



State of Wisconsin
2017 - 2018 LEGISLATURE

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2017 SENATE BILL 296

June 15, 2017 - Introduced by Senators DARLING, KAPENGA and STROEBEL, cosponsored by Representatives HUTTON, BRANDTJEN, R. BROOKS, KNODL, KOOYENGA, MURPHY, ROHRKASTE and TITTL. Referred to Committee on Public Benefits, Licensing and State-Federal Relations.

1 **AN ACT to amend** 111.32 (10), 440.01 (2) (a), 440.03 (9) (d), 440.14 (2), 440.14 (3),
2 440.21 (1), 440.21 (2), 440.21 (3), 440.23 (title) and 440.23 (3); **to repeal and**
3 **recreate** 440.14 (2) and 440.14 (3); and **to create** 440.03 (9) (cm), 440.23 (2g)
4 and (2r) and chapter 475 of the statutes; **relating to:** the establishment of a
5 self-certification registry operated by the Department of Safety and
6 Professional Services, granting rule-making authority, and providing a
7 penalty.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Safety and Professional Services to establish and maintain an electronic self-certification registry that allows individuals certified by state-approved supporting organizations to apply to be able to use the title "state certified" in conjunction with their practice.

Under the bill, an organization that exists solely to serve or benefit individuals who work in one or more particular occupations or professions, whether as a Wisconsin organization, a national organization, or a Wisconsin chapter of a national organization (supporting organization), may apply to DSPS for inclusion in the registry. If DSPS determines, following an application process that includes a public hearing, that approving the supporting organization will improve consumer protection in this state, DSPS must include the supporting organization in the

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registry. If DSPS includes a supporting organization in the registry, an individual who is certified by that supporting organization may apply to DSPS to be included in the registry, and an individual who is so included in the registry may then use the title "state certified" in conjunction with his or her profession or occupation. DSPS must make certain information available through its Internet site, including a list of approved supporting organizations and searchable registers of individuals included in the registry.

Under the bill, DSPS is limited to approving five supporting organizations for inclusion in the registry, and the bill requires DSPS, within two years after first approving a supporting organization for inclusion in the registry, to report to the legislature with certain information about the registry and DSPS's recommendations regarding the continuation of the registry or the elimination of the cap on approved supporting organizations.

In addition, the bill requires DSPS, within one year after the bill is enacted, to report to the legislature on whether there are supporting organizations corresponding to a number of specified professions and occupations for which a state license, permit, or certificate is currently required, as well as recommendations regarding whether any of those license, permit, or certificate requirements should be repealed.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 111.32 (10) of the statutes is amended to read:

2 111.32 (10) "License" means the whole or any part of any permit, certificate,
3 approval, registration, charter or similar form of permission required by a state or
4 local unit of government for the undertaking, practice or continuation of any
5 occupation or profession. "License" also includes the inclusion by the department of
6 safety and professional services of an individual in the self-certification registry
7 under s. 475.13.

8 **SECTION 2.** 440.01 (2) (a) of the statutes is amended to read:

9 440.01 (2) (a) "Credential" means a license, permit, or certificate of certification
10 or registration that is issued under chs. 440 to 480. "Credential" does not include the
11 inclusion in the self-certification registry of a supporting organization under s.

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1 475.10 or the inclusion of an individual in the self-certification registry under s.
2 475.13.

3 **SECTION 3.** 440.03 (9) (cm) of the statutes is created to read:

4 440.03 (9) (cm) The department shall, biennially, determine the amount of any
5 fees under ss. 475.10 (1) and (5) and 475.13 (1) (a) 2. and (2) (b) by doing all of the
6 following:

7 1. Recalculating the costs of the department described in ss. 475.10 (1) and (5)
8 and 475.13 (1) (a) 2. and (2) (b).

9 2. Not later than January 31 of each odd-numbered year, adjusting for the
10 succeeding fiscal biennium each such fee, if an adjustment is necessary to reflect any
11 estimated changes to those costs.

