

**In the Matter of the Petition to
Amend Supreme Court Rule (SCR)
Chapter 40, Regarding Admission to
the Bar****PETITION
18-_____**

This rule proposal comes before the Wisconsin Supreme Court upon the court's own motion. The rules governing admission to the bar, Supreme Court Rule (SCR) Ch. 40, do not clearly indicate if an applicant may seek review of a decision regarding a request for testing accommodations or review of a decision that was delegated by the Board of Bar Examiners (BBE) to a committee, member, or the director, under SCR 40.13. The court has determined the rules should clearly provide such a procedure. We conclude that a public hearing on this petition is unnecessary, but the court will solicit public written comment and specifically invites the BBEs' response.¹ A memorandum setting forth the reasons for this petition is attached. The court proposes amendment of SCR 40.04, Legal competence requirement: Bar examination; SCR 40.08, Adverse determination; and SCR 40.13, Delegation, as follows:

SECTION 1. Supreme Court Rule 40.04(3m), is created to read as follows:

SCR 40.04 (3m) An applicant who seeks testing accommodation shall submit with the application a written request that shall describe the type of accommodation requested and the reasons for the requested accommodation, including medical documentation. If the request is denied in whole or in part, the board's response shall state the reasons. Denial of a request for testing accommodation, in whole or in part, constitutes an adverse determination that may be appealed pursuant to SCR 40.08(6) and (7).

SECTION 2. Supreme Court Rule 40.08(6), is amended to read as follows:

SCR 40.08 (6) Review by board. (a) Except as provided in (b), An applicant may seek review of an adverse determination by filing a written request with the board within 30 days of the date of mailing of the adverse determination.

(b) An applicant may seek expedited review of an adverse determination under SCR 40.04 (3m) by filing a written request within 14 days of the date of

¹ Court communications on the petition, including guidance for submitting public comment and any written comments filed with the clerk's office will be posted on the court's website at <https://www.wicourts.gov/scrules/supreme.htm>.

mailing of the adverse determination. The written request shall clearly request expedited review.

(c) A request for review shall be granted only on the basis of a material error of law or fact, or the discovery of new evidence sufficiently strong to reverse the adverse determination. The board shall notify the applicant of its decision by mailing a copy to the applicant at the last address furnished by the applicant in writing to the board. The board's decision shall contain a statement identifying the date of mailing.

SECTION 3. Supreme Court Rule 40.08(7) is amended to read as follows:

SCR 40.08 (7) Review by supreme court. (a) Except as provided in par. (b), An applicant may seek review of an adverse determination by filing a petition for review with the supreme court and serving a copy on the board within 30 days of the date of mailing of the board's adverse determination.

(b) An applicant may seek expedited review of an adverse determination under SCR 40.04(3m) by filing a petition for review with the supreme court and serving a copy on the board within 14 days of the date of mailing of the adverse determination. The petition for review shall clearly request expedited review.

(c) However, if the applicant has filed a timely request for review by the board under sub. (6), the deadline for seeking review by the supreme court shall be within 30 days of the date of mailing of the board's disposition of the applicant's request to review, provided, that an applicant may seek expedited review of an adverse determination under SCR 40.04(3m) by filing a petition for review with the supreme court and serving a copy on the board within 14 days of the date of mailing of the adverse determination. The petition for review shall clearly request expedited review.

SECTION 4. Supreme Court Rule 40.13 is amended to read as follows:

SCR 40.13 The board may delegate its authority under this chapter to a committee, a member or its director. An applicant who receives an adverse determination made by a committee, a member, or the director under this rule may seek review of that decision pursuant to SCR 40.08 (6) and (7).