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STATE SENATOR · 5TH DISTRICT

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May 26, 2021

TO: Members of the Senate Committee on Insurance, Licensing and Forestry

FR: Senator Dale Kooyenga

RE: Support for SB 232 – Allowing the Department of Safety and Professional Services to issue provisional credentials

Thank you for holding a hearing on Senate Bill 232. This bill is designed to address some of the key reasons why applications for professional credentials get delayed, which can leave people unable to work in their chosen field.

The application process can sometimes take weeks or months. In the meantime, aspiring professionals are left in limbo, unable to perform the jobs for which they've been trained. This hurts businesses by sidelining new hires, especially a concern since 92% of businesses with openings can't find qualified workers, according to the NFIB. It also hurts workers—especially lower income workers—who are unable to earn a living in their profession.

If the state is going to require credentialing for certain occupations, it should also provide a way for professionals to get to work while they wait for their permanent license to be approved. To accomplish that goal, this bill gives DSPS and its credentialing boards the ability to promulgate rules creating a provisional status for professional licenses.

Under this bill, the Department and its credentialing boards could grant provisional licenses that would permit an applicant to work while their application for a permanent credential is considered. The provisional status will then be lifted upon approval or the credential will immediately expire in the rare instance of a denial.

The criteria for granting provisional licenses will be up to the department's rule making process. Credentialing boards can opt to promulgate their own rules that may be stricter and more narrowly tailored, and rules promulgated by boards will supersede the department's rules for credentials under the board's purview. The processes for approving credentials for people working in the occupational trades are not affected by this bill.

This bill will mitigate the impact of bureaucratic backlogs on many qualified applicants' ability to get to work in their professional field without undue delay and make a real difference in the lives of people who are trying to advance in their professional career.

Thank you for hearing SB 232. I respectfully ask for your support.



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May 26th, 2021

Chairperson Felzkowski and Senate Insurance, Licensing, and Forestry Committee Members,

Thank you for holding a Public Hearing on SB 232 related to allowing the Department of Safety and Professional Services and credentialing boards to grant credentials with provisional status.

This bill is simply focused on getting folks into work. Too often individuals who have gone through all the necessary educational steps and applied to receive their professional license are being sidelined due to bureaucratic red tape.

SB 232 provides an opportunity for individuals to receive a provisional license after their initial application while they wait for the final approval of their application. The provisional license would be issued by DSPS or the relevant credentialing board.

We need to ensure that folks navigating government are able to provide employers some guarantee that they can start work today while they wait for the application to be approved. I know I have heard from constituents in my district that they have completed all the relevant coursework, have applied for the license, have even been offered a job, but cannot start because the agency is still reviewing their application months and months later. We simply cannot allow that to continue.

Wisconsin, like many states, is facing a worker shortage. People are looking for opportunities to learn new skills and get into the workforce in new ways. Many individuals are moving across state lines to find new work or to connect to different labor markets. Often those individuals, professionals, who are ready to work on day one, are being caught up in lengthy waits and unable to fully participate in the workforce in their new state or community. SB 232 is just one piece to address the larger workforce development issues facing our state.

I am aware that several groups have concerns at it relates to this bill and I am happy to work with those stakeholders and Senator Kooyenga to address those issues and find a compromise that can move this bill forward.

I appreciate your consideration of this bill and I would be happy to answer any questions you may have.



To: Senate Committee on Insurance, Licensing and Forestry
From: Cori Lamont, Senior Director of Legal and Public Affairs
Date: May 26, 2021
RE: SB 232/ AB 217 – allowing provisional license status at DSPS

The Wisconsin REALTORS® Association (WRA) opposes SB 232/ AB 217, allowing the Department of Safety and Professional Services (DSPS) to issue provisional licenses.

Background

While some professions may be heavily regulated by federal laws, thus making it easier to move from state to state, real estate transactions, along with the obligations and privileges surrounding real estate licensees, are different in Wisconsin than in other states. Therefore, real estate licensees hold a unique license at DSPS and should be excluded from this bill for the following reasons:

Real estate is unlike other professions regulated by the DSPS.

