



OPTOMETRY EXAMINING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Thomas Ryan (608) 266-2112
March 16, 2017

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

AGENDA

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-3)

B. Approval of Minutes – February 16, 2017 (4-8)

C. Conflicts of Interest

D. Administrative Updates

- 1) Department and Staff Updates
- 2) Introductions, Announcements, and Recognitions
- 3) Appointments, Reappointments, and Confirmations
- 4) Board Member – Board Member Status
 - a. Ann Carli – 07/01/2014 (*reappointed, not yet confirmed*)
 - b. Richard Foss – 07/01/2017
 - c. Brian Hammes – 07/01/2019 (*reappointed, not yet confirmed*)
 - d. Mark Jinkins – 07/01/2016
 - e. Robert Schulz – 07/01/2020 (*reappointed, not yet confirmed*)
 - f. Peter Sorce – 07/01/2018

E. Legislative and Administrative Rule Matters – Discussion and Consideration (9-27)

- 1) State Budget – Discussion (**9-24**)
- 2) Proposals for Best Practices for Prescribing Controlled Substances Guidelines – Discussion and Consideration (**25-27**)
- 3) Update on Legislation and Pending or Possible Rulemaking Projects

F. Speaking Engagement(s), Travel, or Public Relation Request(s) – Discussion and Consideration

G. Informational Items

H. Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Nominations, Elections, and Appointments
- 3) Board Liaison Training and Appointment of Mentors
- 4) Administrative Updates

- 5) Education and Examination Matters
- 6) Credentialing Matters
- 7) Practice Matters
- 8) Legislation/Administrative Rule Matters
- 9) Liaison, Panel, and Committee Report(s)
- 10) Informational Item(s)
- 11) Disciplinary Matters
- 12) Presentations of Petition(s) for Summary Suspension
- 13) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 14) Presentation of Proposed Decisions
- 15) Presentation of Interim Order(s)
- 16) Petitions for Re-Hearing
- 17) Petitions for Assessments
- 18) Petitions to Vacate Order(s)
- 19) Petitions for Designation of Hearing Examiner
- 20) Requests for Disciplinary Proceeding Presentations
- 21) Motions
- 22) Petitions
- 23) Appearances from Requests Received or Renewed
- 24) Speaking Engagement(s), Travel, or Public Relation Request(s), and Reports

I. Public Comments

J. Future Agenda Items

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.).

K. Education and Examination Matters

L. Division of Legal Services and Compliance (DLSC) Matters

M. Credentialing Matters

N. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Disciplinary Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Board Liaison Training
- 7) Petition(s) for Summary Suspensions
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Administrative Warnings
- 10) Proposed Decisions
- 11) Matters Relating to Costs
- 12) Complaints
- 13) Case Closings
- 14) Case Status Report
- 15) Petition(s) for Extension of Time
- 16) Proposed Interim Orders

- 17) Petitions for Assessments and Evaluations
- 18) Petitions to Vacate Orders
- 19) Remedial Education Cases
- 20) Motions
- 21) Petitions for Re-Hearing
- 22) Appearances from Requests Received or Renewed

O. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

Q. Open Session Items Noticed Above not Completed in the Initial Open Session

**R. Board Training Review – Public Records and Ethics and Lobbying – Discussion and Consideration
(28-34)**

ADJOURNMENT

The Next Scheduled Meeting is June 1, 2017.

**OPTOMETRY EXAMINING BOARD
TELECONFERENCE/VIRTUAL MEETING MINUTES
February 16, 2017**

PRESENT: Ann Carli, Richard Foss, Robert Schulz, Peter Sorce

EXCUSED: Brian Hammes, Mark Jenkins

STAFF: Thomas Ryan, Executive Director; Laura Smith, Bureau Assistant; Sharon Henes, Administrative Rules Coordinator and other DSPS Staff

CALL TO ORDER

Ann Carli, Chair, called the meeting to order at 9:00 A.M. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

Amendments to the Agenda

- *Adding an item under item E.2. titled "Budget Bill Provisions Regarding the Optometry Examining Board"*

MOTION: Richard Foss moved, seconded by Robert Schulz, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

Brian Hammes arrived at 9:04 a.m.

MOTION: Robert Schulz moved, seconded by Ann Carli, to approve the minutes of October 27, 2016 as published. Motion carried unanimously.

Election of Officers

Board Chair

NOMINATION: Robert Schulz nominated Ann Carli for the Office of Board Chair.

Thomas Ryan called for nominations three (3) times.

Ann Carli was elected as Chair by unanimous consent.

Vice Chair

NOMINATION: Ann Carli nominated Robert Schulz for the Office of Vice Chair.

Thomas Ryan called for nominations three (3) times.

Robert Schulz was elected as Vice Chair by unanimous consent.

Secretary

NOMINATION: Richard Foss nominated Mark Jenkins for the Office of Secretary.

Thomas Ryan called for nominations three (3) times.

Mark Jenkins was elected as Secretary by unanimous consent.

2017 ELECTION RESULTS	
Board Chair	Ann Carli
Vice Chair	Robert Schulz
Secretary	Mark Jenkins

Appointment of Liaisons

2017 LIAISON APPOINTMENTS	
Professional Assistance Procedure (PAP) Liaison(s)	Mark Jenkins
Monitoring Liaison	Mark Jenkins
Credentialing Liaison(s)	Ann Carli
Education and Exams Liaison(s)	Richard Foss
Prescription Drug Monitoring Program Liaison (PDMP) Liaison(s)	Robert Schulz

2017 SCREENING PANEL APPOINTMENTS	
January-December 2017	Richard Foss, Mark Jenkins, Robert Schulz

MOTION: Richard Foss moved, seconded by Peter Sorce, to affirm the Chair’s appointment of liaisons for 2017. Motion carried unanimously.

Delegation of Authority

Delegated Authority for Urgent Matters

MOTION: Ann Carli moved, seconded by Robert Schulz, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving

member of the Board, to appoint liaisons to the Department to act in urgent matters, make appointments to vacant liaison, panel and committee positions, and to act when knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

Delegated Authority for Telehealth Legislation

MOTION: Brian Hammes moved, seconded by Ann Carli, to designate the Chair as the legislative liaison regarding telehealth and to speak on behalf of the Board regarding this matter. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Ann Carli moved, seconded by Peter Sorce, 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.

Document Signature Delegation

MOTION: Ann Carli moved, seconded by Richard Foss, 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.

Credentialing Authority Delegations

MOTION: Ann Carli moved, seconded by Peter Sorce, to delegate authority to the Credentialing Liaisons to make all credentialing decisions. Motion carried unanimously.

MOTION: Ann Carli moved, seconded by Robert Schulz, to delegate credentialing authority to DSPS for those submitted applications that meet the criteria of Rule and Statute and thereby would not need further Board or Board liaison review. Motion carried unanimously.

Monitoring Delegation

MOTION: Ann Carli moved, seconded by Robert Schulz, to adopt the 'Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor; document as presented. Motion carried unanimously.

