

Chapter SPS 31

CREDENTIALING REQUIREMENTS AND PROCEDURES FOR PRIVATE DETECTIVE AGENCY, PRIVATE DETECTIVE AND SECURITY PERSON

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Note: Chapter RL 31 was renumbered chapter SPS 31 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

SPS 31.001 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2) and 440.26 (2), (3), (4), (5m) and (5r), Stats.

History: Cr. Register, November, 1997, No. 503, eff. 12-1-97.

SPS 31.01 Credential required. (1) PRIVATE DETECTIVE AGENCY. (a) Except as provided in par. (c), a person shall obtain a private detective agency license before engaging in the following activities:

1. Advertising, soliciting or engaging in the business of a private detective agency.
2. Acting as a private detective, private investigator, investigator or private security person.
3. Acting as a supplier of private security personnel.
4. Soliciting business or performing any other type of service or investigation as a private detective or private security person.
5. Receiving any fees or compensation for acting as any person, engaging in any business or performing any service specified in subds. 1. to 4.

(b) A private detective agency license may be issued to an individual, a partnership, a limited liability company or a corporation.

(c) An individual who holds a license as a private detective or a permit as a private security person and who is employed by a licensed private detective agency is not required to obtain a private detective agency license before acting as a private detective or a private security person.

(2) PRIVATE DETECTIVE LICENSE. (a) A private detective license is required to engage in the services of a private detective.

(b) A private detective may only provide private detective services on behalf of a private detective agency in the capacity of an employee and not as an independent contractor, unless the private detective has a private detective agency license.

(3) PRIVATE SECURITY PERMIT. (a) An employee of any licensed private detective agency doing business in this state as a supplier of uniformed private security persons to patrol exclusively on the private property of industrial plants, business establishments, schools, colleges, hospitals, sports stadiums, exhibits and similar activities is exempt from the license requirements under sub. (2), but shall obtain a private security permit as specified in s. 440.26 (5m) or (5r), Stats.

(b) A licensed private detective may be employed as a private security person without obtaining a private security permit.

History: Cr. Register, October, 1988, No. 394, eff. 11-1-88; r. and recr. (1), renum. and am. (3) to be (3) (a), cr. (3) (b). Register, November, 1997, No. 503, eff. 12-1-97.

SPS 31.02 Qualifications. (1) PRIVATE DETECTIVE AGENCY LICENSE. (a) To obtain a license as a private detective agency, an individual applicant, all members of a partnership or a limited liability company, or all corporate officers shall be listed

on the application. The application of a partnership or a limited liability company shall be executed by all members of the partnership or limited liability company. An application of a corporation shall be executed by the secretary and the president or the vice president and, in addition, in the case of a foreign corporation, by the registered agent.

(b) A license may be granted under this section if the individual applicant or the members of a partnership or a limited liability company or all corporate officers who executed the application:

1. Subject to ss. 111.321, 111.322 and 111.335, Stats., do not have an arrest or conviction record involving a misdemeanor or a violation, as defined in s. 440.26 (4m), Stats.

1m. Have not been convicted in this state or elsewhere of a felony, unless pardoned.

2. Are not users of drugs or alcohol to an extent dangerous to themselves or to other persons or to an extent which could impair a person's ability to direct or perform private detective or private security activities responsibly.

3. Does not have a physical, emotional or mental condition that might adversely affect the applicant's ability to responsibly direct or perform private detective or private security activities.

(2) PRIVATE DETECTIVE LICENSE. An applicant for licensure as a private detective may be granted a license under s. 440.26, Stats., if the applicant:

(a) Subject to ss. 111.321, 111.322 and 111.335, Stats., does not have an arrest or conviction record involving a misdemeanor or a violation, as defined in s. 440.26 (4m), Stats.

(am) Has not been convicted in this state or elsewhere of a felony, unless pardoned.

(b) Is not a user of drugs or alcohol to an extent dangerous to the applicant or others or to an extent which would impair the applicant's ability to perform private detective or private security activities responsibly;

(c) Has passed the examination administered by the department as set forth in s. SPS 31.04.

