

# Get a Free Check-up: Complete the Updated Law Firm Assessment

The updated free self-assessment tool gives Wisconsin lawyers, especially those practicing in smaller firms, a meaningful way to improve their operations, manage risk, and increase client satisfaction.

In March 2020, the Office of Lawyer Regulation (OLR) and the State Bar of Wisconsin's Ethics and Practice411™ programs launched the Wisconsin Law Firm Self-Assessment. As we explained then, "the free tool helps lawyers and law firms mitigate risk, elevate competence, and enhance the quality of the legal services they provide. It's an aid to help lawyers understand and comply with the existing rules and standards."<sup>1</sup>

Since the tool's launch, significant changes have occurred in both attorneys' practices and the disciplinary rules and guidance applicable to lawyers, necessitating updates to the law firm assessment. The updated assessment was launched on July 5, 2023. To use the tool effectively, it's important to understand its history, how to access and use it, and most importantly, the recent updates that reflect rule changes, especially those related to trust account management.

## Brief History and Use Cases

The OLR and the State Bar of Wisconsin worked together to adapt the Colorado Consolidated Lawyer Self-Assessment<sup>2</sup> for use in Wisconsin. The idea for a law firm assessment originated in New South Wales, Australia, as way to regulate incorporated legal entities.<sup>3</sup> That idea resulted in valuable preventive measures, which was a significant change from their traditional method of professional regulation.<sup>4</sup>

Several years after New South Wales implemented the assessment, Prof.

Christine Parker studied the results of the assessment process.<sup>5</sup> She found "a dramatic reduction in client complaints."<sup>6</sup> Firms experienced a two-thirds reduction in complaints after completing the assessment and making improvements.<sup>7</sup>

In Wisconsin, attorneys facing certain disciplinary actions may qualify for diversion to an alternatives to discipline program, as outlined in SCR 22.10(1). The rule grants the OLR director the authority to determine which

BY TIMOTHY J. PIERCE,  
TIMOTHY C. SAMUELSON &  
CHRISTOPHER C. SHATTUCK

The Wisconsin Law Firm Self-Assessment is one of the best (and free) tools available for lawyers to ensure they and their firms have a thorough understanding of the rules of professional conduct and access to resources to establish policies and procedures.



matters should be diverted to such a program, as set forth in SCR 22.10(2). The alternatives to discipline program may include mediation, fee arbitration, law office management assistance, evaluation and treatment for alcohol and other substance abuse, psychological evaluation and treatment, medical evaluation and treatment, monitoring of the attorney's practice or trust account procedures, continuing legal education, and the multistate professional responsibility examination, including programs offered by the State Bar of Wisconsin.

The goals of reducing complaints and providing additional educational options for attorneys facing complaints were the driving forces behind the previous OLR director's efforts to create a self-assessment tool for Wisconsin attorneys. Not long after its launch, both the former and current OLR directors continued the tradition of referring

suitable cases to modules from the assessment and requiring lawyers to contact a lawyers' assistance program, such as Practice411, Ethics, or WisLAP for consultations on the results.

The completion of modules and consultation with a lawyers' assistance program have markedly enhanced the experiences of attorneys working through diversion agreements. Although the diversions and consultations are confidential, the general feedback is that attorneys appreciate the opportunity to learn more about the rules, best practices for law firm management, and lawyer wellness support. These not only help address the immediate situation involving the diversion but also provide a path forward to reduce the likelihood of future violations of the supreme court rules. Indeed, an OLR study has shown that lawyers who were diverted to alternatives to discipline program committed other rule violations about half as often as those who were disciplined.<sup>8</sup> If the diverted attorney had not previously been in contact with a lawyers' assistance program, they now have an additional resource and personal connection to help their practice in the future.

### 10 Modules: One Purpose

The self-assessment includes the following 10 modules:

- 1) Developing Competent Practices
- 2) Communicating in an Effective, Timely, Professional Manner
- 3) Ensuring that Confidentiality Requirements are Met
- 4) Avoiding Conflicts of Interest
- 5) File Management, Security, and Retention
- 6) Managing the Law Firm/Legal Entity and Staff Appropriately
- 7) Charging Appropriate Fees and Making Appropriate Disbursements
- 8) Ensuring Reliable Trust Account Practices are Used
- 9) Access to Justice and Client Development
- 10) Wellness and Inclusivity

As an example, a question for module four inquires, "Do any of your cases involve payment of fees by a third party, including insurance carriers." The corresponding ethical implications summarize a disciplinary proceeding and applicable Supreme Court Rules. Lawyers who are not in compliance with existing standards can use the tools and procedures provided in referenced resources and Supreme Court Rules.

### Accessing the Assessment

Lawyers have the option to download and complete either a paper or an online version of the assessment, which are identical. Before diving into the online version, it is recommended



Mont L. Martin, Esq.

## Trustee in §128.21 Wage Earner Debt Amortization Proceedings

(An alternative to bankruptcy)

Serving all of Wisconsin since 1994

For full details contact us:  
**(414) 258-0168**  
Admin@Wi128Trustee.com

Trusted | Diligent | Fair-minded



PIERCE

**Timothy J. Pierce**, U.W. 1992, is ethics counsel with the State Bar of Wisconsin. Reach him through the Ethics Hotline at (608) 229-2017 or (800) 254-9154.

