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## JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES

COMMITTEE CO-CHAIRS: SENATOR STEVE NASS AND REPRESENTATIVE JOAN BALLWEG

Motions for June 25, 2020 Executive Session:

### **Emergency Rule 2001: Workforce Development - Technical education equipment grants under the Wisconsin Fast Forward Program**

- That the Joint Committee for Review of Administrative Rules, pursuant to s. 227.24 (2), Stats., extend the effective period of an emergency rule of the Department of Workforce Development, relating to technical education equipment grants under the Wisconsin Fast Forward Program (EmR 2001 – 1st Ext.), for a period of 60 days through September 21, 2020.

### **Emergency Rule 2002: Agriculture, Trade and Consumer Protection – Residential rental practices**

- That the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26 (2) (d), Stats., suspend Emergency Rule 2002, relating to residential rental practices (Department of Agriculture, Trade and Consumer Protection), on the grounds that the emergency rule, relating to residential rental practices, lacks statutory authority and is arbitrary and capricious.

### **Emergency Rule 2002: Agriculture, Trade and Consumer Protection – Residential rental practices**

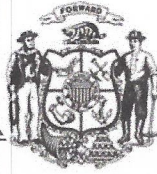
- That the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26 (2) (f), Stats., introduce LRB-6314 and LRB-6311 in the Senate and Assembly, relating to fees for nonpayment of rent and the suspension of a rule of the Department of Agriculture, Trade and Consumer protection., in support of the committee's June 25, 2020, suspension of Emergency Rule 2002, relating to residential rental practices (Department of Agriculture, Trade and Consumer Protection).

### **Emergency Rule 2007: Administration – Limited term employment and absence provisions**

- That the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26 (2) (d), Stats., suspend SECTIONS 1. and 2. of Emergency Rule 2007, relating to limited term employment and absence provisions. (Department of Administration – Division of Personnel Management), on the grounds that those parts of the emergency rule, relating to administrative leave for limited term employees, are arbitrary and capricious.

### **Emergency Rule 2007: Administration – Limited term employment and absence provisions**

- That the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26 (2) (f), Stats., introduce LRB-6316 and LRB-6302 in the Senate and Assembly, relating to paid administrative leave for limited term employees of the state and partially suspending an administrative rule promulgated by the Division of Personnel Management in the Department of Administration., in



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## JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES

COMMITTEE CO-CHAIRS: SENATOR STEVE NASS AND REPRESENTATIVE JOAN BALLWEG

support of the committee's June 25, 2020, suspension of SECTIONS 1. and 2. of Emergency Rule 2007 (Department of Administration – Division of Personnel Management), relating to limited term employment and absence provisions.

### **Emergency Rule 2009: Children and Families – DCF rule suspensions and modifications related to COVID-19**

- That the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26 (2) (d), Stats., suspend SECTION 14. of Emergency Rule 2009, relating to DCF rule suspensions and modifications related to COVID-19 (Department of Children and Families), on the grounds that section of the emergency rule, relating to changes to the child support lien docket, fail to comply with legislative intent, are arbitrary and capricious, and impose an undue hardship on custodial parents.

### **Emergency Rule 2009: Children and Families – DCF rule suspensions and modifications related to COVID-19**

- That the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26 (2) (f), Stats., introduce LRB-6315 and LRB-6304 in the Senate and Assembly, relating to certification of child support debt for the child support lien docket and partially suspending an administrative rule promulgated by the Department of Children and Families., in support of the committee's June 25, 2020, suspension of SECTION 14. of Emergency Rule 2009 (Department of Children and Families), relating to DCF rule suspensions and modifications related to COVID-19.

### **Clearinghouse Rule 19-166: Safety and Professional Services – Unprofessional Conduct**

- That the Joint Committee for Review of Administrative Rules, pursuant to s. 227.19 (5) (d), Stats., object to Clearinghouse Rule 19-166, relating to unprofessional conduct (Marriage and Family Therapy, Counseling, and Social Worker Examining Board), on the grounds that the proposed rule is arbitrary and capricious.

### **Clearinghouse Rule 19-166: Safety and Professional Services – Unprofessional Conduct**

- That the Joint Committee for Review of Administrative Rules, pursuant to s. 227.19 (5) (e), Stats., introduce LRB-6313 and LRB-6303 in the Senate and Assembly, relating to rules defining unprofessional conduct by marriage and family therapists, professional counselors, and social workers., in support of the committee's June 25, 2020, objection to Clearinghouse Rule 19-166 (Marriage and Family Therapy, Counseling, and Social Worker Examining Board).



