

POLICIES AND PROCEDURES
OF THE
WISCONSIN STATE LABORATORY OF
HYGIENE BOARD

11/30/06

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POLICIES AND PROCEDURES OF THE LABORATORY OF HYGIENE BOARD

ARTICLE 1 - Authority and Purpose

- §1.01 *Organization.* The Laboratory of Hygiene and the Laboratory of Hygiene Board are created in the University of Wisconsin System under Section 15.915(2), Wis. Stats.
- §1.02 *Policy.* The Policies and Procedures of the Laboratory of Hygiene Board are intended to set forth the Board's organization and statutory functions. It is the responsibility of the Board to operate at all times in conformity with applicable state laws and administrative rules.
- §1.03 *Supremacy of law.* Except as provided in §6.07, the Policies and Procedures of the Laboratory of Hygiene Board may not be suspended by the Board; but should any procedure be inconsistent with state law or administrative rules, the procedure shall, to the extent of such inconsistency, be deemed invalid.

ARTICLE 2 - Definitions

In these *Policies and Procedures of the Laboratory of Hygiene Board* --

- §2.01 "Appointing Authority" means the person authorized under Section 15.915(2)(a) and (b), Wis. Stats., to designate or appoint a member to the Board.
- §2.02 "Board" means the Laboratory of Hygiene Board.
- §2.03 "Chairperson" means the Chairperson of the Board.
- §2.04 "Director" means the Director of the Laboratory of Hygiene.
- §2.05 "Laboratory" means the Laboratory of Hygiene.
- §2.06 "Procedures" mean the *Policies and Procedures of the Laboratory of Hygiene Board*.
- §5.05(b) "Government Board Members" are defined as: the Secretary of Health and Family services, the Secretary of Department of Natural Resources and the Secretary of the Department of Agriculture, Trade and Consumer Protection, the President of the University of Wisconsin System, or their designees, the medical examiner or coroner representative and the local health department representative.

§5.05(b) “Private Board Members” are defined as a physician representing clinical laboratories, a member representing private environmental testing laboratories, and a member representing occupational health laboratories and two additional members.

ARTICLE 3 - Board Responsibilities

§3.01 *Statutory powers and duties.* Pursuant to Section 15.915(2), Wis. Stats., the Laboratory of Hygiene is under the direction and supervision of the Laboratory of Hygiene Board in the University of Wisconsin System. Under S. 36.25(11), Wis. Stats., the Board may:

- (a) Promulgate all administrative rules proposed for the administration of the laboratory and its statutory program responsibilities. [S. 36.25(11)(a), Stats.]
- (b) Submit Biennial Budget requests for the laboratory, reflecting joint budget planning with state agencies served by the laboratory, directly to the Department of Administration. [S. 36.25(11)(g), Stats.]
- (c) Approve the laboratory budget, establish the general laboratory fee structure, set priorities, and make final approval of laboratory resources so that the laboratory can act in response to agencies' planned objectives and program priorities. [S. 36.25(11)(a), Stats.]
- (d) Approve the six year facilities plan for the laboratory in each even numbered year and any building project requests and amendments thereto prior to submission to the Department of Administration. [S. 13.48(4), Stats.]
- (e) Determine the state public health care mission of and set the priorities for the laboratory within the fiscal limitations imposed by law and legislative appropriations. [S. 36.25(11)(a) and (f), Stats.]
- (f) Set fees for the laboratory, including:
 - 1. Imposing a fee for each test conducted by the laboratory. [S. 36.25(11)(a) and (f), Stats.]
 - 2. Charging state agencies through contractual arrangements for the actual services rendered. [S. 36.25(aa)(f), Stats.]
 - 3. Charging local units of government for services rendered by the laboratory that are outside the state public health care mission as determined by statute. [S. 36.25(11)(f), Stats.]
- (g) Upon the recommendation of the Chancellor of the University of Wisconsin-Madison, approve the appointment of the director, and such other members of the professional staff of the laboratory as are required for the administration thereof prior

to appointment by the University of Wisconsin Board of Regents. [S. 36.25(11)(e), Stats.]

- (h) Annually elect a Chairperson, Vice Chairperson and Secretary of the Board. [S. 15.07(2), Stats.]
- (i) Submit to the President of the University of Wisconsin System, upon request but not more often than annually, a report on the operation of the Board. [S. 15.07(6), Stats.]

