BOARD OF NURSING
Room 121A, 1400 East Washington Avenue, Madison
Contact: Dan Williams (608) 266-2112
March 9, 2017

Notice: 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 actions and deliberation of the Board.

10:00 A.M.
AGENDA

CALL TO ORDER – ROLL CALL – OPEN SESSION

A. Adoption of the Agenda (1-3)

B. Approval of the Minutes of February 9, 2017 (4-9)

C. Administrative Matters – Discussion and Consideration
   1) Staff Updates
   2) Board Member – Term Expiration Date
      a. Paul Abegglen – 7/1/2019
      b. Jodi Johnson – 7/1/2019
      c. Maria Joseph – 7/1/2013
      d. Peter Kallio – 7/1/2018
      e. Sheryl Krause – 7/1/ 2018
      f. Lillian Nolan – 7/1/2019
      g. Luann Skarlupka – 7/1/2017
      h. Cheryl Streeter – 7/1/2017
      i. Vacant (Professional Member)

D. Legislative and Administrative Rule Matters – Discussion and Consideration
   1) Update on Legislation and Pending or Possible Rulemaking Projects

E. Board of Nursing – Division of Legal Services and Compliance (DLSC) Five Year Summary Report (10-13)

F. Speaking Engagements, Travel, or Public Relations Requests

G. Information Item(s)
   1) National Council of State Boards of Nursing (NCSBN) Items

H. Discussion and Consideration of Items Received After Preparation of the Agenda
   1) Introductions, Announcements, and Recognition
   2) Election of Board Officers
3) Appointment of Board Liaison(s)  
4) Informational Item(s)  
5) Division of Legal Services and Compliance Matters  
6) Education and Examination Matters  
7) Credentialing Matters  
8) Practice Matters  
9) Legislation / Administrative Rule Matters  
10) Liaison Report(s)  
11) Presentations of Petition(s) for Summary Suspension  
12) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)  
13) Presentation of Final Decision and Order(s)  
14) Speaking Engagement(s), Travel, or Public Relations Request(s)  

I. 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.).  

J. Deliberation on Division of Legal Services and Compliance (DLSC) Matters  

1) Attorney Amanda Florek  
   a. Proposed Stipulations, Final Decisions and Orders  
      1. 16 NUR 082 (K.J.D.) (14-22)  
      2. 16 NUR 222 (L.A.B.) (23-32)  
      3. 16 NUR 233 (K.J.S.I.) (33-38)  
      4. 16 NUR 329 (J.J.V.) (39-45)  
      5. 16 NUR 367 (D.C.) (46-51)  
      6. 16 NUR 456 (C.C.C.) (52-63)  
      7. 16 NUR 658 (E.M.P.) (64-69)  

2) Attorney Kim Kluck  
   a. Administrative Warnings  
      1. 16 NUR 730 (H.L.K.) (70-71)  
   b. Proposed Stipulations, Final Decisions and Orders  
      1. 15 NUR 262 (L.L.M.M.) (72-78)  
      2. 15 NUR 615 (K.Y.) (79-84)  
      3. 16 NUR 068 (M.J.L.) (85-90)  
      4. 16 NUR 267 (J.L.T.) (91-102)  
      5. 16 NUR 505 (D.R.R.) (103-114)  
      6. 16 NUR 559 (C.S.D.) (115-121)  
      7. 16 NUR 559 (R.R.W.) (122-128)  
      8. 16 NUR 636 (A.E.M.) (129-142)  

3) Attorney Sandra Nowack  
   a. Proposed Stipulation, Final Decision and Order  
      1. 15 NUR 518 (K.J.P.) (143-149)  