# EXECUTIVE SESSION

## Joint Committee for Review of Administrative Rules

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The committee will hold an executive session on the following items at the time specified below:

Thursday, June 25, 2020

10:01 AM

412 East

*The executive session will begin upon completion of the public hearing.*

**EmR 2001**

Relating to technical education equipment grants under the Wisconsin Fast Forward Program (DWD).

**EmR 2002**

Relating to residential rental practices (DATCP).

**EmR 2007**

Relating to limited term employment and absence provisions (DOA).

**EmR 2009**

Relating to DCF rule suspensions and modifications related to COVID-19 (DCF).

**Clearinghouse Rule 19-166**

Relating to unprofessional conduct

**LRB-6314 / LRB-6311**

Relating to fees for nonpayment of rent and the suspension of a rule of the Department of Agriculture, Trade and Consumer protection.

**LRB-6302 / LRB-6316**

Relating to paid administrative leave for limited term employees of the state and partially suspending an administrative rule promulgated by the Division of Personnel Management in the Department of Administration.

**LRB-6304 / LRB-6315**

Relating to certification of child support debt for the child support lien docket and partially suspending an administrative rule promulgated by the Department of Children and Families.

**LRB-6303 / LRB-6313**

Relating to rules defining unprofessional conduct by marriage and family therapists, professional counselors, and social workers.

*Executive action by the committee may include any activities related to the objection of a proposed rule under s. 227.19, stats., or suspension of a rule under s. 227.26, stats., in whole or in part, and introduction of legislation to support the objection or suspension.*

*Due to the utilization of social distancing guidelines, seating in room 412 East may be limited. Members of the public may also observe the hearing in the State Capitol Rotunda or through WisconsinEye coverage available at <https://wiseye.org/>. An overflow room will be available in GAR Hall (room 417 North and 413 North).*

*06/24/2020: LRB-6314 / LRB-6311 was added to the list of items to be heard.*

*06/24/2020: LRB-6302 / LRB-6316 was added to the list of items to be heard.*

*06/24/2020: LRB-6304 / LRB-6315 was added to the list of items to be heard.*

*06/24/2020: LRB-6303 / LRB-6313 was added to the list of items to be heard.*

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Senator Stephen Nass  
Senate Chair

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Representative Joan Ballweg  
Assembly Chair





State of Wisconsin  
2019 - 2020 LEGISLATURE

EMR 2002

LRB-6314/1  
KP:skw

## 2019 BILL

1 AN ACT *to create* 100.20 (2) (c) of the statutes; **relating to:** fees for nonpayment  
2 of rent and the suspension of a rule of the Department of Agriculture, Trade and  
3 Consumer protection.

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### *Analysis by the Legislative Reference Bureau*

This bill prohibits the Department of Agriculture, Trade and Consumer Protection from promulgating a rule that prohibits landlords from charging residential tenants a fee for nonpayment or late payment of rent during an emergency declared by the governor. Current law authorizes DATCP to promulgate rules prohibiting unfair trade practices and unfair methods of competition.

The bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending ATCP 134.09 (8) (d), Wis. Adm. Code, an emergency rule of the Department of Agriculture, Trade and Consumer Protection on June 25, 2020. The suspended rule prohibited landlords from charging residential tenants a fee or penalty for nonpayment or late payment of rent during an emergency declared by the governor and during the 90 days immediately following the expiration of the emergency.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

4 SECTION 1. 100.20 (2) (c) of the statutes is created to read:

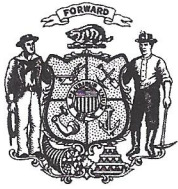
**BILL**

**SECTION 1**

1           100.20 (2) (c) Notwithstanding par. (a), the department may not issue any order  
2 or promulgate any rule that prohibits a landlord from charging a residential tenant  
3 a fee or penalty for nonpayment of rent or late payment of rent during an emergency  
4 declared under s. 323.10.

5

(END)



State of Wisconsin  
2019 - 2020 LEGISLATURE

EmR 2002

LRB-6311/1  
KP:skw

**2019 BILL**

1     **AN ACT to create** 100.20 (2) (c) of the statutes; **relating to:** fees for nonpayment  
2             of rent and the suspension of a rule of the Department of Agriculture, Trade and  
3             Consumer protection.

