

STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No.: SPS 150, 151, 152, 153, and 154

Relating to: Athlete agent registration and fees

Rule Type: Permanent Rule

1. Finding/nature of emergency: N/A

2. Detailed description of the objective of the proposed rule:

The objective of this rule project is to bring the existing athlete agent registration rules within SPS 150-154 into conformity with state statutes in light of 2019 Wisconsin Acts 143 and 180.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

2019 Act 143 entitles service members, former service members who were discharged within the prior four years under conditions other than dishonorable, and spouses of service members or former service members to obtain a professional credential in Wisconsin if the person resides in Wisconsin and holds a credential in good standing granted by a different jurisdiction. The license can be renewed indefinitely.

2019 Wisconsin Act 180 made significant updates to athlete agent law. Act 180 adopted the Revised Uniform Athlete Agent Act (RUAAA 2015), which updated the Uniform Athlete Agent Act (UAAA 2000). It made several changes to state law relating to athlete agents including amending or creating new definitions for numerous terms, such as "athlete agent," "educational institution," and "student athlete."

It also amended the required information to be included in an application for registration as an athlete agent including requirements that the applicant state their date and place of birth, and contact information. Applicants must also provide the following information: all of their social media accounts; all states in which the applicant is currently registered as an athlete agent; whether the applicant has pending charges for a felony, including a description of the crime and the law enforcement agency involved; whether the applicant has been a defendant in a civil proceeding within the last 15 years; whether the applicant has an unsatisfied judgment for child, family, or spousal maintenance; and, whether the applicant has been declared bankrupt in the last 10 years. Act 180 also removes the requirement that reciprocal applicants must have submitted their application for registration in the other state within six months of submitting a reciprocal license application in this state. Further, Act 180 allows the department to limit a certificate of registration as an athlete agent in addition to suspending or revoking the credential for the same conduct that it could refuse to issue or renew a credential.

Act 180 also amends the required content of an agency contract, including a requirement that the contract be signed by both parties, eliminating the possibility of "other authentication." The contract must include a statement that the agent is registered in this state and a list of other states where the agent is registered. If a student athlete is a minor, the athlete's parent or guardian must also sign the contract and may void the contract if it does not contain the required content. The ability of an athlete to cancel a contract within 14 days of signature is also extended to the athlete's parent or guardian if the athlete is a minor.

Additionally, Act 180 creates new requirements that athlete agents provide notice to athletic directors of educational institutions in certain instances. If an athlete agent seeks to communicate with a student athlete, or receives communications initiated by the student athlete, the agent must provide notice to the

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athletic director of the educational institution. An agent who communicates with an athlete with the intent to form an agency relationship or that forms an agency relationship with an athlete that subsequently enrolls in an educational institution must also provide notice to the athletic director of the educational institution.

Finally, Act 180 authorizes a student athlete, in addition to an educational institution, to bring a civil action under specific conditions against an athlete agent for damages caused by a violation of the laws governing athlete agents.

This proposed rule project will promulgate rules necessary to implement 2019 Acts 143 and 180. The alternative to not implementing rule changes to bring the existing rules within SPS 150-154 into conformity with the statutory changes is to leave the rules as they are. This inconsistency between the statutory provisions and rules would create a lack of clarity for stakeholders as to what the law is.

4. Detailed explanation of statutory authority for the rule:

Section 227.11 (2) (a), Stats. states that “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute...”

Section 440.09 (5), Stats. states that “[t]he department or credentialing board, as appropriate, may promulgate rules necessary to implement this section.”

Section 440.999, Stats. states that “The department shall promulgate rules that define unprofessional conduct for purposes of s. 440.992 (2) (c).”

Section 440.9915, Stats. states that “An applicant for registration as an athlete agent shall submit an application for registration to the department in a form prescribed by the department.”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

Approximately 200 hours.

6. List with description of all entities that may be affected by the proposed rule:

Registered athlete agents, those seeking registration as an athlete agent, athletes, parents and legal guardians of athletes, and educational institutions.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The Sports Agent Responsibility and Trust Act regulates athlete agents at the federal level.

Consumer Protection Provisions: 15 U.S.C. § 7802 to 7804

Athlete agents are prohibited from using false or misleading promises or things of value to persuade an athlete into signing an agency contract. It also requires a disclosure be provided to the athlete or his parent/guardian, and be acknowledged, that signing an agency contract may terminate the athlete’s eligibility to participate in college athletics, and that the athlete and the athlete agent must both inform the athletic director of the athlete’s institution of the contract within 72 hours. Further, athlete agents are prohibited from pre or post-dating a contract. Enforcement is carried out under the Federal Trade Commission Act, or may be investigated and violations pursued by a state attorney general.

Protections for Educational Institutions: 15 U.S.C. § 7805

Educational institutions affected by an agency agreement may sue athlete agents for damages.

Sense of Congress Declaration: 15 U.S.C. § 7807
Congress recommends that states adopt the UAAA.

8. Anticipated economic impact of implementing the rule:

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

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Approved for Publication:

Secretary

Date Submitted