12 **SECTION 4.** 440.03 (9) (d) of the statutes is amended to read:

13 440.03 (9) (d) Not later than 14 days after completing proposed fee adjustments
14 under ~~par.~~ pars. (a) and (cm), the department shall send a report detailing the
15 proposed fee adjustments to the cochairpersons of the joint committee on finance.
16 If, within 14 working days after the date that the department submits the report, the
17 cochairpersons of the committee notify the secretary that the committee has
18 scheduled a meeting for the purpose of reviewing the proposed adjustments, the
19 department may not impose the fee adjustments until the committee approves the
20 report. If the cochairpersons of the committee do not notify the secretary, the
21 department shall notify credential holders and supporting organizations and
22 individuals included in the self-certification registry under ch. 475 of the fee
23 adjustments by posting the fee adjustments on the department's Internet Web site
24 and including the adjustments in ~~credential~~ renewal notices sent to affected

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1 credential holders under s. 440.08 (1) and affected supporting organizations and
2 individuals under ss. 475.10 (5) and 475.13 (2) (b).

3 **SECTION 5.** 440.14 (2) of the statutes is amended to read:

4 440.14 (2) If a form that the department or a credentialing board requires an
5 individual to complete in order to apply for a credential or credential renewal or, to
6 obtain a product or service from the department or the credentialing board, or to be
7 included in the self-certification registry under s. 475.13 requires the individual to
8 provide any of the individual's personal identifiers, the form shall include a place for
9 the individual to declare that the individual's personal identifiers obtained by the
10 department or the credentialing board from the information on the form may not be
11 disclosed on any list that the department or the credentialing board furnishes to
12 another person. This subsection does not apply with respect to an application filed
13 with the medical examining board pursuant to the interstate medical licensure
14 compact under s. 448.980 (5).

15 **SECTION 6.** 440.14 (2) of the statutes, as affected by 2015 Wisconsin Act 116,
16 section 10m, and 2017 Wisconsin Act (this act), is repealed and recreated to read:

17 440.14 (2) If a form that the department or a credentialing board requires an
18 individual to complete in order to apply for a credential or credential renewal, to
19 obtain a product or service from the department or the credentialing board, or to be
20 included in the self-certification registry under s. 475.13 requires the individual to
21 provide any of the individual's personal identifiers, the form shall include a place for
22 the individual to declare that the individual's personal identifiers obtained by the
23 department or the credentialing board from the information on the form may not be
24 disclosed on any list that the department or the credentialing board furnishes to
25 another person.

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1 **SECTION 7.** 440.14 (3) of the statutes is amended to read:

2 440.14 (3) If the department or a credentialing board requires an individual
3 to provide, by telephone or other electronic means, any of the individual's personal
4 identifiers in order to apply for a credential or credential renewal ~~or~~, to obtain a
5 product or service from the department or a credentialing board, or to be included in
6 the self-certification registry under s. 475.13, the department or the credentialing
7 board shall ask the individual at the time that the individual provides the
8 information if the individual wants to declare that the individual's personal
9 identifiers obtained by telephone or other electronic means may not be disclosed on
10 any list that the department or the credentialing board furnishes to another person.
11 This subsection does not apply with respect to an application filed with the medical
12 examining board pursuant to the interstate medical licensure compact under s.
13 448.980 (5).

14 **SECTION 8.** 440.14 (3) of the statutes, as affected by 2015 Wisconsin Act 116,
15 section 11m, and 2017 Wisconsin Act ... (this act), is repealed and recreated to read:

16 440.14 (3) If the department or a credentialing board requires an individual
17 to provide, by telephone or other electronic means, any of the individual's personal
18 identifiers in order to apply for a credential or credential renewal, to obtain a product
19 or service from the department or a credentialing board, or to be included in the
20 self-certification registry under s. 475.13, the department or the credentialing board
21 shall ask the individual at the time that the individual provides the information if
22 the individual wants to declare that the individual's personal identifiers obtained by
23 telephone or other electronic means may not be disclosed on any list that the
24 department or the credentialing board furnishes to another person.