4) Case Closures
5) **Monitoring (150-360)**
   a. **Department Monitor Ashley Ayres**
      1. APPEARANCE – Justine Sandin – Requesting Termination of Therapy and Modification of Practice Requirements (153-162)
      2. Amy Brandenburg – Requesting Reduction in Screens and AA/NA Meetings, Temination or Direct Supervision (163-189)
      3. Annette Malcomson – Requesting Access to Controlled Substances (190-220)
      4. Jennifer Pullam – Requesting Reduction in Drug Screens and AA/NA Meetings (221-243)
      5. Julie Wilcox – Requesting Termination of Direct Supervision (244-269)
   b. **Department Monitor Jesse Benisch**
      1. Tammy Finley – Requesting Full Licensure (270-285)
      2. Anthony Solbert – Requesting Review of AODA Assessment and Stay of Suspension (286-316)
      3. Robin Staver – Requesting Full Licensure (317-347)
      4. Lisa Winiarski – Requesting Full Licensure (348-360)

K. **Deliberation of Items Received After Preparation of the Agenda**
   1) Professional Assistance Procedure (PAP) Matters
   2) Division of Legal Services and Compliance Matters
   3) Monitoring Matters
   4) Credentialing Matters
   5) Education and Examination Matters
   6) Administrative Warnings
   7) Review of Administrative Warnings
   8) Proposed Stipulations, Final Decisions and Orders
   9) Proposed Final Decisions and Orders
   10) Orders Fixing Costs/Matters Related to Costs
   11) Petitions for Summary Suspension
   12) Petitions for Designation of Hearing Examiner
   13) Petitions for Re-hearings
   14) Appearances from Requests Received or Renewed
   15) Motions

L. **Consult with Legal Counsel**

**RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

Voting on Items Considered or Deliberated on in Closed Session, If Voting is Appropriate

M. **Board Training Review – Public Records and Ethics and Lobbying – Discussion and Consideration (361-366)**

N. **Board Meeting Process (Time Allocation, Agenda Items) – Discussion and Consideration**

O. **Board Strategic Planning and its Mission, Vision, and Values – Discussion and Consideration**

**ADJOURNMENT**

The next scheduled meeting is April 13, 2017.
BOARD OF NURSING
MEETING MINUTES
FEBRUARY 9, 2017

PRESENT:  Paul Abegglen, Peter Kallio, Jodi Johnson, Maria Joseph, Sheryl Krause, Lillian Nolan, Luann Skarlupka

EXCUSED:  Cheryl Streeter

STAFF:  Dan Williams, Executive Director; Nifty Lynn Dio, Bureau Assistant; and other DSPS Staff

CALL TO ORDER
Sheryl Krause called the meeting to order at 8:02 a.m. A quorum was confirmed.

ADOPTION OF THE AGENDA

Amendments to the Agenda
- Correct Case Number on Administrative Warning Review to 16 NUR 318

MOTION:  Peter Kallio moved, seconded by Paul Abegglen, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF JANUARY 12, 2017

Amendments to the Minutes
- Correct Bureau Assistant name in minutes
- Page 5 of the minutes, under ‘Credentialing Authority Delegations’ remove first motion
- Page 5 of the minutes: Correct Kallio to Peter Kallio

MOTION:  Luann Skarlupka moved, seconded by Maria Joseph, to approve the minutes of January 12, 2017 as amended. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Monitoring Delegation

MOTION:  Luann Skarlupka moved, seconded by Peter Kallio, to adopt the ‘Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor’ document as presented. Motion carried unanimously.

Credentialing Delegation

MOTION:  Peter Kallio moved, seconded by Paul Abegglen, to delegate to the credentialing liaison the authority to approve or deny applications for military equivalency requests. Motion carried unanimously.

EDUCATION AND EXAMINATION MATTERS

NCLEX Pass Rates of Board Approved RN and PN Schools

MOTION:  Peter Kallio moved, seconded by Luann Skarlupka, that the Board recognizes the improvement of NCLEX scores by Bryant and Stratton and Herzing Brookfield. Motion carried unanimously.
MOTION: Paul Abegglen moved, seconded by Luann Skarlupka, that Columbia-Mt. Mary and Wisconsin Indianhead Tech College, submit by May 15, 2017 an explanation or analysis of NCLEX pass rates and their plan to meet the NCLEX first time taker pass rate standard. Motion carried unanimously.

