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Supreme Court of Wisconsin

BOARD OF BAR EXAMINERS
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August 15, 2012

Chief Justice Shirley Abrahamson
Justice Ann Walsh Bradley
Justice N. Patrick Crooks
Justice David T. Prosser, Jr.
Justice Patience D. Roggensack
Justice Annette Kingsland Ziegler
Justice Michael J. Gablemen
16 East State Capitol
Madison, WI 53701

Dear Chief Justice Abrahamson and Honorable Justices:

On May 16, 2012, the court held a public hearing on the petition regarding the eligibility of graduates of foreign law schools to sit for the Wisconsin bar examination (11-08). Following the hearing, the court held an open administrative conference during which it discussed several of the items that arose at the hearing, including proposed changes suggested by the UW Law School and by Attorney Daniel Shneidman. The Board of Bar Examiners reviewed those same items at its June 22, 2012 meeting. Representatives of the UW Law School were also in attendance at the BBE's June meeting and reiterated their concerns about the proposed draft. The Board also considered the concern raised by Mr. Shneidman. After review and deliberation, the Board reached the following conclusions about each of those items:

- 1) Whether a legal practice experience requirement is necessary, especially under sub. (4) of the proposal;
The Board concluded that a legal practice experience requirement was not necessary. Therefore, 40.055 (4) (c) had been deleted.
- 2) Whether having individuals be licensed in their own "home" countries is necessary;
The Board concluded that having individuals licensed in their own "home" countries was not necessary. Therefore, 40.055 (4) (b) has been deleted.
- 3) Whether individuals who come from common-law jurisdictions, but who do not meet the full criteria under subs. (1)-(3), may apply to take the Wisconsin bar under sub. (4);
The Board concluded that an individual who comes from a common-law jurisdiction but who does not meet the full criteria under subs. (1)-(3), may apply to take the Wisconsin bar exam under sub. (4).

Board: Daniel D. Blinka, Chairperson, Milwaukee; John Pray, Vice-Chairperson, Madison; James A. Cotter, Appleton; Charles P. Dykman, Monona; Kurt D. Dykstra, Holland, MI; Mark R. Fremgen, Oshkosh; Kimberly Haas, Mosinee; Linda Hoskins, Madison; Kenneth L. Kutz, Siren; W. Craig Olafsson, Wausau; Bonnie L. Schwid, Mequon

- 4) Whether it is acceptable to permit individuals to complete some or all of their L.L.M. coursework outside of the United States? **Note:** Under the proposed rule that was submitted to the court, none of the L.L.M. coursework may be completed outside of the United States. *The Board decided that this could be determined on an as-needed basis. Therefore, 40.055 (4) (d) was amended so that no coursework could be completed outside of the United States “unless otherwise waived by the board.” The Board also amended 40.055 (4) (d) 3., so that a maximum of six credits could be earned during summer semesters.*

- 5) Whether the proposed rule should contain a provision limiting individuals from sitting for the bar exam if their country of origin prevents graduates of U.S. law schools from sitting for that country’s qualifying legal practice examination;
The Board declined to add a provision along these lines.

- 6) Whether Wisconsin ethics’ provisions should be a requirement of the L.L.M. program.
The Board concluded that it was not necessary to amend the rule to include a specific Wisconsin ethics’ provision, particularly since Wisconsin largely follows the ABA Model Rules, which is what would typically be taught in the L.L.M. programs.

On July 5, 2012, the court issued an Order with respect to Rule Petition No. 11-08 (which was slightly more than a week after the Board held its June 22, 2012 meeting and reviewed the issues that were raised by the court during its May open administrative conference). The issues identified in the court’s Order were identical to the ones that the Board reviewed at its June meeting. At its July 27, 2012 meeting, the Board reviewed the proposed changes outlined above and voted to amend the rule accordingly. As a result, another public hearing regarding this proposed rule is not necessary. Instead, the court could address this matter in an open administrative conference. The BBE therefore respectfully submits the revised Rule Petition 11-08 to the court and requests that it be adopted forthwith. Thank you.