25 **SECTION 9.** 440.21 (1) of the statutes is amended to read:

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1 440.21 (1) The department may conduct investigations, hold hearings, and
2 make findings as to whether a person has engaged in a practice or used a title without
3 a credential required under chs. 440 to 480 or has violated s. 475.13 (5).

4 **SECTION 10.** 440.21 (2) of the statutes is amended to read:

5 440.21 (2) If, after holding a public hearing, the department determines that
6 a person has engaged in a practice or used a title without a credential required under
7 chs. 440 to 480 or has violated s. 475.13 (5), the department may issue a special order
8 enjoining the person from the continuation of the practice or use of the title.

9 **SECTION 11.** 440.21 (3) of the statutes is amended to read:

10 440.21 (3) In lieu of holding a public hearing, if the department has reason to
11 believe that a person has engaged in a practice or used a title without a credential
12 required under chs. 440 to 480 or has violated s. 475.13 (5), the department may
13 petition the circuit court for a temporary restraining order or an injunction as
14 provided in ch. 813.

15 **SECTION 12.** 440.23 (title) of the statutes is amended to read:

16 **440.23 (title) Cancellation of credential or removal from registry;**
17 **reinstatement.**

18 **SECTION 13.** 440.23 (2g) and (2r) of the statutes are created to read:

19 440.23 (2g) If a person included in the self-certification registry pays a fee
20 under s. 475.10 (1) or (5) or 475.13 (1) (a) 2. or (2) (b) by check or debit or credit card
21 and the check is not paid by the financial institution upon which the check is drawn
22 or if the demand for payment under the debit or credit card transaction is not paid
23 by the financial institution upon which demand is made, the department may
24 remove the person from the registry.

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1 **(2r)** At least 20 days before removing a person from the self-certification
2 registry under sub. (2g), the department shall mail a notice to the person that
3 informs the person that the check or demand for payment under the debit or credit
4 card transaction was not paid by the financial institution and that the person may
5 be removed from the registry on the date determined under sub. (2g) unless the
6 person complies with sub. (2) (a) and (c) before that date.

7 **SECTION 14.** 440.23 (3) of the statutes is amended to read:

8 440.23 **(3)** Nothing in sub. (1) or (2) prohibits the department from extending
9 the date for cancellation to allow the holder additional time to comply with sub. (2)
10 (a) to (c). Nothing in sub. (2g) or (2r) prohibits the department from extending the
11 date for removing a person from the self-certification registry to allow the person
12 additional time to comply with sub. (2) (a) and (c).

13 **SECTION 15.** Chapter 475 of the statutes is created to read:

CHAPTER 475**SELF-CERTIFICATION REGISTRY**

14
15 **475.01 Definitions.** In this chapter:

16 **(1)** “Credential” means a license, permit, certificate of certification or
17 registration, or similar form of permission that is issued by the state or by any agency
18 or authority in any branch of state government.

19 **(2)** “Registry” means the self-certification registry established by the
20 department under s. 475.05 (1).

21 **(3)** (a) Except as provided in par. (b), “supporting organization” means an
22 organization based in this state, a national organization, or the Wisconsin chapter
23 of a national organization, that exists solely to serve or benefit individuals who work
24 in one or more particular occupations or professions, including by providing
25

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1 professional certification, providing continuing education, or otherwise facilitating
2 the continued existence of the occupations or professions.

3 (b) "Supporting organization" does not include an organization or a chapter of
4 an organization that exists to serve or benefit individuals who work in an occupation
5 or profession for which a credential is currently required in order to practice that
6 occupation or profession, to use a title associated with that occupation or profession,
7 or to otherwise be employed in that occupation or profession.

8 **475.05 Registry established; duties of department.** (1) (a) The
9 department shall establish and maintain an electronic, self-certification registry
10 that includes information about individuals who have been certified by an approved
11 supporting organization as provided in this chapter.

12 (b) The department shall make all of the following information available from
13 the registry under par. (a) through its Internet site:

14 1. A searchable listing of approved supporting organizations included in the
15 registry under s. 475.10.

16 2. Searchable registers of the names and addresses of individuals included in
17 the registry under s. 475.13.

18 3. Information about how a supporting organization can apply to be included
19 in the registry under s. 475.10 (1).

