



Board of Bar Examiners

Annual Report - 2007

**ANNUAL REPORT
CALENDAR YEAR – 2007**

INTRODUCTION

Pursuant to Supreme Court Rule (SCR) 30.01(2), the Board of Bar Examiners (BBE) is filing this annual report on its activities during the calendar year 2007. The BBE has general supervisory authority over SCR Chapter 31, Continuing Legal Education, and Chapter 40, Admission to the Bar. The BBE's mandate is to protect the people of Wisconsin by assuring that only capable and competent applicants who meet the character and fitness requirements are admitted to the practice of law in the state, and that attorneys licensed in the state maintain their legal competence through continuing legal education.

MEMBERSHIP AND STAFFING OF THE BOARD

The Board of Bar Examiners has general supervisory authority over the administration of admission to the bar by examination and on reciprocity, conducts character and fitness investigations of all candidates for admission, including those seeking admission by diploma privilege, and supervises and monitors attorneys' compliance with the Wisconsin mandatory continuing legal education requirement.

The membership of the Board in 2007 was as follows:

Hon. Charles H. Constantine	Racine	Chairperson
Atty. James A. Morrison	Marinette	Vice-Chairperson
Mr. Mark J. Baker	Chippewa Falls	
Atty. Thomas M. Boykoff	Madison	
Atty. Glenn E. Carr	Chicago	
Col. Steven T. Clark (USA-Ret)	DeForest	
Ms. Linda Hoskins	Madison	
Atty. James L. Huston	Whitefish Bay	
Dean Joseph D. Kearney	Milwaukee	
Atty. Mary Beth Keppel	Madison	
Prof. John A. Pray	Madison	

Members Carr and Kearney completed their terms on the Board on December 31 and received appropriate recognition for their service. Board Chair Constantine completed his second one-year term as Chair. He was succeeded as Chair by Atty. James Morrison at elections conducted during the December meeting. Atty. James Huston was elected Vice Chair at the same meeting. Both will serve one-year terms beginning January 1, 2008.

The Board met seven times in Madison. The December meeting included a joint meeting with the Court at which policy matters of common concern were discussed. Additionally, the attorney members of the Board graded two bar examinations.

In 2007 the staff of the Board included the following persons:

Atty. John E. Kosobucki	Director
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Ms. Ruth Janto-Wolter	Deputy Director
Ms. Jill Remy	Bar Application Manager (Bar Exam)
Ms. April Stegmann	Bar Application Manager (Diploma Privilege)
Mr. Ben Hopkins	Character and Fitness Investigator/AFL Manager
Ms. Tammy McMillen	CLE Records Manager
Ms. Dianne Knipfer	Course Approval coordinator (75%)
Ms. Toni Gilbertson	Program Assistant

FUNDING SOURCES AND EXPENDITURES

The mandatory continuing legal education requirement was self-funded in fiscal year 2007 by an annual assessment of lawyers on active and inactive status as of July 1, 2007, per State Bar of Wisconsin records, who paid \$13.00 and \$6.50, respectively.

The bar admissions portion of Board responsibilities continued to be entirely self-funded as well. The fees authorized by the Court were set September 1, 2000. For taking the Wisconsin Bar Examination (WBE), the fee was set at \$450; for filing an application for admission on proof of practice elsewhere (reciprocity), the fee was set at \$850; for diploma privilege character and fitness (C&F) certification, the fee was set at \$210. Late fees were charged for late filings of WBE (\$200) and C&F (\$100) applications. The admission fee for all modes was set at \$100; and late fees for admissions were set at \$200. The application fee for change of name was set at \$25.

In addition, the Board realized revenue from late filing fees and reinstatement fees authorized by the court, and from miscellaneous fees (copying, duplicate admission certificates, past examination sales, etc.).

Revenues shown are actual revenues; they include all late filing fees and include 2008 fees received in 2007.

Revenues

Licensing Activity	\$440,661.00
Education Activity	<u>274,622.00</u>
<u>Total CY 2007 Revenues</u>	\$715,283.00

Expenditures

Permanent Salaries	\$355,532.00
LTE Salaries	8,773.00
Fringe Benefits	141,007.00
Supplies, Services, and Capital	<u>235,351.00</u>
<u>Total CY 2007 Expenditures</u>	\$740,663.00

Expenditures exceeded revenues in the Education activity resulting in the overall deficit of expenditures over revenues. The court has approved an increase in the assessment charged to attorneys beginning in 2008. Additionally, it is anticipated that education expenses, particularly printing and mailing costs, will be reduced as the Board transitions to an automated continuing legal education (CLE) reporting system, however, there will be initial automation development costs involved.

