Bar Admission Process
Van Allen, Barb [LEGIS]
to:
'rules.comments@iowacourts.gov'
05/13/2014 03:06 PM
Hide Details
From: "Van Allen, Barb [LEGIS]" <barb.van.allen@legis.iowa.gov>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

FILED
MAY 13 2014
CLERK SUPREME COURT

1 Attachment

Bar Admission Process Comments.docx

Barbara Van Allen, J.D.
Assistant Ombudsman 3

Office of Ombudsman
Ola Babcock Miller Building
1112 East Grand Avenue
Des Moines, Iowa 50319

Phone: 515-281-3592
Fax: 515-242-6007

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Subject: Bar Admission Process

This attachment represents only my personal position against the ISBA recommendations to remove the requirement to pass the Iowa Bar exam for graduates of Drake University Law School and the University of Iowa Law School because I believe that the exam is a basic professional quality assurance and helps promote the professional practice of law. I do not see this as a step towards elevating the practice and hope the court rejects the ISBA recommendations.

Barbara Van Allen, J.D.

Bar Admission Process
Emily Shanks
to:
'rules.comments@iowacourts.gov'
05/13/2014 03:53 PM
Hide Details
From: Emily Shanks <emily@shankslaw.net>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

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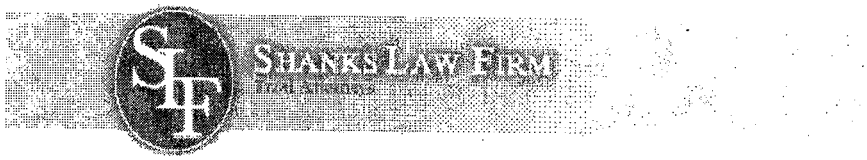
5 Attachments

Bar Admission Process.docx



Hello,

Please see attached my letter on the Bar Admission Process.

Thanks,

Emily A. Shanks
Attorney
SHANKS LAW FIRM
409 West Broadway
Council Bluffs, IA 51503
712-322-2600
Fax: 712-323-5577
Emily@ShanksLaw.net
Website

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SHANKS LAW FIRM

RANDALL J. SHANKS
RANDY@SHANKSLAW.NET
EMILY A. SHANKS
EMILY@ SHANKSLAW.NET

409 WEST BROADWAY
COUNCIL BLUFFS, IOWA 51503
(MAILING ADDRESS)
PH# (712) 322-2600 FAX# (712) 323-5577
FED TAX ID #: 42-1350113
LICENSED IN IOWA & NEBRASKA

FARNAM 1600 OFFICE SUITES
1603 FARNAM STREET
OMAHA, NE 68102
PH# (888) 322-2608

FILED
MAY 13 2014
CLERK SUPREME COURT

May 13, 2014

Clerk of Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 503019

RE: Bar Admission Process

Dear Sir/Madam:

I am not in favor of the Diploma Privilege. There are a few reasons for my strong opinion on this issue.

I was a student who did not attend law school in Iowa. I worked just as hard as other students who did attend Iowa law schools, but I would not have qualified for the diploma privilege. In a time when admission rates are not an issue, the argument that you need to encourage students to stay in state is moot.

Further, I live in Council Bluffs on the border of Iowa and Nebraska. A lot of students in my area choose to attend Creighton University. That institution is less than 30 miles outside of Iowa. It is a much closer option for students in Southwest Iowa. It saves them countless dollars in lodging each year they are in law school to live so close to home. How is that fair to punish them for trying to be economical during such an expensive three years of their lives by not allowing them the same privilege in state students receive?

The argument that students lose money during their two months of bar preparation is also weak. Should we not require doctors to take their exams during the summers to save them money too? When you begin law school, every one knows what to expect in those two months. It isn't fun, but it is a rite of passage. Being an attorney is a prestigious job and we all have worked tirelessly to be able to call ourselves such. Many employers will hire students after graduation and hold their job during bar preparation. Some will even pay the new hire during their study time. There is no rule that says students cannot apply for jobs during bar preparation.

This is an antiquated concept and quite frankly it would strip an attorney of an experience all of us need to go through. It sets apart the students who sailed through law school with those

who have the dedication and heart to put their life on hold for two months and accomplish something amazing by passing the Bar Exam.

I am strongly in favor of keeping the Iowa Bar Examination in place and not allowing students a free ride into the practice of law.

Sincerely,

EMILY A SHANKS

Admission Proccess
Peter Blink
to:
rules.comments@iowacourts.gov
05/13/2014 04:21 PM
Hide Details
From: Peter Blink <PBlink@co.black-hawk.ia.us>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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MAY 13 2014
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1 Attachment

Diploma.doc

Please accept the edited version of my original submission.

Peter W. Blink
Assistant County Attorney
Black Hawk County Attorney
316 East 5th Street
Waterloo, Iowa 50703
P: (319) 833-3001
F: (319) 833-3020

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To Whom It May Concern:

I have serious concerns that this will continue to make it difficult, and possibly making it more difficult for those who earn their J.D. in Iowa to practice in other states, while still increasing the number of new lawyers inside the state. We already have a very State-centric reciprocity policy trapping many young lawyers here when the opportunity to practice may exist elsewhere. Perhaps the Judicial Branch should instead make it easier for people who practice in other states to practice here, so that our reciprocity policy would allow the reciprocal to occur, simplifying the process for Iowa attorneys to become licensed to practice in other jurisdictions. Years ago Iowa adopted the Multi-State series of examinations for entry into the bar, yet only two jurisdictions outside Iowa grant immediate reciprocity.

Peter W. Blink

diploma privilege
Catherine Dewitz
to:
rules.comments@iowacourts.gov
05/13/2014 04:47 PM
Hide Details
From: Catherine Dewitz <cate.dewitz@yahoo.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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Please respond to Catherine Dewitz <cate.dewitz@yahoo.com>

I do not believe that graduating from an in-state institution grants some advantage. A **LICENSED PROFESSION** should require a licensing exam. It is a ridiculous suggestion and would cheapen credibility if enacted. Iowa has a very good legal system. Don't screw it up.

Catherine Dewitz
Paralegal

FW: Bar Admission Process [SPMB-SPMB.FID158712]
Roger W. Stone
to:
'rules.comments@iowacourts.gov'
05/13/2014 05:06 PM
Hide Details
From: "Roger W. Stone" <Rstone@simmonsperrine.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

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1 Attachment

COMMON SENSE ABOUT THE BAR EXAM.DOCX

Thank you

SIMMONS PERRINE
MOYER BERGMAN PLC

Roger W. Stone
Direct Dial: 319-896-4052

Simmons Perrine Moyer Bergman PLC
115 Third Street S.E. Suite 1200
Cedar Rapids, Iowa 52401-1266
Office Phone: 319-366-7641
Fax: 319-366-1917

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COMMON SENSE ABOUT THE BAR EXAM

By Roger W. Stone

In Iowa, doctors, nurses, architects, structural engineers, truck drivers, and others have to pass a written exam. If your profession affects the life, health or safety of others, Iowa generally requires a demonstrated level of competence by exam before you're turned loose on the public.

Also, in Iowa, realtors, securities brokers, CPAs, underwriters, and insurance brokers have to pass a written exam. If your profession involves the major financial transactions of someone's life, Iowa generally requires a written test before you're turned loose on the public.

For over sixty years, Iowa has required lawyers to pass the bar exam before representing Iowa clients. There is probably not a lawyer practicing in our State who did not pass a bar exam. Now that enrollment is falling at the Drake and Iowa law schools up pops a new idea to do away with the bar exam. The timing is not coincidental; rather, lawyers know cause and effect when they see it.

Borrowing lessons from our politicians, the deans and others who advocate ending the bar exam clothe the idea in terms of economic development, keeping Iowa's students home, or alleviating student debt. While all are good ideas, they have almost nothing to do with ending the bar exam. Their arguments are like the emperor's new clothes—not much there.

The problem with ending the bar exam is that every year 5 to 10 people fail it. The people who fail it can retake it over and over until they pass it, but they must pass it to represent clients in Iowa. Without this minimal threshold or barrier to entry to the profession, these 5 to 10 lawyers will be representing Iowa's citizens, and, in a decade, they will number 50 to 100.

The Iowans who will find these lawyers are probably ones who need good representation (actually everyone who needs a lawyer needs a good one; no one needs a bad lawyer). Likely, these consumers are getting divorced, in custody battles, or charged with a crime. They will pick a lawyer, and some will pick a lawyer who could not have passed the Iowa bar exam. Good luck with that choice. The future practitioners who could not have passed the bar exam will probably be solo practitioners or in small groups, and practicing in the fields with the least sophisticated consumers of legal services—criminal and family law.

The declining enrollments will also change the law schools, necessarily. Law school faculties who teach smaller student bodies may lose their enthusiasm for weeding out or failing students who don't work as hard or attend class as much. The incentive will be to keep the tuition paying students in school, even if performance declines, because a law school only needs the number of faculty required to teach the available students, and as enrollment continues to shrink, the faculty positions will follow. So economic theory would say the rigor or competition within the student body will decline, as enrollments decline, because the faculty will want all who start to graduate. Also, as enrollment declines nationally, the quality of the students in each entering class declines also or the classes continue to get smaller.

Another change will result from abandonment of the bar exam: law students will be incented to meet the minimum graduation requirements, rather than both to graduate and prepare to pass a bar exam. Students who do the minimum to graduate will now practice, regardless of how they might have done on the bar exam. Necessarily, the abandonment of the bar exam will modify some students' approach to their curriculum, class attendance and study habits. If law students are nothing else, they are rational economic choice makers.

The arguments in favor of abandoning the bar exam, frankly, don't impress. If law school debt is so crushing that students need to be able to work three months sooner, then law school is too expensive. The State of Iowa should be embarrassed if it has made legal education so expensive that it has to do away with a written competency exam so that students can start repaying the debut immediately upon graduation, rather than to pass an exam. Many law students who graduate can work, if they need to start repaying debt, but they just cannot represent clients until they pass the bar. A few students might choose to stay in the State rather than migrate and have to take a bar exam, but for all but the weakest students, a bar exam is an insignificant barrier to entry to their chosen profession; all but a few pass it, so it is a very small motivator in the choice of where to work and live. As for economic development, allowing the marginal law students who might not be able to pass the bar to practice law in Iowa so longs as they graduate, seems a remote way to improve economic development in Iowa. It would arguably be better to have the available demand for legal positions filled by competent practitioners, rather than just to have them filled.

In the end, the bar exam only weeds out 5 to 10 lawyers a year or 50 to 100 in a decade. Turning loose on the Iowa consumer those lawyers who could not pass the bar exam is a new idea, and one that will inevitably have sad and harmful results for Iowa consumers of legal services who pick a lawyer who did not have the competence to pass a bar exam. Abandoning the bar exam because of declining enrollment at Drake and Iowa law schools merely shifts the cost to the unsuspecting public in Iowa from the law schools. The law schools get an added benefit of some more value in their degrees because students no longer have to take the bar exam, so the degree is somewhat more attractive, and the only losers are Iowans who choose to be represented by a practicing lawyer who could not have passed the bar exam. Iowans who need lawyers deserve better.

Bar Association Process
mike kielkopf
to:
rules.comments@iowacourts.gov
05/13/2014 07:53 PM
Hide Details
From: mike kielkopf <iowamike21@hotmail.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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Bar Association Process - William M. Kielkopf.docx

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To the Honorable Justices of the Iowa Supreme Court:

Gov. Branstad has been quoted as saying, "I think this [the Iowa Bar Exam] is part of making sure people are qualified and competent to do the job." The governor goes on to say that he took the exam, so he thinks Iowa lawyers should continue to follow this tradition.

I'm not a lawyer, and I've never been governor of Iowa. Despite these shortcomings, I would beg to differ with Gov. Branstad.

First, tradition isn't much of an argument. I understand there was a tradition in some places that called for women to be tossed into ponds, and if they drowned, it proved they weren't witches. Maybe those women simply needed lawyers who had passed the bar.

So let's address the governor's point about the bar exam assuring competence.

Here is an excerpt from a *Des Moines Register* story published on March 6, 2011:

> A *Register* analysis of 30 years' worth of discipline findings by Iowa's Supreme Court found more Iowa attorneys are being disciplined today than a generation ago, many for negligence or incompetence caused by addiction and mental health problems.
>
> Public reprimands, suspensions and license revocations have increased almost 50 percent since the 1980s, a rise that mirrors growth in the number of lawyers practicing in the state, the analysis found.
>
> At the same time, Iowa's disciplinary system for lawyers continues to rely in large part on self-reporting by attorneys and judges, a reality that means some habitual violators are not disciplined until problems become severe.
>
> Offenses can range from mere oversights to incompetence to client neglect to outright lawbreaking. State disciplinary records show lawyers have taken tens of thousands of dollars from clients and wards of the state; missed important legal deadlines in probate, child support and appeals cases, and even bequeathed money to themselves in wills drafted for clients.
>
> Yet fewer than 30 attorneys in the past decade have been formally disbarred through prosecution in the state's disciplinary system. Twenty-two have voluntarily surrendered their licenses since 2000. . . .

It should be clear to the governor, his lawyer friends, others in the statehouse, and to anyone else who's paying attention that there is no exam that will make sure all lawyers are competent and

ethical. It may be that graduating from the University of Iowa College of Law or the Drake University Law School is, indeed, qualification enough. Or are those who continue to argue for the bar exam under the illusion that a series of tests possesses some magical power to produce competent, ethical lawyers that years in law school do not. The preponderance of the evidence, as presented in the *Register* article, argues otherwise.

At one time over thirty states offered the diploma privilege to their law school grads, but only one—Wisconsin—broadly offers such a privilege today, a privilege that was established well over a century ago in 1870. Wisconsin seems to have survived this long-running experiment without undue legal chaos. And while it may not be germane, I would also note that American citizens—even those in Iowa—have the right to represent themselves in legal proceedings even if they never passed the bar exam, sat through one lecture in criminal or corporate law or, for that matter, graduated from elementary school.

And so it may be that the bar exam is anachronistic. It may be that the Iowa Supreme Court is right when it suggests jurisprudence in Iowa might survive just fine without the bar exam. So I, as a native Iowan and a graduate of the University of Iowa, am one who would like to find out. It's time for Iowa to drop the bar exam and give Wisconsin some company.

Sincerely,

William M. Kielkopf

Waterloo, Iowa

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Bar Admission Requirement
Nic Jones
to:
rules.comments@iowacourts.gov
05/13/2014 09:08 PM
Hide Details
From: Nic Jones <Nic.Jones@kirkwood.edu>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

I DO NOT agree that the state should allow legal professionals to opt out of taking the Bar exam. I think certification is extremely important in this day and age and the Bar ensures that students are fully aware and capable of handling the responsibilities they will face in the legal world. My 2 cents.

Nic Jones
Office Assistant
Linn County Regional Center
Nic.Jones@kirkwood.edu

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Bar Admission Process
Jack Bjornstad
to:
rules.comments@iowacourts.gov
05/14/2014 09:46 AM
Hide Details
From: Jack Bjornstad <jack@bjornstad.legaloffice.pro>
To: "rules.comments@iowacourts.gov"
<rules.comments@iowacourts.gov>,

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1 Attachment

Comment on Bar Admission Process.docx

BJORNSTAD LAW OFFICE
Jack B. Bjornstad
Attorney at Law
832 Lake St., Spirit Lake, Iowa 51360
(712) 336-2000 Fax: (712) 336-0227
jack@bjornstad.legaloffice.pro

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MAY 14 2014
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To whom it may concern-

I have been a practicing attorney in an Iowa county seat firm for about 15 years. Of course, I took the bar exam.

In my experience, the Iowa bar has a very good reputation throughout the country. Our judiciary is highly regarded, our attorneys are regarded as ethical and competent throughout the nation.

I understand that county seat law firms are in decline. I understand the desire to attract more lawyers to Iowa in the hope that the county seat law firms will not disappear. I understand that it is near-impossible for a new lawyer to pay back crushing student loans while working in a county seat firm.

I understand the problem. **Eliminating the bar exam requirement, however, is not the answer to the problem. Instead, the focus should be on promoting a streamlined Iowa legal system to bring the general practitioner back to the county seats.**

The reason that county seat law firms can't attract lawyers is not a shortage of lawyers, the reason is lack of opportunity in the county seat law firms. The law continues to become more complicated, leading to specialization. Specialization has made the general practitioner a thing of the past. When you practice in a county seat, you have only so many potential clients, due to population constraints. That makes specialization in a county seat firm difficult, for a lawyer who wants to make a living.

The law, however, can be streamlined, eliminating the need for specialization. For example, the new streamlined rules for civil litigation developed by the Civil Justice Reform Task Force is a step in the right direction. Other areas of law could be streamlined in a similar fashion. The rules of Civil and Appellate practice could certainly be streamlined in a similar fashion. The process of selecting and trying a case to a jury in both civil and criminal cases could be streamlined. The probate process could be streamlined.

Eliminating the bar exam will bring lawyers, but those new lawyers are still going to have to specialize. Once they do, a county seat law firm is untenable for them. Once they specialize they will concentrate in Des Moines and other urban areas. They will have no choice, if they want to make a living.

In contrast, streamlining the law would allow lawyers to live in a county seat town and have a general practice that can support a family and repay student loans. There is no better place to live and raise children than Iowa. But you cannot live or raise a family in Iowa without sufficient income. Streamlining certain areas of the law that make a general practice realistic will attract lawyers.

Jack Bjornstad

"Bar Admission Process"
Rose Olson
to:
rules.comments
05/14/2014 10:34 AM
Hide Details
From: "Rose Olson" <rolson@emmetcountyia.com>
To: <rules.comments@iowacourts.gov>,

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1 Attachment

Bar Admission.doc

Attached are my comments regarding the "Bar Admission Process".

Rosalise Olson

Emmet County Attorney

Douglas R. Hansen
County Attorney
dhansen@emmetcountyia.com
Rosalise Olson
Assistant County Attorney
rolson@emmetcountyia.com

Emmet County Courthouse
609 1st Avenue North Suite 1
Estherville, IA 51334
Phone: (712) 362-2229
Fax: (712) 362-2650

Peter Hart
Assistant County Attorney
phart@co.dickinson.ia.us
Michelle A. Howing
Victim Witness Coordinator
mhowing@emmetcountyia.com

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CLERK SUPREME COURT

May 14, 2014

Clerk Iowa Supreme Court
Judicial Branch Building
1111 East Court Ave.
Des Moines, Iowa 50319

Re: Bar Admission Process.

To Whom It May Concern:

I believe the practice of allowing graduates from Iowa law schools to be licensed attorneys without passing a standardized bar exam would be a betrayal of the public trust. Additionally, by the Court delegating the power to determine who qualifies to practice law in Iowa to administrators and professors at universities with financial motivation to expand and promote their school may jeopardize the quality and capacity of those practicing law. I believe passing the National and State standardized bar exams is an unbiased measuring tool to determine who has the stamina to competently represent the citizens of this State.

Would you go to a doctor who hasn't passed the applicable medical boards to treat your cancer? I certainly wouldn't.

Sincerely,

Rosalise Olson

Bar Admission Process
John D. Sens
to:
rules.comments
05/14/2014 10:42 AM
Hide Details
From: "John D. Sens" <jsens3@gmail.com>
To: rules.comments@iowacourts.gov,

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1 Attachment

Bar Admission Process.doc

Please see my comments attached.
--
John

For more secure communication
Postal mail: John D. Sens, 101 E 6th St. Newfolden, MN 56738
Landline: 218 874 2525. Cell 952.212.8000

John D. Sens

FILED
MAY 14 2014
CLERK SUPREME COURT

101 E 6th St.
Newfolden, MN 56738
218.874.2525

Re: Bar Admission Process

Comments

I am on retirement status with the Iowa State Bar Association. I was admitted in 1972 and practiced in Iowa and Minnesota until retirement. In the eighties I served as a temporary bar examiner on several occasions. My premise is that the purpose of the admission process is to limit the practice to reasonably educated men and women of good moral character. I have the following comments:

1. Graduation from either Iowa or Drake together with a satisfactory background check should be adequate for admission in Iowa.

2. Practicing law well requires hard work, personal discipline, and decency. A bar examination cannot predict these attributes.

3. Training for legal practice comes after admission to the bar when the fledging lawyer works with real cases, ideally under the mentorship of experienced practitioners.

Respectfully,

Bar Admission Process
Pleasant Hill - Accounting Manager
05/14/2014 01:14 PM
To:
rules.comments@iowacourts.gov
Hide Details
From: Pleasant Hill - Accounting Manager <1530acctmgr@hy-vee.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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MAY 14 2014
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1 Attachment

To whom.docx

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To whom it may concern,

As a resident of this great state and also a parent of a current attorney who did study for, and pass, the bar, I cannot imagine what we would be thinking giving these graduates a "free pass" on taking the bar. I would think we would want to have a high standard of excellence in our state and hold all graduates to that standard. I agree that the debt level is high when they graduate. There is not ONE lawyer that is currently practicing that had student loans, that didn't go through the same thing once they graduated, mine included. Giving them the right to practice right out of law school will NOT decrease their debt. The bar has been setting the standard for how many years! Do not do this, we would be lowering our standards for no reason! Iowa should be the state that accepts nothing but the best. These students all know the debt load they are getting. They know they have to pass the bar to practice. Do not grease the way for an EASY pass to practice law in our great state.

Sincerely

Cathy Gordon

Bar Admission Process
Rickert, Brian P.
to:
rules.comments@iowacourts.gov
05/14/2014 04:24 PM
Hide Details
From: "Rickert, Brian P." <rickert@brownwinick.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

FILED
MAY 14 2014
CLERK SUPREME COURT

1 Attachment

Clerk of Supreme Court - Rule re bar exam 5-14-2014 (00680068x9F897).doc

Please see the attached comments. Thanks.

Brian P. Rickert
Attorney
515-242-2457 *direct*
515-323-8557 *direct fax*
rickert@brownwinick.com
www.brownwinick.com
666 Grand Avenue
Suite 2000 Ruan Center
Des Moines, IA 50309
Main Phone 515-242-2400
Toll Free 1-888-282-3515

Brown, Winick, Graves, Gross, Baskerville, & Schoenebaum P.L.C.
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May 15, 2014

VIA E-MAIL ONLY
Clerk of Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319
E-mail: rules.comments@iowacourts.gov

RE: Bar Admission Process

Dear Justice Cady, Rules Committee and the Iowa Supreme Court:

I am a 1998 Drake Law School graduate and practice with the Brown Winick Law Firm in Des Moines. You asked for comments on the proposed rule to allow for graduates of Iowa's two law schools to automatically license to practice law in Iowa without taking the Iowa Bar Examination. I believe this step to be unwarranted and I would encourage you to reject the proposed recommendation and maintain the requirement that applicants take and pass the Bar exam.

The main goal of the Rules must be that our lawyers in Iowa are exceptional lawyers first, as our clients and citizens demand it. We see too many defenses alleged, especially in criminal cases, where the defense of incompetent counsel is raised. One way to weed out competent lawyers from incompetent lawyers is to require them to take and pass the Bar exam. Taking and passing the Bar exam is not a difficult step, but requires dedication, discipline and effort – all traits that are needed for any practicing lawyer in Iowa. Every day, we expect and teach our children to dedicate themselves to a task and put forth the effort to achieve their goals. Requiring any less of law school graduates is inappropriate.

Most lay persons that I have talked to are laughing at the fact we are even considering this step, as doctors have to take boards, CPAs have to take an exam, and these and other groups are not contemplating dropping their requirements. Professionals should be held to professional standards and must be able to meet them.

I appreciate the comments regarding debt loads for students, and I experienced that same debt load when I went to law school, as many others did. However, I was able to work and earn money all while going to law school and studying for the Bar exam, and I am confident that our current law students can manage their time and do the same. It is another life-lesson that must be taught. It must be noted that two or three days away from work to take the Bar exam cannot cause a significant debt burden. If the discussion needs to be one of the ever rising cost of law school, that is one to address with the law schools, not by giving the graduates a free-pass or some gimmick. Frankly, the debt load decision is one that is made three years prior to the Bar exam when the

student decides to go to law school in the first place. This is no reason for dropping the requirement of taking and passing the Bar exam.

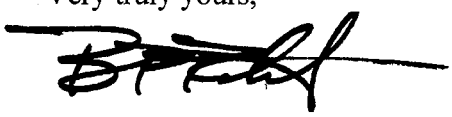
I graduated from law school sixteen years ago and I still remember things that I learned solely by studying for the Bar exam. There is great value studying and learning the concepts to be tested in the Bar exam, and this is whether the Bar exam tests state specific items or multi-state issues. For instance, I took the multi-state bar exam in Missouri and Kansas, and the concepts taught and tested in that multiple-state format are what I remember today. Frankly, the items tested on the Bar exam are not very different between the states, and I can vouch for that fact as I took and passed the Bar exams in Missouri (1998), Kansas (1999) and Iowa (1999).

While I appreciate Wisconsin may think this practice is appropriate, we are not Wisconsin, and the decision for our citizens must be based upon what is best for Iowa.

I believe there are other more beneficial ways that the Iowa Judicial Branch can encourage graduates to practice law in rural parts of the state. The current recommendation is not necessary and will only weaken the public's perception of Iowa's judicial system if free passes are given. Our citizens expect and deserve better.

I strongly encourage you to reject the proposed recommendation and to leave the Bar exam requirements as they are.

Very truly yours,



Brian P. Rickert

direct phone: 515-242-2457
direct fax: 515-323-8557
email: rickert@brownwinick.com

FILED
MAY 14 2014
CLERK SUPREME COURT

Bar Admission Process
tim.robinson1 to: rules.comments

05/14/2014 09:54 PM

If someone is granted a diploma from the University of Iowa or Drake Law Schools, I feel he/she is qualified to practice law without taking a bar exam. I am a retired teacher, and I was never required to take a state exam before I was given my teaching certificate. Leave the decision to the faculties of the law schools; not the random score of one test. Tim Robinson

FILED
MAY 14 2014
CLERK SUPREME COURT

Bar Admission Process
DUSTIN DEGROOTE
to:
rules.comments
05/14/2014 11:01 PM
Hide Details
From: DUSTIN DEGROOTE <dustin.degroote@gmail.com>
To: rules.comments@iowacourts.gov,

The Iowa Supreme Court should not amend Chapter 31 of the Iowa Court Rules to allow diploma privilege because it will result in the licensure of attorneys with less breadth of legal knowledge, it will lead to even more licensed attorneys in an already saturated legal employment market, and any increase in the availability of attorneys for our underserved areas will be de minimis.