Very truly yours,

Jacquelynn B. Rothstein
Director

cc: Atty. John K.M. Ohnesorge via e-mail
Dean Margaret Raymond via e-mail
Atty. Daniel Shneidman via e-mail

Enclosures

REVISED PROPOSED DRAFT (August 15, 2012)

SCR 40.02 Qualifications generally. A person who meets all of the following qualifications shall be admitted to practice law in this state by order of the supreme court:

- (1) Has attained the age of majority under the law of this state.
- (2) Satisfies the legal competence requirements by diploma privilege (SCR 40.03), bar examination (SCR 40.04 or SCR 40.055) or proof of practice elsewhere (SCR 40.05).
- (3) Satisfies the character and fitness requirements set forth in SCR 40.06.
- (4) Takes the oath or affirmation prescribed in SCR 40.15 in open court before the supreme court or a justice thereof or before a member of the highest court of another jurisdiction or a person authorized by that jurisdiction to administer the attorney's oath for bar admission there or before a judge of the U.S. District Court or Court of Appeals or a justice of the U.S. Supreme Court.
- (5) Subscribes the roll of attorneys maintained by the clerk of the supreme court or has his or her name entered thereon by the clerk.

SCR 40.055 Legal competence requirement: Graduates of Law Schools in Other Nations. Notwithstanding SCR 40.04 (1), an individual who has received a law degree in a country other than the United States may apply to take the Wisconsin bar examination, provided the applicant meets all of the requirements as found in subs. (1)-(3):

- (1) Holds a first professional degree in law from a jurisdiction whose jurisprudence is based on the principles of English common law.
- (2) Has a license to practice law from a common-law jurisdiction and is in good standing in that jurisdiction.
- (3) Has been substantially engaged in the practice of law in a common law jurisdiction for at least three of the last ten years prior to filing an application to take the Wisconsin bar examination.
- (4) An individual who has received a legal degree in a country other than the United States but does not meet the criteria as set forth in subs. (1)-(3) may apply to take the Wisconsin bar examination provided the applicant meets all of the following requirements:
 - (a) Holds a first professional degree in law from a school or schools each of which, throughout the period of the applicant's study, was recognized by a competent accrediting agency in such country as qualified and approved.
 - (b) Has completed a master's degree in law (LL.M.) that meets all of the following requirements.

1. The program shall consist of a minimum of 24 semester hours of credit (or the equivalent thereof, if the law school is on an academic schedule other than a conventional semester system) which, except as otherwise permitted herein, shall be in classroom courses at the law school in substantive and procedural law and professional skills. No credit shall be allowed for correspondence courses, on-line courses, courses offered on DVD or other media, or other distance learning courses.

2. A minimum of 700 minutes of instruction time, exclusive of examination time, must be required for the granting of one semester of credit.

3. The program shall include a period of instruction consisting of no fewer than two semesters of at least 13 calendar weeks each, or the equivalent thereof, exclusive of reading periods, examinations and breaks, and shall not be completed exclusively during summer semesters, but a maximum of six semester hours of credit may be earned in courses completed during summer semesters.

4. The program shall be completed within 24 months of matriculation.
 5. All coursework for the program shall be completed at the campus of a law school in the United States whose graduates qualify to take the Wisconsin bar examination under SCR 40.04 (1) (a) unless otherwise waived by the board.
 6. The program completed by an applicant shall include all of the following:
 - a. A minimum of two semester hours of credit in the values and ethical responsibilities of the United States legal profession and its members.
 - b. A minimum of two semester hours of credit in legal research, writing and analysis, which may not be satisfied by a research and writing requirement in a substantive law course.
 - c. A minimum of two semester hours of credit in American legal studies, the American legal system or a similar course designed to introduce students to distinctive aspects and/or fundamental principles of United States law, which may be satisfied by a course in United States constitutional law or United States or state civil procedure.
 7. The program completed by an applicant may include:
 - a. A maximum of four semester hours of credit in clinical courses, provided (i) the clinical course includes a classroom instructional component in order to insure contemporaneous discussion, review and evaluation of the clinical experience; (ii) the clinical work is done under the direct supervision of a member of the law school faculty or instructional staff whose primary professional employment is with the law school; and (iii) the time and effort required and anticipated educational benefit are commensurate with the credit awarded.
 - b. A maximum of six semester hours of credit in other courses related to legal training taught by members of the faculty of the law school or of the university with which the law school is affiliated, or taught by members of the faculty of any university or college with which the law school offers a joint degree program, provided such courses must be completed at the campus of such university or college in the United States.
- (5) Applicants shall submit proofs and documentation that the board may require. Documents must be in English or must be accompanied by a translation into English prepared and certified by a neutral translator.
- (6) An applicant shall file all application materials and fees with the board by August 1 to be eligible for the February bar examination and by January 1 to be eligible for the July bar examination.
- (7) Notwithstanding s. SCR 4014 (3) (i), the board may add a surcharge in individual cases if it finds that extraordinary costs have been or will be incurred in its investigation of the applicant's qualifications.

