

**CERTIFICATE**

**STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING**

**TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:**

*I, Marlene A. Cummings, Secretary, Wisconsin Department of Regulation and Licensing and custodian of the official records of the Department of Regulation and Licensing, hereby certify that the annexed rules were duly approved and adopted by the Department of Regulation and Licensing on the 21st day of May, 1996.*

*I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.*

**IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 1400 East Washington Avenue, Madison, Wisconsin this 21st day of May, 1996.**

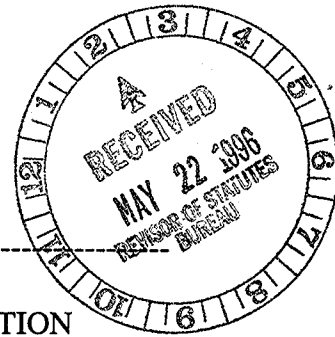
*Marlene A. Cummings*

**Marlene A. Cummings, Secretary  
Department of Regulation and  
Licensing**



8-1-96

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 95-080)

ORDER

An order of the Department of Regulation and Licensing to repeal RL 7.02 (6); to amend RL 7.01 (2), 7.02 (1), (2) and (5), 7.03 (2), (3), (4), (5) and (6), 7.04, 7.05 (1) (a), (b), (c), (d), (e), (f), (g) and (2), 7.06, 7.07 (1), (3) (a), (b), (c) and (d), 7.08 (2), 7.09, 7.10 and Appendix I; and to create RL 7.02 (2a) and (2b) relating to the impaired professionals procedure.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss: 227.11 (2) and 440.03 (1), Stats.

Statutes interpreted: s. 440.03 (1), Stats.

The Department of Regulation and Licensing created Chapter RL 7, entitled "Impaired Professionals Procedure" (Clearinghouse Rule 90-26) which was effective February 1, 1991. The rules were adopted to protect the public from credential holders who are impaired by reason of their abuse of alcohol or other drugs. The rules offer an option to impaired credential holders, in some cases, instead of the formal disciplinary procedure. Qualified credential holders without other substantial violations and committed to their own recovery and rehabilitation may utilize the procedure. The department does not minimize prosecution of serious violations. It does, however, deal with impairment within the department's enforcement jurisdiction.

The coordinator has education and experience in the drug and alcohol treatment field and contributes toward eligibility determinations by evaluating a credential holder's progress in treatment and recovery or the need for treatment as determined by a qualified treatment provider. The coordinator also has knowledge of and experience with all boards and works toward consistency in referrals across all boards.

The phrases "and alcohol" and "or alcohol" are deleted to reflect market terminology. Drug screen and drug test are general terms for the analysis of a blood or urine specimen while alcohol and various other controlled substances are specific drugs screened for. Alcohol is a drug and does not need to be listed separately from other drugs.

The amendments in this proposed rule-making order are made to reflect the daily duties and responsibilities of the coordinator and to clarify the relationship between the coordinator, the

board liaison and the board. Also, the semicolons which appear throughout the rule at the end of subunits are changed to periods, and the words "and" or "or" are deleted to facilitate insertion or deletion of subunits in the future without having to move the word "and" or "or" in the next-to-the-last subunit.

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TEXT OF RULE

✓ SECTION 1. RL 7.01 (2) is amended to read:

RL 7.01 (2) The intent of the department in adopting rules in this chapter is to protect the public from licensees credential holders who are impaired by reason of their abuse of alcohol or other drugs. This goal will be advanced by providing an option to the formal disciplinary process for qualified licensees credential holders committed to their own recovery. This procedure is intended to apply when allegations are made that a licensee credential holder has practiced a profession while impaired by alcohol or other drugs or when a licensee credential holder contacts the department and requests to participate in the procedure. It is not intended to apply in situations where allegations exist that a licensee credential holder has committed violations of law, other than practice while impaired by alcohol or other drugs, which are substantial. The procedure may then be utilized in selected cases to promote early identification of chemically dependent professionals and encourage their rehabilitation. Finally, the department's procedure does not seek to diminish the prosecution of serious violations but rather it attempts to address the problem of alcohol and other drug abuse within the enforcement jurisdiction of the department.

✓ SECTION 2. RL 7.02 (1), (2) and (5) are amended to read:

RL 7.02 (1) "Board" means any examining board or affiliated credentialing board attached to the department and the real estate board.

(2) "Board liaison" means the board member designated by the board as responsible for approving licensees credential holders for the impaired professionals procedure under s. RL 7.03, for monitoring compliance with the requirements for participation under s. RL 7.04, and for performing other responsibilities delegated to the board liaison under these rules.

(5) "Informal complaint" means any written information submitted by any person to the division, department or any board which requests that a disciplinary proceeding be commenced against a licensee credential holder or which alleges facts, which if true, warrant discipline. "Informal complaint" includes requests for disciplinary proceedings under s. 440.20, Stats.

