



*Board of Bar Examiners*

2020

Annual Report

# Annual Report of the Board of Bar Examiners

# 2020

## Calendar Year

### INTRODUCTION

Pursuant to Supreme Court Rule (SCR) 30.01 (2), the Board of Bar Examiners (BBE) is filing this annual report on its activities during the calendar year 2020. The BBE has general supervisory authority over SCR Chapter 31, Continuing Legal Education, and Chapter 40, Admission to the Bar. The BBE's mandate is to protect the people of Wisconsin by assuring that only capable and competent applicants who meet the character and fitness requirements are admitted to the practice of law in the state, and that attorneys licensed in the state maintain their legal competence through continuing legal education.

### MEMBERSHIP AND STAFFING OF THE BOARD

The Board of Bar Examiners has general supervisory authority over the administration of admission to the bar by examination and upon proof of practice. It conducts character and fitness investigations of all candidates for admission including those seeking admission by diploma privilege. The BBE also supervises and monitors attorneys' compliance with the Wisconsin mandatory continuing legal education requirement.

The membership of the Board in 2020 was as follows:

Hon. Marc A. Hammer	Green Bay	Chairperson
Atty. Blake J. Duren	Madison	Vice Chairperson
Prof. Daniel Blinka	Milwaukee	
Patrick Delmore, Ph.D.	Madison	
Atty. Timothy D. Edwards	Madison	
Mr. Samuel Christensen	Racine	
Atty. Jesus GQ Garza	Madison	
Assoc. Dean Kevin Kelly	Sun Prairie	
Atty. Kyle J. Sargent	Appleton	
Ms. Sally M. Younger	Madison	

The Board held seven meetings in 2020. Because of the COVID-19 pandemic, the Board's meeting with the Court (ordinarily held in December) was rescheduled to January 2021. Policy matters of common concern are routinely addressed at that meeting. In addition to attendance at its meetings, the majority of attorney Board members grade the Wisconsin bar exams.

## STAFFING OF THE BOARD

In 2020 the full time staff of the Board included the following:

Atty. Jacquelynn B. Rothstein	Executive Director & General Counsel
Ms. April Ashley	Bar Application Manager (Bar Exam)
Mr. John Baggot	Program Assistant
Ms. Dianne Dillman	Bar Application Manager (Diploma Privilege)
Ms. Julie Halverson	CLE Records Manager
Ms. Tammy McMillen	CLE Records Manager
Mr. Daniel Pionke	Character and Fitness Investigator/Proof of Practice Manager



## FUNDING SOURCES AND EXPENDITURES

The mandatory continuing legal education requirement was self-funded in fiscal year 2020 by an annual assessment of lawyers on active and inactive status as of July 1, 2020, per State Bar of Wisconsin records, who paid \$11.00 and \$5.50, respectively. The bar admission portion of the Board's responsibilities are also entirely self-funded.

### **Other fees were as follows:**

Wisconsin Bar Examination (WBE): \$450

Application via foreign schooled applicant: \$850

Application for admission on Proof of Practice Elsewhere (PPE) (reciprocity): \$850

Diploma Privilege (DP) character and fitness (C&F) certification: \$210

Late filing fee for the WBE and C&F: \$200

Late filing fee for CLE Reporting: \$100

Reinstatement/Readmission fee: \$200

## FUNDING SOURCES AND EXPENDITURES

In addition, the Board realized revenue from late filing fees and reinstatement fees authorized by the court, and from miscellaneous fees (copying, duplicate admission certificates, past examination sales, etc.). Revenues shown are anticipated.