- **No other profession regulated at DSPS has the same authority.** Wisconsin real estate licensees have a limited capacity to practice law. This authority has been acknowledged and granted under statute Wis. Stat. § 452.40 as an exception under Supreme Court Rule Chapter 23 Unauthorized Practice of Law and by the Wisconsin Supreme Court in *State ex rel. Reynolds v. Dinger* in 1961. Accordingly, real estate licensees are permitted, with established parameters in law, to draft real estate contracts on behalf of others in the single largest investment in an individual's lifetime. Additionally, it would be harmful to interrupt a consumer's transaction because the state has now denied a license after granting a provisional license.
- **Regulation of Wisconsin real estate licensees is Wisconsin specific.** Wisconsin real estate licensees must use state-approved (WB) forms by completing the blank lines, using additional provisions and addenda for the purpose of accomplishing the objectives of the party in a specific real estate transaction. When a WB form is not available, Wisconsin law provides specific direction as to the practice. Lastly, Wisconsin statute and administrative code allows real estate licensees to provide a general explanation of approved forms.
- **Real estate licensees have access to homes, businesses, and other potential personal and business information.** Since real estate licensees have this access, they should be properly vetted before receiving a license.

Wisconsin is currently experiencing close to historic highs for real estate licenses¹ and is not experiencing significant delays in application processing. Economic development concerns relating to licensure delays resulting in fewer people becoming licensed is not applicable to Wisconsin real estate license applicants. Further, DSPS typically processes real estate licenses within 7-10 business days, and often quicker.

¹ licensed nurses 129,283; licensed medicine and surgery 29,686; and licensed real estate salesperson and broker 24,849.
<https://dps.wi.gov/Credentialing/General/LicenseCounts.pdf> as of 4.29.21.



MEMORANDUM

TO: Members of the Senate Committee on Insurance, Licensing and Forestry

FROM: Emily A. Micolichuk, PE, President, Wisconsin Association of Professional Agricultural Consultants (WAPAC)

DATE: May 26, 2021

RE: Opposition to SB 232, DSPS Credentialing Boards to Grant Credentials with Provisional Status

The Wisconsin Association of Professional Agricultural Consultants (WAPAC) was formed in 1987 to provide a unified voice for professionals advising farmers in Wisconsin.

WAPAC's diverse membership includes crop consultants, animal nutritionists, farm managers, educators, engineers and a wide array of farm service industry advisors, giving the Association many sources of experience from which to draw for problem solving.

WAPAC is opposed to SB 232 because it would permit an applicant for a professional engineering license (Registered Professional Engineer) to work under a "provisional license" while his or her application for a permanent credential is evaluated.

We believe that issuing a "provisional license" for professional engineers would both cause confusion and also pose potential public health and safety risks. For example, specifically with regard to agricultural projects, an engineer with provisional credentials could design a waste storage facility. If the license is later denied and the waste storage was constructed in the meantime, then that would raise concerns as to the integrity of the storage and whether it was a potential groundwater contamination source. Similar examples could be made for other barn and farm structural designs, wastewater treatment facilities, etc.

Additionally, this legislation will have no effect a person's ability to work as an engineer while they are waiting to be licensed as a professional engineer. In contrast, we expect engineers to work before applying for a license. One of the requirements for receiving a Professional Engineering license is experience. Under current law, a person does not need to have a professional engineering license to *work* in the engineering field. In fact, "junior engineers" or Engineers in Training (EIT) work under the guidance of a Registered Professional Engineer (PE). A person does not need a license to be employed as an engineer. A person needs a professional engineering license to certify designs/plans.

Thank you for your consideration of our comments on SB 232.



