

Clearinghouse Rule 21-056

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF SAFETY AND
DEPARTMENT OF SAFETY AND : PROFESSIONAL SERVICES
PROFESSIONAL SERVICES : ADOPTING RULES
: (CLEARINGHOUSE RULE TBD)

PROPOSED ORDER

An order of the Department of Safety and Professional Services to amend SPS 50.340 (2) and 141.06 (intro.); to repeal and recreate SPS 71.03 and 175.06; and to create SPS 31.037, 50.340 (note), 50.340 (2m), 65.015, 141.065, 181.01 (1m) and 192.135; relating to reciprocal credentials for service members, former service members, and their spouses.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 440.09, Stats.

Statutory authority: Sections 227.11 (2) (a) and 440.09 (5), Stats.

Explanation of agency authority:

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

Section 440.09 (5), Stats. states that “[t]he department or credentialing board, as appropriate, may promulgate rules necessary to implement this section.”

Related statute or rule: Section 440.09. Stats.

Plain language analysis:

This rule project updates the department’s rules to reflect that service members, former service members, and their spouses can obtain a reciprocal credential if they meet the requirements under s. 440.09, Stats. including:

- Submitting a completed application.
- Paying the required application fee.
- Residing in this state.

- Is either a service member, former service member discharged other than dishonorably within the last four years, or spouse of a service member or former service member discharged other than dishonorably within the last four years.
- Holds a credential in another jurisdiction that qualifies the individual to perform the acts authorized under the appropriate credential granted by the department.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: N/A.

Comparison with rules in adjacent states:

Illinois:

Illinois state law does have a process allowing for expedited issuance of reciprocal credentials for active service members, their spouses, and those who were discharged from the service within the last two years. An applicant must show that they have a credential in good standing in another jurisdiction that is substantially equivalent to the Illinois credential sought, and must submit all required fees and application documents. The credential must be issued within 60 days of receipt of a completed application (20 ILCS 5/5-715).

Iowa:

Iowa generally requires the expedited review of reciprocal license applications for veterans as defined under Iowa law, as long as the board determines the individual is licensed in another jurisdiction and the requirements to obtain that license are substantially equivalent to the requirements to obtain the license in Iowa. If the requirements are not substantially equivalent, the applicant may receive a provisional license to allow practice while meeting remaining requirements for equivalency (IA Stats. § 272C.4 (12)).

Michigan:

Michigan provides for a temporary credential to be issued to active duty military and spouses if they hold a credential in another state in good standing that allows for the practice of the profession they are seeking licensure for. This temporary credential is good for at least 6 months and can be extended if the person needs more time to meet licensing requirements (MI Stats. § 339.213).

Minnesota:

Generally, Minnesota does require each licensing board to promulgate rules allowing for expedited temporary credentials to be issued to service members, former service members discharged in the last two years, and their spouses. Applicants must show a valid credential issued by another jurisdiction, without history of disciplinary action, and must pass a background check. The applicant must complete all application requirements during the life of the temporary credential (Minn. Stats. § 197.4552).

Summary of factual data and analytical methodologies:

2019 Wisconsin Act 143 necessitates updates to the department's rules to reflect the existence of a new reciprocal credentialing process for service members, former service members, and their spouses. The department reviewed its administrative rules and revised its code as necessary to reflect this new process.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The rule draft will be posted on the department's website for 14 days in order to solicit comments from small businesses on potential economic impact.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

Effect on small business:

No impact is anticipated, however the rule draft will be posted on the department's website for 14 days in order to solicit comments from small businesses on potential economic impact.

Agency contact person:

Jon Derenne, Attorney, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jon Derenne, Attorney, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing scheduled for August 13, 2021 at 11:00 AM to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. SPS 31.037 is created to read:

SPS 31.037 Reciprocity for service members, former service members, and their spouses. A reciprocal private detective or private security person license shall be granted to an applicant who is a service member, former service member, or the spouse of a service member or former service member as defined in s. 440.09 (1), Stats.; if the department determines that the applicant meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the department may request verification necessary to make a determination under this subsection.

Note: Application forms are available on the department's website at <https://dsps.wi.gov/pages/Home.aspx>, or by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, WI 53708, or call (608) 266-2112.

SECTION 2. SPS 50.340 (2) (intro.) is amended to read:

SPS 50.340 (2) RECIPROCITY OR ENDORSEMENT LICENSING GENERALLY.

SECTION 3. SPS 50.340 (2) (note) is created to read:

Note: Application forms are available on the department's website at <https://dsps.wi.gov/pages/Home.aspx>, or by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, WI 53708, or call (608) 266-2112.

SECTION 4. SPS 50.340 (2m) is created to read:

SPS 50.340 (2m) RECIPROCITY FOR SERVICE MEMBERS, FORMER SERVICE MEMBERS, AND THEIR SPOUSES. A reciprocal barbering license shall be granted to an applicant who is a service member, former service member, or the spouse of a service member or former service member as defined in s. 440.09 (1), Stats.; if the department determines that the applicant meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the department may request verification necessary to make a determination under this subsection.

Note: Application forms are available on the department's website at <https://dsps.wi.gov/pages/Home.aspx>, or by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, WI 53708, or call (608) 266-2112.