MANDATORY CONTINUING LEGAL EDUCATION

Chapter 31, SCR, mandates that all active attorneys attend a minimum of 30 hours of approved continuing legal education (CLE) every two years. The SCR also mandate that a minimum of three of the 30 hours shall be Ethics and Professional Responsibility (EPR) credits. The SCR also provide that attorneys who did not engage in the practice of law during the reporting period are exempt from the attendance requirement but must comply with the reporting requirement.

One hundred fifty-seven attorney (157) attorneys were suspended from the practice of law as of the close of business on May 29, 2007, for non-compliance with the CLE requirements of Chapter 31, SCR, for the 2005-2006 reporting period. A total of eighty-seven attorneys were reinstated in 2007. This includes attorneys who were suspended in previous years. Of the 3,400 lawyers who have been suspended for non-compliance with the mandatory continuing legal education requirements since the inception of the program in 1977, 1,765 remained suspended at the end of calendar 2007.

The 2007 calendar year was the year in which reports concerning compliance with the 2006-2007 Wisconsin mandatory continuing legal education (CLE) requirement, including the legal ethics and professional responsibility (EPR) requirement, were collected. Eight thousand two hundred seventy-six (8,276) lawyers admitted to practice law in Wisconsin in odd-numbered years were obligated to comply with the attendance and/or reporting requirement.

In 2007, lawyers again had a wide range of educational activities from which to choose in order to meet their mandatory requirements. New in 2007 were “on-demand online” courses. The Court adopted the Board’s petition filed in 2006 to allow repeated on-demand online courses, effective January 29, 2007, and created SCR 31.05(5).

General Program Approval (GPA), the annual institutional approval available to CLE sponsors, was extended to 38 organizations, a decrease of one from the previous year. In addition, 7,666 activities were approved on a course-by-course basis which was an increase of 8.0% from the previous year. Of that number, 584 were repeated on-demand courses. The total number of all CLE activities sited in Wisconsin was 2,455, a decrease of 31% from the previous year. Additionally, one thousand four hundred fifty (1,450) courses were offered via Live Webcast, and 1,193 courses were held via National Teleconferences. Three thousand one hundred sixty-three (3,163) activities were approved for ethics and professional responsibility (EPR) credit, an increase of 15.1 %. Thirty (30) Judicial Education courses were approved, a decrease of six from the previous year. The Board began to grant approval for *Guardian Ad Litem* (GAL) courses in 1999, and approved a total of 75 courses for GAL credit in 2007, which was a decrease of 36.4% from the previous year. Of that total, 56 courses were GAL for Minors courses. The Board began approving GAL courses under Supreme Court Rules, Chapter 36, Eligibility

for Appointment as *Guardian Ad Litem* for an Adult, on July 1, 2004, and approved 20 courses for GAL credit under this Chapter in 2007. The Board also approved 25 GAL for Family courses in 2007.

Approval was denied in 162 cases (up from 52 in the previous year). The main reason for course disapproval was for courses pertaining to marketing, “rain-making,” profitability, and similar type courses which were deemed not to be related specifically to improving attorneys’ competence but could apply to any business entity. EPR approval was denied in 372 cases (up from 317 in 2006). The principal reason for denial of approval was the failure to have a continuous hour of EPR as required by SCR 31.07(5) or not meeting the objective of increasing an attendee’s professional competence as an attorney as required by SCR 31.07(2)(a) or (b).

MISCELLANEOUS ACTIONS

The Board also carried out the following actions, granting, denying, or accepting withdrawals, as appropriate:

Reinstatements (other than SCR Chapter 31)	22
Chapter 31 reinstatements	79
Readmission following voluntary resignation from the bar	9
Name changes	113

ADMISSION TO THE PRACTICE OF LAW

Diploma Privilege

The Board received 418 applications for character and fitness certifications from prospective graduates of the University of Wisconsin and Marquette University law schools under SCR 40.03 and 40.06. This represents a 19.9% decrease over the 522 applications filed in the previous year. Four hundred twenty-six (426) were certified to the Court and admitted in 2007, which number includes those who graduated in prior years but who were not certified nor admitted until 2007. This represents a 10.0% decrease over the 474 applicants admitted in the previous year.

