
In the Matter of the
Petition for Amendment of
Various Rules in Chapter SCR 20

Petition for Rulemaking 10-09
MEMORANDUM IN SUPPORT
OF AMENDED PETITION

The Amended Petition in this matter seeks amendment of rules SCR 20:4.1 and SCR 20:8.4 in Chapter SCR 20.

1. Provide a thorough, detailed description of each amendment and the reason for the change.

Amendment to SCR 20:4.1. The proposed amendment would move the following language from the Wisconsin Committee Comment to section (b) of the rule itself: "Lawful investigative activity may involve a lawyer as an advisor or supervisor only when the lawyer in good faith believes there is a reasonable possibility that unlawful activity has taken place, is taking place or will take place in the foreseeable future."

Reason: Moving the language from the comment to the rule will help clarify the situations in which an attorney may engage in "lawful investigative activity."

Amendment to SCR 20:8.4. The proposed amendment would add the following Wisconsin Comment: "In addition to the obligations in this rule, Wisconsin attorneys should note the obligation in SCR 21.15 (5) to notify the Office of Lawyer Regulation and the Supreme Court if convicted of a crime and the obligation

in SCR 22.22 (1) to notify the Director of the Office of Lawyer Regulation of public discipline for misconduct or a license suspension for medical incapacity imposed in another jurisdiction."

Reason: The proposed comment would not create a new obligation but it would serve to inform Wisconsin attorneys of existing reporting obligations in other chapters of the Supreme Court Rules.

2. Explain how the proposed amendment would affect any person's procedural or substantive rights.

- a. Procedural Rights: No change.
- b. Substantive Rights: No change.

3. Identify experience of other state or federal courts, if applicable.

The proposed changes have not, to the petitioner's knowledge, been implemented in the federal courts or in any other state.

4. Analyze the fiscal and administrative impacts, if any, of the proposal.

- a. Fiscal Impact: None.
- b. Administrative Impacts: None.

5. List any related petitions pending before the court.

None.

6. List the committees, agencies and individuals that the petitioner has consulted about the proposal.

The Board of Administrative Oversight; the State Bar's Family Law Section; Dean Dietrich, the chair of the State Bar's Professional Ethics Committee; Tim Pierce, the State Bar's Ethics Counsel; Elizabeth Estes and Cathe Hahn of the Office of Lawyer Regulation; second- and third-year students in Professional Responsibility classes at the U.W. Law School.

Respectfully submitted this 1st day of August, 2013.

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