PDMP Delegation

MOTION: Ann Carli moved, seconded by Peter Sorce, to delegate authority to the Prescription Drug Monitoring Program (PDMP) Liaison for all matters relating to PDMP. Motion carried unanimously.

LEGISLATIVE AND ADMINISTRATIVE RULE MATTERS

Proposals for Best Practices for Prescribing Controlled Substances Guidelines

MOTION: Richard Foss moved, seconded by Ann Carli, to authorize the Chair to work with DSPS staff to create a final version of Best Practices for Prescribing Guidelines in Optometry to bring before the full Board. Motion carried unanimously.

Budget Bill Provisions Regarding the Optometry Examining Board

MOTION: Robert Schulz moved, seconded by Ann Carli, to record the Board's opposition to the provision in the current budget bill that would eliminate the Optometry Examining Board. Motion carried unanimously.

MOTION: Richard Foss moved, seconded by Ann Carli, to authorize the Board Chair to craft a letter to the Governor, Finance Committee Chairs, Senate and Assembly Health Committee Chairs, Secretary of DSPS, and Senate and Assembly leadership to express the Board's opposition to the provision in the proposed budget bill that would eliminate the Optometry Examining Board. Motion carried unanimously.

MOTION: Robert Schulz moved, seconded by Richard Foss, to delegate Peter Sorce to carry on active discussions with Governor Walker, legislators and any others regarding the state budget. Motion carried unanimously.

SPEAKING ENGAGEMENT(S), TRAVEL, OR PUBLIC RELATION REQUEST(S)

National Board of Examiners in Optometry (NBEO) and Associated Regulatory Boards of Optometry (ARBO) Annual Meeting – June 18-20, 2017 in Washington, D.C.

MOTION: Ann Carli moved, seconded by Brian Hammes, to authorize Peter Sorce to serve as the Board's delegate at the NBEO and ARBO Annual Meeting on June 18-20, 2017 in Washington, D.C. and to authorize travel. Motion carried unanimously.

MOTION: Ann Carli moved, seconded by Brian Hammes, to authorize the department to submit a letter of recommendation by March 1, 2017 for Peter Sorce to receive the ARBO scholarship to attend the NBEO and ARBO Annual Meeting. Motion carried unanimously.

CLOSED SESSION

MOTION: Richard Foss moved, seconded by Robert Schulz, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats.

and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). The Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Ann Carli-yes; Richard Foss-yes; Brian Hammes-yes; Robert Schulz-yes; Peter Sorce-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:38 a.m.

RECONVENE TO OPEN SESSION

MOTION: Peter Sorce moved, seconded by Ann Carli, to reconvene in Open Session at 10:50 a.m. Motion carried unanimously.

ADJOURNMENT

MOTION: Peter Sorce moved, seconded by Ann Carli, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:00 A.M.

SAFETY AND PROFESSIONAL SERVICES

Budget Summary						FTE Position Summary					
Fund	2016-17	Governor		2017-19 Change Over		2016-17	Governor		2018-19		
	Adjusted Base	2017-18	2018-19	Base Year Doubled	Amount		%	2017-18	2018-19	Over 2016-17	%
FED	\$479,800	\$474,600	\$474,600	-	\$10,400	-1.1%	1.70	1.70	1.70	0.00	0.0%
PR	<u>50,929,900</u>	<u>53,254,400</u>	<u>53,739,300</u>	<u>5,133,900</u>	5.0		<u>245.44</u>	<u>241.44</u>	<u>243.94</u>	<u>- 1.50</u>	<u>- 0.6</u>
TOTAL	\$51,409,700	\$53,729,000	\$54,213,900	\$5,123,500	5.0%		247.14	243.14	245.64	- 1.50	- 0.6%

Budget Change Items

Departmentwide

1. STANDARD BUDGET ADJUSTMENTS

PR	\$487,300
FED	<u>- 10,400</u>
Total	\$476,900

Governor: Provide \$175,400 (\$180,600 PR and -\$5,200 FED) in 2017-18 and \$301,500 (\$306,700 PR and -\$5,200 FED) in 2018-19 to fund the following standard budget adjustments: (a) turnover reduction (-\$326,400 PR annually); (b) removal of non-continuing elements from the base (-\$727,500 PR annually); (c) full funding of continuing position salaries and fringe benefits (\$1,169,100 PR and -\$5,200 FED annually); (d) full funding of lease and directed moves costs (\$65,400 PR in 2017-18 and \$191,500 PR in 2018-19); and (e) minor transfers within the same appropriation (convert 1.0 FED position for the Division of Industry Services from the unclassified service to the classified service to correct an error in the state budget system).

2. INCREASE TURNOVER REDUCTION RATE

PR	- \$366,800
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Governor: Reduce funding by \$183,400 annually by increasing the Department's annual turnover reduction rate from 3% to 4.7% (4.2% for the professional regulation and administrative services appropriation and 5.3% for the safety and building operations appropriation).

The administration's technical budget instructions direct agencies to reduce base funding for permanent position salaries by 3% budgeted in appropriations with more than 50.0 full-time equivalent (FTE) positions. This reduction is based on the expectation that, during the year, some positions will become vacant, reducing salary costs. The 3% funding reduction (-\$140,200 for professional regulation and administrative services and -\$186,200 for safety and building

operations) is summarized as a standard budget adjustment.

This item would increase the turnover reduction rate by an additional 1.7 percentage points, which would further reduce annual funding for permanent position salaries in these two appropriations by \$75,300 and \$108,100 respectively.

3. STATE OPERATIONS REDUCTIONS

	Funding	Positions
PR	-\$616,600	- 2.50

Governor: Reduce funding by \$308,300 annually, and delete 2.5 positions, beginning in 2017-18, by making the following changes to operations of the Department of Safety and Professional Services (DSPS).

Continuing Education Audits. Authorize the Department, examining and affiliated credentialing boards attached to the Department, and independent examining boards to require a credential holder to submit proof of completion of continuing education programs or courses to DSPS, only if a complaint is made against the credential holder. Currently, DSPS staff audit credential holders to ensure that they have met continuing education requirements. Under this item, DSPS would no longer conduct these audits. Reduce funding for professional regulation and administrative services by \$144,600 annually, and delete 1.0 position, beginning in 2017-18.

Renewal Notifications. Change the method DSPS uses to notify individuals of their need to renew their credentials so that credential holders would no longer receive renewal notifications by mail, and instead receive them through an email-based system. Reduce annual funding for professional regulation and administrative services and the Division of Industry, Safety and Buildings by \$37,500 and \$18,700, respectively, to reflect the administration's estimates of cost savings of this item.

Online License Verification. Establish an online license verification system for all non-trades professions regulated by the Department. Under this item, DSPS would authorize out-of-state licensing entities to access electronic records for reciprocal licensing. Currently, DSPS prints and mails hard copies of Wisconsin licenses to out-of-state licensing entities. Reduce funding for professional regulation and administrative services by \$48,800 annually, and delete 1.0 position, beginning in 2017-18.

