

Safety and Professional Services

Regulation of Professions

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June 6, 2023

Joint Committee on Finance

Paper #685

License Processing Staff (Safety and Professional Services -- Regulation of Professions)

[LFB 2023-25 Budget Summary: Page 554, #1]

CURRENT LAW

The Department of Safety and Professional Services (DSPS) develops license applications and processes license requests for individuals in the health, business, and building trades professions. The Department's Division of Professional Credential Processing (DPCP) administers the biennial renewal process for approximately 439,100 active credential holders in the health and business professions, and approximately 82,600 active credential holders in the building trades professions.

Most new applicants will contact this Division to obtain information on how to apply for a credential and to request the appropriate application materials. Applications can be as simple as completion of the appropriate form, submission of supporting documents, and payment of the initial credential fee. More complex licensing may require college transcripts, proof of graduation, internships, residencies, supervised practicum review, criminal background checks, confirmation from national associations, information regarding disclosure of previous disciplinary actions, employment verification, proof of insurance, or verification of holding a valid license in another state. DSPS, or the appropriate occupational board, is to process health and business credentials within 60 days, under Chapter SPS 4 of the administrative code, and Chapter SPS 305 of the administrative code requires DSPS to process and issue trades credentials within 21 days.

As of May 1, 2023, DSPS has assigned 63.0 positions to its Division of Professional Credential Processing. This includes 42.0 license/permit program associates of various classes, 7.0 office operations associates, 4.0 attorneys, 3.0 paralegals, 2.0 program and policy analysts, 4.0 records management supervisors, and 1.0 division administrator. State personnel records indicate DSPS also has six limited-term employees (LTEs) assigned to health credential processing in DPCP.

DISCUSSION POINTS

1. Assembly Bill 43/Senate Bill 70 would provide ongoing funding of \$968,700 in 2023-24 and \$1,246,900 in 2024-25 with 16.0 permanent positions to process license applications in DPCP. Table 1 shows the types of positions that would be provided and the funding that would be budgeted to support these positions in 2023-24 and 2024-25.

TABLE 1

License Processing Staff -- Assembly Bill 43/Senate Bill 70

<u>Position Title/Category</u>	<u>Positions</u>	<u>Funding</u>	
		<u>2023-24</u>	<u>2024-25</u>
License/Permit Program Associate -- Health	8.00	\$364,100	\$485,300
License/Permit Program Associate -- Business and Trades	6.00	273,000	364,000
Records Management Supervisor -- Health	1.00	55,200	73,600
Paralegal	<u>1.00</u>	<u>43,300</u>	<u>57,700</u>
Subtotal	16.00	\$735,600	\$980,600
Supplies and Services		\$233,100	\$266,300
Total	16.00	\$968,700	\$1,246,900

2. In March 30, 2023, testimony to the Joint Committee on Finance, the DSPS Secretary-Designee stated average completion time for credential processing was 38 days. However, DSPS reports that over the last several years, increases in licensure applications and renewal requests have outpaced DPCP staffing capacity and capabilities, leading to a backlog of certain licenses. DSPS states that health professions constitute approximately two-thirds of total work volume in DPCP. Further, DSPS indicates that certain health professions, including those under the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board, have generally more complex educational and experience requirements than other types of applications. DSPS reports staff have observed processing these applications in a timely fashion can be challenging for staff with less experience. The Department reports this then requires greater involvement of supervisory staff on complex applications, which tends to create bottlenecks in processing unique or complex applications. The Department argues that this is part of the rationale for the allocation of the positions between the health and business professions.

3. Several long-term measures have been initiated to address licensing issues at the Department. Over several previous biennia, the Legislature has appropriated funding for information technology to improve agency licensing functions. DSPS reports that as of May 8, the agency's primary credential application system, known as LicenseE, had incorporated all business and health occupations, meaning that all occupational licenses have been, or soon will be, electronically processed. (Additional information technology initiatives are discussed in Papers #681 and #682.) Additionally, the DSPS Secretary-Designee indicated in testimony to the Committee that certain

internal changes have tended to improve review processes, including assigning a single application reviewer to an application. State personnel records indicate DSPPS has realigned positions within current authorizations and those provided legislatively into DPCP in the last three years in which information is available. Records show DPCP increased from 47.0 positions in January, 2020, to its current level of 63.0 positions.

4. DSPPS indicates that the Department utilized current workload to determine the number of new positions recommended. Specifically, the Department intends for current project positions and LTEs to be converted into the permanent positions under the bill. (Project positions are discussed further in a subsequent point.)

5. Table 2 shows the overall number of DSPPS authorized positions by fiscal year and fund source since 2015-16. Figures for 2024-25 reflect the number of permanent positions authorized for DSPPS under current law, which represents the agency's available staffing absent further legislative action or additions of federally-funded (FED) positions. Total DSPPS state-funded positions have fluctuated since 2015-16 between 232.94 and 246.44 positions. However, as DSPPS currently is authorized 16.0 project positions, the agency's authorized positions would continue to decline as project positions expire in the 2023-25 biennium.

TABLE 2

Department of Safety and Professional Services Total Positions by Fund, 2015-16 to 2024-25

<u>Fiscal Year</u>	<u>PR</u>	<u>FED</u>	<u>Total</u>
2015-16	245.44	1.70	247.14
2016-17	245.44	1.70	247.14
2017-18	232.94	1.70	234.64
2018-19	238.44	1.70	240.14
2019-20	244.44	1.70	246.14
2020-21	239.44	1.70	241.14
2021-22	246.44	1.70	248.14
2022-23	242.44	13.70	256.14
2023-24*	238.44	13.70	252.14
2024-25*	238.44	1.70	240.14

*Committee action as of June 1, 2023.