20 4. Information about how an individual certified by an approved supporting
21 organization can apply to be included in the registry under s. 475.13 (1).

22 (2) The department shall create an application that requires a supporting
23 organization applying for inclusion in the registry under s. 475.10 (1) to provide all
24 of the following information:

25 (a) The name of the organization.

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1 (b) Information about each occupation or profession that the organization
2 certifies.

3 (c) Information about how approving the organization will provide additional
4 protection to consumers in this state.

5 (d) The following information about the scope of practice of each occupation or
6 profession to which the organization relates:

7 1. The extent to which the scope of practice is similar to the scope of practice
8 of an occupation or profession for which a credential is required.

9 2. The extent to which the services provided by individuals practicing the
10 occupation or profession include fiduciary responsibilities.

11 3. The extent to which the services provided by individuals practicing the
12 occupation or profession can be misused for unscrupulous reasons.

13 (e) The organization's ability to decertify individuals who have received a
14 certification from the organization.

15 (f) The organization's ability to investigate consumer complaints about
16 individuals certified by the organization.

17 (g) The extent to which the organization monitors individuals certified by the
18 organization.

19 (h) Continuing education services provided by the organization.

20 (i) The length of time the organization has existed.

21 (j) Other information the department deems appropriate.

22 **(3)** The department shall promulgate all of the following rules:

23 (a) Any rules necessary for creating and maintaining the registry under sub.

24 (1).

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1 (b) Rules establishing procedures for processing applications by supporting
2 organizations under s. 475.10 and the removal of supporting organizations from the
3 registry.

4 (c) Rules establishing procedures for processing applications by individuals
5 under s. 475.13 and the removal of individuals from the registry.

6 (d) Rules establishing requirements and procedures for renewals under ss.
7 475.10 (5) and 475.13 (2) (b).

8 (e) Rules governing audits under s. 475.13 (6).

9 (4) The department shall, within 2 years after the department first approves
10 a supporting organization under s. 475.10, submit a report to the joint committee on
11 finance and to the appropriate standing committees of the legislature under s. 13.172
12 (3) containing all of the following:

13 (a) The names of all supporting organizations that have been approved by the
14 department under s. 475.10.

15 (b) The names of all organizations that applied for approval under s. 475.10
16 that were not approved by the department.

17 (c) Information about how the registry has provided additional consumer
18 protection to the residents of this state.

19 (d) The department's recommendations as to whether the registry should be
20 continued or whether the limitation under s. 475.10 (8) should be repealed.

21 **475.10 Inclusion in registry; supporting organizations.** (1) A supporting
22 organization may apply for inclusion in the registry using the application created by
23 the department under s. 475.05 (2). The department may charge a supporting
24 organization an application fee in an amount necessary to reflect the administrative

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1 costs of the department that are associated with the application process. The
2 department shall adjust any such fee in accordance with s. 440.03 (9).

3 (2) The department shall review completed applications from supporting
4 organizations submitted under sub. (1). After the department has completed its
5 review of an application, the department shall hold a public hearing on the
6 application. To the extent practicable, the department shall conduct a hearing under
7 this subsection in the manner prescribed for rule-making hearings under s. 227.18.
8 The department may send a copy of a notice of a hearing under this subsection to the
9 legislative reference bureau, in a format approved by the legislative reference
10 bureau, for publication in the Wisconsin administrative register.

11 (3) (a) The department shall, within 30 days after the date of the hearing held
12 under sub. (2), either approve the application, deny the application, or request that
13 the supporting organization submit additional information. The department shall
14 approve an application if the department determines, based on the evidence
15 presented in the supporting organization's application under sub. (1) and
16 information and testimony presented at the hearing held under sub. (2), that
17 approving the supporting organization will improve consumer protection in this
18 state. After the department receives additional information as provided in this
19 paragraph, the department may hold an additional hearing as needed and shall
20 either approve or deny the application.

21 (b) Within 30 days after the department denies an application under this
22 section, the supporting organization may petition the secretary for reconsideration
23 of the application. The secretary shall make a decision on the petition within 30 days
24 after it is filed.

