This matter will be included on the next meeting agenda when the Board regains quorum.

V. Rules that are economically burdensome:

Rule	Description of why the rule is economically burdensome	Action taken to address or reason for not taking an action
CB 4.05	The provision is ambiguous. It is not clear whether the transferring trustee or the new trustee is required to submit this information to the Board. Confusion as to which trustee is to submit this information can lead to duplicative reporting, and thus create an unnecessary economic burden.	This matter will be included on the next meeting agenda when the Board regains quorum.

Thank you.

Sincerely,

Bernard Schroedl

Bernard Schroedl
Acting Chairperson
Cemetery Board

STATEMENT OF SCOPE

Cemetery Board

Rule No.: CB 2

Relating to: Maintenance of Burial Records

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to revise ch. CB 2, relating to maintenance of burial records, to establish a minimum time period that a cemetery authority must maintain burial record information. Section 157.62 (5), Stats., requires that the Cemetery Board promulgate rules establishing a minimum time period for maintaining burial record information, and this is not currently included in the existing rules. The Cemetery Board will also review and possibly revise CB 2 to bring the code into conformity with current drafting standards.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

2017 Wisconsin Act 108 created s. 227.29, Stats., requiring that each agency submit a report to the joint committee for review of administrative rules by March 31 of each odd-numbered year identifying any promulgated rules which are unauthorized, obsolete, unnecessary, duplicative, superseded, in conflict with another rule, statute, or court decision, or that are economically burdensome. The agency must also include in its report a description of any actions it is taking to address these issues.

This rule project is necessary to bring the rule out of conflict with state statute, as well as to make other revisions to improve the usability of the chapter by licensees.

If the administrative code is not revised to correct these issues, it will leave the rules and the agency out of compliance with state law.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 157.62 (5), Stats., provides “[t]he cemetery board shall promulgate rules requiring cemetery authorities and licensees to maintain other records and establishing minimum time periods for the maintenance of those records.”

Section 440.905 (2), Stats., provides “[t]he board has rule-making authority and may promulgate rules relating to the regulation of cemetery authorities, cemetery salespersons, and cemetery preneed sellers…”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The staff time needed to develop the rules is expected to be about 80 hours, depending on the complexity. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

6. List with description of all entities that may be affected by the proposed rule:

Cemetery authorities, cemetery salespersons, and cemetery preneed sellers.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

Contact Person: Jon Derenne, (608) 266-0955, DSPSAdminRules@wisconsin.gov.

Approved for publication:

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Cemetery Board Chairperson

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Date Submitted

under s. 157.129 if the cemetery meets the minimum acreage requirement specified in that ordinance.

(b) A cemetery consisting of less than 20 contiguous acres may be dedicated by a cemetery authority that is not required to be licensed under s. 440.91 (1) and that is not organized or conducted for pecuniary profit.

History: 1989 a. 307; 1991 a. 269; 1999 a. 150 s. 672; 2005 a. 25.

157.129 Minimum acreage of cemeteries; local ordinance. A city, village or town may enact and enforce an ordinance that does any of the following:

(1) Allows a cemetery consisting of less than the minimum acreage specified in s. 157.128 (1) to be dedicated, as defined in s. 157.061 (4), in that city, village or town.

(2) Allows a person to establish and use a public mausoleum in a cemetery consisting of less than the minimum acreage specified in s. 157.12 (2) (c).

History: 1991 a. 269; 1999 a. 150 s. 157; Stats. s. 157.129.

157.19 Deposit and investment of care funds and preneed trust funds. (1) In this section, "financial institution" has the meaning given in s. 705.01 (3), but, except with respect to the deposit of preneed trust funds, also includes a broker–dealer registered under s. 551.401 (1) or exempt from registration under s. 551.401 (2).

(2) (a) Except as provided in sub. (5) and the rules promulgated under sub. (4), the cemetery authority may deposit care funds under s. 157.11 (9g), and shall deposit care funds under s. 157.12 (3) and preneed trust funds under s. 440.92, with a financial institution located in this state. The financial institution shall be the trustee of the care funds and preneed trust funds. A bank need not comply with s. 221.0316 (1) or (2) or ch. 223 to accept or disburse deposits under this section. The trustee shall invest the care funds and preneed trust funds as provided under s. 881.01, except as provided in sub. (5) and the rules promulgated under sub. (4).

(b) The cemetery authority may not change the trustee of a care fund under s. 157.11 (9g) that is deposited under this section or of a care fund under s. 157.12 (3), and the financial institution may not release any portion of the principal amount of the care fund, without the cemetery board's written approval.

(c) Upon request of the financial institution, the preneed seller, as defined in s. 440.90 (8), shall furnish the financial institution with a copy of the preneed sales contract. Except as provided in s. 440.92 (2) (c), (f) and (j) and (5), preneed trust funds, and any interest or dividends that have accumulated on the preneed trust funds, may not be withdrawn until all obligations under the preneed sales contract have been fulfilled. The financial institution is not responsible for the fulfillment of any part of the preneed sales contract, except that the financial institution shall release the preneed trust funds, and any interest or dividends that have accumulated on the preneed trust funds, as provided by the terms of the preneed sales contract. The trustee of a preneed trust fund may not be changed without the cemetery board's written approval. If the trustee or account number of a preneed trust fund is changed, the cemetery authority shall notify the cemetery board in writing within 30 days after the change.

(d) The cemetery board shall promulgate rules establishing reasonable requirements and standards for the approval of changes under pars. (b) and (c). For approval of changes under par. (b), the rules shall require the cemetery authority to submit evidence that the rights and interests of the beneficiary of the care fund will be adequately protected if the change is approved. For approval of changes under par. (c), the rules shall require the trustee to submit evidence that the rights and interests of the purchaser under the preneed sales contract will be adequately protected if the change is approved.

(4) The cemetery board may promulgate rules allowing funds invested under this section to be deposited with a financial institution located outside this state.

(5) (a) This section does not apply to care funds of a cemetery for which a certification under s. 157.63 is effective, to preneed trust funds of a cemetery for which a certification under s. 440.92 (9) is effective, or to care funds or preneed trust funds of a cemetery authority that is not required to be licensed under s. 440.91 (1) or registered under s. 440.91 (1m).

(b) If the cemetery board determines that care funds under s. 157.11 (9g) are not being properly segregated from other moneys held by the cemetery authority or that those care funds are not being properly invested as required in s. 157.11 (9g) (a), the cemetery board may require the cemetery authority to deposit those care funds with a financial institution for investment under this section.

(6) Nothing in this section prevents a cemetery authority from combining its care funds and preneed trust funds for investment under this section if the cemetery authority maintains separate accountings for each fund.

(7) Except as provided in sub. (5) (a), this section applies to every care fund and every preneed trust fund of a cemetery authority, regardless of when the care fund or preneed trust fund was established.

History: 1989 a. 307; 1991 a. 74, 269; 1995 a. 336; 2005 a. 25; 2007 a. 174; 2015 a. 110, 237.

Cross–reference: See also ch. CB 4, Wis. adm. code.

157.50 Municipal cemeteries. (1) Municipalities may acquire by gift, purchase or condemnation land for cemeteries within or without their boundaries. In the case of towns acquisition and price must be authorized by the town meeting.

(2) The governing body of every municipality acquiring a cemetery shall by ordinance determine the system of management and operation. Any municipality may proceed under s. 157.07, 157.08 or 157.11 (7), or otherwise as provided by ordinance.

(3) Upon organization of a cemetery association to take over a municipal cemetery, the municipality may convey real property and all funds and other personal property to the association. In towns the conveyance must be authorized by the town meeting.

(4) When a town cemetery becomes embraced within a city or village, it shall be managed as though acquired thereby.

(5) The town meeting may authorize the town board to appropriate up to $500 in any year for the improvement of the town cemetery, under supervision of the town board.

(6) Any municipality that creates a care fund shall invest the money received for care as provided by ch. 881. The municipality may terminate the care fund, transferring the money to its general fund, if the municipality owns the cemetery and provides all maintenance expenses in perpetuity for those graves in the cemetery at the time of termination.

History: 1971 c. 41 s. 12; 1979 c. 254; 1983 a. 532; 1989 a. 307.

157.60 Public easement in cemetery. Any person who opens or makes any highway, town way, or private way or constructs any railroad, turnpike, or canal or anything in the nature of a public easement over, through, in, or upon such part of any enclosure, being the property of any municipality, religious association, or private proprietor, as may be used for burial, unless an authority for that purpose is specially granted by law or unless the consent of such municipality, religious association, or private proprietor is first obtained by the person, shall be punished by imprisonment in the county jail not more than one year and by fine not exceeding $3,000.

History: 2015 a. 237.

157.62 Reporting; record keeping; audits. (1) CEMETERY ASSOCIATIONS. (a) Except as provided in par. (b) and s.

157.625, every cemetery association shall file an annual report with the cemetery board. The report shall be made on a calendar–year basis unless the cemetery board, by rule, provides for other reporting periods. The report is due on the 60th day after the last day of the reporting period. The annual report shall include all of the following:

1. The name of the cemetery association and the address of its principal office.

2. The name, residence address and business address of each officer, director and trustee of the cemetery association.

3. The name, residence address and business address of each shareholder who beneficially owns, holds or has the power to vote 5 percent or more of any class of securities issued by the cemetery association.

4. The dates and places of all meetings and elections.

5. A statement of whether the cemetery association engaged in the operation of a cemetery during the previous calendar year.

(b) Paragraph (a) does not apply to any person required to file a report under s. 180.1622 or 181.1622.

(c) The cemetery board may prescribe and furnish forms for reports required under this subsection. If the cemetery board prescribes forms under this paragraph, the cemetery board shall mail the forms to cemetery associations required to file under par. (a) no later than 60 days before the reports are due.

(2) CEMETERY AUTHORITIES. (a) Except as provided in ss. 157.625 and 157.63 (1), every cemetery authority shall file an annual report with the cemetery board. The report shall be made on a form prescribed and furnished by the cemetery board. The report shall be made on a calendar–year basis unless the cemetery board, by rule, provides for other reporting periods. The report is due on the 60th day after the last day of the reporting period.

(b) The cemetery authority shall include all of the following in the annual report required under par. (a):

1. A copy of any report required under sub. (1) (a) or s. 180.1622 or 181.1622.

2. If the cemetery authority is required to file a report under s. 180.1622 or 181.1622, the information specified in sub. (1) (a) 3.

3. An accounting of amounts deposited in, amounts withdrawn from, income accruing to and the balance at the close of the reporting period of any preneed trust funds of the cemetery.

4. An accounting of amounts deposited in, amounts withdrawn from, other income accruing to and the balance at the end of the reporting period of care funds of the cemetery, including the funds in ss. 157.11 (9g) (a), 157.12 (3) and 157.125.

5. An accounting of all gifts received, income from gifts deposited in accounts not accounted for under subd. 4., amounts expended from those accounts and the balance of those accounts at the end of the reporting period.

6. The name and address of each trustee for the funds under subds. 3. to 5. and of the financial institution holding those accounts at the close of the reporting period.

6m. The names of the officers of the cemetery authority.

7. The information specified in sub. (1) (a), to the extent applicable, if the cemetery is not required to file a report under sub. (1) (a) or s. 180.1622 or 181.1622.

(c) All records relating to accountings of trust funds described under par. (b) 3. to 7. and maintained by the department and by the cemetery board are confidential and are not available for inspection or copying under s. 19.35 (1).

(d) The board shall review each report filed under par. (a) to determine whether the cemetery authority is complying with this subchapter.

(3) RECORDS; INSPECTION. (a) Every cemetery authority shall keep a copy of the report required under sub. (2) (a) at its principal place of business and, except for those records relating to accountings of trust funds described under sub. (2) (b) 3. to 7., shall make the report available for inspection, upon reasonable notice, by any person with an interest in a cemetery lot or a mausoleum space in a cemetery owned or operated by the cemetery authority.

(b) Every cemetery authority shall maintain all of the following:

1. The records needed to prepare the reports required under sub. (2) (a).

2g. All records supporting the accounting under sub. (2) (b) 3., including records that show, for each deposit, the name of the purchaser or beneficiary of the contract relating to the deposit and the item purchased.

2r. All records supporting the accounting under sub. (2) (b) 4., including records that show, for each deposit, the name of the purchaser or beneficiary of the contract relating to the deposit and the item purchased.

3. A copy of each contract for the sale of a cemetery lot, mausoleum space or cemetery merchandise.

(4) RECORDS MAINTENANCE. The records under sub. (3) (b) 1. shall be permanently maintained by the cemetery authority or licensee. Each record under sub. (3) (b) 2g. shall be maintained for not less than 15 years after the date of the deposit. Each record under sub. (3) (b) 2r. shall be permanently maintained by the cemetery authority or licensee. Each copy of a contract under sub. (3) (b) 3. shall be maintained for not less than 3 years after all of the obligations of the contract have been fulfilled. The cemetery board may promulgate rules to establish longer time periods for maintaining records under sub. (3) (b) 2g. and 3.

(5) RULES; RECORDS. The cemetery board shall promulgate rules requiring cemetery authorities and licensees to maintain other records and establishing minimum time periods for the maintenance of those records. The records shall include detailed information for each deceased person buried in a cemetery, including all of the following:

(a) The name of the deceased.

(b) The last–known address of the deceased.

(c) The date of birth of the deceased.

(d) The date of death.

(e) The date of burial.

(f) The exact location in the cemetery where the deceased is buried.

(g) The name of the person authorizing the burial and his or her relationship to the deceased.

(h) The name of the funeral establishment, as defined in s. 445.01 (6).

(i) The type of burial vault used, if any.

(j) The type and style of the grave marker, monument, or other memorial used.

(6) AUDIT. Except as provided in ss. 157.625, 157.63 (5), and 440.92 (9) (e), the cemetery board may audit, at reasonable times and frequency, the records, trust funds, and accounts of any cemetery authority, including records, trust funds, and accounts pertaining to services provided by a cemetery authority that are not otherwise subject to the requirements under this chapter. The cemetery board may conduct audits under this subsection on a random basis, and shall conduct all audits under this subsection without providing prior notice to the cemetery authority.

(7) RULES; FILING FEE. The cemetery board may promulgate rules establishing a filing fee to accompany the report required under sub. (2) (a). The filing fee shall be based on the approximate cost of regulating cemetery authorities.

History: 1989 a. 307; 1991 a. 16, 32, 269; 1995 a. 27; 1997 a. 79; 2007 a. 174; 2015 a. 237.

Cross–reference: See also ch. CB 2, Wis. adm. code.

157.625 Reporting exemption for certain cemeteries. **(1)** A cemetery authority that is not required under this chapter or under s. 440.92 to maintain any care funds or preneed trust funds is not required to file an annual report under s. 157.62 (2).

Chapter CB 2

FILING OF ANNUAL REPORTS AND MAINTAINING BURIAL RECORDS BY CEMETERY AUTHORITIES AND PRENEED SELLERS

CB 2.01 Authority.
CB 2.015 Definition.
CB 2.02 Filing of annual reports.
CB 2.03 Reporting period.
CB 2.04 Religious society exemption.
CB 2.06 Burial record.

CB 2.01 Authority. This chapter is adopted pursuant to ss. 157.62 (2), (5), and (7), 157.63, 227.11 (2), 440.905, and 440.92 (6) (k), Stats.

History: CR 07–050: cr. Register February 2008 No. 626, eff. 3–1–08; CR 17–050: am. Register July 2018 No. 751, eff. 8–1–18.

CB 2.015 Definition. In this chapter, "cemetery authority" has the meaning given in s. 157.061 (2), Stats.

Note: Crematory authority is defined in s. 440.70 (9), Stats.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18; correction made under s. 35.17, Stats., Register July 2018 No. 751.

CB 2.02 Filing of annual reports. Cemetery authorities required to file an annual report under s. 157.62 (2), Stats., and preneed sellers required to file an annual report under s. 440.92 (6), Stats., shall do so on or before March 1 of each year.

History: CR 07–050: cr. Register February 2008 No. 626, eff. 3–1–08.

CB 2.03 Reporting period. The annual reports and certifications in lieu of annual reports shall be made on a calendar year basis unless the board, upon request, approved a different reporting period.

History: CR 07–050: cr. Register February 2008 No. 626, eff. 3–1–08.

CB 2.04 Religious society exemption. A cemetery authority of a cemetery that is affiliated with a religious society organized under ch. 187, Stats., or that religious society may file a certification in lieu of an annual report under s. 157.63 or 440.92 (9), Stats. The certification shall be filed on or before the 60th day after the last day of the reporting period.

Note: Forms for the annual report and certification may be obtained upon request from and shall be filed with the Department of Safety and Professional Services, Division of Credentialing Processing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

History: CR 07–050: cr. Register February 2008 No. 626, eff. 3–1–08.

CB 2.06 Burial record. (1) A cemetery authority or licensee shall maintain a record for all human remains buried within a cemetery. This record shall include the following information:

(a) The name of the deceased.

(b) The last–known address of the deceased.

(c) The date of birth of the deceased.

(d) The date of death as listed on the disposition of human remains.

(e) The date that the remains are placed in the grave, niche, or crypt.

(f) The exact location in the cemetery where the human remains are buried or placed. The specific location shall correspond to the map or plat maintained by the cemetery authority or licensee.

(g) The name of the person authorizing the burial and his or her relationship to the deceased.

(h) The name of the funeral establishment, as defined in s. 445.01 (6), Stats.

(i) The type of burial vault used, if any, including poured concrete, precast concrete, plastic, or polyurethane.

(j) The type of the grave marker or monument, including granite, along with the marker style, including flush, upright, or slanted.

Note: The burial records listed in s. CB 2.06 (1) are different from the records that a cemetery authority is required to keep and maintain in accordance with s. 157.62 (4), Stats.

(2) A cemetery authority or licensee shall record burial information under sub. (1) no more than 10 business days following the burial. All burial records completed after August 1, 2018 shall be maintained either in an electronic format that is easily accessible for review or in a legibly written format.

(3) All burial records shall be maintained by the cemetery authority. Upon conveyance of a cemetery, burial records shall be transferred to the new cemetery authority who shall then maintain the transferred records.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

STATEMENT OF SCOPE

Cemetery Board

Rule No.: CB 1, 4, and 5

Relating to: Change of Trustee of Care Funds and Preneed Trust Funds

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to revise ch. CB 4, relating to the change of trustee of care funds and preneed trust funds, to clarify whether the transferring or new trustee must submit information to the Cemetery Board verifying the transfer. The Cemetery Board will also review and possibly revise CB 1, 4, and 5 to bring the code into conformity with current drafting standards and improve the usability of the chapters by licensees, including adding or removing definitions.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

2017 Wisconsin Act 108 created s. 227.29, Stats., requiring that each agency submit a report to the joint committee for review of administrative rules by March 31 of each odd-numbered year identifying any promulgated rules which are unauthorized, obsolete, unnecessary, duplicative, superseded, in conflict with another rule, statute, or court decision, or that are economically burdensome. The agency must also include in its report a description of any actions it is taking to address these issues.

This rule project is necessary to remedy a potentially economically burdensome rule, as well as to make other revisions to improve the usability of the chapter by licensees.

If the administrative code is not revised to correct these issues, it may result in confusion and economically burdensome duplicative reporting by trustees.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 440.905 (2), Stats., provides “[t]he board has rule-making authority and may promulgate rules relating to the regulation of cemetery authorities, cemetery salespersons, and cemetery preneed sellers…”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The staff time needed to develop the rules is expected to be about 80 hours, depending on the complexity. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

6. List with description of all entities that may be affected by the proposed rule:

Cemetery authorities, cemetery salespersons, cemetery preneed sellers, and trustees of care funds and preneed trust funds.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

Contact Person: Jon Derenne, (608) 266-0955, DSPSAdminRules@wisconsin.gov.

Approved for publication:

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Cemetery Board Chairperson

_____
Date Submitted

Chapter CB 4

CHANGE OF TRUSTEE OF CARE FUNDS AND PRENEED TRUST FUNDS

CB 4.01 Authority.
CB 4.015 Definition.
CB 4.02 Change of trustee; applications.
CB 4.03 Standards for approval.
CB 4.04 Compliance with terms of approval.
CB 4.05 Verification of deposit.

Note: Chapter RL 53 was renumbered chapter SPS 53 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671. **Chapter SPS 53 was repealed and Chapter CB 4, under the same title, was created effective September 1, 2012, Register August 2012 No. 680.**

CB 4.01 Authority. This chapter is adopted pursuant to ss. 157.11, 157.19, 227.11, and 440.905, Stats.

History: CR 12–021: cr. Register August 2012 No. 680, eff. 9–1–12.

CB 4.015 Definition. In this chapter, "financial institution" has the meaning set forth in s. 705.01 (3), Stats.

History: CR 12–021: cr. Register August 2012 No. 680, eff. 9–1–12.

CB 4.02 Change of trustee; applications. (1) APPROVAL REQUIRED. A cemetery authority or preneed seller who deposits care funds in a financial institution pursuant to s. 157.19 (2) (a), Stats., shall obtain written approval of the board before changing the trustee of a care fund or preneed trust fund.

(2) FORMS. Requests for approval of a change of trustee shall be made on forms provided by the department, and shall be delivered through the mail or otherwise to the board.

Note: Forms may be obtained upon request from the Department of Safety and Professional Services, Division of Professional Credential Processing, 1400 East Washington Avenue, Madison, Wisconsin 53708.

(3) COMPLETE ANSWERS; CERTIFICATION. No request for approval shall be processed until all questions appearing on the application are fully completed, the applicant has signed a statement confirming the accuracy of the information provided in the application, and all required documents are received by the board.

(4) DETERMINATION OF APPROVAL. The board or its designee shall provide the applicant with its determination upon the request within 60 days after receipt of the completed application and required documents.

History: CR 12–021: cr. Register August 2012 No. 680, eff. 9–1–12.

CB 4.03 Standards for approval. (1) CARE FUNDS. The board or its designee may grant approval for a change of trustee of a care fund to a cemetery authority applying for the change of trustee if the cemetery authority submits evidence that the rights and interests of the beneficiary of the care fund will be adequately protected if the change is approved. Such evidence shall include, but is not necessarily limited to:

(a) The names and addresses of the financial institutions from whom and to whom the care fund is to be transferred.

(b) A statement of the reason for requesting the change of trustee.

(c) The amount to be transferred, the manner or instrument by which the transfer is to be made, and the anticipated date the transfer is to be effectuated.

(d) An affidavit from an officer or director of the financial institution from whom the transfer is requested that it is authorized to act as a financial institution and is in good standing in this state. The affidavit shall confirm that all deposits into the care funds being transferred to a different trustee were timely, and that the principal has not been withdrawn.

(e) An affidavit from an officer or director of the financial institution to whom the transfer is requested that it is authorized to act as a financial institution, and is in good standing in this state.

(f) A statement of any costs which will accrue to the balance of the care fund upon the change of trustee, as well as a statement of the nature and anticipated amounts of any service charges, administrative fees, or other costs which will be imposed against the care fund by the proposed trustee.

(2) PRENEED TRUST FUNDS. Preneed sellers applying for the change of trustee of a preneed trust fund shall submit evidence that the rights and interests of the purchaser under the preneed sales contract will be adequately protected if the change is approved, including but not necessarily limited to:

(a) The names and addresses of the financial institutions from whom and to whom the preneed trust fund is to be transferred.

(b) A statement of the reason for requesting the change of trustee.

(c) The amount to be transferred, the manner or instrument by which the transfer is to be made, and the anticipated date the transfer is to be effectuated.

(d) An affidavit from an officer or director of the financial institution from whom the transfer is requested that its license is in good standing in this state. The affidavit shall confirm that all deposits into the care funds being transferred to a different trustee were timely, and that the principal has not been withdrawn.

(e) An affidavit from an officer or director of the financial institution to whom the transfer is requested that it is authorized to act as a financial institution, and is in good standing in this state.

