



April 1, 2020

Committee on Admissions
D.C. Court of Appeals
430 E Street, NW
Washington, DC 20001

Dear Committee Members,

The CoViD-19 pandemic has altered the fabric of American society in ways that will be felt for years to come. The social distancing and sheltering-in-place that have become part of our daily routine are likely to be with us for months. There is no question that things will get worse before they get better. And, when they do get better, many experts predict a second wave of the pandemic as social distancing restrictions ease. At this point it is difficult to accurately guess when life will return to some semblance of “normal.”

While the effects of this crisis will be numerous and far-reaching, the particular impact we write about today is the licensure of the law class of 2020. Just as the court system is modifying its structures to ensure that justice does not stall, it is critically important that we also consider licensure through a justice lens. Both on the supply side and on the demand side there are important substantive considerations that favor the prompt opportunity for new attorney licensure, notwithstanding CoViD-19.

On the supply side, tens of thousands of law graduates enter the marketplace each year. Many of the jobs they secure demand bar licensure. A significant number of those jobs are with government agencies, small law firms, and non-profit organizations. Absent the opportunity to become licensed by the fall, our July 2020 graduates will face significant insecurity – insecurity that will disproportionately affect students from working class and poorer backgrounds.

On the demand side, there is already an existing justice gap in America. The CoViD-19 crisis will exacerbate that strain. As a recent scholarly white paper noted, “the COVID-19 crisis almost certainly will increase demand for all types of legal services. Businesses are

experiencing unprecedented closures and other disruptions. . . . The working poor, with few assets or employment-related benefits, have been particularly hard hit. . . . Soon, many of these families will suffer from the death of a loved one. Lawyers will be essential to help these individuals access housing, food, and government assistance.” In the District of Columbia, as elsewhere, the most vulnerable members of society will be hardest hit. Young, newly licensed lawyers will be especially important to increase access to justice for these communities.

The response to this reality cannot simply be to hit “pause” on the admission of new attorneys. First, and foremost, the notion that “pausing” means anything other than “canceling” is unrealistic. The social-distancing limits that preclude standard administration of the July 2020 bar exam to large groups of applicants will almost certainly be in place for the foreseeable future. When those restrictions might be lifted is anyone’s guess. September will likely be no better than November will likely be no better than the new year.

Moreover, “pausing” is also an unnecessary approach when so many viable alternatives exist. While the July 2020 bar exam almost certainly cannot be delivered in exactly the way it has been every other year, that is not the end of the inquiry. Rather, the question this Court must ask is “What else can be done?”.

There are several options. They include:

1. Administering the July exam to smaller groups of takers;
2. Allowing diploma privileges for all law schools in the District;
3. Allowing diploma privileges for all law schools in the District upon a graduate’s completion of additional requirements such as an online exam or CLE program; and
4. Modification of the supervised practice rules to allow for temporary provisional licensure of law graduates under the close supervision of a licensed attorney.

With regard to the first option, as the deans of the law schools in the District, we support and stand ready to work with you to provide the facilities needed for a diffuse administration of the July exam (as possible being mindful of CDC standards). Given the evolving crisis, we also stand ready to assist with the expeditious adoption of options two, three, or four, above – including standing at your disposal to provide the appropriate and responsible logistical support needed to sponsor CLE programs or the pairing of attorneys with recent graduates for supervision.

The partial listing above is hardly complete or *sui generis*. For a detailed discussion of these options and others, we commend to the Court's attention, *The Bar Exam and the COVID-19 Pandemic: The Need for Immediate Action*, which can be found online here: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3559060. Written by an impressive group of thoughtful experts in the field, the paper provides information and background that will be critical to any thoughtful discussion of the issues.

In conclusion, we write collectively to express our concern for the postponement of the July 2020 bar exam. While that approach may have the allure of kicking a vexing problem a bit further down the road, it does no more than that (while simultaneously creating a host of negative downstream consequences). We wish to work with you to find a viable solution, consistent with existing medical disease control standards, that will ensure the protection of admissions standards without needlessly imposing financial hardship on graduates, damaging hard fought gains in the diversity of the profession, or undercutting the significant efforts that have been made to begin to close the justice gap. As such, we respectfully ask that you consider working with us on the additional licensure options outlined above to allow our graduates to immediately practice law and serve communities experiencing the need for greater legal services and support.

In solidarity,

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