



Supreme Court of Wisconsin

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March 3, 2016

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Justice Shirley S. Abrahamson
Justice Ann Walsh Bradley
Justice David T. Prosser, Jr.
Justice Annette Kingsland Ziegler
Justice Michael J. Gableman
Justice Rebecca G. Bradley
16 East, State Capitol
P.O. Box 1688
Madison, WI 53701-1688

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CLERK OF SUPREME COURT
OF WISCONSIN

Dear Chief Justice and Justices:

I write in response to Supreme Court Rule Petition 15-05, which proposes to amend SCR Chapter 31 and SCR 10.03. More specifically, SCR Chapter 31 would be amended to allow continuing legal education (CLE) credit to be granted for qualified *pro bono* work, up to a maximum of six (6) credits per reporting cycle. The proposal would also amend 10.03 (4) (f) to allow in-house counsel to provide *pro bono* services, pursuant to SCR 20:6.1.

The Board of Bar Examiners engaged in a robust review and discussion regarding this petition at its last two meetings. Although the Board is generally supportive of granting up to six (6) CLE credits for qualified *pro bono* activities, it continues to have administrative concerns surrounding its implementation.

One of those concerns includes the need for changes to the BBE's CLE reporting database. The current database does not have a means by which attorneys can report *pro bono* credit. Therefore, programming changes to the existing database would have to be made first before attorneys could claim this type of credit on their reports. CCAP provided an initial cost estimate of \$15,000.00-\$20,000.00 for this project and noted that it would likely take in excess of 300 hours to complete. Those potential changes are not presently on CCAP's annual plan for completion. As a result, the timeline for completing them is highly uncertain. Additionally, CCAP has been working with the BBE for the past several years to provide on-line access for applicants to electronically submit their bar applications. The Board believes it is essential for the BBE's electronic admissions' application to be fully operational before any other new and costly projects are undertaken. Since CCAP has not yet completed the electronic application, the Board believes that should remain a higher priority than this project.

Board: Mark R. Fremgen, Chairperson, Madison; Steven M. Barkan, Vice Chairperson, Madison; Patrick Delmore, Madison; Blake J. Duren, Reedsburg; Patricia Evans, Madison; Kimberly Haas, Mosinee; Marc A. Hammer, Green Bay; Judith G. McMullen, Milwaukee; Richard B. Moriarty, Madison; W. Craig Olafsson, Wausau; Sally M. Younger, Madison

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The Board is also concerned that there is no uniform mechanism in place for being able to verify an attorney's completion of the reported *pro bono* hours. Attendance verification is easily obtained for other types of CLE, but would not be as readily or as easily available for the CLE *pro bono* component.

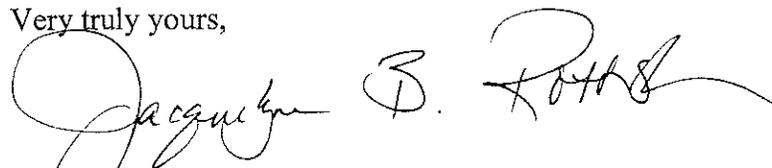
The proposal also does not address the effect this may have or should have on reactivations, readmissions, or reinstatements. For instance, would attorneys who earned CLE credit through *pro bono* work be able to use those credits towards regaining an active license, for being readmitted, or for being reinstated? Or should those credits instead be excluded from use in that manner as "on demand" credits are under SCR 31.05 (5) (d)?

While the Board supports encouraging attorneys to provide more *pro bono* services, the implementation of the proposed changes to SCR Chapter 31 should not occur unless and until all of the concerns surrounding it have been effectively addressed.

This petition also proposes a change to SCR 10.03 (4) (f) which would allow in-house counsel to provide *pro bono* services pursuant to SCR 20:6.1, rather than to qualified clients of a legal service program as the Wisconsin Comment to the rule currently provides. The genesis of that particular comment remains unclear. Nevertheless, the Board does not support the proposed change to expand the scope of practice for registered in-house counsel. Registered in-house counsel attorneys do not hold Wisconsin law licenses and therefore should continue to have their scope of practice limited as provided in the existing rule. The Board believes this provides a necessary measure of protection to potentially vulnerable clients and should therefore remain intact.

Thank you for the opportunity to comment on this proposal. If further clarification is needed regarding any of these matters, please contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jacquelyn B. Rothstein".

Jacquelyn B. Rothstein
Director

cc: State Bar of Wisconsin, Petitioner (c/o Lisa Roys)