(d) Does not have a physical, emotional or mental condition that might adversely affect the applicant's ability to responsibly perform private detective or private security activities.

(3) PRIVATE SECURITY PERSON PERMIT. An applicant for a permit as a private security person may be granted a permit under s. 440.26, Stats., if the applicant:

(a) Subject to ss. 111.321, 111.322 and 111.335, Stats., does not have an arrest or conviction record involving a misdemeanor or a violation, as defined in s. 440.26 (4m), Stats.

(b) Has not been convicted in this state or elsewhere of a felony, unless pardoned.

(c) Is not a user of drugs or alcohol to an extent dangerous to the applicant or others or to an extent which would impair the applicant's ability to responsibly perform private security activities.

(d) Does not have a physical, emotional or mental condition that might adversely affect the applicant's ability to responsibly perform private security activities.

History: Cr. Register, October, 1988, No. 394, eff. 11-1-88; am. (1) (a), (b) (intro.), 1., and (2) (a), cr. (1) (b) 1m., (2) (am) and (3), Register, November, 1997, No. 503, eff. 12-1-97; cr. (1) (b) 3., (2) (d) and (3) (d), Register, January, 2001, No. 541, eff. 2-1-01; correction in (2) (c) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

SPS 31.03 Application procedure for private detective agency licenses. (1) An applicant for a private detective agency license shall file with the department all of the following:

(a) A completed application on forms provided by the department.

Note: Information about application deadlines is available from the division of professional credential processing in the department at 1400 East Washington Avenue, Madison, Wisconsin 53702, telephone (608)266-0829.

(b) Except as provided in sub. (1m), for each person who, pursuant to s. 440.26 (2) (b), Stats., executes the application, 2 complete and satisfactory sets of fingerprints on forms supplied by the department.

Note: Forms are available on request from the Department of Safety and Professional Services, Division of Professional Credential Processing, 1400 East Washington Avenue, P. O. Box 8935, Madison, Wisconsin 53708.

(c) One recent photograph of the applicant's head and shoulders only.

(d) A bond or liability policy, as required in s. 440.26 (4), Stats.

(e) The complete business location address of the applicant including the office or room number and street address. A post office box without a complete location address is inadequate.

(f) The fee specified in s. 440.05 (1), Stats.

(g) The costs incurred by the department in obtaining information related to the eligibility and qualifications of the applicant.

(1m) A peace officer is not required to file with the department fingerprints under sub. (1) (b), if the peace officer submits with the application for a license a letter from his or her employing law enforcement agency, written not more than one month before the date of the application and stating that the person is currently employed as a peace officer by the law enforcement agency.

(2) For each person who, pursuant to s. 440.26 (2) (b), Stats., executes the application, information about whether the person is or has, within the 5 years preceding the date of application, been a user of drugs or alcohol to an extent dangerous to the person or other persons or to an extent which could impair the person's ability to perform private detective or private security activities responsibly.

(3) The department shall provide reasonable accommodations to applicants with disabilities who are otherwise qualified.

History: Cr. Register, October, 1988, No. 394, eff. 11-1-88; r. and recr., Register, November, 1997, No. 503, eff. 12-1-97; am. (1) (b), cr. (1m), Register, January, 2001, No. 541, eff. 2-1-01; correction in (1) (b) made under s. 13.93 (2m) (b) 7., Stats., Register May 2005 No. 593.

SPS 31.034 Private detective agency's responsibility to obtain and maintain a bond or liability policy. (1) A private detective agency shall obtain and maintain a surety bond or liability policy as required under s. 440.26 (4), Stats. If an agency obtains a comprehensive general liability policy, the policy shall include coverage for bodily injury liability, property damage and personal injury. In any case, if an agency permits an officer or employee to carry a firearm in the course of duty, the agency shall obtain a liability policy which shall include coverage for injury or damage resulting from the use of firearms. Evidence of a comprehensive general liability policy shall consist of a certificate of insurance stating the licensee as insured and the department as certificate holder.

(2) Each licensee shall maintain without lapse in coverage the bond or comprehensive general liability policy submitted to the department before the issuance of an original or renewal license.

