

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 05-050)

ORDER

An order of the Department of Regulation and Licensing to amend RL 1.03 (4), 1.04 (title), 1.05 (title), 1.07 (intro.) and (3), 1.08 (1) and (4), 1.09 (5), 1.11 and 1.12; and to create RL 1.03 (1g) and (1r), 1.04 (3), 1.05 (3) and 1.09 (5m), relating to cheating on an examination and breach of examination security.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Sections 440.03 (1), (2) and 440.04 (7), Stats.

Statutory authority:

Section 227.11 (2), Stats.

Explanation of agency authority:

Section 440.04 (7), Stats., provides that the secretary of the Department of Regulation and Licensing, "...provide examination development, administration, research and evaluation services as required." The general duties and powers of the department, s. 440.03 (1), Stats., provides that, "The department may promulgate rules defining uniform procedures to be used by the department...for receiving, filing and investigating complaints, for commencing disciplinary proceedings and for conducting hearings." In promulgating rules concerning cheating on examinations or breach of examination security, the department seeks to codify its practices and policies concerning these matters.

Related statute or rule:

Sections 440.07, 440.974 (1) (a), 443.12 (1), 446.03 (1), 447.07, 448.06 (2), 455.09 (1) (d), and 456.10 (1) (c), Stats.

Plain language analysis:

The Department of Regulation and Licensing, its attached examining boards and affiliated credentialing boards currently administer over 25,000 examinations per year. Cheating and maintaining examination security are a growing problem. These rule changes provide uniform procedures for providing due process while codifying existing practices and policies in the handling and adjudication of cases of cheating or breaches of examination security.

Current Wisconsin credentialing board rules vary in specificity and are not updated to deal with current technology. The department finds it necessary to create a uniform standard and procedure for dealing with the instances of cheating that would combine best practices into one regulation, and would, in addition, avoid the need to update and promulgate separate identical rules for each credentialing authority.

SECTION 1. Definitions are created for the terms “breach of examination security” and “cheating on an examination.” The definition of “breach of examination security” is meant to address the intentional removal from an examination site and/or theft of examination, or theft of examination questions either for personal use or for profit. It should be noted that the development of such questions is an expensive activity and a breach of the security of the examination questions necessitates developing new questions. The definition of “cheating on an examination” attempts to capture the numerous variants of cheating that have been experienced by examination specialists.

SECTION 2. The definition of “denial review proceeding” is broadened to include use of class 1 proceedings to determine whether an individual has cheated on an examination or there has been a breach of examination security.

SECTION 3. The definition of “office of examinations” is created to indicate that the reference is to the Department of Regulation and Licensing’s office of examinations.

SECTION 4. The title of s. RL 1.04 is amended to indicate that the consequences of cheating or a breach of examination security are treated therein.

SECTION 5. The range of consequences which may be imposed is indicated. Notice that distribution of information concerning the imposition of consequences for cheating or for breach of examination security is indicated. Notice that facilitation by a barber or cosmetology school or instructor in cheating or breach of security of an examination is indicated.

SECTION 6. The title of s. RL 1.05 is amended to indicate that the consequences of cheating or a breach of examination security are treated therein.

SECTION 7. Section RL 1.05 (3) is created to provide for notice to an individual following a determination by the office of examinations that there is probable cause to believe that the individual has cheated on an examination or breached the security of an examination.

SECTION 8. The Request for Hearing section at s. RL 1.07 is amended to include requests after a determination that an individual has cheated on or breached the security of an examination.

SECTION 9. The Review of Request for Hearing section at s. RL 1.08 (1) is amended to include Requests for Hearing based on determinations of cheating or a breach of examination security. Section RL 1.08 (4) is amended to indicate that the office of examinations has the burden of proof by satisfactory evidence in class 1 hearings concerning cheating on or breach of security of examinations.

SECTION 10. Section RL 1.09 (5) is amended to include the office of examinations in this subsection which indicates what evidence may be presented and considered at hearing.

SECTION 11. Section RL 1.09 (5m) instructs the hearing presiding officer to insure that the examination security is maintained during the proceedings.

SECTION 12. Section RL 1.11 is amended to indicate that an individual's failure to appear at their hearing constitutes a waiver of the right to appeal the decision of the credentialing authority. Section RL 1.12 is amended to allow for withdrawal of a request for hearing on a determination of cheating on or breach of the security of an examination.

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

A search of the United States Code and Code of Federal Regulations found no law intended to regulate cheating on examinations intended to measure the competence of individuals seeking professional licenses.

Comparison with rules in adjacent states:

IOWA

REAL ESTATE APPRAISER EXAMINING BOARD, Grounds for disciplinary actions against certificate holders and associate registrants.

The grounds for revocation and suspension of certificates and associate registrations and other disciplinary actions are set out in Iowa Code section 543D.17 and Iowa Code chapter 272C in both specific and general terms. The general terms of those provisions of the Iowa Code include the following particular grounds for such disciplinary action:

7.2(1) Fraud or deceit in obtaining a certificate or registration, within the meaning of Iowa Code section 543D.17(1)"a," includes the knowing submission to the board of any false or forged evidence in, or in support of, an application for certification or associate registration and cheating on an examination, as defined in 193F--3.3(543D).