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***Analysis by the Legislative Reference Bureau***

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**BILL**

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3 a fee or penalty for nonpayment of rent or late payment of rent during an emergency  
4 declared under s. 323.10.

5

(END)



State of Wisconsin  
2019 - 2020 LEGISLATURE

EMR 2007

LRB-6316/1  
MIM & FFK:ahc

**2019 BILL**

1 **AN ACT relating to:** paid administrative leave for limited term employees of the  
2 state and partially suspending an administrative rule promulgated by the  
3 Division of Personnel Management in the Department of Administration.

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***Analysis by the Legislative Reference Bureau***

This bill prohibits the Division of Personnel Management in the Department of Administration from providing paid administrative leave for hours not worked to limited term employees of the state during the 2019 novel coronavirus pandemic.

The bill is introduced as required by s. 227.19 (5) (e), stats., in support of the action of the Joint Committee for Review of Administrative Rules on June 25, 2020, in suspending sections 1 and 2 of emergency rule number 2007. The bill suspends rule provisions for paid administrative leave to limited term employees for hours not worked during the 2019 novel coronavirus pandemic.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

4 **SECTION 1. Nonstatutory provisions.**

5 (1) ADMINISTRATIVE LEAVE FOR LIMITED TERM EMPLOYEES.

6 (a) In this subsection, "limited term employee" means an employee appointed  
7 under s. 230.26.







State of Wisconsin  
2019 - 2020 LEGISLATURE

EMR 2007

LRB-6302/1  
MIM & FFK:ahe

**2019 BILL**

1 **AN ACT relating to:** paid administrative leave for limited term employees of the  
2 state and partially suspending an administrative rule promulgated by the  
3 Division of Personnel Management in the Department of Administration.

---

***Analysis by the Legislative Reference Bureau***

This bill prohibits the Division of Personnel Management in the Department of Administration from providing paid administrative leave for hours not worked to limited term employees of the state during the 2019 novel coronavirus pandemic.

The bill is introduced as required by s. 227.19 (5) (e), stats., in support of the action of the Joint Committee for Review of Administrative Rules on June 25, 2020, in suspending sections 1 and 2 of emergency rule number 2007. The bill suspends rule provisions for paid administrative leave to limited term employees for hours not worked during the 2019 novel coronavirus pandemic.

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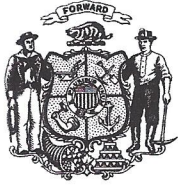
***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

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7 under s. 230.26.





State of Wisconsin  
2019 - 2020 LEGISLATURE

EMR 2009

LRB-6304/1  
SWB:ahe

**2019 BILL**

1 **AN ACT to create** 49.854 (2) (am) of the statutes; **relating to:** certification of child  
2 support debt for the child support lien docket and partially suspending an  
3 administrative rule promulgated by the Department of Children and Families.

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***Analysis by the Legislative Reference Bureau***

This bill prohibits the Department of Children and Families from preventing new child support debts from being certified to the lien docket by suspension of a threshold for certifying a child support debt for the child support lien docket.

The bill is introduced as required by s. 227.19 (5) (e), stats., in support of the action of the Joint Committee for Review of Administrative Rules on June 25, 2020, in suspending section 14 of emergency rule number 2009. The bill suspends a rule provision eliminating a threshold for certifying a child support debt for the lien docket.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

4 **SECTION 1.** 49.854 (2) (am) of the statutes is created to read:







State of Wisconsin  
2019 - 2020 LEGISLATURE

BWA 2009

LRB-6315/1  
SWB:ahe

**2019 BILL**

1 **AN ACT to create** 49.854 (2) (am) of the statutes; **relating to:** certification of child  
2 support debt for the child support lien docket and partially suspending an  
3 administrative rule promulgated by the Department of Children and Families.

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***Analysis by the Legislative Reference Bureau***

This bill prohibits the Department of Children and Families from preventing new child support debts from being certified to the lien docket by suspension of a threshold for certifying a child support debt for the child support lien docket.