Allowing diploma privilege will result in attorneys with less breadth of legal knowledge. Generally, law schools require courses on the subjects of Civil Procedure, Constitutional Law, Contracts, Criminal Law, Evidence, Legal Ethics/Professional Responsibility, Property and Torts. In addition to these topics, the Bar Exam covers the topics of Business Associations (including Agency and Partnerships; Corporations and Limited Liability Companies), Conflict of Laws, Criminal Procedure, Family Law, Trusts and Estates (including Decedents' Estates; Trusts and Future Interests), and Uniform Commercial Code (including Negotiable Instruments and Bank Deposits and Collections; Secured Transactions). These are subjects for which there is no requirement that a law school student and potential candidate to the bar be tested. Resultantly, and absent changes to the required curriculum of our state's law schools or testing on these subjects by bar examination, potential candidates to the bar could have no exposure to these important subjects. We want our attorneys to have exposure to these areas of law to, minimally, be able to recognize potential issues in other areas of law with regard to their area of practice.

While an argument can be made that attorneys having taken the bar exam do not retain the information tested, there can be no logical argument that an attorney who has had no exposure to these subjects will be as likely to recognize the issues that can arise in the different areas of law. The ability to recognize those particular issues and either do the appropriate research on that particular subject, or refer a client to an attorney specializing in that area of law is exponentially more valuable to the public than the possibility of completely failing to recognize a particular issue.

Furthermore, even if the Supreme Court were to place curriculum requirements on the state's law schools that added some of those subjects presently tested on the bar exam to the required curriculum of our state's law schools, it can hardly be argued that for those core subjects taught in all law schools (those subjects universally accepted as the core subjects that all attorneys should master) an attorney will be less likely to retain the subject matter having had to master it on two occasions, separated by at least a year. Such is the situation with those core subjects in learning them during the first or second year of law school, and studying them again prior to the bar exam. Even if this were not the case, having more recently mastered those subjects will mean less training on any of those subjects to newly hired attorneys. At best, not having recently studied those subjects will make newly admitted attorneys more expensive to potential employers due to additional training expenses. At worst, not having recently studied those subjects will make newly admitted attorneys even less desirable than those with experience. Both will serve to make it even more difficult for a recently admitted attorney to find legal employment. Finally, increased curriculum requirements will only hinder the ability of law students to become specialized in particular areas of law, due to the inability to take more classes, the inevitable result of additions to the required curriculum. In the long run, this will lead to fewer offerings of classes by our law schools and a gap in the collective knowledge of our practicing attorneys.

Allowing diploma privilege will oversaturate an already saturated legal employment market. Despite

statistics of law schools across the country, there are many attorneys who are unable to procure legal employment after law school (therein lies the problem with law school statistics that most commonly track employment, not legal employment, and do nothing to compel the unemployed to report on their status as such, or those employed in non-legal positions to report that they are not using their JD). Here in Iowa, we have many, perhaps hundreds or thousands of recently licensed attorneys that are unable to find legal employment. Perhaps even greater are the number of newly admitted attorneys that are forced into employment for which their license to practice law is of no value, jobs for which those attorneys would have been qualified prior to incurring the massive expenditure and time commitment associated with attending law school. Many such attorneys never find legal employment or realize the value of their legal education, but continue to bear the burden of its financial cost.

Ask any employer that has recently offered an attorney position to newly admitted attorneys (of which there are few employers) about the number of applications received. Ask any recently admitted attorney about their employment or that of his or her peers. Allowing diploma privilege will indeed attract more potential attorneys to Iowa, thereby inducing even more strain on the legal employment market. In the long run, and over a sufficient period of time, this will reduce the earning power of attorneys, further complicating the abilities of attorneys to overcome student loan debts, let alone prosper. It is simple economic theory. The supply of attorneys will drive down their value, and while there is a demand in certain areas, diploma privilege will do little or nothing to supply that demand.

Any increases in the availability of attorneys in our more underserved areas will be de minimis, and far outweighed by the gravity of the strain that will be placed on our legal employment markets in our more urban areas. As previously discussed, there are many, if not hundreds or thousands of attorneys in Iowa that are unable to procure legal employment. Such attorneys are not seeking legal employment in our more rural areas, despite incentives by some rural areas directed at attracting such attorneys. If our presently licensed attorneys are not willing to seek employment in our rural areas, for whatever reason, what incentive will diploma privilege offer that is any different from the incentives presently offered? Unemployed attorneys are not opening their own practices in underserved areas despite being in a more desperate situation than that of an attorney that has not undertaken the additional debt of preparing for the bar exam, let alone the time spent preparing for the same. As such, it is less than compelling that diploma privilege will somehow incentivize attorneys to practice in our underserved areas simply because that attorney avoided additional debt in an amount relatively insignificant when compared to the entire debt associated with obtaining a JD.

Respectfully,

Dustin J. DeGroote

bar exam
Jsc2597
to:
rules.comments
05/15/2014 12:17 PM
Hide Details
From: Jsc2597@aol.com
To: rules.comments@iowacourts.gov,

FILED
MAY 15 2014
CLERK SUPREME COURT

1 Attachment

BAR ADMISSION PROCESS.docx

word doc attached

FILED
MAY 15 2014
CLERK SUPREME COURT

BAR ADMISSION PROCESS

I'm in total opposition to eliminating the bar exam for law school graduates. Over the last several years iv'e had several legal issues – civil not criminal. Iv'e consulted and/or used several attorneys – some with 20 to 30 years of experience , some fairly new graduates who had passed the bar exam. I was not at all impressed with the level of competence; timeliness; record keeping; ability to answer questions, etc. by the younger attorneys. Even the more experienced attorneys failed to follow standard practices and ethical performance. I think the bar exam should be made harder and I think there should be re-examining for newer attorneys every five years up to 15 years of active practice and then perhaps reexamining for experienced attorneys every 10 years.

I alos think the "rules of ethics" should be more stringent and the rules more clearly defined instead of being quite vague.\; and, enforcement of ethics violations more pro client than leaning more in favor of attorneys.

Sincerely,

John s. chambers

Bar Admissions Process
Kristofer Lyons
to:
rules.comments
05/16/2014 08:00 AM
Hide Details
From: Kristofer Lyons <kristofer.lyons@gmail.com>
To: rules.comments@iowacourts.gov,

FILED
MAY 16 2014
CLERK SUPREME COURT

1 Attachment

Bar Admission Process.docx

Please see attached.

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Kristofer J. Lyons
Associate Attorney - Shimanek, Shimanek & Bowman
Tele: 319.465.5448
Fax: 319.465.6170
Email: kristofer.lyons@gmail.com

This transmission contains information from the Law Office of Shimanek, Shimanek & Bowman, LLC, and specifically from Attorney Kristofer J. Lyons, which may be confidential or privileged. That information is intended to be for the use of the individual or entity addressed above. If you are not the intended recipient of this transmission, be aware that disclosure, copying, distribution or use of the contents of this transmission is prohibited.

If you have received this transmission in error, please notify us by calling 319.465.5448

FILED
MAY 16 2014
CLERK SUPREME COURT

Dear Members of the Rules Committee,

I have serious concerns about the proposal to grant "diploma privilege" to all graduates of the University of Iowa College of Law, and the Drake University Law School, assuming they pass the character and fitness requirements of the bar.

The first problem is that it is still a bad legal market. Sadly, the legal market nationwide, and in Iowa, has been declining and not improving since 2006, and, in a bad legal market the last thing we need to do is remove barriers to becoming a lawyer.

Second, the "cost savings" argument is completely disingenuous when it comes from a law school. They've been moving up tuition rapidly since the mid 1980's as compared to inflation http://www.lawschooltransparency.com/reform/projects/Tuition-Tracker/

So, if law schools are concerned about student costs, they should stop raising tuition on students.

Third, I do think we need a gate keeping function, and the bar exam does that function well. I wish Iowa had not switched over to the "non Iowa" test, and I wish they still tested over Iowa specific subjects, maybe a switch back to that standard would be good.

Fourth, the "this could lead to more rural lawyers" argument is again disingenuous. The problem facing rural Iowa communities is not the lack of legal work, it is the lack of income sufficient to pay off $150,000 in student loan debt. Again, law schools should stop raising tuition, and maybe students can choose (like I and many of my friends did) to not only be Iowa lawyers, but be rural Iowa lawyers.

Fifth, Iowa has made some effort here (unsure about Drake) but Law Schools should stop admitting so many students. Back to point one, the jobs are not there in Iowa, period, especially the quality of jobs needed to justify the costs, so, law schools and the Bar, need to act as better gate keepers.

I would propose two solutions:

1. Allow sitting 3L's to take the February Bar Exam. Both law schools could have J term Bar Prep for 3L's, and have a more practical based curriculum for that second semester 3L year, like requiring clinical or low income work, while the students study for the bar. Then, if they pass, there is no lost income because they would be licensed upon graduation in May.

or

2. Only have the top 1/3 of a graduating class be exempt. Law school is competitive already, no question, but this would make it more competitive and may actually result in the top students at both schools staying put in Iowa, rather than leaving.

Sincerely,

Kristofer J. Lyons #19126
Licensed since 2004

FILED
MAY 16 2014
CLERK SUPREME COURT

Contact Us Request

jyjonas5@gmail.com to: Iowa Judicial Branch, Iowa Judicial Branch 05/16/2014 07:32 AM

History: This message has been forwarded.

This email is from the Contact Us page of your www.iowacourts.gov website.

Date: 5/16/2014 7:32:13 AM

Email: jyjonas5@gmail.com
Comments: RE: Bar Admission Process
I believe that the bar exam is an important screening process. I am in favor of keeping the exam. Thank you. Yvonne Jonas

FILED
MAY 16 2014
CLERK SUPREME COURT

Bar Exam

Gary Ellis to: rules.comments@iowacourts.gov 05/16/2014 10:18 AM

Pleas do not halt the requirement of passing the bar exam for lawyers.

There is no compelling reason that there is a need to halt the requirement.

The United States has the highest number of lawyers per capita in the world.

Quality not quantity should be the overriding criteria for success. I didn't see any issue the implied the quality of lawyers would improve.

A change that benefits the the State Bar and laws schools without benefit to Iowans needing legal assistance appears to be misplaced priorities.

Sent from my iPhone

Bar Admission Process
Elnora Smith
to:
rules.comments
05/16/2014 10:29 AM
Hide Details
From: "Elnora Smith" <sesmith@mchsi.com>
To: <rules.comments@iowacourts.gov>,

FILED
MAY 16 2014
CLERK SUPREME COURT

1 Attachment

Iowa Grads - bar exam.docx

Our comments are attached.

Thanks,

Elnora Smith

rules.comments@iowacourts.gov

FILED
MAY 16 2014
CLERK SUPREME COURT

PLEASE do NOT drop the bar exam for Iowa grads. We choose all of our professionals – doctors, nurses, teachers, etc. knowing they have passed all exams and are proficient in their field. In the legal you especially want the professional to have passed ALL exams. It could mean the difference for one's future – either successful or entirely indebted for life, to be counseled by someone who has not passed all exams. We know the risk to be small – but there is still a risk.

Thank you for considering our thoughts on this matter.

Stan & Elnora Smith

Bar Admission Process
Gary Roling
to:
rules.comments
05/16/2014 03:08 PM
Hide Details
From: "Gary Roling" <gary.roling@j-tecassociates.com>
To: <rules.comments@iowacourts.gov>,

FILED
MAY 16 2014
CLERK SUPREME COURT

1 Attachment

Comments Regarding Iowa Bar Exam.docx

To Whom it May Concern:

Attached are my comments evidencing my disagreement with the proposal to automatically license graduates from Iowa universities' law schools to practice law without passing the Iowa Bar Exam.

Sincerely,

Gary Roling

FILED
MAY 16 2014
CLERK SUPREME COURT

Comments regarding proposal to allow graduates of Iowa law schools to practice law before passing the Iowa Bar Exam:

1. I disagree with the proposal to allow Iowa law school graduates to be automatically licensed to practice law before passing the Bar Exam because it would be treating that profession differently than other major professions, like doctors & dentists and CPA's, who must pass their respective exams in order to practice.
2. I think changing the current requirements would lessen the incentive for law school students to do well in their course work, putting off some of the studying that would otherwise be done to improve the chance of passing the Bar Exam on the first try. The end result could be the degradation in the quality of lawyers graduating from Iowa universities.
3. I would not want legal work done by someone who does not have the credentials to show the person is qualified. Today that credential is the certificate received upon passing of the Bar Exam.
4. The Bar Exam is an appropriate screening mechanism to help ensure the quality of lawyers practicing law in Iowa.
5. While law school graduates' debt load might indeed be a concern, easing up on qualification requirements to practice law in Iowa is not an appropriate solution.
6. Changing the current requirements might invite lower quality law school students to attend Iowa universities because of the relaxation, which could lead to degradation in the overall quality of our law school graduates.

Gary Roling

4413 Wendy Lee Lane NW

Cedar Rapids, IA 52405

Bar Admission Process
John Schmidt
to:
rules.comments@iowacourts.gov
05/16/2014 05:24 PM
Hide Details
From: John Schmidt <jschmidt50@hotmail.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

FILED
MAY 16 2014
CLERK SUPREME COURT

1 Attachment

Bar Admission Process

Dear Clerk,

My comments are attached in the Word file.

John Schmidt

FILED
MAY 16 2014
CLERK SUPREME COURT

Bar Admission Process – Comments

Clerk, Iowa Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Dear Clerk,

I have read the report of the committee of the Iowa State Bar Association and the staff report prepared for the Court. It appears the Association identified two problems with respect to its first recommendation: the insufficient number of attorneys practicing in rural Iowa and the substantial amount of debt incurred by many law students before they commence employment (or self-employment) as attorneys. It is not clear from either report, however, that the adoption of a diploma privilege will address those problems. There was little or no evidence in the reports that the adoption of a diploma privilege will cause law firms to hire more law school graduates from Drake University or the University of Iowa, or hire them earlier than they would have without the diploma privilege. Footnote 4 provides certain calculations, but it appears there was no field research performed regarding employment prior to the bar exam. There was also little or no evidence that a diploma privilege would cause such graduates to move to rural Iowa to address the perceived shortage of rural attorneys.

As a result, I am not persuaded that the Court should adopt the first recommendation of the Association.

Very truly yours,

John D. Schmidt
3900 John Lynde Road
Des Moines, IA 50312

1612 2nd Ave.
Victor, IA 52349
May 16, 2014

Clerk of the Supreme Court,
Judicial Branch Building
1111 E Court Ave.,
Des Moines 50319

FILED
MAY 19 2014
CLERK SUPREME COURT

To the Judicial Branch
Comments on Bar Admission Process:

I respectfully submit my remarks to a more qualified Judicial System than my formal education can provide.
I am a Senior Citizen graduating from a High School which had a required Course in Law.
In my opinion anyone desiring to become a Lawyer should be required to take the Bar Examination.
Ordinary Citizens must take a test before being allowed to drive a Vehicle on Highways.
With so many areas of laws required, of Course the Bar Exam should be taken.
Too Many laws are weighed by the driver of money and no consideration given whether it is best for everyone or a few.

Respectfully
Gladys Roberts

Thank you for this opportunity.

FILED
MAY 19 2014
CLERK SUPREME COURT

Bar Admission Process

Patrick Brooks (brooker50158@outlook.com)
Thu 5/15/14 9:41 AM
rules.comments@iowa-courts.gov (rules.comments@iowa-courts.gov); Patrick Brooks (brooker50158@outlook.com)

Dear Court Members:

This email is in response to the proposal about excusing Iowa and Drake Law graduates from taking the Bar Exam.

My experience covers over 35 years practicing law and serving as a reader of Bar Exam tests, by Supreme Court appointment, for a number of years. This is not a good idea. My initial reaction was that this is proposed as a tool to increase Law School enrollment, which has slipped significantly in the past few years. The downside of approving such a proposal is that it is not in the best interests of the public or the profession. Young lawyers do not serve a residency, or serve in some other learning program out of law school. Many do not find employment with an established firm and do not have a mentor. To further exacerbate this situation, by allowing those who would not be able to pass the Bar Exam to practice, does not fulfill the duty of those who administer this system to protect the public and profession. Law school graduates are not necessarily equipped to practice law simply because they hold a degree. Those who are not qualified are, hopefully, sorted out though several processes, including the Bar Exam, as well as being unable to find employment, and the disciplinary process.

During my service as a Bar Exam reader it became painfully clear that a small number of individuals simply were not prepared for the serious job of a being a lawyer. These people wrote exams that clearly indicated a very substantial lack of knowledge, a lack of organization, and inability to be critical thinkers. Turning these people loose on society will not serve the profession or the public well. Protecting the public and the profession as well are both very important.

I strongly urge the Supreme Court of Iowa to reject this proposal.

Patrick W. Brooks, Iowa Law School and Bar admission, 1971.
2881 Greensboro Circle, Ames, Iowa 50010
641-485-6413

I could not get this email to go through so am mailing it. Thanks,

Patrick W. Brooks

5-16-14

FILED
MAY 19 2014
CLERK SUPREME COURT

Dear Sir or Madam:

I am writing with respect to the proposal to granting automatic licensure to graduates of the Iowa Law Colleges.

I do not agree that the bar Exam Should be Eliminated for these graduates. A basic level of competence should be demonstrated by these graduates - just as a basic level of competence is required of graduates from nursing programs. Nursing graduates from other states in the compac system still take nursing boards in the state where they graduated. Will law school graduates from other states also be granted practice privileges without proof of competence? Other states Could follow suit and eliminate the bar Exam. How do we then prove competencer

Are the Regents arrogant enough to think that the law colleges of Iowa are so good that every graduate is a superior student and should be licensed without proving competence.

If the law colleges and the Iowa Bar no longer require graduates to sit for the bar then CLE requirements will be next. Our state will soon have no way to judge attorney competence.

If the bar Exam is eliminated then the Board of Nursing should propose that nursing graduates no longer must take state boards and CEU requirements should be Eliminated for licensure.

Slippery slope!

E. Rett. Brun
1701 13TH AVE SW
Cedar Rapids, IA 52404
319-362-5042

PASTRNAK LAW FIRM, P.C.
Attorneys at Law
313 W. 3rd Street
Davenport IA 52801
Phone: (563) 323-7737, Ext. 240
Fax: (563) 323-7739
E-mail: bbekel@pastrnak.com

FILED
MAY 21 2014
CLERK SUPREME COURT

Thomas J. Pastrnak*
Candy K. Pastrnak*

Benjamin T. Bekel*

Thomas R. Schulz – Of Counsel *
Gregory S. Jager – Of Counsel**

*Attorneys Admitted in Iowa and Illinois
**Attorneys Admitted in Iowa Only

ILLINOIS OFFICE:
6300 75th Ave., Suite A
Milan, IL 61264

File No.:

May 19, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 E. Court Avenue
Des Moines, IA 50319

RE: In the Matter of Request for Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process

To whom it may concern:

By way of introduction, I am a native Iowan who has been practicing law in this state since obtaining my Iowa license in September 2011. I am a proud alum of both The University of Iowa (BA '07) and Drake University Law School (JD '11). I have also recently acquired a license to practice in the State of Illinois, which has given me some insight into both the current Iowa bar examination process and reciprocity systems in place in other states.

I am pleased that the Iowa State Bar Association's Blue Ribbon Committee on Legal Education and Licensure has taken steps to revise and reform the licensing process in this state, and I believe I speak for my colleagues in the legal profession when I express my sincere appreciation for their efforts. Furthermore, I support several of the recommendations that the Committee has made to the Supreme Court, such as the adoption of the Uniform Bar Examination and the reform of the required basic skills course.

Nevertheless, for the reasons expressed below, I am unable to support the establishment of a "diploma privilege" which grants graduates of the University of Iowa College of Law and Drake University Law School the right to be admitted to practice law in the State of Iowa without taking a licensing examination.

1. Duty of competence

It is axiomatic that "a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation." Iowa R. Prof. C. 32:1.1. It is no accident that this rule is placed at the very beginning of the Iowa Rules of Professional Conduct, as competent representation is the most fundamental duty lawyers owe to the clients we serve.

The bar examination serves as a final test of that basic competence which is demanded of all lawyers. In 2013, according to the National Conference of Bar Examiners, approximately one out of every five takers of the Iowa bar exam failed. This statistic alone clearly demonstrates that the completion of a law school curriculum – no small feat in and of itself – is simply insufficient to satisfy the high standards of competent representation that the legal profession has and should continue to strive for.

There is no doubt that legal education is in serious need of reform nationwide. Many commentators have stressed the need for so-called "experiential", practical education that law schools do not regularly offer. For instance, I would support a proposal to add a required "practical year" to legal curricula, in which students are required to intern with law firms and obtain direct experience in the practice of law before licensure (much as is standard practice in the fields of pharmacy, teaching, and other professional career tracks). However, the elimination of the bar exam for in-state law school graduates does not offer the sort of reform that legal education needs, and indeed may subvert the high standards of competence that we have impressed upon ourselves as members of the bar.

2. Public confidence

Given the demands and the nature of our profession, it is sometimes easy to forget that ultimately, lawyers are people too. In our professional and personal lives, we all need to call on other professionals for assistance We consult doctors when we are sick or need expert opinions for a client matter. We consult teachers for further education or entrust them with the education of those most precious to us. We may consult an architect for an expert opinion or blueprints for a home, a plumber to repair our bathtubs, or even a barber to cut our hair.

Each of these professionals, from a lawyer to a barber, has one thing in common: they are required to obtain licensure to practice their chosen profession, and *must pass a licensing examination in order to obtain such licensure.* The reason for such a requirement is clear – professionals are individuals in whom the public has placed great trust. In many cases, professionals are entrusted with the very lives of their clients, and high standards must be maintained in order to preserve the confidence of the public in those whom they entrust with such important matters.

In considering the "diploma privilege" proposal, I am drawn repeatedly to a singular question: what is it about the lawyer that distinguishes him from the doctor, the architect, and even the barber in such a manner that he need not take a licensing exam in order to practice in his chosen profession? Is it the nature, extent and quality of his education? Certainly not – the barber need only prove that he passed the tenth grade to be licensed to practice the art of cutting hair, whereas the lawyer must show that he completed high school, college, and law school to obtain his law license. Is it the nature, extent, and quality of the matters entrusted to the lawyer? Certainly not – it is foolish to argue that the length of one's hair is more important than one's freedom, and the lawyer is entrusted with his clients' freedom just as frequently as the barber is entrusted with the length of his client's hair. And yet, it is proposed that the lawyer be exempted from sitting for a licensing examination by virtue of his attendance at an in-state law school, and the barber shall not be so exempt.

A professional license is a document that serves as a beacon of public confidence to the world. It tells clients that its holder has achieved a certain level of education and basic skill to be certified to engage in his chosen profession, and that clients may be confident in his professional skill. By eliminating the bar examination for a certain subset of Iowa lawyers, we erode a fundamental portion of that confidence for no evident reason, particularly when we consider that every other profession requires some sort of licensing examination to be permitted to practice.

3. Education

Every lawyer admitted to practice must go through a rigorous educational curriculum. Many of my colleagues would no doubt agree that law school was the most intellectually demanding challenge of their entire lives. Even after admission, lawyers must continue their education by taking a certain number of CLE classes or risk losing their license.

However, speaking for myself personally, I found the course of study most important to my present practice was not necessarily the three years I spent in law school. Rather, it was the six weeks I spent studying for the bar exam in which I was able to resolve many of the legal principles I learned in law school. I, for one, can confidently say that studying for the bar exam made me a better practitioner, and in retrospect I am happy that I had to take it before becoming licensed.

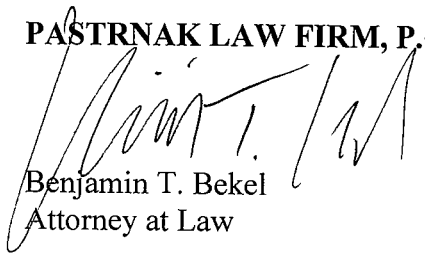
As I noted before, I do support the other proposals the Blue Ribbon Committee has made concerning the licensure of Iowa lawyers. A move to the Uniform Bar Examination would serve Iowa well in allowing reciprocal admission with more states; the discrepancy in reciprocal admission between Nebraska (which allows Iowa lawyers licensed at any time to move for admission without examination) and Illinois (which only allows Iowa lawyers engaged in active practice for five of the last seven years to move for admission without examination) illustrates the need for a standardized system of reciprocal admission which would be best served by the adoption of the UBE. In addition, the Basic Skills Course should be revised to more

appropriately reflect the needs and requirements of practice. But I cannot support a move away from a bar examination for the majority of Iowa lawyers. Such a move would erode public confidence in the profession, deprive lawyers of an important aspect of legal education, and would impugn the duty of professional competence that is at the heart of the legal profession.

Thank you in advance, and I sincerely hope you will consider these comments in making your decision.

Very truly yours,

PASTRNAK LAW FIRM, P.C.



Benjamin T. Bekel
Attorney at Law

BTB/xxx

BAR ADMISSION PROCESS
Brian Smith
to:
rules.comments
05/21/2014 04:49 PM
Hide Details
From: Brian Smith <cybadger60@gmail.com>
To: rules.comments@iowacourts.gov,

FILED
MAY 21 2014
CLERK SUPREME COURT

I am a member of the Iowa Bar since 1987 and a member of the Iowa State Bar Association and the Association of Corporate Counsel. I am originally from Wisconsin and am familiar with the diploma privilege. I am supportive of adoption of the diploma privilege for graduates of the 2 law schools in Iowa for the reasons noted in the thoughtful ISBA Committee report on the subject. With the proper educational options available in law school, law students at Iowa or Drake law schools, who choose to stay in Iowa, will be even more well-suited to start their professional careers in the practice of law in Iowa than they are today. I believe those programs, as part of a student's course of study during law school will better prepare them than the information that might be learned in a short time through preparation for a bar exam.

While I support this change in the rules, this effort could be enhanced through a coordinated mentoring program whereby more senior attorneys in practice areas or geographic areas are matched with new attorneys in order to provide them professional guidance in learning the practice of law and the corresponding concepts that go with it of professional courtesy, ethical conduct and service to the community. The ISBA's Section and Committee structure might lend itself well to helping in this regard. Similarly, it may be worth considering whether the Continuing Legal Education requirements for attorneys who are new(er) to the practice of law should be expanded or focused to cover specific topics, at least for a period of time after admission.

Thank you.

Brian Smith, Esq.