§3.02 *Policy on contracts and agreements.* Sections 3.02-3.07 are created by the Board in order to carry out its responsibilities under S. 36.25(11)(a), *Wis. Stats.*, to "...set fees, set priorities and make final approval of laboratory resources...", and its authority under S. 36.25(11)(f), *Wis. Stats.*, to "...impose a fee for each test conducted by the laboratory" Any test conducted for a local unit of government is exempt from the fee unless the test is outside the state public health care mission or is required under 42 USC 300f to 300j, as determined by the laboratory of hygiene board. The laboratory may charge state agencies through contractual arrangements for the actual services rendered." (Appendix 1)

§3.03 *Basic agreements.* No later than the first meeting of the Board in each fiscal year, the Board shall approve a basic services agreement with the Department of Natural Resources and the Department of Health and Family Services respectively for that fiscal year. Absent an approved basic services agreement, the laboratory and agency shall proceed on a "continue to operate" basis.

§3.04 *Director's contract authority.* Except as provided in §3.06, the Director may negotiate and enter into the following contracts:

- (a) All contracts for services with the Department of Natural Resources or the Department of Health and Family Services which are issued pursuant to the basic services agreement with that agency.
- (b) All other contracts for services with state agencies or municipalities under S.36.25(11)(b) *Wis. Stats.*; with federal government agencies, governmental agencies in other states, and educational institutions provided that:
 - 1. The services are consistent with the Laboratory's mission as approved by the Board, and
 - 2. The contracts do not exceed the Board approved budget for the Laboratory by more than 10%.
- (c) Any non-policy amendment or addition to the basic agreements under §3.03.
- (d) All contracts for purchase of supplies, services, and permanent property that are within budget appropriations and the budget resource allocations approved by the Board.
- (e) All contracts with private entities and corporations, or other organizations and businesses that wish to contract with the WSLH for services, provided that:

1. The price for service is at or above the fee in the current fee schedule, or
2. Custom lab work, not listed in the fee schedule, is priced at or above full cost when using the new work volume.

(f) Contracts that relate to normal administrative operations and for which the University of Wisconsin provides oversight. Examples include, but are not limited to: pre-qualifying orders intended to stipulate the WSLH's quality assurance program or business standards, Memoranda of Agreement for management of electronic access to WSLH data, HIPAA business associate agreements, and consulting agreements for limited term services from persons with specialized skills (strategic planners, *locum tenans*).

§3.05 *Contract report to Board.* A list including brief description of all contracts executed under §3.04(a), §3.04(b), §3.04(c) and §3.04(e) shall be reported to the Board at its first meeting after said action. The description shall include name, period, and amount of the contract, as well as the name of the entity with which the Lab is contracting. If upon review at that meeting, the Board decides to set aside future contracts for certain programs or types of services and upon enactment of a specific motion detailing the constraints the Board wishes to impose, the Director shall not authorize such future contracts until approval is granted for each on a case-by-case basis under §3.06.

§3.06 *Board approval required.* The Director shall seek Board approval for all of the following contracts prior to execution (See Appendix 2 for sample form.):

- a. Any contracts for services or purchases that are not covered by §3.03 or §3.04.
- b. Any contract type identified by the Board under §3.05 for separate consideration and approval.
- c. Any contract which the Director feels may present either public policy or private competition questions which should be resolved by the Board.

§3.07 *Emergency contract approval.* The Chairperson may convene a three-person committee, consisting of him or herself, one private member and one government member, as defined under §6.16 of these *Procedures* to consider any contracts from entities which the Director determines must be approved prior to the next Board meeting.

§3.08 *Policy on setting fees:* As described in §3.01(f) the Board shall approve a fee schedule which delineates the fee charged to customers for tests provided to the private sector. The Board has developed the Principles that the Laboratory Director will follow in setting annual test prices for the Laboratory. These principles are codified in these Policies and Procedures as Appendix 1. The Laboratory Director is then empowered to authorize test price increases that are in line with the Principles and needs to get Board approval for test price changes that are exceptions to the Principles.

ARTICLE 4 - Structure

§4.01 *Membership.* The Board consists of eleven members serving ex-officio or selected as follows:

- (a) Ex-officio members or designees: The President of the University of Wisconsin system, the Secretary of Health and Family Services, the Secretary of Natural Resources and the Secretary of Agriculture, Trade and Consumer Protection, or their designees. *[S.15.915(2)(c), Stats.]*
- (b) Department appointees: The President and the Secretaries enumerated in §401(a) may appoint, in addition to their designees, an "alternate representative" who in their absence and the absence of their designees at a board meeting will fully participate and exercise full voting rights on behalf of the agency. *[S.15.915(2)(b), Stats.]*
- (c) Governor's appointees: A representative of local public health agencies who is not an employee of the Department of Health and Family Services, a physician representing clinical laboratories, a member representing private environmental testing laboratories, a member representing occupational health laboratories and three additional members, one of whom shall be a medical examiner or coroner, appointed for 3-year terms. No member appointed under this paragraph may be an employee of the Laboratory of Hygiene. *[S.15.915(2)(b), Stats.]*
- (d) Ex-officio member without vote. The Director of the Laboratory, who shall serve as a nonvoting member. *[S.15.915(2)(c), Stats.]*