6. The increases and subsequent declines in authorized positions shown in Table 2 since 2020-21 are due mostly to the provision and expiration of project positions. The most significant increase occurred in February, 2022, when the Governor authorized 12.0 FED positions using funds under the American Rescue Plan Act. The positions have been extended through June 30, 2024. A total of 4.0 PR project positions expire by September 30, 2023, including 2.0 license/permit program associate positions created under 2021 Act 58 and currently budgeted for processing health professions credentials in DPCP.

7. Table 3 shows the license/permit program associate positions approved by the Committee since October of 2018. Beginning with a passive review under ss. 16.505/.515 of the statutes at that time, the Committee has approved 6.0 project and 1.0 permanent license/permit program associates, which would be the most prominent position category created under this provision.

TABLE 3

License/Permit Program Associate Position Approvals, 2018 to 2021

<u>Action</u>	<u>Positions</u>		<u>Expiration Date</u>
	<u>Type</u>	<u>Number</u>	
Passive Review (s. 16.505) -- October, 2018	Project	4.0 (3.0 business/health; 1.0 trades)	June 30, 2022
2021 Act 58	Permanent	1.0 (trades)	--
2021 Act 58	Project	2.0 (health)	September 30, 2023
Total Authorized	Permanent	1.0	
	Project	6.0	

8. DSPS reports that while project positions have assisted program operations in identifiable ways, the positions have been difficult to recruit due to their impermanence. Additionally, incumbents may leave positions with an impending expiration date, and an agency may choose not to fill a vacant position if the end date for the position would make recruitment and hiring for the position impractical. This can make the period a project position is filled considerably shorter than the position's authorization period. However, DSPS has had recent success in retaining and filling these positions. Table 4 shows the vacancies from license permit program associate project positions since 2022 when the FED project positions were approved. As of May 27, 2023, 2.0 of the 11.0 project positions were vacant, which is the lowest vacancy rate during the period shown.

TABLE 4

License/Permit Program Associate Vacancies, 2022 to Present by Quarter

<u>Calendar Quarter (Beginning)</u>	<u>Project Positions Authorized*</u>	<u>Project Positions Vacant</u>	<u>Vacancy Rate</u>
2022, Q1	6.00	2.00	33%
2022, Q2	15.00	11.00	73
2022, Q3	11.00	7.00	64
2022, Q4	11.00	6.00	55
2023, Q1	11.00	4.00	36
2023, Q2	11.00	4.00	36
May 27, 2023	11.00	2.00	18

*Quarterly decreases in authorized positions reflect expiration of the positions.

9. DSPS indicates initial and renewal credential processing has increased in recent biennia, from approximately 57,000 initial applications and 363,600 renewals in the 2013-15 biennium to 439,100 active health credentials as of April 30, 2023, and 82,600 trades credentials. Although multiple factors may influence long-term credentialing trends, it is reasonable to assume these figures would at least approximate current totals in coming biennia.

10. It may be that additional permanent license/permit program associate positions would help DSPS reduce delays associated with complex applications for certain professions. DSPS staff indicate that more certainty in tenure of license/permit program associates, which would be afforded by permanent position authority, would increase incumbents' expertise with procedures and complications in applications that currently tend to lengthen the resolution of long-term applications. The Committee could consider providing 14.0 license/permit program associates [Alternative 1a].

11. The Committee could also consider providing a smaller number of positions for license/permit program associates. Table 5 shows the alternatives for approving: (a) 9.0 positions, which equals the number of PR and FED license/permit program associate project positions currently filled out of 11.0, and would effectively make the positions permanent [Alternative 1b]; (b) 6.0 positions, equal to the PR (state-funded) positions approved by the Committee since 2018, but that have expired or will expire by September 30, 2023 [Alternative 1c]; (c) 4.0 positions, equal to the number of license/permit program associates approved in October, 2018, and expired June 30, 2022 [Alternative 1d]; or (d) 2.0 positions, effectively making permanent the 2.0 project positions scheduled to expire September 30, 2023 [Alternative 1e].

TABLE 5

License/Permit Program Associate Positions -- Alternatives

	<u>Positions</u>	<u>2023-24</u>	<u>2024-25</u>	<u>Biennium</u>
Alt. 1a	14.0	\$839,000	\$1,079,900	\$1,918,900
Alt. 1b	9.0	539,100	693,900	1,233,000
Alt. 1c	6.0	359,400	462,600	822,000
Alt. 1d	4.0	239,600	308,400	548,000
Alt. 1e	2.0	119,800	154,200	274,000

12. In addition to the 8.0 health-related license/permit program associates under the bill, the Department would be provided a second supervisor position for health credential processing. As discussed in a separate paragraph, complex applications that require supervisory intervention or consultation tend to become delayed as a result. DSPS indicates that the volume of escalated cases that require action beyond the ability of license/permit program associates has increased and is greater than one supervisor can manage. The Committee could consider providing 1.0 records management supervisor [Alternative 3a].

13. Additionally, DSPS indicates that a 1.0 current paralegal works across all license types and that the additional 1.0 paralegal under the bill would increase capability for case preparation and

management for legal review. The Department cautions that an inadequate level of paralegal support can lead to delays in the review and licensing process. Currently, 2.0 FED project paralegals are authorized through June 30, 2024. The Committee could consider providing 1.0 permanent paralegal [Alternative 2a].

14. The Committee could also consider providing any positions in the preceding alternatives as four-year project positions [Alternative 4]. The Department indicates project positions have been adept at addressing short-term issues, such as expediting the processing of less complex credentials. Further, the current rate of filled positions suggests project positions with a sufficient tenure could be filled and deployed to address continuing issues, such as the backlog in complex credentials. Additional permanent positions could be evaluated for future biennia after reviewing program changes under these authorizations.

15. The Committee could also take no action [Alternatives 1f, 2b and 3b]. The Department has extended 12.0 FED project positions through June 30, 2024, and additional positions could be requested under s. 16.505/.515 in the future.