Bar admission process
CHUCK CROOK
to:
rules.comments@iowacourts.gov
05/21/2014 09:58 PM
Hide Details
From: CHUCK CROOK <chuckcrookdsm@msn.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

FILED
MAY 21 2014
CLERK SUPREME COURT

I am opposed to the diploma privilege. It only takes one or two bad apples to spoil the entire barrel. The numbers provided showed that there are some who never passed the bar exam, and presumably did not have the required knowledge to be a lawyer.
It appears the primary issue creating the problem is the length of time it takes to get the results of the exam process. The method used in Iowa when I took the Bar Exam in October 1971 (while still in school--graduation was in December 1971) was to grade the essays during the exam, so that the final results were available late afternoon of the third day of the exam. This was a whole lot of work for the lawyers doing the grading, but I suspect you could still find attorneys willing to do the grading here in Iowa very rapidly.
I agree that waiting from July to November is entirely unreasonable, but I urge an alternate process that greatly hurries the results but retains the Bar Exam. My class had a pair of people who never did pass the bar exam, and therefore did not practice law, at least in Iowa. This was good for the consumers of legal services.
Chuck Crook

Bar Admission Process
Patrick W. Greenwood
to:
rules.comments
05/22/2014 08:55 AM
Hide Details
From: "Patrick W. Greenwood" <attorney@grm.net>
To: <rules.comments@iowacourts.gov>,

FILED
MAY 22 2014
CLERK SUPREME COURT

1 Attachment

bar admission process.docx

Greetings,

Please accept the attached comment.

Patrick W. Greenwood

Patrick W. Greenwood
Attorney At Law

117 South Linden
Post Office Box 36
Lamoni, Iowa 50140
641-784-6968
641-784-6969 Fax

FILED
MAY 22 2014
CLERK SUPREME COURT

May 22, 2014

Iowa Judicial Branch

via electronic mail

RE: Bar Admission Process

Greetings:

I am opposed to elimination of the traditional bar examination process. Much of what I have heard and read about the reasons for considering a change seems to boil down to "the current exam isn't useful and the way it's given is antiquated." What is not true is that testing for competency is faulty. After all, proponents of the change to a diploma privilege assert that the law schools are testing for competency. I disagree. My law education from Drake established that I worked hard and achieved the minimum requirements to graduate. After graduation, I embarked on a study of the law, guided by myself with the help of a bar review course, that equated in hours with an additional semester of law school. Passing the bar exam after this intense period of self-motivated study proved not the extent of my memory but rather my knowledge of the law and my ability to apply it.

Passing the bar exam has been one of the greatest accomplishments of my life, perhaps like thousands of lawyers before me and since. Although the process was extraordinarily difficult, I will always feel like a fully-credentialed member of an exclusive profession. I urge the rules committee not to take this opportunity for success and sense of true belonging from future law school graduates. If the exam lacks Iowa-specific content, fix the exam! If it takes too long to know the results, devote more resources to grading the exam! If law school is too expensive, examine the manner in which the law schools promise and deliver a law education!

Thank you for considering my comments.

Respectfully,

/s/

Patrick W. Greenwood

Bar Admission Process
Chuck Fagan to: Rules Comments 05/22/2014 09:18 AM

BarPrivilege.docx

FILED
MAY 22 2014
CLERK SUPREME COURT

Hon. Charles D. Fagan
(712) 328-5793
chuck.fagan@iowacourts.gov

I believe that if students are taking Iowa specific courses the diploma privilege could be a good idea. I believe that Creighton Law School students should also have the opportunity to participate in and get the diploma privilege if the Creighton Law School would add the Iowa specific curriculum to their school as well. Creighton has long had numerous students who practice in Iowa and deserves to be included in this opportunity.

If this creates an inflow of attorneys who just practice law in our state until passing their home bar or the bar of another state it might be better to have an Iowa specific test that could mimic the old Iowa Bar essay examinations but on a smaller scale. This could be graded as the tests are given and results could be given in 3 days. That would assure that the student would have the minimum requirements to practice in Iowa.

FILED
MAY 22 2014
CLERK SUPREME COURT

FILED
MAY 22 2014
CLERK SUPREME COURT

Bar Admission Process
Myron Gookin to: Rules Comments

05/22/2014 09:37 AM

I oppose allowing diploma privilege for qualified candidates of Iowa's two law schools. There is no question the U of I and Drake's law schools produce excellent graduates who are well prepared for the practice of law. But, I think there is great value in the bar exam process and its concentrated focus on Iowa law, and the law in general, before becoming licensed to practice in Iowa. The bar exam, and the study in preparation for it, forces that focus at the most critical time in a law grad's career--right before they begin practicing law. Whether they were at the top of their class at Drake or Iowa, or perhaps somewhere in the middle at a distant law school, that focus is appropriate since many law grads will begin the practice of law without adequate mentoring or monitoring by an experienced lawyer.

It's been 31 years since I took the bar exam. I know a lot has changed. I know I hated studying for the bar exam! But, I also remember how much I took away from that experience and how it prepared me to sit at my desk that first morning as a real lawyer and have the confidence that I had passed a difficult examination that qualifies me to practice law--I had the stamp of approval of the Iowa bar examiners. Although I doubt it's the same now, I used my bar exam study guides as a quick and trusted research reference for years.

I am aware of the incredible financial pressures on law grads now and how the long wait to take the exam and find out whether they passed is very difficult. I took the bar exam, was sworn-in, got married, had my law license on the wall and was practicing in less than two months after I graduated! Again, I know a lot has changed. At a time when our world and the law is more complex than ever, however, I do not believe giving our Drake and Iowa law school graduates a "pass" on the bar exam is prudent. There is still great value in the examination process, regardless of where you went to law school. And, obviously, it also weeds out those candidates who are not qualified to practice.

Thank you for your consideration of a timely and difficult issue and the hard work so many people have put into a fair and reasonable examination of the issue.

Myron L. Gookin
Iowa District Court Judge
Jefferson County Courthouse
Fairfield, Iowa 52556
641.472.3454

Bar Admission Process
Jennifer Wippert
to:
rules.comments
05/22/2014 09:47 AM
Hide Details
From: "Jennifer Wippert" <Jen@lyonCountylaw.com>
To: <rules.comments@iowacourts.gov>,

FILED
MAY 22 2014
CLERK SUPREME COURT

Dear Sir/Madam:

My name is Jennifer Wippert, I was admitted to the Iowa Bar in September 2012. The opinions expressed in this email represent me alone, and not my firm. As a recent graduate, I understand the extreme debt that new law school graduates face. I personally have over $100,000 in student loan debt, and $60,000 of that came from my law education.

However, I do not believe that the solution to help these graduates is to eliminate the bar exam. I urge you to look back over the past years statistical reports and see that every year there are persons from Iowa's law schools that do not pass the bar exam, by creating a diploma privilege, those who have coasted though law school will be admitted to practice law.

I feel that a better solution would be to reduce the wait person between taking the test and receiving the results. I have never received a clear answer why it took upwards of three months to receive back the results when I took the exam. There may be more applicants than there has been in the past, but the test has also changed to have a multiple choice portion. The partners I practice with have told me that when they took the exam, it was all essays and results were posted the next day. This seems like a much better solution.

Again, I understand that there is a need to reduce the income pressure put on recent graduates, but I do not believe creating a diploma privilege is the best way of achieving this result. I urge you to not create a diploma privilege.

If there are any questions, please feel free to contact me via email: jen@lyoncountylaw.com or via phone 712-490-4624. I appreciate your time and consideration.

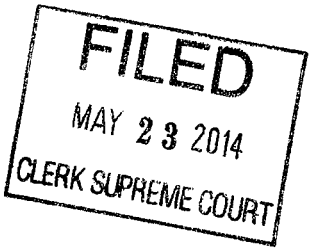
Sincerely,

Jennifer Wippert

Jennifer Wippert
1971 Grant Ave
Rock Rapids, IA 51246

Michael A Scheuermann CPA
1815 Marshall St
Boone, IA 50036

May 21, 2014



Clerk of the Iowa Supreme Court
Judicial Branch Building
1111 E Court Ave
Des Moines, IA 50319

Honorable Members of the Iowa Supreme Court,

I am writing to oppose the proposed "in-state diploma privilege" for graduates of Iowa law schools. Protection of the public and your pride in the profession are reasons to vote this down. Time to study for the exam and waiting for the results are something the candidates should be aware of when they decide to go to law school and should have appropriately planned and allowed for.

If an individual is not able pass the exam and pass it I don't believe they should be allowed to represent to the public they are knowledgeable in law. Even if the exam does not test Iowa law it is proof to the public they "get it"; in other words they understand law theory. My understanding is the pass rate is relatively high, at one time I heard 85%. If they can't do this I sure don't want them to be able to represent someone. They could represent clients poorly and create headaches for the opposing attorneys and judges.

If an individual is not able to plan in advance for the time to study for the exam and get the results they will surely have a tough time in life. They will face many challenges in life and practicing law much larger than this challenge. I understand many law firms will hire individuals who have graduated from law school as legal clerks until they have passed the exam. I also understand the get your license fairly quickly: within three or four months. I guess it all depends on how bad they want to be lawyers. "Judging" from the number of lawyers in the state, it does not appear the current requirements have prevented many people from becoming lawyers.

Admittedly I am comparing some of this to the process it takes to become a CPA. However, I believe the correlations are evident. To become a CPA a person a person must, pass the exam, obtain an extra year of college credits, <u>and</u> then work under another licensed CPA for a year before getting their permit to practice. The CPA exam has a much lower pass rate and it takes many candidates a few years to pass the exam.

There are parts of the CPA exam we don't deal with on a day to day basis, if ever; however, the fact an individual passed the exam shows they "understand" the difficult concepts we all must deal with in the real world. Admittedly lawyers deal with different concepts, but I am confident you will agree there is a

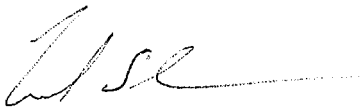
correlation. My pride in my profession and duty to the public would not want someone who cannot plan for and pass the exam to be able to put "CPA" behind their name.

To be honest, I have never understood why attorneys have not been required to work under another attorney for a year before obtaining their license as CPA candidates have. We all know the learning has just begun when we have graduated from college and this requirement protects the public as well. Alas, that is a topic for another day. Regardless I don't think you should lessen the requirements to become an attorney.

I work with many attorneys and have much respect for your profession. I also know there are some not so competent lawyers, as well as not so competent CPAs. I just don't think we should make it easier to obtain such an important privilege. Seems to me your pride in your profession and the public interest should quickly lead you to reject this proposal. I am not a member of your profession, yet felt it was important enough to take time from my busy schedule to write you. It would be interesting to hear the opinion of those who have passed the exams for the bright people who have passed both of our exams.

I respectfully request you reject this proposal to protect the public and maintain the integrity and pride in your profession. Thank you for your consideration of my comments.

Very truly yours,



Michael A Scheuermann

cc: The Honorable David Danilson, Chief Judge, Iowa Court of Appeals

Bar Exam
Suellen Overton
to:
rules.comments
05/23/2014 11:30 AM
Hide Details
From: "Suellen Overton" <soverton@cblaw.omhcoxmail.com>
To: <rules.comments@iowacourts.gov>,

FILED
MAY 23 2014
CLERK SUPREME COURT

To the Rules Committee:

Although I understand that the pass rate of the Iowa Bar is very high, it serves several useful purposes. It does serve to filter out the 10% or so of the law school graduates that cannot pass the bar examination. If I were a client, I would want that filter in place; if only to weed out the attorneys who are unable to identify and analyze issues. If just graduating law school were a guarantee that a person could identify and analyze issues, then theoretically all graduates should be passing the bar. That is not the case.

Second, in the Marines they have all of their recruits run the "Gauntlet" before their graduation. The bar examination is the attorneys Gauntlet. It helps build an esprit de corps to some extent—we can all say we have been through the same training – law school (boot camp) and the surviving the bar examination (gauntlet). I am proud to be a part of a respected profession (for the most part) that is set apart by the rigors of our training.

Third, there is a reason that we do things the way we do them. I don't want to say we should keep it in place merely because it has always been that way. It is just easy to lose sight of value added of keeping the bar examination. It simply has become a part of the lawyer tradition. Some traditions are worth keeping. This is one of them.

Suellen Overton, Attorney
Overton Law Office
133 Pearl Street
Council Bluffs, Iowa 51503
Bus. 712-322-6585
Fax 712-325-6112

Bar Admission Process

Jacklyn Fox to: rules.comments

05/23/2014 04:12 PM

1 attachment

Bar Admission Process.doc

FILED
MAY 23 2014
CLERK SUPREME COURT

To Whom it May Concern:

I am a 2011 graduate of the University of St. Thomas (UST) School of Law in Minneapolis, Minnesota. UST offers the majority of students scholarship opportunities and focuses on humanitarianism and public service.

I appreciate the movement toward joining other states in adopting a Uniform Bar Exam, which would allow lawyers to practice in jurisdictions that have adopted the same. This would provide more opportunities to serve several different jurisdictions, while creating a new perspective for those outside of Iowa. With that said, I strongly disagree with the idea of relieving Drake and Iowa students from having to take the Iowa Bar Exam.

Having to take the Iowa Bar Exam after law school allowed me to be on the same playing field as all others requesting admittance into Iowa. If Drake and Iowa law students were able to bypass the exam process, it would be unfair to those who have also worked very hard in pursuit of practicing law (in Iowa). It is already hard enough getting in to either one of those schools and costs a lot of money. If the goal is to retain students in Iowa, I fear the result would be quite the opposite. Drake and Iowa students would seek to take other bar exams while using Iowa as their fall back. Today, law students take the Iowa Bar Exam because they want to practice in Iowa. It is a choice. We want to be here. Please do not devalue my law school education and the education of others whom chose to go to law school elsewhere. Those who want to practice in Iowa will – by choosing to take the Iowa Bar Exam and go through the process. We are all created equal. Lets keep it that way.

Sincerely,

Jacklyn Fox
Assistant Woodbury County Attorney
Sioux City, Iowa

Clerk of Supreme Court
Judicial Branch Bldg.
1111E. Court Ave.
Des Moines, Iowa 50319

Re: Eliminating bar examinations because of student indebtedness

Justice Antonio Scalia used a commencement speech to fault legal education for watering down curricula while allowing tuition to skyrocket. The justice opposes shortening law school to two years. "It seems to me that the law school in two years proposal rests on the premise that law school is, or ought to be, a trade school," he said in his May 11 address at William and Mary Law School. Schools have drifted away from teaching the fundamentals of law, he said, but while the value of a degree has diminished, the price has soared. I agree.

Arguments for abolishing bar exams:

1. student indebtedness
2. the shortage of attorneys in rural areas

Demographics including the age of the rural population and income as well as the density of the population are primary factors. Rural populations are aging and decreasing. The capacity for expansion does not exist at this time. What is there to attract recently graduated lawyers? What was the reason for bar exams in the first place:

1. inconsistency in training
2. lack of measurement of competency in the broad knowledge of law
3. need for knowledge of authoritative grounds or of guides to judicial and administrative determinations
4. the need to know process for the application of laws

A general view of the law augmented by analysis and discussion of cases evidenced by comprehensive exams is required. The bar exam, preferably essay, causes the student to thoroughly review what has been taught; to show competency or weaknesses.

Conclusion: the bar exams should not be discontinued.

Sincerely,

Edna Emily Pixley

Edna Emily Pixley, Juris Doctorate
A graduate of 1953 University of Iowa College of Law
and successful completion of the Iowa Bar Exam(essays)
admitted to practice -- October 1953

Dated: May 22, 2014

FILED
MAY 27 2014
CLERK SUPREME COURT

Bar Admission Process
John Mayne
to:
rules.comments@iowacourts.gov
05/27/2014 10:55 AM
Hide Details
From: John Mayne <jmayne@maynelaw.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

FILED
MAY 27 2014
CLERK SUPREME COURT

1 Attachment

Bar Exam input.docx

IN THE SUPREME COURT OF IOWA

In the Matter of Request for Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process	Input from John D. Mayne

TO THE COURT:

The ISBA Committee's proposals should not be accepted.

1. There is no empirical data, nor are there substantiated facts in the committee's report that support the notion that simply because an IA/DR law graduate will be able to start practice immediately, more of these licensees will gravitate to rural practice in Iowa. The same is true as to the assertion that the proposal would assist in the creation of a more diverse bench and bar. These assertions are simply wishful thinking, and the Court should disregard them as support for the proposal.

2. If the committee's recommendation is adopted, 100% of the IA/DR law graduates will be admitted to practice. But did 100% of the IA/DR grads in the sample years used by the committee take the Iowa bar exam? It is unlikely that they did. And were the non-examinees poor students? Most of them probably were. In fairness, we don't know. The Court should ask the committee to provide additional information about the IA/DR law students who took the Iowa bar exam in the years sampled by the committee. Specifically, what were the class standings or GPAs of the IA/DR law students who took the Iowa bar exam in those years? And ditto for those who did not. If a significant number of IA/DR law graduates with poor academic records eschewed the bar exam in the sample years, the data claiming a 1% failure rate is not valid.[1] Without considering the effect of the non-takers on the data, we run the risk of increasing the number of unqualified admittees in hopes that they will practice in rural Iowa, a doubly bad result for Iowans.

[1] And, of course, the Staff Report on Diploma Privilege paints a more sobering view of the true failure rate.

3. There was a time when we took a two and one-half day essay-only (damned difficult) bar exam and knew the results within 24 hours, or less. We took the oath and were admitted almost immediately. I obtained my license to practice law 32 days after I received my J.D. from Drake. If the need to be addressed is getting young lawyers a law license faster than four months from graduation, maybe the good old days have some advice for the present.

4. I do not reject out of hand the notion of admitting IA/DR grads without exam, but I do not think the committee has made its case. If admission on receipt of a degree is to be adopted, at the very least some minimum academic performance standard, e.g., 2.0 GPA, should be established. And, a mere two-hour course devoted to Iowa practice over three years seems a little skimpy unless there is an undertaking by the law schools to devote some minimum part of coursework and/or examinations on substantive law to Iowa's treatment of those subjects.

Thank you for the opportunity to provide input. Respectfully,

John D. Mayne, attorney at law

Bar Admission Process
Christopher Little
to:
rules.comment
05/30/2014 11:50 AM
Hide Details
From: Christopher Little <chrislittle03@gmail.com>
To: rules.comment@iowacourts.gov,

FILED
MAY 30 2014
CLERK SUPREME COURT

1 Attachment

Bar admission comments.docx

Please find the attached comments.

--
Thank You,

Christopher N. Little

5/30/2014

The Iowa Supreme Court
RE: Bar Admission Process

To Whom It May Concern:

This letter is in regards to the solicitation that was posted on the Iowa Courts website. I find that I have a substantial stake in this process, and the considerations that the court will weigh. I am a student at Drake Law School, and am at the point in my education where I have to make decisions regarding the future of my career, my family, and the direction of my life.

I have made considerations about where I wish to live, and in which state I would like to practice when I graduate. My Wife and I have made considerations regarding whether we should stay in the state of Iowa or move to another. This is a decision that bears a heavy relationship to the overall question at hand.

I have a difficult choice to make, "Should I study and prepare for the bar here, or for another state?" This question is easily answered by the diploma preference issue. Should my diploma allow me to practice here in Iowa and not have to sacrifice the study time, we are sure to stay here and setup a solo practice. Otherwise, I will be forced to strictly focus on the bar in another state, and subsequently open a solo practice in another state.

Taking the preceding interests into consideration, I respectfully ask that you accept the new diploma preference issue.

Thank You,

Christopher N. Little
Drake Law School
Class of 2016

McKEE, VOORHEES & SEASE, PLC

BRUCE W. MCKEE*
EDMUND J. SEASE*
MARK D. HANSING*
KIRK M. HARTUNG*
HEIDI S. NEBEL*
JEFFREY D. HARTY*
MICHAEL C. GILCHRIST*
CHRISTINE LEBRÓN-DYKEMAN
R. SCOTT JOHNSON*
JOHN D. GOODHUE*
KYLE S. COLEMAN*
JILL N. LINK, PHARM.D.*
BRUCE A. JOHNSON*
LUKE C. HOLST*
LUKE T. MOHRHAUSER*
CORY A MCANELLY
DANIEL M. LORENTZEN, Ph.D.*
JONATHAN L. KENNEDY*
ALEXANDRIA M. CHRISTIAN
MICHAEL G. VOORHEES*
RETIRED
*PATENT LAWYER

ed.sease@ipmvs.com
June 2, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319

FILED
JUN 03 2014
CLERK SUPREME COURT

RE: Bar Admission Process

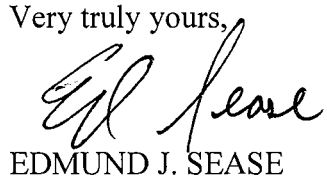
Dear Sir:

In the 1980s I wrote then Chief Justice Ward Reynoldson arguing Iowa should adopt the "Wisconsin Rule" for two reasons: (1) the bar exam does little to exclude anyone and (2) it would be an incentive for bright law students to stay in Iowa. I still believe in the soundness of both of those reasons, but there are many others as well, and the December 2013 Blue Ribbon Committee points those out.

To me the most persuasive reasoning against the Wisconsin rule is the Montana ruling when it abolished the "diploma privilege" in 1980, but the many years of Wisconsin experience demonstrate concerns expressed by Montana are not justified for states similarly situated to Wisconsin (like Iowa).

Finally, I might add over my career I have had experience with many Wisconsin lawyers, including trying cases with and against them. I have found them as competent as any in the Midwest.

Very truly yours,



EDMUND J. SEASE

EJS/db

cc: David Brown
Cory McAnelly

Bar Admission Process
Schuling, Mark [OCA]
to:
rules.comments@iowacourts.gov
06/09/2014 12:08 PM
Hide Details
From: "Schuling, Mark [OCA]" <Mark.Schuling@oca.iowa.gov>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

FILED
JUN 09 2014
CLERK SUPREME COURT

1 Attachment

Rule Comments to Bar Admission Process.6.9.14.docx

Please find attached my rule comments to the Bar Admission Process.

Mark Schuling

Rule Comments to Bar Admission Process

I agree with the proposed changes to the Bar Admission process for all of the reasons suggested by the Iowa State Bar Association. I am a practicing attorney who took the bar exam in 1980. I was able to take the bar exam in early June under the previous process. The study for and the taking of the bar exam did not make me a better attorney or better able to serve clients. If the purpose is to weed out attorneys, it accomplishes it at a very high cost of time and money for the 90% of in-state lawyers that pass the bar.

I earned a law degree after three years of study that prepared me for the practice of law. The bar exam tests the ability to recognize and address legal issues. It is appropriate to rely on the law schools at Drake University and the University of Iowa to ensure their graduating students meet the scholastic requirements that the bar exam tests.

Additionally, 1980 was a difficult time period to find a job. It took me and many others from my class several months to find a position. The current Bar Admission process compounds that problem. Many positions only take applicants that have passed the bar exam thus preventing lawyers from applying for many jobs until the notice is received that the bar exam has been passed several months after graduation.

Thank you for your consideration of my comments.

Mark Schuling

Bar Admission Process
Kami Holmes
to:
rules.comments@iowacourts.gov
06/10/2014 02:36 PM
Hide Details
From: Kami Holmes <kholmes@gmrc.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

FILED
JUN 10 2014
CLERK SUPREME COURT

1 Attachment

1- Letter to Iowa Supreme Ct re bar exam.docx

--

Kami L. Holmes
Counsel
Legal Department
Grinnell Mutual Reinsurance Company
4215 Highway 146
P.O. Box 790
Grinnell, IA 50112-0790
Phone: (800) 362-2041 Ext. 8605
Fax: (866) 619-9783
Email: kholmes@gmrc.com

"A Policy of Working Together"®

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June 10, 2014

Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: Do Not Take Away The Bar Exam- Modify it!

Dear Honorable Justices of the Iowa Supreme Court:

I am writing to you today to give you my opinion regarding the Iowa State Bar Association's recommendation to allow graduates from the state's two law schools to forgo the bar exam.

I do not agree with the Iowa Bar Association committee report which recommends that this state do away with the bar exam and do not believe that the court should eliminate the bar exam. The bar exam does, in the end, make sure people are qualified and competent to have the title of "attorney" in this state. The bar exam is the last "test" one must take to complete the long journey of becoming a lawyer. It takes time, focus, and dedication to study for the bar exam which is what comes with the practice of law. It assists prospective lawyers with handling stress in a known, foreseeable and unavoidable situation, and there are going to be a lot of those situations once they do pass the bar exam. I do not understand how allowing all of the graduates from Iowa's law schools would aid Iowa's bar and bench; while having more attorneys actively seeking employment does mean more competition to land that job, that also means there will be more lawyers out of work. There are already new lawyers struggling to find jobs the way it is which is a change from just 8 years ago when I took the bar. More attorneys mean more attorneys out of jobs, or at least out of a job in the legal field. In the alternative, it could mean more attorneys hanging out their shingle and going solo, which is a difficult way to just start the practice of law.

I took the bar exam eight years ago. It was a very stressful, timed 2 day exam. The process began with a stressful bar exam prep course and many hours reviewing the materials. The first day of the bar exam I was told to look around the room because half of the people in my room would not pass the exam. Stress. I had been hired at a law firm the fall before I actually took the exam which was contingent upon passing the bar. Added pressure. I then stressed out for over 2 months before the results were posted and finally learned that I passed. The moral of the story is that yes the bar exam was

stressful, but so are many, many moments in the career of a lawyer and I wouldn't have had it any other way. I would expect a lawyer to have to take a grueling exam and be a little stressed out over it. I believe the public wants lawyers who have passed a "last" exam to measure their skills. Yes, people do pass the exam who become 'bad" lawyers, and it doesn't necessarily weed out all of the people who may prove to incompetent later, but that can happen in any profession and is often the result of something that simply went awry or got out of hand in their practice. We need the bar exam, however we need the bar exam modified from its current state.

When I took the bar exam 8 short years ago, we had 1 day of Iowa essay questions and 1 day of MBE multiple choice questions. It is my understanding that we no longer have an Iowa essay section and that there are no questions on the exam specifically related to Iowa law. This is ridiculous. I would suggest that we do not eliminate the bar exam, but that we modify it so that it includes Iowa law once again. I proudly attended the University of Iowa College of Law; however I cannot recall specifically learning Iowa law. We learned about many U.S. Supreme Court cases and other federal court cases, but not so much about Iowa. My bar exam prep course on Iowa law was the only time I was able to get a good dosage of Iowa law before practicing in Iowa! It's crazy to think that we have a bar exam that does not include anything about Iowa law in order to be licensed to practice law in Iowa. It would be helpful to have 1 or 2 days of the bar focused on Iowa procedure and law which would assist graduates about practical issues like filing a Petition in Iowa, obtaining liens, seeking appeal and grounds for jurisdiction. Lawyers in Iowa practice in the state's law, not some generalized form of the law, so the MBE is not helpful when it comes to actually practicing law, but it does still help give a potential attorney the skills necessary to analyze problems and theories on various issues/situations that may arise.

