

SCR CHAPTER 11

REGULATION OF MEMBERS OF THE STATE BAR

JUDICIAL COUNCIL COMMITTEE'S NOTE, 1979: The following rules govern the members of the state bar of Wisconsin and have been clarified and numbered SCR 11.01 to 11.08 for uniformity and convenience. The following chart shows the new rule and the 1977 statute from which it was derived.

<u>Rule</u>	<u>Statute</u>
SCR 11.01	757.29
SCR 11.02	757.27
SCR 11.03	757.285
SCR 11.04	757.287
SCR 11.05	757.293
SCR 11.06	757.294
SCR 11.07	753.076
SCR 11.08	757.32

The following statutes also govern members of the state bar of Wisconsin and are listed here for reference purposes:

757.22 Judge not to act as attorney, etc.; attorneys not to have office with judge.

757.295 Barratry.

757.30 Penalty for practicing without license.

757.45 Sharing of compensation by attorneys prohibited.

SCR 11.01 Attorneys regulated. An attorney is subject to discipline for professional misconduct, as provided in SCR 20:8.4.

SCR 11.02 Appearance by attorney. (1) Authorized. Every person of full age and sound mind may appear by attorney in every action or proceeding by or against the person in any court except felony actions, or may prosecute or defend the action or proceeding in person.

(2) Service of notice. Upon the service of notice of appearance or retainer generally, by an attorney for any party, any other party may file the notice and have the appearance of the party entered as of the time when the notice was served.

(3) Substitution of attorneys. No order for the substitution of an attorney for a party may be made without consent signed by the party and his or her attorney; or for cause shown and upon such terms as shall be just, and on such notice as the court or judge shall direct.

SCR 11.03 [Deleted.]

SCR 11.04 Suspension for nonpayment of support, noncompliance with subpoena or warrant.

(1) In this rule:

(a) “Subpoena or warrant” means a subpoena or warrant issued by the department of workforce development or a child support agency and relating to paternity or support proceedings.

(b) “Support” means support as defined in 42 United States Code section 654(4)B.

(2) Upon receipt of certification from the department of workforce development pursuant to section 49.857, stats., that a person licensed to practice law in this state is delinquent in making court-ordered payments of support or is not in compliance with a subpoena or warrant, the supreme court may suspend the license of that person to practice law for up to 5 years in the case of delinquency in making court-ordered payments of support or for up to 6 months in the case of failure to comply with a subpoena or warrant.

(3) Before entering an order suspending an attorney’s license under sub. (2), the supreme court shall issue an order requiring the attorney to show cause why his or her license to practice law should not be suspended. The supreme court may inquire into the reasons for the delinquency or any other matters the court considers appropriate. The court may enter such orders as it deems appropriate.

(4) The supreme court may return the certification to the department of workforce development upon a showing by the attorney that the department failed to provide notice of its intent to seek license suspension and that, as a result, the attorney was not aware of the right to a hearing as provided by section 49.857, stats., or has not had a reasonable opportunity to pay the delinquency or resolve the noncompliance with the subpoena or warrant.

(5) A license to practice law suspended under sub. (2) shall be reinstated as follows upon whichever of the following first occurs:

(a) Automatically upon the expiration of the period for which suspended.

(b) By order of the supreme court upon notification by the department

of workforce development that the attorney has paid the delinquent support or has made satisfactory alternative payment arrangements or has satisfied the requirements under the subpoena or warrant.

(6) An attorney whose license to practice law is suspended under sub. (2) shall comply with the provisions of SCR 22.26.

(7) The supreme court may disclose the social security number of a member of the state bar to the department of workforce development for the purpose of administering s. 49.22.

SCR 11.05 [Deleted.]

SCR 11.06 Group or prepaid legal services plans. (1) A "group or prepaid legal services plan" means a plan by which legal services are rendered to a person participating in the plan by an attorney recommended or selected as provided in the plan.

(2) An attorney may furnish legal services in this state pursuant to a group or prepaid legal services plan which complies with the following conditions:

(a) The plan shall be written and provide:

1. The benefits to be provided, including all exclusions and conditions;

2. Procedures for the review and resolution of disputes arising under the plan;

3. That a person participating in the plan may obtain legal services independently of the plan;

4. That an attorney furnishing legal services under the plan is free to exercise independent professional judgment; and

5. That the sponsoring organization or any person or entity connected with it shall not directly or indirectly derive a profit from or retain any part of the consideration paid for rendering legal services, except those amounts utilized to:

a. Improve the benefits of the plan;

b. Reimburse the plan for its reasonable and necessary administrative expenses; or

c. Refund surpluses to the users of the legal services and enrollees in the plan, but not to members of a sponsoring organization who have not enrolled in or used the plan.

