



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2017 Wisconsin Act 328
[2017 Assembly Bill 902]

**Various Changes in the
Department of Safety and
Professional Services**

2017 Wisconsin Act 328 makes various changes related to the regulation of occupations, buildings, and safety, as administered by the Department of Safety and Professional Services (DSPS) and the professional credentialing boards it houses. All of the changes in the Act relate to recommendations made by DSPS.

THIRD-PARTY LOGISTICS PROVIDERS

Prior law required a third-party logistics provider to hold a wholesale distributors license issued by the Pharmacy Examining Board for each facility from which the provider distributed prescription drugs. The Act removes the requirement that third-party logistics providers be licensed as wholesale distributors.

SUMMARY LIMITATIONS

DSPS and its credentialing boards may generally order a summary suspension of a professional credential, which is an immediate suspension of a credential pending the outcome of disciplinary proceedings, if the credentialing authority finds that the public health, safety, or welfare imperatively requires emergency action.

The Act authorizes DSPS and its credentialing boards to also order a summary **limitation** of a professional credential, which prior law did not allow for in any circumstance, if the licensing agency finds that the public health, safety, or welfare imperatively requires emergency action. If a summary limitation is ordered, the individual's credential is immediately limited pending the outcome of disciplinary proceedings. To limit a credential means to impose conditions and requirements upon the holder of the credential, to restrict the scope of the holder's practice, or both.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

ADMINISTRATIVE WARNINGS

In appropriate circumstances, DSPS and its credentialing boards may close an investigation into a disciplinary matter against a credential holder by issuing an administrative warning, which is not a disciplinary order, does not constitute an adjudication of guilt, and may not be used as evidence that the person is guilty of the alleged misconduct.

Under prior law, an administrative warning could only be issued if it was determined that: (1) there was evidence of misconduct by the credential holder; (2) no further action was warranted because the complaint involves a **first occurrence** of a minor violation; and (3) the issuance of an administrative warning adequately protected the public by putting the credential holder on notice that any subsequent violation may result in disciplinary action.

The Act modifies the criteria under which an administrative warning may be issued by removing the requirement that the complaint involve a first occurrence of the violation, as described in point two above. The Act retains the other criteria for issuing an administrative warning, including that the complaint must involve a minor violation.

COSTS OF DISCIPLINARY PROCEEDINGS

Prior law authorized DSPS or an examining board, affiliated credentialing board, or board in DSPS to assess all or part of the costs of a disciplinary proceeding against a credential holder in any proceeding in which the credentialing authority suspended, limited, revoked, or reprimanded the credential holder. Where costs are appropriate, they may be assessed in addition to any discipline that is imposed.

The Act retains the authority to assess costs as described above, and adds that costs may also be assessed in cases where a forfeiture is assessed, as well as in cases where the disciplinary order is issued by any other board in DSPS. In addition, the Act provides that costs of the proceeding may include reasonable expenses of paralegals and real estate specialists. Finally, the Act specifies that any interest accrued on costs shall be compounded annually.

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