I've heard an argument that abolishing the bar exam will help students be able to start working faster (4 ½ months) and be able to start paying on their student loans faster instead of incurring more debt while waiting to see if they passed the bar. While it is true that graduation occurs in late May and the results of the bar exam do not come out until September, bar prep starts in June and lasts until right before the bar exam begins in July. There are then 2+ months where graduates are doing nothing? I don't believe that. If graduates hold off on working until after bar prep and after the bar exam, many are then clerking during the waiting game. I know many graduates who clerked, or interned through bar review and up until they learned they passed the bar when they then transitioned into a full fledged lawyer. Recent graduates are simply not sitting around for 4 ½ months waiting to find out whether they passed the bar before working; many have

already secured jobs and although those jobs may be contingent upon them passing the bar, many employers allow new hires to take the exam again in February if they do not pass the first time and clerk until the results come around the next time. For those who have actually secured jobs, those numbers of second-time test takers are probably few and far between.

Along the same lines as mentioned above, I've heard an argument that abolishing the bar exam will help students be able to practice law because of they will no longer need to take a bar prep course which is provided at a high cost; I do not remember exactly how much the course was, but if you have put the time and money into attending 7 years of college in order to provide for your future, I think the cost of the final exam is insignificant in the scheme of things.

I hope the Iowa Supreme Court will take the time to look at this important issue and decide to keep the bar exam, but agree that it needs modified from what it looks like currently.

Kami L. Holmes
1-800-362-2041, ext. 8605
kholmes@gmrc.com

Bar Admission Process
Scott Riemenschneider
to:
'rules.comments@iowacourts.gov'
06/10/2014 10:11 AM
Hide Details
From: Scott Riemenschneider <scott@iowawillsprobate.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

FILED
JUN 10 2014
CLERK SUPREME COURT

1 Attachment

Bar Admission Process.docx

To Whom It May Concern:

I respectfully submit my comments to the Court.

For the following reasons, I am strongly opposed to the recent recommendations for changing Iowa's Bar Admission Rules, specifically the adoption of the so called "diploma privilege".

Why would the Supreme Court want to decrease rather than increase the requirements for practicing law in the State of Iowa? Most professions require the passing of some kind of proficiency test in order to participate in a specific field of work and hold oneself out as knowledgeable in the area. Passing the bar exam serves as method of credentialing or announcing to the public that the person who is actively practicing has passed a stringent exam which covers all areas of the law and therefore is competent to advise and counsel people who need assistance. Graduating from law school is not enough. I remember very well the process that I went through in studying for the bar exam. It was not an enjoyable experience, but it forced me to recap everything that I had put into my brain over the prior three year period and then show on paper that I had the ability to verbalize and analyze what I had learned. Looking back on it now, I am very grateful for the exam process and the bar review course material that I used to prepare for the exam, which I actually still use today in my private practice. There is a lot of value to requiring graduates to culminate their education into one final test and it should not be something that nearly everyone who takes passes. If the passage rate is so close to 100% and it takes 3 months or more to grade the answers, then fix the test rather than simply get rid of it. When I took the bar exam, it was entirely hand written in essay form over three consecutive days and I had the results in less than 48 hours of completing it. I have no idea why the current system takes so long to determine whether a person has passed or failed, nor has anyone been able to explain it to me, but it seems like an easy problem to resolve.

With all due respect, the members of the Blue Ribbon Committee do not practice law in my area of expertise. I deal with estate planning, probate, real estate, elder law and tax. It seems like the trial lawyers are the ones who are pushing for the elimination of the current Iowa Bar Examination process. They do not represent my point of view or the position of most rural and transactional attorneys in my opinion. The last thing we need is for public opinion to worsen on practicing lawyers and other legal professionals. I would hate to give the impression or further promote the thought that anybody can perform this kind of work and that it does not require any particular ability or skill. We have enough trouble with that through the unauthorized practice of law that exists in today's society.

Please do not be persuaded by the argument that graduates must delay their employment by waiting for the results or obtain additional loans to support themselves before gaining admission to the Bar. That carries no weight with me. All law students should be required to register and pass some sort of assessment after

graduating. The method of testing simply needs to be fixed. Eliminating it altogether just waters down our perception as experts on the law.

I encourage you to reject the proposed recommendations.

A copy of my comments is also attached in Microsoft Word format.

Thank you.

Sincerely,

SCOTT S. RIEMENSCHNEIDER, J.D., M.B.A., Attorney at Law

Wilson | Deege | Despotovich | Riemenschneider | Rittgers

An Association | 515.327.1000 Phone | 888.797.9333 Toll Free | 515.327.1063 Fax | scott@iowawillsprobate.com

Edgewater Building | 4200 University Avenue, Suite 424 | West Des Moines, IA 50266 | www.iowawillsprobate.com

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Why would the Supreme Court want to decrease rather than increase the requirements for practicing law in the State of Iowa? Most professions require the passing of some kind of proficiency test in order to participate in a specific field of work and hold oneself out as knowledgeable in the area. Passing the bar exam serves as method of credentialing or announcing to the public that the person who is actively practicing has passed a stringent exam which covers all areas of the law and therefore is competent to advise and counsel people who need assistance. Graduating from law school is not enough. I remember very well the process that I went through in studying for the bar exam. It was not an enjoyable experience, but it forced me to recap everything that I had put into my brain over the prior three year period and then show on paper that I had the ability to verbalize and analyze what I had learned. Looking back on it now, I am very grateful for the exam process and the bar review course material that I used to prepare for the exam, which I actually still use today in my private practice. There is a lot of value to requiring graduates to culminate their education into one final test and it should not be something that nearly everyone who takes passes. If the passage rate is so close to 100% and it takes 3 months or more to grade the answers, then fix the test rather than simply get rid of it. When I took the bar exam, it was entirely hand written in essay form over three consecutive days and I had the results in less than 48 hours of completing it. I have no idea why the current system takes so long to determine whether a person has passed or failed, nor has anyone been able to explain it to me, but it seems like an easy problem to resolve.

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Please do not be persuaded by the argument that graduates must delay their employment by waiting for the results or obtain additional loans to support themselves before gaining admission to the Bar. That carries no weight with me. All law students should be required to register and pass some sort of assessment after graduating. The method of testing simply needs to be fixed. Eliminating it altogether just waters down our perception as experts on the law.

I encourage you to reject the proposed recommendations.

A copy of my comments is also attached in Microsoft Word format.

Thank you.

Sincerely,

SCOTT S. RIEMENSCHNEIDER, J.D., M.B.A., Attorney at Law

Wilson | Deege | Despotovich | Riemenschneider | Rittgers

An Association | 515.327.1000 Phone | 888.797.9333 Toll Free | 515.327.1063 Fax | scott@iowawillsprobate.com

Edgewater Building | 4200 University Avenue, Suite 424 | West Des Moines, IA 50266 | www.iowawillsprobate.com

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Bar Admission Process
Chandlor_Collins to: rules.comments

06/11/2014 01:36 PM

1 attachment

Response.docx

FILED
JUN 11 2014
CLERK SUPREME COURT

(See attached file: Response.docx)

Chandlor Collins
U.S. Probation Officer
8 South 6th Street
Room 239
Council Bluffs, IA 51501
(712)322-2071, ext.112

Hello,

I write as a fairly recent Drake Law School Graduate of 2012. I believe that a diploma privilege would be beneficial a few levels.

First, it may work to attract students from nearby states to attend the two law schools in the state. Additionally, it would allow the graduates to practice almost immediately without having to spend time and money preparing for an exam that most of my classmates passed. I believe that law school and Drake in particular do an excellent job providing enough variety, that students are prepared with the tools to practice without an additional competency exam.

The one question that I hope to see addressed is, how would this affect law students who have already graduated, but either did not take, or have not passed the bar? Would they be able an additional course on Iowa law and retroactively by pass the bar, or would this change not be "grandfathered" in?

Speaking personally, I graduated with good standing, but because of an immediate opportunity that was available outside of the traditional legal path, did not take the bar. Although I have some plan to take it in the future, I have little desire to practice law in the state. I would like to see a situation where a former student in my position could take advantage of this potential change by taking a class on Iowa law or an alternative class, that with passage, would allow me to forego the Bar examination.

Thank you for your time

Bar Admission Process
Michael Keller
to:
rules.comments@iowacourts.gov
06/11/2014 02:37 PM
Hide Details
From: Michael Keller <MRKeller@2501grand.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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JUN 11 2014
CLERK SUPREME COURT

1 Attachment

bar comments.docx

Please accept the attached comments regarding the proposed amendments to allow admission without examination. The letter is not signed because per the announcement I understand it needs to be submitted in Microsoft Word format. If the comments instead need to be signed please let me know.

Michael Keller
Wandro & Associates
2501 Grand Ave., Suite B.
Des Moines, IA 50312
515.281.1475
515.281.1474 (fax)

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WANDRO & ASSOCIATES, P.C.

ATTORNEYS AT LAW

2501 GRAND AVENUE, SUITE B
DES MOINES, IOWA 50312

TELEPHONE 515/281-1475
FACSIMILE 515/281-1474

Michael R. Keller
Brian J. Lalor
Shayla L. McCormally
P. Colt Moss
Kara M. Simons
Steven P. Wandro

January 1, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319

Re: Comments on Bar Admission Process

To the Justices of the Iowa Supreme Court,

Please accept these comments in opposition to the proposed adoption of a diploma privilege that would negate the need for graduates of Iowa based law schools to take a bar examination in order to practice in Iowa.

I had the pleasure of completing my undergraduate education at Iowa State University and to obtain my law degree from the University of Virginia School of Law. While I recognize the quality of the University of Iowa school of law, the law professors at the University of Virginia were overwhelmingly outstanding including nationally recognized leaders in many areas of the law. Further, the course of study for law students at that university simply cannot be said to be less rigorous or demanding than that offered at Drake or Iowa. It is accordingly bizarre to me that under the proposal currently being considered, a kid from small town Northwest Iowa such as myself would have essentially been handicapped by my decision to challenge myself to go to the University of Virginia rather than remain in Iowa to attend the University of Iowa.

Adopting the proposal will make the Iowa bar more parochial. Such a discriminatory program diminishes the value of attending top out of state law schools and in doing so discourages Iowans who do attend such law schools from returning to Iowa to bring the insights gathered elsewhere into the practice of law here. Similarly, it discourages Iowa undergraduates from pursuing law degrees at even the most famed of our nation's law schools because to do so will put them at a disadvantage as compared to staying in Iowa. This will not benefit the Iowa bar. The change would also discourage non-Iowans who attended law school outside of Iowa to consider taking a legal job in Iowa because the message of the Iowa bar would instead be that it is an insular legal community.

Adopting the proposal opens the door for abuse. Admission to the practice of law should be based on merit. We all know, however, that admission decisions at both Iowa and Drake are fluid enough to allow admissions staff to favor children of friends, prominent alumni, and donors. Similarly, the change would invest too much authority in law professors whose motivations may be affected by improper bias, stereotypes, or even corruption. When a bar examination is graded, the bar examiner doesn't know the identity of the applicant. When a law professor is making a decision on how to grade a student, the same is not remotely true.

Adopting the proposal would diminish the profession. Every other serious profession, from teachers to physicians, requires a degree and the passing of some type of test to enter the profession as a means of quality control. Although the number of law school graduates excluded from the practice of law in Iowa because of an inability to pass the bar is limited, the damage to an individual who is represented by an unqualified attorney may have no limits. This path would also take away the only check presently in place which insures that Iowa and Drake provide vigorous legal educations.

Adopting the proposal may also have negative ramifications for attorneys admitted under the rule who find, down the road, that they are precluded from moving their practice to another state as the same doesn't recognize an admission without examination.

Sincerely,

Michael Keller
Attorney At Law

FILED
JUN 11 2014
CLERK SUPREME COURT

Doyle Sanders
to:
rules.comments
06/11/2014 07:05 PM
Hide Details
From: Doyle Sanders <dsanders@bevinglaw.com>
To: rules.comments@iowacourts.gov,

I graduated with JD and MBA degrees from Drake. In the MBA program, the final course was a capstone course in which we dealt with issues incorporated from all of the other business courses. It was a semester of case studies and that called for different types of responses and concluded with a paper (think "essay") on a particular topic and, as I recall, a final examine. It was onerous but not insufferable. As far as I know, everyone passed. I probably learned more about the world of business administration in that class than in any (if not all) of the other classes.

To me, the merit of the bar exam has been to serve as a capstone of three years of studying legal principals and concepts. When I heard of the recommendation for eliminating the bar exam for Iowa and Drake grads, the first thought that I had was that it would be replaced by a required capstone course like we had in the MBA program. Regrettably, I have neither seen nor heard of any discussion about a capstone law school course.

I do not think that the world will suffer greatly if the bar exam as we know it is abandoned. However, summarily dispatching it to the oblivion of history is failing to recognize that it has had any merit. Replacing it with a requirement of a capstone semester course of study would seem very worthwhile and possibly an improvement over the current system. I cannot think of a down side. It would recognize all of the arguments in favor of eliminating the bar exam as well as all arguments of which I can think in favor of retaining the bar exam. It would have the added advantage of improving the experience of the law student to prepare for the real practice of law. I would foresee the bench and bar assisting as advisors if not authors or even instructors in formulating and presenting the curriculum. I wish that I would have had this experience 42 years ago!

Not to be dogmatic, but without a required law school capstone course, I would not be in favor of eliminating the bar exam.

Doyle D. Sanders
Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309
515-237-1185 - Voice
515-771-1997 - Cell
515-288-9409 - Fax
BevingLaw.com
Download Doyle's vCard

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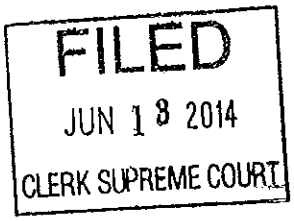
Bar Admissions Process
Joe Fraioli
to:
rules.comments
06/13/2014 10:10 AM
Hide Details
From: Joe Fraioli <joefraioli@gmail.com>
To: rules.comments@iowacourts.gov,



1 Attachment

Bar Admission Process.docx

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Joseph A. Fraioli
JD, University of Iowa College of Law 2013
BA, Ithaca College 2010

Dear Committee & the Supreme Court of Iowa,

I would like to present a few comments about the proposed change to the Bar Exam.

First, I think that, regardless of whether Iowa decides to adopt the bar privilege, it would be beneficial to adopt the Uniform Bar Exam. I earnestly believe that, in time, all states will adopt the UBE. I personally think it is **absurd** that I am licensed to practice law in Iowa, but as soon as I cross a border to Illinois or Missouri, my license means nothing. Knowledge of the law of any state is not gained through a one-time examination. Attorneys have an obligation to research the law and provide the best legal counseling and advice to their clients; we should be trusted to know that state laws vary from state to state, as well as what we need to do to ensure that we are applying the correct law to a given situation. We should not, however, be precluded from employment across state lines merely because, while in law school, we were forced to make a decision where we wanted to take the Bar months before graduation, when many of us still were unemployed.

For these reasons, I support moving towards the UBE and demonstrating solidarity with the other states who have chosen to do the same—to tell new attorneys that their intelligence and aptitude do not fade upon entering a new state merely because they did not take multiple bar exams. Moving to the UBE would foster more reciprocity and hopefully one day make it so that a lawyer need only pass the bar exam *once* to practice law anywhere in his country.

With respect to the privilege, I am more torn. The bar is not, in any way, an accurate measurement of one's ability or readiness to practice law, and it is ridiculous to think it is. If anything, the bar serves as one more hurdle; one more thing to do before obtaining a license to practice. I think it also fails to serve as a minimum aptitude test for substantive knowledge of the law—most of us have already forgotten 50% or more of what we prepared for the bar.

However, this does not mean the exam is altogether useless. I did not take debt transactions in law school, for example, and while it was painful to cram everything I could learn about it into my head after one three-hour course on the subject, I'm glad I know it exists. This, however, invites the question: if a subject such as debt transactions—or conflicts of law, commercial paper, family law, etc.—are so critical to my ability to practice law, then why am I not required to learn about them in law school? This presents even more challenging issues: the struggle between what the ABA thinks is pertinent to my ability to practice law, and what the State of Iowa thinks is pertinent to my ability to practice law. I assume the Court is not seeking to change the law school curriculum, nor could it. With that being said, though, clearly the Court and the State of Iowa thinks it necessary to know these subjects (although I use the term "know" quite loosely).

With all of this in mind, I think it would *not* be in young lawyers' best interests to eliminate the bar exam for graduates of Iowa and Drake. The bar serves a purpose, as to the boards for medical professionals. However, this does not mean that aren't meaningful changes that could be made to the exam to make it a more effective, meaningful, and pleasant experience.

1) Cost. It is SO EXPENSIVE to take the bar. The costs of the bar, as well as the prep courses to take the exam, are overwhelming. Quite frankly, I am sick and tired of hearing older attorneys complain about how much *younger* attorneys complain about the cost of legal education. **It is way more expensive to obtain a legal education now than it was years ago, and the difference**

is **NOT proportional to inflation.** So, do us a favor and reduce the financial burden on those taking the exam.

2) Stop treating examinees like prisoners. Seriously, the way the Office of Professional Regulation treated me—there were times I felt like I was an inmate. Just tell them to chill. Law students and attorneys have a much higher rate of suicide than the general population, and we should be mindful of that fact for new grads during this incredibly stressful period of their careers.
3) I would suggest increasing the study period, but I'm sure some employers would be upset about that.
4) Instead of having those who fail the exam retake the ENTIRE thing, how about they just retake the portions they fail? This is much more effective if you truly want the person to understand certain concepts. It may require restructuring how the exam is scored, but it would be much more beneficial. Why retake the MME and MPT if all you failed was the MBE?
5) Sponsoring a bar review course for Iowa and Drake—a 4 credit course during the second semester of 3L year that covers all of the MEE subjects (not MBE, as those are generally required anyway with the exception of Evidence), possibly paid for by the state. This 1) alleviates the pressure to take Barbri or a similar course, which is SUPER expensive and, for many, prohibitively so, and 2) gives us yet another way to learn this material before the test. If not having it during the semester, then possibly having a State-sponsored review course over the summer for students who cannot afford to take a private course.

I would be happy to discuss these proposals, or work with a committee on revising the bar exam. Thank you.

FILED
JUN 16 2014
CLERK SUPREME COURT

Bar Admission Process
Joe Barron
to:
rules.comments@iowacourts.gov
06/16/2014 12:13 PM
Hide Details
From: Joe Barron <Joe.Barron@Peddicord-law.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

1 Attachment

Diploma Privilege comment.doc

Attached please find my comments on the diploma privilege proposal.

To: The Iowa Supreme Court
From: Joseph M. Barron
Re: Bar Admission Process
Date: Jume 16, 2014

I write to express my opposition to the proposed "diploma privilege". The purpose of the Iowa bar exam is to protect the public. The diploma privilege will do nothing to further this. To the contrary, I believe it would create a danger to those members of the public who will unwittingly retain an attorney who would otherwise not have been admitted to practice.

I have been grading the Iowa bar exam for more than fifteen years and have reviewed countless bar exam answers. The majority of them appear to be written by very capable law school graduates. Unfortunately, every year there are some who clearly do not have the minimum analytical or legal skills needed to be competent attorneys. While many of those are graduates of out of state law schools, it cannot be denied that some are graduates of in state law schools. The percentage of in state graduates who do not pass the Iowa bar is small. But they do exist. Worse yet there are some who fail to pass the exam more than once. We should be focusing on those individuals, not the expense and inconvenience to the other applicants.

Our public must be protected. The average citizen has no idea how to evaluate an attorney. Many new lawyers have no real mentor to help them. This is particularly true of those who did not do well in law school. I fear for the future client of a new lawyer who would not have passed the bar but is nonetheless admitted under the proposed diploma privilege. Attorneys are not held in high regard by the public. Do we really want to lower the "bar" even further? We should be doing everything we can to uphold the standards of our profession. Testing is required for beauticians, CPSs, plumbers, etc. Members of the public who retain an attorney to handle some of the most important issues in their lives deserve no less protection.

Since this proposal became public, I have asked for input from a substantial number of attorneys, including all of those in my fourteen lawyer firm. I have yet to encounter a single attorney who is in favor of this proposal. In addition to soliciting public comment, I urge you I urge you to have a meaningful consultation with David Ewert. He would know exactly how many in state graduates fail the exam multiple times. Finally, I urge you to keep in mind the future clients of those few in state graduates who would be admitted under the diploma privilege but who would not have passed the bar exam.

Thank you,

Joseph M. Barron

Bar Admission Process
Ben Arato
to:
rules.comments@iowacourts.gov
06/17/2014 09:47 AM
Hide Details
From: Ben Arato <Ben@robtullylaw.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

FILED
JUN 17 2014
CLERK SUPREME COURT

1 Attachment

Diploma Privilege will not result in financial savings.docx

To Whom It May Concern,

Attached in word format are my comments on the proposed adoption of a diploma privilege for Iowa. Thank you for your consideration.

Sincerely,

Ben Arato
Law Offices of Rob Tully, P.C.
2501 Westown Parkway, Suite 1201
West Des Moines, Iowa, 50266
Tel: (515) 221-2600
Fax: (515) 225-7549

I do not agree with the conclusions of the Blue Ribbon Committee on Legal Education and Licensure and I do not support the adoption of the proposed diploma privilege. Specifically, I do not believe that a diploma privilege will result in the financial savings claimed by the Committee.

I. The Committee misconstrues the financial gains associated with abolishing the tradition of the Bar Examination because it neglects to address the necessity of loan repayment plans.

The Committee claims, or at the very least implies, that abolishing the tradition of the Bar represents a cost savings to the newly graduated student of 30% of their law school debt. The Committee assumes a starting salary of $57,000 and assumes, if fees and review costs are added in during the 4.5 months of missed salary, the newly graduated law student is denied the chance to realize $29,000 in savings. While the potential to earn this figure may be real, the impact to the newly graduated student is negligible. Once the potential salary is realized, the obligation to begin repaying student loans becomes a reality. Clearly, the newly graduated student cannot put the entire $29,000.00 directly towards repayment of his or her school loans. Rather, like all new graduates, the student must enter the world of loan repayment. The table below demonstrates the effect of starting a loan repayment plan 4 months earlier than a student taking the Bar Examination would. The chart assumes the Committee's starting salary of $57,000 and loans of $97,000 (the average loan size assumed by the Committee), with a (rather generous) interest rate of 7.00%.

Repayment plan*	Monthly payment*	Total interest*	Total amount of repayment*	% of total repayment for 4 months when Diploma Privilege is in effect
Standard	$1,126.25	$38,150.27	$135,150.27	3.3%
Graduated	$651.65	$47,786.40	$144,786.40	1.8%
Extended Fixed	685.58	$108,672.75	$205,672.75	1.3%
Extended Graduated	$576.68	$122,068.77	$219,068.77	1.0%
Pay as you earn	$329.13	N/A**	N/A**	N/A**
Income-based	$493.69	N/A**	N/A**	N/A**
Income-Contingent	$755.50	N/A**	N/A**	N/A**
Income Sensitive	$565.83	N/A**	N/A**	N/A**

*Source – Myfedloan.com payment calculator.
** As income-driven repayment plans are reassessed on a yearly basis, interest and total amount of repayment are not available.

Depending on the repayment plan used by the student, the repayment schedule could be stretched from 10 years (a standard repayment term) to as much as 30 years. The percentages do not reflect a savings by the student, but rather the percentage of the student's total debt the student could potentially repay as a result of the diploma privilege. At worst, it is not a 30% loss that the student incurs as a result of taking the Bar Examination as the Committee suggests, but merely 3%.

However, as anyone making $57,000.00 before taxes will tell you, a monthly payment of $1,126.25 under the Standard Repayment plan is simply not realistic given cost-of-living expenses. It is much more likely that the new lawyer making $57,000.00 a year will either be on a graduated, extended, or income-driven repayment plan. Therefore, the effect of the Bar Examination on the student would accordingly drop to 1%, or lower.

Because the newly graduated student is not able to automatically deduct thirty-percent of his or her law school debt by foregoing the Bar Examination, as the Committee seems to suggest, at best all the student can hope for is a repayment plan that is completed 4 months earlier than it otherwise would be with the Bar Examination. For many students – those not on the Standard Repayment plan - the savings realized by starting a repayment plan four months early would not even exceed the cost of the 2 semester hour course on Iowa Law proposed by the Committee as a replacement for the Bar Examination.

Under all repayment plans other than the Standard Repayment plan, the amount paid by the student during theoretical four months of re-payments ranges from $1,316.52 (Pay as you earn), to $3,022.00 (Income-Contingent). Drake Law School's cost per credit hour for a full time student, assuming 30 credits per academic year, is currently $1,266.47. Credit hours at the University of Iowa Law School are currently $732.12(resident) and $1,316.67(non-resident)[1]. For the Committee's two semester course, therefore, students would pay $2,532.94(Drake), $1,464.24(U of I, resident), or $2,633.34(U of I non-resident).

II. The Committee offers no explanation as to how a diploma privilege will lead to a decrease in student loan debt and encourage legal expansion into rural areas.

While the Committee claims that the diploma privilege will lead to "the reduction of law school debt," nothing in the reports explains how, other than through obligation to start repayment of said debt four months earlier, the diploma privilege will achieve that goal. It seems highly logical that increasing the responsibilities of Iowa's two law schools will lead to an

[1] Source: See Drake Law School, http://www.law.drake.edu/admissions/?pageID=costsFinancialAid (June 5, 2014); University of Iowa Law School, http://www.law.uiowa.edu/students/finaid (June 5, 2014)

increase in legal tuition, not a decrease. The average cost of tuition for an Iowa law school is $29,979.00.[2] The average cost of tuition for schools in Wisconsin, the only other State in the nation with a diploma privilege, is $31,202.00.[3]

I have spoken with an attorney in Wisconsin who was involved in a recent petition to the State Supreme Court requesting changes to, and/or the abolition of, the diploma privilege. He informed me that Wisconsin suffers from the same shortage of legal access in rural areas as Iowa. The suggested diploma privilege is not the answer to rural Iowa's legal needs.

When the actual savings to the student are considered, the Committee's claim that abolishing the Bar Examination will provide relief to lawyers seeking to practice in rural areas is highly dubious. At best, the diploma privilege would simply allow a rural lawyer to begin his or her repayment plan four months earlier than they otherwise would. It is highly unlikely that a person blessed with a legal education will find logic in moving to a rural location for lower pay simply because ten years down the road he will be four months ahead of schedule on his repayment plan. The cost of legal education, and not the Bar Examination, lies at the center of a young lawyers financial woes. The diploma privilege offers no financial relief to the young lawyers of Iowa and should not be adopted.