Pharmacy Inspections. Contract for pharmacy inspections, rather than conducting these inspections with DSPS staff. Reduce funding for professional regulation and administrative services by \$31,300 annually, and delete 0.5 position, beginning in 2017-18.

Position Conversion. Convert 6.0 positions to lower classifications. Currently, the Department has 6.0 consumer protection investigator-advanced positions, which are filled. As the positions become vacant, DSPS would recruit these positions at a lower classification. Reduce funding for professional regulation and administrative services by \$27,400 annually.

[Bill Sections: 1904 and 1929]

4. TRANSFER HUMAN RESOURCES FUNCTIONS TO DOA

	Funding	Positions
PR	- \$524,400	- 8.00

Governor: Delete \$262,200 annually and 4.0 vacant positions, beginning in 2017-18, associated with human resource services and payroll and benefit services. Transfer position authority to the Department of Administration (DOA) for a human resources shared agency services program. Funding and position authority would be deleted from the following appropriations: (a) professional regulation general program operations (-\$53,400 and -1.0 position) and (b) safety and building administrative services (-\$208,800 and -3.0 positions). The administration indicates that these vacant positions would become DOA employees in the Division of Personnel Management in DOA.

In addition, delete 4.0 positions in 2018-19 associated with human resource services and payroll and benefit services. Transfer position authority to DOA for a human resources shared agency services program. Positions would be deleted from the following appropriations: (a) professional regulation general program operations (-3.0 positions) and (b) safety and building administrative services (-1.0 position). Funding associated with these positions (\$358,600) would not be reduced, but rather reallocated to the DSPS supplies and services budget to pay shared agency services charges assessed by DOA. Provide that on July 1, 2018, all positions (including incumbent employees holding those positions), assets and liabilities, personal property, and contracts relating to human resource services and payroll and benefit services, as determined by the Secretary of DOA, are transferred to DOA. Provide that incumbent employees transferred to DOA would retain their employee rights and status that the employee held immediately before the transfer, and provide that employees transferred to DOA who have attained permanent status would not be required to serve a probationary period.

With regards to the positions transferred to DOA in 2018-19, the administration indicates that, although the positions would be DOA employees, the individuals holding those positions would continue to be housed at DSPS.

Transfer the following functions to the Division of Personnel Management within DOA: (a) human resources; and (b) payroll and benefit services. Provide that DOA may assess agencies for services provided under the shared agency services program in accordance with a methodology determined by DOA. [See "Administration -- Transfers."]

[Bill Sections: 73, 9101(9), 9201(1), and 9401(4)]

5. TRANSFER VACANT POSITION FOR STATE CONTROLLER'S OFFICE STAFFING

	Funding	Positions
PR	- \$95,600	- 1.00

Governor: Transfer 1.0 vacant position, beginning in 2017-18, to DOA to reflect workload changes resulting from the implementation of the enterprise resource planning system, commonly known as STAR (State Transforming Agency Resources). Delete \$47,800 annually from the Division of Industry Services administrative services appropriation associated with salary and fringe benefits for the position. [See "Administration -- Transfers."]

6. PRINTING, MAILING, AND PUBLISHING ELECTRONIC DISTRIBUTION OPTION

PR	- \$8,400
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Governor: Reduce funding for supplies and services by \$4,200 annually to reflect the administration's estimate of cost savings DSPS would realize due to a provision in the bill that would authorize DSPS, for certain documents, to satisfy: (a) mailing requirements by using email, rather than the U.S. mail; (b) publishing requirements by using the DSPS website, rather than a printed newspaper; and (c) printing requirements by making documents available to the public on the DSPS website.

Allow the DOA Secretary to waive, in whole or in part, any statutory requirement for a state agency to mail, publish, or print any document if the DOA Secretary determines that the waiver would reduce spending, while keeping information accessible to the public and protecting public health and welfare. For additional information on this provision, see "Administration -- General Agency Provisions."

7. INFORMATION TECHNOLOGY PROJECTS

PR	\$4,400,000
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Governor: Provide \$2,200,000 annually in one-time funding to support information technology improvement projects in the 2017-19 biennium. All of the funding would be provided from the Division of Industry Services operations appropriation, which receives revenues from building plan reviews, inspections and credentials for buildings and trades professions. The administration indicates the funds would be used to replace the inspection and plan review information technology systems.

8. BUDGETING SUBPROGRAMS

Governor: Eliminate the use of budgeting subprograms in the program for regulation of industry, buildings and safety. In the 2013-15 biennial budget, functions in a separate subprogram for environmental regulatory services were transferred to the Department of Natural Resources (petroleum environmental cleanup fund award program) and the Department of Agriculture, Trade and Consumer Protection (petroleum inspection and regulation of tanks). The budget system would reflect the deletion of the sole remaining subprogram in DSPS beginning in 2017-18.

9. ELIMINATE RENTAL UNIT ENERGY EFFICIENCY PROGRAM

	Funding	Positions
PR	- \$47,600	- 0.50
PR-REV	- \$242,000	

Governor: Delete \$23,800 annually with 0.5 position, and repeal the rental unit energy efficiency program, commonly known as the rental weatherization program. The program currently requires that rental dwelling units must comply with rental weatherization standards promulgated by DSPS in administrative code before the ownership of the rental unit is transferred. The administration estimates elimination of the program would result in a decrease of \$121,000 annually in program fee

revenues currently received for inspection and certification of rental units under program requirements. Include the following provisions:

a. Eliminate requirements for DSPS to: (1) promulgate and administer a code of minimum energy efficiency standards for rental dwelling units; (2) establish requirements for rental units to be inspected and certified as meeting the standards; (3) certify inspectors who inspect rental units subject to the rule; (4) establish, by rule, a maximum fee schedule for inspection and certification of rental units by inspectors not employed by the Department; (5) provide training and information to inspectors; (6) review the rules at least once every five years and determine whether the rules should be amended to require use of new energy conservation technologies; (7) issue special orders when necessary to secure compliance with the program; and (8) hear petitions regarding the enforcement of rules and special orders.

b. Eliminate the requirement that no owner may transfer ownership of a rental unit unless an inspector has inspected the unit and has issued a certificate stating that the unit satisfies applicable energy efficiency standards under the DSPS rules.

c. Eliminate the requirement that DSPS, or an inspector employed by the local government in which the rental unit is located, may issue a waiver to the energy efficiency standards if the unit is scheduled for demolition within two years.

d. Eliminate the requirement that the person to whom a rental property is being transferred (transferee) may present a stipulation signed by the transferee and DSPS or the local government in which the rental unit is located, stating that the owner of the rental unit will bring the rental unit into compliance with the energy efficiency standards no later than one year after the first transfer of the rental unit after the standards go into effect.

e. Eliminate the authority for an owner of a rental unit to request that an inspector inspect the owner's rental unit to determine whether to issue a certificate of compliance.