193F IAC 7.2(543D)

REAL ESTATE APPRAISER EXAMINING BOARD Conduct of applicant.

(1) Any individual who subverts or attempts to subvert the examination process may, at the discretion of the board, have the individual's examination scores declared invalid for the purpose of certification in Iowa, be barred from the appraisal certification examinations in Iowa, or be subject to the imposition of other sanctions that the board deems appropriate.

(2) Conduct that subverts or attempts to subvert the examination process includes, but is not limited to:

- a. Conduct that violates the security of the examination materials, such as removing from the examination room any of the examination materials; reproducing or reconstructing any portion of the examination; aiding by any means in the reproduction or reconstruction of any portion of the examination; selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered examination.
- b. Conduct that violates the standard of test administration, such as communicating with any other examination candidate during the administration of the examination; copying answers from another candidate or permitting one's answers to be copied by another candidate during the examination; referencing any books, notes, written or printed materials or data of any kind, other than the examination materials distributed.
- c. Conduct that violates the examination process, such as falsifying or misrepresenting educational credentials or other information required for admission to the examination; impersonating an examination candidate or having an impersonator take the examination on one's behalf.

(3) Any examination candidate who challenges a decision of the board under this rule may request a contested case hearing pursuant to 193--7.39(546,272C). The request for hearing shall be in writing, shall briefly describe the basis for the challenge, and shall be filed in the board's office within 30 days of the date of the board decision that is being challenged.

193F IAC 3.3(543D)

FOOD PROTECTION CERTIFICATION PROGRAMS Test administration.

Each testing organization shall provide adequate security mechanisms that include:

1. Providing effective security during preparation, printing, transportation, handling, administration and destruction of the examinations.
2. Ensuring that approved organization monitors are present during the administration of the examinations.
3. Maintaining a tracking system of all examinations.
4. Making provisions to remove a particular version if the examination has been compromised.

2.4(1) Each testing organization shall ensure administration of examinations in compliance with this chapter by:

- a. Verifying the eligibility of candidates according to this subrule and ensuring that the examination taker and applicant are the same person. The monitor shall confirm the identity of the individual who wishes to take the examination by photograph identification, driver's license or student identification card.
- b. Providing the necessary staff and resources to administer, monitor and grade examinations. There shall be at least one monitor for every 35 students taking the examination.
- c. Maintaining safeguards to ensure that individuals who have cheated on the examination are not granted certification.
- d. Providing an individual who speaks English as a second language with the opportunity to take the examination in the individual's language if such is available, or providing the individual with a translator if one is requested.
- e. Accommodating the needs of special populations to enable them to take the examination.

32.4(2) The examinations shall be stored and administered under secure conditions. "Secure conditions" means that access to the examination is limited to the monitor of the examination or an agent of the department. The examinations shall be inventoried before and immediately following each administration of the examination. The location of the examinations shall be monitored and kept in a log at all times.

481 IAC 32.4(137F)

CHAPTER 72: EXAMINATION AND CERTIFICATION OF ASSESSORS AND DEPUTY ASSESSORS

(1) Examination questions. Examination questions and answers shall not be made available to persons other than employees of the department authorized by the director to have access to them. Persons who take the examination shall not discuss with anyone the specific questions contained in the examination, nor shall they reveal any specific examination question to another person. This shall not restrict persons who have taken the examination from discussing the general subject matter of the examination.

(2) Materials and supplies. All examination materials shall be furnished by the department and must be returned to the monitor prior to the applicants' leaving the examination room site. During the examination, applicants may be permitted to use their own slide rules or electronic calculators as long as their use does not disturb other applicants. Applicants shall not be permitted to bring any other materials into the examination room, nor shall they be permitted to take any materials from the examination room except their own slide rules or electronic calculators.

(3) Personal conduct during examination. To preserve the integrity of the examinations and the assessing profession, each person taking an examination shall exhibit behavior which is not disruptive to other applicants and no person shall cheat or attempt to cheat on an examination in any manner.

(4) Monitors. The director shall, prior to the examination, provide all applicants with a copy of subrules 72.2(1), 72.2(2), and 72.2(3). Examination monitors shall have the authority to enforce these rules in accordance with subrule 72.2(5).

(5) Violations. Any person who intentionally violates any of the provisions of subrule 72.2(1), 72.2(2), or 72.2(3) shall be subject to the penalties specified in this subrule. If an infraction of subrule 72.2(1), 72.2(2), or 72.2(3) occurs and is detected and confirmed during the examination, the examination of the person committing the infraction shall be confiscated by the monitor and shall not be scored. If the infraction is detected and confirmed after the examination of the person committing the infraction has been scored, the score resulting from that examination shall be reduced to a failing grade and, if necessary, the list of candidates eligible for the position of city or county assessor or deputy assessor shall be adjusted accordingly.