(f) A statement of any costs which will accrue to the balance of the preneed fund upon the change of trustee, as well as a statement of the nature and anticipated amounts of any service charges, administrative fees, or other costs which will be imposed against the care fund by the proposed trustee.

History: CR 12–021: cr. Register August 2012 No. 680, eff. 9–1–12.

CB 4.04 Compliance with terms of approval. The board may approve a change of trustee upon such terms and conditions as deemed necessary to assure that the rights and interests of the beneficiary or purchaser will be adequately protected.

History: CR 12–021: cr. Register August 2012 No. 680, eff. 9–1–12.

CB 4.05 Verification of deposit. Within 30 days after the transfer of the care fund or preneed trust fund, the trustee shall submit information to the board verifying the transfer, including the amount deposited, the date the deposit was made, and the account number of the fund.

History: CR 12–021: cr. Register August 2012 No. 680, eff. 9–1–12.

f. No nameplate, monument or other memorial has been installed to identify the human remains that are buried within a mausoleum space, in the same cemetery, that is owned or partially owned by an owner.

g. The cemetery authority has not been contacted by an owner or assignee or received any other notice or evidence to suggest that an owner or assignee intends to use the cemetery lot for a future burial of human remains.

2. "Assignee" means a person who has been assigned in the deceased owner's will or in any other legally binding written agreement, or who is entitled to receive under ch. 852, an ownership interest in the abandoned cemetery lot.

3. "Owner" has the meaning given in s. 157.10 (1).

(b) No cemetery authority may resell an abandoned lot unless the cemetery authority complies with the requirements in this subsection.

(c) The cemetery authority shall mail to each owner, at each owner's last–known address, a notice of the cemetery authority's intent to resell the abandoned lot as provided in this subsection. If an owner is buried in the cemetery in which the abandoned lot is located or if the cemetery authority has any other evidence that reasonably supports a determination by the cemetery authority that the owner is deceased, no notice is required under this paragraph.

(d) If no notice is required under par. (c) or if, within 60 days after notice is mailed under par. (c), no owner or assignee contacts the cemetery authority to express an intent to use the abandoned lot for a future burial of human remains, the cemetery authority shall publish in a newspaper of general circulation in the county in which the abandoned lot is located, a class 3 notice under ch. 985 that includes all of the following:

1. The location of the abandoned lot.

2. The name and last–known address of each owner.

3. A statement that, unless an owner or assignee contacts the cemetery authority within the period specified in par. (e), the cemetery authority intends to resell the abandoned lot as provided in this subsection.

(e) If within 60 days after notice is published under par. (d) no owner or assignee contacts the cemetery authority to express an intent to use the abandoned lot for a future burial of human remains, the cemetery authority shall bring an action in the circuit court of the county in which the abandoned lot is located for a judgment that the cemetery lot is an abandoned lot and an order transferring ownership of the abandoned lot to the cemetery authority.

(f) If within one year after the circuit court enters a judgment and order under par. (e) no owner or assignee contacts the cemetery authority to express an intent to use the abandoned lot for a future burial of human remains, the cemetery authority may resell the abandoned lot, except as provided in par. (g). The payment of principal shall be deposited into the care fund. Before depositing the payment of principal into the care fund, the cemetery authority may retain an amount necessary to cover the cemetery authority's administrative and other expenses related to the sale, but the amount retained may not exceed 50 percent of the proceeds.

(g) If at any time before an abandoned lot is resold under par. (f) an owner or assignee contacts the cemetery authority to express an intent to use the abandoned lot for a future burial of human remains, the authority may not resell the abandoned lot, and ownership of the abandoned lot shall be transferred to the owner or assignee. The cemetery authority shall pay all costs of transferring ownership under this paragraph.

(h) Nothing in this subsection prohibits a cemetery authority from seeking the authority to resell more than one abandoned lot by publishing a single class 3 notice under par. (d) or bringing a single action under par. (e) that applies to all of the abandoned lots for which such authority is sought.

History: 1989 a. 307 ss. 18m, 20, 28, 45; 2013 a. 151; 2015 a. 237.

157.12 Mausoleums. (2) CONSTRUCTION OF MAUSOLEUMS. (a) Any person who constructs a mausoleum or converts a building or other structure to a mausoleum shall comply with the rules of the cemetery board and shall receive the cemetery board's approval in writing of the plans and specifications prior to construction or conversion. No person may modify plans or specifications that have been approved under this paragraph without approval in writing from the cemetery board, unless such modifications are cosmetic in nature. The cemetery board shall promulgate rules providing reasonable requirements governing the location, material, and construction of a mausoleum, in accordance with the requirements in par. (d). Any municipality may enact ordinances governing mausoleums at least as stringent as this section.

(b) The cemetery board shall supervise construction of any public mausoleum and conversion of any building to a public mausoleum. Within 30 days after receiving written notice from the cemetery authority that the construction or conversion has been completed, the cemetery board shall inspect the public mausoleum and provide the cemetery authority with a written certification as to whether the construction or conversion complies with approved plans. If the cemetery board determines that, except for certain minor defects, the construction or conversion complies with the approved plans, the cemetery board may provide the cemetery authority with a written temporary certification of compliance that is contingent on the correction of those minor defects. A temporary certification is valid for a period designated by the cemetery board, not to exceed 6 months. No person may sell a mausoleum space, except an undeveloped space that is sold in accordance with s. 440.92, or bury human remains in a public mausoleum unless a care fund has been established for the mausoleum under sub. (3) and the cemetery board has provided the cemetery authority with a certification or a temporary certification under this paragraph. If a cemetery authority that has been provided with a temporary certification notifies the cemetery board in writing before the date on which the temporary certification expires that the defects in the construction or conversion of the public mausoleum have been corrected, the cemetery board shall, within 30 days after receiving the notice, reinspect the public mausoleum and provide the cemetery authority with a written certification as to whether the construction or conversion complies with the approved plans. If a cemetery authority that has been provided with a temporary certification does not receive a written certification from the cemetery board before the date on which the temporary certification expires that the construction or conversion complies with the approved plans, then, beginning on the date on which the certification expires, no person may sell a mausoleum space, except an undeveloped space that is sold in accordance with s. 440.92, or bury human remains in the public mausoleum until the defects are corrected and the cemetery board subsequently inspects the public mausoleum and provides the cemetery authority with a certification that the construction or conversion complies with the approved plans. The cemetery board may charge a reasonable fee to the cemetery authority for each inspection and certification provided under this paragraph if the inspection and certification are provided within the applicable 30–day period prescribed under this paragraph.

(bm) If a municipality in which a mausoleum is located requires the owner or operator of the mausoleum to obtain from the municipality a permit for the use or occupancy of the mausoleum, the municipality shall issue that permit to the owner or operator if the owner or operator has been provided with a certification or temporary certification for the mausoleum under par. (b). The permit shall be valid for a period equal to or longer than the period for which the certification or temporary certification under par. (b) is valid.

(c) 1. Except as provided in subd. 2., no person may establish or use a public mausoleum unless the mausoleum is located inside

a cemetery of 20 acres or more that has been in existence for 10 years or more.

2. A person may establish or use a public mausoleum in a cemetery consisting of less than 20 acres in a municipality that has enacted an ordinance under s. 157.129 (2) if the cemetery meets the minimum acreage requirement specified in that ordinance.

(d) A mausoleum shall be constructed to last as long as possible, taking into consideration the technology and economics applicable to mausoleum construction at the time of construction.

(3) CARE FUND FOR MAUSOLEUMS. (a) Any person who operates a public mausoleum shall establish a care fund as follows:

1. If the mausoleum has been in existence since June 15, 1933, and is covered by the care fund of the cemetery in which the mausoleum is located, the cemetery shall deposit at least 15 percent of each payment of principal received from the sale of a mausoleum space into the care fund, until the care fund equals 10 percent of the cost of constructing the mausoleum.

2. Except as provided in subd. 1., the operator of the mausoleum shall deposit at least 25 percent of each payment of principal received from the sale of a mausoleum space into the care fund, until the care fund equals 25 percent of the cost of constructing the mausoleum.

3. The operator shall make deposits required under subds. 1. and 2. within 30 days after the last day of the month in which the payment is received. The municipality in which the mausoleum is located may, by ordinance, require a larger fund, but only if the cemetery board notifies the municipality in writing that the cemetery board approves of the requirement. The cemetery board may promulgate rules establishing uniform standards for approvals under this subdivision.

(b) The cemetery's treasurer is the custodian of the fund. The treasurer shall file with the cemetery, at the cemetery's expense, a bond with sureties approved by the cemetery board to indemnify the cemetery against loss if the treasurer fails to maintain the fund. No indemnity is required if the terms of sale of a mausoleum space require the purchaser to pay directly to a trust company in the state, designated by the cemetery as custodian of the fund. The fund shall be invested as provided in s. 157.19. Income from investment may be used only to maintain the mausoleum, except that if the amount of income exceeds the amount necessary to properly maintain the mausoleum the excess amount may be used to maintain any portion of the cemetery.

History: 1971 c. 41 s. 12; 1971 c. 164; 1977 c. 449; 1979 c. 221; 1981 c. 20; 1989 a. 307; 1991 a. 269; 1995 a. 27 ss. 4402, 9116 (5); 1999 a. 150 s. 672; 2011 a. 32, 146; 2015 a. 237.

157.123 Columbaria maintained by religious associations. (1) DEFINITION. In this section, "columbarium" has the meaning given in s. 440.70 (4).

(2) EXEMPTION. A columbarium that is established and used by a religious association is not subject to any requirement under this subchapter applicable to a mausoleum or cemetery if all of the following requirements are satisfied:

(a) The columbarium shall be located on property owned by the religious association and on which is located the religious association's church building or other place of worship.

(b) The religious association shall ensure that the columbarium is perpetually kept and maintained in a manner consistent with the intent of this chapter.

(c) If the religious association ceases to use or occupy the church building or other place of worship where the columbarium is located, the religious association shall relocate all of the urns in the columbarium containing cremated remains.

(d) The religious association shall deposit, within 30 days after receipt of the payment, at least 25 percent of each payment of principal received from the sale of a niche in the columbarium into a care fund, until the care fund equals 25 percent of the cost of constructing the columbarium. The care fund and any income from investment of the care fund may be used only to maintain the columbarium.

(e) 1. Annually, the religious association shall file a certification with the department on a form prescribed and furnished by the department that includes all of the following:

a. The name and address of the religious association and the address where the columbarium is located.

b. A notarized statement of an authorized agent of the religious association that the religious association is in full compliance with par. (d).

2. A certification under this paragraph is effective for a 12–month period, beginning on the date the certification is filed with the department.

3. During the effective period specified under subd. 2., the department may not audit the care fund or any records or accounts of the religious association relating to the care fund for the columbarium to which the certification applies.

4. The religious association is liable for the damages of any person resulting from the failure of the religious association to fully comply with par. (d) during the effective period specified under subd. 2.

(3) APPLICATION. (a) Except as provided under par. (b), this section applies to all columbaria, including columbaria for which initial construction was commenced prior to November 13, 2015.

(b) This section does not apply to a columbarium for which initial construction was commenced during the period beginning on November 13, 2015, and ending on November 30, 2016.

History: 2015 a. 95.

157.125 Trustees for the care of cemeteries or cemetery lots. (1) If a trust is created for the care of a burial place or grave but no trustee is named in the will to administer the trust, the circuit court having jurisdiction may name the county treasurer of the county in which the burial place or grave is situated as trustee, except as provided in sub. (2). If not contrary to the terms of the trust, the county treasurer may contract with the person in charge of the burial place or grave for its care and pay to that person the income from the trust property or the part of the income that may be necessary for that purpose. If there is no person in charge of the burial place or grave, then the income shall be paid to the city, village, or town, in which the burial place or grave is situated, and for the purposes of this subsection, the governing body of that municipality has the duty of caring for the burial place or grave to the extent of money received for that purpose. The county treasurer shall annually render an account to the circuit court as provided in ch. 701 and the person or municipality receiving money for such care shall also render an annual accounting to the circuit court and the cemetery board as provided in s. 157.62 (2) (b) 3. to 7.

(2) If the burial place or grave is located in a cemetery owned and operated by, or affiliated with, a religious association, the court shall name the religious association as the trustee unless the religious association petitions the court to name the county treasurer as the trustee.

History: 1971 c. 41 s. 11; 1979 c. 175 s. 50; 1989 a. 307; 2015 a. 237.

157.128 Minimum acreage requirement for cemetery established on or after November 1, 1991. (1) Except as provided in subs. (2) and (3), no cemetery may be dedicated on or after November 1, 1991, unless the cemetery consists of at least 20 contiguous acres.

(2) A cemetery consisting of less than 20 contiguous acres may be dedicated on or after November 1, 1991, if all of the following apply:

(a) The cemetery is owned by a religious association.

(b) The religious association is responsible for all liabilities of the cemetery.

(c) The total acreage of all other cemeteries owned by the religious association exceeds 20 acres.

(3) (a) A cemetery consisting of less than 20 contiguous acres may be dedicated in a municipality that has enacted an ordinance

STATEMENT OF SCOPE

Cemetery Board

Rule No.: CB 6

Relating to: Mausoleums

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to revise ch. CB 6, relating to mausoleums, to clarify the rule to specify the length of the temporary certification period, and to bring the administrative rules into conformance with statute by allowing for the sale of mausoleum space while a mausoleum is in temporary certification status per s. 157.12 (2) (b), Stats. The Cemetery Board will also consider promulgating rules under s. 157.12 (3) (a) 3., Stats. to establish uniform standards for approval of municipality proposed requirements that mausoleums deposit more than the statutorily required principal payments into the mausoleum's care fund. The Cemetery Board will also review and possibly revise the rule to bring it into conformity with current drafting standards.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

2017 Wisconsin Act 108 created s. 227.29, Stats., requiring that each agency submit a report to the joint committee for review of administrative rules by March 31 of each odd-numbered year identifying any promulgated rules which are unauthorized, obsolete, unnecessary, duplicative, superseded, in conflict with another rule, statute, or court decision, or that are economically burdensome. The agency must also include in its report a description of any actions it is taking to address these issues.

This rule project is necessary to remedy issues the Cemetery Board has identified as a result of its review of the CB chapters under 2017 Wisconsin Act 108, as well as to make other revisions deemed to improve the usability of the chapter by licensees.

If the administrative code is not revised to correct these issues, it will leave the code out of compliance with state law. Current rules do not allow a mausoleum with temporary certification from the Cemetery Board to sell space within the mausoleum, while state statute does allow for such sales under s. 157.12 (2) (b), Stats.

The Cemetery Board plans to also consider and possibly promulgate rules under s. 157.12 (3) (a) 3., Stats. to establish uniform standards for approval of municipality proposed requirements that mausoleums deposit more than the statutorily required principal payments into the mausoleum's care fund.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 440.905 (2), Stats., provides "[t]he board has rule-making authority and may promulgate rules relating to the regulation of cemetery authorities, cemetery salespersons, and cemetery preneed sellers…"

Section 157.12 (3) (a) 3., Stats., provides "…The municipality in which mausoleum is located may, by ordinance, require a larger fund, but only if the cemetery board notifies the municipality in writing that the cemetery board approves of the requirement. The cemetery board may promulgate rules establishing uniform standards for approvals under this subdivision."

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The staff time needed to develop the rules is expected to be about 80 hours, depending on the complexity. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

6. List with description of all entities that may be affected by the proposed rule:

Cemetery authorities, cemetery salespersons, cemetery preneed sellers, any person who constructs a mausoleum or converts a building or other structure to a mausoleum, and municipal authorities.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

Contact Person: Jon Derenne, (608) 266-0955, DSPSAdminRules@wisconsin.gov.

Approved for publication:

_____
Cemetery Board Chairperson

_____
Date Submitted

Chapter CB 6

MAUSOLEUMS

CB 6.01	Authority.
CB 6.02	Definitions.
CB 6.03	Mausoleum plan review.
CB 6.04	Revision to approved plans.
CB 6.05	Supervision of construction.
CB 6.06	Inspection.
CB 6.07	Reinspection.
CB 6.08	Mausoleum sales.
CB 6.09	Mausoleum location.
CB 6.10	Compliance requirements.
CB 6.11	Mausoleum and public mausoleum construction material.
CB 6.12	Mausoleum and public mausoleum fees.
CB 6.13	Initial applicability.
CB 6.14	Reports.

CB 6.01 Authority. The rules in this chapter are adopted pursuant to ss. 157.12 (2) (a), 157.62 (5), 227.11 (2), and 440.905 (2), Stats.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

CB 6.02 Definitions. In this chapter:

(1) "Mausoleum" has the meaning given in s. 157.061 (9), Stats.

(2) "Public Mausoleum" has the meaning given in s. 157.061 (14), Stats.

Note: Columbarium is defined in s. 440.70 (4), Stats.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

CB 6.03 Mausoleum plan review. (1) Prior to the construction or alteration of any mausoleum or conversion of a building or other structure to a mausoleum the board or its designee shall review, in accordance with the provisions in chs. SPS 361 to 366, the plans for mausoleum construction, alteration, or building conversion.

(2) The construction, alteration, or building conversion of any mausoleum may not occur prior to written approval of the plans by the board or its designee in accordance chs. SPS 361 to 366 and s. 157.12 (2) (a), Stats.

(3) Plans shall expire 3 years after the date indicated on the approved building plans of the building shell if not closed within those 3 years.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

CB 6.04 Revision to approved plans. No modifications to the approved plans or amendments to the plan specifications beyond cosmetic changes may be made without prior written approval from the board or its designee in accordance with chs. SPS 361 to 366 and s. 157.12 (2) (a), Stats.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

CB 6.05 Supervision of construction. (1) Construction of any public mausoleum shall be supervised by the board or its designee in accordance with chs. SPS 361 to 366 and s. 157.12 (2) (b), Stats.

(2) The supervising professional shall provide a written compliance statement in accordance with chs. SPS 361 to 366 within 30 days following completion of the construction, alteration, or conversion of a public mausoleum.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

CB 6.06 Inspection. The board, or its designee, shall inspect the construction of any public mausoleum in accordance chs. SPS 361 to 366 and s. 157.12 (2) (b), Stats., to ascertain whether the construction, alteration, or building conversion complies with approved plans.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

CB 6.07 Reinspection. (1) If the board or its designee determines that, except for certain minor defects, the construction, alteration, or conversion complies with the approved plans, the board or its designee may provide the cemetery authority with a written progress report that is contingent on the correction of those minor defects.

(2) If a cemetery authority with a progress report notifies the board or its designee in writing before the expiration date of the temporary certification that the defects in the construction, alteration, or conversion of the public mausoleum have been corrected, the board or its designee shall, within 30 days after receiving the notice, reinspect the public mausoleum and provide the cemetery authority with a final inspection report as to whether the construction, alteration, or conversion complies with the approved plans.

History: See s. 440.70, Stats. for the definition of columbarium or see subch. VII of ch. 440, Stats. for information regarding columbaria and matters relating to Crematory Authorities.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

CB 6.08 Mausoleum sales. No person may sell a mausoleum space, except an undeveloped space that is sold in accordance with s. 440.92, Stats., or bury human remains in the public mausoleum until all inspection defects are corrected and the board or its designee reinspects the public mausoleum and provides the cemetery authority with a final inspection report that indicates the construction, alteration, or conversion complies with the approved plans.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

CB 6.09 Mausoleum location. The board, or its designee, shall review the location of the mausoleum to ensure the mausoleum is located in accordance with s. 157.065 (2), Stats.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

CB 6.10 Compliance requirements. In addition to board construction requirements, mausoleum construction shall follow the requirements of s. SPS 362.3100.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

CB 6.11 Mausoleum and public mausoleum construction material. A mausoleum or public mausoleum shall be constructed to last as long as possible, taking into consideration the technology and economics applicable to mausoleum construction at the time of construction with construction materials reviewed by the board, or its designee, in accordance with chs. SPS 361–366 and s. 157.12 (2) (d) Stats.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

CB 6.12 Mausoleum and public mausoleum fees. The board or its designee may charge a reasonable fee to the cemetery authority for each review and inspection provided under this chapter. Fees for reviews and inspections shall be submitted in accordance with ch. SPS 302.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

CB 6.13 Initial applicability. This chapter first applies to construction, alteration, or conversion of mausoleums and public mausoleums initiated after August 1, 2018.

History: CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.

CB 6.14 Reports. The board may request reports from its designee on any activity it delegates in this section.

History: **CR 17–050: cr. Register July 2018 No. 751, eff. 8–1–18.**

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Division of Policy Development Staff	**2) Date When Request Submitted:** 1/8/2019 **Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting**

3) Name of Board, Committee, Council, Sections:

All Boards, Committees, Councils and Sections

4) Meeting Date:	**5) Attachments:**	**6) How should the item be titled on the agenda page?**
1st Available Date	☒ **Yes** ☐ **No**	Board Review of the Wisconsin Occupational Licensing Study Legislative Report

7) Place Item in:	**8) Is an appearance before the Board being scheduled?**	**9) Name of Case Advisor(s), if required:**
☒ **Open Session** ☐ **Closed Session**	☐ **Yes** ☒ **No**	**N/A**

10) Describe the issue and action that should be addressed:

Board discussion.

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.**

Revised 12/2016

Wisconsin Occupational Licensing Study

Legislative Report

Submitted by:
Department of Safety and Professional Services

December 2018

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Scott Walker, Governor
Laura Gutiérrez, Secretary

December 28, 2018

The Honorable Scott Walker
Wisconsin Governor
115 East Capitol
PO Box 7863
Madison, WI 53707

Jeff Renk, Senate Chief Clerk
Wisconsin State Legislature
State Capitol, Room B20 Southeast
PO Box 7882
Madison, WI 53707

Patrick E. Fuller, Assembly Chief Clerk
Wisconsin State Legislature
17 West Main Street, Room 401
PO Box 8952
Madison, WI 53708

Dear Governor Walker and Chief Clerks Renk and Fuller:

The Wisconsin Department of Safety and Professional Services (DSPS) is charged with overseeing and regulating over 240 different types of credentials and the examining boards, affiliated boards, and councils that are required by Wisconsin State Statutes.

I have had the pleasure of leading this great agency since February 2017, and I am pleased to provide to Governor Scott Walker and the Wisconsin State Legislature a comprehensive report of our analysis of the occupational licenses regulated in Wisconsin.

DSPS was charged in 2017 Wis. Act 59 to complete a comprehensive review of Wisconsin's credentials and provide recommendations based on a variety of criteria by December 31, 2018.

I would like to thank the staff at the DSPS who have contributed countless hours to researching and extrapolating data related to not only Wisconsin's credentials, but those occupations licensed in other states. I would also like to thank the staff and leadership of those Wisconsin state agencies who contributed to the report research and data related to the occupations they credential.

Thank you,

Laura E. Gutiérrez

Laura E. Gutiérrez
Secretary
Wisconsin Department of Safety and Professional Services

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II. Introduction

A. Requirements of 2017 Wisconsin Act 59

Wisconsin's 2017–19 biennial state budget, 2017 Wisconsin Act 59, required the Department of Safety and Professional Services (DSPS) to study occupational licenses and submit a report of findings to the Governor and Legislature by December 31, 2018.

The Act defines occupational license as:

(a) A license, permit, certification, registration, or other approval granted under section 167.10 (6m) or chapters 101, 145, or 440 to 480 of the statutes. (These statutes relate to building safety, plumbing, fire protection, fireworks, and professional occupations under DSPS, including the occupations regulated by the boards attached to DSPS.); or

(b) A license, permit, certification, registration, or other approval not included under par. (a) if granted to a person by the state in order that the person may engage in a profession, occupation, or trade in Wisconsin, or in order that the person may use one or more titles in association with his or her profession, occupation, or trade.

