
In the Matter of the Petition for Amendment to
Supreme Court Rule SCR 31.04 Relating to
Creation of a Comity Rule for Continuing Legal Education

PETITION

To: Chief Justice Shirley S. Abrahamson
Justice Jon P. Wilcox
Justice Ann Walsh Bradley
Justice N. Patrick Crooks
Justice David Prosser, Jr.
Justice Patience D. Roggensack
Justice Louis B. Butler

Filed with the Clerk of Court David R. Schanker
Clerk of Supreme Court Office
110 East Main Street, Suite #215
Madison, WI 53703

The Petitioner, John E. Kosobucki, Director of the Board of Bar Examiners, for and on behalf on the said Board of Bar Examiners of the Supreme Court of Wisconsin, hereby petitions the Supreme Court of Wisconsin for an order that amends Supreme Court Rule SCR 31.04, and creates subparagraph (3), relating to comity for non-resident Wisconsin-licensed attorneys who meet the continuing legal education requirements of their home jurisdiction.

PROPOSED AMENDMENT:

SCR 31.04 Exemptions.

(3) A lawyer who does not regularly practice in Wisconsin and who practices in another United States jurisdiction which has mandatory CLE requirements that are substantially similar in content (including legal ethics and professional responsibility requirements), mode of presentation, and duration to Wisconsin's and who is current in meeting that jurisdiction's requirements is exempt from the attendance requirement of SCR 31.02 but shall comply with the reporting requirement of SCR 31.03. Whether another jurisdiction's requirements are substantially similar to Wisconsin's shall be determined periodically by the board, and its determination shall be final.

JUSTIFICATION:

Non-resident attorneys report difficulties in complying with Wisconsin's continuing legal education requirements while also complying with their home jurisdictions' requirements. The creation of the new exemption recognizes that other jurisdictions' requirements that are substantially similar to Wisconsin's would satisfy Wisconsin's requirements. Substantial similarity would include course content, mode of presentation and duration. Additionally, the requirement includes an ethics and professional responsibility requirement to compliance. Continuing legal education credit granted in other jurisdictions for such activities as service in state legislatures, presentations to school or community groups, service on various committees, etc., would not qualify for the exemption. Attorneys in other jurisdictions would check a block on the CLE Form 1 reporting form attesting that they have complied with their home jurisdictions' requirements. If the Court adopts this rule, the Board of Bar Examiners will promptly and conclusively determine which jurisdictions' requirements are substantially similar to Wisconsin's. The Board expects its determinations would remain in effect for several years so that practitioners can rely on them. The Board would reconsider its determinations only occasionally, such as when there are significant changes in either Wisconsin's or another jurisdiction's CLE requirements.

This new Rule would affect primarily those non-resident lawyers who practice only occasionally in Wisconsin and, therefore, cannot elect the exemption under SCR 31.04(2).

The Board has coordinated this proposed Rule with the State Bar of Wisconsin's BBE Review Committee, the CLE Committee, and the Board of Governors. All support the creation of this new Rule.

Dated this 18th day of June, 2007.

Respectfully submitted,

John E. Kosobucki,
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