MOTION: Paul Abegglen moved, seconded by Peter Kallio, that Marian University and Rasmussen-Green Bay submit by May 15, 2017, an explanation or analysis of NCLEX pass rates, including reasons the plan submitted to the Board last year for improvement was unsuccessful and their plan to meet the NCLEX first time taker pass rate standard. Motion carried unanimously.

MOTION: Peter Kallio moved, seconded by Luann Skarlupka, that Herzing-Madison and Lakeshore Technical College submit by May 15, 2017, an explanation or analysis of NCLEX pass rates, including reasons the 2015 and 2016 plans for improvement submitted to the Board were unsuccessful and their current plan to meet the NCLEX first time taker pass rate standard. Motion carried unanimously.

CLOSED SESSION

MOTION: Luann Skarlupka moved, seconded by Peter Kallio, 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 investigation with administrative warning (ss.19.85(1)(b), Stats. and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and, to confer with legal counsel (s.19.85(1)(g), Stats.). Sheryl Krause, Chair, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Paul Abegglen-yes; Jodi Johnson-yes; Maria Joseph-yes; Peter Kallio-yes; Sheryl Krause-yes; Lillian Nolan-yes; Luann Skarlupka-yes. Motion carried unanimously.

At this time, all external communication contacts will be terminated for purposes of going into Closed Session.

The Board convened into Closed Session at 9:01 a.m.

RECONVENE TO OPEN SESSION

MOTION: Paul Abegglen moved, seconded by Luann Skarlupka, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 12:49 p.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

MOTION: Peter Kallio moved, seconded by Luann Skarlupka, to affirm all motions made 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.)

APPEARANCE: DSPS STAFF AND PETITIONER ATTORNEY BRIAN PURTELL – REVIEW OF ADMINISTRATIVE WARNING WARN00000579/DLSC CASE NO. 16 NUR 318

MOTION: Luann Skarlupka moved, seconded by Lillian Nolan, to rescind the Administrative Warning in the matter of DLSC Case No. 16 NUR 316 (S.B.) and send the matter back to DLSC for further investigation. Motion carried.
(Peter Kallio recused himself for deliberation and voting in the matter of disciplinary proceedings against S.B., DLSC Case No. 16 NUR 318.)

PROPOSED FINAL DECISION AND ORDER: IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST CONNIE J. ZIMMERMAN, L.P.N., RESPONDENT, DHA CASE NO. SPS-16-0063/DLSC CASE NO. 15 NUR 554

MOTION: Paul Abegglen moved, seconded by Peter Kallio, to adopt the Findings of Fact, Conclusions of Law and Proposed Decision and Order in the matter of disciplinary proceedings against Connie Zimmerman, L.P.N., Respondent, DHA Case No. SPS-16-0063/DLSC Case No. 16 NUR 554. Motion carried unanimously.

(Luann Skarlupka recused herself and left the room for deliberation and voting in the matter of disciplinary proceedings against Connie Zimmerman, DLSC Case No. 15 NUR 554.)

DELIBERATION ON CREDENTIALING MATTERS

Brianna Zuleger – Military Equivalence

MOTION: Peter Kallio moved, seconded by Luann Skarlupka, to find that the relevant instruction in connection to Brianna Zuleger’s military service is not substantially equivalent to the instruction required to sit for the NCLEX-PN at this time per Wis. Stat. §441.10(1)(g) and Wis. Admin. Code §N 2.10(2)(f). Motion carried unanimously.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Attorney Amanda Florek

Administrative Warnings

MOTION: Paul Abegglen moved, seconded by Maria Joseph, to issue an Administrative Warning in the following matters:
1. 16 NUR 154 (T.F.C.)
2. 16 NUR 180 (J.A.G.)
3. 16 NUR 180 (L.L.W.)
Motion carried unanimously.