§4.02 *Committees in general.*

- (a) The Board may by motion or resolution establish such special committees as may be necessary and shall determine the size, membership and responsibilities of such committees consistent with these procedures. Special committees may include members of the Board or other citizens.
- (b) All committees shall report and be accountable to the Board. The Chairperson shall appoint all committees, with the advice of the Board and the Director, and shall name the chairperson of each committee. Each committee chairperson shall appoint a secretary.
- (c) Appointments to all committees shall be for terms ending as of the next Annual Meeting unless otherwise provided by the Board. Members so appointed shall hold office at the pleasure of the Board or until their successors are appointed and qualified.
- (d) The chairperson of each committee shall preside at all meetings thereof and

otherwise perform the usual duties of said office. The secretary of each committee shall keep the minutes of each meeting and perform other duties as requested by the committee chairperson.

- (e) The Director shall provide the necessary staffing for each committee, including issuance of meeting notices, preparation of agendas, and recording of minutes.
- (f) All committee meetings shall be conducted in accord with Article 6.

§4.03 *Resignations.*

- (a) All resignations from the Board shall be in writing addressed to the appointing authority, with copies to the Chairperson of the Board and the Director.
- (b) All resignations as a Board officer or committee member shall be in writing addressed to the Board Chairperson with a copy to the Director, except that the Chairperson shall resign to the Secretary.
- (c) All resignations shall take effect upon receipt unless another date is specified therein.

§4.04 *Vacancies.* Vacancies in a Board or committee position shall occur upon the death, resignation, disqualification or removal of the officeholder. Vacancies in all elected or appointed positions shall be filled for the remainder of the unexpired term in the same manner as the original election or appointment. Vacancies in designee positions under §4.01(a) shall be filled by the respective appointing authority in accord with §4.02(b).

§4.05 *Official oath.* Each member of the Board shall take and file the official state oath prior to assuming office. *[S.15.07(7), Stats.]*

ARTICLE 5 - Officers and Duties

§5.01 *Officers.*

- (a) Board officers shall consist of the Chairperson, Vice Chairperson and Secretary, who shall be elected by and from the Board at the Annual Meeting for one (1) year terms, or until their successors are elected and qualified.
- (b) No Board member may hold more than one office as defined in §5.01(a) at the same time, nor may a non-voting member be elected as Board Chairperson.
- (c) Election for each office shall be by secret ballot, except in the event that only one candidate is nominated, election shall be in accord with §6.11. *[S. 15.07(2), Stats.]*

§5.02 *Chairperson.* The Chairperson shall preside at all meetings of the Board and shall be the principal officer of and spokesperson for the Board. Subject to the direction of the Board, the Chairperson shall see that the resolutions and directives of the Board are carried into effect except in those instances in which that responsibility is assigned to some other person by the Board; and, in general, shall discharge all duties incident to the office of Chairperson and such other duties as may be prescribed by the Board. The Chairperson may execute such resolutions, rules, agreements, instruments, documents or affidavits as the Board has authorized to be executed or as may be necessary and proper to carry out the directives of the Board.

§5.03 *Vice Chairperson.*

- (a) The Vice Chairperson shall assist the Chairperson in the discharge of his/her duties and shall perform such other duties as from time-to-time may be assigned by the Chairperson or by the Board.
- (b) In the absence of the Chairperson or in the event of his or her inability or refusal to act, the Vice-Chairperson shall perform the duties of the Chairperson and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chairperson. Except in those instances in which the authority to execute is expressly delegated to another officer or the Director, or a different mode of execution is expressly prescribed by the Board, the Vice Chairperson may execute for the Board such resolutions, rules, agreements, instruments, documents or affidavits as the Board has authorized the Chairperson to execute or as may be necessary and proper to carry out the directives of the Board.

§5.04 *Secretary.*

- (a) The Secretary shall keep the minutes of the meetings of the Board in the Journal of Proceedings; see that all notices are duly given in accordance with the provisions of these procedures or as required by law; and in general perform all duties usual to the office of Secretary, and such other duties as from time-to-time may be assigned to the Secretary by the Chairperson or the Board.
- (b) During the temporary absence or disability of the Secretary, the Chairperson shall appoint an Acting-Secretary to serve during such absence or disability.
- (c) The Director shall provide clerical assistance to the Secretary in the performance of the duties of the Secretary.