No applicants withdrew their application. Three (3) applicants’ files were closed for lack of response. Two (2) applicants failed to complete their files within one year after filing as required by Appendix BA 6.06 to Supreme Court Rules (SCR) Chapter 40. One applicant failed to be sworn in within a year of certification as required by SCR 40.09(1).

An applicant whose application had been closed for inactivity filed an action in federal district court claiming a violation of the Americans with Disabilities Act. In the interim the Board agreed to reopen the applicant’s file. The district court dismissed the complaint, and the applicant appealed to the Seventh Circuit Court of Appeals. The Board conducted a formal hearing on the applicant’s reopened file and ultimately voted to deny the applicant’s application for admission. The applicant then petitioned the Wisconsin Supreme Court for a review of the Board’s decision. (NOTE: both actions were resolved in the Board’s favor in early 2008).

Wisconsin Bar Examination

The Board administered two bar examinations in 2007 to a total of 334 applicants. This represents a 1.5% increase from the 329 applicants in the previous year. Statistical information is as follows:

<u>2007 Wisconsin Bar Examinations</u>	<u>Feb. 07</u>	<u>July 07</u>	<u>Total</u>
Applicants Writing Examination	124	210	334
Successful Examinees	110 (89%)	187 (89%)	297 (89%)
First-Time Takers	105	193	298
Successful First-Time Takers	98 (93%)	176 (91%)	274 (92%)

An applicant for the bar exam filed an action in federal district court against the director, the Board, and members of the Supreme Court claiming that the SCR pertaining to the diploma privilege were unconstitutional as a violation of the United States Constitution. The applicant had previously been denied admission on the diploma privilege as the applicant did not qualify for such admission under SCR 40.03. After the applicant passed the July 2007 bar exam, the action was dismissed as moot by the district court. The applicant then appealed to the US Court of Appeals for the Seventh Circuit. (NOTE: in January 2008, the Seventh Circuit remanded the case to the district court on the issue of class action status, and that action is pending).

Admission on Reciprocity

In addition, the Board administered the rules for admission on reciprocity. In 2007 the Board received one hundred forty (140) applications under SCR 40.05, an increase of 24% over the previous year. One hundred seventeen (117) applicants were certified for admission in 2007 although some were from applications received in the previous year. One hundred nineteen (119) applicants were admitted in 2007 (some from previous years). There were fifteen withdrawals or closures of applications in the year: three (3) were from applicants in non-reciprocal states, nine (9) applicants did not meet the requirements for admission, and three (3) applications were closed by Board action.

Actual Admission

<u>Type of Admission</u>	<u>Year of Admission</u>					<u>Change Since 2003</u>
	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	
Admission by Examination	205	211	215	251	294	+43.4%
Admission on Reciprocity	87	66	69	102	145	+66.7%
Admission by Diploma Privilege	<u>430</u>	<u>412</u>	<u>436</u>	<u>474</u>	<u>479</u>	<u>+11.4%</u>
TOTAL	722	689	720	827	918	+27.1%

Denial of admission

The Board denies admission to the practice of law in Wisconsin by first notifying the applicant by letter that it intends to deny his or her admission, giving reasons therefor, and providing the applicant a copy of the materials upon which the Board based its decision. The applicant is provided a period in which to

respond and, if desired, to request a hearing. A hearing is granted, according to Supreme Court Rule, only upon a showing that there are facts bearing on the applicant's case that cannot be presented in writing. On occasion the Board may order a hearing *sua sponte*. After receipt of the applicant's response and/or after hearing, the Board may then either clear the applicant or may issue Findings and Conclusions formally denying admission. An applicant who was denied admission may petition the Supreme Court for a review of the Board's adverse determination.

Other Activities

Board staff visited the Marquette University and University of Wisconsin Law Schools to discuss the Character and Fitness application process with 3L law students. Staff also supported swearing-in ceremonies at the Supreme Court for successful bar exam applicants and graduates of both law schools in the state. Director Kosobucki also participated in the State Bar of Wisconsin Board of Governor meetings. Additionally, the Director attended several training sessions sponsored by the National Conference of Bar Examiners (NCBE). The Director also was appointed by the State Bar President to several committees considering various rules issues. The Board staff coordinated with CCAP, the Court's information technology agency, to develop an online application form for bar admissions and a CLE reporting form.

Respectfully submitted,

// Original Signed //

John E. Kosobucki, Director
Board of Bar Examiners

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