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August 2, 2022

**TO:** Legislative Council Study Committee on Occupational Licenses

**FROM:** Dan Hereth, Secretary-Designee, Department of Safety and Professional Services

Good afternoon,

Thank you for inviting me to join you today. Today is my first day on the job as Secretary-designee with the Department of Safety and Professional Services. With the support of family and agency staff, I look forward to being sworn in this afternoon.

I have been thinking about the significance of that ceremony. Over the course of my career, I have taken many oaths—to uphold the constitution, to uphold the law, and now, just as each of you have, I will take an oath of service to the people of the State of Wisconsin. At the heart of that is a commitment to work on behalf of all the people of our great state. I am proud and honored to have the opportunity to take that oath.

I spent my childhood not too far from here. My mother was an elementary school teacher, and my father was a chef at a local steakhouse. I currently live in Delafield with my wife, who is a physical therapy assistant, and our two boys. I have spent my career serving the people of Wisconsin and I look forward to serving the people of Wisconsin as secretary of the Department of Safety and Professional Services.

As you know, the Department of Safety and Professional Services, otherwise known as DSPS, is primarily a regulatory agency. We have five offices and 250 employees, and we regulate occupational licensing, construction, for-profit education, and more. Ultimately, we are responsible for supporting industries and individuals by implementing and executing the laws written by the Legislature, and doing so in a manner that is 1. fair, 2. cost-effective, and 3. consistent.

When I say fair, what I want to get across is that our staff takes incredible pride in their responsibility to issue licenses. They work hard to verify the accuracy and integrity of documents, and they review each application on its merits.

When I say cost-effective, I mean it—our department currently has some of the lowest occupational license fees in the country and we work to be efficient with the lean staff resources we have as a small state agency.

Consistency is something I'd like to talk about today.

On average, we are making decisions on licenses 45 days after our customers begin their applications. Last year our agency issued more licenses than ever before. Even with increased need for our services and licenses to process, our 45-day average pace is the fastest it has been over the last six years and is likewise faster than many of our neighboring states like Minnesota and Illinois.

All told, through the improvements we've made to our state's licensure system over the course of the past few years, what this means is that we are issuing more licenses at a faster pace than ever before.

Now, I also understand that 45 days is an average. At the same time, our pool of applicants is growing, and our volume of work consistently exceeds our staff capacity.

We have worked hard to hear from the applicants who do experience long waits. We know that many of you hear from them as well. We know that they would like increased assistance and faster decisions. And with our modernization efforts, coupled with the adequate staffing and resources our agency desperately needs to accommodate increased licensing needs and services, I know that we can work together to do just that.

In each of the past two budget cycles, we requested adding permanent staff to aid in license processing. While none of us can speculate with certainty about what things would look like today had that additional support and those initiatives been approved, I think we can all agree that those resources certainly would've helped—and couldn't have hurt—our work to provide the services professionals and industries across our state deserve.

Even though we have sufficient funding to add staff it is not something we can do alone, it requires the support of legislators. In lieu of permanent staff we have worked to add temporary staff but given our low pay—our credentialing staff are some of the lowest paid staff in state service—and current national staffing shortages, these temporary positions are not adding the capacity we need.

Open positions go unfilled or relatively new hires leave when they secure a permanent position elsewhere. People want permanent, full-time jobs with good benefits, good working conditions, and decent pay. Our limited term and project positions do not offer that. The result is a revolving door—staff continuously coming in, continuously training, continuously leaving. As you can imagine, this negatively affects productivity spending time training workers who leave shortly thereafter.

The bottom line is that this is not a sustainable staffing model, and that is why we requested additional permanent staff for that division in the last two budget cycles. There must be more action to address these long-standing and systemic issues facing our agency. While adding staff is not something our agency can do independently, there are other things we can do to improve operations. And we are doing absolutely everything we can so that more of our applicants can get their decisions quickly and conveniently.

I cannot overemphasize this—occupational licensing is the top priority at our agency. This is very important work. It is important to our applicants. It is important to our staff. It is important to the people of Wisconsin. And it is important to me.

That is why we have taken several steps to improve our operations. In addition to working with the governor's office to add some limited term and project positions, we have reorganized some of our teams for greater efficiency. We have contracted to add temporary staff to our call center, and we are now training some of those people to assist with application processing. We have secured a temporary hourly add-on for our staff when working overtime, and we have implemented required overtime and restricted vacation leave.

We also rapidly developed new technology to modernize our license application process. That is no small task. Some of you probably know that our agency still has many manual processes that use paper forms. Those forms that arrive via mail, email, and fax, and then our staff enter the information from

those forms into our database, which was built in the last century. That is an antiquated process, and it is not how people expect to conduct business in 2022.