The bill is introduced as required by s. 227.19 (5) (e), stats., in support of the action of the Joint Committee for Review of Administrative Rules on June 25, 2020, in suspending section 14 of emergency rule number 2009. The bill suspends a rule provision eliminating a threshold for certifying a child support debt for the lien docket.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

4 **SECTION 1.** 49.854 (2) (am) of the statutes is created to read:







State of Wisconsin  
2019 - 2020 LEGISLATURE

CR 19-166

LRB-6303/2  
KP:cjs&skw

2019 BILL

1 AN ACT *to renumber and amend* 457.03 (2); and *to create* 457.03 (2) (a) 1. to  
2 4. and 457.03 (2) (b) of the statutes; **relating to:** rules defining unprofessional  
3 conduct by marriage and family therapists, professional counselors, and social  
4 workers.

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*Analysis by the Legislative Reference Bureau*

This bill prohibits the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board from promulgating rules that establish certain forms of conduct by marriage and family therapists, professional counselors, and social workers (credential holders) as unprofessional conduct. Current law authorizes the examining board to promulgate rules governing the professional conduct of credential holders, and credential holders are subject to discipline for violating the examining board's rules.

Under the bill, the examining board may not promulgate a rule that does anything proposed by clearinghouse rule 19-166 or that establishes that any of the following constitutes unprofessional conduct by a credential holder: 1) discriminating on the basis of gender, gender identity, or ethnicity; 2) engaging in sexual conduct with a former client; 3) employing or promoting a treatment that attempts to change a person's sexual orientation or gender identity; and 4) failing to adequately supervise subordinates.

Proposed by the examining board, clearinghouse rule 19-166 established the following as constituting unprofessional conduct by a credential holder: 1) discriminating on the basis of gender, gender identity, or ethnicity; 2) failing to

**BILL**

comply with child abuse reporting requirements; 3) engaging in sexual conduct with either a person taught, supervised, or instructed by the credential holder or with a former client; 4) taking unfair advantage of clients, students, supervisees, or professional relationships; 5) failing to notify the examining board of a conviction against the credential holder; 6) employing or promoting a treatment that attempts to change a person's sexual orientation or gender identity; 7) aiding or assisting an unlawful practice of marriage and family therapy, professional counseling, or social work; 8) failing to obtain a client's written, informed consent before recording the client; 9) failing to adequately supervise subordinates; 10) refusing to cooperate in a timely manner with the examining board's investigations; and 11) withholding documentation of clinical experience hours completed by a person the credential holder supervises.

The bill is introduced as required by s. 227.19 (5) (e), stats., in support of the objection of the Senate Committee on Public Benefits, Licensing and State-Federal Relations on April 29, 2020, and the objection of the Joint Committee for Review of Administrative Rules on June 25, 2020, to promulgation of clearinghouse rule 19-166 by the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board. The proposed rule, as described above, made various changes to rules defining unprofessional conduct for marriage and family therapists, professional counselors, and social workers.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 457.03 (2) of the statutes is renumbered 457.03 (2) (a) (intro.) and  
2 amended to read:

3           457.03 (2) (a) (intro.) Upon the advice of the social worker section, marriage  
4 and family therapist section, and professional counselor section, promulgate rules  
5 establishing a code of ethics to govern the professional conduct of certificate holders  
6 and licensees. The rules shall specify the services included within the practice of  
7 social work, advanced practice social work, or independent social work that an  
8 individual who is certified under this chapter as a social worker, advanced practice  
9 social worker, or independent social worker may perform and the degree of  
10 supervision, if any, required to perform those services. The rules promulgated under  
11 this paragraph may not do anything proposed by clearinghouse rule 19-166 as



**BILL**

1 submitted to the legislature under s. 227.19 on March 9, 2020. The rules  
2 promulgated under this paragraph may not establish that any of the following  
3 constitutes unprofessional conduct:

4 **SECTION 2.** 457.03 (2) (a) 1. to 4. of the statutes are created to read:

5 457.03 (2) (a) 1. Discriminating on the basis of gender, gender identity, or  
6 ethnicity by means of service provided or denied.

7 2. Engaging in sexual contact, sexual conduct, or any other behavior that could  
8 be construed as seductive, romantic, harassing, or exploitative, with a former client,  
9 regardless of the amount of time that that has passed since the termination of  
10 professional services.

11 3. Employing or promoting any intervention or method that has the purpose  
12 of attempting to change a person's sexual orientation or gender identity, including  
13 attempting to change behaviors or expressions of self or to reduce sexual or romantic  
14 attractions or feelings toward individuals of the same gender.

15 4. Failing to adequately supervise subordinates.