§5.05 *Intent.*

- (a) It is declared to be the intent of the Board that the position of Chairperson be rotated annually among the voting members of the Board and that each successive Vice Chairperson is also, in effect, the Chairperson-elect.

- (b) It is the declared intent of the Board that the positions of Chairperson and Vice Chairperson be elected, in alternate years, from the "government" and the "private" members of the board. "Government" members are defined as: the Secretary of Health and Family Services, the Secretary of the Department of Natural Resources and the Secretary of the Department of Agriculture, Trade and Consumer Protection, the President of the University of Wisconsin System, or their designees, the medical examiner or coroner representative and the local health department representative. The "private" members are defined as a physician representing clinical laboratories, a member representing private environmental testing laboratories, and a member representing occupational health laboratories and two additional members.
- (c) The Chairperson and Vice Chairperson offices will be filled in any given year by a member from the government and a member from the private sector.
- (d) The Secretary shall prepare a ballot for the offices of Chairperson, Vice Chairperson and Secretary in accord with these policies and procedures.
- (e) The Director shall advise the board members of the historical rotation of the offices of Chairperson, Vice Chairperson and Secretary prior to the annual meeting.

§5.06 *Removal of Officers.*

- (a) Any officer may be removed from elective Board office, for cause, by the affirmative vote of two-thirds (2/3) of the Board members present and voting at any duly constituted meeting provided that the officer has been given fifteen (15) days written notice of the Board's intent to so act. "Cause" in this section has the meaning in Section 17.16(2), Wis. Stats.
- (b) Removal of an officer as provided in 5.06(a) shall not be construed to remove the member from the Board which can only be effected by the appointing authority or as otherwise provided by law.

ARTICLE 6 - Meeting Procedures

The following procedures shall be used to conduct all Board and committee meetings:

§6.01 *Open meetings.* All Board and committee meetings shall be conducted in compliance with the Open Meetings Law as specified in Chapter 19, Subchapter IV, Wis. Stats.

§6.02 *Regular meetings.* Regular meetings of the Board shall be held at least quarterly each year at a time and place determined by the Board. The Board may meet at other times at the call of the Chairperson or a majority of the members of the Board. [S.36.25(11)(a), Stats.]

§6.03 *Annual meeting.* The first meeting of each calendar year shall be the Annual Meeting of the

Board.

§6.04 *Location.* All Board and committee meetings shall be held in the State of Wisconsin. The Board should meet outside of the capital city at least once annually.

§6.05 *Notices and agendas.*

- (a) The Secretary shall ordinarily give written notice of each meeting of the Board to members personally or by mail not less than 10 days but in no case less than 48 hours prior to the date of the meeting. The notice shall include the time, date and place of the meeting, and the agenda of subject matters to be considered, in accordance with Section 19.84, Wis. Stats. Copies of any proposed administrative rules or other substantive matters to be considered shall be delivered or mailed to the Board no later than the date the notice is given. Exceptions with regard to copies of materials on other substantive matters may be granted by the Chair.
- (b) The Director shall prepare the agenda for each Board meeting in consultation with and subject to approval by the Chairperson. Board members shall notify the Director or the Chairperson of all items to be considered not less than 10 days prior to the meeting. In accordance with Section 19.84, Wis. Stats., any matter that is not included in the Board meeting notice and agenda may not be considered at that meeting.
- (c) It is the clear intent of the Board to carry out its business in such a manner as to facilitate public input on all matters affecting partners, collaborators and customers. This includes, but is not limited to, the Strategic Plan, Pricing Exercise and Policy Issues. "Policy Issues" include these "*Policies and Procedures*," interpretation of the laboratory's public health mission to include or exclude specific tests or services and interpretations of the statutes.

§6.06 *Attendance.* Board members shall make every effort to attend all of the duly scheduled meetings. Members unable to attend shall notify the Director prior to the meeting.

§6.07 *Rules of order.* The proceedings of the Board shall be governed by the most current edition of *Robert's Rules of Order, Newly Revised*, insofar as it does not conflict with applicable state laws or these procedures. The rules of order may be suspended as provided therein or upon unanimous consent of the Board.

§6.08 *Quorum.* A quorum to do Board or committee business shall consist of the presence in person or by teleconference under §6.09 of a majority of the membership of the Board or committee, respectively. [S. 15.07(4), Stats.]

§6.09 *Teleconference/Videoconference meetings.* Any Board or committee meeting may be conducted partly or entirely by telephone conference call or videoconferencing at the direction of the Board or committee chairperson, subject to the following requirements:

- (a) The meeting is conducted at the laboratory conference room or another publicly

accessible site.