National Association of Social Workers

NASW WI TESTIMONY FOR INFORMATION PURPOSES ON SENATE BILL 232 PRESENTED BY MARC HERSTAND, EXECUTIVE DIRECTOR

Chair Felzkowski and members of the Senate Committee on Insurance, Licensing and Forestry. I appreciate the opportunity to speak regarding Senate Bill 232. I want to thank Senator Kooyenga for drafting this bill.

For the last 28 years I have served as the Executive Director of the National Association of Social Workers, Wisconsin Chapter. Throughout this period I have monitored the operations of the Department of Safety and Professional Services, formerly the Department of Regulation & Licensing. I have also taken numerous phone calls over the years from frustrated out of state licensed clinical social workers who experienced great difficulty getting licensed in a timely manner in Wisconsin. There are a number of reasons for the length of time it takes for out of state clinical social work licensees to get licensed in Wisconsin. First we do have slightly higher requirements for clinical licensure than some other states. It can take time for the out of state licensee to verify that they meet our requirements. In terms of different requirement for different states, our national office has just started work on a state "compact" proposal, which would provide uniformity in state requirements and allow clinical social workers moving from one state to another state to very quickly get licensed. I expect to be working on legislation to implement this compact, likely with some adjustments to our requirements, in the future.

However a bigger issue affecting the time it takes someone to get licensed in Wisconsin is the understaffing of the Department of Safety and Professional Services, along with their antiquated computer equipment. As you may be aware, DSPS is funded by licensee fees, not general purpose revenue. In conversations I have had with various DSPS administrators and staff over the years, I have learned that they bring in more than enough money to be able to hire adequate staff to handle all the calls and emails they receive in a timely manner, but they do not have position authority to hire the staff they need. They also have the money, which they are not allowed to spend, to upgrade their antiquated computer system. About five or six years ago I spoke with the one staff person at that time handling social work applications from out of state applicants. She felt completely overwhelmed and she said he was at least six weeks behind in responding to emails and phone calls. I understand that providing DSPS with position authority to hire staff they need to process applications in a timely manner and to upgrade their computer system is being considered as part of the state budget this year. If this position authority and authority to upgrade their computer system is granted I believe the wait time for licensure will be significantly decreased.

In the meantime I believe a bill such as SB 232 that provides a provisional licensure status can be helpful to out of state applicants. Any such bill however, must include a background check for out of state licenses prior to this provisional status being granted and for social work applicants it needs to include passage of the state jurisprudence exam, to ensure these practitioners understand Wisconsin law. In terms of provisional licensure for initial applicants, we already have a temporary license for the social work profession, which fulfills the same purpose. It does require that applicants take the state jurisprudence exam in order to get this temporary license.

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N A S W • W I S C O N S I N C H A P T E R

National Association of Social Workers

I do appreciate the work of Senator Kooyenga and others on this bill. I believe that this bill, along with providing DSPS with position authority and authority to upgrade their computer system will make a big difference for social work applicants coming from other states.

I am happy to answer any questions from committee members.



May 26, 2021

Senate Committee on Insurance, Licensing and Forestry
Public Hearing: Senate Bills 232 and 233

Senator Felzkowski and Members of the Committee:

Thank you for holding this hearing today and for allowing me to testify in support of Senate Bills 232 and 233, which would streamline the state's licensing process. As most of you know, the Badger Institute has over the years conducted research and told stories of many people affected by the state's burdensome licensing process and requirements. Too many times, we've heard that Wisconsinites who simply want to work are either turned away or forced to wait – losing significant income while enduring stress, discouragement and confusion – before they can obtain a license to enter or return to their desired field.

Licensing impacts nearly a fifth of Wisconsin's workforce, more than one million aspiring workers who are required to seek government permission slips in the form of licenses, certifications, registrations or permits. These bills would make it easier for qualified professionals to get licensed and get to work sooner in Wisconsin.

Specifically, SB 233 would give the Department of Safety and Professional Services (DPS) the authority to recommend granting or denying an application for licensure to the respective licensing board. If DPS recommends approving the application, the board has 10 days to act, or the application is automatically approved.