SECTION 5. SPS 65.015 is created to read:

SPS 65.015 Reciprocity for service members, former service members, and their spouses. A reciprocal instructor's certificate in the fields of barbering, cosmetology, aesthetics, manicuring, or electrology shall be granted to an applicant who is a service member, former service member, or the spouse of a service member or former service member as defined in s. 440.09 (1), Stats.; if the board determines that the applicant

meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the department may request verification necessary to make a determination under this subsection.

Note: Application forms are available on the department's website at <https://dsps.wi.gov/pages/Home.aspx>, or by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, WI 53708, or call (608) 266-2112.

SECTION 6. SPS 71.03 is repealed and recreated to read:

SPS 71.03 Application for reciprocal certification.

(1) RECIPROCITY GENERALLY. Upon application and payment of the fee specified in s. 440.05 (2), the department shall grant an acupuncturist certificate of registration to any applicant who holds an acupuncturist certificate or license in another state or territory of the United States if the department determines that the applicant has actively engaged in the practice of acupuncture for at least 5 years or that the requirements for certification or licensure in the other state or territory are substantially equivalent to the requirements under s. 451.04.

(2) RECIPROCITY FOR SERVICE MEMBERS, FORMER SERVICE MEMBERS, AND SPOUSES OF SERVICE MEMBERS OR FORMER SERVICE MEMBERS. A reciprocal acupuncturist certificate shall be granted to an applicant who is a service member, former service member, or the spouse of a service member or former service member as defined in s. 440.09 (1), Stats.; if the department determines that the applicant meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the department may request verification necessary to make a determination under this subsection.

Note: Application forms are available on the department's website at <https://dsps.wi.gov/pages/Home.aspx>, or by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, WI 53708, or call (608) 266-2112.

SECTION 7. SPS 141.06 (intro.) is amended to read:

SPS 141.06 Application for license to practice psychotherapy by reciprocity; generally.

SECTION 8. SPS 141.065 is created to read:

SPS 141.065 Reciprocity for service members, former service members, and their spouses. A reciprocal music, art, or dance therapy certificate of registration, or license to practice psychotherapy, shall be granted to an applicant who is a service member, former service member, or the spouse of a service member or former service member as defined in s. 440.09 (1), Stats.; if the board determines that the applicant meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the department may request verification necessary to make a determination under this subsection.

Note: Application forms are available on the department's website at <https://dsps.wi.gov/pages/Home.aspx>, or by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, WI 53708, or call (608) 266-2112.

SECTION 9. SPS 175.06 is repealed and recreated to read:

SPS 175.06 Reciprocal licensure and certification.

(1) RECIPROCITY GENERALLY. Upon application and payment of the appropriate application fee, an applicant who holds a certificate of registration or license as a sanitarian in good standing issued by the proper authority of any state, territory, or possession of the United States, any foreign country, or any other organization that registers or certifies sanitarians, may receive a certificate in this state provided that the requirements for the registration in the other jurisdiction are comparable to the qualifications for registration in this chapter. The successful passage of a recognized professional examination of any state, territory or possession of the United States, any foreign country or any other organization may be construed as tantamount to passing the required examination recognized by the department, provided that the scope of the examination and the applicant's passing score are comparable to the examination and passing score administered under this chapter.

(2) RECIPROCITY FOR SERVICE MEMBERS, FORMER SERVICE MEMBERS, AND SPOUSES OF SERVICE MEMBERS OR FORMER SERVICE MEMBERS. A reciprocal sanitarian registration shall be granted to an applicant who is a service member, former service member, or the spouse of a service member or former service member as defined in s. 440.09 (1), Stats.; if the department determines that the applicant meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the department may request verification necessary to make a determination under this subsection.

Note: Application forms are available on the department's website at <https://dsps.wi.gov/pages/Home.aspx>, or by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, WI 53708, or call (608) 266-2112.

SECTION 10. SPS 181.01 (1m) is created to read:

SPS 181.01 (1m) RECIPROCITY FOR SERVICE MEMBERS, FORMER SERVICE MEMBERS, AND SPOUSES OF SERVICE MEMBERS OR FORMER SERVICE MEMBERS. A reciprocal midwife license shall be granted to an applicant who is a service member, former service member, or the spouse of a service member or former service member as defined in s. 440.09 (1), Stats.; if the department determines that the applicant meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the department may request verification necessary to make a determination under this subsection.

Note: Application forms are available on the department's website at <https://dsps.wi.gov/pages/Home.aspx>, or by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, WI 53708, or call (608) 266-2112.

SECTION 11. SPS 192.135 is created to read:

SPS 192.135 RECIPROCAL LICENSES FOR SERVICE MEMBERS, FORMER SERVICE MEMBERS, AND SPOUSES OF SERVICE MEMBERS OR FORMER SERVICE MEMBERS. A reciprocal promoter, matchmaker, contestant, judge, referee, ringside physician, second, or timekeeper license shall be granted under this section to an applicant who is a service member, former service member, or the spouse of a service member or former service member as defined in s. 440.09 (1), Stats.; if the department determines that the applicant meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the department may request verification necessary to make a determination under this subsection.

Note: Application forms are available on the department's website at <https://dsps.wi.gov/pages/Home.aspx>, or by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, WI 53708, or call (608) 266-2112.

SECTION 12. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