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1 **(4)** If the department approves a supporting organization's application for
2 inclusion in the registry, the department shall include the supporting organization
3 in the registry. The department shall allow an individual who is certified by an
4 approved supporting organization to apply for inclusion in the registry as provided
5 in s. 475.13.

6 **(5)** A supporting organization's inclusion in the registry shall be subject to
7 renewal every 2 years. If the department requires the payment of an application fee
8 under sub. (1), the department shall require the payment of a renewal fee for a
9 renewal under this subsection in an amount necessary to reflect the administrative
10 and enforcement costs of the department associated with that supporting
11 organization's inclusion in the registry. The department shall adjust any such fee in
12 accordance with s. 440.03 (9).

13 **(6)** The department may remove an approved supporting organization from the
14 registry for any of the following reasons:

15 (a) The organization requests to be removed from the registry.

16 (b) The organization ceases its operations.

17 (c) The supporting organization fails to renew its inclusion in the registry as
18 provided in sub. (5).

19 (d) Fraud or deceit in the application process that would have affected the
20 department's decision to approve the supporting organization's application under
21 sub. (1).

22 (e) The department removes the organization pursuant to s. 440.23.

23 **(7)** (a) A supporting organization that is included in the registry shall notify
24 the department if the organization decertifies an individual who is certified by the
25 organization.

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1 (b) A supporting organization that is included in the registry may audit the
2 information of an individual included in the registry under s. 475.13 who claims to
3 have earned a certification from the supporting organization. If the supporting
4 organization determines that an individual included in the registry does not possess
5 the certification, the supporting organization shall notify the department.

6 (8) The department shall be limited to approving 5 supporting organizations
7 for inclusion in the registry. Once the department has approved 5 supporting
8 organizations, the department shall, notwithstanding sub. (3), summarily deny any
9 outstanding applications and any subsequently filed applications.

10 **475.13 Inclusion in registry; individuals.** (1) (a) An individual may apply
11 for inclusion in the registry by submitting an application to the department for
12 inclusion in the registry on a form provided by the department. An applicant shall
13 include all of the following with his or her application:

14 1. Evidence that the individual possesses a valid certification from an approved
15 supporting organization that is included in the registry under s. 475.10 (4).

16 2. A fee in an amount necessary to reflect the administrative costs of the
17 department that are associated with the application process. The department shall
18 adjust the fee in accordance with s. 440.03 (9).

19 3. Subject to ss. 111.321, 111.322, and 111.335, evidence satisfactory to the
20 department that the person does not have an arrest or conviction record.

21 (b) 1. The department shall conduct an investigation to determine whether an
22 applicant under par. (a) does not have an arrest or conviction record. In conducting
23 an investigation under this paragraph, the department may require an applicant to
24 provide any information that is necessary for the investigation.

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1 2. An individual may apply to the secretary for a waiver from the investigation
2 requirement under subd. 1. The secretary may grant the waiver only if the secretary
3 determines the individual, in practicing the individual's occupation or profession,
4 would not present an unreasonable risk of harm to the health, safety, or welfare of
5 the public.

6 3. The department may charge an individual any fees, costs, or other expenses
7 incurred in conducting any investigation under subd. 1.

8 **(2)** (a) The department shall review completed applications submitted under
9 sub. (1). If the department approves an individual's application, the department
10 shall include that individual in the registry.

11 (b) An individual's inclusion in the registry shall be subject to renewal every
12 2 years. The department may require the payment of a renewal fee for a renewal
13 under this paragraph in an amount necessary to reflect the administrative and
14 enforcement costs of the department associated with the inclusion of individuals
15 certified by that supporting organization in the registry. The department shall
16 adjust the fee in accordance with s. 440.03 (9).

17 **(3)** An individual who is included in the registry and is convicted of a felony or
18 misdemeanor anywhere shall send a notice of the conviction by 1st class mail to the
19 department within 48 hours after the entry of the judgment of conviction. The
20 department shall by rule determine what information and documentation the
21 individual shall include with the written notice.