ALTERNATIVES

License/Permit Program Associates

1. Provide one of the following amounts of funding and positions for license/permit program associates for review and processing of credential applications in the Division of Professional Credential Processing (DPCP):

- a. 14.0 positions and \$839,000 in 2023-24 and \$1,079,900 in 2024-25;

ALT 1a	Change to Base	
	Funding	Positions
PR	\$1,918,900	14.00

- b. 9.0 positions and \$539,100 in 2023-24 and \$693,900 in 2024-25;

ALT 1b	Change to Base	
	Funding	Positions
PR	\$1,233,000	9.00

- c. 6.0 positions and \$359,400 in 2023-24 and \$462,600 in 2024-25;

ALT 1c	Change to Base	
	Funding	Positions
PR	\$822,000	6.00

- d. 4.0 positions and \$239,600 in 2023-24 and \$308,400 in 2024-25; or

ALT 1d	Change to Base	
	Funding	Positions
PR	\$548,000	4.00

- e. 2.0 positions and \$119,800 in 2023-24 and \$154,200 in 2024-25.

ALT 1e	Change to Base	
	Funding	Positions
PR	\$274,000	2.00

- f. Take no action.

Paralegal

- 2a. Provide 1.0 paralegal with \$57,000 in 2023-24 and \$73,400 in 2024-25.

ALT 2a	Change to Base	
	Funding	Positions
PR	\$130,400	1.00

- 2b. Take no action.

Records Management Supervisor

- 3a. Provide 1.0 records management supervisor with \$72,200 in 2023-24 and \$93,600 in 2024-25.

ALT 3a	Change to Base	
	Funding	Positions
PR	\$166,300	1.00

- 3b. Take no action.

4. In addition to any of Alternatives 1 through 3, provide positions as four-year project positions.

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June 6, 2023

Joint Committee on Finance

Paper #686

Call Center Staff (Safety and Professional Services -- Regulation of Professions)

[LFB 2023-25 Budget Summary: Page 554, #2]

CURRENT LAW

The Department of Safety and Professional Services (DSPS) employs customer service staff under its Division of Professional Credential Processing (DPCP) to answer a variety of phone calls and assist callers with the process of occupational licensing. Call center staff respond to a variety of individuals, including credential and license seekers, employers, educational institutions, hospitals, state officials, and all others with inquiries or concerns regarding the state's regulation of professions. Because DSPS regulates more than 240 professions, call center staff are expected to maintain technical knowledge of the various licensing requirements and application components to best assist those seeking help.

DISCUSSION POINTS

1. DSPS is currently authorized 10.0 state-funded and 1.0 federally funded (FED) staff in its DPCP Customer Service Center (CSC). Of those, 1.0 is a records management program supervisor, 4.0 are license/permit program associates, and 6.0 are office operations associates. The 6.0 office operations associates are the primary staff that answer phone calls. The Department states that the 6.0 call-answering staff are able to handle about 37% of approximately 1,700 daily calls, as the Secretary-Designee's testimony to the Committee indicated on March 30, 2023.

2. The agency reports it utilized limited-term employees and in 2022 began contracting 22 additional employees through a third-party company using funds from the federal American Rescue Plan Act (ARPA). DSPS observes that the 22 currently contracted staff can handle approximately 60% of calls. As a result, the Secretary-Designee reported to the Committee that typical call answer rates meet or exceed 90%.

3. Assembly Bill 43/Senate Bill 70 would provide ongoing funding of \$793,000 in 2023-24 and \$1,018,300 in 2024-25 with 14.0 office operations associate permanent positions to provide additional customer service call center staff within the CSC. The Administration would assign state-funded staff to handle ongoing call volumes as federal ARPA funds expire. DSPS contends that an additional 14.0 call center positions would be able to handle typical call demand, and also would build knowledge and expertise over time.

4. Table 1 summarizes the amount of CSC staffing under AB 43/SB 70 and the assumptions used by DSPS and the Administration in estimating state-funded positions that would retain current service levels. DSPS reports receiving approximately 1,700 calls daily, with each call duration an average of five minutes, or a total of 8,500 minutes daily. DSPS models 420 minutes per CSC staff member, per eight-hour day; this assumes two 15-minute breaks plus 30 minutes not answering calls due to doing other related tasks such as talking to supervisors or following up on complex or technical calls. This model yields a requirement of 20 staff, or 14.0 positions more than currently allocated. In most staffing models, the Department must assume leave time, during which people are unavailable due to illness or leave of turnover. DSPS reports that staffing models for call centers assume 20% to 50% for the times when people are unavailable, and DSPS indicates that the recommended staffing level does not include this factor.

TABLE 1

Workload Estimate for Call Center Staff -- AB 43/SB 70

Daily Calls	1,700
Average Duration (Minutes)	<u>5</u>
Total Daily Call Time (Minutes)	8,500
Daily Available Time per Position (Minutes)	420
Staffing Need (Daily Call Time / Available Time per Staff)	20
Current Staffing Provided	<u>6</u>
Difference	14

5. DSPS reports that permanent staff would be projected to cost less per individual, and overall, than contracted call center staff. Table 2 shows differences in costs per year between those budgeted in AB 43/SB 70 on a full-year basis and those under contract as reported by DSPS. (Not shown are premiums that may be payable to multi-lingual staff, who typically are paid higher rates than other contract staff.) The Department also expects that permanent staffing would facilitate greater expertise within CSC staff due to not having to retrain contracted or limited-term employees who may tend to have shorter tenures in the role.

TABLE 2

Comparison of Costs for Call Center Staff

<u>Position Type</u>	<u>Hourly Rate</u>	<u>Yearly Salary/ Cost</u>	<u>Fringe Benefits (42.5%)</u>	<u>Total Compensation</u>	<u>Supplies and Services</u>	<u>Total Cost</u>
State (Permanent)	\$18.92	\$39,400	\$16,700	\$56,100	\$16,600	\$72,700
Contract	39.60	82,400	0	82,400	0	82,400

6. It may be that providing permanent positions for CSC staff would achieve high answered-call volumes as well as lead to retention of skilled incumbents that could better handle complex or unique calls. It also could be considered likely that given DSPS-reported increases in credentialed occupations in recent biennia, the volume of calls made to CSC will continue to remain at current levels of approximately 1,700 per day, and perhaps between 400,000 and 500,000 per year.