Proposed Stipulations, Final Decisions and Orders

MOTION: Paul Abegglen moved, seconded by Peter Kallio, to accept the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against:
1. 16 NUR 127 (K.L.G.)
2. 16 NUR 187 (E.M.Z.)
Motion carried unanimously.

DLSC Attorney Kim Kluck

Administrative Warnings

MOTION: Paul Abegglen moved, seconded by Peter Kallio, to issue an Administrative Warning in the following matters:
1. 16 NUR 513 (C.L.A.)
2. 16 NUR 541 (E.K.L.)
3. 16 NUR 629 (P.A.S.)
Motion carried unanimously.
**Proposed Stipulations, Final Decisions and Orders**

**MOTION:** Paul Abegglen moved, seconded by Peter Kallio, to accept the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against:

1. 15 NUR 626 (L.A.L.)
2. 15 NUR 633 (P.L.K.)
3. 16 NUR 335 (E.M.R.)
4. 16 NUR 394 (D.W.M.)
5. 16 NUR 404 (P.D.V.)
6. 16 NUR 625 (P.Z.W.)

Motion carried unanimously.

**14 NUR 515 – D.M.M.**

**MOTION:** Luann Skarlupka moved, seconded by Paul Abegglen, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against D.M.M., DLSC Case No. 14 NUR 515. Motion carried unanimously.

*(Sheryl Krause recused herself and left the room for deliberation and voting in the matter of disciplinary proceedings against D.M.M., DLSC Case No. 15 NUR 515.)*

**16 NUR 263 – T.D.S.**

**MOTION:** Paul Abegglen moved, seconded by Peter Kallio, to table the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against T.D.S., DLSC Case No. 16 NUR 263. Motion carried unanimously.

**Case Closures**

**MOTION:** Paul Abegglen moved, seconded by Peter Kallio, to close the DLSC cases for the reasons outlined below:

1. 16 NUR 019 – Insufficient Evidence
2. 16 NUR 090 – Insufficient Evidence
3. 16 NUR 338 – Prosecutorial Discretion (P2)
4. 16 NUR 378 – Prosecutorial Discretion (P1)
5. 16 NUR 402 – Insufficient Evidence
6. 16 NUR 448 – No Violation
7. 16 NUR 511 – No Violation
8. 16 NUR 582 – Prosecutorial Discretion (P2)

Motion carried unanimously.

**Monitoring**

*Tammy Finley, R.N. – Requesting Full Licensure*

**MOTION:** Peter Kallio moved, seconded by Maria Joseph, to deny the request of Tammy Finley for full licensure. **Reason for Denial:** Insufficient time of compliance under the terms of the Order (02/12/2015). The Board would like to see Respondent demonstrate one (1) full year of compliance (05/2016-05/2017) with all of the terms of the Order before considering further modification or termination. Motion carried unanimously.
Pamela Hadlock, R.N. – Requesting Full Licensure

MOTION: Lillian Nolan moved, seconded by Paul Abegglen, to grant the request of Pamela Hadlock for full licensure. Motion carried unanimously.

Monica Stout, R.N. – Requesting Full Licensure

MOTION: Peter Kallio moved, seconded by Paul Abegglen, to deny the request of Monica Stout for full licensure. **Reason for Denial:** Failure to demonstrate continuous and successful compliance (i.e. missed check-ins, missed tests, and late tests). Respondent needs to fully comply with the complete terms and conditions of the original Board Order (01/08/2015). Motion carried unanimously.

Coreen Elliott, R.N. – Requesting Full Licensure

MOTION: Peter Kallio moved, seconded by Luann Skarlupka, to deny the request of Coreen Elliott for full licensure. **Reason for Denial:** Failure to demonstrate continuous and successful compliance (i.e. errors in documentation). Respondent needs to fully comply with the complete terms and conditions of the original Board Order (08/16/2012) for one (1) full year. Motion carried unanimously.