In our report, *Absence and Violation*, we found that most of Wisconsin's licensing boards very rarely meet – sometimes only quarterly or less. When the boards do meet, much of their activity often takes place in private or closed session. Speeding up and opening up this process by requiring a licensing board to act quickly after a recommendation from DPS would alleviate some of the pressures placed on licensing boards. More importantly, it would eliminate weeks, even months, of waiting for people who just want to get to work.

SB 232 would allow DPS to grant a temporary license to certain applicants so that they can practice in their desired field and earn a living while the application is reviewed. These applicants would follow the same laws and procedures as their peers working in the same field. If their application is ultimately approved by DPS, the temporary status is removed, and they're required to simply renew their license based on the credential's requirements. If DPS determines they're not eligible to practice in their field, the temporary license immediately expires.

I encourage you to read an article I wrote last year about Meggan Thompson, a licensed clinical social worker who moved here with her family from California. I believe Meggan would have benefited from this proposed legislation. She moved to Wisconsin with her family in pursuit of a better quality of life and lower cost of living. She earned a master's degree in social work from the University of Southern California (USC), practiced in the field and teaches online courses at USC.

But she had to wait more than a year to get her license in Wisconsin. No one should have to forgo a year of income or the ability to practice their profession because of hurdles imposed by the state or rules established by those already practicing in the field. We should be making it easier, not harder, for people like Meggan to live and work in our state.

Thank you for holding this hearing today and for considering these important bills. I'm happy to take any questions.

Julie Grace
Policy Analyst, Center for Opportunity
Badger Institute



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Testimony on Senate Bills 232 & 233

Senate Committee on Insurance, Licensing, and Forestry

May 26, 2021

Thank you Chairwoman Felzkowski, Vice-Chairman Stafsholt, and members of the Senate Committee on Insurance, Licensing, and Forestry for accepting my testimony in favor of Senate Bills 232 and 233 today. Additionally, I would like to thank Senator Kooyenga and Representatives Horlacher and Petryk for authoring these important pieces of legislation.

WILL has previously conducted research on the effects of occupational licensing laws in Wisconsin and has found that state barriers lead to [lower employment in licensed professions](#); and, that licensing laws had no [discernible effect on safety](#) in specific professions. In 1950, just 1 in 20 workers required a license to work. Today, close to 1 in 4 Wisconsin workers require a license to practice their profession. Such licensing pathways have many unintended and harmful effects on individuals, especially those in lower income positions, despite widespread empirical evidence from scholars across the political spectrum.

Senate Bills 232 and 233 would represent an important step in streamlining the license issuance process in Wisconsin. With businesses around the state looking for workers, the timing is more important than ever to address potential logjams that prevent people from pursuing their profession in a timely manner. Currently, potential licensees must often wait for a credentialing board to take action before they are able to work. Some boards, meet quite infrequently, which can often exacerbate the delays that licensees experience. For example, the Auctioneer Board meets quarterly. So, any issues that arise with licenses would force applicants to wait for significant period of time before working.

Senate Bill 232 creates a process for the Department of Safety and Professional Services (DSPS) to issue temporary provisional licenses for individuals going through their initial licensure process. Backlogs for processing of initial licenses have been well documented and this bill offers a simple solution to the problem. Allowing an otherwise qualified to practice in the profession makes sense at this time. However, the legislature should continue to explore removing unnecessary, burdensome barriers that serve little purpose to protecting public health and safety.

Senate Bill 233 allows a credentialing board to delegate their authority to issue credentials to DSPS. This move is advisable because the department has the ability and capacity to process

credentials in a timelier manner than credentialing boards that do not meet as regularly. This allows workers to gain employment without unnecessary delay. The vast majority of applicants have no issues with their application, so waiting for a board to act is unnecessary. Furthermore, having the request approved by the tenth day (at the very latest) ensures applications are efficiently processed. Considering the impact the pandemic has had on employment in Wisconsin, it would be in the state's best interest to pass both these bills. Thank you for your time.

