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Wisconsin Legal Advocate Rule

CLERK OF SUPREME COURT
OF WISCONSIN

SCR Chapter 51 — Authorized Practice by Legal Advocates

SCR 51.01 — Purpose

The purpose of this chapter is to expand access to legal services in civil matters in the State of Wisconsin by authorizing qualified legal advocates, in certain circumstances and within the scope of their certified substantive practice area, to provide supervised legal advice, negotiate on behalf of clients, and appear in proceedings before the courts and public agencies of this state under the supervision of a licensed attorney. Nothing in this chapter shall be construed to limit the authority of the supreme court to regulate the practice of law.

SCR 51.02 — Definitions

In this chapter:

- (1) “Legal advocate” means an individual who has been certified under SCR 51.04 to engage in the activities authorized by SCR 51.08.
- (2) “Certifying entity” means a firm or law firm as defined in SCR 20:1.0(d) that meets the qualifications set forth in SCR 51.07(1) and that employs or is owned (in whole or in part) by a supervising attorney.
- (3) “Supervising attorney” means an attorney who meets the qualifications set forth in SCR 51.07(2) and who supervises one or more legal advocates pursuant to a written supervisory agreement under SCR 51.07(1)(b).
- (4) “Client” means any person to whom a legal advocate provides supervised legal assistance on behalf of a certifying entity under this chapter.
- (5) “Standing Committee” means the Standing Committee on the Legal Advocate Program established under SCR 51.12.
- (6) “Roster” means the publicly available list of certified legal advocates maintained by the Standing Committee under SCR 51.12(2)(d).

SCR 51.03 — Eligibility

- (1) To be eligible for certification as a legal advocate, an individual must satisfy, at a minimum, one of the following educational and/or experiential requirements:
 - (a) Hold an associate's or higher degree in any subject from an institutionally accredited college, university, community college, or technical college; or
 - (b) Hold a high school diploma or equivalent degree and have at least five years of relevant lived, educational, legal, or other experience as determined by the certifying entity.
- (2) Each applicant must demonstrate good moral character and fitness to practice, as determined by the certifying entity.
- (3) Each applicant must have participated in training regarding the ethical rules governing the legal profession, as provided and determined by the certifying entity.
- (4) The certifying entity must conduct a background check on each applicant and may not certify an applicant with a criminal conviction that bears a substantial relationship to the applicant's fitness to serve as a legal advocate. Any applicant whose license to practice law has been permanently revoked, is currently suspended, or has been suspended in the last 5 years in any jurisdiction, for reasons other than retirement or voluntary withdrawal, is not eligible to serve as a legal advocate. For purposes of this chapter, "voluntary withdrawal" does not include withdrawal from the practice of law while any grievance, investigation, or disciplinary proceeding relating to the applicant's license to practice law is pending.

SCR 51.04 — Certification

- (1) An individual seeking certification as a legal advocate shall complete an application in the form prescribed by the Standing Committee and submit the application to the certifying entity. The application shall require, at a minimum:
 - (a) Documentation establishing compliance with the eligibility requirements of SCR 51.03;
 - (b) A written statement prepared by the applicant and approved by the certifying entity, describing the applicant's training, experience, or other qualifications that make the applicant eligible to provide legal services to clients;

- (c) A written supervisory agreement between the applicant and the certifying entity, which shall be signed by the applicant and by a supervising attorney who signs on behalf of the certifying entity;
 - (d) A statement detailing the number of supervising attorneys employed by the certifying entity and the number of legal advocates certified by the certifying entity, as well as the ratio of supervising attorneys to legal advocates for the certifying entity; and
 - (e) Payment of any application fee set by the Standing Committee.
- (2) The certifying entity shall review the contents of the application to confirm compliance with the eligibility requirements of SCR 51.03 and, upon confirmation, shall submit to the Standing Committee (a) the application, including all supporting documents, and (b) a signed declaration that the application is complete and the applicant should be certified as a legal advocate.
 - (3) Upon receipt of the completed application, subject to SCR 51.12(4), the Standing Committee shall add the applicant's name to the roster of certified legal advocates and issue a certificate of authorization. The legal advocate shall carry the certificate when appearing in any proceeding before a court or public agency of this state, and the Standing Committee shall maintain a copy.

SCR 51.05 — Maintenance and Renewal of Certification

- (1) Certification shall remain in effect so long as the legal advocate remains in good standing on the roster and maintains a written supervisory agreement with the certifying entity, subject to renewal.
- (2) Certification shall be renewed every two years. The renewal year for a legal advocate admitted in an even-numbered year shall end on December 31 of the next even-numbered year, and the renewal year for a legal advocate admitted in an odd-numbered year shall end on December 31 of the next odd-numbered year. By December 31 of the renewal year, a legal advocate shall submit to the Standing Committee a renewal application and any accompanying renewal fee, in a form and amount prescribed by the Standing Committee.