- (b) Provision is made to ensure that all participating Board or committee members can hear the deliberations and can be heard by members and other persons attending at the meeting site.
- (c) All members able to attend the meeting by teleconference or videoconference are called to join the conference.
- (d) The Director has made reasonable attempt to furnish all Board or committee members and persons attending the meeting with copies of the meeting agenda and any written materials to be discussed or considered, including resolutions, contracts, policies, rules, or other proposals.
- (e) No less than two members of the Board or committee, in addition to the Director, and the person recording the meeting minutes are present at the meeting site.
- (f) A recorded vote is taken and announced on all questions at the meeting.
- (g) The public notice of the meeting under §6.05(a) indicates that the meeting may be conducted partly or entirely by teleconference or videoconference.

§6.10 *Voting.* Each voting member shall vote on all questions unless excused by the Board prior to voting for reason of a conflict of interest. A recorded vote shall be taken on every resolution, or on any other question at the request of a Board member. Proxy voting is not permitted.

§6.11 *Decisions.* All Board actions shall be upon resolution or motion duly adopted by a majority of the members present and voting, unless a greater number is required in these procedures. [S. 15.07(4), Stats.]

§6.12 *Speaking privileges.* When the Board is in session, no persons other than laboratory staff designated by the Director shall be permitted to address the Board except as hereinafter provided:

- (a) A committee report may be presented by a committee member who is not a member of the Board.
- (b) A Board or committee member, in the course of presenting a matter to the Board, may request staff to assist in such a presentation.
- (c) If a Board member directs a technical question for clarification of a specific issue to a person not authorized in this section, the Chairperson may permit such a person to respond.
- (d) The Board may, by majority vote, or by decision of the Chair allow persons not otherwise authorized in this section to address the Board if the situation warrants or

the following criteria is followed:

- (1) Written requests for public appearances on specific current agenda items shall be made to the Board Secretary no later than 2 working days prior to the meetings. The request shall outline the reasons for the request including the subject matter to be discussed in as much detail as is feasible prior to the meeting of the Board. Those requesting an appearance may, at or prior to the Board meeting, provide Board members copies of any written materials to be presented or a written statement of a position.
- (2) Individual presentations will be limited to five minutes, unless otherwise authorized by the Chairperson.
- (3) To schedule an appearance before the Wisconsin State Laboratory of Hygiene Board, contact the Board Secretary, C/O Director, WSLH, 465 Henry Mall, Madison, WI 53706. Telephone (608) 262-3911. The subject or subjects to be discussed must be identified.
- (4) The Wisconsin State Laboratory of Hygiene "Guidelines for Citizen Participation in WSLH Board Meetings" are published on their Web site: [http:// www.slh.wisc.edu/index.shtml](http://www.slh.wisc.edu/index.shtml) and printed copies are available on request. (See Appendix 5) [Section §6.12 approved 5/27/03 Board mtg.]

§6.13 *Minutes.* The minutes of each Board meeting shall be recorded by the Secretary, assisted by the laboratory staff assigned by the Director and shall include the substance of each official action of the Board and each recorded vote. Draft copies of the minutes shall be mailed or delivered to each Board member not later than the date that the notice and agenda is mailed. The Board shall correct and approve all minutes at the following meeting. Thereafter, the Secretary shall incorporate the corrections in the revised minutes, affix his/her signature, note the date of approval on the minutes and retained in a journal of proceedings. [Administrative correction.]

§6.14 *Resolutions.* Every resolution adopted by the Board shall be duly attested by the Chairperson and the Secretary.

§6.15 *Journal of proceedings.* The corrected and approved minutes of every meeting and a copy of every resolution adopted by the Board shall be recorded in a journal of proceedings which shall be kept in the office of the Director. The minutes and resolutions in said Journal shall be deemed to be the official record of Board actions.

§6.16 *Emergency Meetings of the Executive Committee:* At the request of any board member, the chairperson or if the chairperson is not available vice chairperson shall convene an emergency meeting of the executive committee of the board.

- a) The executive committee consists of the chairperson, vice chairperson, secretary and director.

- b) In the event that the chairperson or vice chairperson is not available, an additional board member from the chairperson's or vice-chairperson's respective constituency (private or government member as defined in 5.05(b)) must be present.
- c) The Director of the Laboratory is not a member of either constituency.
- d) The meeting may occur by telephone as outlined in §6.09 (a, b, c, d, f, g)
- e) The topic of the meeting is limited to the emergency issue for which the meeting is called.
- f) The Secretary shall notify the board in writing as expeditiously as possible (letter, fax or e-mail) of the meeting and all actions taken.
- g) This section recognizes the fact that the Director may hold the office of Secretary.
- h) In the event of situation in which the executive committee cannot be convened in a timely manner, the director is expected to take appropriate emergency action and report to the chairperson and/or vice-chairperson at the earliest opportunity.