f. Eliminate the requirement that a Register of Deeds may not accept for recording any deed or other document of transfer of real estate for a rental unit unless the deed or document is accompanied by a certificate of compliance, waiver, or stipulation.

g. Eliminate the requirement that DSPS shall submit an annual report, before March 1, to the Legislature regarding the impact of the requirements of the program.

h. Eliminate the requirement that no city or village may enforce a code of minimum energy efficiency standards for rental units unless the requirements of the local code are at least as strict as the state code.

i. Eliminate citations and associated forfeitures for the program, including for: (1) inspectors who falsify a certificate issued under the program; (2) new owners of property who falsely state that the property being transferred does not include a rental unit; and (3) persons who fail to comply with the waiver or stipulation provisions.

j. Eliminate the requirement that any real estate foreclosure proceedings for a rental dwelling unit must include any certificate, waiver, or stipulation required under the current energy efficiency program.

k. Specify that the provisions would be effective on the first day of the fourth month after the effective date of the budget. This includes the following actions that happen on or after the effective date of the provision: (1) transfers of a rental unit; (2) real estate transfer return forms submitted for recording; (3) actions to recover a forfeiture; and (4) foreclosure sales.

L. Specify that all DSPS orders issued before the effective date of the provision would remain in effect until their specified expiration date or until modified or rescinded by DSPS. Authorize DSPS to issue special orders after the effective date of the provision for violations of the program that occur before the effective date. Authorize DSPS to, after the effective date of the provision, enforce special orders, hear petitions, hold hearings, and issue subpoenas related to violations that occurred before the effective date. Authorize DSPS and local governments to enforce stipulations entered into before the effective date, by using the citation authority authorized under the current program.

[Bill Sections: 1170, 1171, 1306 thru 1308, 1310 thru 1312, 2221, 2226 thru 2228, 2235 thru 2238, 9139(7) thru (11), 9339(1) thru (5), and 9439(1)]

10. CONVERT FUNDING FOR PRIVATE ONSITE WASTEWATER TREATMENT SYSTEM GRANT PROGRAM FROM ONGOING TO ONE-TIME

Governor: Convert funding for the private onsite wastewater treatment system (POWTS) replacement or rehabilitation grant program from ongoing to one-time financing in the 2017-19 biennium. The program provides financial assistance to owners of a principal residence occupied at least 51% of the year by the owner, and to small commercial establishments who meet certain income and eligibility criteria, to cover a portion of the cost of repairing or replacing failing POWTS. A POWTS is a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure.

Maintain the current funding of \$840,000 PR for the program in each of 2017-18 and 2018-19. The program is funded from program revenue from the safety and buildings (Division of Industry Services) operations appropriation. The appropriation receives program revenue from sanitary permits and private onsite wastewater treatment system plan review fees, and fees received from other building permit, plan review, inspection, and credentialing activities.

The bill would maintain the statutory language for the appropriation and program. However, with the conversion of the funding to one-time financing, there would be no base funding for the grant program for the 2019-21 biennium. The administration indicates its intent is to provide no ongoing funding for grants after 2018-19 in the existing appropriation, but allow counties to apply for a loan in an existing loan program, which they can access in years in which funding in the grant appropriation is not sufficient to fund 100% of the eligible grant amount. The loan program was created in 1999 Act 9 with a total of \$1,500,000 from the environmental improvement fund, and has never been used by counties. The environmental improvement fund primarily provides loans to municipalities to upgrade or replace wastewater treatment plants.

Regulation of Professions

1. CREATE OCCUPATIONAL LICENSE REVIEW COUNCIL

Governor: Create an Occupational License Review Council in DSPS. Define "occupational license" as: (a) a license, permit, certification, registration, or other approval granted under DSPS statutes related to building safety, plumbing, fire protection, fireworks, and professional occupations, including the occupations regulated by the boards attached to DSPS; and (b) a license, permit, certification, registration, or other approval not included under (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.

Specify that the Council would consist of the following 13 members: (a) eight members appointed by the Governor, to serve at the pleasure of the Governor; (b) one majority party member and one minority party member from each house of the Legislature, appointed in the same manner as members of standing committees in the Legislature; and (c) the Secretary of DSPS, or his or her designee, to serve as chair of the Council. The DSPS Secretary or designee would serve as a nonvoting member, except that he or she could vote in the case of a tie.

Require the Council to submit a report no later than December 31, 2018, to the Governor, Chief of the Legislative Reference Bureau, and the Chief Clerks of the Assembly and Senate for distribution to the Legislature. Require the Council, in preparing the report, to take into account the estimated impact of its recommendations on state revenues and expenditures.

Require that the Council's report include recommendations for the elimination of occupational licenses based on all of the following: (a) 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; (b) an evaluation of whether the public reasonably benefits from the occupational license requirement; (c) an evaluation of whether the public can be effectively protected by any means other than requiring an occupational license; (d) an analysis of whether licensure requirements for the regulated profession, occupation, or trade exist in other states; (e) an estimate of the number of individuals or entities that are affected by the occupational license requirement; (f) 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; and (g) any statement or analysis provided by the agency or board administering the occupational license. In addition, require that the report include the Council's recommendations for the reduction or elimination of continuing education requirements for occupational licenses not recommended for elimination.

Require the Legislative Reference Bureau to prepare a bill that includes all of the Council's recommendations.

Require the Legislature's Joint Committee on Legislative Organization to introduce the bill without change in each house of the Legislature. Require the Legislature to put the bill on the calendar or to refer it to the appropriate scheduling committee of each house, except authorize the Joint Committee on Legislative Organization to submit the bill or a suitable portion of the bill to an appropriate legislative committee for advisory recommendations. Prohibit the Legislature from amending the bill. Require the Legislature to take final action on the bill no later than June 30, 2019. Exempt the bill from the requirement that introduced bills that appropriate money, provide revenue or relate to taxation must be referred to the Joint Committee on Finance before passage. Maintain the current law requirement under s. 16.47(2) of the statutes that, before passing a bill prior to passage of the budget bill (in this situation, in the spring of 2019), the bill would require a statement of emergency if it would increase costs or reduce revenues by more than \$10,000 annually.

Repeal the Council, the requirement for the Council to submit a report, and the requirement for the Legislature to introduce and take final action on the bill, on July 1, 2019.

[Bill Sections: 66, 67, 1901, 1902, and 9439(2)]

2. REGULATION OF LICENSED HEALTH PROFESSIONALS -- BOARDS AND COUNCILS

	Funding	Positions
PR	- \$50,800	- 0.50

Governor: Reduce funding by \$25,400 annually and delete 0.50 position, beginning in 2017-18, to reflect cost and staff time savings of consolidating and eliminating boards and councils that assist in the regulation of certain healthcare occupations. Modify statutory references to reflect changes to the composition and status of these boards and councils, as follows.