(6) Review of examination. Persons who have taken the examination may, after presenting proper identification, review their examinations in the office of the department's property tax section within 60 days after the date the examination has been administered. The review shall consist only of examining the person's own answer sheet indicating the questions answered incorrectly and the question book. Persons reviewing their examinations shall not be permitted to take notes or otherwise transcribe information during this review, nor shall they have access to the answers to questions contained in the examination. Persons who review their examinations shall be permitted to do so only once, and shall not be eligible to take an examination for the

position of assessor or deputy assessor for a period of at least 30 days following the date of the review of the examinations.

(7) Assessor examination scores. The scores of persons who take the assessor or deputy assessor examination shall be considered public records pursuant to Iowa Code chapter 22.

(8) Rescinded effective April 3, 1985.

(9) Length of examination. The director shall determine the appropriate amount of time in which persons may take the examination. Any person who arrives at the examination site after the examination has begun shall not be permitted to complete the examination after the time scheduled for its completion.

(10) Retaking examination. A person who takes the examination for the position of city or county assessor shall not be eligible to take the examination again for a period of at least 30 days following the date the examination was taken, subject also to the restrictions contained in subrule 72.2(5).

(11) Frequency of examination. At the discretion of the director, statewide examinations for the positions of assessor or deputy assessor may be held more than twice a year in Des Moines.

(12) Make-up examination prohibited. Special make-up examinations shall not be held for persons who applied to take the examination for the position of assessor or deputy assessor but who did not for any reason appear at the scheduled examination site.

AUTHORITY: This rule is intended to implement Iowa Code section 441.5
701 IAC 72.2(441)

COURSES OFFERED BY THE DEPARTMENT OF REVENUE AND FINANCE.

(1) Class size. The director may determine the maximum number of students for a particular class in order to maintain a suitable learning environment. Applications to take a course shall be accepted in the order in which they are received by the department. If the number of applications received as of a specific mail delivery results in the receipt of more applications than there are spaces for the class, those applications received in that mail delivery shall be subject to a drawing by lot to determine those which shall be accepted for the class. However, persons who are not currently serving as assessors or deputy assessors shall not be admitted to a course ahead of persons serving as assessors or deputy assessors, regardless of the date on which their applications were received.

(2) Examinations during the course. Examination questions and answers shall not be made available to persons other than employees of the department authorized by the director to have access to such information. Persons who take the examination shall not discuss with anyone the specific questions contained in the examination, nor shall they reveal any specific examination question to another person. This shall not restrict persons who have taken a course examination from discussing the general subject matter of the examination.

(3) Materials and supplies. All examination materials shall be furnished by the department and must be returned to the monitor prior to the students leaving the examination. During the examination, students may be permitted to use their own slide rules or electronic calculators as long as their use does not disturb other students. Students shall not be permitted to bring any other materials into the examination room, nor shall they be permitted to take any materials from the examination room except their own slide rules or electronic calculators.

(4) Personal conduct during course and examination. To preserve the integrity of the examinations and the assessing profession, each person taking an examination shall not exhibit

behavior which is disruptive to other persons taking the examination, nor shall a person cheat or attempt to cheat on an examination in any manner.

(5) Violations. Any person who intentionally violates any of the provisions of subrule 72.18(2), 72.18(3), or 72.18(4) shall be subject to the penalties specified in this subrule. If an infraction of subrule 72.18(2), 72.18(3), or 72.18(4) occurs and is detected and confirmed during the examination, the examination of the person committing the infraction shall be confiscated by the instructor and shall not be scored. If the infraction is detected and confirmed after the examination of the person committing the infraction has been scored, the score resulting from that examination shall be reduced to a failing grade and the director shall notify the assessor education advisory committee of the action taken. If the infraction is detected and confirmed during the course, the instructor shall expel the student from the classroom, and the student shall not be permitted to take the examination for the course.

Instructors. Course instructors shall inform all students of the provisions of subrules 72.18(2), 72.18(3), and 72.18(4). The instructors shall have the authority to enforce these rules in accordance with subrule 72.18(5).

(7) Retaking examination. A person who receives a failing score on the examination for a course may retake the examination by submitting a request to the director within ten days of the date the director notifies the person of the examination score. The examination shall be retaken at the office of the department in Des Moines or at the site of any scheduled course examination, and shall be retaken within 30 days of the date the original examination was taken. A person who retakes an examination may not again take that particular course for credit until at least 30 days have passed from the date the examination was retaken. A special examination may be taken only once for a particular course, regardless of the number of times a student takes the course. A special examination shall be given only if the student took and failed the examination given at the end of a course taken for credit.

(8) Review of examination. Persons who have taken a course examination may, after presenting proper identification, review their examination in the office of the department's property tax section within 60 days after the date the examination has been administered. The review shall consist only of examining the person's own answer sheet and the question book. Persons reviewing their examinations shall not be permitted to take notes or otherwise transcribe information during this review, nor shall they have access to the answers to questions contained in the examination. Persons who review their examinations shall be permitted to do so only once, and shall not be eligible to take the same examination for a period of at least 30 days following the date of the review of the examinations.