Pursuant to section 9139 (17w) of 2017 Wisconsin Act 59, the report is to include recommendations for the elimination of occupational licenses based on the following:

1) An evaluation of whether the unregulated practice of the profession, occupation, or trade can clearly harm or endanger the health, safety, or welfare of the public, and whether the potential for the harm is recognizable and not remote or speculative;
2) An evaluation of whether the public reasonably benefits from the occupational license requirement;
3) An evaluation of whether the public can be effectively protected by any means other than requiring an occupational license;
4) An analysis of whether licensure requirements for the regulated profession, occupation, or trade exist in other states;
5) An estimate of the number of individuals or entities that are affected by the occupational license requirement;
6) An estimate of the total financial burden imposed on individuals or entities as a result of the occupational licensure requirement, including education or training costs, examination fees, private credential fees, occupational license fees imposed by the state, and other costs individuals or entities incur in order to obtain the required occupational license;
7) Any statement or analysis provided by the agency or board administering the occupational license; and
8) An evaluation of the tangible or intangible barriers people may face in obtaining an occupational license.

B. About the Report

This report consists of findings and recommendations from a statewide occupational licensure study that was conducted by DSPS. The purpose of the study was to offer recommendations to the legislature based on the requirements of 2017 Wisconsin Act 59. This report includes data and information from DSPS and other state agencies and boards with responsibility for regulating occupational licenses issued by the State of Wisconsin.

Pursuant to 2017 Wisconsin Act 59, DSPS was directed to provide recommendations for the elimination of occupational licenses based on established criteria set forth in the legislation. This report includes recommendations for the elimination and reform of 28 occupational licenses. It is recognized that any change to state law would be accomplished through the legislative process, which would include an opportunity for stakeholders and the public to provide input and comments at public hearings.

Wisconsin issues four different types of credentials, which are: *licenses, certificates, registrations, and permits. A*ll types collectively are commonly referred to as *credentials.* For the purposes of this report, the various types are generically referred to as a *license*, unless otherwise specified.

In addition, inaccuracy and misinterpretation are often found in the use of the terms *license*, *certification*, *registration,* and *permit*. Unfortunately, these terms are sometimes used interchangeably, resulting in confusion. Often what appear to be occupational licenses are actually business licenses. Occupational licenses are issued to individuals giving them the right to practice, whereas business licenses are issued to companies.[7]

This report only focuses on individual occupational licenses that fall under the definition of *occupational license* pursuant to 2017 Wisconsin Act 59. This report does not include entity, facility or business-related licenses, or other non-occupational type permits issued by the state of Wisconsin. While there are several state agencies that issue permits and other types of entity or business type licenses, only the agencies and the occupational licenses they administer are included in this report. Additionally, this report does not include licenses, certifications, permits, or registrations issued by local municipalities, counties, professional or trade organizations, or by the federal government.

The data presented in this report represents best efforts in the collection of data and information. Not all state regulatory agencies provided DSPS with comparative data for all 50 states as requested. Therefore, only the data that was made available is included in this report. Where available, comparable data was searched in all 50 states, including Washington, D.C., which is counted as a state for the purposes of this report. Due to a lack of available data, the report may exclude Washington, D.C. for some occupations.

In order to fill gaps with the lack of available data, data collectors researched information from news articles, trade and professional organizations, state and national research organizations, and other reputable sources. Data collectors found that occupational licensing information was difficult to come by for many states and a searchable database in a single location was an even rarer find. While there are some state and national databases that are comprehensive, there were several

searches that yielded limited or no useful information or resulted in outdated or unreliable data. Additionally, there appeared to be conflicts between many of the national databases relating to state comparative data, either due to the everchanging reforms or the ongoing licensing of new occupations. Therefore, confirming the validity or relying on data from these other out-of-state sources proved to be challenging.

Some states allow public access to a comprehensive occupational licensing directory that includes information such as job descriptions, licensing requirements, appropriate regulatory agency and contact information, wage data, number of active licensees, and authorizing statutes. However, this information was a rarity rather than the norm. In most states, occupational licensing information was contained over different web pages in different locations without links to connect these resources resulting in challenges to find similar occupational titles. Even in cases where the titles were similar in nature, the requirements varied vastly.

Some states defined occupational categories more broadly than others. For example, while one state may require licenses for *contractors* (of all kinds), others may require licenses for several specializations of contractors. Wisconsin issues licenses for seven classes of blasters, which determines which duties may be conducted, while several states issue only one blaster category or may have an "umbrella" licensure type. Therefore, this report may contain limited comparative data for some occupations. In other cases, similar occupation types were combined to form more general occupational licensing categories.

The occupational licensing data contained in this report is quantitative, not qualitative. The criteria used by data collectors was to determine whether or not a state requires a license for a comparable occupation. Although an attempt was made to compare other licensing requirements (fees, initial and continuing educational requirements, reciprocity, etc.) from one state to another, the information was not always available for all licensure types and thus is not included in this report.

Additionally, this report may also reflect an underrepresentation (undercount) of a license's regulation in another state due to the difference in the state's definition of the occupation. This study analyzed licensing requirements at the state level only. There are numerous other requirements at the local and federal levels in most states, which may also attribute to the inconsistencies between various databases and to the number of licensed occupations that may appear to be undercounted.

Lastly, governments across the country are continuously licensing more and new occupations. While it is rare that states abolish licensing requirements, there are several states that are currently undergoing occupational licensing reform. Because of this, state comparative data contained in this report may not reflect the current licensure status in that state.

C. About the Statewide Occupational Licensing Study

To meet the requirements of 2017 Wisconsin Act 59, DSPS conducted a statewide study to determine which occupational licenses are needed to protect the public and explore areas where less restrictive alternatives may be appropriate. To assist with the collection of data, a 30-question survey was disseminated in early 2018 to all 35 state agencies, as shown in Table 1. Each agency was tasked with consulting their legal counsel to determine if their agency regulates licenses that fall under the *occupational license* definition pursuant to 2017 Wisconsin Act 59.

Of the 35 state agencies, responses revealed that 13 agencies regulate at least one license type. Of the 13 regulatory agencies, 11 agencies submitted data requested in the survey. Following an analysis of the submitted data, some license types were eliminated if it was determined that the license or permit was a business or firm and not related to an occupational license held by an individual. Therefore, this report contains an evaluation of the information supplied by 10 state regulatory agencies.

State agencies with regulatory responsibilities were asked to gather information relating to complaints and disciplinary data, educational requirements, fees, and other related costs, how the general public benefits from the regulation of that occupation, identify barriers or burdens associated with each of the regulated occupations, and research existing regulatory requirements in other states.

Lastly, agencies were asked to provide a summarizing statement to attest that the current level of governance was appropriate for each license type, if the license should be eliminated, or if a less restrictive or alternative reform should be considered while still ensuring public safety and consumer protection. Agency recommendations are included in this report.

Table 1: List of Wisconsin agencies surveyed for occupational licensing study.

State Agency	Regulates Occupational Licenses?
Administration, Department of	No
Agriculture, Trade and Consumer Protection, Dept. of	Yes
Children and Families, Department of	Yes
Corrections, Department of	No
Director of State Courts, Office of	Yes*
Educational Communications Board	No
Elections Commission	No
Employee Trust Funds, Department of	No
Ethics Commission	Yes
Financial Institutions, Department of	Yes
Health Services, Department of	Yes
Higher Educational Aids Board	No
Historical Society	No
Insurance, Office of the Commissioner	Yes
Investment Board, State of Wisconsin	No
Judicial Commission	No
Justice, Department of	No
Natural Resources, Department of	Yes
Public Instruction, Department of	Yes*
Public Lands, Board of Commissioners of	No
Public Service Commission	No
Railroads, Office of the Commissioner of	No
Revenue, Department of	Yes
Safety and Professional Services, Department of	Yes
Secretary of State, Office of the	No
State Public Defender	No
Tourism, Department of	No
Transportation, Department of	Yes
University of Wisconsin System	No
Veterans Affairs, Department of	No
Wisconsin Economic Development Corporation	No
Wisconsin Health and Educational Facilities Authority	No
Wis. Housing and Economic Development Authority	No
Wisconsin Technical College System	No
Workforce Development, Department of	Yes
35 Agencies	**13 Regulatory Agencies**

** No information received.*

In late 2018, a second survey was conducted to gather input from credential holders, members of the public, and stakeholders. This survey was posted on the DSPS website and disseminated to individual credential holders, stakeholders, and provided to the regulatory agencies who submitted data. This survey aimed to solicit feedback about the usefulness credential holders'

primary occupational license serves for: 1) getting a job; 2) keeping a job; 3) keeping employees marketable to employers or clients; 4) improving work skills; and 5) increasing wages or salary. Survey questions also asked credential holders to estimate the costs they incurred, hours of instruction required, and hardships or barriers they faced to obtain and retain their *primary* occupational license.

The survey asked credential holders, stakeholders, and non-credential holders (public) to rate the importance occupational licenses serve to protect public citizens from harm or danger. Individuals were also given the opportunity to provide specific instances where occupational licensing regulations may have impacted the cost of consumer goods or services. If individuals currently hold a similar license in another state, they were also asked to compare that state's requirements, costs, and hardships with Wisconsin's. Lastly, individuals were provided with an opportunity to share any additional comments. The survey results are included later in this report.

D. About Occupational Licensing in Wisconsin

Wisconsin's regulation of occupations affects many professions. Wisconsin issues over one million occupational licenses for 280 different credential types. While DSPS issues 75 percent of the occupational licenses in Wisconsin, there are over a dozen other state agencies, along with attached boards, that also have occupational oversight responsibilities, as shown in Figure 1. Affiliated boards may also have regulatory, credentialing, and examining responsibilities. However, for the purposes of this report, the state agency that administers the occupational license is listed as the regulatory agency.

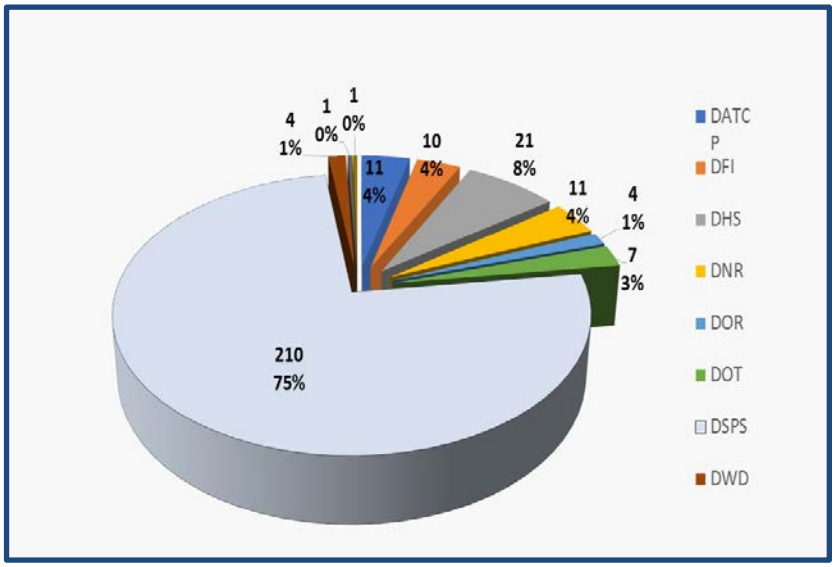


Figure 1: Wisconsin regulated occupational license types issued per state agency.

Occupational licensing in Wisconsin falls into three categories:

1) Occupations regulated by independent examining boards attached to a state agency or by affiliated credentialing boards attached to those boards;
2) Occupations regulated by semi-autonomous boards that share authority with the state agency; and
3) Occupations directly regulated by the state agency.

Wisconsin agencies and attached boards are responsible for ensuring the safe and competent practice of regulated health, social services, business, industry, and trades professionals. In addition to issuing licenses and providing oversight, state regulatory agencies provide administrative, legal, and enforcement services, assist in rulemaking and examinations of the credentialed professions, and

aid the boards in developing regulatory policies that protect the public. The four types of occupational credentials issued include *licenses, certificates, registrations, and permits*. These credentials are generally differentiated by qualification requirements, the use of a professional title, and the range of activities that a credential holder is allowed to perform (i.e. Scope of Practice). While there are additional state agencies that issue other types of permits, or variations of the types listed, for non-occupational or business-related entities, this report only focuses on occupational credentials issued to individuals.

Licenses are considered the most restrictive type of credential. Licenses encompass qualification requirements that typically include an examination, specialized education, and usually specific work experience. Cosmetologists, occupational therapists, and electricians are examples of occupations requiring formal licensure in order to practice in Wisconsin.

Certificates are *s*imilar to licenses. Certificates generally provide special recognition to individuals who have fulfilled certain required criteria for a profession, including successful completion of an examination. Examples of occupations requiring Wisconsin certification in order to practice are acupuncturists, substance abuse counselors, and lead sampling technicians.

Registration is generally the least restrictive form of credentialing. Registration simply requires an individual to file with the appropriate regulatory entity their name, address, and registration fee payment. A registration may also restrict the use of a professional title. Examples of occupations requiring Wisconsin registration are interior designers, art therapists, and pipe layers.

Permits are another form of credential issued by regulatory agencies. Permits can be used as a training credential or as a primary credential. Examples of occupations requiring a permit are private security persons, limited x-ray machine operators, and juvenile martial arts instructors.

While the distinctions among credentials help in understanding the general level of regulation of occupations, it is the statutes and administrative rule that outline specific requirements for each occupation's credential. Because individuals in certain occupations are required to *register*, this does not necessarily mean that the group is statutorily less restricted than another occupation where individuals must be *certified*. Common usage of credential terms may be misleading without reviewing the relevant statutes. For example, a "*certified* public accountant" and a "*registered* nurse" practicing in Wisconsin are both required to obtain a *license*. To determine what each license issuance entails, it is important to consult the statutes and administrative codes.[5]

E. Wisconsin Selected for National Occupational Licensing Consortium

Wisconsin was one of 11 initial states chosen to participate in the National Occupational Licensing Learning Consortium, which is a multi-year program that explores ways to further reduce unnecessary barriers to the labor market. Other states selected include: Arkansas, Colorado, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Nevada, and Utah.

The consortium is supported by the National Conference of State Legislatures (NCSL), the National Governors Association Center for Best Practices (NGA), and the Council of State

Governments (CSG), as well as support from the U.S. Department of Labor (USDOL). These organizations assist participating states in improving their understanding of occupational licensure issues and best practices by providing an opportunity for state teams to engage with experts in the areas of occupational regulation, workforce development and populations with challenges, and developing a road map focused on reducing unnecessary barriers to the labor market.[8]

The 11 participating states (expanded to 15 states in 2018) convened in December 2017 to begin work on their goals and to learn, network, and discuss the practices, costs, opportunities, and challenges related to occupational licensing. The consortium states were required to create a core team of officials to participate in the consortium as well select members for a home team that consisted of a broader group of stakeholders to participate in the in-state learning and planning activities. Each state was required to select specific occupations and target populations to focus on through this work, as well the aspects of licensure regulation that they wanted to address in their action plan.[8]

The selection of these occupations focused on two primary criteria – occupations that are licensed in at least 30 states and occupations that require less than a bachelor's degree, as well as two additional measures—projected employment growth rate for 2014-2024 at national average or higher and total current employment levels of 10,000 or greater. Through this process, the consortium identified 34 occupations, as shown in Table 2.

Table 2: List of occupations selected by the National Consortium.

TARGET OCCUPATIONS	
Barbers	Pharmacy Technicians
Bus Driver (City/Transit)	Physical Therapy Assistants
Bus Drivers, School or Special Client	Pipefitters and Steamfitters
Construction Managers	Plumbers
Construction and Building Inspectors	Preschool Teachers, Except Special Education
Dental Hygienists	Private Detectives and Investigators
Electricians	Radiologic Technologists
Emergency Medical Technicians and Paramedics	Real Estate Appraisers
Hairdressers, Hairstylists and Cosmetologists	Real Estate Sales Agents
Heating, Air Conditioning, and Refrigeration Mechanics and Installers	Respiratory Therapists
Heavy and Tractor-Trailer Truck Drivers	Security and Fire Alarm Systems Installers
Insurance Sales Agents	Security Guards
Licensed Practical and Licensed Vocational Nurses	Skin care Specialists
Manicurists and Pedicurists	Teacher Assistants
Massage Therapists	Veterinary Technologists and Technicians
Nursing Assistants	Vocational Education Teachers, Postsecondary
Occupational Therapy Assistants	Water and Wastewater Treatment Plant and System Operators

States were required to focus on at least four occupations in their proposed project work, a majority of which must be included on this list. However, states were welcome to include one or more other occupations that are particularly relevant to their state's occupational licensing landscape and unique needs.[8]

The vision and goals chosen by Wisconsin's core team were based on the Wisconsin Legislature and Governor Walker's expressed interest in occupational licensure reform through legislation and proposed budgets. These desires for reform are based on national trends and bipartisan federal recommendations to all states to review their current occupational licensing practices.

Like Wisconsin, some of the states selected to participate in the national consortium had a history of making progress on this issue. Proactively, Wisconsin's Legislature and Governor had already been looking to alternative ways to license occupations. Wisconsin's participation in the

national consortium provided the team members with additional opportunities to learn from other progressive states. Inclusion in the consortium, along with this study, also provided an opportunity for Wisconsin stakeholders, such as associations, license holders, other state agencies, and citizens, to provide input and feedback on this issue. The end goal of Wisconsin's participation in the National Occupational Licensure Consortium is to continue to provide meaningful feedback, data, and facts to legislators and ensure that all partners and stakeholders are included in these statewide conversations. Wisconsin's consortium goals are listed in Table 3.

Table 3. Wisconsin's goals and action plan for the National Occupational Licensure Consortium.

GOAL	ACTION PLAN
Goal 1: Examine the state's current occupational licensing landscape	Conduct study of occupational licenses and regulations in Wisconsin and other states, and report findings to state policymakers.
Goal 2: Identify the best opportunities for occupational licensure reform	Determine the specific occupational licenses and regulations that do not align with the team's vision statement and prioritize in the order of most likely to least likely for achieving success in reducing or eliminating that license or regulation.
Goal 3: Develop a communications plan	Incorporate research conducted by policy research institutions, as well as feedback from stakeholders and the public, to grow public awareness and expand the base of understanding for stakeholders and state policymakers.
Goal 4: Improve the state's licensing practices	Provide coordination among state licensing agencies to maximize existing regulatory flexibility and efficiencies, and partner with the state Legislature and stakeholders to advance legislative proposals that promote occupational licensure reform.

III. National Outlook on Occupational Licensing

A. The Rise of Occupational Licensure Laws

In the 1950s, roughly five percent of occupations required a government-issued license. Since then, especially in the past 20 years, states across the nation, including Wisconsin, have witnessed a dramatic growth in occupations that have become regulated.[1] In the last two decades, the number of Wisconsin credential holders has increased by 34 percent, with the total number of professional credential types increasing by over 80 percent. This growth far outpaces Wisconsin's growth in population (10.6 percent) and total employment (7.4 percent).[3]

The national growth of occupational licensing and the barriers it presents to job seekers have attracted mounting bipartisan concern. In recent years, occupational licensing reform has gained momentum. Among policymakers and advocates at both the state and national levels, interest in licensing reform is at an all-time high. Over the past few years, licensing reform has been championed at the state governmental level and by several public policy organizations and state research institutes. While some reforms have aimed at rolling back specific licensing barriers, others have sought to improve licensing practices more generally.[2]

In 2015, the U.S. Treasury Department, the Council of Economic Advisors and the Labor Department under former President Barack Obama issued a report documenting problems with licensing policy and calling for widespread reform. The Bureau of Labor Statistics has been collecting data on licensed workers though its population surveys and in early 2017 the Federal Trade Commission created an Economic Liberty Task Force focused in part on occupational licensing reform.[8]

In July 2017, the U.S. Secretary of Labor under President Donald Trump, highlighted the issue and encouraged state legislators to undertake occupational licensing reform. The Department of Labor's Employment and Training Administration awarded the National Conference of State Legislatures, in partnership with the Council of State Governments and National Governors Association Center for Best Practices, funding on a three-year project to:

1) Ensure that existing and new licensing requirements are not overly broad or burdensome and don't create unnecessary barriers to labor market entry.
2) Improve portability for selected occupational licenses across state lines. The national partners produced research and convened state policymakers and experts in the field of occupational licensing.[9]

Between 2017 and 2018, several states enacted laws to reform either the state's requirements or procedures to obtain an occupational license, with Wisconsin enacting nearly 30 laws related to strengthening employment growth and occupational licensing reform. (See Section V of this report for a full list of recent occupational licensing legislation.)

While most states enacted bills reducing the requirements and regulations of licenses, some reform efforts focus on addressing concerns certain demographics face when acquiring a license.[1] Some states also reformed requirements for those with criminal backgrounds and some reform bills

contained clauses for military personnel, making relevant experience in the military transferable to an occupational licensing requirement and streamlined the occupational licensing requirements for military spouses who obtained a license in another state.[1]

While several states have attempted to enact occupational licensure reform laws, the success rate is still considered low. One study's research discovered only eight instances in the past 40 years of the successful *de-licensing* of an occupation at the state level. In four of these cases, attempts to relicense the occupations followed soon afterward. Most of these de-licensing proposals have not gone through a sunset review process. Instead, the proposals have been made in the context of legislative concern that excessive government regulation (of which occupational licensing is one example) may have inhibited job growth.[7]

Since the 1970s, approximately 36 sunset laws have passed nationally. These laws require the periodic review of certain programs and agencies (such as occupational licensing and licensing boards). The periodic reviews are commonly called performance audits or legislative audits, and they result in a recommendation to either continue or discontinue the licensing of the occupation under review. [7]

B. Alternatives to Occupational Licensing

Advocates for occupational licensing reform have indicated that policymakers have several options for the regulation of occupational licensure. The regulatory options include a range from the option to license or not license, the least restrictive being M*arket Competition* and the most restrictive being *Licensure*. To illustrate the alternatives, the Institute for Justice created an inverted pyramid figure that visually lists these options from least to most restrictive, as shown in Figure 2, with accompanying explanations of each option.[2]

The Inverted Pyramid: A Hierarchy of Alternatives to Licensing[2]

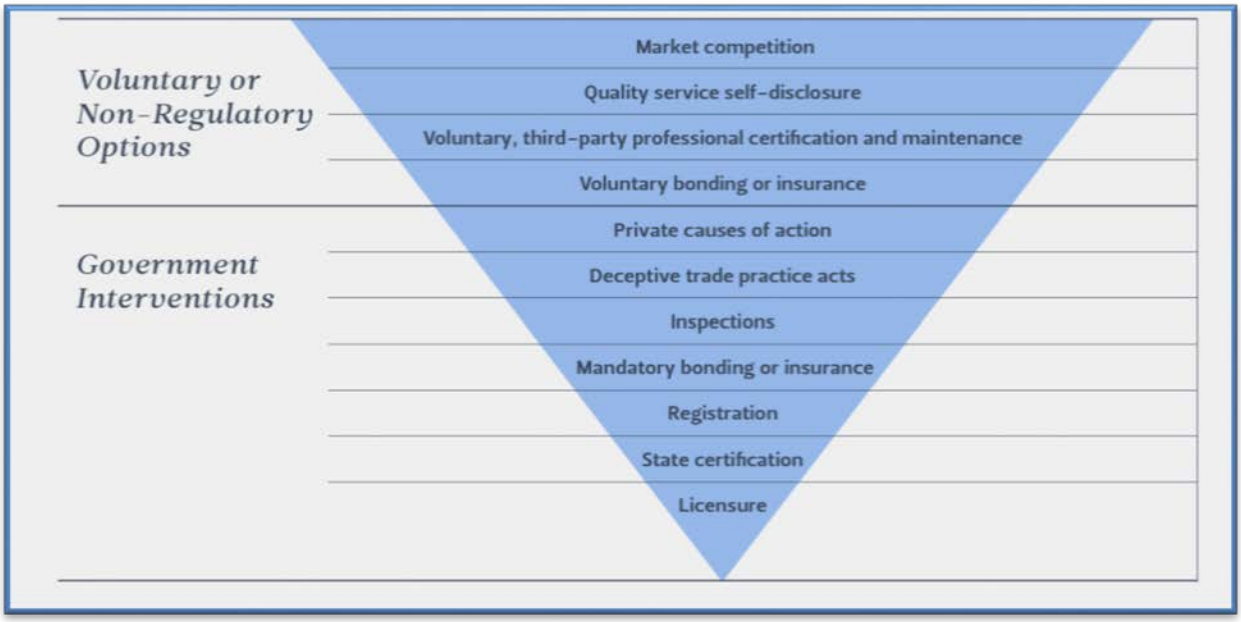


Figure 2: The "Inverted Pyramid" is used to illustrate alternatives to licensing.