Hearing and Speech Examining Board. Eliminate the Sign Language Interpreter Council and transfer its duties to the Hearing and Speech Examining Board (HSEB). Transfer all rules and orders, pending matters, and contracts, as they pertain to the licensing and regulation of sign language interpreters from the Department and the Council to the HSEB. Specify that all contracts entered into by the Council would remain in effect and be transferred to HSEB. Require HSEB to carry out any obligations under a contract until the contract is modified or rescinded, to the extent allowed under the contract. Provide that all rules and orders developed by the Council would remain in effect until their specified expiration dates or until amended or repealed by HSEB, and that any matter pending with the Council would be transferred to HSEB, with all submitted materials or actions taken by the Council with respect to the pending matters treated as though the action was taken by, or materials submitted to, HSEB.

Modify the composition of 10-member HSEB to: (a) add two sign language interpreters; (b) add one public member; and (c) require that two of the three public members be individuals who are deaf or hard of hearing. With these changes, the HSEB would have three hearing instrument specialists, one otolaryngologist (an ear, throat and nose specialist), two audiologists, two speech-language pathologists, two sign language interpreters, and three public members (of which two members would be deaf or hard of hearing), for a total of 13 board members. Specify that the terms for the newly-appointed sign language interpreters would be staggered to expire on

July 1, 2020, and July 1, 2021. Authorize the Governor to provisionally appoint new members of the HSEB, who would remain as members until withdrawn by the Governor or acted upon by the Senate. If confirmed by the Senate, the member would continue for the remainder of the unexpired term, until a successor is chosen and qualifies.

Medical Examining Board. Repeal the following: (a) the Radiography Examining Board, which regulates the practice of radiographers and limited x-ray machine operators; (b) the Podiatry Affiliated Credentialing Board, which licenses, establishes continuing education requirements and takes disciplinary action against podiatrists; and (c) the Optometry Examining Board, which regulates the practice of optometrists.

Transfer the functions, assets and liabilities, tangible personal property, contracts, rules and orders, and pending matters of these three boards to the Medical Examining Board (MEB). Provide that all contracts entered into by any of the three boards would remain in effect and be transferred to the MEB. Require MEB to carry out any obligations under a contract until the contract is modified or rescinded, to the extent allowed under the contract. Provide that all rules and orders developed by any of the three boards would remain in effect until their specified expiration dates or until amended or repealed by MEB. Specify that any matter pending with any of the three boards would be transferred to MEB, with all submitted materials or actions taken by the boards with respect to the pending matters treated as though the action was taken by or materials submitted to the MEB.

Medical Assistants Council. Eliminate the following statutory advisory councils: (a) the Perfusionists Examining Council, which advises MEB on the regulation of perfusionists (medical technicians who operate heart-lung machines that propel oxygenated blood to a patient's tissue while a surgeon operates on the patient's heart); (b) the Council on Physician Assistants, which advises MEB and the UW Board of Regents regarding licensing, practice standards, and education and training for physician assistants; (c) the Council on Anesthesiologist Assistants, which advises MEB regarding the practice of anesthesiologists assistants; and (d) the Respiratory Care Practitioners Examining Council, which advises MEB regarding the practice of respiratory care practitioners.

Create the Medical Assistants Council (MAC) and transfer the functions and duties of these four Councils to MAC. Provide that Council membership would be staggered for three-year terms and composed of members from each of the professions regulated by the MEB, as shown below:

<u>Council Members</u>	<u>Initial Term Expiration</u>
2 Anesthesiologist Assistants	July 1, 2018, and July 1, 2020
2 Respiratory Care Practitioners	July 1, 2018, and July 1, 2019
2 Perfusionists	July 1, 2019, and July 1, 2020
2 Physician Assistants	July 1, 2019, and July 1, 2020
1 Member of the Public	July 1, 2018
1 Physician*	

*Appointed by the Chair of the MEB; all other members are appointed by the MEB.

Provide that the Governor may provisionally appoint new members of MAC, who would remain as members until withdrawn by the Governor or acted upon by the Senate. If confirmed by the Senate, each member would continue for the remainder of the unexpired term, until a successor is chosen and qualifies.

Medical Therapy Examining Board. Repeal the following: (a) the Physical Therapy Examining Board, which regulates physical therapists and physical therapist assistants; (b) the Occupational Therapists Affiliated Credentialing Board, which licenses, sets examination requirements, continuing education requirements, standards of practice and professional conduct, defines the scope of practice, and takes disciplinary action against occupational therapists and occupational therapist assistants; (c) the Athletic Trainers Affiliated Credentialing Board, which licenses, develops forms for recording practice protocols, establishes liability insurance minimums, and promulgates rules regarding defibrillator proficiency for athletic trainers; and (d) the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board, which licenses, sets examination requirements, training program requirements, and standards of practice and professional conduct for massage and bodywork therapists.

Create a Medical Therapy Examining Board (MTEB), which would assume the functions, rules and orders, pending matters, contracts, and tangible personal property of the four boards. Provide that all contracts entered into by any of the four Boards would remain in effect and would be transferred to the MTEB. Require MTEB to carry out any obligations under a contract until the contract is modified or rescinded, to the extent allowed under the contract. Specify that all rules and orders developed by any of the four boards would remain in effect until their specified expiration dates, or until amended or repealed by the MTEB. Provide that any matter pending with any of the four boards would be transferred to the MTEB, with all submitted materials or actions taken by the boards with respect to the pending matters treated as though the action was taken by or materials submitted to the MTEB.

Board membership would be staggered for four-year terms and composed of members from each of the professions regulated by the MTEB as follows:

<u>Board Members</u>	<i>Initial Term Expiration</i>
2 Physical Therapists	July 1, 2020, and July 1, 2022
2 Occupation Therapists	July 1, 2021, and July 1, 2022
2 Athletic Trainers	July 1, 2021, and July 1, 2022
2 Massage or Bodywork Therapists	July 1, 2020, and July 1, 2021
1 Member of the Public	July 1, 2020

Provide that the Governor may provisionally appoint new members of the MTEB, which would remain as members until withdrawn by the Governor or acted upon by the Senate. If confirmed by the Senate, the member would continue for the remainder of the unexpired term, until a successor is chosen and qualifies.

Massage and Bodywork Training -- Approved Schools. A separate provision of the bill would eliminate the Educational Approval Board (EAB) and transfer its functions and responsibilities to the Department, effective January 1, 2018. The bill would require the

Department to approve schools from which massage and bodywork therapists may complete their educational requirements for licensure, effective January 1, 2018 (the date EAB functions would be transferred to DSPS).

[Bill Sections: 23, 26, 43 thru 58, 200 thru 202, 761, 835, 925, 926, 969 thru 972, 975, 980, 1506, 1656 thru 1661, 1663, 1665 thru 1671, 1683 thru 1689, 1768, 1786 thru 1791, 1793, 1906 thru 1928, 1930, 1951 thru 2019, 2021 thru 2039, 2041 thru 2083, 2086 thru 2092, 2108 thru 2110, 2112 thru 2149, 2151 thru 2153, 2155, 2157 thru 2162, 2219, 2220, 2239, 2244, 2247, 9139(13) thru (16), and 9439(3)]

3. ELIMINATE CERTAIN BOARDS AND COUNCILS

Governor: Eliminate the following boards and councils. Transfer certain associated responsibilities to DSPS or other councils, as described below.