7. The Committee could approve the 14.0 permanent positions based on the calculated need by DSPS [Alternative 1]. The Committee could approve fewer staff at its discretion, such as an additional 6.0 staff to double current levels [Alternative 2]. The Committee could also take no action [Alternative 3].

ALTERNATIVES

1. Provide ongoing funding of \$793,000 in 2023-24 and \$1,018,300 in 2024-25 with 14.0 office operations associate permanent positions to provide additional customer service call center staff within the DPCP Customer Service Center (CSC).

ALT 1	Change to Base Funding Positions	
PR	\$1,811,300	14.00

2. Provide 6.0 office operations associate permanent positions for the CSC, with funding of \$327,400 in 2023-24 and \$436,500 in 2024-25.

ALT 2	Change to Base Funding Positions	
PR	\$763,900	6.00

3. Take no action.

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June 6, 2023

Joint Committee on Finance

Paper #687

Board Support Staff (Safety and Professional Services -- Regulation of Professions)

[LFB 2023-25 Budget Summary: Page 555, #3]

CURRENT LAW

The Department of Safety and Professional Services provides administrative services for boards of professionals to regulate and license certain professionals in the state. These boards include independent examining boards, semi-autonomous boards, and affiliated credentialing boards that regulate certain professions and classes of businesses identified in statute. The Department and its boards issue several types of credentials, including licenses, certificates, registrations, and permits. These credentials are generally differentiated by qualification requirements, the use of a professional title, and the range of scope of practice or activities that a credential holder is allowed to perform. The Department currently provides administrative services to 30 boards.

The DSPS Division of Policy Development (DPD) provides professional and administrative support to regulatory boards, councils, and committees. The Division drafts and implements administrative rules and policies, provides policy guidance, and facilitates meetings for the professional boards, councils, and committees. Further, DPD administers the prescription drug monitoring program (PDMP), which is discussed in greater detail in Paper #690.

Additionally, the Division of Legal Services and Compliance (DLSC) provides the following services for credentialing boards: (a) intake and screening of complaints against credential holders, including allegations of negligence, unprofessional conduct, and incompetence; (b) legal services to professional boards and the Department, including prosecuting violations of professional standards; (c) monitoring of compliance with disciplinary orders; and (d) administration and oversight of a confidential program for impaired professionals in need of substance-abuse intervention. In cooperation with the examining boards, Division employees

investigate complaints and prosecute violations through formal disciplinary hearings before the appropriate boards, when required. Cases are generally resolved through administrative warnings, reprimands, suspensions, practice limitations, citations, remedial education, and forfeitures.

DISCUSSION POINTS

1. Assembly Bill 43/Senate Bill 70 would provide the positions and funding shown in Table 1 to support existing and new credentialing boards with policy, legal, and administrative services:

TABLE 1

Board Support Staff -- Assembly Bill 43/Senate Bill 70

<u>Position Title/Category</u>	<u>Positions</u>	<u>Funding</u>	
		<u>2023-24</u>	<u>2024-25</u>
Division of Legal Services and Compliance			
Attorney	3.00	\$178,400	\$237,600
Pharmacy Practices Consultant	1.00	102,500	136,700
Real Estate Specialist	1.00	55,200	73,600
Senior Consumer Protection Investigator	1.00	55,200	73,600
Program and Policy Analyst*	1.00	55,200	73,600
Consumer Protection Investigator	<u>1.00</u>	<u>51,000</u>	<u>68,100</u>
Subtotal	8.00	\$497,500	\$663,200
Division of Policy Development			
Administrative Policy Advisor	1.00	\$55,200	\$73,600
Administrative Rules Coordinator	<u>1.00</u>	<u>55,200</u>	<u>73,600</u>
Subtotal	2.00	\$110,400	\$147,200
Supplies and Services		\$145,800	\$166,500
Total	10.00	\$753,700	\$976,900

*Two-year project position

2. DSPS reports that the 10.0 recommended staff would fulfill a variety of roles within the Department and in support of board operations. The following sections briefly describe the responsibilities each position would carry out. Positions would be split-funded among DSPS's, main health, business, and safety and buildings operations appropriations.

Division of Legal Services and Compliance

3. *PDMP Attorneys.* DSPS indicates that 2.0 protection and investigation services attorneys would provide additional investigative resources to the Controlled Substances Board (CSB) for administration of PDMP investigations and referrals. A case referral requires consultation between an attorney, who would analyze the evidentiary needs of the case, and consumer protection investigators who build a case file. Attorneys analyze and review records involved with each case referral, which typically number approximately 1,000 pages, based on evidentiary files related to the party under investigation and at least 10 of the prescriber's patients.

4. *Consumer Protection Investigators.* 2.0 investigators would assist attorneys in the procurement of documentation and evidence for cases identified under the PDMP. DSPS reports that the 1,000-page records involved with each case referral leads to the need for additional consumer protection investigators to support legal proceedings.

5. *Board Business Team Attorney.* DSPS indicates that the 1.0 board business team attorney would oversee business team investigations, handle prosecutions, and ensure compliance with federally-mandated appraisal deadlines.