MOTION: Peter Kallio moved, seconded by Luann Skarlupka, to refer Coreen Elliott to DLSC for further investigation into the recent termination related to narcotic documentation. Motion carried unanimously.

Gwendolyn Jeffro, L.P.N. – Requesting Full Licensure

MOTION: Lillian Nolan moved, seconded by Peter Kallio, to grant the request of Gwendolyn Jeffro for full licensure. Motion carried unanimously.

Hedy Klinger, R.N. – Requesting Termination of Direct Supervision

MOTION: Luann Skarlupka moved, seconded by Maria Johnson, to deny the request of Hedy Klinger for termination of direct supervision. **Reason for Denial:** Respondent needs to practice nursing under the conditions of the current Board Order (02/26/2009) before the Board will consider amending requirements. Motion carried unanimously.

Melissa Owens, R.N. – Requesting Reduction in Drug Screens and Termination of Direct Supervision

MOTION: Peter Kallio moved, seconded by Lillian Nolan, to grant the request of Melissa Owens for termination of direct supervision in her current position at her current employer and deny the request for reduction in drug screens. **Reason for Denial:** Failure to demonstrate continuous and successful compliance (i.e. missed check-ins, missed tests, and late tests). Respondent needs to fully comply with the complete terms and conditions of the original Board Order (10/08/2015). Motion carried unanimously.

Matthew Staudinger, R.N. – Requesting Reduction in Drug Screens and Termination AA/NA

MOTION: Lillian Nolan moved, seconded by Luann Skarlupka, to deny the request of Matthew Staudinger for reduction in drug screens and termination of AA/NA log and work-setting restrictions. **Reason for Denial:** Insufficient time under the Board Order (01/05/2016) to demonstrate adequate compliance. Motion carried unanimously.
Michael Tomkowiak, R.N. – Requesting Reduction in Drug Screens and AA/NA and Termination of Direct Supervision

MOTION
Peter Kallio moved, seconded by Paul Abegglen, to grant the request of Michael Tomkowiak for reduction in drug screens to 36 per year and 1 hair test and termination of direct supervision, and deny the request for reduction in AA/NA meetings. **Reason for Denial:** Respondent needs to practice nursing under the conditions of the modified Board Order before the Board will consider amending other requirements. Motion carried unanimously.

ADJOURNMENT

MOTION:
Peter Kallio moved, seconded by Paul Abegglen, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:12 p.m.
# State of Wisconsin
Department of Safety & Professional Services

## AGENDA REQUEST FORM

<table>
<thead>
<tr>
<th>1) Name and Title of Person Submitting the Request:</th>
<th>2) Date When Request Submitted:</th>
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</table>
| Janie Brischke  
Program Policy Analyst Advanced, DLSC | February 28, 2017 |

Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

<table>
<thead>
<tr>
<th>3) Name of Board, Committee, Council, Sections:</th>
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<tbody>
<tr>
<td>Board of Nursing</td>
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<tr>
<th>4) Meeting Date:</th>
<th>5) Attachments:</th>
<th>6) How should the item be titled on the agenda page?</th>
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<tbody>
<tr>
<td>March 9, 2017</td>
<td>X Yes No</td>
<td>Board of Nursing/Division of Legal Services and Compliance Five Year Summary Report</td>
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<tr>
<th>7) Place Item in:</th>
<th>8) Is an appearance before the Board being scheduled?</th>
<th>9) Name of Case Advisor(s), if required:</th>
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<tbody>
<tr>
<td>X Open Session</td>
<td>□ Yes (Fill out Board Appearance Request)</td>
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<td></td>
<td>□ No</td>
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<th>10) Describe the issue and action that should be addressed:</th>
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<tr>
<td>Submitting the requested Board of Nursing Five Year Summary Report to the Board for approval.</td>
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<th>11) Authorization</th>
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<tr>
<td>Janie Brischke</td>
</tr>
<tr>
<td>February 28, 2017</td>
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</tbody>
</table>

