



**STATE BAR OF WISCONSIN**

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**MEMORANDUM**

**To:** Wisconsin Supreme Court  
**From:** James C. Boll, Jr., President  
State Bar of Wisconsin  
**Date:** December 22, 2010  
**Re:** State Bar support for Petition 08-13 (Conditional Admission)

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DEC 22 2010

CLERK OF SUPREME COURT  
OF WISCONSIN

On December 3, 2010, the Board of Governors of the State Bar of Wisconsin unanimously approved a motion to support Petition 08-13, relating to conditional admission. The Board acted on the recommendation of the State Bar's WisLAP Committee and the BBE Review Committee, as described in the attached position statement.

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DEC 22 2010

CLERK OF SUPREME COURT  
OF WISCONSIN

November 15, 2010

State Bar of Wisconsin  
Board of Governors

Re: In the matter of the Petition to Create Supreme Court Rule SCR 40.075 Relating to Conditional Admission to the Bar – Rules Petition 08-13

Dear Members of the Board of Governors:

As you will recall Petition 08-13 was filed by John Kosobucki in 2008 while he was the Director of the Board of Bar Examiners. A public hearing and administrative conference was held on the petition in March, 2009. A revised draft of the petition's rule changes was prepared by Court staff after the hearing and conference. The court held the revised draft petition regarding conditional admission in abeyance pending the completion of the State Bar/OLR monitoring petition (08-28). The monitoring petition has now been resolved by the Court. The BBE has reviewed the revised petition relating to conditional admission, accepted the changes and forwarded it to the court for further action.

WisLAP has worked with the BBERC and the BBE on the revised petition. WisLAP had concerns about the mandatory extension of conditional admission status whenever a grievance was filed with the Office of Lawyer Regulation against a conditionally admitted lawyer. The grievance may be frivolous or wholly unrelated to the reasons a lawyer was admitted conditionally. The cost in time and money of extending the conditions of the lawyer's conditional admission may be great. The Committees propose the following language to make the extension permissive:

- (8) Grievance. Notwithstanding sub. (6), the filing of a grievance against a conditionally admitted applicant may extend the conditional admission until disposition of the grievance by the office of lawyer regulation and any resulting complaint and appeal.

It is my understanding that at its September 24, 2010 meeting, the BBE considered the proposed language change for (8) and agreed to it.

At its November 10<sup>th</sup> meeting the BBERC raised two additional concerns. It was noted that the term chemical dependency as used in the petition is not the standard within the industry. In order to be current and in line with the proposed changes to the Diagnostic and Statistical Manual of Mental Disorders V, the committees propose the following additional language change:

- (1) An applicant who currently satisfies all essential eligibility requirements for admission to practice law, including fitness requirements, and who possesses the requisite good moral character required for admission, may be conditionally admitted to the practice of law if the applicant demonstrates a record of rehabilitation from a substance related disorder or successful treatment for mental or other illness, or for any other reason the board deems appropriate, that has resulted in conduct or behavior that would

otherwise have rendered the applicant currently unfit to practice law, and the conduct or behavior, if it should recur, would impair the applicant's current ability to practice law or pose a threat to the public.

BBERC wanted the BBE to have a mechanism for early release from conditional admission if deemed appropriate. The committees propose the following language to allow for this:

(6) Duration of conditional admission. The initial period of conditional bar admission shall be up to -60 months.<sup>5</sup> At the end of the period, conditional admission may be extended by the board in writing for good cause, but not to exceed one additional year. The board shall review an applicant's conditional admission annually.<sup>6</sup> The Board may consider early release from conditional admission at the annual review. At the end of the initial term of conditional bar admission, or any extension thereof, the board shall either permit the conditional admission agreement to expire and certify the applicant for unconditional admission or advise the applicant in writing that it will conduct a hearing to determine whether to <sup>7</sup> issue an intent to deny admission letter to the applicant. In the event of the issuance of an intent to deny letter, the provisions of SCR 40.08 shall apply.

The BBE has not met to consider the changes to (1) and (6)

WisLAP and BBERC recommend that the Board of Governors support the petition for conditional admission with the revisions recommended to (1), (6) and (8).

Respectfully Submitted,



Deborah Smith, WisLAP Committee Chair



Robert Asti, BBERC Chair