6. *Pharmacy Practices Consultant.* 1.0 consultant would provide inspections for various pharmacy licenses, particularly for specialty pharmacies, distributors, or manufacturers that require a higher level of knowledge and training than that required for initial inspections of general retail pharmacies. DSPS conducts initial inspections within six months of the license application, but the Department's current consumer protection investigators are not formally trained in inspections for specialty pharmacy establishments. DSPS indicates the position would reverse a provision in 2017 Act 59, the 2017-19 biennial budget act, under which 0.5 position was deleted with the intention of the agency contracting for advanced pharmacy inspections. However, the initiative was not pursued immediately after Act 59. In 2019, the Pharmacy Examining Board passed a resolution stating that contracted inspectors would be too costly, and that a permanent DSPS position dedicated to pharmacy practice consultations would better meet inspection needs. The Department's Division of Legal Services and Compliance estimates that, on average, the cost per inspection for a DSPS staff pharmacy consultant would be \$450 per inspection, while a contracted inspector would cost between \$2,000 and \$6,000 per inspection.

7. *Real Estate Specialist.* 1.0 specialist would assist the Real Estate Examining Board and Real Estate Appraisers Board in ensuring that real estate professionals comply with rules under Title XI of the federal Financial Institutions, Reform, Recovery, and Enforcement Act of 1989, as amended by the Consumer Protection Act of 2010. The act requires real estate appraisals used in connection with certain federally-designated transactions to be performed in writing, in accordance with uniform standards, by appraisers whose competency has been demonstrated and whose professional conduct will be subject to effective state supervision. Additionally, DSPS reports that this position would provide necessary appraisal and real estate-specialized subject matter technical resources to better serve the two boards.

8. *Program and Policy Analyst.* 1.0 analyst project position would serve the various boards by identifying and analyzing data, preparing responses to stakeholders and the Legislature, and

measuring DLSC performance. DSPS reports that the Department receives numerous requests for data in support of board operations. The 1.0 program and policy analyst would fill this need by making responses to requestors, submitting reports to the Legislature on behalf of the credentialing boards that are required by statute, and ensuring consistent availability of board and departmental data.

Division of Policy Development

9. *Administrative Policy Advisor.* 1.0 policy advisor would serve as the Department's policy representative and facilitator for meetings amongst examining boards, credentialing boards, advisory boards, and other committees. Such a position, the Department contends, would improve collaborative policy development amongst the Department, boards, and committees. This could benefit the licensing and credentialing process by way of clearer, more effective application and review policies. Currently, no such position is authorized under the Department.

10. *Administrative Rules Coordinator.* 1.0 rules coordinator would lead the process for permanent and emergency rules coordination and serve as the Department and board liaison on all new administrative code requirements. DSPS is currently authorized 3.0 administrative rules coordinators; all are filled. The Department indicates that an additional 1.0 position would increase capability and efficiency in the rules promulgation process.

Additional Considerations

11. Of the 8.0 positions that would be provided to the DLSC, 4.0 positions would be primarily associated with referrals and enforcement under the PDMP. The Department considers PDMP investigations high priority and typically time-sensitive to prevent the improper distribution of opioids among the general public. In the 2022 year-end report for the PDMP, DSPS and the Controlled Substances Board indicated 51 of the top prescribing physicians, physician assistants, dentists, and advanced practice nurse prescribers had been referred to their respective examining boards for potential disciplinary action. Although recent quarterly and year-end PDMP reports indicate certain CSB Referral Criteria Workgroup and dispenser audit functions slowed or paused during the COVID-19 pandemic, making comparisons to prior years inexact, the number of referrals in 2022 generally increased relative to prior years.

12. An additional 2.0 DLSC positions were identified by DSPS as having potentially significant impacts on operations. A 1.0 pharmacy practices consultant would provide expertise not currently held by agency inspection staff, and would eliminate the need for contract services that may be of higher cost than a permanent position. DSPS also indicates the 1.0 real estate specialist is required for the agency, the Real Estate Examining Board, and Real Estate Appraisers Board to comply with federal requirements. Such support is needed, DSPS indicates, due to the complex nature of the work, and because referrals to the state from federal mortgage finance agencies for unacceptable appraisals have increased in recent years. Referrals have increased from 2018 (no referrals) to 2021 (17 referrals), then significantly in 2022 (49 referrals), and remain high in 2023 (12 referrals through April 23).

13. DSPS indicates that the Division of Policy Development (DPD) positions would fulfill necessary responsibilities required for credentialing boards, and replace positions that have been

reallocated to other programs in the agency in recent years. Table 2 shows the combined administrative rules coordinators and DPD board operations positions in six-month increments from 2020.

TABLE 2

Administrative Rule Coordinators and Board Operations Positions, 2020 to 2023

	Administrative <u>Rules</u>	Board <u>Operations</u>
2020 Q1	5.00	3.00
2020 Q3	5.00	2.00
2021 Q1	4.00	2.00
2021 Q3	3.00	2.00
2022 Q1	3.00	2.00
2022 Q3	3.00	1.00
2023 Q1	3.00	2.00

14. In approximately the time period shown in Table 2, 29 acts of the 2019-20 and 2021-22 Legislature have been passed regarding credentialing of professions. Approximately half of the acts could be considered to have required additional administrative actions of credentialing boards or DSPS staff, including provisions for rule-making, required registrations or credentialing of additional entities, or the creation of additional credentialing or examining boards. Numerous other acts reduced or modified requirements of regulated individuals or occupations; although these acts may have eased licensure procedures for these persons, the acts may have prompted additional administrative actions on the part of DSPS to conform practices to new provisions of law.

15. The Committee could consider approving any of the individual or types of positions identified in Table 1 for a single program responsibility [Alternatives 1 and 2]. Alternative 1d would also provide the option of restoring 0.5 position for a pharmacy practices consultant, consistent with the deletion under 2017 Act 59 for the same purposes. The Committee could also take no action [Alternative 3]. DSPS could request additional position authority through the passive review request under s. 16.505 of the statutes.