Kyle Koenen
Policy Director
Wisconsin Institute for Law & Liberty



Wisconsin Society of Radiologic Technologists

5/26/2021

Dear Chairperson Senator Felzkowski, Vice Chair Senator Stafsholt, and all members of the Committee on Insurance, Licensing and Forestry,

Please accept this testimony for the hearing on SB 232 from the Wisconsin Society of Radiologic Technologists. Thank you for the opportunity to comment on this important legislation.

The Wisconsin Society of Radiologic Technologists (WSRT) is the professional organization of radiologic technologists in the state of Wisconsin, and an affiliate of the American Society of Radiologic Technologists. Radiologic Technologists are the gatekeepers of Standard of Care diagnostic imaging by providing optimum medical image quality for patients, at the lowest possible radiation exposure. The WSRT represents approximately 7,000 registered radiologic professionals and is in strong support of the licensure of radiologic technologists and issuance of permits to qualified limited x-ray machine operators (LXMO). Chapter 462 of Wisconsin State Statutes was enacted in 2010 to ensure that patients receive only safety-conscious, cost-effective, and quality radiologic imaging throughout the state.

Wisconsin is fortunate to have a robust network of educational programs in radiologic technology to meet the needs of its patients. Various technical colleges and universities articulate with hospital sites throughout the state to fulfill the didactic and clinical requirements of the rigorous program. Students are prepared to become credentialed professionals by passage of the American Registry of Radiologic Technologists (ARRT) examination. Once credentialed by the ARRT, the individual is eligible to apply for their Wisconsin license, validating their competency in this essential health care role. Recently, the ARRT initiated a process for ensuring on-going technologist proficiency on a long-term basis, through its new Continuing Qualifications Requirements (CQR). This ARRT program will continue to serve Wisconsin's patients with the support of the WSRT and our state licensing process.

The radiologic technologists of Wisconsin rely on the Department of Safety and Professional Services (DSPS) to process license applications on a timely basis to be part of the health care workforce. The WSRT is cognizant of challenges experienced by some applicants having been queried for information and advice in obtaining their licenses. It is not clear as to why some requests have been in the system for prolonged periods of time. With this in mind, the WSRT is in general approval of SB 232 with the following considerations:

- The bill requires DSPS to draft rules to set up a process for creating a "provisional license" or people who have applied for a license, but are awaiting final approval.
- The bill allows individual credentialing boards to set up their own rules related to provisional licenses that would supercede DSPS rules. The WSRT recognizes that its own Radiography Examining Board and the individual credentialing boards of all licensed professions can best make pertinent decisions about their own professions and personnel.

- SB 232 must recognize that each provisional applicant satisfy the eligibility requirements set forth in Chapter 462. A provisional license credential holder will be held to the same laws and procedures that otherwise apply to the credential, including professional discipline which the WSRT is in support of.
- According to proposed statues 440.77 (3)(b), it is stated that “ a credential with provisional status is not subject to renewal until a determination is ultimately made to approve the application and the provisional status is removed.” It is not favorable to the patient population of Wisconsin that administration of ionizing radiation be performed by anyone other than a person adhering to the standards outlined in Chapter 462. Chapter 462 was created to place no onerous additional state requirements upon applicants to qualify for the radiologic technologist license credential. The WSRT advocates that provisional credential applications be reviewed on a prompt basis to ensure that no substandard patient care takes place while approval is pending. In addition, SB 232 must ensure that should a provisional credential be denied, proper communication of the expired provisional credential must be made to the individual and employer(s) of the individual for protection of the patients of Wisconsin. A disparate group of persons performing radiologic procedures subject to alternate credential approval and renewal timelines should not be inadvertently created through SB232 and any other proposed legislation.

It is suggested that the state explore digital methods of processing applications that may help to streamline approvals instead of the physical mail and manual entry methods currently in place. The WSRT believes that licensure promotes protection of Wisconsin’s patients through review by the DSPS and the Radiography Examining Board, guided by reasonable legislative provisions.

Respectfully submitted,

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