(9) Length of examination. The director shall determine the appropriate amount of time in which persons may take each examination. Any person who arrives at the examination site after the examination has begun shall not be permitted to complete the examination after the time scheduled for completion.

AUTHORITY: This rule is intended to implement Iowa Code section 441.8.
701 IAC 72.18(421,441)

MICHIGAN – no results found

MINNESOTA

LICENSURE AND REGULATION OF ACCOUNTANTS 1105.2200 CHEATING

Subpart 1. Generally. Cheating by an applicant in applying for, taking, or subsequent to the examination invalidates any grade otherwise earned by a candidate on any section of the examination, and may warrant summary expulsion from the test site and disqualification from taking the examination for a specified period of time as determined by the board.

Subp. 2. Actions constituting cheating. For purposes of this part, the following actions or attempted activities, among others, may be considered cheating:

A. falsifying or misrepresenting educational credentials or other information required for admission to the examination;

B. communication between candidates inside or outside the test site or copying another candidate's answers while the examination is in progress;

C. communication with others inside or outside the test site while the examination is in progress;

D. substitution of another person to sit in the test site in the place of a candidate; and

E. reference to crib sheets, textbooks, or other material, other than that provided to the candidate as part of the examination, inside or outside the test site while the examination is in progress.

Subp. 3. Remedial action during examination. In any case in which it appears that cheating has occurred or is occurring, the board or its representatives shall either summarily expel the candidate involved from the examination or move the candidate to a position in the test site away from other examinees where the candidate can be watched more closely.

Subp. 4. Investigation. In any case in which the board believes that it has evidence that a candidate has cheated on the examination, including those cases where the candidate has been expelled from the examination, the board shall conduct an investigation expeditiously following the examination session for the purpose of determining whether there was cheating, and if so what remedy should be applied. The board shall decide whether the candidate shall be:

A. given credit for any portion of the examination completed in the session; and

B. barred from taking the examination and, if so, for what period of time.

Subp. 5. Penalties. In any case in which the board or its representative permits a candidate to continue taking the examination, it shall, depending on the circumstances, take one or more of the following actions:

A. admonish the candidate;

B. seat the candidate in a segregated location for the rest of the examination;

C. keep a record of the candidate's seat location and identifying information, and the names and identifying information of the candidates in close proximity of the candidate; and

D. notify the AICPA and/or the testing site of the circumstances, furnishing the candidate's identifying information, so that the candidate is more closely monitored in future examination sessions.

Subp. 6. Findings. In any case in which a candidate is refused credit for a section of the examination taken, or is disqualified from taking other sections, the board shall give the candidate a statement containing its findings, the evidence upon which the findings are based, and a notice of the right of the candidate to a formal hearing by the board, with right of appeal, pursuant to the procedures in Minnesota Statutes, section 326A.08.

Subp. 7. Other states. In any case in which the candidate is refused credit for any section of the examination taken, disqualified from taking any section of the examination, or barred from taking the examination in the future, the board shall provide to the board of accountancy of any

other state to which the candidate may apply for the examination information as to the board's findings and actions taken.

Subp. 8. Disclosure of examination questions. The board may impose disciplinary action, as provided for in Minnesota Statutes, section 326A.08, subdivision 5, against an applicant, licensee, or certificate holder who discloses examination questions to any other entity or person, with or without compensation, prior to, during, or subsequent to any administration of the examination.

Minn. R. 1105.2200

LICENSURE AND REGULATION OF ACCOUNTANTS GROUNDS FOR ENFORCEMENT ACTIONS The grounds for revocation and suspension of certificates, registrations, and permits, and other disciplinary action against licensees, certificate holders, applicants, and individuals with privileges under Minnesota Statutes, section 326A.14, are set out in Minnesota Statutes, section 326A.08. In addition, the grounds include the following particular grounds for disciplinary action:

A. fraud or deceit in obtaining a certificate, registration, or permit, within the meaning of Minnesota Statutes, section 326A.08, subdivision 5, paragraph (a), clause (5), including the submission to the board of any knowingly false or forged evidence in, or in support of, an application for a certificate, registration, or permit, and cheating on an examination as defined in this chapter;

Minn. R. 1105.5600

REAL ESTATE BROKER LICENSING A passing grade for a salesperson's and broker's examination shall be a score of 75 percent or higher on the uniform portion and a score of 75 percent or higher on the state portion of the examination.

The commissioner shall not accept the scores of a person who has cheated on an examination. Cheating on a real estate examination shall be grounds for denying an application for a broker's or salesperson's license.

Minn. R. 2800.1200

REAL ESTATE APPRAISERS A passing grade for a real estate appraiser licensing examination shall be a score of 75 percent or higher.

The commissioner shall not accept the scores of a person who has cheated on an examination. Cheating on a real estate appraiser examination shall be grounds for denying an application for an appraiser's license.

