



# Supreme Court of Wisconsin

LAWYER REGULATION SYSTEM  
BOARD OF ADMINISTRATIVE OVERSIGHT

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SEP 27 2010

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SEP 27 2010

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OF WISCONSIN

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September 17, 2010

Clerk of Supreme Court  
ATTN: Ms. Carrie Janto  
P.O. Box 1688  
Madison, WI 53701-1688

Re: Rule Petition 10-04 – Establishing Standards and Procedures for Permanent  
Revocation

Dear Ms. Janto:

Commissioner Rich, by letter of September 14, 2010, sought responses to questions regarding the petition. Please provide this response from the Board of Administrative Oversight to the Court for consideration in connection with Petition 10-04.

Commissioner Rich's first request:

**The petition states that the proposed amendment is modeled on Louisiana's rule. Please advise the court why the Louisiana rule was selected as a model and how this rule differs from other state rules permitting permanent revocation.**

The Louisiana Rule served as a model because it provided criteria to guide discretion and provide notice. It differs from the rules and practices in other states in that respect. Other states impose permanent revocation in cases not based on a rule [e.g., Arizona, Kansas], based on a rule that merely lists permanent revocation as a potential sanction [e.g., Indiana Admission and Discipline Rule 23, section 3(a); Kentucky Supreme Court Rule 3.380; New Jersey Court Rules Governing Attorney Discipline, Rule 1:20-15A; Ohio Rules for Government of the Bar, Rule V, section 6(c); Oregon Bar Rule 6.1], or based on a rule that lists permanent revocation and provides limited criteria [e.g., Rules Regulating the Florida Bar, Rule 3-5.1(f); Mississippi Rules of Discipline, Rule 12(c)].

Commissioner Rich's second request:

**Please provide any information you have on the number of permanent revocations that are imposed in Louisiana or in other states each year. Does permanent revocation truly preclude the attorney from ever seeking readmission to the state bar?**

Louisiana imposed permanent revocation approximately 70 times during the first 8 years under its rule. This question has not been posed to other states. Some states indicated that permanent revocation is seldom imposed: Arizona provided citations to nine cases between 1930 and 1993; Indiana reported that permanent revocation is not often ordered; Maine reported that permanent revocation has occurred only once. Other states report more frequent imposition of permanent revocation: Florida reported 30 cases during fiscal years 2006 to 2009. A search of Kentucky's discipline website revealed 9 cases from 1999 to 2002 and none thereafter. Although the question whether permanent revocation truly precludes readmission has not been posed, the text of the rules indicates that permanent revocation precludes readmission.

Commissioner Rich's third request:

**The memorandum in support of the petition states that "Petitioner envisions that the sanction would be reserved for cases involving exceptionally egregious misconduct and harm." Is this standard adequately reflected in the language of the proposed criteria for cases warranting revocation? For example, proposed SCR 21.16(1m)(a)(ii)(3) provides that permanent revocation may be sought in a revocation case involving "lack of cooperation in and contempt for the disciplinary process." Would failure to appear in a disciplinary proceeding warrant application of these criteria?**

The provision relates to a pattern of misconduct evincing a lack of cooperation in and contempt for the disciplinary process. The intent of the Committee is that the Court would first determine whether revocation is appropriate, then consider the factors in sub (a) to determine whether the revocation should be permanent. Failure to appear in a disciplinary proceeding may, in the court's discretion, warrant a permanent revocation if part of a pattern.

Finally, Commissioner Rich solicited comments on revisions suggested by the Legislative Reference Bureau. The Bureau's comments are acceptable to the Committee.

Respectfully submitted,



Steven J. Koszarek  
Chairperson