

*Board of Bar Examiners*

2017

Annual Report

# Annual Report of the Board of Bar Examiners

# 2017

## Calendar Year

### 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 2017. 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 upon proof of practice. It conducts character and fitness investigations of all candidates for admission including those seeking admission by diploma privilege. The BBE also supervises and monitors attorneys' compliance with the Wisconsin mandatory continuing legal education requirement.

The membership of the Board in 2017 was as follows:

Prof. Steven M. Barkan	Madison	Chairperson
Prof. Judith G. McMullen	Brookfield	Vice-Chairperson
Patrick Delmore, Ph.D.	Madison	
Atty. Blake J. Duren	Madison	
Ms. Patricia Evans	Madison	
Atty. Mark R. Fremgen	Madison	
Atty. Jesus GQ Garza	Madison	
Atty. Kimberly Haas	Mosinee	
Hon. Marc A. Hammer	Green Bay	
Atty. Steven A. Levine	Madison	
Ms. Sally M. Younger	Madison	

The Board held eight meetings in 2017, including one in December with members of the Court at which policy matters of common concern were discussed. In addition to attendance at its meetings, the majority of attorney Board members grade the Wisconsin bar exams.

## STAFFING OF THE BOARD

In 2017 the full time staff of the Board included the following:

Atty. Jacquelynn B. Rothstein	Director
Ms. April Ashley	Bar Application Manager (Bar Exam)
Mr. John Baggot	Program Assistant
Ms. Dianne Dillman	Bar Application Manager (Diploma Privilege)
Ms. Julie Halverson	CLE Records Manager
Ms. Tammy McMillen	CLE Records Manager
Mr. Dan Pionke	Character and Fitness Investigator/Proof of Practice Manager



## FUNDING SOURCES AND EXPENDITURES

The mandatory continuing legal education requirement was self-funded in fiscal year 2017 by an annual assessment of lawyers on active and inactive status as of July 1, 2017, per State Bar of Wisconsin records, who paid \$11.00 and \$5.50, respectively. The bar admission portion of the Board's responsibilities are also entirely self-funded.

### **Other fees were as follows:**

Wisconsin Bar Examination (WBE): \$450

Application via foreign schooled applicant: \$850

Application for admission on Proof of Practice Elsewhere (PPE) (reciprocity): \$850

Diploma Privilege (DP) character and fitness (C&F) certification: \$210

Late filing fee for the WBE and C&F: \$200

Late filing fee for CLE Reporting: \$100

Admission fee for all admittees (regardless of mode of admission): \$100

Reinstatement/Readmission fee: \$200

Name change: \$25

## FUNDING SOURCES AND EXPENDITURES

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 revenue.

### Revenues

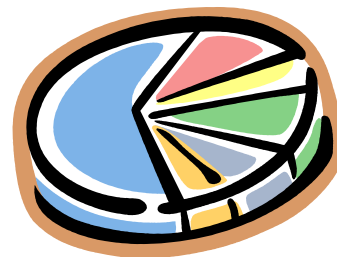
Licensing Activity	\$490,100.00
Education	<u>287,900.00</u>

<b><u>Total CY 2017 Revenues</u></b>	<b>\$778,000.00</b>
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### Expenditures

Permanent Salaries	\$374,951.00
LTE Salaries	43,409.00
Fringe Benefits	129,779.00
Supplies, Services, and Capital	<u>195,075.00</u>

<b><u>Total CY 2017 Expenditures</u></b>	<b>\$743,215.00</b>
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## MANDATORY CONTINUING LEGAL EDUCATION

### Reporting Requirements

Chapter 31 of the Supreme Court Rules mandates that all active attorneys attend a minimum of thirty (30) hours of approved continuing legal education (CLE) every two years. The Supreme Court Rules also mandate that a minimum of three of the thirty hours must be Ethics and Professional Responsibility (EPR) credits. The rules further 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. Additionally, on January 11, 2008, the Supreme Court issued an Order adopting a “pure comity” rule which became effective for the CLE reporting period ending December 31, 2008. Under the “comity” rule (SCR 31.04 (3)), “A lawyer whose practice is principally in another jurisdiction that has mandatory continuing legal education requirements and who is current in meeting those requirements is exempt from the attendance requirement of SCR 31.02, but shall comply with the reporting requirement of SCR 31.03.”