✓ SECTION 3. RL 7.02 (2a) and (2b) are created to read:

RL 7.02 (2a) "Coordinator" means a department employee who coordinates the impaired professionals procedure.

(2b) "Credential holder" means a person holding any license, permit, certificate or registration granted by the department or any board.

✓ SECTION 4. RL 7.02 (6) is repealed.

✓ SECTION 5. RL 7.03 (2), (3), (4), (5) and (6) are amended to read:

RL 7.03 (2) A licensee credential holder who has been referred to the procedure and considered for eligibility shall be provided with an application for participation, a summary of the investigative results in the form of a draft statement of conduct to be used as a basis for the statement of conduct under s. RL 7.05 (1) (a), and a written explanation of the licensee's credential holder's options for resolution of the matter through participation in the procedure or through the formal disciplinary process pursuant to ch. RL 2.

(3) Eligibility for the procedure shall be determined by the board liaison and coordinator who shall review all relevant materials including investigative results and the licensee's credential holder's application for participation. Eligibility shall be determined upon criteria developed by each licensing credentialing authority which shall include at a minimum the licensee's credential holder's past or pending criminal, disciplinary or malpractice record, the circumstances of the licensee's credential holder's referral to the department, the seriousness of other alleged violations and the licensee's credential holder's prognosis for recovery. The decision on eligibility shall be consistent with the purposes of these procedures as described in s. RL 7.01 (2). The board liaison shall have responsibility to make the determination of eligibility for the procedure.

(4) Prior to the signing of an agreement for participation the licensee credential holder shall obtain a comprehensive assessment for chemical dependency from a treatment facility or individual therapist approved under s. RL 7.06. The licensee credential holder shall arrange for the treatment facility or individual therapist to file a copy of its assessment with the board liaison or coordinator. The assessment shall include a statement describing the licensee's credential holder's prognosis for recovery. The board liaison and the licensee credential holder may agree, ~~in writing,~~ to waive this requirement.

(5) If a licensee credential holder is determined to be ineligible for the procedure, the licensee credential holder shall be referred to the division for prosecution.

(6) A licensee credential holder determined to be ineligible for the procedure by the board liaison or the department may, within 10 days of notice of the determination, request the board credentialing authority to review the ~~board's liaison~~ adverse determination.

✓ SECTION 6. RL 7.04 is amended to read:

RL 7.04 REQUIREMENTS FOR PARTICIPATION. (1) (intro.) A licensee credential holder who participates in the procedure shall:

- (a) Sign an agreement for participation under s. RL 7.05;
- (b) Remain free of alcohol, controlled substances, and prescription drugs, unless prescribed for a valid medical purpose;
- (c) Timely enroll and participate in a program for the treatment of chemical dependency conducted by a facility or individual therapist approved pursuant to s. RL 7.06;
- (d) Comply with any treatment recommendations and work restrictions or conditions deemed necessary by the board liaison; or department.
- (e) Submit random ~~witnessed screens~~ monitored blood or urine samples for the purpose of screening for alcohol or controlled substances, as required by the board liaison;
- (f) Execute releases valid under state and federal law in the form shown in Appendix I to allow ~~the board liaison~~ access to the licensee's credential holder's counseling, treatment and monitoring records;
- (g) Have the licensee's credential holder's supervising therapist and work supervisors file quarterly reports with the ~~board liaison;~~ coordinator.
- (h) Notify the ~~board liaison~~ coordinator of any changes in the licensee's credential holder's employer within 5 days; and.
- (I) File quarterly reports documenting the licensee's credential holder's attendance at meetings of self-help groups such as alcoholics anonymous or narcotics anonymous.
- (2) If the board liaison or department determines, based on consultation with the person authorized to provide treatment to the licensee credential holder or monitor the licensee's credential holder's enrollment or participation in the procedure, or monitor any drug screening requirements or restrictions on employment under sub. (1), that a licensee credential holder participating in the procedure has failed to meet any of the requirements set under sub. (1), the board liaison may request that the board dismiss the licensee credential holder from the procedure. The board shall review the complete record in making this determination. If the licensee credential holder is dismissed the matter shall be referred to the division.
- (3) If a licensee credential holder violates the agreement and the board liaison does not dismiss and refer the licensee credential holder to the division, then a new admission under s. RL 7.05 (1) (a) shall be obtained for violations which are substantiated.

SECTION 7. RL 7.05 (1) (a), (b), (c), (d), (e), (f), (g) and (2) are amended to read:

RL 7.05 (1) (a) A statement describing conduct the licensee credential holder agrees occurred relating to participation in the procedure and an agreement that the statement may be used as evidence in any disciplinary proceeding under ch. RL 2;

(b) An acknowledgement by the licensee credential holder of the need for treatment for chemical dependency;

(c) An agreement to participate at the licensee's credential holder's expense in an approved treatment regimen;

(d) An agreement to submit to random, ~~witnessed~~ monitored drug screens at the licensee's credential holder's expense, if deemed necessary by the board; liaison.