In many cases, license alternatives can protect the public as well as or better than licensing without imposing its costs. When undergoing occupational reform, many states have adopted the concept of the inverted pyramid or have created a similar concept. The top four options, which can be considered voluntary or "non-regulatory," are:

1) Market competition. Market competition takes the primary position in the inverted pyramid's hierarchy because open markets with no or limited government intervention provide the widest range of consumer choices, allocate resources more efficiently and give businesses strong incentives to keep their reputations as providers of high-quality services. When service providers are free to compete, consumers weed out providers who fail to deliver safe and quality service. They do this by 1) denying repeat business to such service providers; and 2) telling others about their experience.[2]

2) Quality service self-disclosure. Service providers themselves can help solve the "information problem" through self-disclosure—that is, by proactively sharing information about how previous customers have rated the quality of their goods and services. Occupational practitioners can link to third-party evaluation sites from their websites to provide consumers with an important competitive "signal" that they are open to disclosure regarding their service quality. Practitioners without websites can exercise this option by providing prospective customers with lists of past customers or other references who can provide information about them. And consumers can spur disclosure by demanding such information as a condition of doing business. [2]

3) Voluntary, third-party professional certification and maintenance. Another way a service provider can help address the problem of asymmetrical information is by voluntarily pursuing and maintaining certification from a non-governmental organization. Like licensing, third-party certification sends a signal that an occupational practitioner has attained a certain degree of education or experience. But unlike licensing, it does so without creating any barriers to entry. It therefore provides the purported benefits of licensing while avoiding the pitfalls, including higher costs and fewer services for consumers. Third-party certification is used by many companies to voluntarily make certain certifications a requirement for employment.[2]

4) Voluntary bonding or insurance. Some occupations pose greater risks to consumers than others. Voluntary bonding and insurance allow practitioners of such occupations to outsource management of risks to bonding or insurance companies, which will provide a guarantee of protection against, respectively, a provider's failure to fulfill an obligation (e.g., a moving company's failure to deliver goods by the agreed date) or losses from theft or damage by the provider. This option is already in common use among temporary personnel agencies, janitorial companies, and companies with government contracts. [2]

The next six options are government interventions that, although more restrictive than the non-regulatory options above, are nevertheless less restrictive than licensure: [2]

5) Private causes of action. Private causes of action give consumers the right to bring lawsuits against service providers who have injured them. Where they do not already exist, legislators can create them. The existence of such rights may compel providers to adopt standards of quality to avoid litigation and an accompanying loss of reputation. The cost to consumers of obtaining

a remedy could be reduced by allowing them to sue in small claims court or, if suing in district court, to collect court and attorneys' fees when their claims are successful. [2]

6) Deceptive trade practice acts. All 50 states and the District of Columbia already have deceptive trade practice acts, consumer protection laws that allow attorneys general and consumers to sue service providers engaged in certain practices deemed false, misleading, or deceptive and permit enforcement agencies to prosecute them. Such deceptive trade practice acts are an important and frequently used means of protecting consumers from predatory and unscrupulous business practices. [2]

7) Inspections. Inspections are already common in some settings. For example, many municipalities use inspections to ensure restaurant hygiene, favoring them over onerous licensing of food preparers, wait staff, and dishwashers. In other settings where the state may have a legitimate interest in instrument or facility cleanliness, inspections may be sufficient and preferable to new or existing licensing. Periodic random inspections could also replace the licensing of various trades, such as electricians, carpenters, and other building contractors, where the application of skills is repeated and detectable to the experienced eye of an inspector. Where inspections are already used as a complement to licensing, states may find that inspections alone suffice. [2]

8) Mandatory bonding or insurance. For some occupations, a system of mandatory bonding or insurance can be a better alternative to full licensure. Voluntary bonding or insurance is generally preferable, but states may prefer a mandatory requirement when the risks associated with the services of certain firms extend beyond just the immediate consumer. For example, the state interest in regulating a tree trimmer is in ensuring that the service provider can pay for repairs in the event of damage to power lines or the home or other property of a party—a neighbor, for instance—not involved in the contract between the firm and the consumer. Because tree trimming presents few other threats, states can achieve this objective through bonding or insurance requirements while allowing workers to otherwise practice freely. Similarly, while many states require construction contractors to comply with expensive and burdensome licensing laws, Minnesota requires only bonding for HVAC contractors. If that occupation can be practiced freely and safely with only bonding as a requirement, the same is likely true of other trades both in Minnesota and in other states. [2]

9) Registration. Registration requires service providers to provide the government with their name, address, and a description of their services. Registration can complement private causes of action because it often requires providers to indicate where and how they take service of process in the event they are sued. However, the simple requirement to register with the state may be sufficient in and of itself to deter bad actors. [2]

10) State certification. Like voluntary, third-party certification, state certification overcomes the problem of asymmetrical information by sending a signal to potential customers and employers that an occupational practitioner meets certain standards. However, state certification differs from third-party certification in two major respects. First, the certifying body is the government rather than a private association. And second, state certification restricts the use of an occupational title—though not, as licensing does, the practice of an occupation. Under state certification, anyone can work in an occupation, but only those who meet the state's qualifications can use a designated title, such as certified interior designer or certified financial planner. Third-

party certification is generally preferable because state certification requires new or expanded government bureaucracy, which comes with costs. Further, third-party organizations are likely to be more responsive to industry and consumer trends. Nevertheless, state certification is less restrictive than occupational licensing and presents few costs in terms of increased unemployment and consumer prices.[2]

Finally, at the bottom of the inverted pyramid's hierarchy is licensure, the most restrictive form of occupational regulation. Only where there is proof of demonstrated, substantial harms from an occupation that cannot be mitigated by one of the less restrictive options in the above menu should policymakers consider this regulation of last resort.[2]

C. Economic Impacts of Occupational Licensing

Research has found that licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services. Studies indicate that unnecessary licensing requirements reduce employment in licensed occupations and reduce wages for unlicensed workers relative to their licensed counterparts. These studies show that occupational licensing requirements present significant barriers to entering a licensed occupation and can reduce total employment in that profession.[9]

Occupational licensing often carries a cost in terms of opportunity. Wisconsin has several licenses that few other states regulate. For some occupations, Wisconsin's fees, and training requirements, are markedly different and more burdensome from other states. In terms of reciprocity, Wisconsin does not always accept the credentials of licensed professionals who happen to move from another state. In other words, Wisconsin's licensing requirements impose costs to the workforce—many who are of low and middle income—that do not exist in many other states.[3]

While the intent of occupational regulation is to protect the public from harm, some Wisconsin stakeholders agree this protection comes at a cost and burden to credential holders. One such stakeholder, who is a director of nurses, feels policymakers should remove burdensome regulations for Certified Nurse Aides (CNA). For example, Minnesota requires 70 hours of training. Her recommendation is to allow training requirements for certification to be accepted in Wisconsin if the individual trained in Minnesota. Also, current regulations do not allow CNAs under the age of 18 to operate mobility equipment (lifts and stands) alone. This stakeholder feels individuals old enough to drive a car should be able to move residents with this type of equipment. Additionally, the stakeholder wants Wisconsin to accept the testing at the conclusion of the CNA course instead of the cumbersome requirement to find a testing site to get certified, which require some students to travel up to 100+ miles and wait weeks or months to find a testing site to schedule their test in order to get certified to then be placed on the registry.

D. Protection of Public Health, Safety, and Welfare

The intent of occupational licensure is to safeguard public health and safety and protect consumers by guaranteeing minimum educational requirements and industry oversight, support career development and pathways for licensed workers and enhanced professionalism for licensed workers, and step in when competitive market forces (e.g. litigation or reputation) fail to achieve desired outcomes.[9]

However, many studies have found that unnecessary licensing requirements reduce employment in licensed occupations, reduce geographic mobility, reduce wages for unlicensed workers relative to their licensed counterparts, reduce market competition and innovation, increase the price of goods and services, and disproportionately burden low-income, military veterans and their families, people with criminal history, immigrants with work authorization, and dislocated and unemployed workers.[9]

Researchers have found little evidence that licensure improves the quality of services or protects consumers from harm. In fact, evidence suggests that the most onerous licensure laws may lead to lower-quality services and increased public safety risks.[9] Licensing reduces the supply of service providers while simultaneously increasing the average operating costs for professionals. The result of limited consumer choice and increased prices could be that consumers forego necessary services because prices are too high, or no one is available for hire. This situation can pose a threat to public safety in certain occupations. For example, the inability to legally hire an electrician for repairs may lead to electrocution or fire. Similarly, licensing that limits the supply and increases the cost of veterinarians may prevent animal owners from vaccinating against contagious diseases like rabies.[9]

According to several studies, research revealed little tangible evidence of public benefit. In theory, licensing should improve the consumer experience and protect public health and safety by weeding out incompetent practitioners, especially in fields where consumers might be unable to tell good providers from bad ones on their own. Yet most research has failed to find a connection between licensing and service quality or safety.[2]

When implemented appropriately, licensing can offer important health and safety benefits and consumer protections and provide workers with clear professional development and training guidelines, as well as a career path.[9,10] For decades, policymakers have adopted licensure policies to achieve a variety of goals. The Federal Trade Commission's 1990 report on the costs and benefits of licensure found that well-designed occupational licensing "can protect the public's health and safety by increasing the quality of professionals' services through mandatory entry requirements—such as education—and business practice restrictions—such as advertising restrictions."[9,11] The report found that occupational licensing helps consumers when they cannot easily assess the professional's skills, and when the costs related to poor quality are especially high, as is the case with emergency health care providers. Economist Jason Furman testified to Congress in 2016 that the argument for licensing "is strongest when low-quality practitioners can potentially inflict serious harm, or when it is difficult for consumers to evaluate provider quality beforehand." Furman points out that the threats to consumers from incompetent commercial pilots and physicians justify a government

intervention; whereas, they face less harm and are better able to assess the quality of florists, barbers, or decorators.[9,12]

Today's information-sharing economy and the growth of online consumer review websites help consumers evaluate provider quality and reputation. The enhanced access to information and strong provider incentives to deliver high-quality services bolster claims by experts that alternate regulatory approaches could achieve the same goals as licensing.[9] Harvard and Stanford researchers found that, while licensure is not directly associated with improved quality of goods or services, there is a relationship between licensing and increased consumer confidence that can lead to increased economic activity. Additionally, the study argues that licensure can lead to consumers becoming more informed about the licensed service, which makes it more likely that they will "upgrade to higher quality services." As a result, the researchers find an indirect improvement in the average level of quality provided in a market because of licensing.[9]

While survey responses from state agencies unveiled very few cases in Wisconsin where the public was harmed, many agencies attested that the public does benefit from regulatory oversight and the licenses they regulate are warranted for the protection of public health, safety, and welfare. In some cases, regulatory state agencies acknowledged that certain licensed occupations were of no public benefit and felt that deregulating these would not affect consumers, and therefore, recommended to eliminate them.

E. Evaluation of Barriers to Licensure

A report by the Institute for Justice (IJ) suggests that numerous occupations in various states are licensed unnecessarily. Among the occupations listed were: auctioneer, funeral attendant, and interior designer. Most of these occupations are licensed by only a handful of states, including Wisconsin. Proponents of occupational licensure reform make the argument that if a license were necessary to protect public health and safety, one would expect to see greater consistency in which occupations are licensed across states. For example, only seven states license tree trimmers, but it is highly unlikely that trees in those states—or the tasks required to trim them—are any more complex or dangerous than those in the other 44 that require no license.[2]

On average, the 102 occupations studied by the IJ are licensed by just 27 states. Only 23 of these occupations are licensed by 40 states or more. The vast majority of these occupations are practiced in at least one state without need of permission from the state and without evidence of widespread harm.[2] The IJ report cites that legislators rarely create licenses at the behest of consumers seeking protection from a

Benefits and Costs[8]

The intent of occupational licensure is to:

- Safeguard public health and safety
- Protect consumers by guaranteeing minimum educational requirements and industry oversight
- Support career development and pathways for licensed workers and enhanced professionalism for licensed workers
- Step in when competitive market forces (e.g., litigation or reputation) fail to achieve desired outcomes

However, unnecessary licensing requirements have been found to:

- Reduce employment in licensed occupations
- Reduce geographic mobility
- Reduce wages for unlicensed workers relative to their licensed counterparts
- Reduce market competition and innovation
- Increase the price of goods and services
- Disproportionately burden low-income populations, military veterans and families, people with a criminal history, immigrants with work authorization, and dislocated and unemployed workers.

demonstrated threat to health and safety from an occupation. Instead, they most often create licenses in response to lobbying by those already at work in an occupation and their industry associations.[1]

Several studies have shown that such regulations disproportionately harm the low income and minority populations, who generally have less work experience and fewer employment opportunities than the rest of the population. These studies show that laws that make it more difficult for these populations to obtain certain jobs or start their own businesses only make it that much harder for them to work their way up the economic ladder.[6]

According to a report by the Reason Foundation, the low income populations, who are in most need of economic opportunity and can least afford to jump through regulatory hoops, are harmed by prohibitively costly licensing requirements.[6] Many occupations that would otherwise be attractive options for those looking to improve their economic position and quality of life—including entry-level positions, jobs that require little or no formal education, and businesses that require little start-up capital for entrepreneurs—are needlessly regulated and price the poor out of the market. Thus, they must settle for fewer (and less desirable) jobs and lower wages, and the poorest of the poor are prevented from getting back on their feet.[6]

IV. Occupational Licensing Study and Survey Results

A. How Wisconsin Compares to Other States

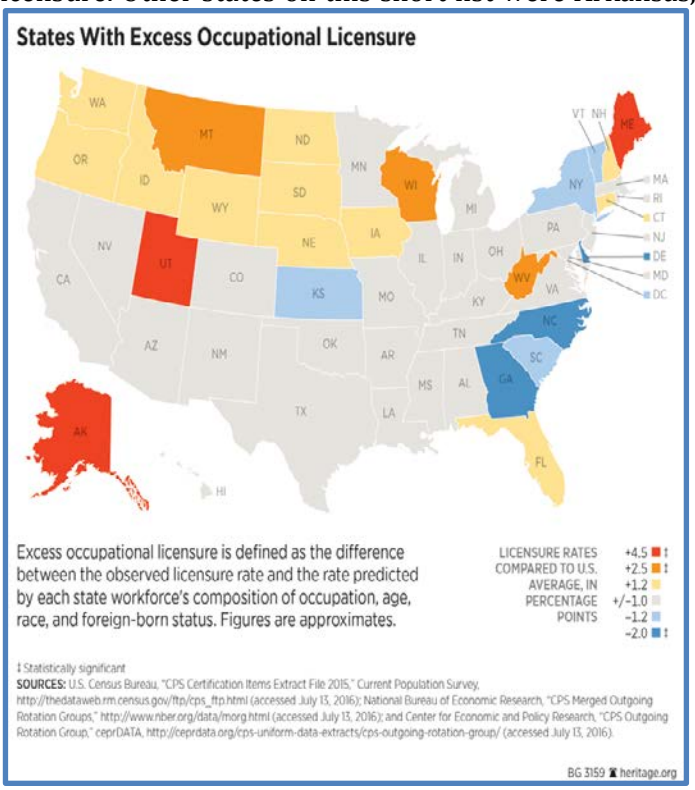
A 2017 study by the Institute for Justice (IJ) found that Wisconsin licenses 42 of the 102 low- and medium-wage occupations selected for the study.[2] The report ranked Wisconsin as the 36th *most broadly and onerously licensed* state in the nation and the 42nd *most burdensome*. According to the IJ report—*Licensed to Work, 2nd Edition*—Wisconsin's licensing laws require, on average, $259 in fees, 214 days of education and experience, and around one exam.[2] A report published by the Reason Foundation in 2007 ranked Wisconsin as the 9th highest state in the nation to license the most job categories, only behind California, Connecticut, Maine, New Hampshire, Arkansas, Michigan, Rhode Island, and New Jersey.[6]

Wisconsin's National Rankings

42	42nd	36th
Number of lower-income occupations licensed	Most burdensome licensing laws	Most broadly and onerously licensed state

Source: Institute for Justice, License to Work 2nd Edition

According to 2016 data from the U.S Census Bureau, Wisconsin is among the states identified as having the most excessive occupational licensure. Other states on this short list were Arkansas, Maine, and Utah—as the top three—with Montana and West Virginia joining Wisconsin to round out the top six. The data also identifies Wisconsin as a state with a high percentage of licensed workforce. According to data from the Wisconsin Department of Workforce Development, nearly 3.1 million people are employed in Wisconsin. Although Wisconsin issues over one million occupational licenses, some credential holders are not required to hold an occupational license by their employer. Rather, they voluntarily choose to hold one or more occupational license for a variety of reasons. Nevertheless, license types have increased nearly 85 percent over the past 20 years. This growth outpaces the national average and outpaces Wisconsin's growth in population.[3]



Wisconsin issues several occupational license types that are unique to Wisconsin or are regulated by only a handful of other states, many of which are being recommended for elimination. Nearly 60 license types that are currently licensed in Wisconsin were found to be regulated in less than 10 other states. For example, interior designers are only regulated in four other states. DSPS regulates seven classes of blasters, whereas few states regulate more than one class. No other state besides Wisconsin regulates Designer of Engineering Systems. Only one other state regulates Dance Therapists and just a few others regulate Art Therapists and Music Therapists.

Additionally, Wisconsin regulates several "sub-specialty" type occupations that were not found to be regulated in other states, if at all. For example, DSPS administers licenses for "assistants", "helpers", and "trainers". These license types are most prevalent in the trades occupations (electrician, plumber, fire sprinkler, and elevator categories), and social services professions (therapists and social workers).

In addition to DSPS, other state regulatory agencies also regulate occupations that fall in the "unique to Wisconsin" category. For example, Department of Agriculture, Trade and Consumer Protection (DATCP) administers three license types that are not regulated by any other state, including cheesemakers. As *America's Dairyland* and the *Cheese Capitol* of the world, one may think it's only logical for Wisconsin to be the only state in the country to require its cheesemakers to be licensed in order to make cheese in a licensed facility for public sale. According to DATCP, to become a licensed cheesemaker, individuals are required to have one of five different experience options, complete 240 hours interning under a licensed cheesemaker, and pass an exam.

Wisconsin is also the only state in the nation to license buttermakers. According to DATCP, to become a licensed buttermaker, individuals are required to pass an exam plus have one of six different experience options, complete 120 hours of internship under a licensed buttermaker plus department-approved courses. With only 43 licensed buttermakers in Wisconsin, proponents of change say this places Wisconsin's butter industry at risk.[14]

Additionally, DATCP administers three other licenses that few states regulate. In all states but Wisconsin, a humane officer is regulated at the county level. A veterinarian-faculty license is only licensed by four other states, and the veterinarian-temporary consulting permit is only regulated by one other state. Both latter licenses are recommended for elimination.

Under the licenses administered by the Department of Workforce Development, no other states regulate a certified private rehabilitation specialist or require a "License to Appear at a Worker's Compensation Hearing Agent/Representative". Only one other state regulates Registered Private Employment Agents. Consequently, all three of these occupations are also being recommended for elimination.

B. State Agency Survey

As mentioned in the introductory section of this report, two surveys were conducted as part of the Wisconsin Occupational Licensing Study, with the first issued to state agencies. This report contains information and recommendations from 10 of the 13 state regulatory agencies.

In addition to a request to supply certain data related to each of the licenses they administer, each agency was asked to provide a summary statement to attest if the license should be retained and is appropriate to protect consumer health, safety, and welfare. Most agencies felt the licenses they currently administer were appropriate to protect consumers and that the public benefits from the regulation of the occupation.

The Department of Agriculture, Trade and Consumer Protection (DATCP) relayed that while there was no quantitative data available for buttermakers or cheesemakers, it is logical to assume that the common baseline requirements for buttermakers and cheesemaker increase knowledge of the proper procedures for making consistent, high-quality, safe butter and cheese. Over a five-year period, DATCP received no complaints against either occupation. DATCP indicated some industry advocates want the agency to retain the regulation of these occupations.

The Department of Financial Institutions (DFI) feels the regulation of their occupational licenses helps to protect the public from misappropriation, excessive fees, theft, and fraud, enables the delivery of clear and informative information, and ensures the consumer receives the services for which they paid. Like DFI, many of the occupations licensed by state regulatory agencies must also abide by federal regulations.

In the case of certified nurse aides, the Department of Health Services (DHS) stated that federal legislation (Omnibus Budget Reconciliation Act of 1987) and associated regulations (42 CFR 483.152) require that Medicare and Medicaid-certified nursing homes employ nurse aides who are trained and evaluated through training programs approved by their state. Federal regulations require that these training programs consist of at least 75 hours of training, including at least 16 hours of supervised practical or clinical training. Federal regulations also list the subject areas and skills to be taught, outline the qualifications for approved trainers, define the competency evaluation process, and require that each state establish and maintain a registry of nurse aides. Wisconsin statutes and administrative rules establish training, testing, and registry requirements. Supported by several Wisconsin organizations and associations, the minimum 75-hour nurse aide training course was increased in Wisconsin to 120 hours, including 32 hours of hands-on clinical training.

Referring to the emergency medical practitioner licenses, DHS stated that licensing and regulation helps to ensure the public can continue to trust that their emergency medical service practitioners are competent and trustworthy professionals.

This was the common theme from stakeholders and advocacy groups for the medical and health related occupations. A letter and report received by the Wisconsin Society for Respiratory Care states that their related occupational licenses benefit the health and safety of Wisconsin patients and that licensure ensures services, including life-sustaining procedures, provided to patients are performed by practitioners who meet high standards of accredited education and competency.

The Department of Natural Resources (DNR) feels the licensing and regulation of their occupations are necessary to assure these individuals and businesses have the training, resources, and experience required to properly provide services as defined by state regulations. For example, water testing by itself cannot serve as a substitute for proper well grouting and construction that are performed by well drillers and pump installers. The presence of contaminants in water can lead to health issues and cause contamination of the groundwater resource and without certification and licensing, there are risks to public health and the environment.

The Department of Revenue (DOR) feels the regulation of assessors is a minimal cost to the assessor and a great benefit to the public. The certification provides a mechanism for DOR to enforce Wisconsin's uniform taxation clause and require assessors to implement laws and standards.

The Department of Transportation (DOT) feels that current licenses issued by their department provide safeguards to industry partners and the public. The regulations and requirements associated with each license ensure a certain level of truthful and ethical business practices are present during all facets of a transaction. They feel the deregulation of those occupations would result in significant misrepresentation and fraud resulting in the victimization of public citizens.

The Wisconsin Ethics Commission, which regulates lobbyists, feel public disclosure of the identity, expenditures, and activities of persons who hire others or are hired to engage in efforts to influence the actions for the legislative and executive branches is integral to the continued functioning of an open government and the preservation of the integrity in the governmental decision-making process.

The Office of the Commissioner of Insurance (OCI), who regulates insurance producers, feel the licensure requirements and regulatory oversight for insurance producers working the state of Wisconsin are warranted. OCI states they actively monitor the insurance marketplace and investigate any complaints, protect the public, and ensures that the insurance needs of Wisconsin citizens are met responsibly and adequately. OCI feels this system of regulatory oversight ensures that insurance producers have adequate training, operate using sound business practices and comply with state insurance laws and regulations.