Examining Board of Professional Geologists, Hydrologists, and Soil Scientists. Transfer its duties to the Department. DSPS, rather than the Board, would regulate and license each of the three professions. Transfer any assets and liabilities, tangible personal property, records, contracts, pending matters, promulgated rules, and issued orders from the Board to DSPS.

Building Inspector Review Board. Transfer its powers and duties to the Uniform Dwelling Code Council. The Uniform Dwelling Code Council, rather than the Building Inspector Review Board, would have the authority to: (a) receive and review complaints regarding possible incompetent, negligent, or unethical conduct by building inspectors; (b) revoke a building inspector's certification in such cases; and (c) modify or reverse erroneous decisions of a building inspector. Transfer any pending matters or issued orders from the Board to the Uniform Dwelling Code Council.

Contractor Certification Council. Transfer its duties to the Uniform Dwelling Code Council. The Uniform Dwelling Code Council, rather than the Contractor Certification Council, would: (a) advise DSPS on rules for certifying the financial responsibility of building contractors; (b) recommend courses that meet continuing education requirements; and (c) advise DSPS on the development of course examinations for contractor certification requirements. Transfer any tangible personal property, records, and contracts entered into by the Council to the Uniform Dwelling Code Council.

Manufactured Housing Code Council. Transfer its duties to the Uniform Dwelling Code Council. The Uniform Dwelling Code Council, rather than the Manufactured Housing Code Council, would: (a) recommend a statewide manufactured housing code for promulgation by DSPS; and (b) review rules and make recommendations to DSPS related to licensure of manufacturers of manufactured homes, manufactured home dealers, manufactured home salespersons, and installers, and with regard to consumer protection applicable to consumers of manufactured homes. Transfer any tangible personal property, records, and contracts entered into by the Council to the Uniform Dwelling Code Council.

Plumbers Council. The Council's duties would not be transferred to another entity.

Currently, the Council advises DSPS on rules related to qualifications, examination, licensing, or registration of various plumbing occupations. Transfer any tangible personal property, records, and contracts entered into by the Council to DSPS.

Automatic Fire Sprinkler System Contractors and Journeymen Council. The Council's duties would not be transferred to another entity. Currently the Council advises DSPS on rules related to qualifications, examination, licensing, or registration of automatic fire sprinkler system fitters and automatic fire sprinkler contractors. Transfer any tangible personal property, records, and contracts entered into by the Council to DSPS.

In addition, repeal the authority for DSPS to appoint advisory committees on matters related to the regulation of: (a) behavior analysts; (b) midwives; and (c) barbers, barbering managers, and barbering establishments.

[Bill Sections: 11, 40, 42, 60, 61, 63, 64, 1313 thru 1325, 1328, 1329, 1647, 1653 thru 1655, 1934, 1941, 2100, 2164 thru 2205, 2207 thru 2210, and 9139(1) thru (6)]

4. MEETING REQUIREMENTS

PR	- \$7,600
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Governor: Delete \$2,500 in 2017-18 and \$5,100 in 2018-19 from the industry, safety and buildings operation appropriation related to costs of meetings of advisory councils to building and trades professions. Maintain the current level of funding for meetings of independent examining boards, affiliated credentialing boards or councils related to non-trades professions. Eliminate the requirement for annual or semiannual meetings for examining boards, affiliated credentialing boards, and other boards and advisory councils attached to, or under, DSPS. This would include boards and advisory councils related to regulation of non-trades professions and regulation of building and trades professions. However, maintain the current requirement that the Medical Examining Board meet 12 times per year. Maintain the current law requirement that boards not attached to DSPS meet at least annually.

Require that the boards and councils in DSPS meet on the call of the chairperson or a majority of the members of the board or council. Maintain the current law requirement that the Auctioneer Board, Cemetery Board, and Real Estate Appraisers Board shall also meet on the call of the Secretary of DSPS or his or her designee within the Department, but repeal requirements that the Auctioneer Board and Cemetery Board each are to meet at least four times per year. Require that a council in DSPS could also meet on the call of the Secretary of DSPS, but not on the call of his or her designee within the Department.

Currently, the required frequency for meetings varies, from annually, to at least twice per year, to every three months, or four times per year (which could vary from every three months).

Eliminate the requirement that the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors elect its own officers.

[Bill Sections: 18 thru 21, 24, 25, 27 thru 30, 41, 59, 61, 62, and 65]

5. ADMINISTRATIVE FORFEITURES

Governor: Authorize DSPS and all of its examining and credentialing boards to assess an administrative forfeiture of up to \$1,000 against any credential holder who commits a violation that is grounds for professional discipline if that violation presents a serious risk to the public health or safety. Permit DSPS to assess the forfeiture either in addition to, or in lieu of, any disciplinary action with respect to an occupational license. Specify that each day of, continued violation constitutes a separate offense. Direct DSPS to promulgate rules specifying the procedures governing the assessment of forfeitures. Require DSPS to remit all forfeiture revenue it collects to the DOA Secretary for deposit in the common school fund.

Limit the authority of DSPS and the Cosmetology Examining Board to assess an administrative forfeiture against a credential holder who commits a violation that is grounds for professional discipline to violations that present a serious risk to the public health or safety. Currently, these credential holders may be required to pay an administrative forfeiture for any violation that is grounds for professional discipline.

Specify that these provisions would first apply to violations that occur on the bill's general effective date.

Under current law, some, but not all, DSPS credential holders may be required to pay forfeitures if they commit a violation that is grounds for professional discipline. These provisions are intended to standardize statutory provisions relating to these assessment provisions among credential holders.

[Bill Sections: 1309, 1905, 1932, 1933, 1937 thru 1940, 1942 thru 1950, 2020, 2040, 2084, 2085, 2096, 2101 thru 2106, 2111, 2150, 2154, 2156, 2163, 2206, and 9339(6)]

6. APPRENTICESHIP EXAMINATION EXEMPTION

PR-REV	- \$49,800
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Governor: Exempt individuals who complete specified apprenticeship programs for the following trades profession licenses from the requirement to pass an examination: (a) journeyman electrician; (b) journeyman plumber; (c) journeyman automatic fire sprinkler system fitter; and (d) automatic fire sprinkler contractor. Maintain the current requirement that a journeyman electrician apprenticeship program must have a duration of at least three years and be approved by the U.S. Department of Labor or the state Department of Workforce Development. Maintain the current requirement that, after the expiration of an apprenticeship term, no apprentice may engage in the business of plumbing either as an apprentice or as a journeyman plumber unless the apprentice secures a journeyman plumber's license. Eliminate temporary permits for a journeyman plumber.

Exempt individuals who complete certain cosmetologist or barber apprenticeship programs from the requirement to pass an examination. Maintain the current requirement that cosmetologist and barber apprentices must receive a certain amount of training through an accredited apprenticeship program.