(e) An agreement to submit to practice restrictions at any time during the treatment regimen as deemed necessary by the board; liaison.

(f) An agreement to furnish the ~~department~~ coordinator with signed consents for release of information from treatment providers and employers ~~to the board liaison authorizing the release of information to the coordinator and board liaison~~ for the purpose of monitoring the licensee's credential holder's participation in the procedure;

(g) An agreement to authorize the board liaison or coordinator to release information described in pars. (a), (c), and (e), the fact that a licensee credential holder has been dismissed under s. RL 7.07 (3) (a) or violated terms of the agreement in s. RL 7.04 (1) (b) to (e) and (h) concerning the licensee's credential holder's participation in the procedure to the employer, therapist or treatment facility identified by the licensee credential holder and an agreement to authorize the ~~board liaison~~ coordinator to release the results of random, ~~witnessed~~ monitored drug screens under par. (d) to the therapist identified by the licensee; and credential holder.

(2) The ~~board or~~ board liaison may include additional requirements for an individual licensee credential holder, if the circumstances of the informal complaint or the licensee's credential holder's condition warrant additional safeguards.

SECTION 8. RL 7.06 is amended to read:

**RL 7.06 STANDARDS FOR APPROVAL OF TREATMENT FACILITIES OR INDIVIDUAL THERAPISTS.** (1) (intro.) The board or board liaison shall approve a treatment facility designated by a licensee credential holder for the purpose of participation in the procedure if:

(a) The facility is certified by appropriate national or state certification agencies;

(b) The treatment program focus at the facility is on the individual with drug and alcohol abuse problems;.

(c) Facility treatment plans and protocols are available to the board liaison; and coordinator.

(d) The facility has a random ~~witnessed monitoring~~ monitored drug screening program of blood or urine as part of its treatment, or if drug ~~and alcohol~~ screens are not included, the facility personnel assigned to the care of the licensee credential holder support such screens as an adjunct to the treatment they provide; ~~and.~~

(e) The facility, through the licensee's credential holder's supervising therapist, agrees to file reports as required ~~by the board liaison~~, including quarterly progress reports and immediate reports if a licensee credential holder withdraws from therapy, submits a positive blood or urine screen, relapses, or is believed to be in an unsafe condition to practice.

(2) (intro.) As an alternative to participation by means of a treatment facility, a licensee credential holder may designate an individual therapist for the purpose of participation in the procedure. The board liaison shall approve an individual therapist who:

(a) Has credentials and experience determined by the board liaison to be in the licensee's credential holder's area of need;.

(b) Agrees to perform an appropriate assessment of the licensee's credential holder's therapeutic needs and to establish and implement a comprehensive treatment regimen for the licensee; credential holder.

(c) Forwards copies of the therapist's treatment regimen and office protocols to the ~~board liaison;~~ coordinator.

(d) Agrees to establish a random ~~witnessed monitoring~~ monitored drug testing program of blood or urine as part of the licensee's credential holder's treatment regimen, or if drug ~~or alcohol~~ screens are not established through the therapist, the therapist agrees to support such screens as an adjunct to the treatment provided; ~~and.~~

(e) Agrees to file reports as required ~~by the board liaison to the coordinator~~, including quarterly progress reports and immediate reports if a licensee credential holder withdraws from therapy, submits a positive blood or urine screen, relapses, or is believed to be in an unsafe condition to practice.

(3) If a board liaison does not approve a treatment facility or therapist as requested by the licensee credential holder, the licensee credential holder may, within 10 days of notice of the determination, request the board to review the board liaison's adverse determination.

SECTION 9. RL 7.07 (1), (3) (a), (b), (c) and (d) are amended to read:

RL 7.07 INTRADEPARTMENTAL REFERRAL. (1) A licensee credential holder who contacts the department and requests to participate in the procedure shall be referred to the board liaison and the coordinator for determination of acceptance into the procedure.

(3) (a) Licensees Credential holders participating in the procedure who are dismissed for failure to meet the requirements of their rehabilitation program or who otherwise engage in behavior which should be referred to prevent harm to the public;

(b) Licensees Credential holders who apply and who are determined to be ineligible for the procedure where the board liaison is in possession of information indicating a violation of law;

(c) Licensees Credential holders who do not complete an agreement for participation where the board liaison is in possession of information indicating a violation of law;

(d) Licensees Credential holders initially referred by the division to the board liaison who fail to complete an agreement for participation.