Minn. R. 2808.2000

WELLS AND BORINGS, 4725.1500 DISCIPLINARY ACTION AGAINST LICENSEE OR REGISTRANT Commissioner action. The commissioner may suspend, revoke, or impose limitations or conditions on a license or registration if the registrant or licensee:

- A. violates a provision of this chapter or Minnesota Statutes, chapter 103I;
- B. obtains a license or registration through error, fraud, or cheating;

Minn. R. 4725.1500

EXPLORERS AND EXPLORATORY BORINGS DISCIPLINARY ACTION; RETURN OF DOCUMENTS

Subpart 1. Commissioner action. The commissioner may suspend, revoke, or impose limitations or conditions on a responsible individual or licensee if the responsible individual or licensee:

- A. violates a provision of this chapter or Minnesota Statutes, chapter 103I;
- B. obtains a license or certification through error, fraud, or cheating;

Minn. R. 4727.0830

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS LICENSING OF NURSING HOME ADMINISTRATORS DISCIPLINARY ACTION

Subpart 1. Criteria. The board may impose disciplinary action as described in subpart 2 against an applicant, the holder of a permit to serve as an acting administrator, or a licensee, when the board determines, by a preponderance of the evidence and after due notice and an opportunity to be heard at a contested case hearing, that the applicant, permit holder, or licensee:

. . . M. has practiced fraud, deceit, cheating, or misrepresentation, or provided misleading omission or material misstatement of fact, in securing, procuring, renewing, or maintaining a nursing home administrator license;

Subp. 2. Actions. If grounds for disciplinary action exist under subpart 1, the board shall take one or more of the following actions:

- A. refuse to grant a permit;
- B. refuse to grant or renew a license;
- C. revoke a license or permit;
- D. suspend a license or permit;
- E. impose limitations or conditions on a license or permit;
- F. censure or reprimand the licensee or permit holder;
- G. refuse to permit an applicant to take the licensure examination or refuse to release an applicant's examination score; or
- H. any other action authorized by statute.

Minn. R. 6400.6900

BOARD OF PEACE OFFICER STANDARDS AND TRAINING
CHAPTER 6700 TRAINING AND LICENSING

Minn. R. 6700.0400 (2003)

CERTIFICATION OF SCHOOLS

Subp. 4. Certified school disciplinary action. Failure of a certified school to comply with any of the following requirements will result in imposition of disciplinary sanctions by the board against the certified school:

D. cooperation of the staff and faculty of a certified school with any board investigation of alleged misconduct by students, staff, or faculty in the giving or taking of examinations, reports, or investigations required by the board. The staff and faculty shall report any misconduct which is discovered to the board. For purposes of this requirement, the term "misconduct" includes cheating on any licensing examination or tests required by the rules of the board, or helping another to cheat; filing a false report with the board; or obstructing a board investigation;

Subp. 5. Sanctions. Sanctions for failure to comply with the requirements in subpart 4 shall be one or more of the following: a letter of censure to the coordinator of the certified school;

formal or informal probation for the certified school; or suspension, revocation, or nonrenewal of certification of the certified school.

Subp. 6. Disciplinary proceedings. Disciplinary proceedings under this part shall be conducted pursuant to the Administrative Procedure Act, Minnesota Statutes, chapter 14, and the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8400.

Minn. R. 6700.0400

BOARD OF PEACE OFFICER STANDARDS AND TRAINING TRAINING AND LICENSING VIOLATION OF STANDARDS OF CONDUCT

Violation of any of the following standards of conduct by a licensee constitutes grounds for disciplinary action:

. . . B. obtaining a license from the board by fraud or cheating, or attempting to subvert the examination process;

Minn. R. 6700.1600

ILLINOIS

CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT ILLINOIS LOCAL GOVERNMENTAL LAW ENFORCEMENT OFFICERS TRAINING ILLINOIS POLICE TRAINING ACT PROCEDURES FOR ADMINISTRATION OF LAW ENFORCEMENT AND CORRECTIONAL OFFICERS CERTIFICATION EXAMINATION.

. . .
o) Any trainee who is uncooperative, disruptive or is thought to be cheating during the administration of the Comprehensive Examination will be ordered by the proctor to turn in his or her examination and to leave the examination area. A complete written report of the incident will then be submitted to the Executive Director of the Board and to the Chief Administrator of the officer's employing agency. The offending trainee shall have the opportunity within seven days to submit a written report to the Executive Director describing the trainee's version of the event. In such cases it will be left to the discretion of the Executive Director to determine whether the officer has forfeited the examination and whether the trainee is eligible to re-take the Comprehensive Examination. The Executive Director's determination will be based on the nature of the officer's misbehavior and on the supporting evidence of such misbehavior.