(3) If a private detective agency obtains a comprehensive general liability policy, the policy shall cover all licensed private detectives and private security personnel employed by the agency.

(4) An individual licensed employee is not required to obtain a bond or liability policy if the employee is covered by the employing agency's liability policy.

History: Cr. Register, November, 1997, No. 503, eff. 12-1-97.

SPS 31.035 Application procedure for private detective licenses. (1) An applicant for a private detective license shall file with the department all of the following:

(a) A completed application on forms provided by the department.

(b) Two complete and satisfactory sets of fingerprints on forms supplied by the department.

Note: Forms are available on request to the Department of Safety and Professional Services, Division of Professional Credential Processing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(c) One recent photograph of the applicant's head and shoulders only.

(d) A \$2,000 surety bond, if the applicant's private detective agency employer has obtained a bond pursuant to s. 440.26 (4), Stats.

(e) A complete address of the applicant. A post office box without a complete location address is inadequate.

(f) The fee specified in s. 440.05 (1), Stats.

(g) The costs incurred by the department in obtaining information related to the eligibility and qualifications of the applicant.

(h) A statement signed by an authorized representative of a licensed private detective agency, showing that the applicant will be employed by the agency when acting as a private detective.

(2) An applicant who is or who has, within the 5 years preceding the date of application, been a user of drugs or alcohol to an extent dangerous to the person or other persons or to an extent which could impair the person's liability to perform private detective or private security activities responsibly shall provide the department all information necessary for the department to determine the applicant's fitness to practice.

(3) The department shall provide reasonable accommodations to applicants with disabilities who are otherwise qualified.

History: Cr. Register, November, 1997, No. 503, eff. 12-1-97; am. (1) (b), cr. (1m), Register, January, 2001, No. 541, eff. 2-1-01; CR 04-097: r. (1m) Register May 2005 No. 593, eff. 6-1-05; correction in (1) (b) made under s. 13.93 (2m) (b) 7., Stats., Register May 2005 No. 593.

SPS 31.036 Application procedure for private security permits. (1) An applicant for a private security permit shall file with the department all of the following:

(a) A completed application on forms provided by the department.

(b) Two complete and satisfactory sets of fingerprints on forms supplied by the department.

Note: Forms are available on request to the Department of Safety and Professional Services, Division of Professional Credential Processing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(c) One recent photograph of the applicant's head and shoulders only.

(d) A complete address of the applicant. A post office box without a complete location address is inadequate.

(e) The fee specified in s. 440.05 (1), Stats.

(f) The costs incurred by the department in obtaining information related to the eligibility and qualifications of the applicant.

(g) A statement signed by an authorized representative of a licensed private detective agency, showing that the applicant will be employed by the agency when acting as a private security person.

(2) An applicant who is or who has, within the 5 years preceding the date of application, been a user of drugs or alcohol to an

extent dangerous to the person or other persons or to an extent which could impair the person's ability to perform private detective or private security activities responsibly shall provide the department all information necessary for the department to determine the applicant's fitness to practice.

(3) The department shall provide reasonable accommodations to applicants with disabilities who are otherwise qualified.

(4) The department shall issue a temporary private security permit pursuant to s. 440.26 (5r), Stats.

History: Cr. Register, November, 1997, No. 503, eff. 12-1-97; am. (1) (b); cr. (1m), Register, January, 2001, No. 541, eff. 2-1-01; CR 04-097: r. (1m) Register May 2005 No. 593, eff. 6-1-05; correction in (1) (b) made under s. 13.93 (2m) (b) 7., Stats., Register May 2005 No. 593.

SPS 31.04 Examination for private detective licensure. (1) ADMINISTRATION. At least once every month the department shall administer or cause to be administered an examination for the licensure of private detectives.

(3) SUBJECTS TESTED. The examination shall test the applicant's knowledge or competence in those areas which the department, after consultation with subject matter experts, determines are appropriate for testing the applicant's knowledge for protection of public health and safety.

(4) DISHONEST ACT. An applicant may not engage in dishonest acts relating to the examination. The actions taken by the department when dishonest acts occur shall be related to the seriousness of the offense. These actions may include withholding the applicant's score, entering a failing grade for the applicant, and suspending the ability of the applicant to sit for an examination for a specific period of time after the examination in which the dishonest acts occurred.