Respectfully Submitted,

/s/ Ben Arato
Attorney at Law

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[2] *Id.* (assuming in-state residence tuition for University of Iowa Students).

[3] University of Wisconsin Law School, http://law.wisc.edu/prospective/tuitionandcosts.html (June 5, 2014) (assuming in-state tuition); Marquette University Law School, http://law.marquette.edu/prospective-students/tuition-and-general-costs-law-school-student (June 5, 2014)

Bar exam
Cynthia Letsch
to:
Rules.comments@iowacourts.gov
06/18/2014 11:50 AM
Hide Details
From: Cynthia Letsch <cynthia@letschlawfirm.com>
To: "Rules.comments@iowacourts.gov"
<Rules.comments@iowacourts.gov>,

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JUN 18 2014
CLERK SUPREME COURT

I am listening to Professor Begleiter, from Drake Law School, discuss why he thinks that there is no real reason for there to be a bar exam. He makes some valid points. The crux of his argument is that the bar exam does not serve the purpose for which it is engaged, to prove that a person is competent to practice law in Iowa.

If the test does not prove that a person is competent to practice law in Iowa, then I agree, the test should be discontinued. However, that does not mean there should be no test.

If, as Professor Begleiter suggests, graduation from law school is deemed the singular achievement that determines whether or not a person is competent to practice law in Iowa, the quality of the profession becomes vulnerable to the whims of commerce. Law schools are for profit entities. They are in the business of attracting students who will pay tuition.

I have been a college professor, though granted, not a law school professor, for the last 8 years. I have had many students in my classes whom I feel do not possess the skills to be in my class. Generally, the skills lacking are critical thinking and critical writing. Many students, when confronted, insist that they have never been informed that these skills are lacking, by other professors, and that they have high GPAs as proof of the fact that they possess these skills and I am just mean.

This tells me that there are instructors who are not so rigorous in demanding that students demonstrate these skills. My thought is that the purpose a bar exam serves is to be a second gatekeeper that keeps the law schools "honest" to borrow a term, as it is used in a friendly poker game. I'll call your bet, just so you have to show me your hand, so I can know whether or not you were bluffing.

I am not married to the current exam. I am, however, in strong favor of an exam that serves to ensure that the law school graduate has acquired the research, critical thinking, and issue spotting skills that an attorney must have.

Warmest regards,
Cynthia Letsch, J.D., S.P.H.R.

Letsch Law Firm
6165 NW 86th St.
Johnston, IA 50131
Ph.: 515.727-1715
Email: cynthia@letschlawfirm.com
www.letschlawfirm.com

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Bar Admission Process
Maureen Cosgrove
to:
rules.comments
06/21/2014 02:58 PM
Hide Details
From: Maureen Cosgrove <mcosgrove@baerlawoffice.com>
To: rules.comments@iowacourts.gov,

FILED
JUN 23 2014
CLERK SUPREME COURT

1 Attachment

Bar Comments.docx

Please see the attached.

Thank you.

Maureen C. Cosgrove
Baer Law Office
838 5th Avenue
Des Moines, IA 50309
Phone: (515)279-2000
Fax: (515)279-2137
mcosgrove@baerlawoffice.com

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My name is Maureen Cosgrove, and I have been a member of the Iowa bar since 2009. I am a third generation Iowa attorney and I am currently employed as an Associate attorney with Kim Baer at Baer Law Office in Des Moines, Iowa. I am submitting this comment in regards to the ISBA committee's decision to make Iowa a diploma privileges state. I am thoroughly against this idea.

I agree that there are many downsides to the current form of the bar exam, but elimination of the bar exam will not cure those issues. I also do not think that just because I went through the wonderful bar exam process that everyone else should have to. When I graduated from law school in 2009 in Minnesota, I had numerous issues with my legal education. It is not that I didn't receive a good education, I did, but law school curriculum in general needs to be overhauled. There needs to be a year or over the course of three years where law students continuously take practical classes that teach you how to actually practice. A semester on motion practice, writing a summary judgment motion, mock depositions, drafting of numerous petitions, drafting wills, trial briefs, etc. Though you touch on these a bit in law school, it is not nearly enough. These things need to be done continuously throughout school. Though you learn the law in law school, you learn absolutely nothing about being a lawyer.

I have the same issues with the current Iowa Bar Exam. In the summer of 2009 I spent days, weeks, and months working on mastering MBE questions. It was never the essay portion I had a problem with, it was the MBE. I never understood why after three years of writing, I now had to learn how to adequately answer multiple choice questions that were written in a manner that I never had any experience with. I did pass the bar exam and gladly got rid of my MBE book.

I also agree with the committee's opinion regarding the financial difficulties of preparing for the bar and waiting for your results. I was lucky enough to have parents who could help me financially, along with my now husband who helped cover my bills and provided me with food and place to live because I was unable to work for almost five months between graduation and swearing in. This was not ideal.

Granting Diploma privileges would not cure these issues. The bar exam needs to be a reflection of your legal education, desire to practice in Iowa, and application of the skills and knowledge you have acquired. Can this only be accomplished in its current form? No. Can this only be accomplished with Diploma privileges? No. The bar exam needs to be restructured to reflect the profession as it is now. An Iowa focused bar exam, a shorter testing and results period, and exclusion of the extremely expensive Bar-Bri and Kaplan programs that intrude into our state licensing practices would all be a welcomed change.

I wanted to be an attorney ever since I was a child and I am the third generation of Cosgrove attorneys. Both of my grandfathers were attorneys, my father is an attorney, my sister is an attorney, and six of my aunts and uncles on my father's side have been or are still practicing attorneys. All of them practiced or continue to practice in Iowa. It is a part of who I am. I have always looked at the profession with admiration. I knew it was going to take a lot of hard work, dedication, and commitment to engage in a profession I admired. I also took tremendous pride in the fact that I went through the bar exam process and passed, like all of those who came before me. To require no final testing for a license to practice law in Iowa would be detrimental. Teachers, accountants, doctors, nurses, school bus drivers, etc., are all examples of professions where some form of testing is required in order to be considered competent in order to be a part of one's chosen profession, yet we don't think lawyers need to?

I strongly ask the ISBA to reconsider making Iowa a diploma privileges state. It will not benefit the legal community or Iowans. I do encourage the ISBA committee to reevaluate the current bar procedure and discuss ways to change and improve the current testing process. Being a part of the legal community in Iowa is a privilege, it is not a right. All applicants to the Iowa bar need to be well aware of the same.

Thank you.

Maureen C. Cosgrove
Member of the Iowa bar since 2009

Bar Admission Process
Cosgove Law Firm to: rules.comments

06/23/2014 04:42 PM

1 attachment

MX-2600N_20140623_165644.pdf

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JUN 23 2014
CLERK SUPREME COURT

Please see attached.

Thaddeus Cosgrove
Cosgrove Law Firm
102 N. Main; PO Box 50
Holstein, IA 51025-0050
(712) 368-2616 / Phone
(712) 368-2389 / Fax
cosgrove1@frontiernet.net

COSGROVE LAW FIRM

* * * * * * * *

Thaddeus Cosgrove, Attorney at Law
Meghann Cosgrove Whitmer, Attorney at Law

102 N. Main • P.O. Box 50
Holstein, IA 51025-0050
Phone: (712) 368-2616
Fax: (712) 368-2389
cosgrove1@frontiernet.net

607 W. Second Street
Ida Grove, IA 51445-1011
Phone: (712) 364-4138
Fax: (712) 364-4445
tcosgroveig@netllc.net

Please Respond to the Holstein Office

June 23, 2014

Via E-Mail (rules.comments@iowacourts.gov)

Iowa Supreme Court
1111 E. Court Avenue
Des Moines, IA 50319

RE: Bar Admission Process

To Whom It May Concern:

The plan to make a diploma privilege for admission to the Iowa Bar is ludicrous.

If you want to establish a higher degree of professionalism at a lower cost, you need only return to the essay format that had been used for decades prior to the multi-state exam. The idea that a graduate from Harvard, USC, Stanford, Michigan, Creighton, et al, would have to take the bar exam; but the graduates of Iowa and Drake do not, makes absolutely no sense.

As I look out my window, I note that the barber, the electrician, the beautician, the realtor, the insurance agent and the plumber all have to establish their proficiency regardless of where they went to school. It would be my hope that the lawyers in the State of Iowa should meet that minimum burden.

Yours very truly,

THADDEUS COSGROVE

TC:jh

Bar Admission Process
suzanne to: rules.comments

FILED
JUN 23 2014
CLERK SUPREME COURT

06/21/2014 08:37 PM

1 attachment

letter.docx

Attached is a letter of my concerns about the bar admission process.
Suzanne Tomlinson

To: rules.comments@iowacourts.gov
Date: 6/21/14

To whom it may concern,

I have never written a letter to an official to make my opinion known, but I feel this is important enough to warrant this action. The problem that I wish to address is the proposed dropping of the requirement for law students to take the Iowa Law Exam to become practicing lawyers.

I have taught at both Iowa State University and the University of Nebraska at Omaha. I understand the process of building a career based on the course work provided. Not all colleges have the same requirements for the core courses and there is no way a student could take all the additional courses to cover all the material that the bar exam covers. Additional study of material covered by the law exam would round out a student's knowledge of Iowa law. Having taught at the college level for 25 years, I know that many courses taught by different professors vary greatly in their specific content and direction. By requiring the Iowa Bar Exam, you are assuring that all the young lawyers are coming to their career with the same basic knowledge.

Iowa is proud of their educational values. I feel this sends the wrong message to the general public. There is a difference in a student meeting the minimal requirements for graduating and then practicing compared to the same student who studies and passes the bar exam before setting up their practice. I would like to trust that a lawyer that I would hire was motivated to study to pass the bar. The problems that I would give to a lawyer to solve would require that I trust them to know the law and do their best in my favor.

I hope you examine the far reaching ramifications of removing the requirement for the Iowa Bar Exam for our new lawyers. I would like to go on record that I do not think it is wise.

Thank you for letting me express my concerns.

Sincerely,

Suzanne Tomlinson
123 Broadmoor Circle
Ames, Iowa 50010

Bar Admission Process
Mike Roberts
to:
rules.comments
06/27/2014 01:07 PM
Hide Details
From: "Mike Roberts" <mmroberts@iowatelecom.net>
To: <rules.comments@iowacourts.gov>,

FILED
JUN 27 2014
CLERK SUPREME COURT

1 Attachment

law school.docx

Teachers, massage therapists, insurance agents, x-ray technicians are just a few of the many occupations that require a test to be licensed in the state. Why shouldn't a law school graduate have to pass the bar to be licensed? Is there really a shortage of lawyers in Iowa? Can this be a ploy to bump up the number of applicants to the Iowa law schools?

It is expected that a law school provide their students with a "rigorous" course schedule. A program in Iowa should include studies applicable to practicing law in the state of Iowa. Studying for the bar exam would be a chance to reflect, review, and synthesize the knowledge gained from law school.

Yes, law school graduates should be required to pass the bar exam. The state of Iowa deserves the best and brightest as our young attorneys.

Mary Jo Roberts, retired teacher

Bar Admission Process
Steve Waechter
to:
rules.comments@iowacourts.gov
06/30/2014 05:46 PM
Hide Details
From: Steve Waechter <steve.waechter@yahoo.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

Please respond to Steve Waechter <steve.waechter@yahoo.com>

FILED
JUN 30 2014
CLERK SUPREME COURT

2 Attachments

Bar Admission Process.doc Bar Admission Process.wps

Please see attached (two versions, one .doc one .wps, exact same content)

Thank you,
Steven Waechter
537-370th Ave
Grinnell, IA 50112
steve.waechter@yahoo.com

Honorable Justices:

In considering the rule change regarding "Diploma Privilege" proposed by the ISBA Blue Ribbon Committee on Legal Education and Licensure, the Court is being asked to rubber stamp a Kosygin Reform[1] designed to address a public relations nightmare currently descending on the legal education industry, while strictly avoiding any actual reforms of the financial, economic, curricular structure, size, volume, or length of legal education.

First, the cost of legal education has skyrocketed. Law school tuition today is five times higher than it was in the 1970's, in inflation-adjusted dollars.[2] At the same time, income for practicing attorneys has stayed relatively flat. Tuition is now in the $40,000+/year range for most law schools, which means that a graduate can be under the burden of $120,000 of high-interest, non-dischargeable student loan debt, not counting accrued interest, undergraduate debt, or cost-of-living related charges.

If law school tuition had risen along with inflation since 1985, the cost of a year at a private law school would be about $16,000 per year today, and about $5,000 per year for a public, in-state law school.[3] The University of Iowa's decision to cut tuition from $49,000 to $40,000 is cosmetic by comparison.

Nationally, the legal job market is glutted; we have nearly 1.5 million JD holders, with about 1.3 million licensed attorneys.[4] Out of them, there are fewer than 800,000 actual, practicing attorneys according to the BLS.[5] Barely half of law graduates over the past few years according to the ABA's own employment outcomes reports.

When jobs do pop up, the pay is often much lower than the reported "average earnings." In many cases, new lawyers are earning substantially less, putting enormous financial pressure on new graduates who have been price-gouged for their education and are now in low-paying jobs with substantial debt burdens. According to an article in Forbes Magazine, Iowa has seen a 129% increase in lawyers working side jobs since 2009 alone. [6] Many Iowa firms operate under an "eat what you kill" principle, making incomes unstable and almost certainly low for new associates.

The job outcomes for Iowa's new lawyers have not been good. Barely half of Drake's recent graduates found work as actual, practicing attorneys, although the

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[1] Alexei Nikolayevich Kosygin, Premier of USSR See http://en.wikipedia.org/wiki/Alexei_Kosygin#The_.22Kosygin.22_reform

[2] Paul Campos, "Legal Academia and the Blindness of the Elites."

[3] http://www.lawschooltransparency.com/reform/projects/Tuition-Tracker/

[4] ABA Lawyer Demographics (PDF) http://www.americanbar.org/resources_for_lawyers/profession_statistics.html

[5] http://www.bls.gov/ooh/legal/lawyers.htm

[6] http://www.forbes.com/sites/emsi/2014/01/10/the-job-market-for-lawyers-side-work-on-the-rise-amid-continuing-glut-of-new-grads/

University of Iowa fared somewhat better.[7] You can check the ABA employment reports for yourself at: http://employmentsummary.abaquestionnaire.org/

Even those low numbers are misleading because they include forms of legal practice that are not likely to be economically viable in the mid-to-long term. This includes temporary jobs, jobs paying little or no salary, and what is known to new grads as the "Desperate Solo," as new grads are denied the apprenticeship of a first job with an experienced attorney as a manager and mentor, and hang a shingle in hopes of eking out a living with no capital, no clients, no cash flow, and no experience.

The ISBA's proposed rule change to eliminate the bar exam for graduates of Iowa's two law schools rests on two arguments: 1. Eliminating the post-graduation gap will reduce debt; and, 2. Rural Iowa is experiencing a shortage of legal services.

Both arguments rest on nonsensical assumptions, logical fallacies, and thin, anecdotal assertions.

Because of the astonishingly high cost of legal education, graduates have been leaving law school with six figures of student loan debt, and can in some circumstances be accruing $1,000 or more per month in interest liability alone. The ISBA contends that eliminating the gap between graduation and licensure would alleviate this situation by at least preventing the debt of graduates from skyrocketing further by way of accrued interest.

This impotent, absurd assertion neglects the fact that **barely half** of Drake Law classes of 2012 or 2013 found actual jobs as lawyers, which is in line with regional and national trends. Iowa did better, but two-thirds of their grads leave the state.[8] The proposed rule change would allow graduates to skip the bar exam and jump straight into severe underemployment, with no tangible effect on their finances. Whether you have to take the bar or not, unemployment or underemployment will be the fate of a large number of graduates.

There is a logical fallacy inherent to the ISBA's proposal: "Because the debts are so high, the accrued interest is high. Therefore, let us eliminate the bar exam so graduates can get on with the business of failing to find jobs without the wait time." This line of thinking fails to address the root problem - TUITION IS TOO HIGH.

Then there is the assertion that Rural Iowa is in the midst of a shortage of legal services. This is nonsense. Much of Iowa is experiencing demographic decline, as the young leave. The resulting decline in new family formation, home purchases, wills, divorces, trusts, and estates means that there is a smaller pie for lawyers to compete over.

Hiring has dropped to a trickle, as firms cut back on expenditures. This does mean that in many communities the cases traditionally used as fodder for the new hires, such as

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[7] http://www.lstscorereports.com/state/IA/

[8] http://www.lstscorereports.com/schools/iowa/

court-appointed work, might go unmet in many circumstances. What it doesn't establish is the economic viability of a new law practice in these areas.

The ISBA is contending that an "Absence" of young attorneys means that there is a "Shortage," but the two are not synonymous. Some judges may have trouble placing court-appointed work with local attorneys, and some clients may be unable to find counsel due to conflicts, but what the ISBA has yet to produce is any speck of evidence to suggest that a new lawyer in these areas would actually be able to earn a living, especially a new lawyer with no experience. If the bar exam itself is on the chopping block, the ISBA should be required to answer the following questions with some real, verifiable evidence:

1. What evidence, specifically, does the ISBA have to suggest that there is a shortage of legal services in rural Iowa? Has there been a study of some sort prepared? Is it all anecdotal?

2. If there are unmet needs, are they of the sort that would allow a young attorney to actually earn a living as an attorney? In a town with established firms, that haven't hired in 20 years, aren't hiring now, and won't take court-appointed cases so there's a "shortage" in that area, what is the likelihood of a new grad hanging a shingle and actually earning something like a living?

3. The cost of law school is now easily above $100,000 for many graduates, and while the ISBA has proposed eliminating the bar exam, what are they prepared to do to encourage reductions in costs at the law schools themselves?

Otherwise, we are left to assume that the ISBA intends to shuttle lawyers to rural areas to start solo practices based on the unclaimed scraps of work in communities that might well be shrinking, where the existing law practices have books of business and no intention of hiring new associates, while the new graduates have no experience and six figures of student loan debt. An heroic attempt to fill the shortage of free labor, perhaps.

Remember, barely half of Drake's Class of 2013 found actual work as practicing attorneys. At the same time, economic modeling from EMSI indicates that there are 3.8 law graduates per law job in Iowa, using salaried positions as a base.[9] A nearly 4-to-1 glut of law graduates is, by definition, not a shortage.

Which brings us to one, final argument made by all law school deans everywhere to defend why they were producing twice the number of graduates as there are jobs available: The alleged need for more lawyers because of huge, unmet needs from the lower-income population.

Law schools have been charging record-high tuition, to students taking on record-high student loan debt, under the theory that after graduating these students will provide

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[9] http://www.economicmodeling.com/2014/01/10/the-oversatured-job-market-for-lawyers-continues/ Measuring salaried jobs

legal services and do work for people who cannot pay them. How is that supposed to work? How does churning out heavily indebted graduates provide for the legal needs of people living paycheck to paycheck? Does producing coffee house baristas with unpayable debts and useless diplomas really serve the public interest, now or in the future?

Employment prospects for law school graduates are now so lousy, and this knowledge so public, that enrollments at law schools across the country - and in Iowa's two law schools - have sunk.

If a large portion of Iowa's law school graduates no longer had to pass the bar exam in order to practice, what would stop Iowa's law schools from dropping their academic standards to fill their budgetary gaps by admitting students of lower academic ability? The bar exam may not weed out many potential attorneys *at this time*, but what about in the future?[10]

The proposed rule change does nothing to address the very problems it purports to fix. The main problems facing legal education are the absurdly high costs, unpayable levels of debt, and very few remunerative employment opportunities for new graduates. Eliminating the bar exam does nothing to address the level of tuition nor the number of available jobs. The University of Wisconsin's Full-Time, License Required job placement for 2013 was just at 60%, falling to about 50% when knocking out Solos.[11] That is roughly on par with Drake, and hardly indicative of success for the graduates of the public school in the state which already has diploma privilege.

Law school is now a ticket to low pay, high debt, and severe economic hardship. The result has been a generation of attorneys lacking the employment opportunities that are necessary to service their debts, support themselves, and cultivate the work experience necessary to practice law effectively. This will cause lasting damage to the operation and public perception of the legal profession as a whole.

The Blue Ribbon Committee that drew up the proposed rule change consisted of law school deans and faculty who might face financial consequences if real law school reform were enacted; of lawyers and judges with careers established before hyper-inflated tuition ruined the economic calculus and who might not be fully aware of the current law school employment outcomes; and of Young Lawyers Division attorneys who might have adopted an overly compliant demeanor out of concern for their own careers.

The Committee did not include, to the best of my knowledge, anyone who has been wrung out of the legal profession as a result of the current economic calamity, nor anybody with an alternative career who could have brought a different perspective; no recent shingle-hangers and nobody who was flatly unemployed. As a result, the ISBA Committee presents you with complete, utter nonsense under the banner of innovation.

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[10] http://www.lstscorereports.com/schools/drake/http://www.lstscorereports.com/schools/iowa/

[11] http://employmentsummary.abaquestionnaire.org/ "University of Wisconsin"

The profession will not be served by eliminating the bar exam. The current dynamic of prohibitive tuition, unpayable debt, few jobs, unyielding spin, and the lack of transparency and candor that underpins what has come to be called "the law school crisis," or more subversively as "the law school scam," is already damaging the reputation of the profession.[12]

The effects on working professionals struggling constantly on an economic knife-edge are harsh; depression and alcoholism are major problems for lawyers, and not because they are so prosperous.[13] Lawyer have very low job satisfaction, by and large.

The court should not lend its weight to this degradation by granting an obeisance to meaningless non-reform. This measure will do nothing but allow law schools to use "no bar required in Iowa" as cheap marketing to lure a few more student loan conduits into their lecture halls before the downfall. I urge the court to reject this proposal.

Finally, the legal profession is of critical importance in a democratic society and in the maintenance of a republican form of government. People have enforceable common law rights against the missteps of others, and constitutional rights against their own government. Many of these rights could well be negated without those knowledgeable in the law and in jurisprudence; the legal profession thus holds great importance, and generates all sorts of public goods. If legal education is allowed to be conducted as a cynical and vicious cash grab, the entire profession will be irreparably damaged.

Respectfully Submitted,

Steven D. Waechter

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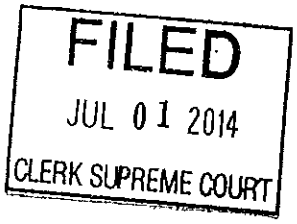
[12] http://abovethelaw.com/2013/12/lawyers-are-now-considered-undateable-because-theyre-so-so-poor/

[13] http://www.iowalap.org/alcohol.html

Bar Admission Process

Robert Blink to: Rules Comments 07/01/2014 02:29 PM

There are several reasons why the.docx



There are several reasons why the "diploma privilege" should be adopted:

1. Precedent shows it works. It has worked successfully in Wisconsin for more than forty years.

2. If we trust our law schools to educate our future lawyers, then successful completion of a well-balanced curriculum should allow our courts to trust them as well.

3. Both law schools in Iowa provide a broad range of legal skills and clinical education courses. Drake Law School, indeed, was one of the first in the nation to offer a complete clinical education. This clinical experience provides the type of practical training that was long ago recognized as valid before bar examinations were required.

4. It helps retain new lawyers in our State. The ability to practice one's profession immediately upon graduation will promote graduates to remain in our State, rather than taking their talent to another State.

5. It reduces the burden of expense incurred by recent law school graduates. The cost of a legal education is staggering. The requirement of servicing law school debt begins immediately upon graduation. The months of delay in waiting for bar examination results requires many recent graduates to borrow even more money – after they have already received their degree.

6. It assists Iowa law firms increase their productivity in a timely manner. Firms that have made the commitment to increase the size of their firm do so because of the need to serve their clients. With each month the law school graduate is delayed in their practice, clients go without the service they require.

I suggest that the Iowa Supreme Court adopt the ISBA's recommendations regarding the diploma privilege.

Robert J. Blink, Judge
Fifth Judicial District of Iowa
Former Associate Director of Clinical Education, Drake Law School
Adjunct Professor of Trial Advocacy since 1981.

FILED
JUL 03 2014
CLERK SUPREME COURT

IN THE SUPREME COURT OF IOWA

In the Matter of Request for Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process	: **COMMENTS OF THE IOWA STATE BAR ASSOCIATION BLUE RIBBON COMMITTEE ON LEGAL EDUCATION AND LICENSURE**

TO THE COURT:

Comes now David L. Brown, as Chair of the Iowa State Bar Association Blue Ribbon Committee on Legal Education and Licensure and hereby submits the following for the Court's review:

1. Iowa State Bar Association Blue Ribbon Committee on Legal Education and Licensure's Response to Staff Report.

2. Letter from Past Iowa State Bar Association President, Keith A. McKinley to Chief Justice Mark S. Cady dated January 18, 2013 (sic) (2014).

3. Letter from James G. Milani to David L. Brown dated May 16, 2014.

Respectfully submitted,

DAVID L. BROWN, Chair, Iowa State Bar Association Blue Ribbon Committee on Legal Education and Licensure

Blue Ribbon Committee Response to Staff Report

The Iowa Supreme Court asked its staff to provide supplemental information to the ISBA proposal. That information was published to the Iowa Judicial Branch website on May 13, 2014, along with the proposed rule change and request for public comment. After reviewing the information provided to the Court, the committee believes it is necessary to alleviate some of the concerns about the diploma privilege raised by the staff report with the following response.

The true question before the Court is straightforward. Do three years of legal education received at the University of Iowa College of Law and Drake University Law School (including an established core curriculum set out in the proposed rule) prepare students to begin the practice of law in the state of Iowa upon graduation? Or does that education need to be supplemented by an expensive, time-consuming, archaic exam that does not focus on Iowa law?

It is important to know at the outset that the ISBA committee considered all the information included in the staff's supplemental report and still voted unanimously to make the four recommendations to the Court.

The committee studied the history of the diploma privilege. We acknowledge Wisconsin now stands alone in offering the diploma privilege to its in-state law school graduates. But we also found it significant that our neighboring state stands behind its unique system. As the staff quotes Wisconsin Chief Justice Shirley Abrahamson, "[f]or states with only a few accredited law schools, the diploma privilege is a terrific system." Iowa is such a state. Drake and Iowa are the only accredited law schools in the state; there have been no other operating law schools in Iowa for some time. We currently have no unaccredited law schools. Yet the staff report expresses the concern that "nothing prevents lesser law schools from establishing branches in Iowa to entice students who hope to avoid having to take an examination." While that is a true statement, the rule is drafted to limit the privilege to Iowa and Drake graduates. If new law schools emerge in the state, their students' competency can be judged at that time.