### Revenues

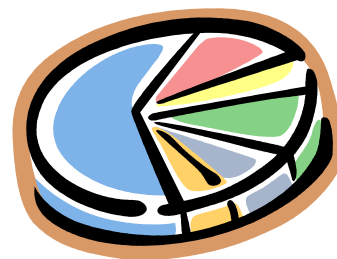
Licensing Activity	\$507,900.00
Education	<u>235,800.00</u>

**Total 2020 Revenues** **\$743,700.00**

### Expenditures

Permanent Salaries	\$383,516.00
LTE Salaries	11,075.00
Fringe Benefits	190,229.00
Supplies, Services, and Capital	<u>210,173.00</u>

**Total 2020 Expenditures** **\$794,993.00**



## MANDATORY CONTINUING LEGAL EDUCATION

### Reporting Requirements

Chapter 31 of the Supreme Court Rules mandates that all active attorneys attend a minimum of thirty (30) hours of approved continuing legal education (CLE) every two years. The Supreme Court Rules also mandate that a minimum of three of the thirty hours must be Ethics and Professional Responsibility (EPR) credits. The rules further provide that attorneys who did not engage in the practice of law during the reporting period are exempt from the attendance requirement but must comply with the reporting requirement. Additionally, on January 11, 2008, the Supreme Court issued an Order adopting a “pure comity” rule which became effective for the CLE reporting period ending December 31, 2008. Under the “comity” rule (SCR 31.04 (3)), “A lawyer whose practice is principally in another jurisdiction that has mandatory continuing legal education requirements and who is current in meeting those requirements is exempt from the attendance requirement of SCR 31.02, but shall comply with the reporting requirement of SCR 31.03.”

The BBE and the Consolidated Courts Automation Program office (CCAP) collaborated on the development of an electronic CLE reporting program which was first offered in 2008.

Beginning with the 2016-17 reporting cycle, all attorneys are now required to electronically file their CLE report using the e-filing program. Additionally, effective July 1, 2017, two new categories of CLE may be used. Those include “Lawyer Awareness and Understanding” and “Law Practice Management.” Each category is limited to six (6) credits per reporting period. Also, as of July 1, 2017, attorneys may report an additional five (5) hours of “on demand” credits for a total of fifteen (15). Attorneys are also eligible to earn up to six (6) credits for providing legal services to qualified *pro bono* programs.

## MANDATORY CONTINUING LEGAL EDUCATION (continued)

### CLE Compliance

Pursuant to the Wisconsin Supreme Court Rules, attorneys who are not in compliance with the mandatory CLE attendance and reporting requirements are suspended from the practice of law following a notice of non-compliance. Since its inception in 1977, there have been six thousand eighty-five (6,085) lawyers who have been suspended for non-compliance with the mandatory continuing legal education requirements. At the end of 2020 calendar year, there were three thousand one hundred twenty-five (3,125) attorneys who remained suspended.

Reporting Cycles	2015-16	2016-17	2017-18	2018-19	2019-20
Lawyers required to report CLE compliance	8805	9043	8694	8885	8609

Issues	2016 (2014-2015 reporting cycle)	2017 (2015-2016 reporting cycle)	2018 (2016-2017 reporting cycle)	2019 (2017-2018 reporting cycle)	2020 (2018-2019 reporting cycle)
Attorneys suspended for non-compliance	209	222	230	229	202
Reinstated (Includes attorneys who were suspended in prior years and deceased)	96	85	111	110	89



### CLE Course Information

In 2020, lawyers again had a wide range of educational activities from which to choose in order to meet their mandatory requirements. Besides live programs, other modes of course presentation included video replays, live webcasts, national teleconferences, and repeated “on-demand” online courses. General Program Approval (GPA), the annual institutional approval available to some CLE sponsors, was extended to thirty-three (33) organizations.

Totals	2016	2017	2018	2019	2020*
Courses Approved	8702	8857	10190	9604	9147
CLE Activities provided in Wisconsin	2136	2515	2368	2049	2251
Repeated On-Demand courses	1137	1579	2118	1350	2005
Live Webcasts offered	3419	3841	4010	4134	6034
National Teleconferences offered	1529	1441	1334	1536	1358
Approved for Ethics (EPR)	4027	4124	4177	3938	3751

(\*as of the data collection date for the 2020 Annual Report)

## MANDATORY CONTINUING LEGAL EDUCATION (continued)

### GAL Course Approvals

The Board also approves Guardian Ad Litem (GAL) courses under Chapters 35 and 36 of the Supreme Court Rules.