ALTERNATIVES

1. Provide any of the following positions for the Division of Legal Services and Compliance:

- a. 1.0 attorney for business and trades complaints and other compliance;

ALT 1a	Change to Base Funding Positions	
PR	\$169,300	1.00

- b. 2.0 attorneys for the prescription drug monitoring program;

ALT 1b	Change to Base Funding	Positions
PR	\$338,500	2.00

- c. 1.0 pharmacy practices consultant for inspections of primarily non-retail pharmacy locations;

ALT 1c	Change to Base Funding	Positions
PR	\$292,000	1.00

- d. 0.5 pharmacy practices consultant for advanced pharmacy inspections (this would restore a 0.5 position deleted under 2017 Act 59 for the same purposes);

ALT 1d	Change to Base Funding	Positions
PR	\$119,700	0.50

- e. 1.0 real estate specialist for appraisals attorneys for the prescription drug monitoring program;

ALT 1e	Change to Base Funding	Positions
PR	\$157,100	1.00

- f. 1.0 consumer protection investigator and 1.0 consumer protection investigator-senior for PDMP investigations; or

ALT 1f	Change to Base Funding	Positions
PR	\$302,400	2.00

- g. 1.0 two-year project program and policy analyst for credential board data analysis and informational responses to internal and external parties.

ALT 1g	Change to Base Funding	Positions
PR	\$157,100	1.00

2. Provide any of the following for the Division of Policy Development:

a. 1.0 administrative policy advisor for facilitating operations of credentialing and examining boards; or

ALT 2a	Change to Base	
	Funding	Positions
PR	\$157,100	1.00

b. 1.0 administrative rules coordinator for facilitating operations of credentialing and examining boards.

ALT 2b	Change to Base	
	Funding	Positions
PR	\$157,100	1.00

3. Take no action.

Prepared by: Moriah Rapp



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June 6, 2023

Joint Committee on Finance

Paper #688

Licensure Attainment and Flexibility Specialists (Safety and Professional Services -- Regulation of Professions)

[LFB 2023-25 Budget Summary: Page 556, #5]

CURRENT LAW

The Department of Safety and Professional Services (DSPS) regulates more than 240 types of professional licenses, with certain licenses having guidelines specific to applicants with out-of-state credentials. These provisions, generally termed license reciprocity, denote the mutual recognition and acceptance by states of licenses that were granted in other states. Such processes are intended to facilitate the movement of workers between states as opportunities and need arise.

DISCUSSION POINTS

1. Assembly Bill 43/Senate Bill 70 would provide \$341,200 in 2023-24 and \$434,900 in 2024-25 with 5.0 positions to create license attainment specialists. The positions would be intended to enhance licensure opportunity in Wisconsin through multistate compacts and reciprocity agreements. 1.0 position would work on licensure compact development with the various credentialing boards, 1.0 would research and facilitate credentialing for persons trained internationally in healthcare fields, and 3.0 would expedite licensing decisions for applicants who already held credentials in other states.

2. DSPS reports that in calendar years 2021 and 2022, 10% of trades professions license applications and renewals registered with out-of-state zip codes. DSPS reporting for health and business occupations as of April 30, 2023, shows 89,400 active out-of-state credential holders out of 439,100 total active credential holders, or approximately 20% of active holders.

3. DSPS argues that creating clearer paths to licensure through administrative processes under current law would aid in attracting qualified applicants from other states. Using the positions

and funding under this provision, DSPS would intend to develop tools such that out-of-state workers, including international credential candidates, would have less difficulty navigating licensure processes. For example, DSPS indicates additional staff would be expected to produce assistive workflow diagrams for persons applying for credentials from outside Wisconsin to aid in licensure. DSPS also anticipates the 3.0 positions for expediting licensure would directly assist individuals with complex or unique applications.

4. However, DSPS also contends future statutory or rule changes that may increase reciprocity for out-of-state credential holders would be a focus of additional staffing. Currently, license reciprocity may be provided by statutory provisions and agency or board rulemaking. DSPS indicates staff proposed under the provision could assist in additional research and rule promulgation for reciprocity. However, DSPS indicates it does not have the staff capacity to pursue additional reciprocity-based rulemaking.

5. DSPS also notes additional efforts could focus on implementation of interstate compacts. A Legislative Council staff brief for the 2022 Study Committee on Occupational Licenses notes Wisconsin is party to five interstate compacts that relate to DSPS and credentialing boards, including for: (a) nurse licensure; (b) medical licensure; (c) occupational therapy; (d) physical therapy; and (e) psychology. 2023 Assembly Bill 207/Senate Bill 196 and AB 208/SB 197, which were introduced at the recommendation of the Occupational Licenses Study Committee, would additionally ratify the Counseling Compact and Audiology and Speech-Language Pathology Interstate Compact, respectively. Legislative Council staff further note the state could potentially join compacts in existence or in development that relate to: (a) advanced practice registered nursing; (b) cosmetology; (c) dentistry and dental hygiene; (d) massage therapy; (e) physician assistants; and (f) social work. DSPS anticipates certain compact memberships would increase state residents' options for pursuing telehealth services, thereby increasing the availability of virtual healthcare appointments. DSPS indicates that state ratification requires additional staff rule-making to implement provisions as they pertain to the state.

6. DSPS states that without the funding and positions for this provision, the agency would not be substantially able to develop and offer additional user-friendly resources and assistance to improve the process by which applicants can become licensed and work in Wisconsin. DSPS indicates that without such resources and assistance, Wisconsin may not be able to expand credential access for prospective Wisconsin practitioners. Creating interstate licensure workflows specific to relevant states would be anticipated to aid applicants who seek licensure and work in Wisconsin.

7. Given the potential benefits of licensing specialists for out-of-state applicants, the Committee could approve one or both of: (a) funding and 2.0 positions for work on interstate compact development and licensure research [Alternative 1]; or (b) 3.0 positions to expedite licensing for applicants with out-of-state credentials [Alternative 2]. These alternatives can be moved together. Developing efficient processes to licensure for out-of-state individuals could be beneficial. However, the length of time and process required to develop interstate compacts is uncertain. The Committee could provide any of the positions as two- or four-year project positions [Alternative 3].