20 Ill. Adm. Code 1720.25

CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT ILLINOIS LOCAL GOVERNMENTAL LAW ENFORCEMENT OFFICERS TRAINING BOARD PART-TIME BASIC TRAINING TRAINING PROCEDURES AND REQUIREMENTS PROCEDURES FOR ADMINISTRATION OF PART-TIME POLICE OFFICERS CERTIFICATION EXAMINATION.

n) Any recruit who is uncooperative, disruptive or is thought to be cheating during the administration of the Certification Examination will be ordered by the proctor to turn in his or her examination and to leave the examination area. A complete written report of the incident will then be submitted to the Director of the Board and the Chief Administrator of the officer's employing agency. The offending recruit shall have the opportunity within seven days to submit a written report to the Director describing the recruit's version of the event. In such cases it will be left to the discretion of the Director to determine whether the officer has forfeited the

examination and whether the recruit is eligible to re-take the Certification Examination. The Director's determination will be based on the nature of the officer's misbehavior and on the supporting evidence of such misbehavior.

20 Ill. Adm. Code 1770.206

PLUMBERS LICENSING CODE ADMINISTRATION OF AND REQUIREMENTS FOR
ADMISSION TO PLUMBING LICENSE EXAMINATION

j) An examinee who is observed cheating during the course of an examination shall be immediately expelled from the examination in progress and shall appear before the Board of Plumbing Examiners and representatives of the Department on the day that such offense occurs. The Board shall recommend the examination be declared void. A written record of the meeting shall be made and become a part of the examinee's file. The Board shall make as a part of the record its recommendations concerning the examinee and shall forward such recommendations to the Department.

1) The Department shall send to the applicant a notice of intent to deny or suspend the applicant's license. The applicant must request in writing a hearing within the time specified in the notice. If the applicant does not request a hearing in writing within the time specified in the notice, the applicant's right to a hearing shall be waived.

2) All hearings shall be conducted in accordance with the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

3) The Department shall advise the Board of its final decision concerning the examinee.

68 Ill. Adm. Code 750.310

PROFESSIONS AND OCCUPATIONS OFFICE OF BANKS AND REAL ESTATE

Discipline of Schools

a) Upon written recommendation of the Board to the Commissioner, OBRE may refuse to issue or renew a license, reprimand, fine, withdraw approval, place on probation, suspend, or revoke any license or otherwise discipline any license of any school, or applicant for the license, and may impose a civil penalty not to exceed \$ 10,000 upon a licensee, when at any time: . . .

4) When the applicant or licensee has:

A) subverted or attempted to subvert the integrity of any exam or course, including through improper reproduction of an exam, providing an answer key to an exam, cheating, bribery or otherwise, or aids and abets an applicant or licensee to subvert the integrity of any exam or course;

68 Ill. Adm. Code 1440.360

PROFESSIONS AND OCCUPATIONS OFFICE OF BANKS AND REAL ESTATE

PROFESSIONS AND OCCUPATIONS REAL ESTATE LICENSE ACT OF 2000 PRE-
LICENSE AND CONTINUING EDUCATION RULES Discipline of Schools or Instructors

b) Upon written recommendation of the Board to the Commissioner, OBRE may refuse to issue or renew a license or certificate of registration, reprimand, fine, withdraw approval, place on probation, suspend, or revoke any license or otherwise discipline any license or certificate of registration, of any pre-license school, pre-license instructor, CE school, CE instructor, course, or applicant for the license or certificate of registration when, at any time:

4) When the applicant or licensee has: A) subverted or attempted to subvert the integrity of any exam or course, including through improper reproduction of an exam, providing an answer key to an exam, cheating, bribery or otherwise, or aids and abets an applicant or licensee to subvert the integrity of any exam or course;
68 Ill. Adm. Code 1450.315

HEARING INSTRUMENT CONSUMER PROTECTION CODE ETHICAL PRACTICE
Dishonest, Unethical and Unprofessional Conduct

h) Cheating or dishonesty by an applicant on the examination shall be considered grounds for automatic failure and disciplinary action as specified in Section 18 of the Act. 77 Ill. Adm. Code 682.500

FOOD SERVICE SANITATION MANAGER CERTIFICATION Monitors

a) There shall be one approved monitor for every 35 students taking the examination. . . . d) The Department reserves the right to determine who may function in the role as a monitor for the State examination and to audit the performance of any monitor for any approved examination. The Department shall suspend or revoke permission to serve as a monitor in the event of a breach of test security, provision of assistance to students taking the exam, repeated failure to return exams within a timely manner, cheating, changing of students' answers, duplicating test materials, conflict of interest, and otherwise failing to comply with this Part.
77 Ill. Adm. Code 750.1865

FOOD SERVICE SANITATION MANAGER CERTIFICATION
Cheating.

a) An individual determined to have cheated on the Certification examination shall not be entitled to certification. The individual must retake an approved course before taking the examination again.
b) An individual determined to have cheated on the Instructor's examination shall not be certified as an instructor.
77 Ill. Adm. Code 750.1868

FOOD SERVICE SANITATION MANAGER CERTIFICATION

The Department reserves the right to approve or reject retest requests and to retest individuals or a class:

a) if it appears that there was substantial probability that cheating occurred.
b) if it appears that the examination integrity was compromised.
77 Ill. Adm. Code 750.1870