Guardian Ad Litem Course Approvals	2016	2017	2018	2019	2020
GAL - Minors	39	74	29	48	54
GAL - Adult	9	18	7	12	6
GAL - Family	39	74	36	48	54

(\*as of the data collection date for the 2020 Annual Report)

### CLE Course Denials

CLE course approval was denied in one hundred fifty-seven (157) cases. The main reason for CLE course denials was for courses pertaining to marketing, advertising, “rain-making,” profitability, and similar types of courses which were deemed not to be related specifically to improving attorneys’ professional competence as attorneys as required by the Supreme Court Rules, but could apply to any business entity. EPR approval was denied for approximately one hundred ninety-eight (198) courses. The principal reason for denial of approval was the failure to have a continuous hour of EPR as required by SCR 31.07 (5) or not meeting the objective of increasing an attendee’s professional competence as an attorney as required by SCR 31.07 (2) (a) or (b).



## MISCELLANEOUS ACTIONS

The Board also carried out the following actions:	2016	2017	2018	2019	2020
Reinstatements (under SCR Chapter 40) (CLE and/or Dues Suspension exceeding 3+ Years)	13	24	23	25	9
Chapter 31 reinstatements (following a CLE suspension of less than three (3) years)	85	79	73	102	97
Readmission following voluntary resignation from the bar	12	11	10	7	13
Name changes	120	114	90	60	73