8. On the other hand, alternatives under other staffing provisions before the Committee could be implemented, and staffing under those provisions may be able to develop additional

processes to facilitate credentialing of out-of-state applicants. Additional needs for these activities could then be evaluated in future biennia. The Committee could take no action [Alternative 4].

ALTERNATIVES

1. Provide \$121,400 in 2023-24 and \$154,800 in 2024-25 with 2.0 positions for interstate compact development and licensure research.

ALT 1	Change to Base	
	Funding	Positions
PR	\$276,200	2.00

2. Provide \$219,800 in 2023-24 and \$280,100 in 2024-25 with 3.0 positions to expedite licensing for applicants with out-of-state credentials. (This alternative can be moved in addition to Alternative 1).

ALT 2	Change to Base	
	Funding	Positions
PR	\$499,900	3.00

3. Specify that the positions are project positions with one of the following terms:
 - a. Two years; or
 - b. Four years.
4. Take no action.

Prepared by: Moriah Rapp



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June 6, 2023

Joint Committee on Finance

Paper #689

Program Revenue Retention (Safety and Professional Services -- Regulation of Professions)

[LFB 2023-25 Budget Summary: Page 556, #6]

CURRENT LAW

The Department of Safety and Professional Services (DPS) is required by statute to transfer 10% of revenues from health and business professions credentialing fees and certain proprietary schools regulation (educational approval program) fees to the general fund. Before the creation of DPS, a similar provision was established for what is now the Medical Examining Board, under the state budget act of 1967. Through the creation of the state's various examining boards under the prior Department of Regulation and Licensing, the same 10% transfer has been applied to other licensing fee revenues. Since 2013-14, an average of \$2.1 million annually has been transferred to the general fund under the provision.

DISCUSSION POINTS

1. Several agencies, including the Department of Financial Institutions (DFI), the Office of Commissioner of Insurance (OCI), the Public Service Commission (PSC), and the Secretary of State, are required to contribute a portion of certain annual fee and other revenues to the general fund. In some cases (including DPS), the transfer is equal to 10% of any revenues subject to the requirement. In other cases, the required transfer exceeds 10%. The amount of agency contributions varies significantly, however; DFI and OCI transfers are estimated at \$84.5 million and \$31.5 million in 2022-23, respectively, while PSC and the Secretary of State would transfer \$1.8 million and \$119,000, respectively.

2. A requirement to transfer fee revenues to the general fund has several effects. For agencies primarily or exclusively funded by program revenues, the transfer has the effect of contributing to state general-fund expenditures that benefit both agency operations and the general public. The transfers also could be viewed as reducing the ability of agencies to accumulate revenues provided by law in reserve amounts that would far exceed the needs of the agency's program costs.

3. Assembly Bill 43/Senate Bill 70 would eliminate the statutory requirement that DSPS transfer 10% of revenues from health and business credentialing fees and educational approval fees to the general fund. The Administration estimates that \$1,771,800 annually would be retained as program revenues under DSPS' health and business program, rather than be transferred to the general fund. The bill would increase the DSPS general operations appropriation for health and business occupational credentialing by the same amount. Educational approval fees retained would be an estimated \$45,000, but the bill contains no additional expenditure authority on this basis.

4. The following table shows the amount that DSPS has transferred to the state's general fund over the past nine years, from 2013-14 through 2021-22. Transfers in the first two columns represent amounts assigned by the Department of Administration (DOA) to meet statewide general fund transfer requirements in past budget legislation. These transfers ended in 2016-17. Two other columns show the ongoing statutory requirement that 10% of the credential fee revenue DSPS collects for the health and business professions, and for proprietary schools regulation, be transferred to the general fund ("GPR Earned"). No statutory transfer requirement exists for revenues from DSPS safety and buildings program fees.

Transfers from DSPS to the General Fund

<u>Fiscal Year</u>	<u>From Health and Business Occupations</u>	<u>From Building Trade Occupations</u>	<u>GPR-Earned from Health and Business Occupations</u>	<u>GPR-Earned from Proprietary Schools</u>	<u>Total</u>
2013-14	\$4,376,500	\$1,855,600	\$2,483,700	\$0	\$8,715,800
2014-15	4,376,500	1,855,600	1,993,500	0	8,225,600
2015-16	4,443,000	1,789,000	2,445,300	0	8,677,300
2016-17	4,443,000	1,789,000	2,213,300	0	8,445,300
2017-18	0	0	2,215,500	0	2,215,500
2018-19	0	0	2,242,800	0	2,242,800
2019-20	0	0	1,862,400	0	1,862,400
2020-21	0	0	1,513,100	0	1,513,100
2021-22	0	0	1,729,500	230,300	1,959,800

5. DSPS reports that if the general fund transfer were eliminated, the Department would use the funds to: (a) improve the credentialing process and other related operations; (b) continue to enhance technology and create resources to improve the user experience for applicants and to further reduce license processing timelines; (c) improve board support and operations to better facilitate board business; (d) add limited-term-employees (LTEs) as needed to handle any seasonal surges in application volume or to add capacity as regular credentialing staff assist with technology development and implementation; and (e) continue to expand free access to the prescription drug monitoring program (PDMP).

6. An argument favoring elimination of the program revenue transfer for health occupations is that DSPS would have greater resources allocable to credentialing and regulatory responsibilities, as described previously. Some may also argue that the amounts transferred by DSPS are not a significant portion of annual general fund revenues, and derive primarily from fees collected to individuals. This differs from fees remitted by DFI, OCI, and PSC, which derive from operations

of regulated businesses and may be more easily absorbable by such entities than by DSPS-regulated individuals. Proprietary schools fees are payable by institutions, but generated from tuition and fees paid by enrollees.

7. Given that the fees paid by license-seekers could be directed back into licensing and credentialing regulation, the Committee could eliminate the statutory requirement that DSPS must transfer 10% of health and business revenues to the general fund, and increase expenditure authority for DSPS health and business general operations by \$1,771,800 each year [Alternative 1].

