

STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No.: SPS 1, 4, and 9

Relating to: Comprehensive Review

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The Department of Safety and Professional Services (Department) will conduct a comprehensive review and update of chapters SPS 1, 4, and 9

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Chapter SPS 1 establishes the Department's procedures for denying an initial application, the process for contesting a denial decision, and it addresses examination failure, retake, and contesting a failed examination. Chapter SPS 4 establishes department application procedures such as time for review and determination of an application for a permit required as a condition to operate a business, fees for examinations and test reviews, refunds, arrest and conviction record investigations of applicants and credential holders, requirement for photographs and fingerprints for certain professions, and credential reinstatement procedures. Chapter SPS 9 establishes the denial of a renewal application because applicant is liable for delinquent taxes.

The alternative to the proposed changes would be to not update the provisions, which will result in outdated procedures and references which will perpetuate confusion for applicants and staff.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 111.335 (4) (f) 6., Stats., states that "the department of safety and professional services may promulgate rules defining uniform procedures for making such determinations to be used by the department, the real estate appraisers board, and all examining boards and affiliated credentialing boards attached to the department or an examining board."

Section 227.11 (2) (a), Stats. provides "[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..."

Section 440.03 (1), Stats., states that "[t]he department may promulgate rules defining uniform procedures to be used by the department, the real estate appraisers board, and all examining boards and affiliated credentialing boards attached to the department or an examining board, for receiving, filing and investigating complaints, for commencing disciplinary proceedings and for conducting hearings."

Section 440.03 (1m), Stats., states that "[t]he department may promulgate rules specifying the number of business days within which the department or any examining board or affiliated credentialing board in the

department must review and make a determination on an application for a permit, as defined in s. 227.116 (1g), that is issued under chs. 440 to 480.”

Section 440.03 (7m), Stats., provides “[t]he department may promulgate rules that establish procedures for submitting an application for a credential or credential renewal by electronic transmission. Any rules promulgated under this subsection shall specify procedures for complying with any requirement that a fee be submitted with the application. The rules may also waive any requirement in chs. 440 to 480 that an application submitted to the department, an examining board, or an affiliated credentialing board be executed, verified, signed, sworn, or made under oath, notwithstanding ss. 440.26 (2) (b), 440.91 (2) (intro.), 443.06 (1) (a), 443.10 (2) (a), 445.04 (2), 445.095 (1) (a), 448.05 (7), 450.09 (1) (a), 452.10 (1), and 480.08 (2m). Section 440.06, Stats., states that “[t]he secretary may establish uniform procedures for refunds of fees paid under s. 440.05 or 440.08 and uniform procedures and fees for reexaminations under chs. 440 to 480.

Section 440.03 (13) (b), Stats., states “[t]he department may investigate whether an applicant for or holder of any of the following credentials has been charged with or convicted of a crime only pursuant to rules promulgated by the department under this paragraph, including rules that establish the criteria that the department will use to determine whether an investigation under this paragraph is necessary.”

Section 440.07 (3), Stats., provides “[t]he department may charge a fee to an applicant for a credential who fails an examination required for the credential and requests a review of his or her examination results. The fee shall be based on the cost of the review. No fee may be charged for the review unless the amount of the fee or the procedure for determining the amount of the fee is specified in rules promulgated by the department.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

120 hours

6. List with description of all entities that may be affected by the proposed rule:

Persons who would like to submit a full application to the department or any of the attached examining boards and affiliated credentialing boards for a credential. Persons who would like to appeal the denial of an application or appeal failed examinations. Persons whose renewal applications were denied due to delinquent taxes.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state’s economy as a whole.

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