The BBE and the Consolidated Courts Automation Program office (CCAP) collaborated on the development of an electronic CLE reporting program which was first offered in 2008. Approximately ninety (90%) percent of the attorneys who were required to report in the 2015-2016 cycle used the electronic program to file their CLE credits.

Beginning with the 2016-17 reporting cycle, all attorneys will now be required to electronically file their CLE report using the e-filing program. Additionally, effective July 1, 2017, two new categories of CLE may be used. Those include “Lawyer Awareness and Understanding” and “Law Practice Management.” Each category is limited to six (6) credits per reporting period. Also, as of July 1, 2017, attorneys may report an additional five (5) hours of “on demand” credits for a total of fifteen (15).

## MANDATORY CONTINUING LEGAL EDUCATION (continued)

### CLE Compliance

Pursuant to the Wisconsin Supreme Court Rules, attorneys who are not in compliance with the mandatory CLE attendance and reporting requirements are suspended from the practice of law following a notice of non-compliance. Since its inception in 1977, there have been 5,199 lawyers who have been suspended for non-compliance with the mandatory continuing legal education requirements. At the end of 2017 calendar year, there were 2,637 attorneys who remained suspended.

Reporting Cycles	2012-13	2013-14	2014-15	2015-16	2016-17
Lawyers required to report CLE compliance	9002	8771	9072	8805	9043

Issues	2013 (2011-2012 reporting cycle)	2014 (2012-2013 reporting cycle)	2015 (2013-2014 reporting cycle)	2016 (2014-2015 reporting cycle)	2017 (2015-2016 reporting cycle)
Attorneys suspended for non-compliance	173	207	199	209	222
Reinstated (Includes attorneys who were suspended in prior years)	79	70	76	96	85



### CLE Course Information

In 2017, lawyers again had a wide range of educational activities from which to choose in order to meet their mandatory requirements. Besides live programs, other modes of course presentation included video replays, live webcasts, national teleconferences, and repeated “on-demand” online courses. General Program Approval (GPA), the annual institutional approval available to some CLE sponsors, was extended to 37 organizations.

Totals	2013	2014	2015	2016	2017*
Courses Approved	7879	7471	7993	8702	8857
CLE Activities provided in Wisconsin	2306	2159	2557	2136	2515
Repeated On-Demand courses	662	691	870	1137	1579
Live Webcasts offered	2648	2767	2724	3419	3841
National Teleconferences offered	1512	1368	1336	1529	1441
Approved for Ethics (EPR)	2819	3439	3624	4027	4124

(\*as of the data collection date for the 2017 Annual Report)

## MANDATORY CONTINUING LEGAL EDUCATION (continued)

### GAL Course Approvals

The Board also approves Guardian Ad Litem (GAL) courses under Chapters 35 and 36 of the Supreme Court Rules.

<b>Guardian Ad Litem Course Approvals</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017*</b>
GAL - Minors	42	27	30	39	74
GAL - Adult	8	9	14	9	18
GAL - Family	44	27	33	39	74

(\*as of the data collection date for the 2017 Annual Report)

### CLE Course Denials

CLE course approval was denied in one hundred twenty-four (124) cases. The main reason for CLE course denials was for courses pertaining to marketing, advertising, “rain-making,” profitability, and similar types of courses which were deemed not to be related specifically to improving attorneys’ professional competence as attorneys as required by the Supreme Court Rules, but could apply to any business entity. EPR approval was denied for approximately one hundred eighty-seven (187) courses. 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

<b>The Board also carried out the following actions:</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Reinstatements (under SCR Chapter 40) (CLE and/or Dues Suspension exceeding 3+ Years)	21	25	21	13	24
Chapter 31 reinstatements (following a CLE suspension of less than three (3) years)	58	88	69	85	79
Readmission following voluntary resignation from the bar	5	11	7	12	11
Name changes	97	106	122	120	114

