



August 5, 2020

The Honorable Mary Ellen Barbera
Chief Judge
Maryland Court of Appeals
361 Rowe Boulevard
Annapolis, MD 21401

Dear Chief Judge Barbera:

On July 31, 2020, graduates of our two law schools and others filed with this Court a petition urging adoption of a “diploma privilege plus” system of admission to the Maryland bar in light of the unprecedented circumstances created by the global coronavirus pandemic. We write in support of our graduates’ petition.

We commend the Court of Appeals for the flexibility you and your colleagues have already demonstrated in considering how to regulate admission to the bar in this unusual year. When it was apparent that a traditional in-person bar exam could not be safely administered in late July, you established a task force to evaluate alternatives, including a system of temporary licensure. Thank you for appointing both of us to serve as members of that task force. After first postponing the exam from July to September, the Court ultimately decided to administer a bar exam remotely in early October. We supported that approach, and continue to believe that a remote exam is preferable to an in-person exam.

We are also very grateful to the State Board of Law Examiners for its efforts to work out agreements with other jurisdictions to provide reciprocity upon passage of the exam. Because the remote exam does not result in a Uniform Bar Exam score, these agreements are necessary to provide portability for our students. These agreements and the hard work of the SBLE significantly reduces the hardship to our students of moving to the remote exam.

Although we support the move to a remote bar exam, we also are seeing firsthand the disruption that COVID-19 is causing for our recent graduates and the impact the virus is having on their ability to prepare for the bar exam. In addition to the direct impact the virus has had on the health of some of our graduates and their families, it also has secondary impacts, including housing and food vulnerability and unemployment. The July 31 petition from our graduates highlights these and other problems.

We are particularly concerned that the consequences of the virus do not fall evenly among our graduates. We know that social factors, like economic standing and family support, already have an impact on bar success. Recent studies indicate that efforts to improve the diversity of the legal profession continue to lag. A bar exam administered under current conditions may distort these inequities even further.

Bar applicants need quiet places to study for the exam, and ultimately require a quiet space with a reliable internet connection to sit for a remote exam. Many recent graduates will lack such surroundings due to their living arrangements, family circumstances and socioeconomic status. Graduates might have hoped to study in and ultimately take the remote exam in our law school buildings, but at least one of our two universities (the University of Baltimore) has instituted severe restrictions on access to the law school building, even for this purpose.

In light of such difficulties, four states (Washington, Oregon, Utah and Louisiana) have already adopted diploma privilege. Other jurisdictions, including the District of Columbia, are weighing this option. Wisconsin, which has two law schools like Maryland, has long extended diploma privilege to graduates of the University of Wisconsin and Marquette Law Schools, and there is no evidence that the quality of that state's bar has been compromised.

Even while we supported the adoption of the Uniform Bar Exam in Maryland as preferable to the old Maryland exam, we have long supported the concept of diploma privilege. We believe our academic programs are strong enough to prepare graduates to practice law effectively and ethically. Both of our schools emphasize experiential education, including nationally renowned clinics and plentiful externships in which our students gain practical experience to augment their classroom studies.

The system of diploma privilege described in the petition would not eliminate all prerequisites to bar admission. Maryland now requires bar applicants to pass the Multistate Professional Responsibility Exam, as well as an online exam testing knowledge of distinctions in Maryland law. And of course all applicants would be screened for character and fitness issues, even if diploma privilege were adopted.

For these reasons, and in light of the unprecedented obstacles to the administration of a safe and fair bar exam, we believe the Court of Appeals should view favorably the July 31 petition advocating diploma privilege, at least on a temporary basis. As always, we greatly appreciate the close partnership among the two Maryland law schools, the state judiciary and the state bar and we stand ready to assist the Court in any fashion.

Sincerely,



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