C. Credential Holder and Stakeholder Survey

The second survey conducted as part of the Wisconsin Occupational Licensing Study was designed and intended to be taken by credential holders, non-credential holders, and stakeholders. The survey was emailed by DSPS to its credential holders and attached regulatory boards and posted on the department's website. The survey was also provided to the other state regulatory agencies for dissemination to their credential holders.

The survey was taken by a total of 65,319 respondents. The first question asked respondents if they currently have an active occupational or professional license or credential that is issued by the state of Wisconsin. For the purposes of the survey, a definition of "*license*" was provided to respondents and defined as follows:

> *"License" means a state of Wisconsin-issued occupational license, credential, certification, or registration. "License" does not include permits, facility or establishment licenses, business licenses (such as a liquor license or vending license), or licenses required by a local or municipal ordinance.*

Of the total respondents, 92.71 percent self-identified as holding an active Wisconsin-issued occupational license; 0.35 percent said their license application is pending, 1.35 percent said their license was inactive or expired, and 3,647 individuals (5.58 percent), said they did not hold a Wisconsin-issued license.

The second question asked respondents to specify the type of active license that they held. If they held multiple licenses, they were asked to select the category type that best describes the license

they use for their primary occupation. For the purposes of this survey, *"main job or occupation"* was defined to mean their current and main occupation or job, job from which they are on layoff, or job at which they last worked if between jobs.

Because respondents could choose which category best described their license type, some respondents may have selected different categories for the same license type. Therefore, although minimal, some occupations may be spread over more than one of the categories.

The survey results for each question are provided below.

Q. Specify the type of active license that you hold. If you hold multiple licenses, select the category type that best describes the license you use for your *primary/main* occupation.

Category	No. of Respondents	%
Animal or Agriculture related	1,170	1.90
Banking and Financial related (includes investments, insurance, lenders, collectors, tax assessor, charitable fundraising)	7,087	11.49
Business related	8,220	13.33
Chemical, Environmental, or Utilities Dealer, Supplier, or Applicator (includes fuel, gas, oil, water, power, pesticides, asbestos, hazardous materials, or waste products)	676	1.10
Educator or School related (includes instructor, teacher, administrator, or service provider of elementary, secondary, postsecondary education)	1,560	2.53
Food or Restaurant related	179	0.29
Health or Medical related	29,327	47.55
Legal, Security, or Enforcement related (i.e. attorney, investigator, inspector, tester, certifier, private detective, notary, etc.)	969	1.57
Product or Vehicle Manufacturer, Broker, or Dealer	179	0.29
Sales related	1,716	2.78
Social Services (includes child and adult care services)	3,004	4.87
Sports related	44	0.07
Trades related	6,451	10.46
Other (please specify)	88	0.13
Total Respondents	**61,672**	**94.41**

Q. How useful is your license for each of the following?

a. Getting a job?

Category	No. of Respondents	%
Extremely useful	47,257	79.05%
Very useful	6,095	10.20%
Somewhat useful	3,776	6.32%
Not so useful	1,014	1.70%
Not at all useful	1,637	2.74%
Total Respondents	59,779	

b. Keeping a job?

Category	No. of Respondents	%
Extremely useful	47,638	79.69%
Very useful	6,060	10.14%
Somewhat useful	3,536	5.92%
Not so useful	1,081	1.81%
Not at all useful	1,464	2.45%
Total Respondents	59,779	

c. Keeping you marketable to employers or clients?

Category	No. of Respondents	%
Extremely useful	47,857	80.06%
Very useful	6,389	10.69%
Somewhat useful	3,410	5.70%
Not so useful	925	1.55%
Not at all useful	1,198	2.00%
Total Respondents	59,779	

d. Improving your work skills?

Category	No. of Respondents	%
Extremely useful	30,526	51.06%
Very useful	9,872	16.51%
Somewhat useful	9,794	16.38%
Not so useful	4,802	8.03%
Not at all useful	4,785	8.00%
Total Respondents	59,779	

e. Increasing your wages/salary?

Category	No. of Respondents	%
Extremely useful	33,350	55.79%
Very useful	8,361	13.99%
Somewhat useful	8,682	14.52%
Not so useful	4,575	7.65%
Not at all useful	4,811	8.05%
Total Respondents	59,779	

Q. Which of the following was <u>required</u> to obtain your license associated with your <u>primary</u> occupation? (Check all that apply)

Category	No. of Respondents	%
High school diploma or equivalent	26,409	44.55
Passing a test	4,4709	75.43
Demonstrating certain skills	23,518	39.68
Completing an internship or apprenticeship	16,242	27.40
Previous job-related experience	9,002	15.19
Technical certification (Less than 2 years)	6,709	11.32
Some college, no degree	2,634	4.44
Associate degree	14,348	24.21
Bachelor's degree*	7,669	12.94
Master's degree	7,641	12.89
Doctoral or professional degree	8,352	14.09
None of the above	977	1.65
Other (please specify)	3,111	5.25
Total Respondents	59,274	

*This option was inadvertently omitted in the survey. The results represent responses from respondents who added this option under the "other" category.

Q. About how many hours of instruction did you complete to obtain your license associated with your <u>primary</u> occupation?

Category	No. of Respondents	%
Less than 40	5,498	9.34
40 to 159	6,948	11.80
160 to 479	2,574	4.37
480 hours (half a full-time school year) to 959 hours	2,973	5.05
960 hours (1 full-time school year) or more	40,876	69.44
Total Respondents	58,869	

Q. Select the category that best describes the initial costs you incurred to *obtain* your license associated with your primary occupation.

(Include costs for initial education/tuition, registration fees, initial licensing fees, exam fees, **required** association fees, or other **required** costs you incurred to obtain your license.)

Category	No. of Respondents	%
Zero to $200	5,755	9.85
$201 to $500	6,882	11.78
$501 to $1,000	3,349	5.73
$1,001 to $5,000	5,880	10.06
$5,001 to $10,000	6,053	10.36
$10,001 to $50,000	17,094	29.25
$50,001 to $100,000	8,066	13.80
Greater than $100,000	5,356	9.17
Total Respondents	58,435	

Q. Select the category that best describes the ongoing costs you incur to *retain* your license associated with your primary occupation.

(Include costs for continuing education, registration fees, renewal licensing fees, exam fees, **required** association fees, or other **required** costs you incur in order to keep your license.)

Category	No. of Respondents	%
Zero to $200	20,423	35.08
$201 to $500	17,349	29.80
$501 to $1,000	9,164	15.74
$1,001 to $5,000	8,859	15.22
$5,001 to $10,000	1,511	2.60
$10,001 to $50,000	657	1.13
$50,001 to $100,000	149	0.26
Greater than $100,000	103	0.18
Total Respondents	58,215	

Q. Rate the level of hardship or barriers you faced to *obtain* your initial license.

Category	No. of Respondents	%
None at all	15,268	26.26
A small amount	18,353	31.56
A moderate amount	17,699	30.44
A large amount	6,595	11.34
A great amount that resulted in my inability to get a license.	231	0.40
Total Respondents	58,146	

Q. Rate the level of hardship or barriers you faced to *retain* your initial license.

Category	No. of Respondents	%
None at all	22,921	39.46
A small amount	25,409	43.75
A moderate amount	8,226	14.16
A large amount	1,365	2.35
A great amount that resulted in my inability to get a license.	163	0.28
Total Respondents	58,146	

Q. Rate the importance that your license serves in protecting public citizens from harm or danger.

Category	No. of Respondents	%
Extremely important. It's a matter of life or death.	21,189	36.59
Very important. The public would be at risk for significant harm or danger if a license wasn't required for this occupation.	23,730	40.97
Somewhat important. It's possible the public could be exposed to some risk if a license wasn't required for this occupation.	8,707	15.03
Not so important. It's unlikely the public would be exposed to harm or danger if a license wasn't required for this occupation.	2,478	4.28
Not at all important. There is no risk of harm or danger to the public if a license wasn't required for this occupation.	1,810	3.13
Total Respondents	57,914	

Q. Do you hold a similar occupational license in another state(s)?

Category	No. of Respondents	%
Yes	14,113	24.38
No	43,766	75.62
Total Respondents	57,879	

Q. Select the category that best describes the *initial* requirements to *obtain* your out of state license compared to Wisconsin's initial licensing requirements.

(Compare educational and other requirements, fees, and other costs.)

Category	No. of Respondents	%
Way more than Wisconsin	953	6.76
Somewhat more than Wisconsin	2,112	14.97
About the same as Wisconsin	9,567	67.83
Somewhat less than Wisconsin	930	5.59
Way less than Wisconsin	541	3.84
Total Respondents	14,104	

Q. Select the category that best describes the *ongoing* requirements to *retain* your out of state license compared to Wisconsin's initial licensing requirements.

(Compare educational and other requirements, fees, and other costs.)

Category	No. of Respondents	%
Way more than Wisconsin	823	5.87
Somewhat more than Wisconsin	2,170	15.48
About the same as Wisconsin	9,866	70.37
Somewhat less than Wisconsin	737	5.26
Way less than Wisconsin	425	3.03
Total Respondents	14,021	

Q. Rate the level of hardship or barriers you faced to *obtain* your initial out of state license.

Category	No. of Respondents	%
The state has way more hardships and barriers than Wisconsin.	630	4.52
The state has somewhat more hardships and barriers than Wisconsin.	2,078	14.92
The state has about the same as Wisconsin.	9,880	70.92
The state has somewhat less hardships and barriers than Wisconsin.	934	5.99
The state has way less hardships and barriers than Wisconsin.	509	3.65
Total Respondents	13,931	

Q. Rate the level of hardship or barriers you faced to *retain* your out of state license.

Category	No. of Respondents	%
The state has way more hardships and barriers than Wisconsin.	351	2.53
The state has somewhat more hardships and barriers than Wisconsin.	1,854	13.37
The state has about the same as Wisconsin.	10,582	76.30
The state has somewhat less hardships and barriers than Wisconsin.	624	4.50
The state has way less hardships and barriers than Wisconsin.	458	3.30
Total Respondents	13,869	

Q. Are you aware of any instances where occupational licensing regulations have impacted the cost or availability of consumer goods or services?

(i.e. increased costs for goods or services, decreased availability of practitioners)

Category	No. of Respondents	%
Yes	656	19.30
No	2,743	80.70
Total Respondents	3,399	

Q. How important is it to regulate Wisconsin's occupations in order to protect public citizens from harm or danger?

Category	No. of Respondents	%
Extremely important. It’s a matter of life or death.	1,917	62.36
Very important. The public would be at risk for significant harm or danger if a license wasn't required for this occupation.	853	27.75
Somewhat important. It's possible the public could be exposed to some risk if a license wasn't required for this occupation.	174	5.66
Not so important. It’s unlikely the public would be exposed to harm or danger if a license wasn't required for this occupation.	85	2.77
Not at all important. There is no risk of harm or danger to the public if a license wasn't required for this occupation.	45	1.46
Total Respondents	3,074	

Q. Indicate what types of licenses should be regulated in order to protect public citizens from harm or danger. (Check all that apply.)

Category	No. of Respondents	%
Animal or Agriculture related	2,328	78.52
Banking and Financial related (includes investments, insurance, lenders, collectors, tax assessor, charitable fundraising)	2,328	88.63
Business related	1,803	60.81
Chemical, Environmental, or Utilities Dealer, Supplier, or Applicator (includes fuel, gas, oil, water, power, pesticides, asbestos, hazardous materials, or waste products)	2,778	93.69
Educator or School related (includes instructor, teacher, administrator, or service provider of elementary, secondary, postsecondary education)	2,670	90.05
Food or Restaurant related	2,425	81.79
Health or Medical related	2,865	96.63
Legal, Security, or Enforcement related (i.e. attorney, investigator, inspector, tester, certifier, private detective, notary, etc.)	2,694	90.86
Product or Vehicle Manufacturer, Broker, or Dealer	2,250	75.89
Sales related	1,344	45.33
Social Services (includes child and adult care services)	1,283	43.27
Sports related	2,657	89.61
Trades related	2,154	72.65
No occupations should be regulated	70	2.36
Other (please specify)	213	7.18
Total Respondents	2,965	

D. The Cost and Burdens of Occupational Licensure

Many studies have found it difficult to obtain data on the total financial burden for every individual occupational license since the largest financial burden for a licensee is the cost of initial tuition or education, which varies vastly depending on the profession (i.e. cost of a doctorate degree vs. a certification course). However, many studies have collected this data for groups or types of occupations.

Information collected by the Institute for Justice (IJ) on 102 low- and medium-wage occupations provides a sense of the range of licensing burden across occupations and across states, in terms of education and experience prerequisites, licensure fees, examinations, and minimum age requirements. States range from Pennsylvania, where it takes an estimated average of 113 days (about four months) to fulfill the educational and experience requirements for the average licensed occupation examined, to Hawaii, where it takes 724 days (about two years).[10] The IJ report reveals that Wisconsin's licensing laws require, on average, $259 in fees and 214 days of education and experience.[2]

While several studies have identified common themes when it comes to the many burdens that workers face while pursuing a state license, this report contains barriers that may be specific to Wisconsin occupations. In their survey responses, state regulatory agencies provided examples of barriers and hardships that individuals may face to achieve and maintain the licensure. It should be noted that the agencies included licensing requirements that either they thought were a barrier or that could be considered a barrier from a license holder's perspective.

Some barriers identified by state regulatory agencies include the following:

1. Cost of initial and continuing education to obtain and retain the license.
2. Cost of initial license and renewal fees, including payments for annul registrations, certifications, or applications.
    - Pesticide Commercial Applicators are required to apply and pay a fee annually.
3. Cost of national and state examinations.
4. Cost of ongoing competency testing based on the requirement.
    - Licensed Pesticide Applicators are required to pass a competency test every five years.
5. Lack of availability and/or access for educational programs, courses, and national and state exams, in terms of number of times offered and locations.
    - A national exam for veterinarians is only offered twice per year.
    - No Wisconsin training center currently offers the training as an initial course for (EMT) Intermediates because this level of emergency medical practitioner is no longer included in the National EMS Educational Standard.
    - For lead inspectors, only the initial training is available in Wisconsin (due to very limited demand). Applicants seeking to renew must take an eight-hour refresher training outside of Wisconsin or take the 16-hour initial training over again in lieu of the refresher. The required x-ray fluorescence device training is only offered intermittently by manufacturers of the devices.
    - Lack of instructors and trainers required for certain courses.

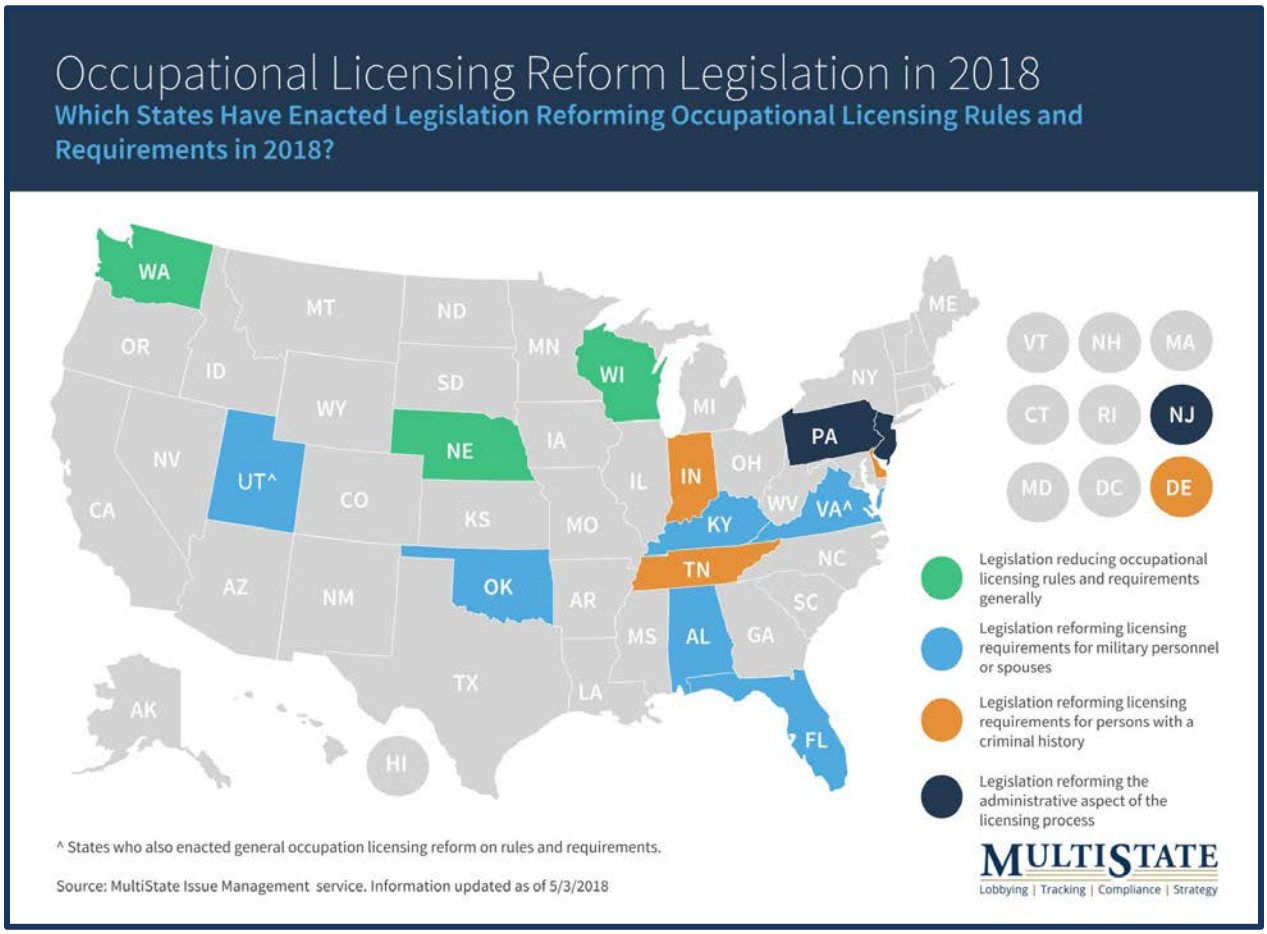
6. Time commitment and costs associated with traveling long distances to obtain required education and testing.
    - There is only one accredited veterinary medical education program in Wisconsin, and only 30 in the United States.
    - Many individuals from rural areas must travel several miles to take a course or exam.
7. Lack of nationwide universal computer application and renewal filing system (applies to some DFI occupations).
8. Requirement to obtain surety bond.
9. Requirement to submit to fingerprinting.
10. Hearing requirements related to "character and fitness" of the applicant (applies to some DOT and DWD occupations).
11. Requirements related to financial responsibility.
12. Requirements for clean driving or criminal history.
    - Applicants for mortgage brokers cannot have been convicted of or pled guilty or no contest to a felony in a seven-year period before date of application.
13. Delinquency checks for taxes, unemployment insurance contributions, and child/family support payments.
14. Lack of available clinical sites for health professions to obtain the required patient contacts while in training.
15. Excessive requirements for initial education for certain occupations.
16. Language barriers for individuals where English is not their primary language.
    - DHS relayed that a large number of people who hold lead or asbestos abatement type licenses, English is their second language, which causes barriers. They struggle to find a training course in their first language that allows them to understand the material in class. If they cannot understand the material taught to them in class, they then have difficulty understanding the exam language which makes it difficult for them to pass the exam in order to obtain a license. When they pass the exam, they sometimes have difficulty communicating with regulators in order to obtain their license. While classes, exams, and applications are offered in Spanish, DHS feels there is room for improvement in this area.
17. Lack of reading skills necessary to read and pass an exam.
18. Reciprocity barriers.
    - While nurse aides who successfully train and test in other states are able to transfer to Wisconsin if they have completed equivalent training, those with less training must provide verification of employment to satisfy requirements or complete a 45-hour bridge program.
19. Minimum age requirements
    - Heat exchange and water well drillers must be at least 20 years old, while water well drilling rig operators and heat exchange drilling rig operators can be at least 18.
    - Certified nursing aides must be at least 18 years old in order to operate certain types of patient mobility equipment

V. Occupational Licensing Reforms

A. Recent Reforms in Wisconsin

Although increased national attention has been focused on occupational licensing reform over the past few years, the concept of "de-licensing" is not new to Wisconsin. In 1937, Wisconsin passed a law requiring that watchmakers be licensed. A five-member Board of Examiners administered the statute, administered examinations, and issued "certificates of registration." In 1979, the Board was abolished, thereby ending the licensing requirement.

Since 2012, Wisconsin has offered fee waivers to veterans and members of military families seeking to become licensed after moving from a state where they already held a license. In the last two years, Governor Scott Walker has signed into law nearly 30 bills that have contributed to job growth and occupational licensing reform that have eliminated barriers for many populations, entrepreneurs, trades workers, and other professionals.



2016 Wisconsin Act 258 eliminated the need for registration of timeshare salespersons. Existing law required a broker or salesperson to obtain a license for the act of selling real property in Wisconsin, but timeshare and membership campground salespersons were required to register with the Real Estate Examining Board instead.

2017 Wisconsin Act 20 increased access to preventative care for underserved populations by increasing the settings in which dental hygienists are authorized to practice dental hygiene in certain settings, without the authorization and presence of a licensed dentist.

2017 Wisconsin Act 59 required the Department of Safety and Professional Services to study occupational licenses and to submit a report of its findings to the Governor and Legislature by no later than December 31, 2018. This law also sunsetted the Wisconsin Rental Weatherization Program, thereby eliminating the licensure of rental weatherization inspectors.

2017 Wisconsin Acts 81 and 82 eliminated costly barriers for barbers, cosmetologists, and related professions. The reforms removed key professional licensing requirements that prohibited entry into these professions by removing separate licensing manager requirements and now allow barbers and cosmetologists to provide instruction without obtaining an additional license. The reforms also eliminated continuing education requirements for barbers, cosmetologists, aestheticians, electrologist, and manicurists and allow these professionals to provide services outside of salons and accept professional experience from licensees from other states.

2017 Wisconsin Act 88 authorized Wisconsin to participate in national data-sharing programs that will help protect the public interest and contribute to the increased transparency and mobility of the state's licensed Certified Public Accountants.

2017 Wisconsin Act 110 made various changes to laws governing real estate practice that will allow for the cooperation between Wisconsin real estate firms and out-of-state brokers representing buyers and tenants in commercial transactions – helping expand economic opportunities for Wisconsin-based companies.

2017 Wisconsin Act 113 brought Wisconsin into compliance with federal law, which requires states to regulate appraisal management companies, and will help Wisconsin avoid a likely major disturbance in the financing of most residential real estate transactions.

2017 Wisconsin Act 121 required the Department of Agriculture, Trade, and Consumer Protection to establish and implement a program for veterans, and their immediate family members if the veteran died during service, is missing in action, or died as a result of a service-connected disability (qualifying family members), to integrate them into the field of agriculture and support those currently working in agriculture. The program requires assisting eligible participants in rural and urban communities; providing employment, mentorship, and outreach opportunities; facilitating education opportunities; and providing advice, technical assistance, and training.

2017 Wisconsin Act 123 eliminated the signature requirement of a national guard member claiming payments under the Department of Military Affairs (DMA) Tuition Grant Program and the representative of the school certifying that the guard member has satisfactorily completed the course and achieved the minimum grade point average. Instead, the Act requires the DMA to rely on the qualifying school's certification to determine a guard member's eligibility for the grant.

2017 Wisconsin Act 135 ratified and entered Wisconsin into the Enhanced Nurse Licensure Compact (eNLC), replacing the original Nurse Licensure Compact (NLC), which will allow Wisconsin to maintain continued participation in the nurse licensure compact and ensure unnecessary additional licensure barriers do not exist for our state's nursing workforce.

