



October 14, 2022

Members of the Legislative Council Study Committee on Occupational Licensing,

As you may imagine, we at the Department of Safety and Professional Services have been following the activity of the study committee since it was announced. As our agency is responsible for the majority of occupational licensing in Wisconsin, any legislation proposed by this committee stands to directly affect our agency operations and personnel. To that end, we have been closely monitoring the committee’s work and the feedback the committee has received from stakeholders and interested parties alike. Moreover, we are especially eager to engage in the continued conversation regarding the staff investments necessary to keep pace with Wisconsin’s record economic growth, and we are hopeful those investments will be a part of the committee's legislative recommendations.

We have welcomed the opportunity to participate in the committee meetings. We expected, received, and accepted an invitation to testify at the first meeting on August 2, 2022. On my first day on the job as secretary of the department, I testified in front of the committee. I was joined by Mike Tierney, the agency legislative liaison, and Sarah Norberg, then an attorney-supervisor and now the administrator of the Division of Professional Credential Processing. We prepared and shared testimony about agency operations, and we answered questions from committee members. We appreciated the opportunity to speak directly with committee members about our credentialing processes and challenges.

Since that meeting, we have continued to monitor the subsequent meetings – watching the various presentations the committee has received and following the subsequent discussions. Again, the department values the work that the committee has been doing studying the topic of occupational licensure, and, again, our hopes are high that this work leads to the legislative action the department has been advocating for over the last two legislative sessions.

While we have not yet received an official request from the Chair, it is clear from the conversation at the meeting this week that the committee would like the department to be available at the next meeting to provide feedback on proposed legislation. We appreciate the opportunity to discuss the committee’s proposals and look forward to being a part of that conversation.

We also have received the questions that were sent by the Legislative Council, and below you will find the responses. We will be happy to address these questions and any follow-up you may have when we come back before you on November 15.

1. Could you provide the average processing time for the business category and for the health category?

<b>Average Days to License</b>						
<b>Credential Family</b>	<b>FY 17</b>	<b>FY 18</b>	<b>FY 19</b>	<b>FY 20</b>	<b>FY 21</b>	<b>FY 22</b>
<b>Business</b>	58	56	41	42	40	27
<b>Health</b>	87	94	95	111	104	65
<b>All Credentials</b>	76	79	74	86	79	46

2. Could you provide the average processing time for each profession in this A-Z Professions [list](#)?

Given the complexities of the staff working on multiple license types through multiple platforms and databases – some manually, this data is not available. Until a full migration to LicenseE, which is under way, it is not possible to compile this data.

3. Could you provide data over the last five years on the number of initial applications, renewals, and credentials issued? If possible, could this data be broken down by category and/or profession?

Health and business licenses largely renew on two-year cycles. In order to capture and compare time periods as accurately and evenly as possible, we are presenting information by biennium as opposed to year-to-year. Also, the requested information does not exist in any standardized report, and we are compiling data from across multiple systems and manual paper files.

As reported by the prior administration, between July 2013 and June 2015, the Division of Professional Credential Processing (DPCP) processed roughly 57,000 initial applications for licensure and over 337,000 applications for licensure renewal.

As reported by the prior administration, between July 2015 and June 2017, DPCP processed roughly 72,000 initial applications for licensure and over 385,000 applications for licensure renewal.

Between July 2017 and June 2019, DPCP processed roughly 95,434 initial applications for licensure and over 384,000 applications for licensure renewal.

Between July 2019 and June 2021, DPCP processed roughly 122,974 initial applications for licensure and over 363,534 applications for licensure renewal.

We are just over halfway through the current biennium. Because of the statutory renewal dates, the current volume of renewals will not provide a reliable comparison with figures from previous biennia. For example, the current renewal cycle includes two relatively small professions, podiatry (455 active) and dietitians (2,380 active), while February includes physical therapists (7,718 active), social workers (15,191 active across four separate license types), marriage and family therapists (958 active), substance abuse counselors (2,381 active across two license types), massage therapists (5,865 active) and more. That said, we are on pace and expect to again issue more licenses than the previous biennia.

4. Could you provide a document detailing the different ways legal review has been implemented in the last five or so years, the reasons for any changes, and the current criteria for any credential to be put in legal review?

We have attached that document. However, please be aware that “legal review” is a broad category that includes more than just prior convictions or personal interactions with the legal system. For example, reciprocity requests will often involve a legal review of another state’s statutes and rules related to a profession in question.

As you know, occupational licensing is vitally important to the people of Wisconsin. It provides essential safeguards and reassurance to every person who ever visits a doctor’s office, walks into a public building, or buries a loved one. Despite the challenges they face, our staff members take great pride in their work. They recognize the importance of every transcript review, graduation verification, and application review. We all recognize the extraordinary investment our applicants have made for the ability and privilege to practice in

licensed occupations. For some it has come at great cost, over large amounts of time, with tremendous personal sacrifice. They deserve and we strive to offer a fair, consistent, and reasonable process for securing the credentials they need to work in their chosen fields and for which they pay their licensing fees. We know applicants are eager for strong, collaborative approaches to the challenges facing the agency.