(b) A description of the terms of the plan shall be given to each participant.

(4) (a) An attorney furnishing legal services pursuant to a plan shall on or before January 31 of each year report to the state bar on

forms provided by it a summary of the plan operation or the attorney's participation in it, including but not limited to all relevant fee schedules, the number of persons receiving legal services, and the kinds of benefits provided.

(b) An attorney or sponsoring organization of a proposed plan shall file the plan with the state bar before the plan becomes operative and may inform interested persons that the plan has been registered with the state bar.

(5) All information filed pursuant to this rule is confidential, if so requested in writing at the time of filing, except the name of the plan, the name and address of its sponsoring organization, the fact that it has an arrangement for the provision of legal services, and the names of the attorneys providing the services. Plans and required reports filed pursuant to this rule shall be otherwise open for inspection. All information is available to authorized representatives of the supreme court and the state bar for information purposes and for disciplinary and ethical investigations or proceedings, except as provided in this rule.

(6) An attorney who receives a written notice of objection to an arrangement or practice disclosed by his or her report made pursuant to this rule or the state bar guidelines, shall be afforded a stated reasonable time, as provided by the guidelines and procedures, within which to conform the arrangement or practice to professional ethical standards, this rule and the guidelines or to file an explanation and other supplementary materials. During that period the report is privileged and shall not be used for disciplinary purposes. This privilege does not apply to an attorney who files an intentionally false or fraudulent report. Failure to conform the arrangement or practice to professional ethical standards or to dissociate from an arrangement which continues not to conform, after the expiration of the time fixed in the notice of objection, shall terminate the privilege afforded by this rule.

(7) Failure by an attorney to file a timely report required by this section constitutes misconduct.

(8) The board of governors of the state bar of Wisconsin shall adopt guidelines and procedures for the administration of this rule after consultation with representatives of sponsoring organizations and participating attorneys. The guidelines and procedures are effective upon approval by the supreme court.

(9) This subsection constitutes the guidelines and procedures approved by the supreme court pursuant to sub. (8):

(a) Information filed with the state bar is privileged and shall not be used in any disciplinary proceeding, except as provided by this rule, and will be examined for completeness. Incomplete forms will be returned to the registrant with an appropriate explanation.

(b) Each report will be examined for conformity with this rule and professional ethical standards. A registered attorney will be advised, in writing, of any problems found in the report and afforded an opportunity to respond to questions raised as to the group arrangement or practice disclosed in the report.

(c) The special committee on group and prepaid legal services may conclude that no further action is necessary in the case of an attorney who after receiving a notice of objection files supplementary materials, within the time stated in that notice, which satisfy the committee.

(d) Where an ethics opinion is sought by the special committee on group and prepaid legal services because of uncertainty as to the professional propriety of an arrangement or practice disclosed by a report, and the professional ethics committee concludes that a particular arrangement or practice violates standards of professional conduct, the attorney involved should be advised promptly of the opinion and given a stated reasonable time, not to exceed 90 days, unless extended by the special committee on group and prepaid legal services, for cause, within which to conform the arrangement or practice to professional standards or to dissociate from the arrangement which continues not to conform.

(e) An opinion from the professional ethics committee shall not be a prerequisite to a decision by the special committee on group and prepaid legal services to file a complaint or report with the office of lawyer regulation in a situation in which the committee concludes that such a decision is warranted.

(f) Consultation with representatives of sponsoring organizations prior to the board of governors' adopting guidelines and procedures for the administration of this rule means written communication and does not require a hearing, unless requested in writing by a sponsoring organization or other interested person. The written communication shall be made to all attorneys participating in registered plans and plan administrators, and shall include a request that the attorneys and plan administrators communicate the substance of the written communications in an appropriate manner to their plan participants.

SCR 11.07 Reserve judges; service and practice. A reserve

judge who has served as a circuit judge under section 753.075 of the statutes shall not appear as an attorney nor act as counsel in any contested matter in any court in the county in which he or she has so served for a period of one year after the service. A reserve judge who has served as a court of appeals judge under section 753.075 of the statutes shall not appear as an attorney nor act as counsel in any matter in the court of appeals for a period of one year after the service. Neither the act of serving as a reserve judge, nor the performance of conciliation or pretrial duties under section 807.09 of the statutes affects his or her eligibility to engage in the practice of law.

SCR 11.08 [Deleted.]

Amended December 29, 1980; November 1, 1982; July 1, 1983; March 21, 1986; June 10, 1987; November 6, 1990; April 10, 2001; November 14, 2001; January 23, 2002.