SCR 51.06 — Suspension, Revocation, or Limitation of Certification

- (1) Certification may be suspended or revoked by the Standing Committee for good cause, including but not limited to failure to comply with any provision of this chapter, failure to cooperate with an investigation by the Standing Committee, conduct that is detrimental to the administration of justice or the legal profession, or failure to renew certification.
- (2) Certification will be suspended upon a written request by the certifying entity to the Standing Committee.
- (3) The supreme court may revoke any certification at any time, without hearing and without any showing of cause.
- (4) Upon a finding of misconduct, any court or public agency of this state may prohibit or otherwise limit a legal advocate's practice before that court or public agency or the legal advocate's representation in a particular matter or proceeding. The court or public agency shall provide written notice of any such prohibition or limitation to the certifying entity. The certifying entity shall notify the Standing Committee of any such prohibition or limitation within five (5) business days of the issuance of a court order imposing such prohibition or limitation.

SCR 51.07 — Certifying Entity and Supervising Attorney

- (1) A certifying entity must:
 - (a) Be a firm or law firm within the meaning of SCR 20:1.0(d);
 - (b) Execute a written agreement with the legal advocate setting forth the terms and conditions of the supervisory relationship;
 - (c) Assume professional responsibility for any legal services performed by the legal advocate under a supervising attorney's supervision consistent with the requirements of SCR 20:5.3, as well as responsibility for conducting any applicable conflict checks;
 - (d) Receive, manage, and otherwise take sole responsibility for client funds, including those received in exchange for services provided by the legal advocate, and depositing or otherwise managing client trust accounts, including Interest on Lawyers Trust Accounts (IOLTA) and accounts used for settlements or other payments related to any legal proceeding;
 - (e) Ensure that the legal advocate receives substantive and ethical training before performing legal services and on an ongoing basis thereafter; and

- (f) Maintain professional liability insurance sufficient to cover the supervision of and legal services performed by the legal advocate, or ensure that the legal advocate has independently secured adequate professional liability insurance.
- (2) A supervising attorney must:
- (a) Be an active member in good standing of the State Bar of Wisconsin within the meaning of SCR 10.03 who regularly practices law physically in Wisconsin and whose license to practice law has not been permanently revoked, is not currently suspended, and has not been suspended in the last five (5) years in any jurisdiction, for reasons other than retirement or voluntary withdrawal;
 - (b) Be an employee of or own an interest in the certifying entity; and
 - (c) Instruct and supervise the legal advocate as necessary to ensure the competent delivery of legal services to the client, consistent with the requirements of SCR 20:5.3.
- (3) A supervising attorney is not required to appear in court with the legal advocate when the supervising attorney has determined that not doing so is appropriate. A supervising attorney shall exercise professional judgment in determining the appropriate level of supervision in a particular matter based on the legal advocate's experience, expertise, and the circumstances of the particular matter.

SCR 51.08 — Authorized Activities

- (1) Under the supervision of a supervising attorney, and except as set forth in SCR 51.11, a certified legal advocate may engage in the following activities within the scope of the legal advocate's certified substantive practice area:
- (a) Appear on behalf of a client in any proceeding before a court or public agency of this state;
 - (b) Negotiate on behalf of a client;
 - (c) Give supervised legal advice to a client; and
 - (d) Prepare or complete pleadings, agreements, and other legal documents on behalf of a client, so long as those pleadings, agreements, or other legal documents include the name, Wisconsin bar number, and signature of a supervising attorney where required by applicable law.

- (2) For each matter in which a legal advocate will appear in a proceeding before a court or public agency of this state, the certifying entity shall file a certificate of representation with the relevant body identifying both the supervising attorney and the legal advocate. The certificate shall be accompanied by a signed authorization from the certifying entity.

SCR 51.09 — Client Notice and Informed Consent

- (1) Prior to providing any legal services under this chapter, the legal advocate must obtain the client's informed consent, as defined in SCR 20:1.0(f), and must obtain a signed authorization form reflecting this informed consent.
- (2) The signed authorization must include a written disclaimer identifying the certifying entity and stating that: (a) the legal advocate is authorized to provide supervised legal advice on behalf of the certifying entity within the scope of their certified substantive practice area and representation; and (b) a legal advocate is not an attorney.