The administration estimates the provision would result in a program revenue fee decrease

of \$24,900 annually, including: (a) \$14,700 in the industry, safety and buildings operation appropriation; and (b) \$10,200 in the professional regulation and administrative services appropriation.

The exemptions would go into effect on the general effective date of the bill.

[Bill Sections: 1326, 1327, 1394, 1647 thru 1652, 1654, 2093 thru 2095, and 2097 thru 2099]

7. PRESCRIPTION DRUG MONITORING PROGRAM

	Funding	Positions
PR	\$1,036,600	5.00

Governor: Provide \$518,300 annually and 5.0 positions, beginning in 2017-18, to increase support for the Wisconsin enhanced prescription drug monitoring program (WI ePDMP).

The program assists health care professionals in making prescribing and dispensing decisions by providing them with information about controlled substance prescriptions dispensed in the state. The primary purpose of the ePDMP is to improve patient care and safety, and to reduce the abuse and diversion of prescription drugs, while ensuring patients with a legitimate medical need for the drugs are not adversely affected.

Under the program, dispensers of monitored drugs (pharmacies and practitioners who dispense monitored prescription drugs) are required to submit specified information to the program within seven days of dispensing the drug. (Beginning April 1, 2017, dispensers must submit this information by the end of the business day following the day a drug is dispensed). These data are standardized, cleansed, and made available to authorized users, such as prescribers, pharmacists, regulatory boards, and law enforcement agencies. Monitored drugs include state and federally controlled substances in Schedule II, III, IV, or V that require a prescription order to be lawfully dispensed. Beginning no sooner than April 1, 2017, but after DSPS determines that the program is capable of electronically transmitting records to practitioners, practitioners will be required to check the WI ePDMP before issuing a prescription order for a monitored substance, with limited exceptions.

The ePDMP staff is funded by DSPS program revenue, with the development and deployment of the ePDMP database funded by various federal grants.

8. PROCEDURE FOR ADDRESSING CHEMICALLY DEPENDENT CREDENTIAL HOLDERS

	Funding	Positions
PR	- \$139,000	- 0.50

Governor: Require DSPS to promulgate rules specifying a procedure for addressing allegations that a credential holder has practiced while impaired by alcohol or other drugs, or that a credential holder's ability to practice is impaired by alcohol or other drugs, and for assisting a credential holder who requests to participate in the procedure. Direct DSPS, in promulgating rules, to seek to facilitate early identification of chemically dependent credential holders and encourage their rehabilitation. Provide that the rules may be

used by DSPS, the Real Estate Appraisers Board, and all examining boards and affiliated credentialing boards attached to DSPS. Authorize DSPS to contract with another entity to administer the procedure specified by the rules.

Prior to the effective date of the permanent rule, permit the Department to promulgate the rule as an emergency rule for a period of 150 days from the date of publication in the official state newspaper, subject to one 60-day extension. If DSPS promulgates emergency rules, require DSPS to promulgate the rules no later than the 60th day after the bill's general effective date. Exempt DSPS from the requirement that the agency provide evidence that promulgating the rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare.

Reduce funding for the Department's general program operations budget for professional regulation and administrative services (-\$46,400 annually and -0.5 position, beginning in 2017-18) and for the general program operations that funds activities of the Medical Examining Board, and the prescription drug monitoring program (-\$23,100 annually).

DSPS currently has a permanent rule that establishes its professional assistance procedures (SPS 7). These provisions would include in the statutes the Department's current practice.

[Bill Sections: 1903 and 9139(12)]

9. TRANSFER FUNCTIONS OF THE EDUCATIONAL APPROVAL BOARD

	Funding	Positions
PR	\$1,066,800	6.50

Governor: Provide \$352,700 in 2017-18 and \$714,100 in 2018-19 and 6.5 PR positions in 2018-19 to reflect the transfer of current staff and program responsibilities of the Educational Approval Board (EAB) to DSPS, effective January 1, 2018. Renumber current appropriations and statutory sections to reflect this transfer.

EAB approves and supervises for-profit colleges, out-of-state nonprofit colleges and universities, and some in-state, nonprofit institutions, as well as solicitors that recruit students on behalf of an institution. Schools and solicitors representing schools reapply annually for approval from the Board. Additionally, the Board investigates student complaints, maintains student records following the closure of a school, and maintains a student protection fund comprised of fees collected from schools.

Although EAB is an independent unit of state government governed by a seven-member Board, funding for the Board's 6.5 staff positions is currently budgeted under the Wisconsin Technical College System. EAB is funded through program revenue derived from fees paid by regulated schools. Ninety percent of fees collected from schools, including fees from the issuance of solicitor's permits or schools applying for initial EAB approval or applying to renew their approval, are credited to an appropriation for the general operation of EAB. The remaining 10% of collected fees is, by statute, transferred to the general fund. Additional revenue is collected from fees paid by individuals requesting a copy of a student record maintained by EAB. The fee is based on the administrative cost of taking possession of, preserving, and

providing the copy of the record, and all revenue from these fees is maintained in an appropriation for the preservation of student records.

The bill would eliminate the EAB, and transfer all current functions and responsibilities of the Board to DSPS. This includes all assets, liabilities, and tangible property. All contracts entered into by the EAB would remain in effect and would be transferred to DSPS. All rules promulgated and orders issued by the EAB would remain in effect. No provisions are included in the bill for the transfer of incumbent EAB personnel.

For additional information on this item, see "Wisconsin Technical College System."

[Bill Sections: 22, 68, 69, 181, 225 thru 228, 579, 663 thru 704, 733 thru 738, 1018, 1043, 1044, 1087, 1088, 1112, 1113, 1332, 1454, 1642 thru 1644, 1691, 1935, 1936, 2248, 2250, 2264, 9111(1), and 9411(1)]

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sharon Henes Administrative Rules Coordinator		2) Date When Request Submitted: 6 March 2017 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Optometry Examining Board			
4) Meeting Date: 16 March 2017	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Best Practices for Prescribing Controlled Substances Guidelines – Discussion and Consideration	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
<i>Sharon Henes</i>			
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.			

Optometry Examining Board Best Practices for Prescribing Controlled Substances Guidelines

2015 Wisconsin Act 269 granted authority to the Optometry Examining Board to issue guidelines regarding best practices in prescribing controlled substances, as defined in s. 961.01 (4), Stats., for persons credentialed by the Optometry Examining Board who are authorized to prescribe controlled substances.

The purpose of these guidelines are to provide guidance to optometrists prescribing controlled substances, but not replace the optometrist's clinical judgment.

Optometrists provide care treating acute pain issues on a short term, non-chronic basis. Optometrists who have a valid DEA registration number may only prescribe when treating pain based on the patient's presenting symptoms, overall condition, clinical examination and risk for addiction. While standards of care permit the prescription of narcotic medications in the legitimate treatment of severe pain, optometrists are not obligated to use opioids or other controlled substances when a favorable risk benefit balance cannot be documented.