ARTICLE 7 - Approval of Administrative Rules

§7.01 *Drafts.* The Director shall present all drafts of administrative rules to the Board prior to proceeding with each of the regular stages of the rule making process: the University of Wisconsin administrative, Legislative Council rules clearinghouse, public hearing, and legislative standing committee stages.

- (a) The Board shall review and may modify drafts of the administrative rules at any duly scheduled meeting.
- (b) The Board shall approve, by resolution, each draft of the proposed administrative rules prior to proceeding with the next stage in the rule making process, unless otherwise determined by the Board.

§7.02 *Hearings.* The Board may conduct public hearings on administrative rules in accordance with Section 227.18, Wisconsin Statutes.

§7.03 *Promulgation.* The Board may promulgate rules in areas within its jurisdiction under Section 36.25(11)(a), Wis. Stats., in accord with this Article and Chapter 227, Wis. Stats.

ARTICLE 8 - Code of Ethics/Standards of Conduct

§8.01 *Ethics Code.* The conduct of members of the Board is governed by the provisions of Subchapter III of Chapter 19, Wis. Stats., *Code of Ethics for Public Officials and Employees.*

- (a) Board members appointed by the Governor under §4.01(c) are not required to file a statement of economic interests under Section 19.43, Wis. Stats. [S. 19.42(10), Stats.]
- (b) The members serving under §4.01(a) and (b) are subject to S. 19.42(10), Wis. Stats. [S. 19.42(10) and S. 19.43, Stats.]

§8.02 *Disclosure.* If any of the conditions involving a conflict of interest exist, a Board member shall disclose his/her interest to the Board Chairperson and Secretary and shall refrain from voting or participating in any deliberation pertaining to the issue in conflict.

§8.03 *Misuse of public position.* No member of the Board shall use his/her position to obtain financial gain or anything of substantial value for that member, a member of his/her immediate family, or an organization with which he/she is associated. [S.19.45(2), Stats.]

§8.04 *Private interest conflicts.* No member of the Board shall participate in the selection, award or administration of a contract or take any official action in a matter in which:

- (a) The Board member's action or inaction could reasonably expected to produce a substantial personal benefit for the Board member, a member of his/her immediate family, or a private organization with which the Board member is associated; or
- (c) The Board member in his/her private capacity, or a member of his/her immediate family, or an organization with which the Board member is associated has a substantial interest. [S. 19.46, Stats.]
- (d) These Policies and Procedures recognize that each member, by virtue of the fact that their appointment reflects representation of a particular government or private sector constituency on the Board, continuously face, to some degree, a conflict of interest. These Policies and Procedures specifically recognize, in addition to Chapter 19, Stats., specific rulings of the Ethics Board, December 3, 1996, which address this issue. (Appendix #4)
- (e) Members of the Board are to advise the Chairperson or Vice Chairperson and Secretary of potential conflict of interest situations, whenever possible, in advance of such issues being brought to the Board Agenda.

§8.05 *Restraints on receipt of items of value.* In general, no member of the Board should accept any of the following items:

- (a) Any item or service of more than nominal value offered because of the person's holding a state public office. [S. 19.45(2), Stats.]

- (b) Any food, drink, transportation, or lodging except when offered for a reason unrelated to the recipient's holding or having held *any* public position and the recipient can demonstrate that clearly and convincingly. [Ss. 19.45(3m) and 19.56(3)(b), Stats.]
- (c) Any food, drink, transportation, lodging, employment, or thing of pecuniary value from a lobbyist, either directly or through an agent. [S. 13.625(1)-(3), Stats.]
- (d) Any food, drink, transportation, lodging, or thing of pecuniary value from an organization that employs a lobbyist except for items and services also made available to the general public on like terms and conditions. [S. 13.625, Stats.]
- (e) Any transportation or traveling accommodation for which the supplier would usually charge. [S. 946.11, Stats.; Article 13, S. 11, Const.]