SCR 51.10 — Confidentiality

Communications between the client and the legal advocate and work product created by a legal advocate acting within the scope of the legal advocate's authorization under this chapter shall be privileged and confidential to the same extent and subject to the same rules as communications between a client and a licensed attorney, including the attorney-client privilege and the work product doctrine, consistent with SCR 20:1.6.

SCR 51.11 — Activities Not Authorized

- (1) Certain activities are not appropriate for legal advocates, and authorized legal advocates shall not engage in representation of a client in:
 - (a) Any criminal matter, including any pre-trial or post-conviction proceeding;
 - (b) Any civil trial where the rules of evidence apply, except that this exclusion is not intended to encompass uncontested final hearings;
 - (c) Any divorce where the marital property assets are valued at above \$100,000;

- (d) Any civil matter where the amount in dispute exceeds the limit for small claims matters as defined in WIS. STAT. § 799.01, except for actions for residential eviction under WIS. STAT. § 799.40, where representation is permitted regardless of the amount of rent and money damages claimed therein;
 - (e) Any matter involving termination of parental rights, children in need of protection and/or services (CHIPS) (including proceedings under Ch. 48, WIS. STATS.), or juveniles in need of protection and/or services (JIPS);
 - (f) Any proceedings under Ch. 51, WIS. STATS., contested proceedings under Ch. 54, WIS. STATS., or proceedings under Ch. 55, WIS. STATS.; or
 - (g) Any matter or proceeding before the supreme court or the court of appeals.
- (2) Legal advocates shall not receive, manage, or otherwise take responsibility for client funds, including those received in exchange for services provided by the legal advocate. This prohibition precludes legal advocates from depositing or otherwise managing client trust accounts, including Interest on Lawyers Trust Accounts (IOLTA) and accounts used for settlements or other payments related to any legal matter or proceeding.
 - (3) Nothing in this chapter shall be construed to authorize legal advocates to perform legal services that are required by statute to be provided by an attorney.

SCR 51.12 — Standing Committee on the Legal Advocate Program

- (1) There is established a Standing Committee on the Legal Advocate Program, consisting of not more than seven (7) members, appointed by the supreme court in collaboration with the Wisconsin Access to Justice Commission.
- (2) The Standing Committee shall:
 - (a) Prescribe the form of an application for certification as a legal advocate, which shall conform to the requirements of SCR 51.04 and require the identification of a point of contact at the certifying entity;
 - (b) Consider whether to set an application fee and renewal fee, and if it sets such fees, determine the amounts and receive relevant payments;
 - (c) Receive completed applications for certification, review applications for completeness, and certify applicants whose applications are complete;
 - (d) Maintain the roster of certified legal advocates, which shall be available to the public;

- (e) Receive, investigate, and resolve complaints against legal advocates, certifying entities, and/or supervising attorneys, including suspending or removing participants from the roster for good cause;
 - (f) Periodically evaluate the legal advocate program under this chapter and make appropriate recommendations to the supreme court regarding amendments to this chapter; and
 - (g) Adopt such administrative procedures as are necessary to carry out the purposes of this chapter.
- (3) Certified legal advocates, certifying entities, and supervising attorneys shall cooperate with any investigation conducted by the Standing Committee. Failure to cooperate may result in suspension or removal from the roster or, for supervising or other attorneys at a certifying entity, referral to the Office of Lawyer Regulation.
- (4) The Standing Committee may, at its discretion, conduct investigations into legal advocates, supervising attorneys, and/or certifying entities to ensure that legal advocates certified under this chapter receive adequate supervision to carry out the duties for which they have been certified. The Standing Committee may decline or revoke certification when the Standing Committee finds that the degree or conditions of a legal advocate's supervision are inadequate. In making this determination, the Standing Committee may take into account the ratio of supervising attorneys to legal advocates as certified under SCR 51.04(d).

SCR 51.13 — Paraprofessionals Engaged as Traditional Paralegals or Legal Assistants

Nothing in this chapter shall require certification as a legal advocate or a formal supervisory agreement for an individual performing acts on behalf of an attorney or law firm that are customarily performed by paralegals or legal assistants acting under the direction of an attorney.

SCR 51.14 — Legal Advocates in Tribal Courts

- (1) Nothing in this rule shall be interpreted to permit legal advocates to practice in any Tribal Court located within this state without independently satisfying the specific admission criteria, rules, and standards for that Tribal Court.
- (2) Legal advocates certified under this rule who have been admitted to practice in any Tribal Court located within this state shall remain subject to all requirements and restrictions set forth in this rule when practicing in that Tribal Court.
- (3) Legal advocates certified under this rule and wishing to practice in any Tribal Court located within this state must disclose to that Tribal Court whether they have been subject to any disciplinary action in any court of this state.