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.
COMPLAINTS RECEIVED
PERCENTAGE CLOSED AT SCREENING AND OPENED FOR INVESTIGATION
JANUARY 1, 2012 – DECEMBER 31, 2016

*Of the 764 complaints received, 85 complaints have not been screened. The percentages represent the other 679 complaints that have been screened.
### CASES/RESPONDENTS CLOSED BY TYPE OF CLOSURE

**JANUARY 1, 2012 – DECEMBER 31, 2016**

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<td><strong>CLOSED AT SCREENING</strong></td>
<td>482</td>
<td>417</td>
<td>459</td>
<td>473</td>
<td>453</td>
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<tr>
<td><strong>CLOSED INFORMALLY</strong></td>
<td>186</td>
<td>210</td>
<td>234</td>
<td>108</td>
<td>161</td>
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<tr>
<td><strong>CLOSED FORMALLY</strong></td>
<td>136</td>
<td>209</td>
<td>178</td>
<td>142</td>
<td>117</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>804</td>
<td>836</td>
<td>871</td>
<td>723</td>
<td>731</td>
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*It is important to note that a case/respondent closed may have been received in a previous year.*
State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

<table>
<thead>
<tr>
<th>1) Name and Title of Person Submitting the Request:</th>
<th>2) Date When Request Submitted:</th>
<th>3) Name of Board, Committee, Council, Sections:</th>
</tr>
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<tbody>
<tr>
<td>Dan Williams, Executive Director</td>
<td>03/01/2017</td>
<td>All Boards, Committees, Councils and Sections</td>
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</table>

4) Meeting Date: 03/09/2017

5) Attachments: Yes

6) How should the item be titled on the agenda page?
   Board Training Review – Public Records and Ethics and Lobbying – Discussion and Consideration

7) Place Item in:
   - Open Session
   - Closed Session

8) Is an appearance before the Board being scheduled?
   - Yes
   - No

9) Name of Case Advisor(s), if required: N/A

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

   Please review the materials previously emailed, and included herein, in preparation for discussion at the meeting.
   1) Public Records and Ethics and Lobbying Training
      i. Email from 3/1/17
      ii. Wisconsin Public Records Law Basics
      iii. DSPS Public Records Information
      iv. Ethics and Lobbying Law One Pager

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.
Hello,

Below you will find information about two requirements recently communicated to state agencies.

All Board, Council, Section and Committee members are required to receive training in two separate areas: 1) Public Records, and; 2) Ethics and Lobbying. **These required trainings must be completed at your earliest opportunity. Please complete the web-based public records training and review the attached ethics and lobbying guidance document by March 1st.** At your next meeting, you will have the opportunity to discuss the public records training and we will review the ethics and lobby law training.

Background information and instructions for both trainings is included below.

1) **Public Records**

On March 11, 2016, the Governor issued Executive Order #189 reaffirming the importance of transparency in state government. Specifically, the Governor asked agencies to implement best practices to promote the public’s access to the records of their government under Wisconsin’s Public Records Law. The Governor also directed each state agency to provide public records resources and training for all employees and members of all boards, councils, commissions and committees attached to the agency.

This training has been developed and is available online at the following web link: [http://dsps.wi.gov/Documents/Board%20Services/Other%20Resources/RecordsTraining/Wisconsin_Public_Records_Law_Basics.pdf](http://dsps.wi.gov/Documents/Board%20Services/Other%20Resources/RecordsTraining/Wisconsin_Public_Records_Law_Basics.pdf)

*Please note that this link will require Adobe Flash Player which may not be available for your hand held device. *If you are unable to open the training, you may view the attached PDF titled “WisconsinPublicRecordsLawBasics_PPT” instead.*
If you have difficulty in accessing this information please contact Kimberly Wood at Kimberly.Wood@wisconsin.gov and she will assist you.