STRUCTURAL PEST CONTROL CODE SUBPART C. EXAMINATIONS

f) Applicants found cheating (e.g., including but not limited to discussing test material with another individual, looking at someone else's answers, viewing notes in a closed book exam) by the test monitor on any examination shall fail all the examinations taken at the testing site. All testing papers will be surrendered to the Department. The applicant will also be prohibited from applying for Illinois certification for 1 year from the date of the incident.
77 Ill. Adm. Code 830.400

ISSUANCE OF LICENSES Driver's License Testing/Written Test

k) Any person found cheating on any portion of a written test will be deemed to have failed that portion of the test. In addition, that person will be prohibited from retaking the test for a period of 30 days. For purposes of this subsection "cheating" shall be defined as receiving or using unauthorized assistance in the taking of any portion of a test. This includes, but is not limited to, the use of any notes, books, or written information.

Summary of factual data and analytical methodologies:

Cheating on licensing examinations is an ongoing and significant problem. Instances of cheating have increased in recent years with the advent of new technology.

Three well-publicized recent national examples are: The Federation of State Boards of Physical Therapy sued 4 candidates for trading more than 100 questions from the national licensing examination via an Internet chat room. The National Association of Boards of Pharmacy suspended its Educational Equivalency Examination for seven months after determining that 15 foreign candidates traded 200 national examination questions on 2 web sites in Korea and India. The National Board of Podiatric Medical Examiners refused to validate scores from four U.S. schools after determining that hundreds of students traded examination material by email and study guides.

Numbers of instances have been increasing at the state credentialing level, as well. In the twenty years from 1981 to 2001, there were 6 identified instances of cheating on record at the Department. There were about 15,000 administrations per year at the start of that period, gradually increasing to about 25,000 administrations today. In the four years since 2001, there have been 8 instances of cheating identified on state credentialing examinations. These instances include instances of identical answer sheets, missing booklets and copying questions to remove them from the room.

The increasing culture of cheating has been noted in the recent book by Gregory Cizek, Cheating on Tests, c 1999, Lawrence Erlbaum and Associates, and numerous articles such as, "New Calculators Force NCEES to Tighten Exam Security Policy," Engineering Times, Feb 2004; "Exam Security and High-Tech Cheating", The Bar Examiner, vol 67, no 3, c 1998. The online publication, "Cheating in the News" publishes five to ten recent articles each month about cheating around the world, often on state assessments of high school performance or college entrance examinations.

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

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates the right to appeal may be used to require one hearing a year. The projected value of the staff time to conduct one hearing of this type is \$300.

Effect on small business:

Pursuant to s. 227.114 (1), Stats., these proposed rules will have no significant economic impact on a substantial number of small businesses. The Department's Small Business Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency contact person:

Pamela Haack, Department of Regulation and Licensing, Office of Legal Counsel, P.O. Box 8935, 1400 East Washington Avenue, Madison, Wisconsin 53708-8935. Email pamela.haack@drl.state.wi.us.

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

Comments may be submitted to Pamela Haack, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935; email pamela.haack@drl.state.wi.us. Comments must be received on or before July 22, 2005 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. RL 1.03 (1g) and (1r) are created to read:

RL 1.03 (1g) "Breach of examination security" means any of the following:

- (a) Removing from the examination room any examination materials without authorization.
- (b) Reproducing, or assisting a person in reproducing, any portion of the credentialing examination by any means and without authorization.
- (c) Paying a person to take the credentialing examination to discover the content of any portion of the credentialing examination.
- (d) Obtaining examination questions or other examination materials, except by specific authorization before, during, or after an examination.
- (e) Using, or purporting to use, improperly obtained examination questions or materials to instruct or prepare an applicant for the credentialing examination.

(f) Selling, distributing, buying, receiving or having unauthorized possession of any portion of a future, current, or previously administered credentialing examination.

(1r) "Cheating on an examination" includes:

(a) Communicating with other persons inside or outside of the examination room concerning examination content using any means of communication while the examination is being administered.

(b) Copying the answers of another applicant, or permitting answers to be copied by another applicant.

(c) Substituting another person to write one or more of the examination answers or papers in the place of the applicant.

(d) Referring to "notes," textbooks or other unauthorized information sources inside or outside the examination room while the examination is being administered.

(e) Disclosing the nature or content of any examination question or answer to another person prior to, during, or subsequent to the conclusion of the examination.

(f) Removing or attempting to remove any examination materials, notes or facsimiles of examination content such as photo, audiovisual, or electronic records from the examination room.

(g) Violating rules of conduct of the examination.

SECTION 2. RL 1.03 (4) is amended to read:

RL 1.03 (4) "Denial review proceeding" means a class 1 proceeding as defined in s. 227.01 (3) (a), Stats., in which a credentialing authority reviews either a decision to deny a completed application for a credential or a determination of cheating on an examination or breach of examination security.

SECTION 3. RL 1.03 (7) is created to read:

RL 1.03 (7). "Office of examinations" means the office of examinations in the department.

SECTION 4. RL 1.04 (title) is amended to read:

RL 1.04 (title) Examination failure: retake and hearing, consequences of cheating on an examination or breach of examination security.