(5) PASSING SCORE. The score required to pass the examination shall be based on the department's determination of the level of examination performance required for minimum acceptable competence in the profession. The department shall make the determination after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing score for the examination at that point which represents minimum acceptable competence in the profession.

(6) EXAMINATION REVIEW. (a) An applicant who fails the examination may request a review of that examination by filing a written request with the department within 30 days after the date on which examination results were mailed to the applicant.

(b) An examination review shall be conducted under the following conditions:

1. The time for review shall be limited to one hour.
2. The examination shall be reviewed only by the applicant and in the presence of a proctor.
3. The proctor may not respond to inquiries by the applicant regarding allegations of examination error.
4. Any comments or claims of error regarding specific questions or procedures in the examination may be placed in writing on the form provided for this purpose. The department shall review the comments or claims in consultation with a subject matter expert. The department shall notify the applicant in writing of the department's decision. If the decision does not result in a passing grade, the applicant may retake the examination or file a claim of examination error pursuant to sub. (7).

5. An applicant shall be permitted only one review of the failed examination each time it is taken and failed.

(7) CLAIM OF EXAMINATION ERROR. (a) An applicant wishing to claim examination error must file a written request for department review in the department office within 30 days of the date the examination was reviewed. The request shall include:

1. The applicant's name and address;
2. The type of license applied for;
3. A description of the perceived error; including specific questions or procedures claimed to be in error; and
4. The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(b) The department shall review the request in consultation with a subject matter expert. The applicant shall be notified in writing of the department's decision.

(c) If the decision does not result in a passing grade, the applicant may retake the examination or request a hearing under s. SPS 1.05.

(8) EXAMINATION RETAKES. (a) There is no limit to the number of times an applicant may take the examination.

(b) An applicant who reviews the examination pursuant to sub. (6) may not retake the examination within 30 days after the date on which the examination was reviewed.

(c) An applicant who passes the examination and remains unlicensed for one year or more after the date of the examination shall again take and pass the examination before being licensed.

History: Cr. Register, October, 1988, No. 394, eff. 11-1-88; r. and recr. (3) (a) to (b), am. (5), Register, December, 1994, No. 468, eff. 1-1-95; r. (2), r. and recr. (3), (4), (6), (7) (b) and (c) and am. (8), Register, November, 1997, No. 503, eff. 12-1-97; correction in (7) (c) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

SPS 31.05 Denial of credential. (1) An application for a credential under this chapter may be denied for any of the following reasons:

(a) The applicant commits fraud or misrepresentation in the application for a credential.

(b) The applicant has a physical, emotional or mental condition which might adversely affect performance of duties relating to the credential for which he or she has applied.

(c) The applicant is dependent on alcohol to such a degree that it interferes with his or her physical or mental health or social or economic functioning, except that the department in the exercise of its discretion may issue a credential if the person submits to examination, evaluation, treatment, and monitoring as directed by the department.

(d) The applicant is addicted to the use of controlled substances or controlled substance analogs, except that the department in the exercise of its discretion may issue a credential if the person submits to examination, evaluation, treatment, and monitoring as directed by the department.

(e) The applicant's conduct is a ground for discipline of a credential holder under s. SPS 35.01.

(2) The department may require an applicant to undergo one or more physical, mental, alcohol or drug abuse evaluations and the department may consider the results of such evaluations if it believes that the results may be useful to the department in evaluating an applicant for a credential. The costs of evaluation shall be the responsibility of the applicant.

History: Cr. Register, January, 2001, No. 541, eff. 2-1-01; correction in (1) (e) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

SPS 31.06 Additional licensing requirements.

(1) In this section "trade name" means a name that is in addition to the name under which a person obtained a private detective agency license.

(2) A person who is licensed as a private detective agency shall, before doing business under any trade name, notify the department in writing of the trade name.

History: Cr. Register, October, 1988, No. 394, eff. 11-1-88; r. and recr., Register, November, 1997, No. 503, eff. 12-1-97.