## ADMISSION TO THE PRACTICE OF LAW



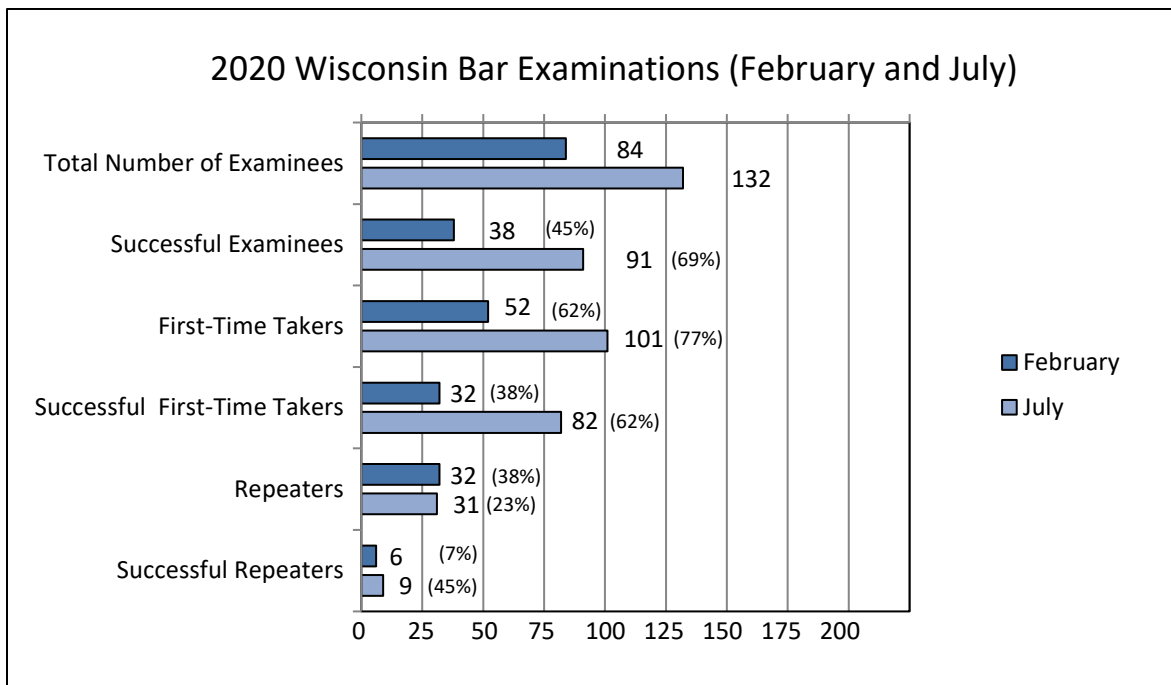
### Diploma Privilege

The Board received four hundred twenty-seven (427) applications for character and fitness certifications from prospective graduates of the University of Wisconsin and Marquette University law schools under SCR 40.03 and 40.06. This represents an increase of one hundred and one (101) applications from the previous year. Two hundred ninety-nine (299) were admitted to the Wisconsin Supreme Court in 2020, which may include those who graduated in prior years but who were not admitted until 2020.

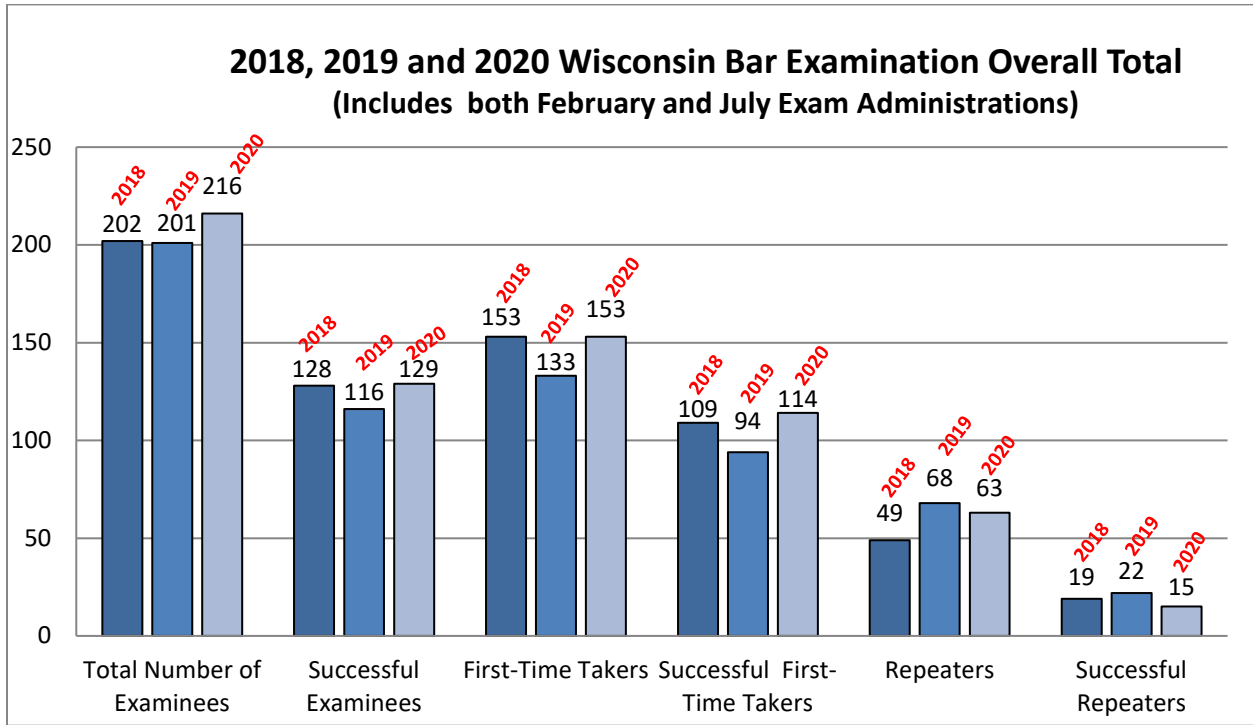
No diploma privilege applications were withdrawn in 2020. However, there were three (3) applicants who failed to complete their files within one year after filing as required under BA 6.06 (SCR Chapter 40 Appendix). Additionally, no applicant files were closed in 2020 due to a failure to be sworn in within a year of certification as required by SCR 40.09 (1). Similarly, no applicant files were closed due to a failure to respond to offer of conditional admission.