Under 2017 Wisconsin Act 148, no apprenticeship program can require a ratio of more than one journey worker for each apprentice in an apprenticeship. The Act also removed the specific length of apprenticeship programs in prior law for plumbers and carpenters.

2017 Wisconsin Act 153 requires the Department of Workforce Development (DWD) to permit minors at least 15 years of age to be employed as lifeguards. DWD rule previously prohibited minors 14 and 15 years of age from being employed as lifeguards.

2017 Wisconsin Act 168 allows a child of any age to be employed under the direct supervision of the child's parent or guardian in connection with the parent's or guardian's business, trade, or profession, without a work permit.

2017 Wisconsin Acts 180, 227, and 293 helped address growing patient care needs by allowing certain health professionals to delegate various types of services.

2017 Wisconsin Act 195 created the Hire Heroes program, under which employers can be reimbursed for the wages of a veteran for employers providing transitional jobs to veterans of the U.S. Armed Forces who have been unemployed for at least four weeks.

2017 Wisconsin Act 206 revised provisions relating to lifetime teaching licenses and created a pilot grant program to support college courses taught in high schools.

2017 Wisconsin Act 262 requires the Department of Safety and Professional Services to grant a certification as a substance abuse counselor, clinical supervisor, or prevention specialist to an individual who holds a similar unexpired certification granted by another state that has requirements for certification that are not lower than this state's certification requirements.

2017 Wisconsin Act 278 streamlined the licensing process for those with criminal records by allowing them to receive an individualized review of their criminal history before submitting a full licensure application, which will reduce reoffending rates in Wisconsin and help solve a growing worker shortage.

2017 Wisconsin Act 288 removed an arbitrary barrier for individuals seeking to become a licensed chiropractor in Wisconsin by bringing Wisconsin's passing exam scores required for chiropractic licensure in line with 47 other states.

2017 Wisconsin Act 319 helped remove a burdensome barrier for veterans and economically disadvantaged populations seeking to obtain the necessary license to enter Wisconsin's workplace by reducing the standard fee required for an initial license.

2017 Wisconsin Act 323 developed a coaching program for the hiring of individuals with disabilities that directly engages private and nonprofit businesses.

2017 Wisconsin Act 329 eliminated a provision that imposed a $50 forfeiture on a credential holder or applicant who failed to report a change of name or address within 30 days of the change.

2017 Wisconsin 329 also generally prohibited local governments from regulating tattoo and body piercing, unless authority is delegated by the Department of Safety and Professional Services.

2017 Wisconsin Act 330 eliminates exam eligibility requirements for individuals applying for a credential from the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board. Prior law required individuals to satisfy certain prerequisite degree requirements to become eligible to take the applicable licensure exam.

2017 Wisconsin Act 331 allowed for greater uniformity and consistency across DSPS-regulated occupations and professions that will provide greater convenience for DSPS customers.

2017 Wisconsin Act 336 created an incentive grant program for school districts that provide training for certain public safety occupations and provides completion awards for students who complete those programs. Currently, these grants are available for programs that are designed to mitigate workforce shortages in an industry or occupation that the Department of Workforce Development identifies as facing workforce shortages or shortages of adequately trained entry-level workers. Under the Act, these grants to school districts will also be available for public safety occupations training programs. Eligible programs are industry-recognized certification programs that are designed to prepare individuals for occupations as fire fighters, emergency medical responders, or emergency medical services practitioners.

2017 Wisconsin Act 341 creates an exception to the prohibition for practice at certain sporting events or facilities, by an individual who is licensed in good standing to practice medicine and surgery in another state. The Act authorizes the Medical Examining Board (MEB) to enter into agreements with medical or osteopathic licensing boards of other states to implement the new licensure exception.

2017 Wisconsin Act 350 expanded the licensure or certificate renewal for certain emergency medical services personnel and ambulance service providers from every two years to every three years.

B. Recommendations for Reform of Current Regulated Occupations

For occupational licenses outside the jurisdiction of DSPS, the recommendations for reform contained in this report are based on the statements, data, and information received by the state regulatory agency who administers the license. For licenses under the jurisdiction of DSPS, the Department took several factors into consideration for the occupational licenses being recommended for reform, including the criteria listed below:

1) Is the regulation of this occupation necessary to safeguard public health and safety and protect consumers?
2) Does the public substantially benefit from this occupation being regulated?
3) Is it reasonable to assume public citizens would be subjected to harm or danger if this occupation was unregulated or regulated by a less restrictive means?
4) Is the regulation of this occupation overly broad or onerous?
5) How many other states regulate this occupation?
6) Is this occupation among the nationally identified occupations that are needlessly regulated?
7) Are there too few individuals who possess this licensure type to financially justify the existence of the license and/or licensing board?

8) Is there is a history of minimal complaint or enforcement activity that may suggest there is no justification for strict regulation?
9) Could the Department accept credentials from other organizations that meet the equivalency standards?
10) Are there more effective, less restrictive, or alternative methods for regulating this occupation (as illustrated by the *Inverted Pyramid in Figure 2)?*

After thoughtful consideration of these factors and input from stakeholders and members of the public, DSPS recommends the elimination of 15 occupational licenses under its jurisdiction. In addition, six of the other regulatory agencies are recommending the elimination of 13 occupational licenses that fall under their respective jurisdictions. (A complete list may be found in Appendix C of this report.)

C. Considerations for Future Occupational Licensing Reform

This report includes several recommendations for occupational licensing reform. The supplemental information and state comparison data contained in this report should provide policymakers with ample data to make informed decisions for possible additional future reforms. Legislators may also consider conducting more in-depth studies on certain occupations where reform may be warranted.

To continue the consortiums goal of reforming Wisconsin's occupational licensing regulations, it is recommended policymakers collaborate with other states, especially our border states, in order to improve portability across state lines and to refine regulatory practices that create barriers to work. Future research should include more in-depth analysis of fees, continuing education, work experience requirements to minimize complexity and procedural burdens; continued review of the impact of criminal history and substantial relation to the scope of practice; and perform ongoing assessments to ensure that licensing requirements closely align with the protection of public health and safety without being overly broad or burdensome.

Many states are also studying employment and occupational trends and taking these trends into consideration when making occupational licensing reform decisions. The Department of Workforce Development has many experts, useful tools, and resources that can be tapped for input and data relating to employment trend predictions at both the state and national levels. The data helps in predicting which Wisconsin-regulated occupations will most likely experience the largest growth in employment over the next 10 years (2016-2026) and which ones will experience the least amount of growth. Understanding these trends will be valuable for future policy decisions.

One of the additional reforms explored by DSPS include the acceptance of national credentials in lieu of requiring a separate license and separate exams, which impose a financial burden to credential holders. For example, DSPS administers several trade-related occupations where acceptance of credentials from the International Code Council (ICC) could be considered if deemed equivalent to a Wisconsin credential. (Through both statute and administrative rules, Wisconsin adopts several technical standards produced by the ICC). Earlier this year, DSPS discussed these options with ICC representatives.

In July 2018, DSPS representatives participated in a meeting, hosted by the Wisconsin Code Officials Alliance (WCOA), with the ICC President, ICC Board Chair, and other ICC representatives, to discuss how Wisconsin and the ICC can work together to streamline credentialing of these related occupations. Currently, some credential holders take courses and exams offered by both ICC and DSPS.

Following the meeting, DSPS compiled a list of possible ICC credentials that could provide equivalencies. A thorough analysis found some ICC credentials to be similar to Wisconsin's that would require only minimal modifications to include important elements specific to Wisconsin, typically referred to as "*Wisconsinisms*". For other license types, where ICC does not require any qualifications to take an exam, Wisconsin statutes require previous experience, coursework, an apprenticeship, or some level of experience before taking an exam. For these credentials, legislative changes would be needed in order to authorize DSPS to implement these reforms.

Other methods that could be considered for reform include the implementation of sunrise and sunset legislation. Several states have taken steps to adopt sunrise and sunset reviews, audits, active supervision, and other procedures to weigh the costs and benefits of existing and proposed occupational licensure. A sunrise process includes a cost-benefit analysis as part of any proposal to regulate a previously unlicensed profession. The sunset review process involves periodic reviews or legislative audits of licensing and licensing boards, and their potential elimination unless the legislature acts to continue them.[9]

In the state of Vermont, when the state Office of Professional Regulation receives requests from individuals or groups recommending that a profession be regulated, Vermont law provides that the profession should be regulated only when necessary to protect the public. When the office receives a request, it conducts a preliminary assessment and develops a recommendation for the Legislature as to whether or not the profession should be regulated. (A link to Vermont's *Application for Preliminary Sunrise Review Assessment* form may be found in the Resource section of this report.)

Pursuant to 26 V.S.A. § 3101:

"It is the policy of the state of Vermont that regulation be imposed upon a profession or occupation solely for the purpose of protecting the public. The legislature believes that all individuals should be permitted to enter into a profession or occupation unless there is a demonstrated need for the state to protect the interests of the public by restricting entry into the profession or occupation. If such a need is identified, the form of regulation adopted by the state shall be the least restrictive form of regulation necessary to protect the public interest." - State of Vermont

Some evidence suggests that sunrise reviews can be more successful at limiting the growth of licensing than sunset reviews are at removing unnecessary licensing. A sunset review can nevertheless be useful because, even if licensing was justified when first introduced, technological and economic changes may have rendered it unnecessary or overly restrictive. Periodic examination of existing rules is thus helpful in maintaining the quality of occupational regulation. Sunset reviews also have the benefit of reviewing complaints lodged with the licensing board. These can provide important insight into the value of continuing the license.[10]

Research has found that other practitioners—not consumers—file a large majority of complaints which mostly related to workers practicing without a license rather than any substantive violation of rules concerning health and safety.[10] Therefore, experts caution that sunset reviews should carefully consider what the complaint record means. In principle, few complaints could mean that licensing a particular occupation eliminates all dangerous conduct, but it can also mean that

genuine consumer harms are very rare in the occupation.[10] For that reason, the licenses recommended for reform in this report are accompanied by complaint data (where available) to assist decision-makers with comprehensive information when reviewing the recommendations.

D. Strategies for Occupational Licensing Reform

State policymakers play a critical and longstanding role in occupational licensing policies, dating back to the late 19th century when the Supreme Court decision in *Dent v. West Virginia* established states' rights to regulate certain professions. Shortly thereafter, states began developing their own systems of occupational regulation and licensing.[8] State policymakers play a central role in developing and shaping these systems by:

1. Establishing licensing requirements for specific occupations.
2. Authorizing regulatory boards to license applicants and oversee compliance.
3. Reviewing the merits of existing and proposed licensure requirements.
4. Proposing strategies or guiding principles to improve the state's overall approach to regulating professions.

According to a 2015 brief published by the Council on Licensure, Enforcement and Regulation, "civic leaders, elected officials, and courts have struggled to balance legitimate interests in protecting public health and safety with the preservation of free practice." Striking the right balance represents an opportunity for policymakers to achieve important public policy goals, including consumer protection, job creation, workforce mobility and economic growth. Removing employment barriers for unique populations, such as immigrants with work authorization, military families, and people with criminal records, offers a powerful lever to achieve multiple policy goals. These include employment growth, reduced reoffending for employed ex-offenders, enhanced geographic mobility, and economic stability and opportunity for individuals and their families.[8]

Some of the most comprehensive occupational licensing reforms were passed in Arizona, Tennessee, and Mississippi. Arizona and Tennessee each passed a *Right to Earn a Living Act*. The Act limits entry regulations into an occupation to only those that are legitimately necessary to protect public health, safety, or welfare and then those objectives could *not* be met with less burdensome means, including certification, bonding, insurance, inspections, etc. It favors policy options that preserve occupational freedom.[13]

Over the past few years, several studies, research briefs, and guidance documents have been published that provide tools, resources, and strategies for policymakers for tackling occupational licensing reform. Several states have found these resources to be helpful in implementing less restrictive regulations, evaluating the roles of regulatory boards, conducting ongoing sunset review hearings, and recognizing and prevent the passing of unnecessary licensing laws. Several of these resources are included in the Resource section of this report.

Policymaker Questions to Ask When Considering Occupational Licensing Proposals

What is the problem?	• Has the public been harmed because the occupation has not been regulated? • Has the public's health, safety or economic well-being been endangered? • Can proponents' claims be documented?
Why should the occupation be regulated?	• Who uses the services offered by the occupation? Does the public lack knowledge or information to evaluate the providers' qualifications? • What is the extent of the autonomy of the providers? Do they work independently or under supervision? If supervised, is the supervisor covered under regulatory statute?
What efforts have been made to address the problems?	• Has the occupation established a code of conduct or complaint-handling procedures for resolving disputes between practitioners and consumers? • Has a non-governmental certification program been established to assist the public in identifying qualified practitioners? • Could use of applicable laws or existing standards (e.g., civil laws or unfair and deceptive trade practice laws) solve problems? • Would strengthening existing laws help to deal with the problem?
Have alternatives to licensure been considered?	• Could an existing agency be used to regulate the occupation? • Would regulation of the employer versus the individual practitioner (e.g., licensing a restaurant instead of its employees) provide the necessary public protection? • Could registration or certification be an acceptable alternative? • Why would use of less stringent alternatives adequately protect the public? Why would licensing be more effective?
Will the public benefit from regulating the occupation?	• How will regulation help the public identify qualified practitioners? • How will regulation assure that practitioners are competent? • Are all standards job-related? • How do the standards, training and experience requirements compare with other states? Can differences be justified? • Are alternative routes of entry recognized—for example, for individuals licensed in another state?
Will regulation harm the public?	• Will competition be restricted by the regulated group? • Will the regulated group control the supply of practitioners? Are standards more restrictive than necessary? • Will regulation increase the cost of goods and services to consumers? • Will regulation decrease the availability of practitioners?
How will the regulatory activity be administered?	• Who will administer the regulation? • What power will the entity have, and will its actions be subject to review? • How would the cost of administering the regulatory entity be financed?
Who is sponsoring the regulatory program?	• Are members of the public sponsoring the legislation? • What provider associations or organizations are sponsoring the regulatory approach?
Why is regulation being sought?	• Is the profession seeking to enhance its status by having its own regulatory law? • Is the occupation seeking licensure to facilitate reimbursement? • Is the public seeking greater accountability of the occupation?

Source: Council on Licensure, Enforcement and Regulation, Questions Legislators Should Ask, 1994

VI. Conclusion

Most consumers acknowledge that the regulation of certain occupations is vital for the protection of public health, safety, and welfare. Where opinions begin to differ is determining which occupations should be regulated and at what level. This report is intended to provide the data and information necessary to aid in these statewide discussions and considerations and to continue the goal of commonsense occupational licensing reforms that will maintain consumer protection while removing barriers in order to provide economic opportunities for Wisconsin's workers and entrepreneurs. Moving forward, the federal directive is for states to continue to learn from one another as they adopt and refine regulatory practices that seek to remove barriers to work and improve portability across state lines.

VII. Appendices

Appendix A - Wisconsin Regulated Occupations

Occupation	Regulating Agency	Type of Regulation	No. Active Licenses
Buttermaker	DATCP	License	43
Cheesemaker	DATCP	License	1,283
Humane Officer	DATCP	Certificate	208
Pesticide Applicator Certification; commercial	DATCP	Certification	18,600
Pesticide Applicator Certification; private	DATCP	Certification	12,300
Pesticide Commercial Applicator (Individual)	DATCP	License	8,900
Veterinarian	DATCP	License	3,427
Veterinarian - Faculty License	DATCP	License	33
Veterinarian - Temporary Consulting Permit	DATCP	Permit	1
Veterinary Technician	DATCP	Certificate	2,148
Weights and Measures Service Technician	DATCP	Certification	805
Agent (Broker-Dealer Agent/Securities Agent)	DFI	Registration	146,350
Broker-Dealer	DFI	Registration	1,613
Fundraising Counsel	DFI	Registration	0
Investment Advisor	DFI	Registration	361
Investment Advisor Representative	DFI	Registration	9,915
Mortgage Banker	DFI	License	397
Mortgage Broker	DFI	License	194
Mortgage Loan Originator	DFI	Registration and License	10,392
Notary Public	DFI	Commission	81,971
Solicitor/Collector	DFI	License	6,348
Advanced Emergency Medical Technician	DHS	License	2,325
Asbestos Abatement Supervisor	DHS	Certification	1,264
Asbestos Abatement Worker	DHS	Certification	516
Asbestos Inspector	DHS	Certification	625
Asbestos Management Planner	DHS	Certification	49
Asbestos Project Designer	DHS	Certification	48
Emergency Medical Responder	DHS	Certification	3,343
Emergency Medical Technician	DHS	License	8,733
Exterior Asbestos Supervisor	DHS	Certification	89
Intermediate (EMT)	DHS	License	123
Lead Abatement Supervisor	DHS	Certification	319
Lead Abatement Worker	DHS	Certification	100
Lead Hazard Investigator	DHS	Certification	77
Lead Inspector	DHS	Certification	7
Lead Project Designer	DHS	Certification	0
Lead Risk Assessor	DHS	Certification	231
Lead Sampling Technician	DHS	Certification	15
Lead-Safe Renovator	DHS	Certification	4,434
Nurse Aide	DHS	Certification	58,790
Paramedic	DHS	License	4,949
Exterior Asbestos Worker	DHS	Certification	1,189
Heat Exchange Driller	DNR	License	32
Heat Exchange Drilling Rig Operator	DNR	Registration	37
Municipal Waterworks Operator	DNR	Certification	2,619
Pump Installer	DNR	License	1,170
Septage Service Operator	DNR	Certification	1,193
Small Water System Operator	DNR	Certification	948
Solid Waste Disposal Facility Operator	DNR	Certification	322
Solid Waste Incinerator Operator	DNR	Certification	25
Wastewater Operator	DNR	Certification	2,529
Water Well Driller	DNR	License	251
Water Well Drilling Rig Operator	DNR	Registration	138

Occupation	Regulating Agency	Type of Regulation	No. Active Licenses
Assessor	DOR	Certificate	683
Cigarette Salesperson	DOR	Permit	685
Liquor Salesperson	DOR	Permit	3,017
Tobacco Products Salesperson	DOR	Permit	760
Buyer's License	DOT	License	6,879
Certify 3rd Party CDL Examiner	DOT	Certification	215
Certify Traffic Safety School Instructor	DOT	Certification	165
Driver Training School Instructor	DOT	License	764
Representative License	DOT	License	792
Salesperson License	DOT	License	14,589
Salvage Buyer License	DOT	License	3,606
Acupuncturist	DSPS	License	556
Administrative Medicine and Surgery (DO)	DSPS	License	0
Administrative Medicine and Surgery (MD)	DSPS	License	4
Aesthetician	DSPS	License	2,126
Aesthetics Instructor (Certified)	DSPS	Certification	44
Agent for Burial Agreements	DSPS	Registration	888
Anesthesiologist Assistant	DSPS	License	101
Appraiser, Certified General	DSPS	License and Certification	758
Appraiser, Certified Residential	DSPS	License and Certification	841
Appraiser, Licensed	DSPS	License	253
Architect	DSPS	Registration	4,846
Art Therapist	DSPS	Registration	64
Athlete Agent	DSPS	Registration	66
Athletic Trainer	DSPS	License	1,290
Auctioneer	DSPS	Registration	637
Audiology	DSPS	License	405
Automatic Fire Sprinkler Contractor	DSPS	License	106
Automatic Fire Sprinkler Contractor - Maintenance	DSPS	Registration	27
Automatic Fire Sprinkler Fitter - Maintenance	DSPS	Registration	191
Automatic Fire Sprinkler Fitter, Journeyman	DSPS	License	665
Automatic Fire Sprinkler System Apprentice	DSPS	Registration	138
Automatic Fire Sprinkler System Tester	DSPS	Registration	100
Automatic Fire Sprinkler Tester Learner	DSPS	Registration	12
Barber	DSPS	License	255
Barber Apprentice	DSPS	Permit	39
Barbering Instructor (Certified)	DSPS	Certification	3
Barbering Manager	DSPS	License	505
Behavior Analyst	DSPS	License	195
Blaster Class 1	DSPS	License	37
Blaster Class 2	DSPS	License	96
Blaster Class 3	DSPS	License	17
Blaster Class 4	DSPS	License	5
Blaster Class 5	DSPS	License	151
Blaster Class 6	DSPS	License	71
Blaster Class 7	DSPS	License	13
Body Piercer	DSPS	License	242
Boiler-Pressure Vessel In-Service Field Inspector	DSPS	Certification	0
Boiler-Pressure Vessel Inspector	DSPS	Certification	135
Boxing Contestant	DSPS	License	34
Boxing Judge	DSPS	License	5
Boxing Referee	DSPS	License	1
Cemetery Authority	DSPS	Registration	40
Cemetery Authority - Licensed	DSPS	License	116
Cemetery Authority-Religious	DSPS	Certification	406
Cemetery Preneed Seller	DSPS	License	156
Cemetery Salesperson	DSPS	License	141
Certified Public Accountant	DSPS	License	11,974
Chiropractic Radiological Technician	DSPS	Certification	312
Chiropractic Technician	DSPS	Certification	1,208
Chiropractor	DSPS	License	2,400

Occupation	Regulating Agency	Type of Regulation	No. Active Licenses
Clinical Substance Abuse Counselor	DSPS	Certification	1,628
Clinical Supervisor-in-Training	DSPS	Certification	186
Commercial Building Inspector	DSPS	Certification	632
Commercial Electrical Inspector	DSPS	Certification	765
Commercial Plumbing Inspector	DSPS	Certification	397
Cosmetologist	DSPS	License	29,472
Cosmetology Apprentice	DSPS	Permit	257
Cosmetology Instructor (Certified)	DSPS	Certification	751
Cosmetology Temporary Permit	DSPS	Permit	372
Cosmetology Training Permit	DSPS	Permit	0
Counselor, Professional	DSPS	License	4,038
Counselor, Training License Professional	DSPS	License	1,867
Cross Connection Control Tester	DSPS	Registration	1,939
Dance Therapist	DSPS	Registration	7
Dental Hygienist	DSPS	License	5,306
Dentist	DSPS	License	4,324
Designer of Engineering Systems	DSPS	Permit	749
Dietitian, Certified	DSPS	Certification	1,933
Dwelling Contractor	DSPS	Certification	10,447
Dwelling Contractor Qualifier	DSPS	Certification	10,967
Dwelling Contractor Restricted	DSPS	Certification	8
Electrical - Residential Apprentice	DSPS	Registration	7
Electrical Contractor	DSPS	License	3,046
Electrician, Apprentice	DSPS	Registration	1,715
Electrician, Industrial Apprentice	DSPS	Registration	19
Electrician, Industrial Journeyman	DSPS	License	726
Electrician, Journeyman	DSPS	License	5,974
Electrician, Master	DSPS	License	5,743
Electrician, Master Registered	DSPS	Registration	665
Electrician, Registered (Beginning)	DSPS	Registration	2,287
Electrician, Residential Journeyman	DSPS	License	130
Electrician, Residential Master	DSPS	License	215
Electrologist	DSPS	License	164
Electrology Instructor (Certified)	DSPS	Certification	4
Elevator Apprentice	DSPS	Registration	195
Elevator Apprentice - Restricted	DSPS	Registration	1
Elevator Contractor	DSPS	License	57
Elevator Helper	DSPS	Registration	146
Elevator Inspector	DSPS	License	61
Elevator Mechanic	DSPS	License	620
Elevator Mechanic - Restricted	DSPS	License	10
Elevator Mechanic Temporary	DSPS	License	8
Engineer in Training	DSPS	Certification	1,893
Engineer, Professional	DSPS	Registration	16,162
Fire Detection, Prevention, and Suppression Inspector	DSPS	Certification	325
Firearms Certifier	DSPS	Certification	90
Fireworks Manufacturer	DSPS	License	15
Funeral Director	DSPS	License	1,195
Funeral Director Apprentice	DSPS	Permit	127
Funeral Director Embalming Only	DSPS	License	0
Funeral Director in Good Standing	DSPS	Certification	0
Geologist, Professional	DSPS	License	758
Hearing Instrument Specialist	DSPS	License	281
Home Inspector	DSPS	Registration	896
Home Medical Oxygen Provider	DSPS	License	174
HVAC Contractor	DSPS	Registration	3,322
HVAC Qualifier	DSPS	Certification	507
Hydrologist, Professional	DSPS	License	104
Independent Clinical Supervisor	DSPS	Certification	273
Interior Designer	DSPS	Registration	248
Intermediate Clinical Supervisor	DSPS	Certification	212