The staff also sets out a performance report evaluating the passage rate of Drake and Iowa students on the Iowa bar exam. Using percentages rather than raw numbers and adding a few anecdotes about in-state students receiving the lowest graded scores on the exam, the staff indicates the test is worth keeping because it weeds out a few graduates who do not do well on the multi-state questions. The staff's evaluation does not provide a complete picture of recent performance by Iowa and Drake graduates. We believe the tracking of actual students, by number, as the committee did in its original report offers a more accurate view of the overall success of applicants from our in-state law schools.

As we noted in our original report, from 2008 to 2013, 996 Drake and Iowa students sat for the Iowa bar for the first time. Of those, 928 passed on their first attempt. Of the 68 students who did not succeed, 42 passed the Iowa bar or another state bar exam on the second attempt.

In addition, it is possible that if the diploma privilege was adopted, and the law schools perfected the rigorous core curriculum of classes required to qualify for admission to practice without a bar exam, that eligible graduates would be even better prepared when leaving law school than they are now. And the number of graduates who could not pass a bar exam, if they chose to take one, would be even fewer.

The staff report notes an Iowa resident who attends an out-of-state law school would still have to take the bar exam. This is true, but does not provide a basis for turning down the diploma privilege proposal. Rather, the proposal would have the added benefit of attracting talented college graduates to our in-state law schools, as well as providing an incentive for the graduates of our in-state law schools to stay in Iowa to practice law.

The staff concludes its report by asserting the current system forces examinees to "prove their mettle on a comprehensive examination." The ISBA believes our profession has progressed beyond requiring that rite of passage. Drake and Iowa law graduates have succeeded as college students, done well on the law school admission tests, passed three years of classes taught by well-qualified faculty members—and in many cases have taken on massive amounts of debt while doing so. They have long since shown their mettle without the requirement of the bar exam.

January 18, 2013

Chief Justice Mark S. Cady
Iowa Supreme Court
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Dear Chief Justice Cady:

I write in unqualified support of the Report of the Blue Ribbon Committee on Legal Education & Licensure recommending the adoption of the Diploma Privilege for graduates of Drake University Law School and University of Iowa Law School and the Uniform Bar Exam for potential new licensees who do not qualify for the Diploma Privilege.

I have spoken at some length about this system with my good friend, Tom Sleik, of LaCrosse, WI, a very prominent trial lawyer and past president of the Wisconsin State Bar Association. He endorses the system without qualification.

During the span of my legal career, I have taken great pride in the national preeminence of the Iowa legal system. The evolution of that system has been the result of a spirit of cooperative innovation between the Bench and Bar. It has produced continuing legal education, a unified court system, and the removal of the judiciary from party politics, to name a few of the past accomplishments.

The proposed Diploma Privilege is the future of admission to the Bar and it will serve to strengthen the quality of our legal education as well. This is the most constructive proposal for the improvement of our legal system the Iowa State Bar Association has made in the last twenty years. But more importantly, the entire process is indicative of a return to that era when the Bench and Bar enjoyed a spirit of cooperative innovation in all matters relating to the administration of justice.

Judicial administration and the administration of justice are not, in my opinion, synonymous terms. Judicial administration is the sole province of the Court, but the administration of justice is a partnership wherein the Court and Bar are co-equals.

During my term as President of the Iowa State Bar Association, Chief Justice McGiverin and I met on a regular basis for frank and open discussions of the administration of justice in Iowa. It is indeed refreshing to see that discourse re-established.

received
1-21-14

Respectfully and with best personal regards,

Keith A. McKinley
628 Walnut Street
Osage, IA 50461
Walmanor@osage.net
641 732 4532

Cc:
Guy R. Cook
David L. Brown

ORSBORN, MILANI, MITCHELL & GOEDKEN, L.L.P.
ATTORNEYS AT LAW
105 WEST VAN BUREN
P.O. BOX 518
CENTERVILLE, IOWA 52544-0518
TELEPHONE 641-856-3251
FAX 641-856-5548
Writer's E-Mail: plewis@ommglaw.com

JAMES G. MILANI
GREGORY G. MILANI
RYAN J. MITCHELL
JOSEPH P. GOEDKEN

BRET R LARSON

ALLAN C. ORSBORN (RETIRED)
WILBUR R DULL (1914-1994)
GEORGE A. MILANI (1900-1992)

OTTUMWA OFFICE
110 EAST THIRD STREET
P.O. BOX 878
OTTUMWA, IOWA 52501-0878
TELEPHONE (641)682-5447
FAX (641)682-6940

May 16, 2014

VIA EMAIL: iowaacademy@gmail.com

Mr. David L. Brown
Secretary/Treasurer
Iowa Academy of Trial Lawyers
Midland Building
206 Sixth Avenue, Suite 520
Des Moines, IA 50309

RE: Diploma Privilege

Dear Dave:

I quickly reviewed your email concerning comments on the admission process. The move toward diploma privileges would appear to be an improvement.

Regarding the qualified semester credits, and the subjects, my thought is that the area of professional responsibility and ethics should be a required course with attendance and examination prior to admission to the bar.

Immediate ability to practice in Iowa should give us, particularly in the rural County Seat towns, access immediately to well trained, competent attorneys. I have been on the Board of Law Examiners and have practiced more than 50 years. New lawyers do not lack ability or ambition. I do think, in the area of ethics, they have not had the benefit of situations involving, not only the appearance of a conflict, but actual conflict and the ability to recognize independent advice and the problems with multiple representations.

My personal observation is that many older lawyers are capable and motivated to mentor a new grad.

If the diploma privilege delivers to the public immediate access to new law school graduates the public located in our small communities and County Seats will benefit from their excellent educations.

The new law school graduate will benefits from the diploma privilege immediately, and immensely, but only if the new Iowa Bar member has an abiding interest in ethics, the determination to give independent legal advice, and the recognition of conflicts of interest.

The course requirement prior to the diploma privilege should directly deal with ethics as to representation when parties claim to only facilitate or prepare documents. The recognition of who the lawyer's client is and when it is absolutely essential that the parties have independent legal advice. The new law school admittee should arrive with a strong understanding of who is his client and the strength to properly evaluate and advise his client in spite of the pressures from commission driven entities who do not want sales slowed down or any party giving indirect or vailed legal advice.

I am confident that a young medical practitioner comes to our county seats with the ability and determination to give the best independent medical advice.

The new lawyer arriving with a clear vision as to ethics and conflicts, plus no alliances which restrain him from giving independent legal advice would, of course, be a step forward and if it can be accomplished in connection with the diploma privilege, this would be a huge step forward.

Best Regards,

James G. Milani

JGM/pal

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Bar Admission Process
Davenport, Michael - 14
to:
'rules.comments@iowacourts.gov'
07/03/2014 12:44 PM
Hide Details
From: "Davenport, Michael - 14" <michael.davenport@rainhail.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

FILED
JUL 03 2014
CLERK SUPREME COURT

I am opposed to creating a "diploma privilege" in Iowa, I privileged I would have happily accepted at graduation, as I believe it is detrimental to the long term success of the legal profession and a disservice to graduates. There are three primary reasons:

1. The bar exam has a desired effect of requiring even passing applicants to synthesize their years of cumulative knowledge and prove their mettle on a comprehensive examination.
2. While the vast majority of bar applicants pass, I feel the function remains important to the integrity of the Bar as a whole and the lawyer's position as a "profession" not just a job.
3. It may well "trap" some attorneys into forgoing opportunities as they arise because they are not eligible for reciprocity without bar passage.
4. Most Iowa attorneys who practice outside of Des Moines need to be admitted to the bar of at least one adjoining state to meet the needs of their practice.

Sincerely,

Michael J. Davenport
Iowa Law Class of 96

Bar Admission Process
senfink
to:
rules.comments@iowacourts.gov
07/03/2014 08:56 AM
Hide Details
From: senfink@att.net
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

FILED
JUL 03 2014
CLERK SUPREME COURT

Please respond to senfink@att.net

1 Attachment

IOWA SUPREME COURT COMMENTS 6.14 1st DRAFT.docx

Dear Iowa Supreme Court:

Please find attached comments concerning rules changes to the Iowa Bar Exam.

Thank you,
Bill Fink

July 1, 2014

Dear Honorable Members of the Iowa Supreme Court:

I want to thank you for allowing citizen input concerning the possible change in existing rules exempting Law School Graduates from the state from taking the Bar Exam.

I am writing you to ask that you change the rule so that Law School Graduates no longer have to take and pass the exam so that they may practice law in the state of Iowa.

I would like to first give you a brief personal background. First and foremost I am a parent of a law student who is attending Drake Law School. I am a secondary American Government teacher of 37 years, who served 10 years as an Iowa State Senator, and I am an adjunct professor of Political Science at Upper Iowa University's West Des Moines campus. I have given this matter a great deal of thought, and again I appreciate the chance to give input concerning this matter as it touches me personally.

As a parent of a law student, and as an educator, I am very troubled about the incredible amount of debt that our young people face as they leave both undergraduate and graduate institutions. The rise in the cost of a higher education is an obvious problem for the students and their families, but it is also becoming a societal cost that reaches much further than the simple math of the compound interest on student loans. Our society will soon face the realities of realizing that such high costs are not only turning deserving and bright students away from challenging but expensive careers, but the flame of diversity of students from every walk of life, will soon be extinguished. If not checked, this stifling effect, will soon allow only those of a privileged elite the opportunity of advanced degrees. Could Associate Justice Sonia Sotomayor become a member of the High Court if she were facing some of the same financial problems facing students today?

The costs of an undergraduate degree, a graduate degree, and now a law degree are **real problems** facing my son and our family. The cost of the test, the lack of income while preparing for the test, and the financial realities of a young lawyer are burdensome to the point that we are already excluding many fine and talented students who simply cannot bear the weight of such debt. Of course the reasons I have outlined here are for the most part financially centered and well known. But I feel that there are other compelling reasons for a change.

As a secondary teacher I have had the privilege of supervising several student teachers over the past several years. In the past year, I had probably the most talented young man I have ever had as a student teacher. He too was deeply in debt. The young man was a fantastic student teacher, and accordingly, I wrote the strongest letter of recommendation for him. He was worried the day he graduated from Iowa State University as he had yet to secure a job. I am happy to tell you that he did secure a job, but it was in Minnesota. He will be a fantastic teacher! But here is the reality. He failed one part of the Praxis test and had to take it over again. He went through every step in the process of licensing in the state of Iowa. And what good did this do? He will have to now go through a different licensing procedure in Minnesota. I know I am digressing here, but I

want to make a point. What good did a national "teaching test" do this young man? It became a bureaucratic "hoop" which he had to jump through. It cost him time and it cost him money; and I know that it did not make him a better teacher. Are we not doing the same for our young potential attorneys?

I am not saying here that the rigor of securing a teaching license is that same as it is for making it to law school, passing law school courses, and passing the bar, but I do feel that there are some parallels here. I had no idea that my son would have so much pressure placed on him during the first year of law school, and by saying this, I am not saying that the amount of pressure placed on 1L's is necessarily a bad thing. In fact, it is making my son a better student and I pray a better lawyer. But it is also "culling-out" those who may not be suited to practice law in our state. A rigorous legal curriculum is a must; and with that said perhaps the process of law school alone may indeed be a better measure than an exam that may not test the realities of practicing law in the state of Iowa.

In closing, the costs that young attorneys face may also have another unintended consequence. When young lawyers are forced to pay enormous amounts in student loans, they must in turn pass some of those increased costs to their clients, which then become a part of a price spiral of legal fees in our state. Accordingly, many will not seek jobs in rural areas or take public interest jobs simply because they cannot afford to do so.

Before I wrote this letter I listened intently to a radio show hosted by Iowa Public Radio. I learned from their discussion that the state of Wisconsin was the first state to embrace such change, with few if any ill effects. Perhaps we should follow our neighboring state's lead.

Sincerely,

Bill Fink
3743 S-23 Hwy.
Carlisle, Iowa

F. RICHARD LYFORD
699 Walnut Street, Suite 1600
Des Moines, Iowa 50309-3986
Telephone: (515) 246-4514
FAX: (515) 246-4550
Email: rlyford@dickinsonlaw.com

FILED
JUL 03 2014
CLERK SUPREME COURT

July 2, 2014

Ms. Donna M. Humpal
Clerk of Court
Iowa Supreme Court
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process

Dear Ms. Humpal:

Enclosed is a copy of a letter I sent to the Chief Justice on June 16, 2014 as public comments regarding proposed amendments to Iowa's bar admission process.

Very truly yours,

F. Richard Lyford

FRL/slf
Enclosure

F. RICHARD LYFORD
699 Walnut Street, Suite 1600
Des Moines, Iowa 50309-3986
Telephone: (515) 246-4514
FAX: (515) 246-4550
Email: rlyford@dickinsonlaw.com

FILED
JUL 03 2014
CLERK SUPREME COURT

June 16, 2014

Honorable Mark S. Cady
Chief Justice
Iowa Supreme Court
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process

Dear Chief Justice Cady:

The purpose of this letter is to give my personal comments concerning the proposal to allow students of the University of Iowa College of Law and Drake University Law School to be admitted to the Iowa Bar upon graduation, "diploma privileges".

I have served as a grader, temporary bar examiner, and have been a member of the Board of Law Examiners since 2008. As these names imply, I have graded, written questions and supervised grading. In particular, I wish to respond to the Blue Ribbon Task Force "Talking Points" published by email by the Iowa State Bar Association on or about May 23, 2014. A copy is attached. In general, I believe that the Iowa Supreme Court's use of an absolute merit based anonymously graded bar examination serves as an additional filter as to who should be admitted to the bar in the State of Iowa, and is a responsibility the Court should not relinquish to the law schools located in Iowa. In response to the Blue Ribbon Task Force "Talking Points" please consider the following:

- **"The bar exam does not test on Iowa law."**

The bar exam does test on Iowa law. It does so to the extent that Iowa's general legal principles tested on the exam are consistent with the laws of other states. Iowa law does not differ that much from other states. In the years I have graded or supervised the

essay test portion (MEE), no substantive changes were made to the model answers used to grade the essay portion of the test to reflect a difference in Iowa law from the model answer. The model answers recognize differences that appear and give credit appropriately.

- **"The bar exam tests only one's ability to outwit 200 multiple choice questions from a third party testing service and eight essay questions from an unpredictable group of essay graders."**
  - "Outwit[ting] Multiple Choice Questions"

    This is not what happens when the MBE is taken. Multiple choice questions are an excellent way of testing knowledge. For example, having two answers that are close to the correct answer challenges the examinee to distinguish the legal principle. Iowa scores are higher than the national average. The applicants seem to understand the legal principles that are being tested. It is not a crap shoot. If this criticism is valid of the MBE, then it is also valid for the MPRE which the Task Force has endorsed.
  - "Eight Essay Questions"

    There are <u>six</u> essay questions in the MEE and two questions in the MPT answered in written essay form. All of the questions, including the MBE are provided by the National Conference of Bar Examiners ("NCBE"). The essay MEE and MPT questions are tested by having recent law school graduates answer them in an examination setting. Any necessary adjustments are made before being used. Answers to the essay questions are reviewed on the weekend after the exam is given. Any problems with model answers are adjusted at that time.

    None of that process occurred when the questions were written by Iowa lawyers. The questions were not tested before use and often tested on very

narrow aspects of Iowa law. The use of the MBE, MEE and MPT is a great improvement.

- "Unpredictable Group of Essay Graders"

  This is an insult to the hundreds of Iowa lawyers that have graded the bar exam through the years. In order to establish a grade, two examiners have to agree upon the grade. If there is any question, a supervisor also looks at the question. As a supervisor, I have read most of the low scoring essays to assure myself that there is fairness and consistency in the grading. In addition, there is an automatic review process found in Rule 31.11. This system is fairer than one law professor reading an exam answer and an examinee having no appeal from the grade given.

- "Functional Mastery"

  The bar examination is not supposed to determine functional mastery of a subject. It is supposed to determine minimal competence. If the test was for functional mastery, there would be no lawyers in Iowa. Mastery comes not from three years of law school, but from years of further study and practice.

- "Akin to a Final Hazing"

  I would agree that taking the bar exam is a stressful situation. It is like being in a trial where evidence objections must be stated quickly. No one suggests that trials be eliminated.

- "Don't Remember what is Learned From the Bar Exam."

  I don't know that this statement is generally true for everyone. I found the bar exam a comprehensive review of what I learned in law school and genuinely helpful to create checklists in my mind to analyze legal problems.

- "Enriching Graders of the Exam"

  The many Iowa lawyers that have graded the Iowa bar exam over the years received a $50 per diem to leave their practice and spend time grading the bar

exam. Many do not request reimbursement. It is a dedicated service that should not be insulted by calling a per diem an "enrichment."

- "Springing Executory Interest in Land and a Shifting Executor Interest in Land"

  This distinction was more likely to have appeared in the questions written by Iowa lawyers and graded by them than it would on the MBE, MEE, or MPT.

- "Time Between Testing and Grading"

  This interim should be minimized as much as possible. Turnaround time for persons taking the Iowa exam is relatively short compared to other states. It can be made shorter if the bar exam is moved up closer to the more common law graduation date of middle May rather than the middle of June. This would remove a month of the interim period. The firm I have been associated with for over 40 years offers new grads that have been hired, the opportunity to start work right away. A few do, but most wait until after the exam; some until after the results are made public.

- "Dictating What Courses will be Taken"

  Law schools may require some courses in order to graduate and the subjects being tested for bar examination sometimes encourage other courses to be taken by law students. The dictating by the Iowa Supreme Court as to what courses law schools must require in order to attain diploma privileges would be a greater intrusion on law school curriculum than is presently exerted.

- Bar Admission v. Law School Admission

  There is no requirement now for law schools to admit students on the basis of merit. They are free to admit whomever they choose. They may seek to provide for diversity and provide opportunities for a wide range of students for a variety of reasons. The retention rates at both Drake University and the University of Iowa College of Law are high indicating either very few risks

are taken on admission or few are weeded out by poor grades. I would encourage the creation of opportunities and risk taking on admission but require the "filter" of the bar exam. Knowing that anyone admitted to law school will have to pass a bar exam to practice tempers the decisions on admission to law school.

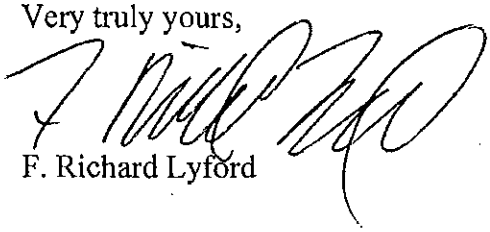
I believe the present support from law schools for the diploma privileges is an effort to make both Drake and Iowa more attractive in difficult times for law schools. In fact, that hardship may encourage the admission of students who can afford to cover the costs of law school but be otherwise less qualified. Once having admitted the students, collecting tuition is important. It is in difficult times that the "filter" aspect of the bar exam is more important.

- Legal Challenge in Wisconsin

The diploma privilege in Wisconsin was challenged in *Wiesmuller v. Kosobucki*, 571 F.3d 699 (7th Cir 2009). The 7th Circuit held the Plaintiffs should be allowed to "prove their case." The case was later settled. Whether what the Task Force proposes would pass constitutional muster, (dormant Commerce Clause, Equal Protection under Iowa and Federal clauses) I leave to others. But, as Judge Posner noted in the opinion, there are other law schools a "stone's throw" away that might complain they do exactly what Iowa and Drake does and their students should also be granted diploma privileges. (Creighton, South Dakota, law schools in Minnesota, and Northern Illinois to name a few.) Or perhaps a law student from a school will claim it was tougher to be admitted on average at his or her law school than it was at Iowa or Drake and therefore should be admitted under diploma privileges.

I would continue the use of the Bar Examination as a filter to insure minimally competent lawyers serve the Iowa public.

Very truly yours,



F. Richard Lyford

FRL/slf

Bar Admission Process
Martin Begleiter
to:
rules.comments@iowacourts.gov
07/03/2014 07:30 PM
Hide Details
From: Martin Begleiter <martin.begleiter@drake.edu>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

FILED
JUL 07 2014
CLERK SUPREME COURT

1 Attachment

Diploma Privilege Letter.docx

Dear Justices of the Supreme Court:

Attached is my letter in support of the proposed diploma privilege.

Sincerely,

Martin D. Begleiter
Ellis and Nelle Levitt Distinguished Professor of law
Drake University law School

Dear Justices of the Supreme Court:

I am, an Ellis and Nelle Levitt Distinguished Professor of Law at Drake University Law School. I have been a law professor at Drake for 37 years. Prior to that, I was an attorney at a major New York City law firm. I write this letter in support of the diploma privilege.

I have examined the justifications offered for the continuation of the bar examination, and have found only one that has any degree of validity. That justification is that the bar exam forces students to review all the law they learned during their law school career in preparation for this exam. I recognize the value of that review, and I'm sure others have written to you about it. However, when put up against the costs of waiting to practice until the exam is graded and the students are admitted to the bar, not to mention the cost of the bar review course and the other costs associated with the bar exam, it appears to me that the costs of continuing the bar exam are far outweighed by the advantages of doing away with it. Studies have shown that the bar exam merely tests the same skills that are tested (and tested better) in law school. I have written questions for the bar exams of various states and I can testify that my law school examinations in Wills and Trusts are far more difficult and comprehensive than bar exam questions. And, with the exam now in a multiple choice format, the difference in ability tested between law school exams and the bar exam is even greater than it used to be.

I have spoken on the advantages of the diploma privilege to the Estate Planning, Probate and Trust Section of The Iowa State Bar Association, and I won't unnecessarily extend this letter by commenting on them further. Simply let me say that I agree with the Report of the Blue Ribbon Committee of the Bar Association, and I urge you to institute the diploma privilege in Iowa for graduates of the Drake University and the University of Iowa law schools.

Thank you for your consideration.

Martin D. Begleiter
Ellis and Nelle Levitt Distinguished Professor of Law
Drake University law School
2507 University Avenue
Des Moines, Iowa 50311
(515) 271-2062
email: martin.begleiter@drake.edu

Bar Admission Process
Michael O. Carpenter
to:
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From: "Michael O. Carpenter" <moc@ottumwalaw.com>
To: <rules.comments@iowacourts.gov>,

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CLERK SUPREME COURT

To Whom it May Concern:

I took the bar examination as it existed in 2004 after graduating from the University of Iowa school of law. At that time we were required to take both the Multistate Bar Examination and a series of written essays on Iowa law. It is from that perspective that I offer the following comments:

- The Multistate Bar Examination (MBE) is terrible, and any change the Supreme Court makes should eliminate the Multistate Bar Examination for everyone.
  - The MBE tests over the fake law of nowhere. Examinees do not learn anything useful or applicable by studying for this exam.
  - Because of the incredibly high stakes, examinees are very likely to spend a great deal of money on test preparation courses and materials to learn this fake law of nowhere. This only benefits those who sell these services and materials, and provides no lasting benefit to future lawyers or their clients.
  - The test takes far too long to correct, leaving students waiting for weeks upon weeks for the results.
  - To support this effort, students are pressured into borrowing money to support themselves during the study period and during the interminable wait for the results. Because the examinees are no longer students, these loans are not student loans that provide protections to the student lender.

- The Iowa essay portion of the bar exam was educational and useful.
  - In preparation for the Iowa essay portion of the bar exam, I learned specifics of Iowa law that I did not learn in law school at the University of Iowa.
  - When I began practicing in a small rural law firm, I continuously referenced my Iowa bar preparation materials, and found that the knowledge I gained while studying for the Iowa essays was indispensable.

- There are benefits to a high-stakes bar examination of some sort.
  - A bar examination puts the examinee into a situation where he/she must be able to perform in an incredibly stressful environment with incredibly high stakes. It should go without saying that the ability to function under these pressures is a necessary prerequisite to the practice of law, as attorneys must continually represent the interests of clients in these kinds of situations.
  - The Supreme Court should be concerned that the diploma privilege option would not subject potential lawyers to this stress-test, and that the people of Iowa would risk being represented by attorneys who are unable to handle the stresses of the practice.

Thank you for considering my comments.

Michael O. Carpenter
Gaumer, Emanuel, Carpenter & Goldsmith, P.C.
P.O. Box 601
111 W 2nd St.

Ottumwa, IA 52501
PH: (641) 682-7579
FAX: (641) 682-6982

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WebsitesCR
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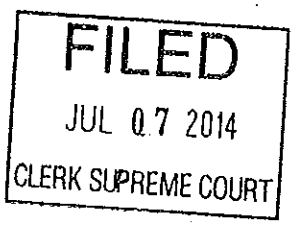

Keep the bar exam.

The number of people who fail the exam is less important than the fact that potential attorneys must PREPARE for it. This sets a higher standard than that of being able to pass classes. I have a graduate degree and have taught at the state university level, so I know the difference.

We require licensing exams for hundreds of professions. A profession as important to people's lives as a lawyer is certainly not the one where we should choose to lower standards, inspection and quality.

--
Larry Crain ♦ 319-389-3130 ♦ Save@WebsitesCR.com

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Richard G. Hileman, Jr.
David A. Hacker
REGISTERED PATENT ATTORNEYS
Gregory G. Williams
Christopher J. Voci[3,5,8]
Carrie L. Thompson

Email Address: pmorf@simmonsperrine.com
Direct Dial No.: (319) 896-4012

July 3, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa, 50319
Via email: rules.comments@iowacourts.gov

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Re: Bar Admission Process

I write to express my sincere, considered, and strong opposition to the suggestion that Iowa abandon the bar exam requirement and revert to a diploma privilege that exists only in Wisconsin, and that went out of fashion in the 1920s. The legal profession should, if anything, increase its standards rather than lowering them. The Iowa bar should not unilaterally lower its standards below those of 48 sister states. In my opinion, this would be a terrible mistake for the profession and for the people of Iowa. I am deeply disappointed with the ISBA leadership for pursuing this initiative without even consulting its sections and its membership, and I believe that the ISBA leadership is greatly out of step with its membership on this issue, and is acting in a manner antithetical to our wishes, our best interests, and the integrity of our proud profession. I see this as a knee-jerk reaction to short-term fluctuations in the market for legal services. In the long run, I believe this initiative, if successful, will reduce both the dignity of our profession and the public's trust in our legal institutions.