### Wisconsin Bar Exam

The Board administered two bar examinations in 2020 to a total of two hundred sixteen (216) applicants. This represents an increase from the two hundred and one (201) applicants in the previous year. Statistical information is as follows:

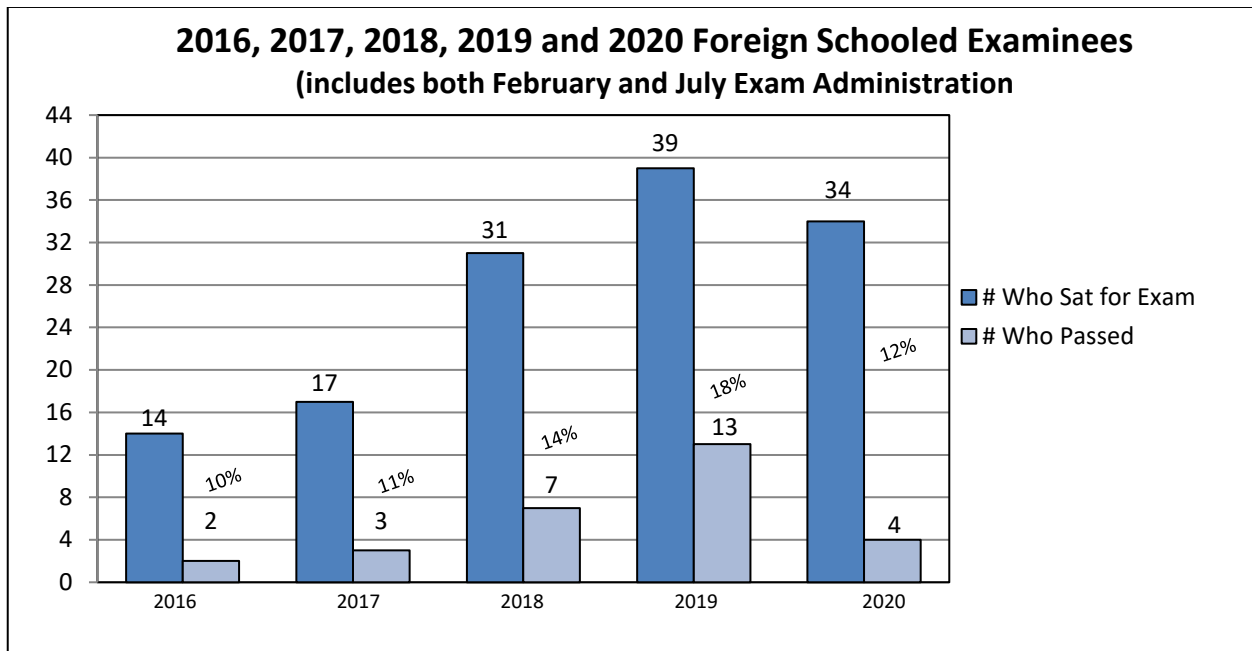


**ADMISSION TO THE PRACTICE OF LAW (continued)**



**Foreign School Examinees (Law Schools outside of the U.S.)**

In February 2020, seventeen (17) foreign schooled graduates sat for the exam and none of them passed. In July 2020, seventeen (17) foreign schooled graduates sat for the exam and four (4) passed.





