

2019 DRAFTING REQUEST

Bill

For: **Dale Kooyenga (608) 266-2512** Drafter: **mduchek**
 By: **Chris** Secondary Drafters:
 Date: **1/3/2020** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **Sen.Kooyenga@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Provisional credentials

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 1/3/2020	csicilia 1/3/2020			
/P1	mduchek 1/17/2020		dwalker 1/17/2020		State
/1				dwalker 1/17/2020	State

FE Sent For: *At Intro*

<END>

Request:

Allow DSPS to promulgate a rule to allow the Secretary, or the designee of the Secretary, under the general duties and powers of the Department to issue provisional occupational licenses for applicants whose licensure is under the jurisdiction of the Department. Department will have authority to promulgate a standard rule to allow for the provisional licensure of applicants for licenses granted by the Department and Boards, except as provided below.

Allow Boards to promulgate rules allowing Department staff to issue provisional licenses for applicants whose licensure is under the authority of the Board. Individual Board(s) would then either have to adopt a rule specifying occupation(s) under Board authority would not be subject to provisional licensure or adopting a modified provisional licensure rule for occupation(s) under Board jurisdiction.

Make sure it is status and not separate credential. Once a person is issued a credential that creates a legal right to the credential.

No additional administrative or judicial review for granting/denial of provisional status.

A provisional credential holder is subject to the same process and procedures as any other credential holder in that occupation if a complaint is filed. Not subject to renewal while in provisional status. Provisional status expires upon notice of denial of the credential.

Duchek, Michael

From: Rochester, Chris
Sent: Friday, January 17, 2020 11:43 AM
To: Duchek, Michael
Subject: Jackets
Attachments: 19-5235_P1.pdf; 19-5239_P1.pdf; 19-5272_P1.pdf

Hi Mike – Can I get these jacketed?

Thanks

Chris Rochester

Communications Director
State Senator Dale Kooyenga
5th Senate District
310 South, State Capitol
608-266-2512
chris.rochester@legis.wi.gov

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 456.01 (5) and (6); *to amend* 440.08 (2) (a) (intro.) and 456.10
2 (2); and *to create* 227.03 (4r) and 440.077 of the statutes; **relating to:** allowing
3 the department of safety and professional services and credentialing boards to
4 grant credentials with provisional status, extending the time limit for
5 emergency rule procedures, providing an exemption from emergency rule
6 procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Safety and Professional Services to promulgate rules that allow an initial credential or a reciprocal credential to be granted with provisional status to an applicant who has applied for the credential. These rules apply to credentials granted by DSPPS and also apply to initial credentials granted by credentialing boards, unless a credentialing board promulgates its own provisional status credential rules.

The holder of a credential granted with provisional status is subject to the same laws and procedures, including professional discipline, that otherwise apply to the credential, except that the credential is not subject to renewal unless and until the credential is ultimately approved. A credential with provisional status is granted subject to the ultimate determination on the application for the credential, and the provisional status is removed if the application is approved. A credential with provisional status immediately expires upon the issuance of a notice to deny the

application. A decision on whether to grant a credential with provisional status is not subject to administrative or judicial review.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 227.03 (4r) of the statutes is created to read:

2 227.03 (4r) Subchapter III does not apply to any decision of the department of
3 safety and professional services or a credentialing board, as defined in s. 440.01 (2)
4 (bm), to deny or grant a credential with provisional status pursuant to rules
5 promulgated under s. 440.077 (1) (a) or (b).

6 **SECTION 2.** 440.077 of the statutes is created to read:

7 **440.077 Provisional credentials.** (1) (a) The department shall promulgate
8 rules that allow an initial credential or a reciprocal credential to be granted with
9 provisional status to an applicant who has applied for the credential. The rules
10 promulgated under this paragraph shall apply to credentials granted by the
11 department and shall apply to initial credentials granted by a credentialing board,
12 unless the credentialing board promulgates rules under par. (b).

