

Chapter SPS 8

ADMINISTRATIVE WARNINGS

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Note: Chapter RL 8 was renumbered chapter SPS 8 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

SPS 8.01 Authority and scope. Rules in this chapter are adopted under the authority of s. 440.205, Stats., to establish uniform procedures for the issuance and use of administrative warnings.

History: Cr. Register, January, 1999, No. 517, eff. 2-1-99.

SPS 8.02 Definitions. As used in s. 440.205, Stats., and in this chapter:

(1) “Credential” means a license, permit, or certificate of certification or registration that is issued under chs. 440 to 480, Stats.

(2) “Department” means the department of safety and professional services.

(3) “Disciplinary authority” means the department or an attached examining board, affiliated credentialing board or board having authority to reprimand a credential holder.

(4) “Division” means the division of enforcement in the department.

(5) “First occurrence” means any of the following:

(a) The credential holder has never been charged as a respondent in a formal complaint filed under ch. SPS 2.

(b) Other than the matter pending before the disciplinary authority, no informal complaint alleging the same or similar misconduct has been filed with the department against the credential holder.

(c) The credential holder has not been disciplined by a disciplinary authority in Wisconsin or another jurisdiction.

(6) “Minor violation” means all of the following:

(a) No significant harm was caused by misconduct of the credential holder.

(b) Continued practice by the credential holder presents no immediate danger to the public.

(c) If prosecuted, the likely result of prosecution would be a reprimand or a limitation requiring the credential holder to obtain additional education.

(d) The complaint does not warrant use of prosecutorial resources.

(e) The credential holder has not previously received an administrative warning.

(7) “Misconduct” means a violation of a statute or rule related to the profession or other conduct for which discipline may be imposed under chs. 440 to 480, Stats.

History: Cr. Register, January, 1999, No. 517, eff. 2-1-99; correction in (2), (5) (a) made under s. 13.92 (4) (b) 6., 7., Stats., Register November 2011 No. 671.

SPS 8.03 Findings before issuance of an administrative warning. Before issuance of an administrative warning, a disciplinary authority shall make all of the following findings:

(1) That there is specific evidence of misconduct by the credential holder.

(2) That the misconduct is a first occurrence for the credential holder.

(3) That the misconduct is a minor violation of a statute or rule related to the profession or other conduct for discipline may be imposed.

(4) That issuance of an administrative warning will adequately protect the public.

History: Cr. Register, January, 1999, No. 517, eff. 2-1-99.

SPS 8.04 Issuance of an administrative warning.

(1) An administrative warning shall be substantially in the form shown in Appendix I.

(2) An administrative warning may be issued to a credential holder by mailing the administrative warning to the last address provided by the credential holder to the department. Service by mail is complete on the date of mailing.

History: Cr. Register, January, 1999, No. 517, eff. 2-1-99.

SPS 8.05 Request for a review of an administrative warning. A credential holder who has been issued an administrative warning may request the disciplinary authority to review the issuance of the administrative warning by filing a written request with the disciplinary authority within 20 days after the mailing of the administrative warning. The request shall be in writing and set forth:

(1) The credential holder’s name and address.

(2) The reason for requesting a review.

History: Cr. Register, January, 1999, No. 517, eff. 2-1-99.

SPS 8.06 Procedures. The procedures for an administrative warning review are:

(1) Within 45 calendar days of receipt of a request for review, the disciplinary authority shall notify the credential holder of the time and place of the review.

(2) No discovery is permitted. A credential holder may inspect records under s. 19.35, Stats., the public records law.

(3) The disciplinary authority or its designee shall preside over the review. The review shall be recorded by audio tape unless otherwise specified by the disciplinary authority.

(4) The disciplinary authority shall provide the credential holder with an opportunity to make a personal appearance before the disciplinary authority and present a statement. The disciplinary authority may request the division to appear and present a statement on issues raised by the credential holder. The disciplinary authority may establish a time limit for making a presentation. Unless otherwise determined by the disciplinary authority, the time for making a personal appearance shall be 20 minutes.

(5) If the credential holder fails to appear for a review, or withdraws the request for a review, the disciplinary authority may note the failure to appear in the minutes and leave the administrative warning in effect without further action.

History: Cr. Register, January, 1999, No. 517, eff. 2-1-99.

SPS 8.07 Transcription fees. (1) The fee charged for a transcript of a review under this chapter shall be computed by the person or reporting service preparing the transcript on the following basis:

(a) If the transcript is prepared by a reporting service, the fee charged for an original transcription and for copies shall be the

amount identified in the state operational purchasing bulletin which identifies the reporting service and its fees.

(b) If a transcript is prepared by the department, the department shall charge a transcription fee of \$1.75 per page and a copying charge of \$.25 per page. If 2 or more persons request a transcript, the department shall charge each requester a copying fee of \$.25 per page, but may divide the transcript fee equitably among the requesters. If the department has prepared a written transcript for

its own use prior to the time a request is made, the department shall assume the transcription fee, but shall charge a copying fee of \$.25 per page.

(2) A person who is without means and who requires a transcript for appeal or other reasonable purposes shall be furnished with a transcript without charge upon the filing of a petition of indigence signed under oath.

History: Cr. Register, January, 1999, No. 517, eff. 2-1-99.