[tpierce@wisbar.org](mailto:tpierce@wisbar.org)



SAMUELSON

**Timothy C. Samuelson**, Indiana University Robert H. McKinney School of Law 1998, is director of the Office of Lawyer Regulation. Reach the OLR at (608) 267-7274.

**Christopher C. Shattuck**, Univ. of La Verne College of Law 2009, M.B.A. U.W.-Oshkosh 2015, is manager of Practice411™, the State Bar's law practice assistance program. If you have questions about the business aspects of your practice, call (800) 957-4670 or visit [practicehelp@wisbar.org](mailto:practicehelp@wisbar.org).

[cshattuck@wisbar.org](mailto:cshattuck@wisbar.org)

Access the digital article at [www.wisbar.org/wl](http://www.wisbar.org/wl).



that lawyers watch the video tutorial to understand how to print or revisit their results. The tutorial, along with other helpful information and the actual assessment, can be found by visiting [www.wisbar.org/lawaudit](http://www.wisbar.org/lawaudit).

Both versions of the assessment are free to use and confidential; no personally identifiable information is required to complete either version. Information completed in the paper version is only accessible by the lawyer who completes the assessment or the person to whom the lawyer grants access to the results (for example, other members of the firm). The online assessment results also are anonymous; lawyers are not required to log in or enter information that identifies their law practices. Any follow-up discussion with Practice411, Ethics, or WisLAP is confidential and is not shared with the OLR.

### Significant Updates

Some of the most significant updates to the assessment include updates for new Supreme Court Rules, ethics opinions, best practices in law firm management, and technology, including the following:

- Artificial Intelligence
- Wellness and Inclusivity
- Wisconsin Formal Ethics Opinions: EF-21-02 (Working Remotely) & EF-21-03 (Responsibilities of a Lawyer with a Fugitive Client)
- Financial Planning
- Business Continuity and Disaster Planning
- 2023 Amendments to the Trust Account Rule
- Protecting IT Infrastructure and Responding to Data Breaches

The recent updates also reflect the considerable transformations the legal profession underwent during the COVID-19 pandemic. The updates also address and provide resources for attorneys to navigate the fresh challenges of the profession.

### ALSO OF INTEREST



#### Take Your Assessment to the Next Level: Seminar on August 2, Replays Scheduled

You've taken the time to complete the self-assessment; now take the time to learn how to interpret the results and put them to use.

If you have not recently reviewed your firm for compliance with existing ethical rules or want to learn more about the rules' everyday effect on your firm, consider attending a State Bar of Wisconsin PINNACLE seminar devoted to the topics in the assessment. No matter your experience level, you'll leave with a better understanding of the ethics rules relating to confidentiality;

conflicts of interest; file management, security, and retention; fees; and ensuring that reliable trust account practices are in use.

The seminar is Aug. 2, 2023, 8:30 a.m. – 11:45 a.m., at the State Bar of Wisconsin and will be available for online live viewing. Attendees can have their questions answered by the State Bar of Wisconsin's ethics counsel Tim Pierce and Law Practice411™ manager Christopher Shattuck and the Office of Lawyer Regulation's director, Tim Samuelson.

Registration information and replay dates can be found at [www.wisbar.org/marketplace](http://www.wisbar.org/marketplace). **WL**

### Conclusion

The Wisconsin Law Firm Self-Assessment is one of the best (and free) tools available for lawyers to ensure they and their firms have a thorough understanding of the rules of professional conduct and access to resources to establish policies and procedures. Taking the assessment requires time, but not nearly as much as responding to an OLR grievance. Don't wait until it's too late; take the

assessment today. Remember, if you have any questions or need additional support, the State Bar of Wisconsin's lawyer assistance programs are available to provide confidential and complimentary assistance. **WL**

### ENDNOTES

<sup>1</sup>Timothy J. Pierce, Keith Lynn Sellen & Christopher Cody Shattuck, *10 Steps to a Better Practice: Take the Law Firm Self-Assessment*, 93 Wis. Law. 41 (March 2020).

<sup>2</sup>Available at <https://coloradosupremecourt.com/AboutUs/LawyerSelfAssessmentProgram.asp>. We thank the Colorado Supreme Court Office of Attorney Regulation Counsel for allowing us to use and revise their assessment tool for State Bar of Wisconsin members.

<sup>3</sup>For the history of the development of the assessment, see Susan Fortney & Tahlia Gordon, *Adopting Law Firm Management Systems to Survive and Thrive: A Study of the Australian Approach to Management-Based Regulation*, 10 U. St. Thomas L.J. 152, 156-65 (2012).

<sup>4</sup>Laurel Terry, *When it Comes to Lawyers ... Is an Ounce of Prevention Worth a Pound of Cure?*, JOTWELL (July 13, 2016) (review-

ing Susan Saab Fortney, *Promoting Public Protection Through an "Attorney Integrity" System: Lessons from the Australian Experience with Proactive Regulation System*, 23 Prof. Law. 16 (2016)).

<sup>5</sup>*Id.*

<sup>6</sup>*Id.*

<sup>7</sup>*Id.*

<sup>8</sup>The Board of Administrative Oversight, see SCR 21.10, retained Dr. Michael F. Thompson to study data relating to lawyers disciplined or diverted from 2013-2016 and their subsequent disciplinary outcomes from 2017-2021. Only 16.7% of lawyers who received diversions between 2013-2016 committed additional violations. Conversely, 29% of lawyers who received discipline between 2013-2016 committed additional violations. **WL**