Optometrists may prescribe the following controlled substances:

1. Schedule III, IV and V controlled substances.
2. Only the following schedule II controlled substances:
 1. Not more than 300 milligrams of hydrocodone per 100 milliliters or per 100 grams or not more than 15 milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium.
 2. Not more than 300 milligrams of hydrocodone per 100 milliliters or per 100 grams or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

Optometrists should utilize the prescription drug monitoring program (PDMP) prior to prescribing or dispensing controlled substances to determine whether the patient is receiving opioid dosages or dangerous combinations that put the patient at high risk, minimize the potential for prescription drug abuse and misuse and reduce the number of unintentional complications associated with controlled substances. As of April 2017, Wisconsin state law requires prescribers to review the PDMP before prescribing any controlled substance for greater than a three day supply.

Optometrists must have a valid provider-patient relationship prior to prescribing controlled substances.

1. Assessment – Complete medical history and physical examination, including pregnancy status. Determine the location, intensity, severity and associated symptoms with the pain. Consider psychological factors, including personal/family history of addiction. Risk assessment includes patient medication history, and health conditions that could aggravate adverse reactions (including COPD, CHF, sleep apnea). Observe the patient for any aberrant drug-related behaviors.

2. Develop a plan – Educate the patient and family about the goals of treatment. Discuss the risks and benefits of non-pharmacologic and pharmacologic therapies. Set patient expectations for the degree and the duration of the pain. The goal should be improvement of function to baseline as opposed to complete resolution of pain.
3. Non-pharmacological and/or non-opioid therapy should be strongly considered prior to prescribing opioids. Non-steroidal anti-inflammatory drugs (NSAIDs) should be the first-line analgesic therapy. NSAIDs have demonstrated to be very effective for the treatment of pain, if not more effective than opioids. Opioids should be used only if the expected benefits for pain and function outweigh risk to the patients. If opioids are prescribed, non-pharmacologic and/or non-opioid therapy should also be utilized as part of a multimodal approach.
4. The decision to prescribe controlled substances may be made only after a proper diagnosis and complete evaluation which should include a risk assessment, pain assessment and review of the relevant PDMP data.
5. If prescribing opioids, provide the patient with the least potent opioid to effectively manage pain and prescribe the minimum quantity needed with no refills. Avoid prescribing long-acting opioids for acute pain. If pain continues beyond the expected duration, the patient should be reevaluated and/or consider referring the patient.
6. A patient should not be prescribed opioid and benzodiazepines concurrently, whether the prescribing is done by one practitioner or multiple practitioners. Benzodiazepines triple the already high increases in respiratory depression and annual mortality rates from opioids. If a patient is taking opioids and benzodiazepines concurrently, clear clinical rationale must exist.
6. Educate the patient on the proper storage and disposal of controlled substances. Remind patients it is unsafe and unlawful to give away or sell their medications.
7. It is important to discuss with patients the effect the prescribed medication may have on their ability to safely operate machinery or a vehicle in any mode of transportation.
8. Coordinate care and communication of patients with other health care providers.

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Tom Ryan, Executive Director		2) Date When Request Submitted: 03/01/17	
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: 03/16/17	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	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: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Please review the materials previously emailed, and included herein, in preparation for discussion at the meeting. <ul style="list-style-type: none"> 1) Public Records and Ethics and Lobbying Training <ul style="list-style-type: none"> 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: <ol style="list-style-type: none"> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. 			

2. Develop a plan – Educate the patient and family about the goals of treatment. Discuss the risks and benefits of non-pharmacologic and pharmacologic therapies. Set patient expectations for the degree and the duration of the pain. The goal should be improvement of function to baseline as opposed to complete resolution of pain.
3. Non-pharmacological and/or non-opioid therapy should be strongly considered prior to prescribing opioids. Non-steroidal anti-inflammatory drugs (NSAIDs) should be the first-line analgesic therapy. NSAIDs have demonstrated to be very effective for the treatment of pain, if not more effective than opioids. Opioids should be used only if the expected benefits for pain and function outweigh risk to the patients. If opioids are prescribed, non-pharmacologic and/or non-opioid therapy should also be utilized as part of a multimodal approach.
4. The decision to prescribe controlled substances may be made only after a proper diagnosis and complete evaluation which should include a risk assessment, pain assessment and review of the relevant PDMP data.
5. If prescribing opioids, provide the patient with the least potent opioid to effectively manage pain and prescribe the minimum quantity needed with no refills. Avoid prescribing long-acting opioids for acute pain. If pain continues beyond the expected duration, the patient should be reevaluated and/or consider referring the patient.
6. A patient should not be prescribed opioid and benzodiazepines concurrently, whether the prescribing is done by one practitioner or multiple practitioners. Benzodiazepines triple the already high increases in respiratory depression and annual mortality rates from opioids. If a patient is taking opioids and benzodiazepines concurrently, clear clinical rationale must exist.
6. Educate the patient on the proper storage and disposal of controlled substances. Remind patients it is unsafe and unlawful to give away or sell their medications.
7. It is important to discuss with patients the effect the prescribed medication may have on their ability to safely operate machinery or a vehicle in any mode of transportation.
8. Coordinate care and communication of patients with other health care providers.

Wood, Kimberly - DSPS

From: Wood, Kimberly - DSPS
Sent: Wednesday, March 01, 2017 3:27 PM
To: Boullion, James - DSPS
Cc: Lewin, Brittany - DSPS; Ryan, Thomas - DSPS; Williams, Dan - DSPS; Zadrzil, Chad J - DSPS
Subject: Completion Reminder: Public Records and Ethics and Lobbying Training
Attachments: WisconsinPublicRecordsLawBasics_PPT.pdf; Ethics and Lobbying Law One Pager.pdf; DSPS Public Records Information.pdf

DSPS Board, Council or Committee member,

For those of you that have not already done so, this is a reminder to review the training materials we sent you a few weeks ago regarding what you need to know about Wisconsin's ethics and lobbying laws and how to handle public records. You will have a chance to raise any questions and discuss these topics at your next board, council or committee meeting.

We have also included an additional document called "DSPS Public Records Information.pdf" that identifies who you should talk to at DSPS about public records questions. Some people had difficulty opening the public records training file, therefore we have also attached a PDF version of the training called "WisconsinPublicRecordsLawBasics_PPT.pdf".

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

*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

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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.

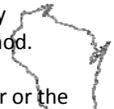


Public Records Responsibility 4

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.



Department of Safety and Professional Services

Agency Specific Public Records Information

February 24, 2017

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:

<u>DLSC</u> Meena Balasubramanian Beth Cramton Zach Hendrickson Terri Rees	<u>DPCP</u> Kris Hendrickson	<u>DPD</u> Shawn Leatherwood
	<u>DMS/Office of Sec.</u> Michael Berndt Alicia Bork	<u>DIS/Field Offices</u> Peggy Thran

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**