SECTION 5. RL 1.04 (3) is created to read:

RL 1.04 (3) (a)

(b) Restrictions on reexamination may include denying the applicant the right to retake the examination for a specified period of time or the imposition of a permanent bar on reexamination.

(c) The department may provide information on the consequences imposed upon an applicant to other jurisdictions where the applicant may apply for credentialing or examination.

(d) -If an approved or credentialed school or instructor is found to have facilitated actions constituting cheating on an examination or breach of examination security, the school or instructor may be subject to disciplinary action or revocation of approval.

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SECTION 6. RL 1.05 (title) is amended to read:

RL 1.05 (title) Notice of intent to deny ~~and~~, notice of denial and notice of cheating on an examination or breach of examination security.

SECTION 7. RL 1.05 (3) is created to read:

RL 1.05 (3) NOTICE OF CHEATING ON AN EXAMINATION OR BREACH OF EXAMINATION SECURITY. If after an investigation the office of examinations determines there is probable cause to believe that an applicant has cheated on an examination or breached examination security and the office of examinations and the applicant cannot agree upon a consequence acceptable to the credentialing authority, the office of examinations shall issue a notice of cheating on an examination or breach of examination security. The notice shall:

(a) Include the name and address of the applicant, the examination involved, and a statement identifying with reasonable particularity the grounds for the conclusion that the applicant has cheated on an examination or breached examination security.

(b) Be mailed to the applicant at the address provided in the materials submitted by the applicant when applying to take the examination. Notice is effective upon mailing.

SECTION 8. RL 1.07 (intro.) and (3) are amended to read:

RL 1.07 Request for hearing. (intro.) An applicant may request a hearing within 45 calendar days after the mailing of a notice of denial by the credentialing authority or notice of cheating on an examination or breach of examination security by the office of examinations. The request shall be in writing and set forth all of the following:

(3) A specific description of the mistake in fact or law that constitutes reasonable grounds for reversing the decision to deny the application for a credential or for reversing a

determination of cheating on an examination or a determination of breach of examination security. If the applicant asserts that a mistake in fact was made, the request shall include a concise statement of the essential facts that the applicant intends to prove at the hearing. If the applicant asserts a mistake in law was made, the request shall include a statement of the law upon which the applicant relies.

SECTION 9. RL 1.08 (1) and (4) are amended to read:

RL 1.08 (1) REVIEW OF REQUEST FOR HEARING. Within 45 calendar days of receipt of a request for hearing, the credentialing authority or its designee shall grant or deny the request for a hearing on a denial of a credential or on a determination of cheating on an examination or a determination of breach of examination security. A request shall be granted if requirements in s. RL 1.07 are met, and the credentialing authority or its designee shall notify the applicant of the time, place and nature of the hearing. If the requirements in s. RL 1.07 are not met, a hearing shall be denied, and the credentialing authority or its designee shall inform the applicant in writing of the reason for denial. For purposes of a petition for review under s. 227.52, Stats., a request is denied if a response to a request for hearing is not issued within 45 calendar days of its receipt by the credentialing authority.

(4) BURDEN OF PROOF. The applicant has the burden of proof to show by evidence satisfactory to the credentialing authority that the applicant meets the eligibility requirements set by law for the credential. The office of examinations has the burden of proof to show by a preponderance of the evidence that the applicant cheated on an examination or breached examination security.

SECTION 10. RL 1.09 (5) is amended to read:

RL 1.09 (5) EVIDENCE. The credentialing authority, the office of examinations and the applicant shall have the right to appear in person or by counsel, to call, examine and cross-examine witnesses and to introduce evidence into the record. If the applicant submits evidence of eligibility for a credential which was not submitted to the credentialing authority prior to denial of the application, the presiding officer may request the credentialing authority to reconsider the application and the evidence of eligibility not previously considered.

SECTION 11. RL 1.09 (5m) is created to read:

RL 1.09 (5m) CONFIDENTIALITY OF EXAMINATION RECORDS. The presiding officer shall take appropriate precautions to preserve examination security in conjunction with the conduct of a hearing held pursuant to this section.

SECTION 12. RL 1.11 and 1.12 are amended to read:

RL 1.11 Failure to appear. In the event that neither the applicant nor his or her representative appears at the time and place designated for the hearing, the credentialing authority may take action based upon the record as submitted. By failing to appear, an applicant

waives any right to appeal ~~before~~ the action taken by the credentialing authority ~~which denied~~
~~the license.~~

RL 1.12 Withdrawal of request. A request for hearing may be withdrawn at any time. Upon receipt of a request for withdrawal, the credentialing authority shall issue an order affirming the withdrawal of a request for hearing on the denial or on the determination of cheating on an examination or determination of breach of examination security.

(END OF TEXT OF RULE)

This proposed rule shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____

Secretary Celia M. Jackson
Department of Regulation and Licensing

Ch RL 1 CR05-050 (Cheating on examinations) Final for Adoption 12-14-05