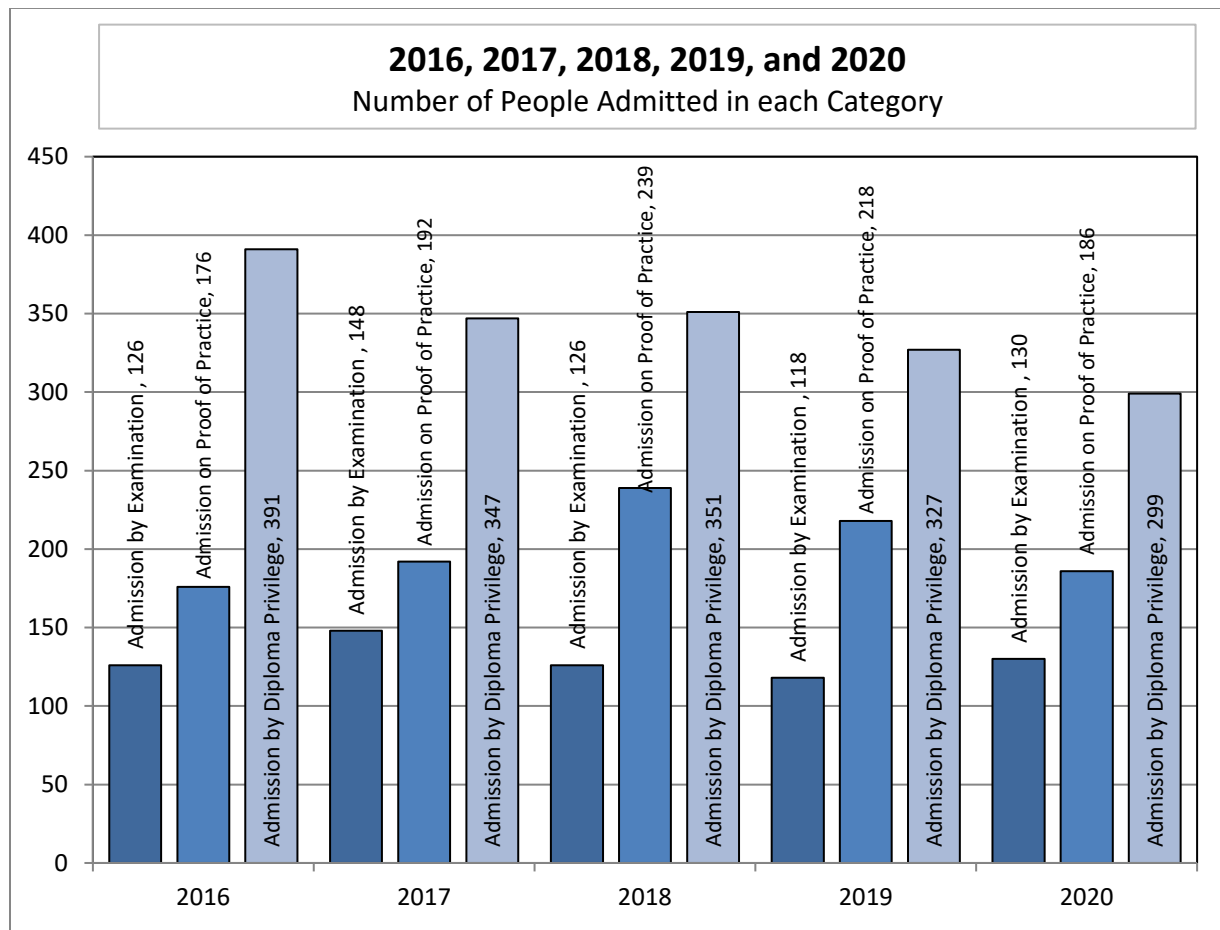
## ADMISSION TO THE PRACTICE OF LAW (continued)

### Proof of Practice Elsewhere

In addition, under SCR 40.05, the Board processed applications for proof of practice elsewhere (previously known as “reciprocity” or “application on foreign license”). In 2020, the Board received one hundred and eighty-eight (188) applications under this provision, a 9% decrease from the previous year. One hundred and seventy four (174) were certified for admission. One hundred and eighty-six (186) applicants were admitted in 2020. There were five (5) applications that were withdrawn. Two (2) applications were closed because the applicant did not meet the experiential threshold. Five (5) applications were closed for being incomplete. One (1) application was closed because the applicant did not get sworn in within one year of certification as is required.

