

Chapter SPS 35

GROUNDS FOR DISCIPLINE AGAINST A PRIVATE DETECTIVE, A PRIVATE SECURITY PERSON OR A PRIVATE DETECTIVE AGENCY

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Note: Chapter RL 35 was renumbered chapter SPS 35 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

SPS 35.001 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2) and 440.26 (2), (4m), (5m), (6) and (8), Stats.

History: Cr. Register, November, 1997, No. 503, eff. 12-1-97.

SPS 35.01 Unprofessional conduct. The department may deny an application for renewal, limit, suspend or revoke a credential, or reprimand a credential holder upon proof that the credential holder or any owner of an agency has engaged in conduct reflecting adversely on professional qualification. Conduct reflecting adversely on professional qualification includes, but is not limited to, any of the following:

(1) Performing private detective or private security related services while the ability of the credential holder to competently perform duties is impaired by mental or emotional disorder or alcohol or other drug abuse. A certified copy of an adjudication of mental incompetency shall constitute prima facie evidence of impairment by mental or emotional disorder under this subsection.

(2) Violating, or aiding or abetting the violation of, any law the circumstances of which substantially relate to the practice of a private detective or private security person. A credential holder who has been convicted of a felony, misdemeanor or ordinance violation, as defined in s. 440.26 (4m), Stats., shall send to the department within 48 hours after the judgment of conviction or the judgment finding that the person committed the violation, a copy of the complaint or other information which describes the nature of the crime or conviction and the judgment of conviction in order that the department may determine whether disciplinary action must or should be taken against credential holder.

(3) Operating under a name that is different than a name that the credential holder has provided to the department on an application for a credential or in other written form pursuant to s. SPS 31.06.

(4) Wearing, using or displaying a badge, shield or star in the course of acting as a private detective.

(4m) Failing to possess a private security permit while on duty as a private security person and, if carrying a firearm or electric weapon while on duty, failing to possess the firearms permit issued by the department if a permit is required.

(5) Pretending to be a law enforcement agency or peace officer including but not limited to:

(a) Operating a motor vehicle with flashing red or blue lights contrary to s. 347.25, Stats.

(b) Using the term "police department" in connection with advertising, badge, emblem, stationery, or vehicle.

(c) Intentionally wearing uniforms to closely resemble in style, color, accessories or insignia the uniforms of a police agency in whose jurisdiction the licensee conducts business.

(6) Using false, misleading or deceptive advertising.

(7) Advising any person to engage in an illegal act or course of conduct.

(8) Violating state or federal law rules or regulations related to the care, handling or use of firearms or other dangerous weapons.

(9) Violating any rule in chs. SPS 30 to 35.

(10) Employing any person who engages in any act or course of conduct for which the department may discipline a credential holder, if the employer knows or should know that the person is engaging or has engaged in the act or course of conduct.

(11) Failing to maintain a bond or liability policy for the period of licensure as required by s. 440.26, Stats.

(12) Neglecting, failing or refusing to render professional services to any person solely because of that person's age, race, color, disability, sex, sexual orientation, religion, creed, national origin, marital status, lawful source of income, or ancestry.

(12m) Violating the requirements for written contracts in s. SPS 33.06.

(13) Assigning any person to perform private detective or security personnel duties who has not been issued a license or permit prior to performing the services or who has not properly notified the department of an employment transfer pursuant to s. SPS 32.05.

(14) Failing to provide clients with an accurate written account of services within a reasonable period of time after having been requested to do so by the client.

(15) Issuing checks on business or trust accounts which contain insufficient funds.

(16) Employing a person under the age of 18 years to act as a private detective or private security person.

(17) Providing false information in the application for a credential.

(18) Providing false information to the department or its agent.

(19) Practicing without a current credential.

(20) Obtaining or attempting to obtain anything of value from a client without the client's consent.

(21) Obtaining or attempting to obtain any compensation from a client by fraud, misrepresentation, deceit or duress.

(22) Having disciplinary action through final board or agency action taken against one's credential in another jurisdiction.

(23) After a request by the department, failing to cooperate in a timely manner with the department's investigation of a complaint filed against the credential holder. There is a rebuttable presumption that a credential holder who takes longer than 30 days to respond to a request of the department has not acted in a timely manner.

(24) Providing private detective services to a client in any situation where the exercise of the private detective's independent professional judgment on behalf of a client will be or is likely to be adversely affected.

(25) Providing services to 2 clients when the provision of services to one client directly and adversely affects the interests of the other client without the knowledge and written consent of the clients.

History: Cr. Register, October, 1988, No. 394, eff. 11-1-88; am. (2) and (12), cr. (12m), Register, December, 1994, No. 468, eff. 1-1-95; am. (intro.), (1), (2), (3), (10), (13), (17), (19), (22) and (23), r. and recr. (12m) and cr. (24) and (25), Register, November, 1997, No. 503, eff. 12-1-97; am. (1), cr. (4m), Register, January, 2001, No. 541, eff. 2-1-01; correction in (12m) made under s. 13.93 (2m) (b) 7., Stats., Register November 2007 No. 623; correction in (3), (9), (12m), (13) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671; **CR 20-021: am. (4m) Register July 2021 No. 787, eff. 8-1-21.**

SPS 35.02 Discipline against agency for private detective violations. The department may take disciplinary action against a licensed private detective agency for violations of chs. SPS 30 to 35 committed by licensed private detectives or

security persons employed by the agency.

History: Cr. Register, October, 1988, No. 394, eff. 11-1-88; correction made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

SPS 35.03 Effect of suspensions, revocation or nonrenewal of agency license on agency employees.

(1) Suspension, revocation or nonrenewal of an agency license shall terminate private detective or private security personnel activity by all employees of the agency.

(2) A credential holder employed by an agency whose agency license is suspended, revoked or not renewed by the department may transfer employment to another agency, provided that the private detective or private security person was not a party to the act or course of conduct which caused the suspension, revocation or nonrenewal of the agency license of the former employer.

History: Cr. Register, October, 1988, No. 394, eff. 11-1-88; am. (2), Register, November, 1997, No. 503, eff. 12-1-97.