22 **(4)** An individual who is included in the registry as provided in sub. (2) shall
23 be removed from the registry if any of the following applies:

24 (a) The supporting organization that certified the individual is removed from
25 the registry under s. 475.10 (6).

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1 (b) The individual fails to renew his or her inclusion in the registry as provided
2 in sub. (2) (b).

3 (c) The department receives a notification from a supporting organization
4 under s. 475.10 (7) (a) that the individual has been decertified.

5 (d) The department determines, on the basis of a notification under s. 475.10
6 (7) (b), on the basis of an audit under sub. (6), or otherwise, that the individual does
7 not possess the requisite certification.

8 (e) Subject to ss. 111.321, 111.322, and 111.335, the individual is convicted of
9 a crime.

10 (f) The department removes the individual pursuant to s. 440.23.

11 **(5)** No individual may, in conjunction with his or her practice of an occupation
12 or profession, use the phrase “state certified” or anything else to indicate that he or
13 she is certified by the state to engage in that occupation or profession, if a supporting
14 organization for that occupation or profession is included on the registry under s.
15 475.10, unless the individual is currently included in the registry as provided in sub.
16 (2).

17 **(6)** The department may conduct audits of information submitted by
18 individuals in applications under sub. (1) (a) or by individuals included in the
19 registry as provided in sub. (2).

20 **475.15 Penalties. (1)** Any individual who violates s. 475.13 (5) is subject to
21 a forfeiture not to exceed \$10,000.

22 **(2)** Any individual who, in an application for inclusion in the registry under s.
23 475.13 (1) (a) or in a renewal application under s. 475.13 (2) (b), intentionally makes
24 a material misstatement or intentionally submits falsified documentation is subject
25 to a forfeiture not to exceed \$1,000.

SENATE BILL 296**SECTION 16****SECTION 16. Nonstatutory provisions.**

(1) REPORT.

(a) In this subsection:

1. "Credential" has the meaning given in section 440.01 (2) (a) of the statutes.

2. "Department" means the department of safety and professional services.

3. "Supporting organization" has the meaning given in section 475.01 (3) (a) of the statutes.

(b) The department shall, within one year after the effective date of this subsection, submit a report to the joint committee on finance and to the appropriate standing committees of the legislature under section 13.172 (3) of the statutes regarding all of the following:

1. Whether there is a supporting organization corresponding to any of the following occupations or professions:

a. Auctioneers, who are required to be registered under chapter 480 of the statutes.

b. Dietitians, who are required to be certified under subchapter V of chapter 448 of the statutes.

c. Landscape architects, who are required to be registered under chapter 443 of the statutes.

d. Private detectives, who are required to be licensed under section 440.26 of the statutes.

e. Private security persons, who are required to hold a permit under section 440.26 of the statutes.

f. Sign language interpreters, who are required to be licensed under section 440.032 of the statutes.

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1 2. Except as provided in subdivision 3., the department's recommendations
2 regarding whether any of the requirements to hold a credential described in
3 subdivision 1. a. to f. should be eliminated, based on all of the following:

4 a. The department's evaluation of whether the unregulated practice of that
5 occupation or profession can clearly harm or endanger the health, safety, or welfare
6 of the public, and whether the potential for the harm is recognizable and not remote
7 or speculative.

8 b. The department's evaluation of whether the public reasonably benefits from
9 the credential requirement.

10 c. The department's evaluation of whether the public can be effectively
11 protected by any means other than requiring the credential.

12 d. The department's analysis of whether similar credentialing requirements
13 for the regulated occupation or profession exist in other states.

14 e. The department's estimate of the number of individuals or entities that are
15 affected by the credential requirement.

16 f. The department's estimate of the total financial burden imposed on
17 individuals or entities as a result of the credentialing requirement, including
18 education or training costs, examination fees, private credential fees, credential fees
19 imposed by the state, and other costs individuals or entities incur in order to obtain
20 the required credential.

21 g. Any statement or analysis provided by the department or, if the credential
22 requirement is administered by a board, examining board, or affiliated credentialing
23 board in the department, any statement or analysis provided by that board,
24 examining board, or affiliated credentialing board.

