

CONNECTICUT BAR EXAMINING COMMITTEE
SPECIAL MEETING
HARTFORD, CONNECTICUT
APRIL 25, 2014

The Chair, Hon. Anne C. Dranginis (Ret.), called the public portion of the meeting to order at 10:04 a.m. (EDT). Present were Cynthia Baer, Richard F. Banbury, Raymond L. Baribeault, Jr., Judge Nina Elgo, Adam Mantzaris, Hon. C. Ian McLachlan (Ret.), Gail E. McTaggart, Irving H. Perlmutter, Sharon A. Peters, Denise Martino Phelan, Hon. Elliot Solomon, Frederic S. Ury, Matthew Wax-Krell, and Michael J. Whelton. Present by invitation were: Martin R. Libbin, Director, Legal Services; Kathleen B. Harrington, Deputy Director, Attorney Services; Jessica F. Kallipolites, Administrative Director; Judge Douglas S. Lavine (Connecticut Appellate Court); Dean Emeritus Brad Saxton (Quinnipiac University School of Law); Carolyn Ikari, Assistant United States Attorney; David Nelson, Assistant United States Attorney; and Nancy Alisberg, Office of Protection and Advocacy for Persons with Disabilities.

Upon motion duly made by the Chair, seconded by Mr. Perlmutter, it was voted unanimously to accept and record, without amendment or correction, the minutes of the public session of the Special Meeting of March 21, 2014.

Upon motion duly made by the Chair, seconded by Mr. Wax-Krell, it was voted eleven (11) to four (4) to allow public comment on the mental health and substance abuse inquiry agenda item. Voting against the motion were Ms. Baer, Mr. Mantzaris, Ms. McTaggart, and Mr. Whelton. Dean Emeritus Saxton thereafter handed out material and discussed whether the newly amended questions utilized by the National Conference of Bar Examiners (NCBE) should be adopted for use in Connecticut. He also discussed whether the character and fitness inquiry could begin sooner.

Member Alix Simonetti arrived at 10:21 a.m.

Judge Lavine then addressed the issue of whether medical records should be reviewed by Committee members and administrative staff even if the number of individuals is quite limited. He posited that perhaps there was a narrower approach that would better protect the applicants' privacy rights – such as having treating physicians simply produce a letter summarizing treatment for the Committee or having a qualified medical professional conduct a preliminary review of the records.

The Committee discussed a memo dated February 11, 2014 from the NCBE concerning possible changes to the Multistate Bar Examination (MBE). The Committee strongly disagreed with moving the July examination, but indicated that if it does end up being moved, it would strongly recommend moving the February examination as well to give administrative staff time to prepare for each exam administration. The Committee also disagreed with increasing the allotted time for the MBE, but had no objection to increasing the content on the examination. The Administrative Office was instructed to so advise the NCBE.

Upon motion duly made by the Chair, seconded by Mr. Perlmutter, it was voted unanimously to move into Executive Session, pursuant to General Statutes § 1-200 (6) (B), to discuss the negotiations concerning pending claims involving the mental health questions on the bar application.

The following individuals attended the Executive Session: Ms. Baer, Mr. Banbury, Mr. Baribeault, Judge Dranginis (Ret.), Judge Elgo, Mr. Mantzaris, Justice McLachlan (Ret.), Ms. McTaggart, Mr. Perlmutter, Ms. Peters, Ms. Phelan, Ms. Simonetti, Judge Solomon, Mr. Ury, Mr. Wax-Krell, Mr. Whelton, Mr. Libbin, Ms. Harrington, and Ms. Kallipolites.

Upon the motion duly made by the Chair, seconded by Mr. Whelton, it was voted unanimously to move out of Executive Session.

Upon motion duly made by the Chair, seconded by Ms. Simonetti, it was voted unanimously to make the following changes to the questions on the February 2015 bar application.

34. Within the past five years, have you engaged in any conduct that: (1) resulted in an arrest, discipline, sanction or warning; (2) resulted in termination or suspension from school or employment; (3) resulted in loss or suspension of any license; (4) resulted in any inquiry, any investigation, or any administrative or judicial proceeding by an educational institution, government agency, professional organization, or licensing authority, or in connection with an employment disciplinary or termination procedure or (5) endangered the safety of others, breached fiduciary obligations, or constituted a violation of workplace or academic conduct rules? If so, explain on Form 2 and include any asserted defense or claim in mitigation or as an explanation of your conduct and, if applicable to your explanation, Form 8.

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35. Within the past five years, have you exhibited any conduct or behavior that could call into question your ability to practice law in a competent, ethical, and professional manner? If so, explain on Form 2.

36. Do you currently have any condition or impairment (including, but not limited to, substance abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition) that in a material way affects your ability to practice law in a competent, ethical, and professional manner? "Currently" means recently enough that the condition or impairment could reasonably affect your ability to function as a lawyer. If your answer is no, go to Question 38.

37. If your answer to Question 36 is yes, are the limitations caused by your condition or impairment reduced or ameliorated because you receive ongoing treatment or because you participate in a monitoring or support program?

Current question 38 was deleted, and language from this question was incorporated into new question 34 (see above).

The Administrative Staff was instructed to make the necessary adjustments to the numbering of questions and other procedural and/or grammatical changes as needed, and to present proposed revisions to the relevant bar application forms to implement the above changes.

The Chair noted that the document entitled "Protocol for Requesting, Reviewing and Handling Medical Documentation" reflects the Committee's current process and instructed that the Administrative Staff post the protocol online. Staff was also instructed to present proposed revisions for the Committee's consideration that would further ensure privacy and anonymity for applicants.

Upon motion duly made by Ms. Peters, seconded by Mr. Wax-Krell, it was voted unanimously to adjourn the public portion of the meeting at 12:25 p.m. (EDT) and to reconvene in the non-public portion of the meeting.

Respectfully submitted,

IRVING H. PERLMUTTER
Secretary