

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
: **CR 14-067**
DEPARTMENT OF SAFETY AND :
PROFESSIONAL SERVICES :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

None

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

Current Department rules relating to application procedures need clarification with regards to the appropriate processes for renewing an expired credential and reinstating a surrendered credential, revoked credential, or suspended credential that has not been renewed within 5 years of the renewal date. The proposed rule explicitly states that the initial application process cannot be used for credential reinstatement or expired credential renewal. Credential holders must use the credential reinstatement process or the renewal after 5 years process, as applicable.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Department of Safety and Professional Services held a public hearing on January 13, 2015. No testimony was received at the hearing, nor did the Department receive any written comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: Section 440.08 (3) (b), Stats., authorizes the department and relevant credentialing boards to promulgate rules requiring a credential holder who fails to renew a credential within five years of the credential's renewal date to satisfy the requirements

in addition to typical renewal requirements before the credential will be reinstated. That section does not expressly authorize the department and credentialing boards to prohibit such a credential holder from applying for a new credential using the application process for an initial credential. Rather, the section specifies that additional requirements may not be more extensive than the requirements required to obtain an initial credential. Thus it is uncertain whether the stated basis of statutory authority supports the creation of SPS 4.10.

Response: This statutory provision must be read in the context of the other credentialing statutes. A person applies for an initial credential by meeting specific requirements such as obtaining a degree. Many of the credentials in chapters 440 to 480 require continuing education as part of the renewal process each biennium. If a credential holder was not prohibited from applying for a new credential using the application process for an initial credential, the person could avoid completing continuing education by choosing to use the process for an initial credential (based upon a degree earned years ago without intervening continuing education). The statutes in chapter 440 to 480 reference renewal and reinstatement but do not indicate a person is applying for an initial credential each time a credential is expired or revoked. This rule is clarifying the procedures that once a person has a credential that individual can either renew or reinstate their credential; and a person cannot continue to apply for multiple new credentials of the same type.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

The rule will not have an effect on small business and as such was not submitted to the SBRRB as part of the rule promulgation process.