



**PODIATRY AFFILIATED CREDENTIALING BOARD
TELECONFERENCE/VIRTUAL MEETING
Room 121A, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
March 23, 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

3:30 P.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A) Adoption of Agenda (1-3)**
- B) Approval of Minutes of January 19, 2017 (4-7)**
- C) Administrative Updates**
 - 1) **Delegation of Authority to Monitoring Liaison and Department Monitor (8-10)**
 - 2) Department and Staff Updates
 - 3) Board Members – Term Expiration Dates
 - a) Jeffery Giesking – 07/01/2020
 - b) Thomas Komp – 07/01/2017
 - c) William Weis – 07/01/2019
 - 4) Appointments/Reappointments/Confirmations
- D) Legislative/Administrative Rule Matters (11)**
 - 1) State Budget – Discussion and Consideration
 - 2) Update on Pending Legislation and Pending and Possible Rulemaking Projects
- E) Board Training Review – Public Records and Ethics and Lobbying – Discussion and Consideration (12-17)**
- F) Speaking Engagement(s), Travel, or Public Relation Request(s)**
- G) Informational Items**
- H) Items Added After Preparation of Agenda:**
 - 1) Introductions, Announcements and Recognition
 - 2) Election of Board Officers
 - 3) Appointment of Board Liaison(s)
 - 4) Administrative Updates
 - 5) Nominations, Elections, and Appointments
 - 6) Education and Examination Matters

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

D) Public Comments

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 § 448.02(8), Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.).

J) 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) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Administrative Warnings
- 10) Review of Administrative Warnings
- 11) Proposed Final Decisions and Orders
- 12) Matters Relating to Costs/Orders Fixing Costs
- 13) Case Closings
- 14) Proposed Interim Orders
- 15) Petitions for Assessments and Evaluations
- 16) Petitions to Vacate Orders
- 17) Remedial Education Cases
- 18) Motions
- 19) Petitions for Re-Hearing
- 20) Appearances from Requests Received or Renewed

K) Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

- L) Open Session Items Noticed Above not Completed in the Initial Open Session
- M) Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate
- N) Ratification of Licenses and Certificates

ADJOURNMENT

NEXT MEETING DATE JUNE 22, 2017

**PODIATRY AFFILIATED CREDENTIALING BOARD
MEETING MINUTES
JANUARY 19, 2017**

PRESENT: *Via GoToMeeting:* Jeffery Giesking, DPM; Thomas Komp, DPM; William Weis, DPM

STAFF: Tom Ryan, Executive Director; Nifty Lynn Dio, Bureau Assistant; and other Department staff

CALL TO ORDER

William Weis, Chair called the meeting to order at 9:02 a.m. A quorum of three (3) members was confirmed.

ADOPTION OF AGENDA

MOTION: Thomas Komp moved, seconded by Jeffery Giesking, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF OCTOBER 20, 2016

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, to approve the minutes of October 20, 2016 as published. Motion carried unanimously.

ADMINISTRATIVE UPDATES

ELECTION OF OFFICERS

BOARD CHAIR

NOMINATION: Thomas Komp nominated William Weis for the Office of Board Chair.

Tom Ryan called for nominations three (3) times.

William Weis was elected as Chair by unanimous consent.

VICE CHAIR

NOMINATION: Jeffery Giesking nominated Thomas Komp for the Office of Vice Chair.

Tom Ryan called for nominations three (3) times.

Thomas Komp was elected as Vice Chair by unanimous consent.

SECRETARY

NOMINATION: Thomas Komp nominated Jeffery Giesking for the Office of Secretary.

Tom Ryan called for nominations three (3) times.

Jeffery Giesking was elected as Secretary by unanimous consent.

2016 ELECTION RESULTS

Board Chair	William Weis
Vice Chair	Thomas Komp
Secretary	Jeffery Giesking

LIAISON APPOINTMENTS

2016 LIAISON APPOINTMENTS	
Credentialing Liaison	Jeffery Giesking <i>Alternate – Thomas Komp</i>
Monitoring Liaison	Thomas Komp <i>Alternate – Jeffery Giesking</i>
Education and Exams Liaison	William Weis <i>Alternate: Thomas Komp</i>
Legislative Liaison	Jeffery Giesking <i>Alternate: Thomas Komp</i>
Travel Liaison	Thomas Komp <i>Alternate: William Weis</i>
Rules Liaison	William Weis <i>Alternate: Thomas Komp</i>
Professional Assistance Procedure Liaison	Jeffery Giesking <i>Alternate: William Weis</i>
Screening Panel	Thomas Komp, William Weis <i>Alternate: Jeffery Giesking</i>

MOTION: Thomas Komp moved, seconded by Jeffery Giesking, to affirm the Chair’s appointment of liaisons for 2016. Motion carried unanimously.

DELEGATION MOTIONS

Delegated Authority for Urgent Matters

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, 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 Application Denial Reviews

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, 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: Jeffery Giesking moved, seconded by Thomas Komp, 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: Jeffery Giesking moved, seconded by Thomas Komp, to delegate authority to the Credentialing Liaisons to address all issues related to credentialing matters except potential denial decisions should be referred to the full Board for final determination. Motion carried unanimously.

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, 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 Delegations

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, to affirm the Chair's appointment of Thomas Komp as the Monitoring Liaison, and Jeffery Giesking as the alternate, to adopt the 'Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor. Motion carried unanimously.

