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BOARD OF BAR EXAMINERS
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August 5, 2022

Chief Justice Annette Kingsland Ziegler
Justice Ann Walsh Bradley
Justice Patience D. Roggensack
Justice Rebecca G. Bradley
Justice Rebecca F. Dallet
Justice Brian Hagedorn
Justice Jill J. Karofsky
16 East, State Capitol
P.O. Box 1688
Madison, WI 53701-1688

Dear Chief Justice and Justices:

The Board of Bar Examiners writes in response to Rule Petition 22-01 (In the matter of Diversity, Equity, Inclusion, and Access Training for Continuing Legal Education Credits). At its meeting on July 29, 2022, the Board reviewed Rule Petition 22-01. After a lengthy discussion, the Board voted to recommend an alternative proposal to the Court, which includes a more focused provision consistent with the existing rules, specifically, those addressing the topics of lawyer awareness and understanding, and law practice management.

The State Bar's proposed rule would permit continuing legal education credit for subjects including diversity, equity, inclusion, access, or recognition of bias (DEIA). However, the proposal places no limit on the number of credits that attorneys could take in this category. Except for the three (3) required credits of ethics and professional responsibility (EPR), attorneys could fulfill all of their continuing education credits solely in this one category. Under the existing CLE provisions, there are two specialty categories. Those include law practice management (LPM), and lawyer awareness and understanding (LAU). Attorneys may earn up to six credits in either one of those subject areas, for a maximum of twelve credit hours. The State Bar's proposal imposes no such credit limitation on its proposed category.

Because the number of credits in the proposed rule is unlimited, attorneys would not be required to complete any coursework in substantive areas of the law. Also of concern is the overly broad language of the proposal, which fails to indicate whether the coursework within this category would necessarily have to focus on the practice of law or the legal system.

Board: Jesus G. Q. Garza, Chairperson, Madison; Daniel D. Blinka, Vice Chairperson, Milwaukee; Samuel Christensen, Racine; Timothy D. Edwards, Madison; Linda S. Isnard, Cedarburg; Kevin Kelly, Madison; Scott Needham, Hudson; Kyle J. Sargent, Appleton; Peter Sorce, Germantown; Travis Stein, Cottage Grove; Megan Stelljes, Madison

By contrast, the Board's alternative proposal provides internal consistency by not only limiting the number of DEIA credit hours to six (making it consistent with the two other existing specialty categories *i.e.*, LPM and LAU), but by also specifically and unequivocally tying it to the legal system.

Accordingly, the Board recommends the following alternative:

A lawyer may attend a maximum of six (6) hours of the hours required under sub. (1) on the subjects of diversity, equity, inclusion, access, or recognition of bias within the legal system.

This option still provides attorneys with the opportunity to take courses in these subject areas, while preserving and maintaining consistency within the broader context of continuing legal education. Any such revisions would necessitate CCAP programming changes to the on-line CLE reporting system. A fully marked copy of the proposed changes is enclosed for the Court's review. Thank you.

Very truly yours,

/s/

Jacquelynn B. Rothstein
Executive Director & General Counsel

Enclosure

cc: Timothy Barber
Margaret Hickey
Cheryl Daniels
Lisa Roys
Larry Martin

SCR 31.02 Attendance requirement.

(1) A lawyer shall attend a minimum of 30 hours of approved CLE during each reporting period. A lawyer who is a senior active member shall attend a minimum of 15 hours of approved CLE during each reporting period.

(2) A lawyer shall attend a minimum of 3 of the hours required under sub. (1) on the subject of legal ethics and professional responsibility in every reporting period.

(3) A lawyer may attend a maximum of six (6) hours of the hours required under sub. (1) on subjects designed to enhance a lawyer's awareness and understanding of substance abuse/dependence disorders, mental illness, stress management, and work/life balance relating to the practice of law.

(4) A lawyer may attend a maximum of six (6) hours of the hours required under sub. (1) on the subject of law practice management, which may include topics such as client communications, trust accounting, record keeping, applications of technology, and other subjects essential to the practice of law. Courses or portions of courses dealing primarily with profit enhancement or marketing of services will be denied credit.

(5) A lawyer may attend a maximum of six (6) hours of the hours required under sub. (1) on the subjects of diversity, equity, inclusion, access, or recognition of bias within the legal system.

(~~5~~6) A lawyer may not claim credit for attending the same course more than one time during a reporting cycle.