## ADMISSION TO THE PRACTICE OF LAW



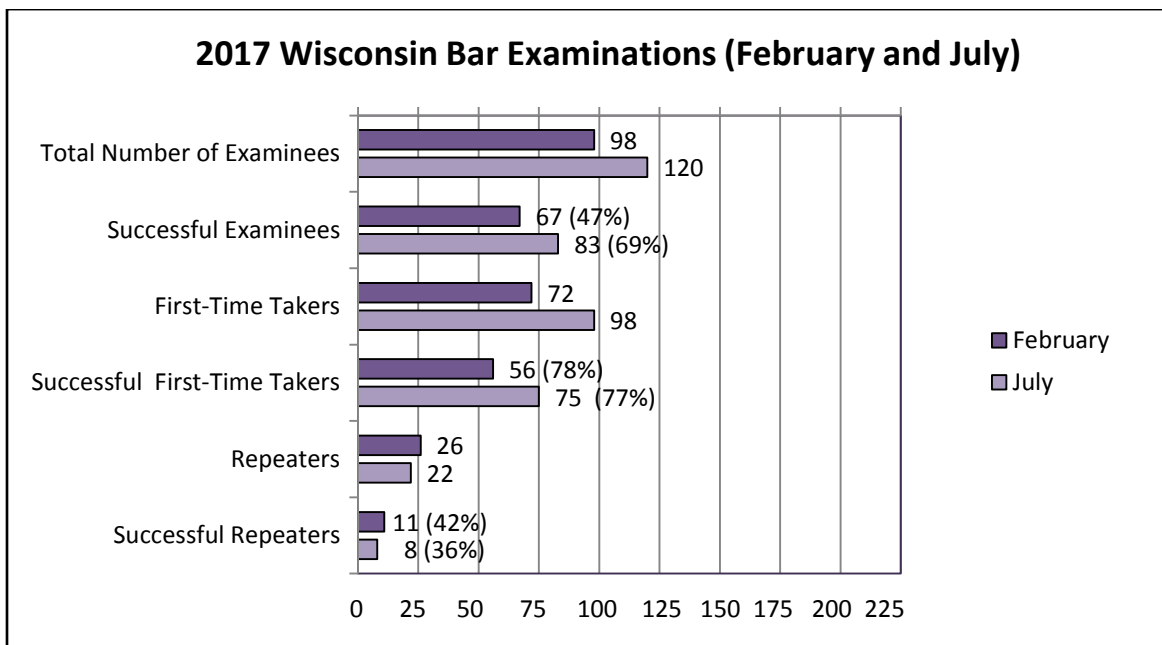
### Diploma Privilege

The Board received three hundred ninety-one (391) 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 an increase of twenty-two (22) applications from the previous year. Three hundred forty-seven (347) were admitted to the Wisconsin Supreme Court in 2017, which may include those who graduated in prior years but who were not admitted until 2017.

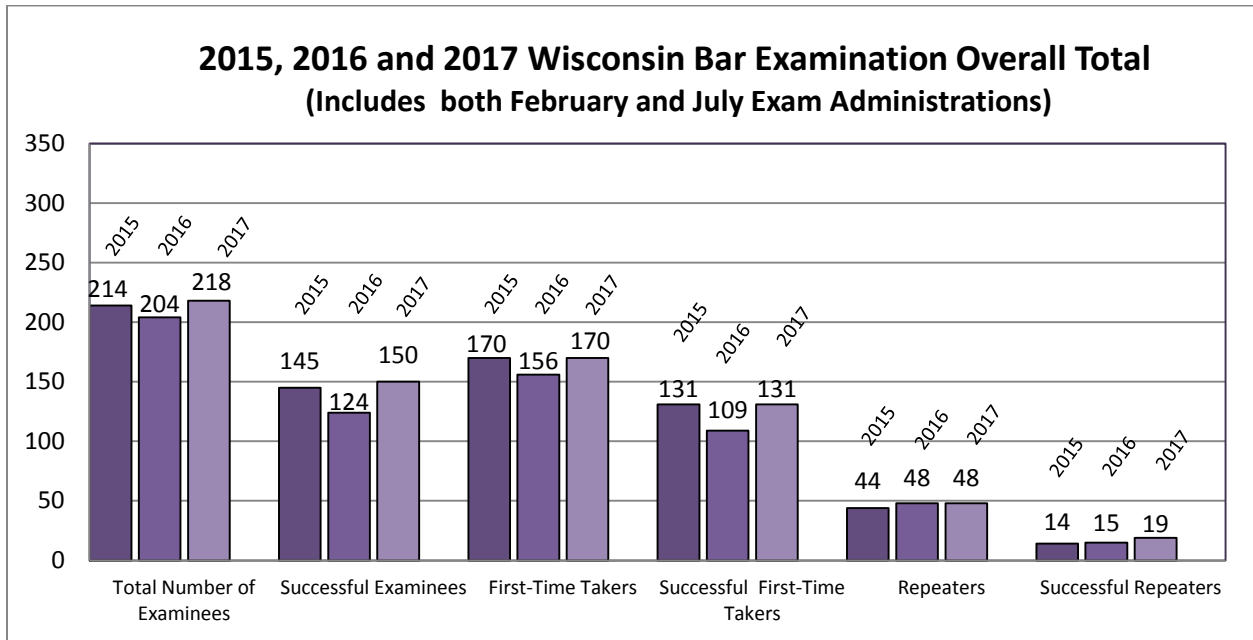
One applicant withdrew his application in 2017. Two (2) applicants failed to complete their files within one year after filing as required under BA 6.06 (SCR Chapter 40 Appendix). In 2017, there were no applicants whose files were closed for failing to be sworn in within a year of certification as required by SCR 40.09 (1).