I submit the following facts and arguments for your consideration, and I ask you to weigh them into your calculus. In the end, if you believe this is a "close call," I urge you to table the matter for five years. If this is a good idea, it will be just as good in five years. If no other states have embarked on this path in five years, you will have helped us avoid an embarrassing and self-defeating misstep. Between now and then, I believe wiser heads will prevail, and the ISBA will abandon this novel and reactionary notion.

www.simmonsperrine.com
■115 Third Street SE, Suite 1200, Cedar Rapids, Iowa 52401 • Telephone (319) 366-7641 • Fax (319) 366-1917
□ City Center Square, 1100 - 5th Street, Suite 205, Coralville, Iowa 52241 • Telephone (319) 354-1019 • Fax (319) 354-1760
Also licensed to practice in: 1 Illinois 2 Wisconsin 3 New York 4 Minnesota 5 Michigan 6 California 7 Nebraska 8 Texas

1. The Initiative Would Return the Profession to the 19th Century Rather Than Moving it Forward. The model proposed was rejected by the ABA in 1921, and the ABA renewed its position in 1971. See, e.g., Daniel R. Hansen, *Do We Need the Bar Examination? A Critical Evaluation of the Justifications for the Bar Examination and Proposed Alternatives*, 45 Case W. Res. L. Rev 1191, 1200 (Note; Summer 1995) ("By the 1920s, there was a written bar examination in most states. . . . The diploma privilege did not enjoy sustained approbation. Its peak popularity was during the interval between 1879 and 1929. But, in 1921, the ABA formally expressed its disapproval of the diploma privilege, thus significantly affecting its continued popularity and leading to the privilege's decline ever since. The ABA stated, '(t)he American Bar Association is of the opinion that graduation from a law school should not confer the right of admission to the bar, and that every candidate should be subject to an examination by public authority to determine his fitness.' In 1971, the ABA and National Conference of Bar Examiners reaffirmed the position taken in 1921[.]".

2. No Other State Has Taken This Extreme and Self-Defeating Step. Wisconsin is the last hold-out employing this 19th century model. Iowa would be acting alone. Attorneys in border states could distinguish themselves from those backwoods Iowa attorneys who had not even passed a bar exam.

3. This Initiative Was Developed by a Small Group With No Input from the Sections or the General Membership. It is my perception that a handful of folks at the state level decided, in a vacuum, to pursue this initiative, without even consulting the sections of the ISBA. It is antidemocratic and unpopular among Iowa lawyers. The vast majority of attorneys I have spoken with believe it to be folly. The ISBA exists to serve its members, and it was wrong of them to step out on this limb without first polling its members. This initiative does not represent the wishes of anyone but a few ISBA insiders.

4. The Initiative is Unnecessary to Protect our In-State Law Schools. The timing of this initiative coincided with a short-term drop in law school admissions, and the "Blue Ribbon Committee" notably included the deans of both in-state law schools. It is not hard to deduce that this was a desperate attempt to shore up in-state admissions during a period where the Iowa Law School in particular has not been the favored child of the Board of Regents. Knee-jerk reactions to short-term issues are seldom wise. The Iowa Law School's short-term dip in applications has already rebounded. This initiative was an attempt to bolster our in-state law schools, and the impetus for it no longer exists.

5. The Initiative Would Damage the University of Iowa Law School. One Iowa law professor has called me to express his worry that Iowa is sealing its own doom as a nationally-regarded law school, if this initiative passes. This professor believed that the Iowa Law School would be damaged in the admissions process if it started imposing requirements on its students to take courses dedicated to Iowa law and procedure, as Iowa needs to cater to a national admissions pool to maintain its status as a top 25 school.

6. The initiative is Discriminatory and Provincial and Unbecoming to Iowa. Elevating in-state law grads above grads of good national law schools cannot be justified, and makes Iowa look provincial and reactionary. This initiative will actually cause people like myself, who attended national law schools (Yale in my case), to view Iowa as parochial, and to avoid coming home to practice law in Iowa. I am proud that I made that decision to return home and join the Iowa bar, and I have never regretted it, but I might have done differently if I had been only one of a handful of students (three, I believe) required to take the Iowa Bar Exam upon graduation. I will be embarrassed should we go this route, and I think it will cause more qualified attorneys and law students to look elsewhere, as we will be judged provincial, and I think rightfully so.

7. The Initiative is Counter to the National Trend Toward Greater Uniformity in Bar Admission Standards. The national trend is toward a uniform bar examination, and more uniformity across states as to admission requirements. Iowa will be bucking this trend, and doing so almost entirely alone.

8. The Arguments Made in Support of this Initiative are Wholly Unpersuasive. The main criticism are that bar exams cost law school grads money by delaying entry into the profession by a period of months, that almost everyone passes the bar exam, and that the bar exam in its current form is an imperfect means of measuring competence to practice law. The remainder of this letter deals with these arguments, none of which is persuasive.

   Specious Argument 1: The bar exam in its current form doesn't perfectly test for the qualifications that make for a good attorney. I respectfully demur. Perhaps the bar exam is imperfect. If so, let us fix it. If the bar exam requires more Iowa content, then lets add it. If essay tests would be more meaningful, then let us return to essay tests. If the delay between graduation and the Multistate Exam is too long, then let us have an alternate home-cooked exam that can occur right after law school, or perhaps the February before graduation from law school for those who are on track to graduate, with admission to the bar of course contingent on successful completion of a JD. Make it something that BAR-BRI can't help you prep for, if BAR-BRI is milking the system to the detriment of our students. Return to an oral examination before a judge, as in days of old, perhaps. I'm open to innovations of all kinds. Problems of timing and format and content can be adjusted. But to eliminate entirely the bar exam, because it is imperfect, is an odd solution----nay, a pyrrhic solution. It is akin to treating an injured finger by cutting off the hand.

   Specious Argument 2: Because of its High Pass Rate (at least after multiple attempts), the bar exam is ineffective as a quality control mechanism. The argument proves too much. If tests are a waste of time when almost everyone passes, then perhaps law schools should abandon testing of their students as well, as our law students are not flunking many students out. The flaw in this argument is this: Tests are valuable not

primarily because people flunk them, but because they incent studying and act as the handmaiden of mastery. As a former law student and adjunct law professor, I know that people study because they will be tested. I certainly didn't study as much when I wasn't held accountable. Therefore, I submit that a high bar exam pass rate may indicate that the bar exam is serving its purpose efficiently---that law students are taking their studies seriously and preparing thoroughly for the exam----that law schools are being careful to prepare their students so that they will pass, and refusing to admit those who are not qualified for the endeavor. This is what accountability in action looks like. In short, I submit that the bar exam increases the rigor of law school, by letting students and law schools know that they will be held accountable at the end. It protects the public from erosion in either law school admissions or law school rigor (or student effort) by introducing accountability.

Specious Argument 3: The expense and delay caused by the bar exam unnecessarily cripple future lawyers with debt and the costs outweigh the benefits. I suppose that the delay between graduation and bar exam may be perceived incrementally to reduce a lawyer's lifetime earnings, *if one looks only at the costs* of the credential *but not the value* of the credential once earned. The same argument can, of course be made regarding law school itself, or of CLE requirements. I submit that if Iowa and other jurisdictions eliminate either of these barriers to entry (law school or the bar exam), the lifetime earnings of attorneys will actually go down rather than up. If we want to increase lifetime earnings of our attorneys, we will elevate the profession, and enhance the credential of being an Iowa attorney, rather than diminish these things. Certainly, it costs something to go to law school and to study for the bar, but the reward is worth the cost if the credential has sufficient meaning, and removing the barriers would reduce not only the cost, but also the value of attaining this credential.

9. Becoming A Lawyer Should be Difficult. Making it too easy will diminish the significance of being an attorney, both in the eyes of the public and also in the eyes of those who become attorneys or who consider a career in law. Diminishing the credential will leave the public less safe, and less trusting of those who call themselves attorneys, and rightfully so.

10. The Bar Exam is One of the Three Legs of the Stool of Legal Credentialing, Without Which the Stool Will Falter. Law school admissions standards, law school rigor, and a bar exam are three legs of one stool, because each ensures the efficacy of the other. The bar exam holds law schools accountable (making a JD more meaningful than an MBA or a BA), and law school admission standards and rigor ensure that the credential of "attorney" means much more than having passed a single exam or series of exams (such as a CLU or CFPs or Series 7). (There are of course others protections of our professional integrity, including attorney discipline proceedings, for example, and continuing education requirements.)

Even if I agree that Drake and Iowa's law schools are currently both so stingy in both their admission standards and their grading and so rigorous in their curricula that it is nearly impossible for an unqualified attorney to come through either Drake's or Iowa's law school, I would never suggest eliminating the Bar Exam: The bar exam ensures that this will always be

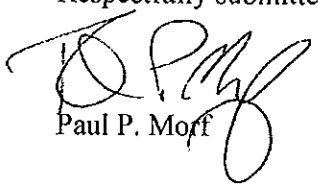
the case, and it acts as a clear signal to the public that the Iowa Bar makes sure that this will always be the case. Take the bar exam away, and the Iowa Bar has no quality control mechanism, other than blind faith in our in-state law schools and the political bodies on which they rely for funding. The Bar Exam is an external control which holds law schools accountable, and it signals to the public that the credential of "attorney" means something, even where law students don't flunk out many of their students.

If the bar exam in its current form is imperfect, I say "mend it don't end it." If we are to innovate, let us do so in ways that elevate rather than diminish our profession. Let us innovate with the timing of bar examinations, or the content or format of bar exams, or the delay between the test and the posting of the results. We cannot save the stool by cutting off one of its legs. We cannot elevate our profession, or improve public trust in our legal institutions, by eliminating the requirement of an entry examination.

In short, I submit that the bar exam plays an important role and is essential to the future legitimacy of our profession and the public's trust in our legal institutions and the unique role of lawyers in society. It should not be lightly discarded. The dignity of our profession has taken centuries to build. Let us not see it sullied or reduced on our watch.

I urge the judiciary to retain the bar examination requirement, or at least table consideration of the initiative for five years, rather than rushing to be the first state in at least several decades to return to the less-stringent "diploma privilege" that was rejected in the 1920s.

Respectfully submitted,



Paul P. Morff

Bar Admission Process
Doyle Sanders
to:
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To: rules.comments@iowacourts.gov,

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2 Attachments

Bar Admission Process Attachment by Doyle D Sanders.docx

I sent this previously but did not send it as an attachment. If an attachment is required, see attached. It is a duplicate of what I wrote below. Thank you for your consideration.

DDS

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From: Doyle Sanders [mailto:dsanders@bevinglaw.com]
Sent: Wednesday, June 11, 2014 7:05 PM
To: 'rules.comments@iowacourts.gov'
Subject:

I graduated with JD and MBA degrees from Drake. In the MBA program, the final course was a capstone course in which we dealt with issues incorporated from all of the other business courses. It was a semester of case studies and that called for different types of responses and concluded with a paper (think "essay") on a particular topic and, as I recall, a final examine. It was onerous but not insufferable. As far as I know, everyone passed. I probably learned more about the world of business administration in that class than in any (if not all) of the other classes.

To me, the merit of the bar exam has been to serve as a capstone of three years of studying legal principals and concepts. When I heard of the recommendation for eliminating the bar exam for Iowa and Drake grads, the first thought that I had was that it would be replaced by a required capstone course like we had in the MBA program. Regrettably, I have neither seen nor heard of any discussion about a capstone law school course.

I do not think that the world will suffer greatly if the bar exam as we know it is abandoned. However, summarily dispatching it to the oblivion of history is failing to recognize that it has had any merit. Replacing it with a requirement of a capstone semester course of study would seem very worthwhile and possibly an improvement over the current system. I cannot think of a down side. It would recognize all of the arguments in favor of eliminating the bar exam as well as all arguments of which I can think in favor of retaining the bar exam. It would have the added advantage of improving the experience of the law student to prepare for the real practice of law. I would foresee the bench and bar assisting as advisors if not authors or even instructors in formulating and presenting the curriculum. I wish that I would have had this experience 42 years ago!

Not to be dogmatic, but without a required law school capstone course, I would not be in favor of eliminating the bar exam.

Doyle D. Sanders
Bevin, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309
515-237-1185 - Voice
515-771-1997 - Cell
515-288-9409 - Fax
Bevinglaw.com
Download Doyle's vCard

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Doyle D. Sanders
Beving, Swanson & Forrest, P.C.
321 E. Walnut, Suite 200
Des Moines, IA 50309
515-237-1185 - Voice
515-771-1997 - Cell
515-288-9409 - Fax
BevingLaw.com
Download Doyle's vCard

Bar Admissions Process
Emily Anderson
to:
rules.comments@iowacourts.gov
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From: Emily Anderson <eanderson@fightingforfairness.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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CLERK SUPREME COURT

Honorable Justices of the Iowa Supreme Court:

I am writing in regard to the proposed changes to Iowa's bar admission process. I am a 2007 graduate of Drake Law School. I took the bar examination in the summer of 2007. I clerked for Justice David Wiggins from 2007 to 2008 and I have practiced in the area of civil litigation in Cedar Rapids from 2008 to the present.

When considering the adoption of a diploma privilege in lieu of Iowa's bar examination, I believe the Court should consider what I believe to be three major flaws in Iowa's current bar examination:

(1) The Iowa bar examination does not test on Iowa law.

(2) The Iowa bar examination causes financial hardship for recent graduates.

(3) The Iowa bar examination is not a true gatekeeper.

As a result of these flaws, I believe the format needs to be changed substantially, or in the alternative the diploma privilege should be adopted.

No Iowa Law

I sat for the Iowa bar examination in the summer of 2007. I had the good fortune of being in the last group of Iowa bar takers who were required to study Iowa law and answer several essay questions regarding the same. As a result of Iowa law being on the bar exam, I received detailed written outlines and had the opportunity to hear several Iowa lawyers and judges lecture, in person, on various areas of Iowa law. By no means did I become proficient in all of the areas of Iowa law that I studied. However, I learned the basic tenets of various practice areas—enough so that I am able to spot legal issues outside of my own practice area and respond by conducting further research or consulting a fellow Iowa attorney. I cannot imagine practicing law in Iowa without at least a basic understanding of Iowa's family, criminal and probate law. These issues routinely arise in my civil litigation practice.

Current Iowa bar takers do not have the good fortune of truly learning any Iowa law, from Iowa lawyers. Instead, they watch videos covering black letter law that sometimes conflicts with Iowa law—a potentially dangerous situation for Iowa citizens and the attorneys who represent them.

Moreover, half of the bar exam is multiple choice. In my experience, studying for and taking the multi-state multiple choice test is more of an exercise in learning how to crack the code of confusing and tricky questions than in actually learning the law.

I recognize that since Iowa law was omitted from the bar, newly admitted Iowa lawyers are required to take a basic skills course; however, sitting and listening to an hour lecture on a given practice area is not the same as actually learning the information well enough to answer an essay question. There is no test to determine whether CLE participants actually master the material. Further, because participants will not be tested on the material, they will likely "check out" during whole sections of the CLE that do not apply to their practice area.

If Iowa is going to maintain a bar exam, it should test on Iowa law. If Iowa is going to adopt the diploma privilege, it should require students to take classes that teach Iowa law.

Financial Hardship

Most Iowa bar takers sit for the exam in July and do not learn the results until September. Due to this delay, Iowa bar takers are delivered a double financial blow. In order to take the Iowa bar exam, I was forced to take out a several-thousand-dollar loan. Blow number one. Part of the borrowed money covered the bar preparation classes and materials. Because I could not work while studying for the bar, the bulk of my bar loan was used to cover living expenses because I had no income. Blow number two.

Luckily, I was able to start my judicial clerkship before becoming licensed; however, several of my classmates took jobs with employers who would not allow them to start working until they became licensed in September.

This double financial burden is not one that recent graduates should have to bear. Many students, like me, have to pay for law school on their own. These students incur substantial student-loan-debt just to pay for law school—they should not have to take on additional debt, while also losing out on income, in order to take Iowa's bar exam. This finical hardship could be greatly reduced by changing the format. This finical hardship could be completely eliminated by adopting the diploma privilege.

Not a Gate-Keeper

The proponents of the bar exam argue that it serves as a gate-keeper by weeding out bad, would-be lawyers. However, from 2008 to 2013, out of the 996 Drake and Iowa graduates who took the bar exam, 928 passed the first time.

When I took the bar, I was told the standard for passing was "minimum competency." That standard is reflected in the high pass rate. With a high pass rate and a test that allows persons who are only minimally competent to practice law in Iowa, why have a bar exam at all? It hardly seems sensible--especially considering the bar exam does not test on Iowa law and creates a financial burden.

Given the flaws in the current format, the bar exam should either be modified or done away with completely in lieu of the diploma privilege.

I appreciate the opportunity to share my opinions regarding the bar exam.

Sincerely,
Emily Anderson

Bar Admission Process
Andrew Duffelmeyer
to:
rules.comments@iowacourts.gov
07/08/2014 11:21 AM
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From: Andrew Duffelmeyer <andrew.duffelmeyer@drake.edu>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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1 Attachment

Duffelmeyer bar comments.docx

Please find attached my comments on the proposed changes to Iowa's bar admission rules.

Thank you,
Andrew Duffelmeyer
Drake University Law School
J.D. Candidate, 2015
515-321-6768

Clerk of the Supreme Court

Judicial Branch Building

1111 East Court Avenue

Des Moines, IA 50319

RE: Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process

Your Honors:

I respectfully write to express my support for the diploma privilege for graduates of Drake University Law School and the University of Iowa Law School.

I am entering my final year at Drake University Law School and intend to stay in Iowa to practice. It is unclear to me whether the diploma privilege, if approved, would apply to my graduating class. Regardless, I believe the diploma privilege would be greatly beneficial to law students in the state, and would strengthen – not damage – the Iowa legal community.

I feel an Iowa practice and procedure course and the proposed substantive requirements for admission absent examination would better prepare me for a legal career in the state than an examination that doesn't contain Iowa-specific law and includes many topics I doubt I will touch as an attorney.

I will have paid nearly $60,000 in tuition to Drake University Law School when I graduate next year. I understand that many of my fellow students will have paid about twice that much. That total does not include my cost of living during that time: an education in the law is a full-time

endeavor, as you are aware, and working during that time is very difficult and not generally recommended. It is not uncommon to hear from fellow students that they will owe $100,000, $200,000, or even more before they take on their first client.

I am well aware that students choose to take on these costs when they embark on a high-quality education, and there is no question in my mind that the time and money I spend at Drake University Law School will pay for itself many times over in many different ways. However, requiring Drake University Law School and University of Iowa Law School graduates to prepare for and pass an examination that more than 90 percent of us pass on the first try only exacerbates the financial stresses students are under.

In closing, I believe the current system forces cash-strapped, well-prepared and eager women and men to invest many more months, thousands more dollars, and countless more hours of intense work into an examination process that seems to provide negligible benefits to graduates or the legal community. I believe allowing a diploma privilege for graduates of Drake University Law School and the University of Iowa Law School that intend to practice in Iowa would go a long way toward alleviating these issues, while better preparing students and strengthening the Iowa legal community.

Thank you for considering my comments.

Sincerely,

Andrew Duffelmeyer

Drake University Law School
J.D. Candidate, 2015
Andrew.Duffelmeyer@Drake.edu

LAW OFFICES
SCHNURR LAW FIRM, P.C.
Attorneys and Counselors at Law
Wells Fargo Center
822 Central Avenue, Ste. 405
Fort Dodge, IA 50501

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JERRY L. SCHNURR III
BRAD M. McINTYRE

Telephone (515) 576-3977
Fax (515) 576-0941
www.schnurrlawfirm.com

July 8, 2014

Clerk, Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

RE: Bar Admission Process

To The Honorable Court:

I am writing in support of the recommendations for Bar Admissions unanimously approved by the Iowa State Bar Association Board of Governors at their January 20, 2014 meeting. Those recommendations are:

1. Create an alternative for admission absent examination for qualified graduates of Iowa Law Schools (University of Iowa and Drake).

2. Extend and continue the comprehensive character and fitness screening to applicants admitted absent examination.

3. Adopt the uniform bar exam for admission upon examination.

4. Revise the Iowa Basic Skills course.

I assume the Court has read the December 2013 report submitted to the Bar Association Board of Governors by the Blue Ribbon Committee on Legal Education and Licensure. I must admit at first, I was hesitant to support the recommendations of the committee. However, as I read the report and thought more about the purpose of our legal education and admission process in providing competent representation by competent lawyers to all areas of the State, it became clear that these recommendations better serve our obligation as a profession to ensure competent legal representation to all people in Iowa.

The Bar Exam process for admission to practice has no significant relationship to the real practice of law in Iowa. There are no questions on Iowa specific law on the Bar Exam. It is a multi-choice exam. Typically, educators will tell you that most multi-choice exams measure one's ability to take a test, not to perform as a competent professional. As you speak with young lawyers who have taken the test, often, they will talk about the process of eliminating one or two choices and guessing between the remaining two choices. If they get it right, does that really mean that they know the subject area? Yet, this is what it seems much of the current format of the exam does.

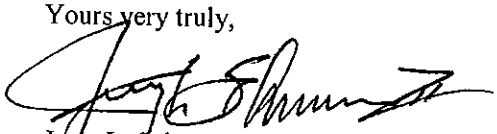
One of the hurdles of providing legal services in rural and mid-sized communities is the crushing load of student debt. Currently, graduation from law school is in May, the exam is taken in July. The results are not available until the end of September which means that a graduate is unable to earn a living as a lawyer until October. It is estimated that this adds and additional $20,000 to $30,000 obligation to graduates who wish to practice in Iowa. This is in addition to student loan debt that can be anywhere from $75,000 to $100,000 or more. Often, it is not possible for these recent graduates to afford to take a lower paying job to begin their careers in a mid-sized or rural community in Iowa. Thus, you see aging of the profession throughout the State and the looming crisis of availability of legal services throughout Iowa.

In fact, Webster County provides a perfect example of the aging of the profession. There are less than ten lawyers under forty years old in private practice in Webster County. In the surrounding counties of Humboldt, Calhoun and Hamilton, the picture is even more dire. Unless we take steps now, I think the provision of legal service in the more rural parts of the State will be endangered.

Since Drake and the University of Iowa Law Schools are on board with the recommendations, the Court, with its oversight, can ensure that the Iowa Specific Course curriculum is rigorous. A student who completes the rigorous course work over a three year period and passes the several tests during that time period, will be much better prepared for the practice of law in Iowa than relying on a Bar Exam that has nothing to do with Iowa law. By maintaining the requirement for character and fitness and the ethical standards the Court has always required, Iowa will be better served by adoption and implementation of the recommendations of the Blue Ribbon Committee on Legal Education and Licensure adopted and approved by the Iowa State Bar Association Board of Governors.

Thank you for your attention to this matter.

Yours very truly,



Jerry L. Schnurr III
jschnurr@frontier.com

JLS/tlc

Bar Admission Process
MaryBeth Fleming
to:
rules.comments
07/09/2014 11:53 AM
Hide Details
From: MaryBeth Fleming <marybeth@mbfleminglaw.com>
To: rules.comments@iowacourts.gov,

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JUL 09 2014
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1 Attachment

opinion ltr to sup ct re diploma privilege.docx

Please see attached.

MaryBeth Fleming
MaryBeth Fleming Law Office P.C.
800 White St., Ste. 100
Dubuque, IA 52001
Phone: (563)845-7199
Fax: (563)845-7198

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MARYBETH FLEMING LAW OFFICE P.C.

800 WHITE ST., STE. 100
DUBUQUE, IA 52001

PHONE: (563)845-7199
FAX: (563)845-7198

MARYBETH@MBFLEMINGLAW.COM

July 9, 2014

To the Iowa Supreme Court

Re: Bar Admission Process

Dear Honorable Justices:

I am writing in support of the proposal to allow the "diploma privilege" in Iowa. Initially, I must say I have had some misgivings about this proposal. My knee-jerk reaction was "If I had to take the bar exam, which was a grueling experience, then why shouldn't these new grads?" I was among the last classes, in 1995, to take the bar exam prior to the introduction of the multi-state exam. (We found out whether we passed or failed the next day.) My next concern was, why has every other state with the exception of Wisconsin eliminated the privilege? That would certainly indicate to me that the diploma privilege had less than desirable consequences in the states that previously allowed it but no longer do so. I think public perception is also an issue.

I can tell you there has been a great deal of discussion about this proposal among the lawyers in my office and others that I know. Reactions are mixed. I sit on the Board of Governors for the IAJ and we could not come to a consensus, and declined to take a position on the issue.

In my opinion, the bottom line is this: the bar exam is intended to weed out those who are not suitable for the practice of law and to ensure competence. I do not believe it does either of those things. The pass rate is extremely high. New lawyers, frankly, are no better qualified for the practice of law after taking the exam than they were before. If we want to keep our standards high, it is up to the Bar to police ourselves. We also have an oft-neglected responsibility to mentor new lawyers and to stop allowing those who engage in shoddy or sharp practices to continue to fly under the radar of judicial scrutiny.

In short, I do not believe the bar exam does what it was designed to do any more. The Iowa curriculum proposed by the ISBA is a good idea, and knowledge of Iowa law is not currently required under our admission rules. The bar exam is a long and costly process that appears to me to be ineffective. It is also torture to make the examinees wait four months to find out if they passed before they can begin to practice. Competency is demonstrated throughout three years of law school, not through the ability to pass a single test at the end of it, and through the actual practice of law. I believe the diploma privilege is an idea whose time has come (again).

Thank you for your time and attention.

Sincerely yours,

MaryBeth Fleming

Bar Admission Process

Ervin D or Cynthia Root to: rules.comments 07/09/2014 10:40 AM

1 attachment

Comments on Proposed Amendments to Iowa Bar Admission.docx

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Attached, please find comments related to the proposed changes to the Bar Admission Process.

Thank you
Ervin Root

Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process

Thank you for the opportunity to comment on proposed changes to Iowa's Bar Admission process for prospective lawyers. I am not an attorney, but am a Registered Professional Engineer in Iowa (#8096) and Michigan (#6201023274).

Upon hearing of these changes, my first question was, "Why?" What is so wrong with the current system that it requires a complete overhaul?

After reading the Report of the Blue Ribbon Committee on Legal Education and Licensure, I gleaned from that report that there were three main reasons to implement these changes.

1. A relatively small number of students do not eventually pass the exam.
2. The current test does not adequately test on Iowa legal concepts.
3. Students have to wait an inordinate period of time between taking the examination and receiving the exam results. This results in a period of lost income since employers rightfully do not want to bring someone into their firm without all the proper qualifications.

In response to the first point, data found in the Staff Report on Diploma Privilege shows that since February 2009, pass rates have varied from a low of 76% to a high of 100% at Iowa's two law schools (among first time test takers). Although the numbers do fluctuate widely from year to year the numbers are not insignificant.

Additionally, it is said that most test takers eventually do pass the test. The Staff Report data shows that the number of test takers who do pass on the second or subsequent attempts ranges from a low of zero percent in February 2014, to a high of 100% in the same timeframe listed above. Again, these are hardly insignificant numbers.

But what about the ones that do not pass? Do we want them slid along with the rest of the group into practice when they potentially are deficient in basic qualifications? I think not.