However, I have to reiterate that even with new technology and continuous efforts to improve efficiency, our volume of work routinely exceeds staff capacity and resources.

The bottom line is that we need more than efficiency to deliver the kind of service our applicants want and expect. We need more than efficiency to deliver the kind of service that I want to deliver. I will continue to seek every possible resource and solution available to us. And I will continue to advocate for the permanent positions we need.

I also look forward to the recommendations this committee develops. I also look forward to working closely with our stakeholders and my colleagues throughout government to find ways new ways to offer fair, cost-effective, and consistent services more quickly and more conveniently for our customers and staff.

Thank you for your service. I am glad we are having this conversation, and I appreciate this opportunity to be here today.



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August 2, 2022

**TO:** Legislative Council Study Committee on Occupational Licenses

**FROM:** Mike Tierney, Legislative Liaison, Department of Safety and Professional Services

Committee members,

Having been born and raised in Wausau, I always admired Senator Clifford “Tiny” Krueger. I had the honor to see him in person a few times and learned firsthand how he put people and human decency before politics. During his tenure in office, he became known as the “conscience of the Senate”.

The Senator was first elected to the Senate in 1947 and he gave his farewell speech in 1983. During that speech he reflected on the oath he had taken in 1947. He said, “today, as it did then, that oath confers two very important obligations. There is the obligation to provide vigorous leadership in solving the state’s problems. There is an equal obligation, one often overlooked, to be sensitive and compassionate toward those who lack the power or the means to compete in the society you govern.”

I have absolutely no doubt that the Senator would look at the efforts of the administration and department staff to correct long standing licensure issues and find that we are exercising vigorous leadership in solving these problems and that we are sensitive and compassionate toward the individuals whose needs were not previously met.

In March, I told an Assembly Committee the department is receiving more applications by far than at any time in the past and, in conjunction with respective boards, issuing more licenses than at any time in the past.

The concrete data that is being collected also demonstrates that we are getting the job done for people who are paying the bills. The historic average licensure timeframe for the department was 76 days, in 2022 the average licensure timeframe is down to 45 days. These timeframes cover the period from when the application process is initiated to the date the license is issued. With portions of that timeframe being attributable to the applicant, third parties and department.

In our neighboring states of Illinois, Iowa, Minnesota, and Michigan median licensure timeframes for people applying to be a registered nurse by examination in 2021 were 88, 66, 83, and 73 days respectively. We are meeting and beating our neighboring states. Our median RN by examination timeframe is now 46 days.

I have attached a listing of median timelines for nurse licensure in 29 other states whose timeframes were reported on by National Public Radio. As you can see, there is only one state with a timeframe shorter than our own. States with shorter timeframes have modern systems and more licensing staff in place. When the transition to LicensE is complete and with proper staffing levels – I have every confidence, our state will have the shortest timeline in the country.

We are achieving results even though the department has also seen an increase in the types of professional occupations, and there have also been additional requirements added to some

professions. Sixteen in total by my count. The department, of course, supports these new licenses and efforts to join compacts, but that does not change the simple fact that new licenses and processes add to the number of applications the department must process in support of workers across our state.

Take one change in law for example: Wisconsin becoming a member of the physical therapy licensure compact. This legislation is, no doubt, beneficial. It creates flexibility for individuals who obtain compact licensure, and over time this will shift administrative responsibilities away from the department. Nevertheless, this legislation also added steps and time to the licensure process for our applicants.

For example, due to changes in law an applicant must now send a headshot and they must also find time in their schedule to have fingerprints taken at a vendor. In my experience working with applicants, I have found this tends to add a week or two to the process.

To be fair, I also looked for legislation that passed that would serve to lessen the department workload. The sole bill that the legislature passed to remove a licensure requirement was the hair braiding bill. However, this legislation merely codified what was essentially current practice at the time.

People want and value licensure—not only the people who receive services from license holders but the people who have and wish to obtain occupational licenses. That was the clear result of a study ordered by the legislature and conducted by the previous administration in 2018. That report demonstrated that Wisconsin does not have barriers to licensure. Moreover, and importantly that report also underscored that people in occupations across the board overwhelmingly want licensure and feel the license they have earned is of great value to them.

One thing that I should note is that the department has worked with great employer and licensee led organizations – including the Wisconsin Hospital Association. None of these employers or organizations seek to fence people out. We very much appreciate their advocacy for bringing more qualified people into their respective professions to continue to provide excellent service to the people of Wisconsin.