2) **Ethics and Lobbying**

Recently the Wisconsin Ethics Commission withdrew a formal opinion that had created a pathway for agency officials to remove themselves from the prohibitions of the lobbying law. A number of questions were received in response to the action by the Ethics Commission.

A guidance document is attached in an effort to clarify the current status of the law. The attachment is a one-page overview of specific provisions in the state ethics and lobbying laws that apply to persons appointed by Governor Walker throughout state government.

While the ethics law provisions apply to all appointees of the Governor, the lobbying law only applies to members of boards, councils, or commissions and committees that are involved with rule writing.

If you have any questions, please feel free to reach out to your Executive Director or the Wisconsin Ethics Commission at any time.

Thank you,

**Jim Boullion**
Administrator, Division of Policy Development
Department of Safety and Professional Services
james.boullion@wisconsin.gov
Phone: (608) 266-8419
What Is a Public Record?

Anything paper or electronic with information about government business, with a few exceptions.

Public records can be paper or electronic.

Examples of electronic public records:
- Emails
- Videos
- Audio files
- Database content
- Instant messages

Record Location

The location of the record does not matter!

Emails, text messages, or files about government business on your personal device are public records. You must keep them and turn them over upon request.

Public Records Responsibility 3

When you have a public record, understand how to properly retain it.
- If it is a public record, follow your agency’s record retention schedule.
- Check with your agency’s records officer(s) or records coordinator(s) to learn:
  - How long to keep records.
  - Where to send records when time expires.
- Before you get rid of a record, make sure there are no pending records requests, audits, or lawsuits that require you to hold on to it.

Key Points

Key points to remember:
- Don’t delete emails or any other records unless you know that you don’t need to keep them.
- Organize hard copy documents so you know where to find them if a member of the public requests them.
- Know how long you are required to keep your records and what to do with them when that time is up.

Key Points, Continued

- Keep all your emails in a place where someone can search them when requests come in.
- Manage your own emails. Don’t rely on disaster recovery backup systems. If you run out of storage in your mailbox, ask your agency’s help desk for assistance with .pst files or similar solutions.
- Text messages on your personal cell phone are public records if they pertain to government business.
- Emails in your personal email are public records if they pertain to government business.

Public Records Responsibility 4

Recognize a public records request and handle the request appropriately.

A public records request:
- Is any request for government records.
- Does not require magic words or precise format.
- Can be submitted by email, by letter, by phone, in person, or by any other method.
- Can be written or verbal.
- Does not need to identify the requestor or the purpose of the request.
The purpose of this memo is to provide information on public records requests that is specific to the Department of Safety and Professional Services (DSPS).

DSPS receives public record requests in a number of ways. Most public record requests are received via US mail or by email. DSPS has a public records mailbox accessible from the DSPS website. In addition, the DSPS website contains a public records notice which sets out the procedure for making a request and information about fees. Here is the link to the public records notice: http://dsps.wi.gov/other-services/open-records-notice-and-requests

Records requests should always be considered a priority. If you are an employee of DSPS and you receive a request you should immediately notify your supervisor or a record custodian. Any records that may be covered by the request should be preserved. If you are a member of a board or council and you receive a request you should immediately notify your primary contact at DSPS, normally the executive director of your board or council. Again, any records that may be covered by the request should be preserved. The record request should be forwarded to the supervisor, custodian or executive director within one business day.

Deputy record custodians process the requests. The custodians will work in conjunction with the DSPS public information officer on requests involving media or legislative issues. The custodians will also work with the employees or board/council members if there is a need to search emails or other records in possession of the employee or board/council member. The goal is for the custodian to provide a response as soon as practicable. For this reason, cooperation with the custodians is essential.

The agency record custodian is Michael Berndt.