### Wisconsin Bar Exam

The Board administered two bar examinations in 2017 to a total of two hundred eighteen (218) applicants. This represents a 7% increase from the two hundred four (204) applicants in the previous year. Statistical information is as follows:

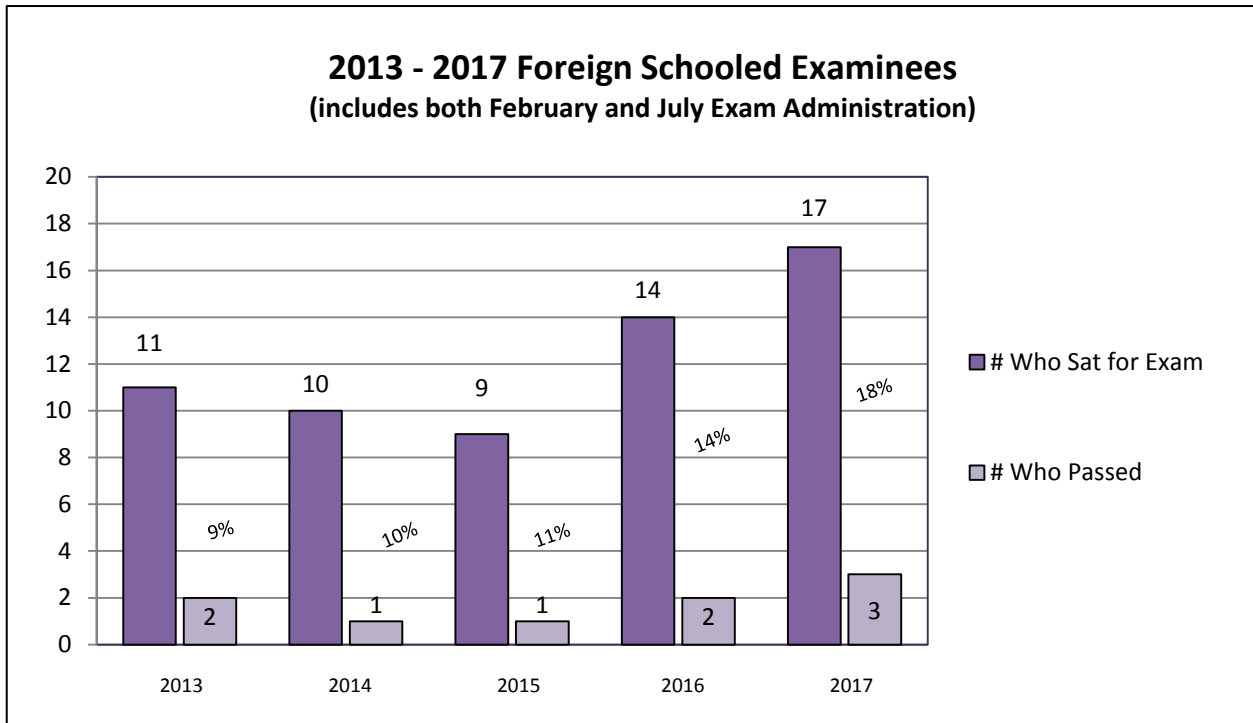


**ADMISSION TO THE PRACTICE OF LAW (continued)**



**Foreign School Examinees (Law Schools outside of the U.S.)**

In February 2017, five (5) foreign schooled graduates sat for the exam and none of them passed. In July 2017, twelve (12) foreign schooled graduates sat for the exam and three (3) passed.