SCR 40.14 Application; fees.

(1) Application to the supreme court for admission to the bar shall be filed with the board.

(2) An application is timely filed if any of the following is applicable:

(a) The application, together with the applicable fees, is received at the board's office within the time specified for filing.

(b) The application, together with the applicable fees, is sent to the board's office through the United States Postal Service by 1st class mail, including express or priority mail, postage prepaid, and bears a postmark, other than a commercial postage meter label, showing that the document was mailed on or before the last day for filing.

(c) The application, together with the applicable fees, is delivered on or before the last day for filing to a 3rd-party commercial carrier for delivery to the board's office within 3 calendar days.

(d) The application, together with the applicable fees, is submitted through the electronic application system to the board within the time specified for filing. Applications filed electronically must include the applicant's electronic signature, by which the applicant avers under oath or affirmation that the information contained in the application is true and correct.

(e) The application is submitted through the electronic application system to the board. Applications filed electronically must include the applicant's electronic signature, by which the applicant avers under oath or affirmation that the information contained in the application is true and correct. Both the submission of an application through the electronic application system and the payment of the applicable fees shall be within the time specified for filing.

(3) The following fees are payable to the board:

(a) Bar examination fee	\$450
(b) Late fee for bar examination	\$200
(c) Fee for application for admission on proof of practice elsewhere	\$850
(d) Admission fee	\$100
(e) Fee for reinstatement, readmission, late admission on diploma privilege or late enrollment in the bar	\$200
(f) Application fee for change of name	\$ 25
(g) Fee for a character and fitness investigation under SCR 40.06(3m)	\$210
(h) Late fee for a character and fitness investigation under SCR 40.06(3m)	\$200
(i) Fee for admission for graduates of law schools in other nations	\$450

ORIGINAL DRAFT SUBMITTED TO THE COURT (Highlighted areas denote where changes will be made)

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- (3) Satisfies the character and fitness requirements set forth in SCR 40.06.
- (4) Takes the oath or affirmation prescribed in SCR 40.15 in open court before the supreme court or a justice thereof or before a member of the highest court of another jurisdiction or a person authorized by that jurisdiction to administer the attorney's oath for bar admission there or before a judge of the U.S. District Court or Court of Appeals or a justice of the U.S. Supreme Court.
- (5) Subscribes the roll of attorneys maintained by the clerk of the supreme court or has his or her name entered thereon by the clerk.

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- (1) Holds a first professional degree in law from a jurisdiction whose jurisprudence is based on the principles of English common law.
- (2) Has a license to practice law from a common-law jurisdiction and is in good standing in that jurisdiction.
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 - (a) Holds a first professional degree in law from a school or schools each of which, throughout the period of the applicant's study, was recognized by a competent accrediting agency in such country as qualified and approved.
 - (b) Has a license to practice law from a foreign jurisdiction and is in good standing in that jurisdiction.
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 - (d) Has completed a master's degree in law (LL.M.) that meets all of the following requirements:
 1. The program shall consist of a minimum of 24 semester hours of credit (or the equivalent thereof, if the law school is on an academic schedule other than a conventional semester system) which, except as otherwise permitted herein, shall be in classroom courses at the law school in substantive and procedural law and professional skills. No credit shall be allowed for correspondence courses, on-line courses, courses offered on DVD or other media, or other distance learning courses.
 2. A minimum of 700 minutes of instruction time, exclusive of examination time, must be required for the granting of one semester of credit.

3. The program shall include a period of instruction consisting of no fewer than two semesters of at least 13 calendar weeks each, or the equivalent thereof, exclusive of reading periods, examinations and breaks, and shall not be completed exclusively during summer semesters, but a maximum of four semester hours of credit may be earned in courses completed during summer semesters.
4. The program shall be completed within 24 months of matriculation.
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 - b. A maximum of six semester hours of credit in other courses related to legal training taught by members of the faculty of the law school or of the university with which the law school is affiliated, or taught by members of the faculty of any university or college with which the law school offers a joint degree program, provided such courses must be completed at the campus of such university or college in the United States.

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