

**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. 11-08

---

In the matter of the petition to amend Supreme Court Rule 40.02(2) and to create Supreme Court Rules 40.055 and 40.14(3)(i) relating to the legal competence requirements of graduates of law schools in other nations; fees.

**FILED****NOV 1, 2012**

Diane M. Fremgen  
Clerk of Supreme Court  
Madison, WI

---

On November 18, 2011, the Board of Bar Examiners (BBE), by its director, Jacquelynn Rothstein, filed a petition with the Wisconsin Supreme Court. The petition requested the court amend Supreme Court Rule (SCR) 40.02(2) and create SCRs 40.055 and 40.14(3)(i) to permit eligible graduates of law schools from other nations to sit for the Wisconsin bar examination.

On May 16, 2012, the court held a public hearing on the petition. BBE Director Jacquelynn Rothstein presented the petition to the court. John Ohnesorge, Director, East Asian Legal Studies Center, University of Wisconsin, joined by Attorney Eric W. Ibele and Jason Smith, Graduate Programs Director, requested the court consider some amendments to the BBE's petition to reflect the needs of the U.W. Law School. Attorney Daniel Shneidman also requested some changes to the petition, as drafted.

The court discussed the petition at its ensuing open administrative conference. The court was favorably disposed to the petition. The court discussed the fact that the proposed rule is modeled, in part, upon New York's rule, 22 NYCRR 520.6, allowing graduates of foreign law schools to sit for that state's bar exam on certain conditions. The applicable conditions depend in part upon whether the applicant obtained his or her law degree in a nation whose jurisprudence is based on the principles of the English common law.

The court expressed concern that the rule, as proposed by the BBE, would be extremely restrictive. The court recommended the BBE consult with and consider the recommendations made by the representatives of the U.W. Law School and the suggestion of Attorney Shneidman.

The court voted unanimously to return the matter to the BBE for further development.

The BBE submitted the revised rule petition to the court in the form of a letter on August 15, 2012. The court discussed the revised petition at its open administrative conference on September 19, 2012. The court voted unanimously to approve the revised petition, with minor revisions. Therefore,

IT IS ORDERED that, effective December 1, 2012, the supreme court rules are amended as follows:

**SECTION 1.** 40.02(2) of the supreme court rules is amended to read:

(2) Satisfies the legal competence requirements by diploma privilege (SCR 40.03), bar examination (SCR 40.04 or SCR 40.055) or practice elsewhere (SCR 40.05).

**SECTION 2.** 40.055 of the supreme court rules is created to read:

SCR 40.055     **Legal competence requirement: Graduates of Law Schools in Other Nations.**     Notwithstanding SCR 40.04(1), an individual who has received a law degree in a country other than the United States may apply to take the Wisconsin bar examination, provided the applicant satisfies all of the requirements of subs. (1) or (2):

(1) The applicant holds a first professional degree in law from a jurisdiction whose jurisprudence is based on the principles of English common law and from a school or schools each of which, throughout the period of the applicant's study, was recognized by a competent accrediting agency in such country as qualified and approved, and meets all of the following requirements:

(a) The applicant has a license to practice law from a common-law jurisdiction and is in good standing in that jurisdiction.

(b) The applicant has been substantially engaged in the practice of law in a common law jurisdiction for at least three of the last ten years prior to filing an application to take the Wisconsin bar examination.

(2) The applicant holds a first professional degree in law from a school or schools each of which, throughout the period of the applicant's study, was recognized by a competent accrediting agency in such country as qualified and approved, and the applicant has

completed a masters of law degree (L.L.M.) that meets all of the following requirements:

(a) The program consists of a minimum of 24 semester hours of credit, or the equivalent thereof, if the law school is on an academic schedule other than a conventional semester system that, except as otherwise permitted in this rule, shall be in classroom courses at the law school in substantive and procedural law and professional skills. No credit shall be allowed for correspondence courses, on-line courses, courses offered on DVD or other media, or other distance learning courses.

(b) The program requires a minimum of 700 minutes of instruction time, exclusive of examination time, for the granting of one semester hour of credit.

(c) The program includes a period of instruction consisting of no fewer than two semesters of at least 13 calendar weeks each, or the equivalent thereof, exclusive of reading periods, examinations and breaks, and shall not be completed exclusively during summer semesters, except that a maximum of six semester hours of credit may be earned in courses completed during summer semesters.

(d) The program is completed within 24 months of enrollment.

(e) Unless otherwise waived by the board, all coursework for the program is completed at the campus of an American bar association approved law school in the United States.

(f) The program completed by an applicant includes all of the following:

1. A minimum of two semester hours of credit in the values and ethical responsibilities of the United States legal profession and its members.

2. A minimum of two semester hours of credit in legal research, writing and analysis, which may not be satisfied by a research and writing requirement in a substantive law course.

3. A minimum of two semester hours of credit in American legal studies, the American legal system or a similar course designed to introduce students to distinctive aspects and/or fundamental principles of United States law, which may be satisfied by a course in United States constitutional law or United States or state civil procedure.

4. A minimum of six semester hours of credit in any of the subjects included in SCR 40.03 (2) (a) or (b).

(g) The program completed by an applicant may include:

1. A maximum of four semester hours of credit in clinical courses, provided all of the following requirements are met:

a. The clinical course includes a classroom instructional component in order to insure contemporaneous discussion, review and evaluation of the clinical experience;

b. The clinical work is done under the direct supervision of a member of the law school faculty or instructional staff whose primary professional employment is with the law school; and

c. The time and effort required and anticipated educational benefit are commensurate with the credit awarded.

2. A maximum of six semester hours of credit in other courses related to legal training taught by members of the faculty of the law

school or of the university with which the law school is affiliated, or taught by members of the faculty of any university or college with which the law school offers a joint degree program, provided such courses must be completed at the campus of such university or college in the United States.

(3) Applicants shall submit proofs and documentation that the board may require. Documents must be in English or must be accompanied by a translation into English prepared and certified by a neutral translator.

(4) An applicant shall file all application materials and fees with the board by August 1 to be eligible for the February bar examination and by January 1 to be eligible for the July bar examination.

(5) Notwithstanding SCR 40.14 (3) (i), the board may add a surcharge in individual cases if it finds that extraordinary costs have been or will be incurred in its investigation of the applicant's qualifications.

**SECTION 3.** 40.14 (3) of the supreme court rules is amended to read:

(3) The following fees are payable to the board:

- |  |       |
|--|-------|
| (a) Bar examination fee  | \$450 |
| (b) Late fee for bar examination   | \$200 |
| (c) Fee for application for admission on<br>proof of practice elsewhere        | \$850 |
| (d) Admission fee  | \$100 |
| (e) Fee for reinstatement, readmission,<br>late admission on diploma privilege |       |

or late enrollment in the bar	\$200
(f) Application fee for change of name	\$ 25
(g) Fee for a character and fitness investigation under SCR 40.06(3m)	\$210
(h) Late fee for a character and fitness investigation under SCR 40.06(3m)	\$200
<u>(i) Fee for admission for graduates of law schools in other nations</u>	<u>\$850</u>

IT IS FURTHER ORDERED that notice of this amendment of the supreme court rules 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, by the state bar of Wisconsin, and on the Wisconsin court system's web site.

Dated at Madison, Wisconsin, this 1st day of November, 2012.

BY THE COURT:

Diane M. Fremgen  
Clerk of Supreme Court

