

# SUPREME COURT OF WISCONSIN

## NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 18-07

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**In the matter of the Petition to Amend  
Supreme Court Rule (SCR) Chapter 40,  
Regarding Admission to the Bar**

**FILED**

**MAR 25, 2019**

Sheila T. Reiff  
Clerk of Supreme Court  
Madison, WI

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On December 19, 2018, the court, on its own motion, filed a rule petition proposing amendments to Supreme Court Rule (SCR) Chapter 40, regarding Admission to the Bar. The changes clarify that an applicant for admission to the Wisconsin Bar may seek review of an adverse decision regarding a request for testing accommodations and may seek review of an adverse decision that was delegated by the Board of Bar Examiners (BBE) to a committee, member, or the director, under SCR 40.13.

At closed administrative rules conference on January 17, 2019, the court voted to solicit public comment and a response from the BBE. On January 22, 2019, the court sent a letter seeking public comment. On the same date, the court sent a letter to the BBE Director, Jacquelynn Rothstein, requesting the BBE's written response to the petition. The court received no public comments. By letter

dated March 6, 2019, the BBE filed a response supporting the petition.

At closed administrative rules conference on March 21, 2019, the court discussed the petition and voted to grant it. Therefore,

IT IS ORDERED that, effective August 1, 2019:

**SECTION 1.** Supreme Court Rule 40.04(3m) is created to read:

(3m) An applicant who seeks testing accommodation shall submit with the application a written request that shall describe the type of accommodation requested and the reasons for the requested accommodation, including medical documentation. If the request is denied in whole or in part, the board's response shall state the reasons. Denial of a request for testing accommodation, in whole or in part, constitutes an adverse determination that may be appealed pursuant to SCR 40.08(6) and (7).

**SECTION 2.** Supreme Court Rule 40.08(6), is renumbered to 40.08(6)(a), and amended to read:

(6) Review by board. (a) Except as provided in par. (b), An applicant may seek review of an adverse determination by filing a written request with the board within 30 days of the date of mailing of the adverse determination. ~~A request for review shall be granted only on the basis of a material error of law or fact, or the discovery of new evidence sufficiently strong to reverse the adverse determination. The board shall notify the applicant of its decision by mailing a copy to the applicant at the last address furnished by the applicant in writing to the board. The board's decision shall contain a statement identifying the date of mailing.~~

**SECTION 3.** Supreme Court Rule 40.08(6)(b) is created to read:

(b) An applicant may seek expedited review of an adverse determination under SCR 40.04(3m) by filing a written request within 14 days of the date of mailing of the adverse determination. The written request shall clearly request expedited review.

**SECTION 4.** Supreme Court Rule 40.08(6)(c) is created to read:

(c) A request for review shall be granted only on the basis of a material error of law or fact, or the discovery of new evidence sufficiently strong to reverse the adverse determination. The board shall notify the applicant of its decision by mailing a copy to the applicant at the last address furnished by the applicant in writing to the board. The board's decision shall contain a statement identifying the date of mailing.

**SECTION 5.** Supreme Court Rule 40.08(7) is renumbered to 40.08(7)(a) and amended to read:

(7) Review by supreme court. (a) Except as provided in par. (b), ~~An applicant may seek review of an adverse determination by filing a petition for review with the supreme court and serving a copy on the board within 30 days of the date of mailing of the board's adverse determination. However, if the applicant has filed a timely request for review under sub. (6), the deadline for seeking review by the supreme court shall be within 30 days of the date of mailing of the board's disposition of the applicant's request to review.~~

**SECTION 6.** Supreme Court Rule 40.08(7)(b) is created to read:

(b) An applicant may seek expedited review of an adverse determination under SCR 40.04(3m) by filing a petition for review

with the supreme court and serving a copy on the board within 14 days of the date of mailing of the adverse determination. The petition for review shall clearly request expedited review.

**SECTION 7.** Supreme Court Rule 40.08(7)(c) is created to read:

(c) However, if the applicant has filed a timely request for review by the board under sub. (6), the deadline for seeking review by the supreme court shall be within 30 days of the date of mailing of the board's disposition of the applicant's request to review, provided, that an applicant may seek expedited review of an adverse determination under SCR 40.04(3m) by filing a petition for review with the supreme court and serving a copy on the board within 14 days of the date of mailing of the adverse determination. The petition for review shall clearly request expedited review.

**SECTION 6.** Supreme Court Rule 40.13 is amended to read:

The board may delegate its authority under this chapter to a committee, a member or its director. An applicant who receives an adverse determination made by a committee, a member, or the director under this rule may seek review of that decision pursuant to SCR 40.08(6) and (7).

IT IS FURTHER ORDERED that notice of the above amendments be given by a single publication of a copy of this order in the official publications designated in SCR 80.01, including the official publishers' online databases, and on the Wisconsin court system's web site. The State Bar of Wisconsin shall provide notice of this order.

Dated at Madison, Wisconsin, this 25th day of March, 2019.

BY THE COURT:

Sheila T. Reiff  
Clerk of Supreme Court