Occupation	Regulating Agency	Type of Regulation	No. Active Licenses
Juvenile Martial Arts Instructor	DSPS	Permit	67
Kickboxing Amateur Contestant	DSPS	License	1
Kickboxing Judge	DSPS	License	4
Kickboxing Referee	DSPS	License	2
Land Surveyor, Professional	DSPS	License	1,005
Landscape Architect	DSPS	License	406
Licensed Radiographer	DSPS	License	6,361
Lift Apprentice	DSPS	Registration	0
Lift Helper	DSPS	Registration	29
Lift Mechanic	DSPS	License	17
Limited X-Ray Machine Operator	DSPS	Permit	52
Liquified Gas Supplier	DSPS	License	155
Liquified Gas Supplier - Restricted	DSPS	License	73
Manicuring Instructor (Certified)	DSPS	Certification	40
Manicurist	DSPS	License	3,310
Manufactured Home Installer	DSPS	License	169
Manufactured Homes Dealer	DSPS	License	174
Manufactured Homes Sales Person	DSPS	License	356
Marriage and Family Therapist	DSPS	License	717
Marriage and Family Therapist, Training License	DSPS	License	275
Massage Therapist or Bodywork Therapist	DSPS	License	5,136
Matchmaker (Unarmed Combat Sports)	DSPS	License	6
Medicine and Surgery (DO)	DSPS	License	2,154
Medicine and Surgery (MD)	DSPS	License	23,775
Mixed Martial Arts Amateur Contestant	DSPS	License	144
Mixed Martial Arts Judge	DSPS	License	8
Mixed Martial Arts Professional Contestant	DSPS	License	44
Mixed Martial Arts Referee	DSPS	License	3
Mobile Dentistry Program Registrant	DSPS	Registration	36
Muay Thai Amateur Contestant	DSPS	License	2
Muay Thai Judge	DSPS	License	2
Muay Thai Referee	DSPS	License	1
Music Therapist	DSPS	Registration	59
Nurse - Midwife	DSPS	License	393
Nurse, Advanced Practice Prescriber	DSPS	Certification	6,566
Nurse, Licensed Practical	DSPS	License	13,451
Nurse, Registered	DSPS	License	104,423
Nursing Home Administrator	DSPS	License	978
Occupational Therapist	DSPS	License	3,796
Occupational Therapy Assistant	DSPS	License	1,486
Optometrist	DSPS	License	1,085
Peddler	DSPS	License	45
Perfusionist	DSPS	License	149
Pharmacist	DSPS	License	8,924
Physical Therapist	DSPS	License	6,126
Physical Therapist Assistant	DSPS	License	2,232
Physician Assistant	DSPS	License	3,080
Pipe Layer	DSPS	Registration	865
Plumber - Journeyman Restricted Appliance	DSPS	License	300
Plumber - Journeyman Restricted Service	DSPS	License	241
Plumber - Master Restricted Appliance	DSPS	License	199
Plumber - Master Restricted Service	DSPS	License	525
Plumber, Journeyman	DSPS	License	2,694
Plumber, Master	DSPS	License	2,976
Plumbing Apprentice	DSPS	Registration	957
Plumbing Learner - Restricted Appliance	DSPS	Registration	140
Plumbing Learner - Restricted Service	DSPS	Registration	154
Podiatric Medicine and Surgery	DSPS	License	405
POWTS Inspector	DSPS	Certification	429
POWTS Maintainer	DSPS	Registration	591
Prevention Specialist	DSPS	Certification	36

Occupation	Regulating Agency	Type of Regulation	No. Active Licenses
Prevention Specialist-in-Training	DSPS	Certification	54
Private Detective	DSPS	License	1,044
Private Practice of School Psychologist	DSPS	License	31
Private Security Person	DSPS	Permit	10,846
Professional Boxing Promoter	DSPS	License	1
Professional Mixed Martial Arts Promoter	DSPS	License	1
Psychologist	DSPS	License	1,797
Real Estate Broker	DSPS	License	9,620
Real Estate Salesperson	DSPS	License	13,822
Registered Sanitarian	DSPS	Registration	273
Resident Educational License	DSPS	License	1,011
Respiratory Care Practitioner	DSPS	Certification	3,131
Ringside Physician	DSPS	License	6
Second (Unarmed Combat Sports)	DSPS	License	152
Sign Language Interpreter	DSPS	License	355
Sign Language Interpreter- Restricted	DSPS	License	45
Social Worker	DSPS	Certification	5,546
Social Worker Training Certificate	DSPS	Certification	310
Social Worker, Advanced Practice	DSPS	Certification	3,340
Social Worker, Independent	DSPS	Certification	261
Social Worker, Licensed Clinical	DSPS	License	3,625
Soil Erosion Inspector	DSPS	Certification	204
Soil Scientist, Professional	DSPS	License	96
Soil Tester	DSPS	Certification	769
Speech-Language Pathology	DSPS	License	2,217
Substance Abuse Counselor	DSPS	Certification	654
Substance Abuse Counselor-in-Training	DSPS	Certification	1,178
Tattooist	DSPS	License	1,236
Timekeeper (Unarmed Combat Sports)	DSPS	License	2
Timeshare Salesperson	DSPS	Registration	314
UDC - Construction Inspector	DSPS	Certification	901
UDC - Electrical Inspector	DSPS	Certification	658
UDC - HVAC Inspector	DSPS	Certification	802
UDC - Plumbing Inspector	DSPS	Certification	802
Unarmed Combat Sports Promoter	DSPS	License	9
Utility Contractor	DSPS	License	311
Weld Test Conductor	DSPS	Certification	143
Welder	DSPS	Registration	4,449
Certified Private Rehabilitation Specialist	DWD	Certificate	92
License to Appear at a Worker's Compensation Hearing Agent/Representative	DWD	License	18
Private Employment Agent License	DWD	License	12
Private Employment Agent Registration	DWD	Registration	237
Lobbyist	Ethics	License	632
Insurance producer, Intermediary (Agent)	OCI	License	153,277
Total: 280			**1,023,142**

Appendix B - State Comparison List of Regulated Occupations

The following is a list of occupations that are regulated in Wisconsin and in less than or equal to 20 other states. It is possible that additional regulated occupations could fall under this category. However, either the data was unavailable for some occupations or may have been inconclusive (i.e. data not available for all states). Therefore, this list only includes occupations where data was available. Research revealed that some local municipalities or counties, rather than the state, administered and required certain occupational licenses. In other states, the state regulatory agency accepts a credential issued by a professional or trade organizations but does not issue or require a separate state license. Therefore, for comparison purposes, states were only counted if the similar license type is administered and *required* by the state regulatory agency.

Title of License	Agency	Number of Other States that Regulate Similar License Type
Buttermaker	DATCP	0
Certified Private Rehabilitation Specialist	DWD	0
Cheesemaker	DATCP	0
Designer of Engineering Systems	DSPS	0
Funeral Director in Good Standing	DSPS	0
Humane Officer	DATCP	0
Hydrologist, Professional	DSPS	0
License to Appear at a Worker's Compensation Hearing Agent/Representative	DWD	0
Marriage and Family Therapist, Training License	DSPS	0
Nurse, Advanced Practice Prescriber	DSPS	0
Plumber - Master Restricted Service	DSPS	0
Prevention Specialist-in-Training	DSPS	0
Private Practice School Psychologist	DSPS	0
Substance Abuse Counselor-in-Training	DSPS	0
Dance Therapist	DSPS	1
Juvenile Martial Arts Instructor	DSPS	1
Plumber - Master Restricted Appliance	DSPS	1
Private Employment Agent Registration	DWD	1
Sign Language Interpreter- Restricted	DSPS	1
Veterinarian - Temporary Consulting Permit	DATCP	1
Electrician, Master Registered	DSPS	2
Elevator Helper	DSPS	2
Lift Helper	DSPS	2
Plumber - Journeyman Restricted Service	DSPS	2
Weld Test Conductor	DSPS	2
Automatic Fire Sprinkler Tester Learner	DSPS	3
Electrician, Industrial Journeyman	DSPS	3
Electrician, Registered (Beginning)	DSPS	3
Plumber - Journeyman Restricted Appliance	DSPS	3
Plumbing Learner - Restricted Service	DSPS	3
Social Worker Training Certificate	DSPS	3
Interior Designer	DSPS	4
Plumbing Learner - Restricted Appliance	DSPS	4
Soil Erosion Inspector	DSPS	4
Veterinarian - Faculty License	DATCP	4
Electrical - Residential Apprentice	DSPS	5
Electrician, Industrial Apprentice	DSPS	5
Elevator Mechanic - Restricted	DSPS	5
Lift Apprentice	DSPS	5
Peddler	DSPS	5
Soil Tester	DSPS	5
Automatic Fire Sprinkler Contractor - Maintenance	DSPS	6
Elevator Apprentice - Restricted	DSPS	6
Intermediate (EMT)	DHS	6

Title of License	Agency	Number of Other States that Regulate Similar License Type
Liquified Gas Supplier - Restricted	DSPS	6
Chiropractic Radiological Technician	DSPS	7
Elevator Mechanic Temporary	DSPS	7
Music Therapist	DSPS	7
Automatic Fire Sprinkler Fitter - Maintenance	DSPS	8
Cemetery Preneed Seller	DSPS	8
Cemetery Salesperson	DSPS	8
Electrician, Residential Master	DSPS	8
Funeral Director Apprentice	DSPS	8
Lift Mechanic	DSPS	8
Soil Scientist, Professional	DSPS	8
Welder	DSPS	8
Art Therapist	DSPS	11
Athlete Agent	DSPS	11
Automatic Fire Sprinkler System Tester	DSPS	11
Cosmetology Training Permit	DSPS	11
Dwelling Contractor Restricted	DSPS	11
Firearms Certifier	DSPS	11
Automatic Fire Sprinkler System Apprentice	DSPS	12
Electrician, Residential Journeyman	DSPS	12
Anesthesiologist Assistant	DSPS	13
Blaster Class 7	DSPS	13
Commercial Plumbing Inspector	DSPS	13
Elevator Apprentice	DSPS	13
Mobile Dentistry Program Registrant	DSPS	13
Commercial Electrical Inspector	DSPS	14
Representative License	DOT	14
Salvage Buyer License	DOT	14
UDC - Electrical Inspector	DSPS	14
Blaster Class 5	DSPS	15
Blaster Class 6	DSPS	15
Cigarette salesperson	DOR	15
Pipe Layer (Non-contractor)	DSPS	15
Tattooist	DSPS	15
Tobacco products salesperson	DOR	15
Blaster Class 2	DSPS	16
Blaster Class 3	DSPS	16
Blaster Class 4	DSPS	16
Dwelling Contractor Qualifier	DSPS	16
Perfusionist	DSPS	16
POWTS Inspector	DSPS	16
UDC - Construction Inspector	DSPS	16
UDC - Plumbing Inspector	DSPS	16
Utility Contractor	DSPS	16
Cross Connection Control Tester	DSPS	17
Auctioneer	DSPS	18
Commercial Building Inspector	DSPS	18
Cosmetology Temporary Permit	DSPS	18
Muay Thai Amateur Contestant	DSPS	18
Muay Thai Professional Contestant	DSPS	18
POWTS Maintainer	DSPS	18
UDC - HVAC Inspector	DSPS	18
Automatic Fire Sprinkler Fitter - Journeyman	DSPS	19
HVAC Qualifier	DSPS	19
Manufactured Homes Sales Person	DSPS	19
Fundraising Counsel	DFI	20
Social Worker, Independent	DSPS	20

Appendix C - List of Occupations Recommended for Reform

The following occupations are recommended for elimination by the regulatory agency:

Occupation and Type of Regulation	No. Issued	Agency	Recommendation and Reason
Veterinarian Faculty License	33	DATCP	**Agency Recommendation: Eliminate** • The university could be responsible for verifying credentials, qualifications, and performance of veterinary faculty under their employ. • There have been 0 complaints over the past 5 years. • Only 4 states issue this type of license and typically grant the license on a temporary basis, such as one year.
Veterinarian – Temporary Consulting Permit	0	DATCP	**Agency Recommendation: Eliminate** • Very few licenses of this type are issued, making this credential unnecessary. • The requesting Wisconsin-licensed veterinarian who request the assistance could be responsible for verifying credentials, qualifications and performance of a consulting veterinarian licensed in another state. • There have been 0 complaints over the past 5 years. • Only 1 other state, California, issues a license for this occupation.
Community Currency Exchanger License	167	DFI	**Agency Recommendation: Eliminate** • There are alternative avenues in place for cash transmission such as electronic transactions rather than check cashing. • There have been 9 complaints received over the past 5 years with 0 resulting in disciplinary action. • 30 other states have similar titles for this license type.
Insurance Premium Finance Companies License	32	DFI	**Agency Recommendation: Eliminate** • The marketplace product and services has moved away from consumers and is instead a product/service used primarily in business/commercial setting. It would not harm consumers to eliminate this regulation. • Since 2004, there's been 1 instance of consumers being overcharged (<$75). Money was refunded to harmed consumers. • Only 7 other states regulate this license type.
Solid Waste Incinerator Operator Certification	25	DNR	**Agency Recommendation: Eliminate** • Wisconsin is currently providing a service to Wisconsin incinerator operators by proctoring an exam and providing certification, NR 499.09, Wis. Adm. Code, and s. 285.51, Stats., to meet state and federal requirements. • Regulated sources could travel out of state or create their own in-house program; however, consideration should be given to the additional financial cost. • There have been 0 complaints over the past 5 years. • It is unknown how many other states require certification for this occupation.

Occupation and Type of Regulation	No. Issued	Agency	Recommendation and Reason
Cigarette Salesperson Permit	685	DOR	**Agency Recommendation: Eliminate** • This regulation is a duplication of effort and could be eliminated because manufacturers and distributors are required to get their own permits and may already be doing background checks on their employees for public protection. • There have been 0 complaints received over the past 5 years. • 15 other states regulate this license type.
Liquor Salesperson Permit	3,017	DOR	**Agency Recommendation: Eliminate** • This regulation is a duplication of effort and could be eliminated because manufacturers and distributors are required to get their own permits and may already be doing background checks on their employees for public protection. • There have been 0 complaints received over the past 5 years. • 20 other states regulate this license type. Note: While not issued by the state, there are statutory requirements regarding responsible beverage servers (bartender licenses). These are issued by local governments with some criteria set out in state statutes.
Tobacco Products Salesperson Permit	760	DOR	**Agency Recommendation: Eliminate** • This regulation is a duplication of effort and could be eliminated because manufacturers and distributors are required to get their own permits and may already be doing background checks on their employees for public protection. • There have been 0 complaints received over the past 5 years. • 15 other states regulate this license type. (Data combined with cigarette salesperson.)
Buyer Identification Card License	N/A	DOT	**Agency Recommendation: Consider Elimination** • Elimination of this license may warrant discussion regarding its applicability in today's industry. • When this license was created the industry conducted almost all auctions in person. Since then the salvage pool industry has migrated to an online platform and almost all purchases are made online. Because of this enforcement is almost impossible as it would require a regulator to observe the buyer in the act of bidding which often takes place in businesses or residences. However, the rescission of this license would result in an annual revenue loss of $21,636 to DOT (ea. Cost $6-$12/year). • The public does not directly benefit from the regulation of this licensee. • This regulation was found in 10 other states.
Certified Private Rehabilitation Specialist Certificate	92	DWD	**Agency Recommendation: Eliminate** • Injured employees with worker's compensation claims who are seeking vocational rehabilitation services may receive these services sooner through a private resource than through the State. • There have been 0 complaints received over the past 5 years. • This license type is not regulated by any other state.

Occupation and Type of Regulation	No. Issued	Agency	Recommendation and Reason
License to Appear at Worker's Compensation Hearing Agent/ Representative	18	DWD	**Agency Recommendation: Eliminate** • The public is protected because only attorneys licensed in Wisconsin and individuals approved by DWD through this licensing process can represent individuals in a Worker's Compensation Hearing. • There have been 0 complaints received over the past 5 years. • This license type is not regulated by any other state.
Private Employment Agent License	12	DWD	**Agency Recommendation: Eliminate** • The license requirement applies to agents who charge a fee to applicants seeking work. Most licensed agencies are modeling agencies. • There is no evidence of public harm. • A prohibition on certain practices would be a more economic and effective way of regulating as other industries are not regulated in this manner. • This regulation is archaic and no longer serves a purpose. • There have been 0 complaints received over the past 5 years. • 23 other states regulate this license and require either a license or permit or both. Some states have repealed this license over the past 5 years.
Private Employment Agent Registration	237	DWD	**Agency Recommendation: Eliminate** • Same reasons as licensed agent. • This regulation is archaic and no longer serves a purpose. • There have been 0 complaints received over the past 5 years. • Only 1 other state regulates this occupation.
Cosmetology Temporary Permit	372	DSPS	**Agency Recommendation: Eliminate** • Only 19 other states require or offer a temporary permit for cosmetologists. • DL Roope (a cosmetology examination provider) administers these permits with the approval of DSPS. The applicants inform DL Roope on their examination application that they are interested in receiving a temporary permit. DL Roope sends DSPS the list of individuals who are interested in receiving a temporary permit, and DSPS staff cross checks these individuals with a list of individuals who have been given training certificates by the cosmetology schools. • By eliminating DSPS' administration over this permit, the public can be protected through allowing the organization who already manages this program to administer the permits. • Since DL Roope oversees the application process for this permit, the Department is currently not adding any kind of public protection over this credential besides serving in a "middle-man" role between the cosmetology schools and this examination provider. • There is no disciplinary data available on this license type as DSPS does not administer the permit.
Cosmetology Training Permit	0	DSPS	**Agency Recommendation: Eliminate** • Only 12 other states require a training permit for cosmetologists. All states except Wisconsin require this permit within the boundaries of an internship, apprenticeship, or educational setting for students. • DSPS has not administered or offered these permits since at least 2015.

Occupation and Type of Regulation	No. Issued	Agency	Recommendation and Reason
Designer of Engineering Systems Permit	749	DSPS	**Agency Recommendation: Eliminate** • The job duties of these individuals could be picked up through other credentials such as professional engineers, architects, HVAC contractors, Plumbers, Electricians, POWTS Maintainer and Fire Detection, Prevention and Suppression Inspectors. • The license requirements for this permit are very steep. • According to Wis. Stats. 442.07(5) The permit shall restrict the holder to the specific field and subfields of designing in which the permittee acquired his or her experience in designing. If qualified in more than one type of designing, persons may receive permits for more than one field or subfield of designing as may be determined by the designer section. • There have been 0 complaints resulting in disciplinary action within the last 5 years. • There are no other states besides that license this occupation.
Music Therapist Registration	59	DSPS	**Agency Recommendation: Eliminate** • According to Wis. Admin Code SPS 141.01(4), an applicant can receive a license as a music therapist if the applicant submits proof that they are certified or registered as a music therapist by the Certification Board for Music Therapists, National Music Therapy Registry, American Music Therapy Association, or by another national organization that certifies, registers, or accredits music therapists. Because this is the only noted requirement for licensure outside of conviction review, it would be appropriate to say that the public would be aptly protected by the certification of these individuals exclusively through registration with these outside organizations. • There have been 0 complaints resulting in disciplinary action within the last 5 years.
Art Therapist Registration	64	DSPS	**Agency Recommendation: Eliminate** • According to Wis. Admin Code SPS 141.01(4), an applicant can receive a license as an art therapist if the applicant submits proof that they are certified or registered as an art therapist by the by the Art Therapy Credentials Board or by another national organization that certifies, registers, or accredits art therapists. Because this is the only noted requirement for licensure outside of conviction review, it would be appropriate to say that the public would be aptly protected by the certification of these individuals exclusively through registration with these outside organizations. • There have been 0 complaints resulting in disciplinary action within the last 5 years. • 11 other states regulate art therapists.

Occupation and Type of Regulation	No. Issued	Agency	Recommendation and Reason
Dance Therapist Registration	7	DSPS	**Agency Recommendation: Eliminate** • According to Wis. Admin Code SPS 141.01(4), an applicant can receive a license as a dance therapist if the applicant submits proof that they are certified or registered as a dance therapist by the American Dance Therapy Association or by another national organization that certifies, registers, or accredits dance therapists. Because this is the only noted requirement for licensure outside of conviction review, it would be appropriate to say that the public would be aptly protected by the certification of these individuals exclusively through registration with these outside organizations. • There have been 0 complaints resulting in disciplinary action within the last 5 years. • Only 1 other state regulates dance therapists.
Blaster Class 1 License	42	DSPS	**Agency Recommendation: Retain blaster license but eliminate separate classifications.** • Wisconsin State statute does not require seven different classes of licensure for blasters. Therefore, there is no statutory authority for seven distinct licenses (Wis. stats.101.19 (1g) (c). • The multiple levels of classification of this license is inconsistent with other states as no other states license seven levels of this credential. • DSPS does not distinguish between classes of blasters when processing complaints and disciplinary data.
Blaster Class 2 License	100	DSPS	**Agency Recommendation: Eliminate** • See Baster Class 1
Blaster Class 3 License	18	DSPS	**Agency Recommendation: Eliminate** • See Baster Class 1
Blaster Class 4 License	6	DSPS	**Agency Recommendation: Eliminate** • See Baster Class 1
Blaster Class 5 License	162	DSPS	**Agency Recommendation: Eliminate** • See Baster Class 1
Blaster Class 6 License	81	DSPS	**Agency Recommendation: Eliminate** • See Baster Class 1
Blaster Class 7 License	13	DSPS	**Agency Recommendation: Eliminate** • See Baster Class 1
Intermediate Clinical Supervisor License	273	DSPS	**Agency Recommendation: Eliminate** • The requirements for intermediate clinical supervisor and independent clinical supervisor are the same (SPS 161.05), therefore, issuing two credentials with the same requirements is unnecessary. • The Substance Abuse Counselor Certification Review Committee recommended eliminating the intermediate clinical supervisor at their meeting on March 22, 2017.
Interior Designer Registration	248	DSPS	**Agency Recommendation: Eliminate** • Only 4 other states regulate this license type. • The regulation of interior designers has been identified by several studies as the most burdensome licensing requirement of all occupations.

Thank you for participating in the Wisconsin Occupational License Study survey. Your feedback is important.

2017 Wisconsin Act 59, section 9139, requires the Department of Safety and Professional Services (DSPS) to submit a report to the Governor and the Legislature that includes recommendations for reform relating to Wisconsin's occupational licenses. To meet this requirement, DSPS is conducting a study to determine which occupational licenses are truly needed to protect the public, and explore if less restrictive alternatives may be appropriate.

The purpose of this survey is to collect data and input from each state agency. Your response to the survey questions will ensure accurate identification of each license the state requires, as well as the burdens associated with each license. The data and input collected will be used to provide recommendations for reform and improvement of Wisconsin's occupational licensing requirements.

Your participation by thoroughly answering the survey questions is vital to the success of this study and necessary to fulfill the request of the Governor and Legislature.

The following section will assist you in answering the questions appropriately.

Instructions to Survey Respondents:

1. **Survey Method:** To begin the survey, click on the following link: Wisconsin Occupational License Study. The survey is designed to allow your agency to submit multiple entries if more than one Division or Bureau regulates an occupational license.

2. **Deadline to Submit:** The deadline to complete the survey is **Friday, March 30, 2018**. Agencies must complete the survey by this date.