16 **SECTION 3.** 457.03 (2) (b) of the statutes is created to read:

17 457.03 (2) (b) 1. The rules promulgated under par. (a) shall establish an amount  
18 of time after contact with a client within which a credential holder shall prepare  
19 clinical records.

20 2. Notwithstanding par. (a) 4., the examining board may promulgate a rule  
21 establishing that a credential holder's failure to adequately supervise subordinates  
22 constitutes unprofessional conduct, if the rule clearly specifies the degree of  
23 supervision over subordinates that a credential holder is required to exercise.

24 (END)



State of Wisconsin  
2019 - 2020 LEGISLATURE

CR 19-166

LRB-6313/2  
KP:cjs&skw

**2019 BILL**

1     **AN ACT** *to renumber and amend* 457.03 (2); and *to create* 457.03 (2) (a) 1. to  
2             4. and 457.03 (2) (b) of the statutes; **relating to:** rules defining unprofessional  
3             conduct by marriage and family therapists, professional counselors, and social  
4             workers.

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***Analysis by the Legislative Reference Bureau***

This bill prohibits the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board from promulgating rules that establish certain forms of conduct by marriage and family therapists, professional counselors, and social workers (credential holders) as unprofessional conduct. Current law authorizes the examining board to promulgate rules governing the professional conduct of credential holders, and credential holders are subject to discipline for violating the examining board's rules.

Under the bill, the examining board may not promulgate a rule that does anything proposed by clearinghouse rule 19-166 or that establishes that any of the following constitutes unprofessional conduct by a credential holder: 1) discriminating on the basis of gender, gender identity, or ethnicity; 2) engaging in sexual conduct with a former client; 3) employing or promoting a treatment that attempts to change a person's sexual orientation or gender identity; and 4) failing to adequately supervise subordinates.

Proposed by the examining board, clearinghouse rule 19-166 established the following as constituting unprofessional conduct by a credential holder: 1) discriminating on the basis of gender, gender identity, or ethnicity; 2) failing to



**BILL**

comply with child abuse reporting requirements; 3) engaging in sexual conduct with either a person taught, supervised, or instructed by the credential holder or with a former client; 4) taking unfair advantage of clients, students, supervisees, or professional relationships; 5) failing to notify the examining board of a conviction against the credential holder; 6) employing or promoting a treatment that attempts to change a person's sexual orientation or gender identity; 7) aiding or assisting an unlawful practice of marriage and family therapy, professional counseling, or social work; 8) failing to obtain a client's written, informed consent before recording the client; 9) failing to adequately supervise subordinates; 10) refusing to cooperate in a timely manner with the examining board's investigations; and 11) withholding documentation of clinical experience hours completed by a person the credential holder supervises.

The bill is introduced as required by s. 227.19 (5) (e), stats., in support of the objection of the Senate Committee on Public Benefits, Licensing and State-Federal Relations on April 29, 2020, and the objection of the Joint Committee for Review of Administrative Rules on June 25, 2020, to promulgation of clearinghouse rule 19-166 by the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board. The proposed rule, as described above, made various changes to rules defining unprofessional conduct for marriage and family therapists, professional counselors, and social workers.

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4 and family therapist section, and professional counselor section, promulgate rules  
5 establishing a code of ethics to govern the professional conduct of certificate holders  
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5 457.03 (2) (a) 1. Discriminating on the basis of gender, gender identity, or  
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7 2. Engaging in sexual contact, sexual conduct, or any other behavior that could  
8 be construed as seductive, romantic, harassing, or exploitative, with a former client,  
9 regardless of the amount of time that that has passed since the termination of  
10 professional services.

11 3. Employing or promoting any intervention or method that has the purpose  
12 of attempting to change a person's sexual orientation or gender identity, including  
13 attempting to change behaviors or expressions of self or to reduce sexual or romantic  
14 attractions or feelings toward individuals of the same gender.

15 4. Failing to adequately supervise subordinates.

16 **SECTION 3.** 457.03 (2) (b) of the statutes is created to read:

17 457.03 (2) (b) 1. The rules promulgated under par. (a) shall establish an amount  
18 of time after contact with a client within which a credential holder shall prepare  
19 clinical records.

20 2. Notwithstanding par. (a) 4., the examining board may promulgate a rule  
21 establishing that a credential holder's failure to adequately supervise subordinates  
22 constitutes unprofessional conduct, if the rule clearly specifies the degree of  
23 supervision over subordinates that a credential holder is required to exercise.

24 (END)