ARTICLE 9 - Amendments to the Policies and Procedures

- §9.01 *Proposals.* Amendments may be proposed to the Board by any member in the form of a written resolution.
- §9.02 *Copy distribution.* Written copies of all proposed amendments shall be furnished to each member of the Board at least ten (10) days prior to consideration.
- §9.03 *Adoption.* Adoption shall require approval of the resolution incorporating the amendment(s) by the recorded vote of two-thirds (2/3) of those voting members present at any meeting of the Board duly called for that purpose.
- §9.04 *Effective date.* Amendments shall take effect on the day following adoption unless another date is specified therein.
- §9.05 *Engrossed copy.* Following adoption of an amendment to the Procedures, the Director shall prepare an engrossed copy of the procedures incorporating the amendment(s) which shall be duly attested by the Secretary.

I HEREBY CERTIFY that the foregoing is a duly engrossed copy of the Policies and Procedures of the State Laboratory of Hygiene Board, including Appendices [Administrative correction], as approved by Motion. Adopted on January 25, 2007.

ATTEST:

Chairperson-2006, Michael Russell, Chairperson

Secretary, Charles Brokopp, Dr. P.H.

Dated in Madison, Wisconsin this _____ day of _____, 2006.

APPENDIX 1

Revised Pricing Principles as Approved at the September 26, 2000 Board Meeting

1. To price tests provided to the Private Sector⁽¹⁾ at least cover all costs (direct, indirect and full overhead) except where the test is priced below cost because of its public health significance and/or the need for the WSLH to maintain the capability and capacity to do this testing. Examples are tuberculosis testing, cultures referred for further identification, and complex virus testing.
2. To price tests at or above Medicare reimbursement rates, except where that is in conflict with Principle One above.
3. To price tests comparatively with the private sector providers when private sector prices are reasonably available, except where that is in conflict with Principle One above.
4. To continue to do detailed cost accounting internally in order to appropriately price, following the above principles, the 20% of the tests that generate 80% of the volume.
5. Bi-annual price increases will take into account increased expenses. Pricing information will be provided to the Board in a timely manner.
6. Board members may inquire about individual test costs outside of Board meetings. If the tests appear to be outside the parameters of (or not meeting) the established pricing principles, they can request discussion or specific approval by the Board. Where WSLH staff is aware that a test does not meet the Pricing Principles, the staff will bring the test to the attention of the Board.
7. To approve test prices, Board members will be provided a list of all tests recommended for pricing below cost and a brief justification for pricing below costs.
8. The Wisconsin State Laboratory of Hygiene will bring pricing changes to the Board for implementation in even numbered years, except where changes in test inputs (labor, supplies, capital) affect costs in a substantive way and would suggest that a pricing change be made sooner. WSLH will cost the 20% of its tests that represent 80% of its testing volume every other year, to assure that all tests are “costed” at least every four years. [approved at September 27, 2005 Board meeting.]

¹Private sector customers include hospitals, clinics, non-OSHA industrial hygiene customers, individual home/well owners, well drillers and pump installers, etc.

Appendix 2

Criteria for Approval of Contracts Under Sections 3.05 and 3.06

The WSLH Board, at the July 1994 meeting, unanimously adopted a list of specific items of information, which have been incorporated into the attached form and will be provided to the Board when reporting for information or approval contracts with the private sector.

The WSLH Strategic Direction Position Paper (SDPP): As part of the Strategic Planning Process, the SLH Administration has developed and presented to the Board our SDPP. This document incorporates elements of the WSLH's mission, vision, planning assumptions and mode of operation.

Applying the broad principles of the SDPP to the narrow issue of contracts with the private sector leads us to examine the questions to why SLH Administration might consider pursuing a particular contract. These could be termed basic assumptions:

1. The SLH and the Board are committed to taking actions which support the continuation of a full-service, state-of-the-art, central public health laboratory for Wisconsin.
2. The SLH must continue to seek sources of program revenue to meet its programming needs (including a new building) as the total GPR support does not cover programming costs.
3. The current Wisconsin State Statutes and State Administrative Rules do not prohibit SLH from providing services to, or entering into contractual agreements with, non-governmental organizations.
4. The SLH may provide any service, consistent with its unique mission, as long as revenues generated from that activity are used to support the SLH's board approved mission.
5. The Issue of "competition with the private sector" is not one of absolute prohibition rather one of unfair competition. In general, however, competition with the private sector should be avoided whenever practical.

Secretary's Note: The language in item #5 is as amended by the board. The remainder of the report, through the first sentence in item #5, is as presented in the agenda of 28, February 1995. Also, additional wording after item #5 was deleted by board action.

