

STATE OF WISCONSIN
IN THE SUPREME COURT

IN THE MATTER OF

FILED

JUN 18 2025

DISCIPLINARY PROCEEDINGS AGAINST
WARREN LEE BRANDT,
ATTORNEY AT LAW

CLERK OF SUPREME COURT
OF WISCONSIN

OFFICE OF LAWYER REGULATION,
Complainant

v.

CASE NO. 2024AP1943-D

WARREN LEE BRANDT,
Respondent

ORDER ON OBJECTIONS TO DEPOSITION TESTIMONY

At the fact-finding hearing conducted in this proceeding on June 11 and 12, 2025, Respondent renewed objections that he made during the deposition of Amy A. Heizler. The referee deferred ruling on these objections. This order overrules all these objections, subject to the limitations described below regarding consideration of the results of the preliminary breath tests referenced in the Heizler's testimony.

Complainant, the Office of Lawyer Regulation (OLR), offered as evidence at the fact-finding hearing the transcript of Heizler, an employee of the Wisconsin Department of Transportation chemical test section. Exhibit 28. The transcript

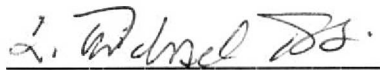
was admitted into evidence, subject to review of objections raised by Respondent in the course of the deposition testimony.

All objections related to Heizler's expertise and knowledge regarding the preliminary breath test machine (PBT) and its functioning are overruled. Her qualifications are shown, for example, by her experience, *see* Exhibit 12, and her role in training law enforcement in operation of the PBT, *see* Exhibit 28, p. 23.

Respondent's objections to the underlying reliability of the PBT (either in general or in this proceeding) are also overruled: Heizler's testimony in its entirety and the testimony of the Polk County officers who administered the PBT provided sufficient foundation for admissibility. Respondent's objections go to the weight to the afforded the test results, and he had the opportunity to cross-examine all of these witnesses regarding the PBT devices and their operation.

Respondent's objection to the foundation for Heizler's opinion as to the accuracy of the PBT results given to him is sustained in part. The referee concludes that the PBT testing in this proceeding has been shown to be sufficiently reliable to be admissible to show the presence of alcohol, but not sufficient reliable to establish a quantitative breath-alcohol (or blood-alcohol) level. This distinction is supported by Heizler forensic experience testifying regarding PBT results: she gave examples of underage drinking and violation of no-drink rules in which the screening function of PBT provided sufficient reliability for its admission.

Dated this 13th day of June, 2025.



L. Michael Tobin

Referee

State Bar No. 1010349