SECTION 10. RL 7.08 (2) is amended to read:

RL 7.08 (2) AVAILABILITY OF PROCEDURE RECORDS FOR PUBLIC INSPECTION. Any requests to inspect procedure records shall be made to the custodian. The custodian shall evaluate each request on a case by case basis using the applicable law relating to open records and giving appropriate weight to relevant factors in order to determine whether public interest in nondisclosure outweighs the public interest in access to the records, including the reputational interests of the licensee credential holder, the importance of confidentiality to the functional integrity of the procedure, the existence of any pledge of confidentiality, statutory or common law rules which accord a status of confidentiality to the records and the likelihood that release of the records will impede an investigation.

SECTION 11. RL 7.09 is amended to read:

RL 7.09 REPORT. The board liaison or coordinator shall report on the procedure to the board at least twice a year and if requested to do so by a board.

SECTION 12. RL 7.10 is amended to read:

RL 7.10 APPLICABILITY OF PROCEDURES TO DIRECT LICENSING BY THE DEPARTMENT. This procedure may be used by the department in resolving complaints against persons licensed directly by the department if the department has authority to discipline the licensee credential holder. In such cases, the department secretary shall have the authority and



responsibility of the "board" as the term is used in the procedure and shall designate an employee to perform the responsibilities of the "board liaison."

SECTION 13. Appendix I is amended to read:

Appendix I  
CONSENT FOR RELEASE OF INFORMATION

I, ( #1 ), hereby authorize ( #2 ) to provide the board liaison for the Department of Regulation and Licensing Impaired Professionals Procedure, P.O. Box 8935, Madison, Wisconsin 53708, or persons designated by the board liaison who are directly involved in administration of the procedure, with ( #3 ). I further authorize ( #4 ) to discuss with the board liaison or the board liaison's designee any matter relating to the records provided and to allow the board liaison or the board liaison's designee to examine and copy any records or information relating to me.

I hereby also authorize the board liaison or the board liaison's designee to provide ( #5 ) with copies of any information provided to the board liaison pursuant to this consent for release of information authorizing the release of information to the board liaison from those persons and institutions.

In the event of my dismissal from the Impaired Professionals Procedure, I hereby also authorize the board liaison or the board liaison's designee to provide the Division of Enforcement with the results of any investigation conducted in connection with my application to participate in the Impaired Professionals Procedure and with any documentation, including patient health care records, evidencing my failure to meet participation requirements.

This consent for release of information is being made for the purposes of monitoring my participation in the Impaired Professionals Procedure, and any subsequent procedures before the Wisconsin ( #6 ); and for the further purpose of permitting exchange of information between the board liaison or the board liaison's designee and persons or institutions involved in my participation in the Impaired Professionals Procedure where such exchange is necessary in the furtherance of my treatment or to provide information to the Division of Enforcement in the event of my dismissal from the Impaired Professionals Procedure.

Unless revoked earlier, this consent is effective until ( #7 ). I understand that I may revoke this consent at any time and that information obtained as a result of this consent may be used after the above expiration date or revocation. A reproduced copy of this consent form shall be as valid as the original.

I understand that should I fail to execute this consent for release of information, I shall be ineligible to participate in the Impaired Professionals Procedure. I also understand that should I revoke this consent prior to completion of my participation in the Impaired Professionals Procedure, I will be subject to dismissal from the procedure.

I understand that the recipient of information provided pursuant to this Consent for Release of Information is not authorized to make any further disclosure of the information without my specific written consent, or except as otherwise permitted or required by law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Signature of IPP Participant

\_\_\_\_\_  
Participant's Date of Birth

INSERTIONS

1. Participant
2. Persons and institutions provided with releases for provision of information to the department
3. Examples: Drug and alcohol treatment records  
Mental health/psychiatric treatment records  
Personnel records; work records  
Results of blood or urine screens
4. Persons or institutions given authorization
5. Persons or institutions given authorization in the first paragraph
6. Name of board
7. Date to which consent is effective

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(END OF TEXT OF RULE)  
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The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register pursuant to s. 227.22 (2) (intro.), Stats.

Dated 5/21/96

Agency



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Marlene A. Cummings, Secretary  
Department of Regulation and Licensing

g:\rules\17  
5/20/96

**CORRESPONDENCE/MEMORANDUM**

**STATE OF WISCONSIN**

**DATE:** May 22, 1996

**TO:** Gary Poulson  
Assistant Revisor of Statutes

**FROM:** Pamela A. Haack, Rules Center Coordinator  
Department of Regulation and Licensing  
Office of Administrative Rules

**SUBJECT:** Final Order Adopting Rules



**Agency: DEPARTMENT OF REGULATION AND LICENSING**

**Clearinghouse Rule 95-080**

Attached is a copy and a certified copy of a final order adopting rules. Would you please publish these rules in the register.

Please stamp or sign a copy of this letter to acknowledge receipt.

Thank you.