Appendix 3

**WISCONSIN STATE LABORATORY OF HYGIENE
CONTRACT ANALYSIS FORM
AS REQUIRED IN SECTIONS 3.05 AND 3.06 OF
THE POLICIES AND PROCEDURES OF THE BOARD**

- 1. Name and address of the contracting entity:**
- 2. Tests and/or services to be provided:**
- 3. Rationale for Board consideration (policy issue at hand):**
- 4. Fiscal Analysis (number of tests, price per test, length of contract, etc.):**
- 5. Describe any potential issues with respect to competition with the private sector:**
- 6. Impact on WSLH workload/priorities/other commitments:**

APPENDIX 4



STATE OF WISCONSIN ETHICS BOARD

James R. Morgan
Chairman
Paul M. Holzem
David L. McRoberts
Robert G. Borgwardt
Joanne R. Orr
Dorothy C. Johnson

On the capitol square at:
44 EAST MIFFLIN STREET, STE 601
MADISON, WISCONSIN 53703-2800
phone: 608/266-8123
fax: 608/264-9309
email: ethics@mail.state.wi.us

Roth Judd
Director

December 3, 1996

Edward F. Treick
S-F Analytical Laboratories, Inc.
P.O. Box 14513
Milwaukee, WI 53214

Dear Mr. Treick:

I am writing to make you aware that the Ethics Board recently received an inquiry concerning your action, as a member of the State Laboratory of Hygiene Board, in voting against approval of two contracts between the Laboratory and the Department of Natural Resources. You apparently stated the reason for your vote to be that your laboratory wished to do the testing called for in the contracts.

The Ethics Board concluded, at its meeting of November 13, 1996, that there is no basis to conclude that any action on its part is warranted. The Ethics Board's understanding is that the contracts with the Department of Natural Resources were sole source contracts and that your business did not bid for the work. We also note that, under section 15.915(2)(b), *Wisconsin Statutes*, you serve on the Laboratory of Hygiene Board as a member representing private environmental testing. In that capacity you may certainly express the views of the private sector on the State Hygiene Laboratory's activities.

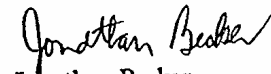
We do note that the Ethics Code may apply in other types of circumstances. The Ethics Code provides that no state public official may use his or her public position or office to obtain anything of substantial value for himself or herself or for his or her business. Section 19.45(2), *Wisconsin Statutes*. The Ethics Code also provides that no official should take any official action

Edward F. Treick
December 3, 1996
Page 2

substantially affecting a matter in which the official or his or her business has a substantial financial interest.. Section 19.46(1)(a), *Wisconsin Statutes*.

Thus, should your business, in the future, be interested in a contract with the Laboratory of Hygiene or be in competition with the Laboratory for a contract, we recommend that you not participate in any actions or decisions of the Laboratory of Hygiene Board with respect to such contracts. You should also be mindful of section 946.13, *Wisconsin Statutes*, which prohibits an official, acting in his or her private capacity, from bidding on a contract in which the official has a private pecuniary interest if, in his or her official capacity, the official is authorized to take some discretionary action with respect to the contract and the contract involves receipts or disbursements by the state aggregating more than \$7,500 in any year.

Sincerely,


Jonathan Becker
Legal Counsel

JB:jb

OR QA

Appendix 5

Guidelines for Citizen Participation at WSLH Board Meetings

The Wisconsin State Laboratory of Hygiene Board provides opportunities for citizens to appear before the Board to provide information to the Board on items listed on the agenda. Such appearances shall be brief and concise. In order to accommodate this participation in the allotted time, the guidelines are as follows:

- A. Items To Be Brought Before The Board:
 - 1. The Board Secretary and Chair will assign a specific time on the Agenda to hear public comment when a request to speak has been received from a member of the public.
 - 2. Individuals or organizations will be limited to a total of 5 minutes to make a presentation to the Board. Following the presentation, Board members may ask clarifying questions.
 - 3. An organization is limited to one (1) spokesperson on an issue.
 - 4. On complex issues, individuals wishing to appear before the Board are encouraged to submit written materials to the Board Secretary in advance of the meeting so the Board may be better informed on the subject in question. Such information should be submitted to the Board Secretary for distribution to all Board members no later than 7 working days before the Board meeting.
 - 5. No matters that are in current litigation may be brought before the Board.
- B. The Board encourages individuals to confine their remarks to broad general policy issues rather than the day-to-day operations of the Wisconsin State Laboratory of Hygiene.
- C. Citizens who have questions for Board members should ask these questions prior to the Board meeting, during any recess during the Board proceedings, or after Board adjournment.
- D. Written requests to appear before the WSLH Board should be submitted no later than 2 working days prior to a scheduled Board meeting.
- E. Submit written requests to:

Secretary to the Board
C/O WSLH Director
465 Henry Mall
Madison, WI 53706
Telephone: (608) 262-3911
Fax: (608) 262-3257

E-mail: cdb@mail.slh.wisc.edu

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