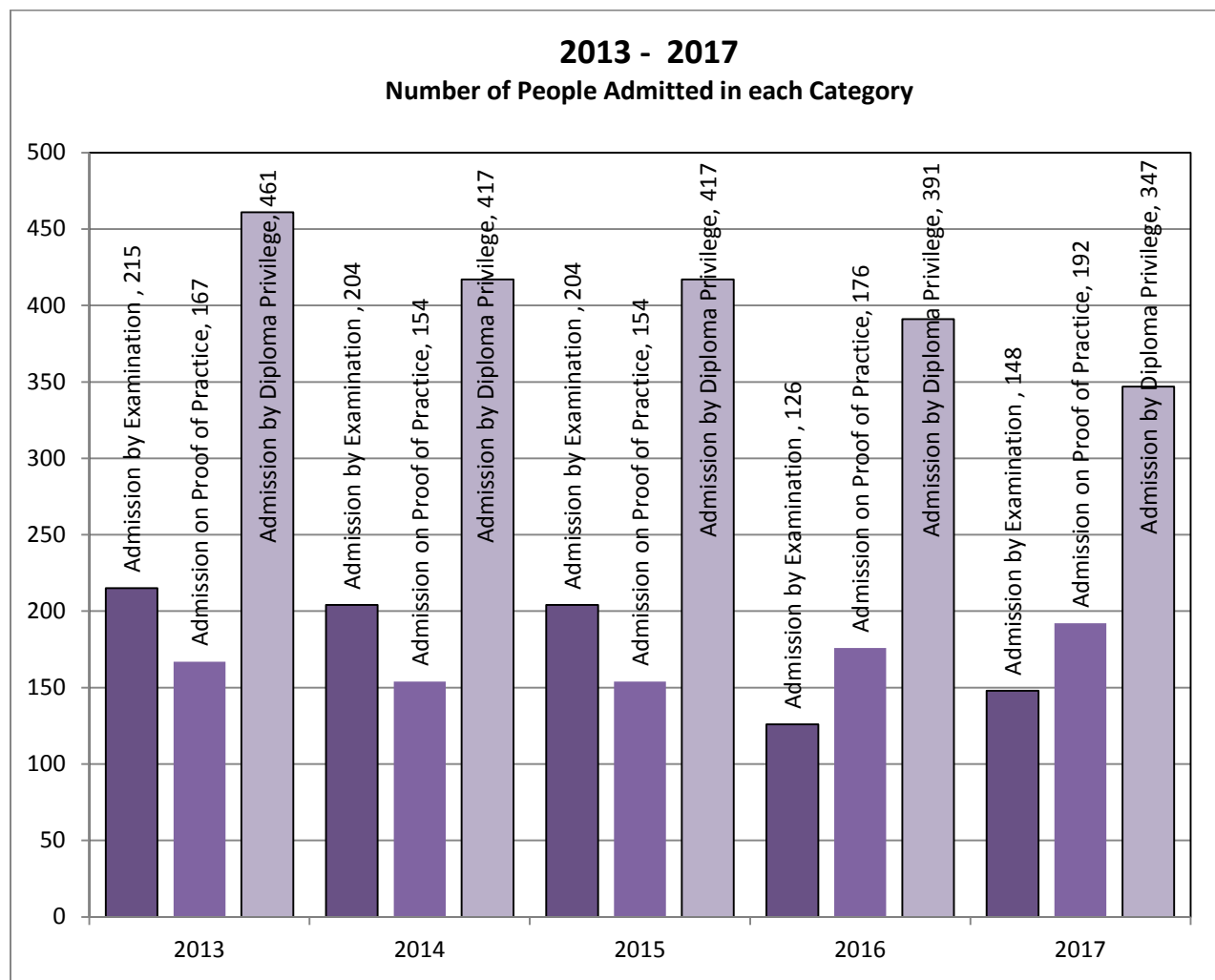
## ADMISSION TO THE PRACTICE OF LAW (continued)