If there is one take-away I can provide today it is that the solution to concerns with licensure today is simple: The legislature needs to allow the fees people pay to be used for their intended purpose. As the governor has proposed, the legislature needs to allow the department to use license fees to add the staff necessary to handle the volume of work and to improve antiquated systems that do not support the way society operates in the present day.

## **Causes of Licensure Issues**

### **Legislature Diversion of Applicant Dollars**

The legislature has prevented fee revenues from being used to effectively address increases in licensure demand and additional licensure requirements passed by the legislature.

The department is not supported by tax dollars. The department operations are paid for by the fees that people pay when applying for a license initially and when they renew that license. However, the sole

issue is not with the refusal in the last two budgets to allow the use of fee dollars, but the diversion of fee dollars from their intended purpose.

When the department was created under the previous administration and there was a critical need to invest fee dollars into upgrading computer systems and hiring staff to process applications, year after year applicant funds were used by the legislature to pad the general fund balance. In one year, 42% of applicants' fee dollars were taken away by the legislature. **In total from FY2012 through FY2017 – the legislature took over \$37 million of applicant funds.**

## Staffing

While staff at the department are receiving, reviewing, processing, and approving credential applications every day, we do not have the staff numbers we need to address the growing volume and complexities of applications the department is receiving.

Unfortunately, when the previous administration created the department, they ignored future technological needs and licensure trends and evaded staff deficits by propping the agency with limited term employees. At the time, the mindset was purportedly that when the number of applications awaiting processing crept up and became overwhelming, limited term employees would be available to put into place to enter data and smooth over the issue.

The problem with this approach is that it ignored systemic problems with inadequate staffing levels, inadequate compensation, and antiquated licensure software. It also failed to consider what would happen when our state has historically low unemployment rates and a historically high number of applications for licensure. In other words, the situation we have today.

The governor has proposed in both of his biennial budgets additional, permanent staff to position the agency to better serve Wisconsinites who are applying for licensure. However, only a fraction of the needed positions were approved.

In the 2 ½ months LicensE has been in operation, it is also become clear that no matter how automated and efficient a system is put into place, the people who pay the bills for the department want there to be sufficient staff to answer the phones and respond to questions.

## Call Center

Individuals who are seeking licensure frequently have questions. In an average week, according to data that had been collected by the old phone system we had in place, we received anywhere from 3,400 to 4,400 calls. During peak licensure seasons, the number exceeds 5,000. Data collected by our new system showed that in one week last February, the number of calls topped 10,000. Most of these calls are from people who have a question or are seeking guidance on how to make sure their application is processed as smoothly and efficiently as possible.

We are currently authorized six full-time program revenue call center staff. That is a woefully inadequate number.

In the past, the department was able to hire LTE employees to assist in handling calls. Not only has it been exceptionally difficult to find people to take on the task of working in a call center on an LTE basis, but we have also found that we truly need to have people who are well versed in the licensure requirements of a wide range of occupations to make sure people are provided with the correct information the first time they call. Temporary workers can answer phones, but they often cannot adequately answer questions. This leads to greater frustration for our customers.

In the governor's budget, he included our request for an additional four full-time program revenue staff for our call center. Those positions were removed by the legislature. We immediately sought staff through contract agencies. When that failed, we posted LTE positions for the call center. We did not have applicants.

In short, we cannot build our staffing model around LTE positions. LTE positions are not only inadequate to address department needs, but for too many hardworking Wisconsinites, LTE positions do not provide the pay and benefits needed to support their families and be successful. In short, expecting LTEs to carry the staffing burden of the department was never a sustainable solution, evidence of which we are seeing today.

We have made technology upgrades in the phone system to reduce the number of dropped calls and enable people who are experiencing longer call times to request a call back. We have also engaged a private vendor to assist with incoming calls. While more full-time program revenue staff must be approved in the next biennium budget, we will do everything we can to answer calls with the resources we have available.

## **Legal Review**

To address legal review issues, we conducted a reorganization and moved review staff from the Division of Legal Services and Compliance to the Division of Professional Credentialing Processing. This enabled legal staff to gain and maintain a greater level of knowledge regarding licensure law for specific occupations and to have more familiarity with laws in other states.

This is critical because the standards and conventions used to write statutes in Wisconsin can differ dramatically in other states. Due to project positions, we have been able to fill, the legal review timeline for most occupations has now been cut in half.

The need for additional credentialing and legal staff was made clear in a conversation I had with a Republican State Senator last month. First, let me provide some background.