### In House Counsel Registrations

Under SCR 10.03, the Board registered thirty-six (36) attorneys as in-house counsel in 2020 (including some from the prior year).



## ADMISSION TO THE PRACTICE OF LAW (continued)

### DENIAL OF ADMISSION

The Board denies admission to the practice of law in Wisconsin by first notifying the applicant in writing that he or she is at risk of being denied. Applicants are given the basis for the denial and are also provided with the materials upon which the Board based its decision. Applicants are further advised about the timeframe in which to respond and, if desired, to request a hearing. An applicant who is denied admission may petition the Supreme Court for a review of the Board's adverse determination under to SCR 40.08.



### CONDITIONAL ADMISSION

On June 8, 2011, SCR 40.075 went into effect, authorizing conditional admission. Certain exceptions notwithstanding, the fact that an individual is conditionally admitted and the terms of the conditional admission agreement are both confidential. In 2020, four (4) people were offered conditional admission, and all were admitted conditionally. In addition, three (3) people were successfully discharged from conditional admission.

Reasons For Conditional Admission	Number of Attorneys
Financial	1
Alcohol or Other Drug	2
Mental Health	0
Mental Health/Alcohol or Other Drug	1
Conditional Admission in Another State	0
Sex Addiction	0
Non-Disclosure Issues	0
<b>Total Admitted Conditionally</b>	<b>4</b>

## OTHER ITEMS

In mid-March of 2020, the COVID-19 pandemic disrupted normal operations of the court system, including the BBE. Fortunately, BBE staff were quickly able to begin working remotely and services were able to continue without exceptional disruption. Many CLE-related submissions, especially CLE course approval requests, which sponsors typically submit in hard-copy format, were instead sent electronically. While the BBE was able to adapt to that change, it underscored the ongoing need for CCAP to develop and implement an electronic-based CLE course approval program for the BBE.

The Court also issued an Order in March of 2020 to allow an increase number of “on-demand” credits that attorneys could use to complete their CLE requirements. Many in-person CLE seminars were cancelled or postponed due to the pandemic, and many lawyers were self-isolating or avoiding public gatherings because of the risk of acquiring and/or transmitting the virus. In an effort to mitigate the impact of those measures on a lawyer’s eligibility to practice law, the Court issued a temporary Order amending the CLE provisions under SCR Chapter 31 to allow for an increase in the use of on-demand credit hours.

Although the July 2020 bar examination was administered in-person, extraordinary measures were required to be taken in order to ensure the safety of the test takers, proctors, graders, and staff. For example, additional testing rooms were acquired, personal protective equipment was purchased and required to worn by all in attendance, social distancing measures were employed, and increased staffing was needed. The Court also issued a temporary Order with regard to the manner in which new admittees were able to be sworn into the bar. Instead of the usual, in-person ceremonies, a remote, paper process was implemented to ensure their safe entry into the profession.

Although the April 2020 Board meeting was cancelled because of the pandemic, all subsequent meetings were held virtually by utilizing ZOOM videoconferencing. Hearings before the Board were also able to be held by using that technology.

BBE staff also traveled to each of the Wisconsin law schools to review applicant files. They also discussed the application process, including questions surrounding the character and fitness investigation, with the third year law students, but did so telephonically rather than in-person because of the pandemic.

While it was certainly an unprecedented year, a great deal of thanks is owed to all who enabled our operations to continue successfully including the BBE staff, Board members, proctors, and graders. Thank you all!

Respectfully submitted,

// Original Signed //

Jacquelynn B. Rothstein  
Executive Director & General Counsel  
Board of Bar Examiners