13 (b) A credentialing board may promulgate rules that allow an initial credential
14 or a reciprocal credential to be granted with provisional status to an applicant who
15 has applied for the credential with that credentialing board. If a credentialing board
16 promulgates rules under this paragraph, those rules shall, with respect to
17 credentials granted by the credentialing board, supercede rules promulgated by the
18 department under par. (a).

19 (2) A credential granted with provisional status pursuant to rules promulgated
20 under sub. (1) (a) or (b) shall confer the same rights, privileges, and authority as are

1 otherwise conferred by the credential. The holder of a credential granted with
2 provisional status shall be subject to the same laws and procedures, including
3 professional discipline, that otherwise apply to the credential, except as provided in
4 sub. (3).

5 **(3)** (a) A credential with provisional status shall be granted subject to the
6 ultimate determination on the application for the initial credential or reciprocal
7 credential, and the provisional status shall be removed if the application is approved.
8 A credential with provisional status shall immediately expire upon the issuance of
9 a notice to deny the application. A decision on whether to grant an applicant a
10 credential with provisional status is not subject to review under ch. 227.

11 (b) A credential with provisional status is not subject to renewal until a
12 determination is ultimately made to approve the application and the provisional
13 status is removed.

14 **SECTION 3.** 440.08 (2) (a) (intro.) of the statutes is amended to read:

15 440.08 (2) (a) (intro.) Except as provided in par. (b) and in ss. 440.077 (3) (b),
16 440.51, 442.04, 444.03, 444.11, 447.04 (2) (c) 2., 449.17 (1m) (d), 449.18 (2) (e), 463.10,
17 463.12, and 463.25 and subch. II of ch. 448, the renewal dates for credentials are as
18 follows:

19 **SECTION 4.** 456.01 (5) and (6) of the statutes are repealed.

20 **SECTION 5.** 456.10 (2) of the statutes is amended to read:

21 456.10 (2) The examining board shall have jurisdiction to hear all charges
22 brought under this section against persons licensed and registered as nursing home
23 administrators ~~or licensed as provisional nursing home administrators~~ and upon
24 such hearings shall determine such charges upon their merits. If the examining
25 board determines that such person is guilty of the charges, the license or registration

1 may be revoked or suspended or the licensee may be reprimanded, censured or
2 disciplined.

3 **SECTION 6. Nonstatutory provisions.**

4 (1) Using the procedure under s. 227.24, the department of safety and
5 professional services and any credentialing board, as defined in s. 440.01 (2) (bm),
6 may promulgate rules that are necessary to implement the changes in this act.
7 Notwithstanding s. 227.24 (1) (a) and (3), the department or credentialing board is
8 not required to provide evidence that promulgating a rule under this subsection as
9 an emergency rule is necessary for the preservation of the public peace, health,
10 safety, or welfare and is not required to provide a finding of emergency for a rule
11 promulgated under this subsection. Notwithstanding s. 227.24 (1) (c) and (2),
12 emergency rules promulgated under this subsection remain in effect until May 1,
13 2022, or the date on which permanent rules take effect, whichever is sooner, and the
14 effective period may not be further extended under s. 227.24 (2).

15 (END)

Walker, Dan

From: LRB.Legal
To: Sen.Kooyenga
Subject: Draft review: LRB -5239/1
Attachments: 19-5239/1

State of Wisconsin - Legislative Reference Bureau
One East Main Street - Suite 200 - Madison

The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent. If you have any questions concerning the draft or would like to have it redrafted, please contact Michael Duchek, Senior Legislative Attorney, at (608) 504-5830, at michael.duchek@legis.wisconsin.gov, or at One East Main Street, Suite 200.

We will jacket this draft for introduction in the Senate.

If a jacket is needed immediately, please let us know in your response e-mail so we know to immediately jacket the proposal for you.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will submit a request to DOA when the draft is introduced. You may obtain a fiscal estimate on the draft prior to introduction by contacting our program assistants at LRB.Legal@legis.wisconsin.gov or at (608) 266-3561. If you requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on the current version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.