### Proof of Practice Elsewhere

In addition, under SCR 40.05, the Board processed applications for proof of practice elsewhere (previously known as “reciprocity” or “application on foreign license”). In 2017 the Board received one hundred ninety-seven (197) applications, a 2% decrease from the previous year. One hundred ninety (190) applicants were certified for admission in 2017, although some were from applications received in prior years. One hundred and ninety-two (192) applicants were admitted in 2017. There were two (2) applications that were withdrawn. Eight (8) applications were closed. Of those eight, three (3) applicants were ineligible for admission, four (4) failed to complete their files, and one (1) failed to be sworn-in.

### In House Counsel Registrations

Under SCR 10.03, the Board registered thirty-seven (37) attorneys as in-house counsel in 2017 (including some from the prior year). Thirty-eight (38) applications were filed.



## ADMISSION TO THE PRACTICE OF LAW (continued)

### DENIAL OF ADMISSION

The Board denies admission to the practice of law in Wisconsin by first notifying the applicant in writing that he or she is at risk of being denied. Applicants are given the basis for the denial and are also provided with the materials upon which the Board based its decision. Applicants are further advised about the timeframe in which to respond and, if desired, to request a hearing. An applicant who is denied admission may petition the Supreme Court for a review of the Board's adverse determination under to SCR 40.08.



### CONDITIONAL ADMISSION

On June 8, 2011, SCR 40.075 went into effect, authorizing conditional admission. Certain exceptions notwithstanding, the fact that an individual is conditionally admitted and the terms of the conditional admission agreement are both confidential. Four (4) people were extended conditional admission in 2017, three (3) people accepted the offer and one (1) person decided to withdraw his application. At the conclusion of 2017, a total of two (2) people had been conditionally admitted.

There were five (5) people who were successfully discharged from conditional admission in 2017.

Reasons For Conditional Admission	Number of Attorneys
Financial	1
Alcohol or Other Drug	1
Mental Health	0
Mental Health/Alcohol or Other Drug	0
Conditional Admission in Another State	0
Sex Addiction	0
Non-Disclosure Issues	0
<b>TOTAL</b>	<b>2</b>

## OTHER ACTIVITIES

As part of the BBE's wellness initiative, the Board's September and October meetings were held at Marquette University Law School and at the University of Wisconsin Law School, respectively. The meetings were designed to encourage law students to obtain help and/or treatment for a variety of issues, but especially those connected to alcohol and/or drug usage as well as mental health problems. At each meeting, Board members and students engaged in a wide-ranging discussion about a variety of topics, particularly those related to bar admission and the character and fitness component of it. Students were reminded of the importance of candor with regard to filing their applications for admission and were urged to use WisLAP as a helpful resource. The Board's outreach efforts will be ongoing and may include a return to each of the law schools next fall.

In 2017, the Board also created a subcommittee to explore the ways in which to improve how Wisconsin administers its bar exam. Several meetings were held, including one with the full Board, the deans from each of Wisconsin's law schools, and a representative from the National Conference of Bar Examiners (NCBE). The initial question that the subcommittee addressed was whether or not to recommend the adoption of the Uniform Bar Examination (UBE). After considerable deliberation, the subcommittee declined to recommend the adoption of the UBE at this time. Although the discussion about and consideration of the UBE took a significant portion of the subcommittee's time, other items were also examined including potential innovations to the exam such as the use of a Wisconsin-based version of the multistate performance test (MPT). After receiving the subcommittee's report and engaging in a robust discussion about it, the Board voted not to recommend the adoption of the UBE.

Over the course of the year, the BBE staff also went to each of the Wisconsin law schools to review applicant files and to discuss the application process, especially the character and fitness component of it, with the third year law students. Additionally, BBE staff assisted with the swearing-in ceremonies before the Wisconsin Supreme Court. The BBE Director and various Board members also attended conferences sponsored by the National Conference of Bar Examiners and the Council of Bar Admissions Administrators.

Respectfully submitted,

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Jacquelynn B. Rothstein, Director  
Board of Bar Examiners