When a person reports that they have had convictions, they are sent a form requesting details, copies of police reports and AODA assessments if applicable. As documents may not always be available, individuals are asked to provide a statement outlining the circumstances. Credentialing staff work to assemble this information and, when it is complete, provide information for the legal team to review in the most efficient manner possible.

The statement can be critical in enabling legal staff, and boards, to make the decision to issue a credential. For example, last month I was contacted by a Democratic Representative whose constituent had applied for a RN license was being told additional information was needed. She told her Representative that she completed the forms and provided a personal statement due to no records of her

OWI existing. I obtained the statement she provided and found that she merely said she had an OWI in 2007 and then proceeded to outline the penalties that were imposed. That leaves a lot to the imagination. I followed-up with the Representative's office and noted that the legal team needed context.

The Republican Senator had a constituent with a situation like the Democratic Representative, in the information submitted was not complete. The Senator suggested that we have staff call persons who must submit these forms and walk them through the form over the phone so that when it is submitted it is complete. In a spirit of non-partisanship, I personally think that is a fine idea. The only issue is that we are so thinly staffed that diverting credentialing staff from the processing of applications would create delays for other applicants with no legal issues and applicants who had provided complete legal information.

While past legal issues should not hang like the sword of Damocles over the heads of persons who have violated laws in the past, the department and attached boards nevertheless have a legal responsibility and a responsibility to the public to ensure that persons entrusted with a credential can be trusted with the credential.

To some degree, persons who have violated laws also need to accept personal responsibility and understand a consequence is going to be a longer licensure process given current law and staff resources. If you made the choice to steal, drive drunk, use illegal drugs, batter someone, or violate a law the fact is that if you go to school to learn a profession and graduate – your classmates are going to get their credential before you. While still doing our due diligence, the department wants these reviews to take the least amount of time necessary.

To reduce further reduce legal review timelines, the department in 2019 requested that the legislature change statute to allow the department the ability to forego review of underage drinking offenses, non-violent ordinance violations, non-violent juvenile offenses, and single offense OWIs that were committed more than 5 years in the past. Review of these offenses greatly adds to the workload of the legal team, but that legislation has not advanced to the Governor's desk for his consideration.

We have exceptional project position legal staff that we were able to bring on board. We need to have the funding in place to continue to effectively address, and continue to improve, legal review processes.

## **Software**

Licensure software should have been modernized when the department was created during the 2011–2012 Legislative Session, and it should have been the top priority again in 2017 when legislation was passed to fund software upgrades.

Thankfully, LicensE went online in May and has been tremendously successful.

The new system enables department staff and applicants to know the exact day, hour and minute the process for applying for a credential was initiated. It enables applicants and third parties to upload documentation directly into the application – eliminating any data entry delay.

What I like most about LicensE is that, for the first time, it provides clear cut accountability. For example, last month I was contacted about an application delay for an application that was initiated 23



days previously. When I looked at the application, the credential had already been issued. When breaking down the timeline, it took 22 days for legally required documents to be received and less than one business day for the department to issue.

### **Initial Licensure Applications and Renewals**

The department handles a staggering volume of work, averaging over 13,280 initial applications and renewals each month. But that is just an average. We processed a record number of RN renewals earlier this year. Having renewed approximately 100,000 registered nurse licenses.

One issue that came to light during the RN renewal process was the issue with credential holders waiting until it was time to renew to make name changes, address changes and report convictions.

Although under Chapter 227, when a credential holder files a complete renewal in a timely manner, their license remains active – the problem is that most employers require the renewal to be complete by March 1<sup>st</sup> of the renewal year. If even 1% of RNs wait until renewing to report a legal offense – the result is that we must address over 1,000 legal reviews.

Under Wisconsin law, there is a continuing duty to report. RNs and other credential holders are legally required to report legal issues shortly after they occur and not wait until the next renewal period. For most of the prior administration this was not an issue, because persons renewing licenses were not asked to legally declare if they had convictions when they applied for renewal. While it enabled renewals to move through more quickly, it raised red flags with legal staff and created obvious public safety concerns. That policy was changed in 2017 and persons are now asked to declare if they had convictions.

### **Conclusion**

The department is making substantive licensure changes for the first time in more than one-quarter century.

After spending three and one-half years attempting to help people navigate an antiquated licensure system that was broken and simply indefensible – I can tell you that department staff have fully understood and shared the frustrations of individuals seeking licensure.

The good news is that we have turned a page and are beginning a new chapter.

Thank you.