8. The Committee could also repeal the statutory transfers, but not appropriate additional funds by that directly-attributable amount [Alternative 2]. Rather, a repeal of the statutory transfer could support other expenditure authority the Committee may consider under other provisions, such as for the PDMP, agency staffing, or information technology improvements and maintenance.

9. The Committee could also take no action [Alternative 3]. As shown in Paper #680, the health and business regulatory appropriations have substantial available balances, and likely would not require additional revenues during the 2023-25 biennium to fulfill program responsibilities. Proprietary schools fees, most of which are subject to the 10% transfer to the general fund, have been less than expenditures in 2020-21, 2021-22, and 2022-23 to date. However, the account had a July 1, 2022, balance of \$867,800, and Chapter SPS 404 of the administrative code (proprietary schools approvals) has a means of DSPS adjusting fees commensurate with costs of program operations.

ALTERNATIVES

1. Eliminate the statutory requirement that DSPS must transfer 10% of revenues from health and business credentialing fees and educational approval fees to the general fund. Provide \$1,771,800 annually in expenditure authority to the DSPS program revenue appropriation for health and business regulation general operations.

ALT 1	Change to Base
PR	\$3,543,600
GPR-REV	- \$3,543,600
PR-REV	\$3,543,600

2. Eliminate the statutory requirement that DSPS must transfer 10% of revenues from health and business credentialing fees and educational approval fees to the general fund. (Amounts would be retained as program revenues, but would not be authorized for expenditure.)

ALT 2	Change to Base
GPR-REV	- \$3,543,600
PR-REV	\$3,543,600

3. Take no action.

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June 6, 2023

Joint Committee on Finance

Paper #690

Prescription Drug Monitoring Program (Safety and Professional Services -- Regulation of Professions)

[LFB 2023-25 Budget Summary: Page 556, #7]

CURRENT LAW

Chapter 961 of the statutes directs the Controlled Substances Board to establish a program for monitoring the dispensing of prescription drugs. The prescription drug monitoring program (PDMP) was created under 2009 Wisconsin Act 362 and assists health care professionals in their prescribing and dispensing decisions by providing them with information about controlled substance prescriptions dispensed in the state. The Department of Safety and Professional Services (DSPS) funds operations of the program from its health and business credentialing fee program revenues (PR).

The primary purpose of the PDMP is to improve patient care and safety, and to reduce the abuse and diversion of prescription drugs, while ensuring patients with a legitimate medical need for the drugs are not adversely affected. The program's online database is typically referred to as the electronic Prescription Drug Monitoring Program (ePDMP). The site can be accessed online at pdmp.wi.gov/statistics. DSPS estimates that the online prescription drug monitoring database is used by approximately 70,000 registered users, including Wisconsin pharmacy staff, healthcare professionals, law enforcement agencies, and public health officials to prevent opioid abuse in the state.

DISCUSSION POINTS

1. Assembly Bill 43/Senate Bill 70 would provide \$253,800 in 2023-24 and \$861,400 beginning in 2024-25 in ongoing funding for software improvements, electronic health records integration, and recurring licensing costs for the state's ePDMP. Recent improvements to the ePDMP were made using funds from the federal Harold Rogers PDMP Grant Program, including: (a) \$1.9

million in 2019-20 for user security, mapping improvements, and other upgrades; (b) \$1.6 million in 2020-21 for health record integration to improve searches by system users, particularly for users lacking in service and for those treating patients in tribal, rural, or otherwise disadvantaged areas; and (c) \$1.4 million in 2021-22 for improving self-service functions for users of the system. However, the Department notes that the Harold Rogers PDMP Grant Program does not pay for ongoing system maintenance, so state funds are required for maintenance to occur. DSPS started paying for ongoing operational costs for this system in January of 2023.

2. DSPS states that funding of \$253,800 in 2023-24 and \$261,400 in 2024-25 would be utilized for quality assurances activities in the online PDMP system. This cost is specified under current contract with NIC, a private technology company that provides multi-factor authentication system management to several state governments, including Wisconsin. DSPS reports that the PDMP system has experienced issues related to matching dispensing records to patient profiles. Funding in each year would support the continued contract with NIC to correct and monitor these issues.

3. DSPS reports that funding of \$600,000 in 2024-25 would be used for additional quality assurance activities and data analytics related to electronic health records integration and distribution. DSPS reports that the cost for electronic health records management and distribution under ePDMP is \$50,000 monthly, or \$600,000 annually. State accounting records indicate these payments in 2022-23 have been made mostly from federal funding, but DSPS states that federal funds used to complete this work will expire prior to 2024-25. DSPS staff indicate the Department continues to seek grant funding for program improvements.

4. Funding would be provided from the DSPS general program operations PR appropriation for the Medical Examining Board and the Controlled Substances Board's operation of the PDMP, which derives revenues from credentialing and licensing activities for health and medical professions. The appropriation had an available balance of \$5.7 million on July 1, 2022.

5. Given the PDMP improvements being pursued, the Committee could approve all funding [Alternative 1]. As DSPS pursues additional grant funding for program improvements, the Committee could also specify that the funding for the biennium is on a one-time basis [Alternative 2]. This would allow the Department funding to meet current anticipated or contracted program costs, but allow the Committee to evaluate additional base funding at a later time. The Committee could also take no action [Alternative 3].

ALTERNATIVES

1. Provide \$253,800 in 2023-24 and \$861,400 in 2024-25 in ongoing funding for software improvements, electronic health records integration, and recurring licensing costs for the state's electronic Prescription Drug Monitoring Program (ePDMP).

ALT 1	Change to Base
PR	\$1,115,200

2. Specify that the funding is one-time.
3. Take no action.

Prepared by: Moriah Rapp

SAFETY AND PROFESSIONAL SERVICES

Regulation of Professions

LFB Summary Item for Which No Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
9	Continuing Education Certification for Realtors