The following lists reflect deputy record custodians for each agency division:

<table>
<thead>
<tr>
<th>DLSC</th>
<th>DPCP</th>
<th>DPD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meena Balasubramanian</td>
<td>Kris Hendrickson</td>
<td>Shawn Leatherwood</td>
</tr>
<tr>
<td>Beth Cramton</td>
<td></td>
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<tr>
<td>Zach Hendrickson</td>
<td></td>
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<tr>
<td>Terri Rees</td>
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</tbody>
</table>

Public records are retained for periods of time set out in Record Destruction Authorizations, commonly called RDAs, or as required by the General Record Schedules. If you have questions about how long some record is supposed to be retained, please talk with you supervisor. Record officers update the agency RDAs and are familiar with the General Record Schedules. The agency record officers are Michael Berndt and Peggy Thran.
The guidance below provides a summary of the prohibitions on solicitation and acceptance of items of value under Wisconsin law. This guidance does not provide a comprehensive overview of the regulations that apply to state officials. For further information, please consult the Wisconsin Ethics Commission (http://ethics.wi.gov/content/resources) and Chapters 13 and 19 of the Wisconsin Statutes.

**Lobbying law. Chapter 13, Wisconsin Statutes.**

**General Rule:** Members of state agencies, boards, commissions, or councils that have rulemaking authority cannot solicit or accept anything of pecuniary value from a lobbyist or lobbying principal, even if they offer to pay for it. (§13.62, §13.625, 80 OAG 205). [Involvement in rulemaking is defined very broadly; you are likely considered to be involved in rulemaking just by virtue of the fact that you are appointed to a board, commission or council with rulemaking authority. §13.62(3)]. Note that the Wisconsin Ethics Commission recently withdrew a formal opinion that allowed agency officials to remove themselves from the prohibitions of the lobbying law by refraining from engaging in rulemaking activities.

**Applies to members of boards with rule-making authority (“agency officials”). [Defined in §13.62(3)].**

**Exceptions:**

- If the thing provided by a principal (not an individual lobbyist) is available to the general public on the same terms and conditions and is available to anyone who wants it and who meets the criteria for eligibility. [§13.625(2); 80 OAG 205]. For example, a member of the State Bar could attend a generally advertised continuing legal education conference put on by the State Bar (a lobbying principal) so long as it was available to anyone who wished to attend and met the criteria for eligibility, such as membership in the State Bar.
  - The criteria for eligibility must be:
    - Established and readily identifiable; and
    - Drawn without the purpose or effect of giving a preference to or conferring an advantage upon you.
  - There must be no offer or notice of availability directed to you that gives you an advantage.

- The lobbyist or principal is your employer and the thing provided does not exceed what the employer customarily provides to all employees (e.g., a paycheck). [§13.625(6r)]. (Note that one’s status as a lobbyist does not prevent service as an agency official.)

- The expense is provided as a benefit to the state, such as meals, transportation or lodging in connection with an event related to your state duties, which the state would otherwise pay. [§13.625(7); §19.56(3)(a)].

- Informational or educational materials. [§13.625(6t)].

- The lobbyist is a relative or resides in the same household [§13.625(6)].

*All lobbyists and lobbying principals are required to register here: https://lobbying.wi.gov/Home/Welcome.*

**Ethics Law. Chapter 19, Wisconsin Statutes.**

**General Rule:** No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. [§19.45(2); §19.42(2)].

**Applies to individuals appointed by the governor, and other positions defined in Wis. Stat. 19.42(13).**

**Exceptions:** (Note that these exceptions are to the ethics code only. They are not exceptions to prohibitions under the lobbying code.)

- The thing offered is unrelated to your state position (e.g., a family member or long-time friend).
- The expense is provided as a benefit to the state, such as meals, transportation or lodging in connection with an event related to your state duties which the state would otherwise pay. [§19.56(3)(a)].

IF YOU HAVE ANY DOUBT IF SOMETHING IS PERMITTED, ASK YOUR LEGAL OFFICE OR THE ETHICS COMMISSION