State	Median number of days
Colorado	42
Maine	48
New Mexico	48
Vermont	50
New Hampshire	52
Mass	56
Wyoming	57
South Carolina	60
Ohio	65
Iowa	66
Tennessee	70
Michigan	73
Nebraska	76
Oklahoma	77
North Carolina	78
Kentucky	80
New Jersey	80
Hawaii	82
Oregon	82
Minnesota	83
Arkansas	84
West Virginia	86
Illinois	88
Mississippi	92
Indiana	95
California	96
Montana	97
Pennsylvania	97
Texas	118
Louisiana	No data



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August 2, 2022

**TO:** Legislative Council Study Committee on Occupational Licenses

**FROM:** Sarah Norberg, Attorney Supervisor, Department of Safety and Professional Services

Good afternoon.

My name is Sarah Norberg. I currently serve as the Attorney Supervisor in DSPS's Credentialing Division.

I've worked for the State of Wisconsin for over 13 years at four different agencies, including the Department of Transportation and the Department of Justice. In 2010, I joined DSPS, and I also briefly worked at the Office of the Commissioner of Insurance in 2013. I am a proud civil servant, and I am committed to serving the citizens of the state of Wisconsin.

During my time with DSPS, I have served in numerous capacities.

I assumed my current role in 2020. I am currently a working supervisor of a legal team with nine employees (1/3 of which are temporary staff). I oversee, manage, direct and perform the review of initial and renewal applications involving complex legal issues, such as conviction records, professional discipline, and reciprocity. I also provide legal support and guidance to the division and regulatory authorities on credentialing matters.

Today, I'd like to share with you my experience working under the current administration:

Where we've been:

DSPS has long been a licensing agency with antiquated systems and skeletal staffing levels. The agency's legal staff were assigned to one division while performing many different functions for the agency.

Shortly after the administration changed in 2019, DSPS leadership recognized several areas needing improvement. Among those areas were the following: (1) A significant amount of credentials were being renewed without the necessary legal reviews being conducted; (2) there was a lack of consistent policies and procedures governing the credentialing legal review process; and (3) there was a significant backlog of credentialing legal reviews that were primarily being assigned to limited term employees.

What we've been doing:

As a result of these areas needing improvement, DSPS leadership decided to reorganize the Division of Legal Services and Compliance and establish a dedicated legal review team in the Division of Professional Credential Processing to be led by a working attorney supervisor and supported by two attorneys and one paralegal.

The reorganization occurred in March 2020 and the new legal review team focuses on legal reviews of the following:

- Pending charges and conviction records disclosed during the application process;
- Professional discipline;
- Applications for reciprocal licenses where, in most cases, the individuals out of state licensing requirements must be compared to WI's requirements to determine whether the requirements are substantially similar which is generally the statutory standard. (This is extremely time intensive).
- Malpractice settlements;
- Impairment related concerns;
- Misrepresentations made by an applicant in an initial or renewal application;
- Predeterminations of conviction records required under the 2017 revisions to WI's Fair Employment Act.

This list is not an all-encompassing list.

While completing nearly 6,000 legal reviews since March 2020, this team has also implemented numerous process improvements, such as obtaining more authority from regulatory authorities to effectuate approval decisions, similar to Wis. Stat. s. 440.035(1r) on which we worked closely with Senator Kooyenga and identifying which states/professions for which Wisconsin does not offer reciprocity on our website to prevent applicants from submitting unnecessary applications and fees.

We've also continually been trying to recruit quality staff for the temporary positions we are able to fill (LTEs and Project positions). This takes time. And, unfortunately, due to our inability to offer competitive pay and permanent positions, recruitments have returned a scant amount of applicants and qualified candidates have declined offers. I, myself, am on my fourth recruitment for a project paralegal position that began in March 2022. When we do find qualified candidates, the onboarding process also takes time away from regular duties. By the time a temporary employee may be fully operational, their employment term may be up. This staffing model is not sustainable.

Finally, and perhaps most significantly, in the last six months, we developed and rolled out our new online licensing system, LicensE, which was no small task. This will reduce the need to have staff perform data entry and enhance application processing for customers.

Where we're going:

We will continue to move all professions into LicensE with the goal for completion being end of calendar year 2023. We are trying to think outside the box with regard to staffing, including potentially expanding remote work capabilities for new hires to recruit the best talent. For example, we recently added a project attorney from Green Bay to the legal review team. Since she came on board, the legal team has reduced its total pending applications by nearly 50%. We will also continue to seek approval for more permanent staff and increased wages to recruit and retain the best staff to gain expertise and efficiency.

In the last couple of years, I have worked closely with the credentialing division and DSPS leadership to implement numerous process improvements which have created efficiencies in the legal review of licensing applications. I am proud of my team and the work we do for the people of Wisconsin.

I look forward to discussing these matters in more detail with you today.  
Thank you.