3. **Assistance:** Questions for assistance with the survey may be sent to **DSPSLicensureFeedback@Wisconsin.gov.** Please consult with your agency's Chief Legal Counsel to determine if your agency regulates an occupation included in the licensing definition.

4. **Survey Questions:** This linked document contains all of the questions that are included in this survey. Since additional research and outreach to other states may be necessary to appropriately respond to certain questions, you may wish to use this document as a guide to gather the information and data prior to beginning the survey. The survey may automatically skip certain questions based on your response to the previous question. Therefore, some of the questions listed in the document may not be visible or applicable to your specific agency.

* 1. **Please provide your name and title, agency name, and contact information for the person completing this survey.**

Name & Title of Person Completing Survey	
Agency Name	
Email Address	
Phone Number	

* 2. **Does your agency issue or regulate any occupational licenses?** *(Note: If you are unsure whether your agency meets the definition listed below, please consult with your agency's Chief Legal Counsel.)*

"Occupational license" means any of the following:

a. A license, permit, certification, registration, or other approval granted under §167.10 (6m) or chapters 101, 145, or 440 to 480 of the statutes.

b. A license, permit, certification, registration, or other approval not included above if granted to an individual by this state in order that the individual may engage in a profession, occupation, or trade in this state or in order that the person may use one or more titles in association with his or her profession, occupation, or trade.

- ◯ Yes
- ◯ No

* 3. **Please provide the best point of contact for each occupation your agency regulates.** *(Note: These individuals may be different than the person(s) completing the survey.)*

Please include a contact name, email, and phone number. For example:

1. [Occupation]: Contact name, email address, phone number
2. [Occupation]: Contact name, email address, phone number

* 4. **List each occupation that your agency regulates, the type of license, and the number of active licensees for each type.**

Please number and list each occupation on a separate line. For example:

1. Physician: License; 8,500

2. Wastewater Operator: Certificate; 2,300

3. Interior Designer: Registration; 1,200

4. Funeral Establishment Operator: Permit; 450

* 5. **List each licensed occupation and the related barriers or substantial hardships that individuals may face to achieve licensure.**

Please number and list each occupation on a separate line. For example:

1. Physician: [Explanation of barriers]

2. Wastewater Operator: [Explanation of barriers]

3. Interior Designer: [Explanation of barriers]

4. Funeral Establishment Operator: [Explanation of barriers]

* 6. **Specify each licensed occupation and the related estimated costs imposed on individuals or entities as a result of regulation.** *(Note: Please itemize the estimated costs for each category, which includes, but is not limited to, the following: initial licensing fee, tuition, examination fees, registration/credential fees, cost of continuing education required for relicensure, other costs individuals or entities may incur in order to obtain the required license, permit, certification, registration, or other approval granted by this state in order to engage in a profession, trade, or occupation.)*

Please number and list each occupation and related costs on a separate line. For example:

1. [Occupation]: $ [Total estimated cost]
a. Licensing fee: $
b. Initial Tuition/Education/Training: $
c. Continuing Education: $
d. Examination fees: $
e. [Other costs - please itemize]: $

2. [Occupation]: $ [Total estimated cost]
a. Licensing fee: $
b. Initial Tuition/Education/Training: $
c. Continuing Education: $
d. Examination fees: $
e. [Other costs - please itemize]: $

3. [Entity]: $ [Total estimated cost]
a. Application fee: $
b. Permit Fee: $
c. [Other costs - please itemize]: $

4. [Entity]: $ [Total estimated cost]
a. Application fee: $
b. Permit Fee: $
c. [Other costs - please itemize]: $

7. **Is your agency aware of any instances where occupational licensing regulations have impacted the cost or availability of consumer goods or services?** [i.e. increased costs for goods or services, decreased availability of practitioners]

- ◯ Yes
- ◯ No

8. **Please provide specific examples where state licensing regulations have impacted the cost or availability of consumer goods or services.**

* 9. **Can the public reasonably expect to benefit due to the regulation of any of these occupations?**

- ◯ Yes
- ◯ No
- ◯ Other: [Please specify]

* 10. **For each occupation, provide an explanation and supporting evidence to show how the public can reasonably expect to benefit due to the regulation of the occupation. Include research findings or other evidence to show how the benefit is measured.**

Please number and list each occupation on a separate line. For example:

1. [Occupation]: [Measurable benefit, supporting evidence]

2. [Occupation]: [Measurable benefit, supporting evidence]

3. [Occupation]: [Measurable benefit, supporting evidence]

4. [Occupation]: [Measurable benefit, supporting evidence]

* 11. **Specify the occupation and explain why the public may not reasonably expect to benefit due to the regulation of that occupation.**

Please number and list each occupation on a separate line. For example:

1. [Occupation]: [Explanation]

2. [Occupation]: [Explanation]

3. [Occupation]: [Explanation]

4. [Occupation]: [Explanation]

* 12. **Would the unregulated practice of any of the currently licensed occupations cause harm or endanger the public health, safety, or welfare?** *(Note: The potential for harm must be recognizable and not speculative and the consequences of incompetence are substantial and irreversible.)*

- ◯ Yes
- ◯ No
- ◯ Don't know

* 13. **For each occupation, list the specific public harm or danger that could occur due to unregulated providers.** *(Note: The potential for harm must be recognizable and not speculative and the consequences of incompetence are substantial and irreversible.)*

Please number and list each occupation on a separate line. For example:

1. [Occupation]: [Explanation]

2. [Occupation]: [Explanation]

3. [Occupation]: [Explanation]

4. [Occupation]: [Explanation]

* 14. **For any of the licensed occupations, could the general public be reasonably protected from potential harm or danger through less restrictive means (other than licensing)?**

- ◯ Yes
- ◯ No

* 15. **For each occupational group, provide examples of alternative means (other than regulation or licensing) that could protect the general public from potential harm or danger.**

Please number and list each occupation on a separate line. For example:

1. [Occupation]: [Alternatives]

2. [Occupation]: [Alternatives]

3. [Occupation]: [Alternatives]

* 16. **List the occupations that would not subject the general public to harm or danger should that occupation become unregulated.**

Please number and list each occupation on a separate line.

* 17. **Has your agency received any licensing complaints in the previous five years (2013-2017) for any of the occupations that you regulate?**

- ◯ Yes
- ◯ No

* 18. **For each occupation, list the number of complaints that have been received in each of the previous five years (2013-2017). In addition, indicate how many of those complaints resulted in opening an investigation, and how many resulted in disciplinary action.**

Please number and list each occupation on a separate line. For example:

1. [Occupation]:
2013: 15 received, 14 investigated, 10 disciplinary action;
2014: 20 received, 18 investigated, 15 disciplinary action;
2015: 25 received, 20 investigated, 12 disciplinary action;
2016: 30 received, 25 investigated, 20 disciplinary action;
2017: 35 received, 30 investigated, 25 disciplinary action.

2. [Occupation]:
2013: 15 received, 14 investigated, 10 disciplinary action;
2014: 20 received, 18 investigated, 15 disciplinary action;
2015: 25 received, 20 investigated, 12 disciplinary action;
2016: 30 received, 25 investigated, 20 disciplinary action;
2017: 35 received, 30 investigated, 25 disciplinary action.

* 19. **For each occupation, list the top three *types* of complaints your agency received over the previous five years (2013-2017).**

For each occupation and year, please number and list the top complaints on a separate line. a=top complaint; b=2nd top complaint, c=3rd top complaint. For example:

1. [Occupation]:
a. Practicing without a license
b. Operating beyond the Scope of Practice
c. Failure to disclose discipline from another state

2. [Occupation]:
a. Breech of contract
b. Failure to comply with educational requirements
c. Practicing without required supervision

* 20. **Has there been evidence of specific public harm that occurred prior to any of these occupations being regulated in Wisconsin?**

- ◯ Yes
- ◯ No
- ◯ Don't know

* 21. **For each occupation, provide specific examples and documented evidence of the public harm that was caused due to this occupation being unregulated.**

Please number and list each occupation on a separate line. For example:

1. [Occupation]: [type of Harm],
[Specific evidence - documented court case, etc.]

2. [Occupation]: [type of Harm],
[Specific evidence - documented court case, etc.]

3. [Occupation]: [type of Harm],
[Specific evidence - documented court case, etc.]

4. [Occupation]: [type of Harm],
[Specific evidence - documented court case, etc.]

* 22. **Do other states license or regulate any of these occupations or professional scopes of practice?**

- ◯ Yes
- ◯ No

* 23. **For each occupation, list the state(s) and how they regulate that occupation.** [i.e. credential, certification, license, permit, registration, etc.]

Please number and list each occupation on a separate line. For example:

1. [Occupation]:
Illinois: certification
California: license
Minnesota: permit
Michigan: registration

2. [Occupation]:
Arkansas: permit
Idaho: license
Maine: certification
New Mexico: registration
New York: credential

* 24. **For each occupation, specify the requirement for each type of regulation and renewal.** [e.g. years of initial didactic or practical education, continuing education hours, exam, refreshers, apprenticeship, internship, field experience, etc.]

Please number and list each occupation on a separate line. For example:

1. [Occupation]:
Illinois: [Requirement]
California: [Requirement]
Minnesota: [Requirement]
Michigan: [Requirement]

2. [Occupation]:
Arkansas: [Requirement]
Idaho: [Requirement]
Maine: [Requirement]
New Mexico: [Requirement]
New York: [Requirement]

25. **For each state that provides a different type of regulation than Wisconsin, provide evidence of any specific public harm that occurred due to that state's type of regulation for that occupation.**

Please number and list each occupation on a separate line. For example:

1. [Occupation]:
[State]: [Type of regulation]; [Harm caused and supporting evidence]
[State]: [Type of regulation]; [Harm caused and supporting evidence]
[State]: [Type of regulation]; [Harm caused and supporting evidence]

2. [Occupation]:
[State]: [Type of regulation]; [Harm caused and supporting evidence]
[State]: [Type of regulation]; [Harm caused and supporting evidence]
[State]: [Type of regulation]; [Harm caused and supporting evidence]

26. **For each occupation, provide evidence of any specific public harm that occurred prior to this occupation being regulated in that state.**

Please number and list each occupation on a separate line. For example:

1. [Occupation]:
[State]: [information/evidence of harm];
[State]: [information/evidence of harm];
[State]: [information/evidence of harm].

2. [Occupation]:
[State]: [information/evidence of harm];
[State]: [information/evidence of harm];
[State]: [information/evidence of harm].

* 27. **For each state that does not regulate these occupations, has any specific public harm occurred due to the occupation being unregulated?**

- ◯ Yes
- ◯ No
- ◯ Don't know

* 28. **For each unregulated occupation, provide evidence of the specific public harm that occurred in that state** [e.g. news articles or releases, etc.]

Please number and list each occupation on a separate line. For example:

1. [Occupation]:
[State]: [information/evidence of harm];
[State]: [information/evidence of harm];
[State]: [information/evidence of harm].

2. [Occupation]:
[State]: [information/evidence of harm];
[State]: [information/evidence of harm];
[State]: [information/evidence of harm].

* 29. **Provide a summarizing statement from your agency or board why the license for each occupation that your agency regulates is warranted or should be eliminated.**

Please number and list each occupation on a separate line. For example:

1. [Occupation]: [Retain Regulation or Eliminate - Summarizing statement]

2. [Occupation]: [Retain Regulation or Eliminate - Summarizing statement]

3. [Occupation]: [Retain Regulation or Eliminate - Summarizing statement]

4. [Occupation]: [Retain Regulation or Eliminate - Summarizing statement]

30. **Do you have any additional comments, questions, or concerns that you would like to share?**

Intro

Thank you for participating in the Wisconsin Occupational License Study survey. Your feedback is important. The deadline for participation is December 10, 2018.

Pursuant to 2017 Wisconsin Act 59, the Department of Safety and Professional Services (DSPS) is required to submit a report to the Governor and the Legislature that includes recommendations for reform relating to Wisconsin's occupational licenses.

The data and input collected will be used to provide recommendations for reform and improvement of Wisconsin's occupational licensing requirements.

Please Read:

The terms below are used in the survey and defined as follows:

"License" means a state of Wisconsin-issued occupational license, credential, certification, or registration. "License" does not include permits, facility or establishment licenses, business licenses (such as a liquor license or vending license), or licenses required by a local or municipal ordinance.

"Main job or occupation" means your current and main occupation or job, job from which you are on layoff, or job at which you last worked if you are between jobs.

* **Do you have a *currently active* occupational or professional license or credential that is issued by the state of Wisconsin?**

- ◯ Yes, I have an active license that is issued by the State of Wisconsin.
- ◯ No, my license application is pending.
- ◯ No, my license is inactive or expired.
- ◯ No, I do not hold a Wisconsin state-issued license.

*** Specify the type of active license that you hold. If you hold multiple licenses, select the category type that best describes the license you use for your *primary/main* occupation.**

- ◯ Animal or Agriculture related
- ◯ Banking and Financial related (includes investments, insurance, lenders, collectors, tax assessor, charitable fundraising)
- ◯ Business related
- ◯ Chemical, Environmental, or Utilities Dealer, Supplier, or Applicator (includes fuel, gas, oil, water, power, pesticides, asbestos, hazardous materials, or waste products)
- ◯ Educator or School related (includes instructor, teacher, administrator, or service provider of elementary, secondary, postsecondary education)
- ◯ Food or Restaurant related
- ◯ Health or Medical related
- ◯ Legal, Security, or Enforcement related (i.e. attorney, investigator, inspector, tester, certifier, private detective, notary, etc.)
- ◯ Product or Vehicle Manufacturer, Broker, or Dealer
- ◯ Sales related
- ◯ Sports related
- ◯ Social Services (includes child and adult care services)
- ◯ Trades related
- ◯ Other (please specify)

*** How useful is your license for each of the following?**

a. Getting a job?

- ◯ Extremely useful
- ◯ Very useful
- ◯ Somewhat useful
- ◯ Not so useful
- ◯ Not at all useful

* b. Keeping a job?

- ◯ Extremely useful
- ◯ Very useful
- ◯ Somewhat useful
- ◯ Not so useful
- ◯ Not at all useful

* c. Keeping you marketable to employers or clients?

- ◯ Extremely useful
- ◯ Very useful
- ◯ Somewhat useful
- ◯ Not so useful
- ◯ Not at all useful

* d. Improving your work skills?

- ◯ Extremely useful
- ◯ Very useful
- ◯ Somewhat useful
- ◯ Not so useful
- ◯ Not at all useful

* e. Increasing your wages/salary?

- ◯ Extremely useful
- ◯ Very useful
- ◯ Somewhat useful
- ◯ Not so useful
- ◯ Not at all useful

*** Which of the following was required to obtain your license associated with your primary occupation? (Check all that apply.)**

- ☐ High school diploma or equivalent
- ☐ Passing a test
- ☐ Demonstrating certain skills
- ☐ Completing an internship or apprenticeship
- ☐ Previous job-related experience
- ☐ Technical certification (Less than 2 years)
- ☐ Some college, no degree
- ☐ Associate degree
- ☐ Master's degree
- ☐ Doctoral or professional degree
- ☐ None of the above
- ☐ Other (please specify)

*** About how many hours of instruction did you complete to obtain your license associated with your *primary* occupation?**

- ○ Less than 40 hours
- ○ 40-159 hours
- ○ 160 to 479 hours
- ○ 480 hours (half a full-time school year) to 959 hours
- ○ 960 hours (1 full-time school year) or more

* **Select the category that best describes the *initial* costs you incurred to *obtain* your license associated with your *primary* occupation.** (Include costs for initial education/tuition, registration fees, initial licensing fees, exam fees, **required** association fees, or other **required** costs you incurred to obtain your license.)

- ◯ Zero to $200
- ◯ $201 to $500
- ◯ $201 to $500
- ◯ $501 to $1,000
- ◯ $1,001 to $5,000
- ◯ $5,001 to $10,000
- ◯ $10,001 to $50,000
- ◯ $50,001 to $100,000
- ◯ Greater than $100,000

* **Select the category that best describes the *ongoing* costs you incur to *retain* your license associated with your *primary* occupation.** (Include costs for continuing education, registration fees, renewal licensing fees, exam fees, **required** association fees, or other **required** costs you incur in order to keep your license.)

- ◯ Zero to $200
- ◯ $201 to $500
- ◯ $201 to $500
- ◯ $501 to $1,000
- ◯ $1,001 to $5,000
- ◯ $5,001 to $10,000
- ◯ $10,001 to $50,000
- ◯ $50,001 to $100,000
- ◯ Greater than $100,000

*** Rate the level of hardship or barriers you faced to *obtain* your initial license.**

- None at all
- A small amount
- A moderate amount
- A large amount
- A great amount that resulted in my inability to get a license.

*** Rate the level of hardship or barriers you face to *retain* your license.**

- None at all
- A small amount
- A moderate amount
- A large amount
- A great amount that resulted in my inability to maintain my license.

*** Rate the importance that your license serves in protecting public citizens from harm or danger.**

- Extremely important. It’s a matter of life or death.
- Very important. The public would be at risk for significant harm or danger if a license wasn't required for this occupation.
- Somewhat important. It's possible the public could be be exposed to some risk if a license wasn't required for this occupation.
- Not so important. It’s unlikely the public would be exposed to harm or danger if a license wasn't required for this occupation.
- Not at all important. There is no risk of harm or danger to the public if a license wasn't required for this occupation.

*** Do you hold a similar occupational license in another state(s)?**

- Yes
- No

* **Select the category that best describes the *initial* requirements to *obtain* your out of state license compared to Wisconsin's initial licensing requirements. (Compare educational and other requirements, fees and other costs.)**

- ◯ Way more than Wisconsin
- ◯ Somewhat more than Wisconsin
- ◯ About the same as Wisconsin
- ◯ Somewhat less than Wisconsin
- ◯ Way less than Wisconsin

* **Select the category that best describes the *ongoing* requirements to *retain* your out of state license compared to Wisconsin's *ongoing* licensing requirements. (Compare educational and other requirements, fees and other costs.)**

- ◯ Way more than Wisconsin
- ◯ Somewhat more than Wisconsin
- ◯ About the same as Wisconsin
- ◯ Somewhat less than Wisconsin
- ◯ Way less than Wisconsin

* **Rate the level of hardship or barriers you faced to *obtain* your *initial* out of state license.**

- ◯ The state has way more hardships and barriers than Wisconsin.
- ◯ The state has somewhat more hardships and barriers than Wisconsin.
- ◯ The state has about the same as Wisconsin.
- ◯ The state has somewhat less hardships and barriers than Wisconsin.
- ◯ The state has way less hardships and barriers than Wisconsin.

* **Rate the level of hardship or barriers you face to *retain* your out of state license.**

- ◯ The state has way more hardships and barriers than Wisconsin.
- ◯ The state has somewhat more hardships and barriers than Wisconsin.
- ◯ The state has about the same as Wisconsin.
- ◯ The state has somewhat less hardships and barriers than Wisconsin.
- ◯ The state has way less hardships and barriers than Wisconsin.

* **Are you aware of any instances where occupational licensing regulations have impacted the cost or availability of consumer goods or services?** [i.e. increased costs for goods or services, decreased availability of practitioners]

- ◯ Yes
- ◯ No

* **Please provide specific examples where state licensing regulations have impacted the cost or availability of consumer goods or services.**

[ ]

* **How important is it to regulate Wisconsin's occupations in order to protect public citizens from harm or danger?**

- ◯ Extremely important. It’s a matter of life or death.
- ◯ Very important. The public would be at risk for significant harm or danger if a license wasn't required for this occupation.
- ◯ Somewhat important. It's possible the public could be be exposed to some risk if a license wasn't required for this occupation.
- ◯ Not so important. It’s unlikely the public would be exposed to harm or danger if a license wasn't required for this occupation.
- ◯ Not at all important. There is no risk of harm or danger to the public if a license wasn't required for this occupation.

*** Indicate what types of licenses should be regulated in order to protect public citizens from harm or danger. Check all that apply.**

- [ ] Animal or Agriculture related
- [ ] Banking and Financial related (includes investments, insurance, lenders, collectors, tax assessor, charitable fundraising)
- [ ] Business related
- [ ] Chemical, Environmental, or Utilities Dealer, Supplier, or Applicator (includes fuel, gas, oil, water, power, pesticides, asbestos, hazardous materials, or waste products)
- [ ] Educator or School related (includes instructor, teacher, administrator, or service provider of elementary, secondary, postsecondary education)
- [ ] Food or Restaurant related
- [ ] Health or Medical related
- [ ] Legal, Security, or Enforcement related (i.e. attorney, investigator, inspector, tester, certifier, private detective, notary, etc.)
- [ ] Product or Vehicle Manufacturer, Broker, or Dealer
- [ ] Sales related
- [ ] Sports related
- [ ] Social Services (includes child and adult care services)
- [ ] Trades related
- [ ] No occupations should be regulated
- [ ] Other (please specify)

Please provide any information you would like to share.

VIII. Resources

1. State of Vermont - Application for Preliminary Sunrise Review Assessment
www.sec.state.vt.us/professional-regulation/sunrise-review.aspx

2. Occupational Licensing Review Act Model Legislation
www.ncsl.org/Portals/1/Documents/Labor/Licensing/Knepper_OccupationalLicensingReviewAct_31961.pdf

3. The National Occupational Licensing Database
www.ncsl.org/research/labor-and-employment/occupational-licensing-statute-database.aspx#Additional%20Resources

4. Policymaker Questions to Ask When Considering Occupational Licensing Proposals
www.ncsl.org/Portals/1/HTML_LargeReports/occupationallicensing_final.htm

5. Fact Sheet: New Steps to Reduce Unnecessary Occupation Licenses that are Limiting Worker Mobility and Reducing Wages
obamawhitehouse.archives.gov/the-press-office/2016/06/17/fact-sheet-new-steps-reduce-unnecessary-occupation-licenses-are-limiting

6. Occupational Licensing: A Framework for Policymakers, July 2015
obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf

7. Framework for Developing Consistent Descriptions of Regulatory Models - CLEAR (Council on Licensure, Enforcement, and Regulation)
www.clearhq.org/resources/Regulatory_Model_United_States.pdf

IX. References

1. *States Take on Occupational Licensing Reform*; Billy Culleton, Strategic Government Relations Coordinator

2. *License to Work – A National Study of Burdens from Occupational Licensing - 2nd Edition;* Institute for Justice

3. *Occupational Licensing in Wisconsin Has Grown and Has Costs* – Collen Roth, Research Fellow, Wisconsin Institute for Law and Liberty

4. *A Fresh Start – Wisconsin's Atypical Expungement Law and Options for Reform* – Public Policy Forum

5. *Regulation of Professional Occupations by the Department of Safety and Professional Services* – Information Paper 97, January 2015

6. *Occupational Licensing: Ranking the States and Exploring Alternatives* – Adam B. Summers, Reason Foundation

7. *The De-licensing of Occupations in the United States* - Robert J. Thornton and Edward J. Timmons, "Monthly Labor Review, U.S. Bureau of Labor Statistics, May 2015

8. National Conference of State Legislatures - *www.ncsl.org*

9. *The State of Occupational Licensing: Research, State Policies and Trends, Occupational Licensing: Assessing State Policy and Practice* - National Conference of State Legislatures

10. *Occupational Licensing: A Framework for Policymakers* - U.S. Department of Treasury Office of Economic Policy, Council of Economic Advisers and Department of Labor, (Washington, D.C., The White House) 2015

11. *The Costs and Benefits of Occupational Regulation* - Carolyn Cox and Susan Foster, Federal Trade Commission, (Washington, D.C.), 1990

12. *Hearing on License to Compete: Occupational Licensing and State Action Doctrine*," United States Committee on the Judiciary - Testimony presented by Jason Furman, February 2016

13. *The Right to Earn a Living Act: A Well-Considered Answer to Licensing* – Jon Sanders, March 2018

14. *Buttermaker License* – Jeanne Carpenter, CheeseUnderground.com, March 2010

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