Travel Delegation

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, to authorize the travel liaison to approve all Board travel. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

Proposals for Guideline Regarding Best Practices in Prescribing Controlled Substances

Wisconsin Medical Examining Board Opioid Prescribing Guideline

MOTION: Thomas Komp moved, seconded by Jeffery Giesking, to adopt the Wisconsin Medical Examining Board Opioid Prescribing Guideline published November 16, 2016. Motion carried unanimously.

Review of Draft Language for Pod 1 Relating to Licensure Requirements and Pod 4 Relating to Biennial Registration

MOTION: Thomas Komp moved, seconded by Jeffery Giesking, to delegate William Weis to review and approve the preliminary rule draft of Pod 1 relating to licensure requirements and Pod 4 relating to biennial registration as modified, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

CLOSED SESSION

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, to convene to Closed Session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 448.02(8), 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.). William Weis, Chair, read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Jeffery Giesking-yes; Thomas Komp-yes; and William Weis-yes. Motion carried unanimously.

The Board convened into Closed Session at 9:46 a.m.

RECONVENE TO OPEN SESSION

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 9:50 a.m.

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

MOTION: Thomas Komp moved, seconded by Jeffery Giesking, to affirm all Motions made and Votes taken in Closed Session. Motion carried unanimously.

DELIBERATION ON CASE CLOSINGS

15 POD 003

MOTION: Thomas Komp moved, seconded by Jeffery Giesking, to close case 15 POD 003 (M.W.T.) for No Violation. Motion carried unanimously.

DELEGATION OF RATIFICATION OF EXAMINATION RESULTS AND RATIFICATION OF LICENSES AND CERTIFICATES

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Thomas Komp moved, seconded by Jeffery Giesking, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 9:51 a.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Kelley Sankbeil Monitoring Supervisor Division of Legal Services and Compliance		2) Date When Request Submitted: January 21, 2017 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 																
3) Name of Board, Committee, Council, Sections: Podiatrists Affiliated Credentialing Board																		
4) Meeting Date: June 22, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Delegation of Authority to Monitoring Liaison and Department Monitor																
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 checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:																
10) Describe the issue and action that should be addressed: Delegated Authority Motion: <p style="text-align: center;"><i>“ _____ moved, seconded by _____ to adopt/reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today’s agenda packet.”</i></p>																		
<table style="width: 100%; border: none;"> <tr> <td style="width: 10%; border: none;">11)</td> <td style="width: 60%; border: none; text-align: center;">Authorization</td> <td style="width: 30%; border: none;"></td> </tr> <tr> <td style="border: none;"></td> <td style="border: none;"></td> <td style="border: none; text-align: right;">January 21, 2017</td> </tr> <tr> <td style="border: none;">Signature of person making this request</td> <td style="border: none;"></td> <td style="border: none; text-align: right;">Date</td> </tr> <tr> <td style="border: none;">Supervisor (if required)</td> <td style="border: none;"></td> <td style="border: none; text-align: right;">Date</td> </tr> <tr> <td style="border: none;">Executive Director signature (indicates approval to add post agenda deadline item to agenda)</td> <td style="border: none;"></td> <td style="border: none; text-align: right;">Date</td> </tr> </table>				11)	Authorization				January 21, 2017	Signature of person making this request		Date	Supervisor (if required)		Date	Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date
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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.																		

Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

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

Current Authorities Delegated to the Monitoring Liaison

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

1. Grant a temporary reduction in random drug screen frequency upon Respondent’s request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing education.
6. Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.
7. Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain the signature or written authorization from the Liaison.
8. Grant or deny a request to appear before the Board/Section in closed session.
9. Dentistry only – delegated authority to the monitoring liaison to approve or deny a request from a respondent.

Current Authorities Delegated to the Department Monitor

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

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
2. Suspend the license if Respondent has not completed Board/Section-ordered CE and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.

2017 Proposed Delegated Authorities

Proposed Authorities Delegated to the Monitoring Liaison

1. Accept Respondent's written request to surrender credential. If accepted by the Liaison, Monitor will consult with Board Counsel to determine if a stipulation is necessary. If a stipulation is not necessary, Monitor will draft an order and sign on behalf of the Liaison. If denied by the Liaison, the request to surrender credential will go to the full Board for review.
2. Grant Respondent's petition for a reduction in drug screens per the standard schedule, below. If approved, Monitor will draft an order and sign on behalf of the Liaison.
 - a. Year 1: 49 screens (including 1 hair test, if required by original order)
 - b. Year 2: 36 screens (plus 1 hair test, if required by original order)
 - c. Year 3: 28 screens plus 1 hair test
 - d. Year 4: 28 screens plus 1 hair test
 - e. Year 5: 14 screens plus 1 hair test

Proposed Authorities Delegated to the Department Monitor

1. Suspend the license (or remove stay of suspension) if Respondent fails to enroll and participate in an Approved Program for drug and alcohol testing within 30 days of the order, or if Respondent ceases participation in the Approved Program without Board approval. *This delegated authority only pertains to respondents who must comply with drug and/or alcohol testing requirements.*

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Nifty Lynn Dio, Bureau Assistant On behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 03/16/2017 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Medical Examining Board			
4) Meeting Date: 03/23/2017	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? State Budget – Discussion	
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 (Fill out Board Appearance Request) <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: Summary Full Budget			
11) Authorization			
Nifty Lynn Dio		03/16/2017	
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.			

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Tom Ryan, Executive Director		2) Date When Request Submitted: 03/01/2017	
Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting			
3) Name of Board, Committee, Council, Sections: All Boards, Committees, Councils and Sections			
4) Meeting Date: 06/20/17	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. DSPPS 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.			

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

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.

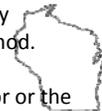


Public Records Responsibility 4

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.



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**