We also know that many of the professions we regulate support greater investment of fee revenues back into our credentialing processes and the people who execute them. We are aware of several boards and organizations that have contacted various legislators and legislative agencies to formally express support for greater investment into the agency. We recognize that those groups, too, have a vested interest in an occupational licensing division that has the staff and resources adequate and necessary to handle the volume of work at hand. We appreciate that they recognize the value of this work and support our efforts to give our customers—and the people of Wisconsin who rely on them—the service they deserve.

We look forward to the November 15 meeting to address your questions, further discuss these issues and work together to bring forward needed legislative solutions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan Hereth", is positioned below the word "Sincerely,".

Dan Hereth  
Secretary-designee  
Department of Safety and Professional Services

Study Committee Request:

*A document detailing the different ways legal review has been implemented in the last five or so years and the reasons for any changes.*

DSPS Response:

As mentioned at the August 2, 2022, Study Committee meeting, when the Evers' Administration came on board at DSPS, the agency's legal staff were assigned to one division while performing many different functions and attempting to address numerous different priorities for the agency. The credentialing legal review process was distributed across numerous staff members, including many limited term employees, who lacked subject matter expertise and proper oversight. As a result of these things, there were inefficient and inconsistent processes and a significant backlog<sup>1</sup> of applications needing legal review.

Shortly after discovering the circumstances addressed above, DSPS leadership decided to reorganize the agency's legal staff and establish a dedicated legal review team in the Division of Professional Credential Processing (DPCP) to be led by a working attorney supervisor and supported by two attorneys and one paralegal.<sup>2</sup> The reorganization occurred in March 2020.

From its inception, the legal review team has been working on streamlining processes and ensuring that legal reviews are conducted in a fair, consistent, and in a non-overly burdensome manner. Here are some of the ways legal review has been implemented since the creation of the DPCP Legal Team:

May 2020 – Staff began recording conviction reviews in the legacy system (entry in history tab of individual profile) so that licensees do not need to go through legal review for a second time when applying for higher level credentials.

July 2020 – We created a new pending charges/conviction report form specifically for Barber/Cosmetology professions to limit reporting requirements to legal requirements (felonies committed in the practice and alcohol/drug related offenses). Prior to this, the process was a one-size fit all process where Barber/Cosmetology applicants would have to disclose ordinance violations and misdemeanor convictions which oftentimes did not present a legal basis for denying a license.

January 2021 – We sought and obtained more authority from regulatory authorities to effectuate approval decisions more quickly (similar to Wis. Stat. s. 440.035(1r) which we worked closely with Senator Kooyenga's office) by submitting proposed motions to the boards and Chief Legal Counsel.

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<sup>1</sup> While the prior administration loosely tracked pending legal reviews using a spreadsheet, it is estimated by Department staff who were with the agency in January 2019 that there was a backlog of over 600 pending files needing legal reviews. The tracking of legal reviews via spreadsheet was eliminated very early on in 2019 when a more modern/sophisticated system was put into place.

<sup>2</sup> While the department took staff from other areas of the agency to set up the legal review team and ultimately requested additional staff to supplement the small team of FTEs to ensure a better customer experience, requests for legal staff were denied.

June 2021 – We posted a reciprocity/endorsement listing on our website which identifies those jurisdictions that are not reciprocal from May 1, 2020 forward. Determinations are valid for 2 years or until a statute/code change takes place, whichever is sooner. The listing is updated monthly. A link to the listing is also posted on the professional pages. This may inform applicants who are considering applying via reciprocity and prevent them from submitting unnecessary applications and fees.

January 2022 – Following a comprehensive analysis of the Wisconsin Fair Employment Act (WFEA) and Wisconsin Statute Chs. 440-480 and the regulations that govern those professions, we determined the WFEA likely does not encompass review of ordinance violations upon initial application for a credential. As a result, review of ordinance violations at initial application for a credential are only required for those professions that explicitly require such review pursuant to their statutes and regulations. This includes those professions governed by the Board of Nursing, Pharmacy Wholesale Distributors, Third Party Logistics Providers, Private Detective/Private Security Person, and Midwife credentials. Additionally, for the professions that still require review of ordinance violations, we do not review any ordinance violations that are more than seven years old (which is the length of time most records are kept by municipalities and similar agencies). These does not impact any renewals. We created/revised forms to clarify what documents are required for conviction review (separate forms for those professions that require review of ordinance violations and those that do not) and eliminated documents which are not necessary for the regulatory authority to make an informed decision (ordinance violations that are more than seven years old) to streamline the legal review process. We also revised forms to better align with the changes to the WFEA in 2017. As an example, for those who have a conviction record, we ask questions related to rehabilitation and offer the applicant the ability to submit such evidence of rehabilitation at the onset, when an application is submitted, as opposed to following up with the applicant for evidence of rehabilitation several weeks or months after an application is initially received and reviewed.