There is also a good point to be made that the "fear" of students potentially failing the Bar Exam is exactly what keeps the two state law schools "sharp". If all their graduates "get a pass" and are de facto admitted to practice law, then perhaps, there is a little less incentive for these schools to remain top quality. Eliminating the Bar Exam could have the unintended consequence of starting a slippery slope to mediocrity for Iowa's two law schools; something that no one wants.

In response to the second point, the answer is pretty simple. If the test is not adequately demonstrating proficiency in the areas desired.....then fix it! (I don't know what more I can say.)

To the third point; eliminating the exam could reduce the time between graduation and the beginning of a new legal position by a few weeks. However, many student loan programs do not require repayment to begin until several months after from graduation. This should be sufficient time to prepare for, take and pass an examination.

From a financial perspective, to suggest that this time period will add enough interest to the loan to make a significant difference is laughable. Over the course of a career, this will be an insignificant factor. Many graduates in other programs from Iowa's public and private universities face similar obstacles and seem to manage just fine.

With the technology that is available these days, I see no reason that such an examination cannot be administered and graded within days, not weeks. Many other professions in Iowa require Board examinations and already use on-line systems that provide instantaneous feedback. The students know the results as soon as they release the Enter key.

Instead of scrapping the examination process, perhaps it is time to overhaul it and bring it up to current technological standards. I am sure that the Education Colleges of the state's several fine universities could assist in this task. And do not forget the state's excellent Community Colleges. They have become very adept at providing on-line learning and the corresponding testing.

In conclusion, I would like to compare the licensure process for lawyers to that of Engineers. After receiving our formal education, we take a rigorous written examination over the fundamentals of engineering. This covers all aspects of the profession, not just a specific discipline. Then, one is required to work in the field for four years before sitting for a second examination. This exam covers specifics of a discipline, such as electrical, mechanical or civil engineering. Only then, is the Professional Engineering license issued.

Similar requirements exist in many professional fields. Would you feel comfortable knowing the engineer who is designing the building for your office or the bridge you cross every day does not have to pass any kind of qualifying examination?

How about the CPA that prepares and certifies your corporation's tax filings? How about the nurse that hooks up your IV in the hospital and introduces lifesaving medications? Or how about the Pharmacist who dispenses those medications?

I don't know about you, but I want all of these people to be properly licensed, and that means passing a rigorous examination to demonstrate their proficiency. The same thing goes for the practice of law. If aspiring attorneys have to wait a few weeks before they get their license, then so be it. I had to wait four years to get mine.

Ervin D. Root, PE
2824 69th St.
Atkins, IA 52206

Bar Admission Process
Adam Zenor
to:
rules.comments@iowacourts.gov
07/09/2014 04:18 PM
Cc:
"'Erik Bergeland' (ebergeland@finleylaw.com)", "Bryan,James W", Michael Kuehner
Hide Details
From: Adam Zenor <AZenor@grefesidney.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,
Cc: "'Erik Bergeland' (ebergeland@finleylaw.com)" <ebergeland@finleylaw.com>, "Bryan,James W" <JBRYAN@travelers.com>, Michael Kuehner <MKuehner@grefesidney.com>

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2 Attachments

140709 Bar Admission Process.doc

Please find attached our public comment regarding the above matter.

ADAM D. ZENOR
Telephone 515.245.4300 | Fax 515.245.4452
Email azenor@grefesidney.com

GREFE • SIDNEY
500 East Court Avenue Suite 200 | P.O. Box 10434
Des Moines, Iowa 50306 | www.grefesidney.com

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Erik Bergeland
ebergeland@finleylaw.com

Jim Bryan
jbryan@travelers.com

Michael Kuehner
mkuehner@grefesidney.com

Adam Zenor
azenor@grefesidney.com

July 9, 2014

VIA HAND DELIVERY & E-MAIL: rules.comments@iowacourts.gov

Iowa Judicial Branch
1111 East Court Avenue
Des Moines, Iowa 50319

Re: Bar Admission Process

To whom it may concern:

We write upon review of the Blue Ribbon Committee's Report ("Report") and to oppose its "Recommendation 1: Create an Alternative for Admission Absent Examination for Qualified Graduates of Iowa Law Schools." We submit the Court should decline Report's Recommendation for any one of three reasons: (A) the Report's Recommendation is unsupported; (B) the Report's unstated justification of increasing law school enrollment is a non sequitur and counterproductive; and (C) the Report's Recommendation is a solution in search of a problem and, if the Report is earnest in its concern for improvement, it would do well to explore alternative Recommendations short of eliminating a minimum competency exam.

A. The Report's Recommendation is Unsupported.

The Report offers three purported justifications for that Recommendation.[1] Each purported justification is listed in italics below. None is persuasive.

[1] http://c.ymcdn.com/sites/www.iowabar.org/resource/resmgr/docs/report to bog (12-12-13).pdf

Purported Justification #1. "The benefits of the proposed rule start with the reduction of the law school student debt of the new lawyers."

First, this justification mistakenly conflates law school costs with licensing costs. Education costs are separate and distinct from licensing costs in any licensed profession. To the extent the Report is concerned about the continued rise in the cost of legal education, it might be on to something – just something entirely other than the purported purpose the Committee was formed.[2] And, for Report to hold up the bar exam, as opposed to legal education, as the cost driver for student debt, is just wrong. Sitting for the bar exam costs a few hundred dollars. Study materials for the bar exam is couple thousand. By contrast, the cost for three years of law school is generally over $100,000.[3] In other words, while education and licensing costs should not be confused, the cost of licensure is pennies on the proverbial dollar.

Second, for the Report to impose different licensing burdens on the out-of-state law student is protectionist and implicates constitutional problems.[4]

Third, Iowa law firms generally pay licensing costs for new hires. Thus, for many law students, the exam requires no additional licensing outlay. But, even if the law student has to pay for her own licensing, she would not really be put out to pay $2,500 when she's already invested over $100,000 of her own money and three years of her life.

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[2] http://dealbook.nytimes.com/2013/08/23/obama-says-law-school-should-be-two-years-not-three/?_php=true&_type=blogs&_r=0

[3] Drake Law costs $38,106 per year multiplied by 3 years, totaling $114,318.
http://www.law.drake.edu/admissions/?pageID=costsFinancialAid
Iowa Law $23,760 (resident) $49,025 (non-resident) x 3 = $71,280 or $147,075 respectively).
http://www.law.uiowa.edu/students/finaid

[4] The proposal is also likely unconstitutional pursuant to the commerce clause. *See Weismueller v. Kosobucki*, 571 F.3d 699 (7th Cir. 2009). In *Weismueller*, the Seventh Circuit discusses a challenge to the Wisconsin diploma privilege. The Circuit allows the Plaintiffs in the case to proceed with their claim the Wisconsin Diploma Privilege is in violation of the commerce clause of the United States Constitution. Justice Posner writes in part, "It is enough that an aspiring lawyer's decision about where to study, and therefore about where to live as a student, can be influenced by the diploma privilege to bring this case within at least the outer bounds of the commerce clause; for the movement of persons across state lines, for whatever purpose, is a form of interstate commerce. The effect on commerce of the discriminatory diploma privilege may be small, and if so, not much would be required to justify it. Our concern is that there may be nothing at all to justify it." *Weismueller*, 571 F.3d at 705. Upon remand, *Weismueller* was settled out of court for a nominal amount of money as the Plaintiffs arguably no longer had standing upon remand.
(http://www.theconglomerate.org/2010/03/settlement-in-wisconsin-diploma-privilege-case-the-convoluted-backstory.html)

Purported Justification #2: "The rule promises benefits to Iowa's rural and traditionally underrepresented communities, by lowering student-debt barriers to new lawyers serving these communities."

This justification also cites student debt concerns and, as such, is duplicative of the Report's first justification. This justification is a nonstarter for the same reasons the first justification fails.

To the extent this justification is at all distinguishable from the first, it mentions benefits to "rural" and "traditionally underrepresented communities." That distinction doesn't make a difference. Regardless of where the in-state law student elects to practice, she gets to avoid the minimum competency exam. As such, this justification is the same as the first – it's just dressed in different clothes.

Moreover, the Report offers no evidence showing Iowans, rural or not, are clamoring for more lawyers. Rural Iowa has fantastic lawyers, who enjoy their practice and rural Iowa's quality of life. Future rural Iowa lawyers will be incented for the same reasons. In other words, even if rural Iowa was clamoring for more lawyers, there is not a shred of evidence doing away with the bar exam will cause more lawyers to practice in rural Iowa. Even if we assume fewer lawyers are practicing in rural Iowa, it is not because there is a bar exam requirement for law students from Iowa. Population shifts and economic realities drive legal employment opportunities. In fact, the Court recently consolidated Iowa's district courthouses in rural Iowa in light of those same realities.

Purported Justification #3: "The rule would aid Iowa's bar and bench by making practice in Iowa more competitive for the graduates of our Iowa law schools and by assisting our bar and bench in becoming more diverse."

This final justification is unclear. To the extent that the Report is suggesting "diversity" would be fostered by eliminating an objective measure of minimum competency, the Report offers nothing to support that proposition. For the Iowa bar to treat Iowa graduates different than graduates from other institutions, including other Big 10 law schools or Ivy League schools for example, seems to be inapposite to diversity. If the Report is suggesting that more minorities or women will become Iowa lawyers by eliminating an objective measure of minimum competency in Iowa, that suggestion is unfounded and offensive.

If the Report is attempting to suggest eliminating the bar exam may allow more law students to practice as Iowa lawyers, that suggestion may well be true. The Iowa bar exam currently fails 12% of its takers, which, on this year's number of takers equals 48 people.[5] Eliminating the exam will allow those who would fail the exam to practice year over year. To allow incompetent lawyers to practice in Iowa will not benefit Iowans.

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[5] http://www.ncbex.org/assets/media_files/Bar-Examiner/articles/2013/8201132012statistics.pdf

Moreover, there is no shortage of lawyers in Iowa. For example, the Iowa Lawyer Magazine advertises generally less than 5 postings for Iowa attorney jobs each month, often there are 3 or fewer. The Iowa and Drake law schools career services center's statistics show fewer graduates are gaining employment, notwithstanding smaller graduating class sizes. Eliminating the bar exam and increasing the number of lawyers in Iowa will not foster legal employment; rather, it will restrict it further. This will decrease the percentage of law students graduating from our Iowa institutions who garner gainful employment in the law. Given job placement is vital to law school ranking, a decrease in employment percentage may well cause Iowa Law and Drake Law to drop in the law school rankings.

In short, none of the Report's three stated justifications support its Recommendation.

B. The Report's Unstated Justification of Attempting to Increase Declining In-State Law School Enrollment is a Non sequitur and Counterproductive.

Is there an unstated justification for the Recommendation to eliminate the bar exam? Some have speculated that recent decline applications and enrollment at the in-state law schools is an unstated rationale for the Report's Recommendation. If that speculation is accurate, it is unfortunate the Report is not candid. Perhaps that speculation explains why the three justifications the Report did provide (above) are so clearly ill-conceived. The undersigned have little interest in discerning the motives of the two law school deans on the Committee who drafted the report. Rather, what we are interested in is if the decline in law school enrollment is the unspoken motive here, will eliminating the bar exam for in-state law students reverse that trend? Probably not: the decline in applications is a market function; law school enrollment is down nationally – even in Wisconsin (the only state in the nation with the diploma privilege).[6]

C. The Report's Recommendation is a Solution in Search of a Problem and, if the Report is Earnest in its Concern for Improvement, it would do well to Explore Alternative Recommendations Short of Eliminating a Minimum Competency Exam.

Finally, we submit the Report's Recommendation a solution in search of a problem. All professions that affect the life, health, and safety as well as financial affairs of Iowans require exams to ensure minimum competency.[7] In the law

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[6] Applications are down at University of Wisconsin law school, just like other law schools nationally. Wisconsin does not have the bar exam. http://www.nbc15.com/home/headlines/UW-Madison-Law-School-changes-curriculum-in-midst-of-decline-in-applications-233253741.html

[7] http://thegazette.com/2014/02/01/common-sense-about-bar-exam/

specifically, a bar exam is uniformly required in all states across the nation, save one – Wisconsin. But what about Wisconsin; why shouldn't Iowa copy Wisconsin and be the sole other outlier? Indeed, in 2000, a then Wisconsin law professor published an article (in the Wisconsin Law Review) urging other states to do just that.[8] In the 14 years since the professor's publication, no other state has adopted Wisconsin's approach. Thus, other states were as similarly unpersuaded as we were on our reading. Here in Iowa, nearly all agree we enjoy a strong, qualified bar and one of the highest rated court systems in the nation.[9] Why fix – let alone discard – Iowa's lawyer licensing when it isn't broken?

And even if Iowa's lawyer licensing could be improved, the Report does not offer or examine proposals that would to do just that. Rather, its sole Recommendation is to throw the baby out with the bathwater. To be sure, the Court could, should it so desire, implement any number of substantive or procedural modifications short of eliminating the standard minimum competency exam. From a substantive standpoint, for example, the Court will recall it revised Iowa's bar exam in 2009 to eliminate the Iowa component of the exam. Some members of the bar, it appears, would prefer our pre-2009 approach. The Court could consider re-instituting the pre-2009 approach. If some want law specific to Iowa to be examined, the Court might consider that; let's not use the 2009 modification as a basis to now eliminate a minimum competency exam altogether. From a procedural standpoint, for example, perhaps some could consider giving law students the option in Iowa (or nationally) to sit for the bar exam in the term prior to law school graduation but require graduation prior to granting license to practice.

In sum, thank you for allowing us the opportunity to make these remarks. The Iowa bar is important to us. The Iowa bar is strong and does not require a licensing gimmick to incentivize good lawyers to practice here.

Very truly yours,

Erik Bergeland James Bryan Michael Kuehner Adam Zenor

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[8] Beverly Moran, The Wisconsin Diploma Privilege: Try It, You'll Like It, 2000 Wis. L. Rev. 645 (2000)
[9] http://www.lwvmdm.org/RemarksofIowaSupremeCourtJusticeMarkCady.html (noting Iowa's court system is ranked in the top 10 nationally and is cited fourth most of all state high courts).

National Conference of Bar Examiners

302 South Bedford Street
Madison, Wisconsin 53703-3622
Website: www.ncbex.org

Phone: 608-280-8550
Fax: 608-280-8552
TDD: 608-661-1275

July 9, 2014

Chief Justice Mark S. Cady
Justice David S. Wiggins
Justice Daryl L. Hecht
Justice Brent R. Appel
Justice Thomas D. Waterman
Justice Edward M. Mansfield
Justice Bruce B. Zager
Iowa Supreme Court
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

FILED
JUL 10 2014
CLERK SUPREME COURT

RE: Bar Admission Process

Dear Chief Justice Cady and Justices of the Supreme Court of Iowa:

I submit this comment pursuant to an Order of the Supreme Court of Iowa that was filed on May 13, 2014, concerning recommendations that the Court adopt a diploma privilege and the Uniform Bar Examination. I write on my own behalf and not that of the National Conference of Bar Examiners (NCBE).

I believe that I possess the qualifications to comment knowledgeably about the issues before the Court. I have served as the President and CEO of NCBE for almost twenty years. (NCBE is a non-profit entity, heavily volunteer-driven by bar examiners and judges from across the country, that produces bar examination test components, one or more of which is used in every American jurisdiction.) Prior to that I spent almost seventeen years as the Director of the Wisconsin Board of Bar Examiners, an agency of the Supreme Court of Wisconsin. I am a graduate of the University of Wisconsin Law School and was admitted to the State Bar of Wisconsin via Wisconsin's diploma privilege in 1975. In short, I am very familiar with Wisconsin's diploma privilege. I have devoted my career to studying bar admissions across the country. I have been deeply involved in legal education and bar admissions through participation in the American Bar Association's Section of Legal Education and Admissions to the Bar; I chaired the Council of that Section in 1995-96, evaluated law schools when I served as a member of the Section's Accreditation Committee, and continue to serve as a law school site evaluator.

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In my view, adoption of an Iowa diploma privilege would be unwise and short-sighted. There are many reasons for this. Iowa is currently administering three test instruments developed by NCBE. Those tests are thoughtfully crafted over a long period time in a rigorous process that involves legal educators, judges, and practitioners. The tests represent careful thinking about what a new lawyer should be expected to know at the entry point to the profession. The written portions of the test are always graded locally.

I understand that there remains some rancor about the decision that was made in the mid-1990's to adopt the Multistate Bar Examination (MBE). The MBE is a 200-question test that has existed since 1972. It is a highly reliable test instrument that is in place in every U.S. jurisdiction except Louisiana with its Civil Code. The adoption of the MBE in Iowa meant that the prior system of hastily grading essays had to end, and there is undoubtedly some nostalgia about the abandonment of that practice. High-stakes testing for a professional license demands more than the former Iowa system was providing, however. The old system was not equal to the requirements for testing at the level of quality that determining who should be licensed – and who should not – must meet in order to have credibility, in order to be fair, in order to withstand litigation challenges, and in order to meet standards set by psychometric experts.

The MBE today is a better test than the MBE was when it was first administered in Iowa. NCBE's goal is – and will remain – continuous improvement. The test development process has been sharpened since NCBE brought test development in-house a decade ago. Samples of contemporary MBE questions are available on the NCBE website, www.ncbex.org.

Multiple-choice formats are useful in sampling a broad array of content effectively. While essay examinations offer insight into both a candidate's knowledge as well as his or her ability to think and write, the amount of content that can be covered amounts to a version of Russian roulette: did the single question in a broad subject area such as Contracts test a candidate in the one area he or she knows–or test a more capable candidate in the one area he or she failed to study? This is a function of the limits of content that can be tested in an essay format in the allotted time. The MBE consists of practice-centered questions in six core subject areas (to become seven with the addition of Civil Procedure in 2015) that allow for far more subject coverage in a short amount of time.

Iowa currently weights the multiple-choice and written portions of its bar examination equally. This is consistent with best practice because the reliability of the test score (with "reliability" being a term of art in the measurement world) benefits from that weighting.

The balance of the test as administered today in Iowa is comprised of the Multistate Essay Examination (MEE), a six-question examination in core subject areas lasting three hours, and the Multistate Performance Test (MPT), consisting of two ninety-minute case simulations that require the candidate to create a written product for a supervising attorney using a case file and a library of appellate decisions. (Past MEE and MPT examinations can be viewed on the NCBE website.)

I am presuming that hostility toward the MBE has fueled some of the ardor for eliminating the bar examination altogether. One argument seems to be that the examination unduly delays bar admission in Iowa. It is true that the processing of MBE scores and the combining of scores on the written and multiple-choice portions of the test add a few weeks of time before results are released; however, haste in admitting lawyers must be secondary to doing things right. Doing things right demands using high quality test instruments and grading written components carefully.

Note that the Arizona Court has launched a pilot project that permits certain candidates to sit for the February bar examination in advance of graduation. The program involves a restructuring of the last-semester curriculum for those who wish to test. This mechanism retains a licensing test component and accelerates movement into the profession. If early access to the profession is an objective, this approach might be considered.

The diploma privilege as it exists in Wisconsin does not, in operation, compel the teaching of state law, and indeed, I know of no one who would pigeonhole Wisconsin's two law schools (Wisconsin and Marquette) as strictly state-law schools. To the extent that Iowa goes the route of compelling the teaching of state law throughout the curriculum, it will follow a different pattern. Emphasis on state law has the potential to suppress interest on the part of out-of-state applicants who might otherwise be attracted to enroll. This may affect diversity within the student body.

To the extent that the vision for the presentation of Iowa law is relegated to requiring a single course in Iowa Practice and Procedure, it would be wiser to develop and deliver this content to all Iowa bar applicants (that is, to include out-of-state law school graduates and motion admission applicants) through another means.

What the Wisconsin diploma privilege does do is establish a series of curriculum requirements that must be covered by each law school's faculty. This runs counter to what I have observed in other law schools. This aspect should be carefully considered because it is somewhat confining and may limit the availability of certain electives if the faculty is busy covering the diploma privilege menu of subjects. (SCR 40.03 of the Wisconsin Supreme Court Rules is attached for ready reference.) Faculty may not welcome the demands of a diploma privilege curriculum, and this may affect recruiting the best and the brightest to teach.

What the diploma privilege does not do is attract a particular number or quality of applicants, if that is an objective of the proposal. A glance at the median LSAT scores and GPA's of entering candidates at Iowa, Drake, Wisconsin, and Marquette, as compiled by the American Bar Association and the Law School Admission Council, discloses no particular advantage to the two Wisconsin-sited schools in terms of entrance credentials. This would suggest that there will not be a windfall in terms of high-scoring applicants or applicant numbers if the Court were to adopt the diploma privilege. Similarly, I know of no data to suggest that Wisconsin law schools are particularly

effective at encouraging their graduates to locate their practices in rural areas, a suggestion that has surfaced from some commentators in support of the diploma privilege in Iowa.

The Court should consider that there may be unintended consequences of a decision to adopt the diploma privilege. Will the availability of this status attract a start-up law school to come into the state? (This almost happened in Wisconsin, but the school, to be located near the Twin Cities, did not get off the ground.) Will the public have less confidence in a profession that, unlike other professions in Iowa, has no rigorous test at the front end? Will declining enrollments lead the law schools to fill classes with candidates with weaker credentials, and keep them enrolled, because the revenue they provide is essential to operate?

The diploma privilege essentially awards a franchise to the law school to decide who will be licensed. I know from my years running bar admissions for the Supreme Court of Wisconsin that very, very few graduates of the Wisconsin law schools did not qualify for the diploma privilege – a mere handful. They took and failed the Wisconsin Bar Examination repeatedly, suggesting that many others would have failed had they been required to test. At the time, Wisconsin had one of the lowest pass/fail points in the country (as it still does). (The Wisconsin cut score, as expressed on the 200-point MBE scale, is 129; Iowa's cut score is 133. The Wisconsin score, originally 125, was chosen to be low initially because in-state law graduates take no test at all.)

We know that if Iowa adopts the diploma privilege the opportunity to practice in other states through admission on motion will be limited. The following states, all of which permit admission on motion, restrict eligibility to attorneys who have passed a bar examination: Alabama, Alaska, Arizona, Georgia, Idaho, Kansas, New Hampshire, Ohio, Oregon, Utah, Virginia, and Wyoming.

In contrast, the Court is also being asked to adopt the Uniform Bar Examination for candidates with law degrees from outside the state. A score earned on the UBE would give candidates immediate access to fourteen other jurisdictions without requiring a redundant test. I expect that number to grow. Candidates seeking a second admission would be required to meet all other requirements of the second jurisdiction, of course, such as educational qualifications and character and fitness screening, but they would not be required to devote time and money to preparing for another examination and awaiting test results. A map showing UBE jurisdictions is attached.

As Iowa already administers the three test instruments that comprise the UBE (that is, the MBE, MEE and MPT), it would involve a minimum of adjustment to adopt it. There is no reason that Iowa, in adopting the UBE, could not develop a mechanism for assuring that every candidate (by examination or motion) is exposed to significant Iowa distinctions in the law, facts about the Iowa court system, and the culture of professionalism in Iowa. This has been done through online courses and test material, as well as mandatory live programming, in a number of UBE jurisdictions. Effective models are operational elsewhere in such states as Alabama, Arizona, Missouri, Montana, New Hampshire, and Washington.

In closing, I would like to share additional thoughts about the circumstances that appear to have contributed to the promotion of the diploma privilege in Iowa. Coupled with a genuine desire to think through "there must be a better way to do this" is frustration about the current bar examination that is undeserved. The objective of the bar examination should be to determine if a candidate can meet a basic threshold of competence for entry into the profession. The current bar examination does that. Further, it is not intended as a predictor of future performance, as that is not the purpose of a licensing examination.

Adopting the diploma privilege accepts that the worst performers in Iowa's two law schools who qualify under Iowa's diploma privilege rules will become the lowest common denominator for setting the quality standard in Iowa. The Court will have no say in who was admitted to law school, who was retained, who was readmitted after academic difficulty, how students were evaluated, and who was conferred a law degree.

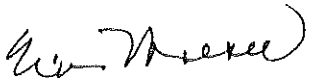
There are hints that the current proposal is driven in part for change or reform of the law school curriculum. Undoubtedly there is change in the wind nationally in this regard. Among other things, promotion of two-year law schools and of 3-3 programs (with year four of undergraduate school being spent in first-year law classes) are garnering attention. In my view, capstone courses in law schools that synthesize learning, as well as other curriculum approaches that better prepare emerging graduates for the realities of practice are worthy initiatives; however, the bar examination should continue to serve as a meaningful gatekeeper to the profession no matter what changes are implemented in the nation's law schools.

For the disenchanted, I humbly suggest that adopting the diploma privilege in Iowa would be an example of the cure being worse than the purported disease.

As a Wisconsin diploma privilege admittee, I can attest to the fact that the lawyers in this state and elsewhere have less regard for my admission credentials than theirs acquired by establishing their entry-level competence on a bar examination. (And yes, it is extremely ironic that my own career path took me to NCBE.)

I sincerely hope that these comments are helpful to you as you undertake your deliberations. Thank you for considering them.

Cordially yours,



Erica Moeser
President

em/dk
attachment

Supreme Court of Wisconsin
Supreme Court Rules
Admission to the Bar

Excerpt from SRC Chapter 40:

SCR 40.03 Legal competence requirement: Diploma privilege. An applicant who has been awarded a first professional degree in law from a law school in this state that is fully, not provisionally, approved by the American bar association shall satisfy the legal competence requirement by presenting to the clerk certification of the board showing:

(1) Satisfactory completion of legal studies leading to the first professional degree in law. The law school shall certify to the board satisfactory completion of not less than 84 semester credits earned by the applicant for purposes of the degree awarded.

(2) Satisfactory completion of study in mandatory and elective subject matter areas. The law school shall certify to the board satisfactory completion of not less than 60 semester credits in the mandatory and elective subject matter areas as provided in (a) and (b). All semester credits so certified shall have been earned in regular law school courses having as their primary and direct purpose the study of rules and principles of substantive and procedural law as they may arise in the courts and administrative agencies of the United States and this state.

(a) Elective subject matter areas; 60-credit rule.
Not less than 60 semester credits shall have been earned in regular law school courses in the subject matter areas generally known as: Administrative law, appellate practice and procedure, commercial transactions, conflict of laws, constitutional law, contracts, corporations, creditors' rights, criminal law and procedure, damages, domestic relations, equity, evidence, future interests, insurance, jurisdiction of courts, legislation, labor law, ethics and legal responsibilities of the profession, partnership, personal property, pleading and practice, public utilities, quasi-contracts, real property, taxation, torts, trade regulation, trusts, and wills and estates. The 60-credit subject matter requirement may be satisfied by combinations of the curricular offerings in each approved law school in this state.

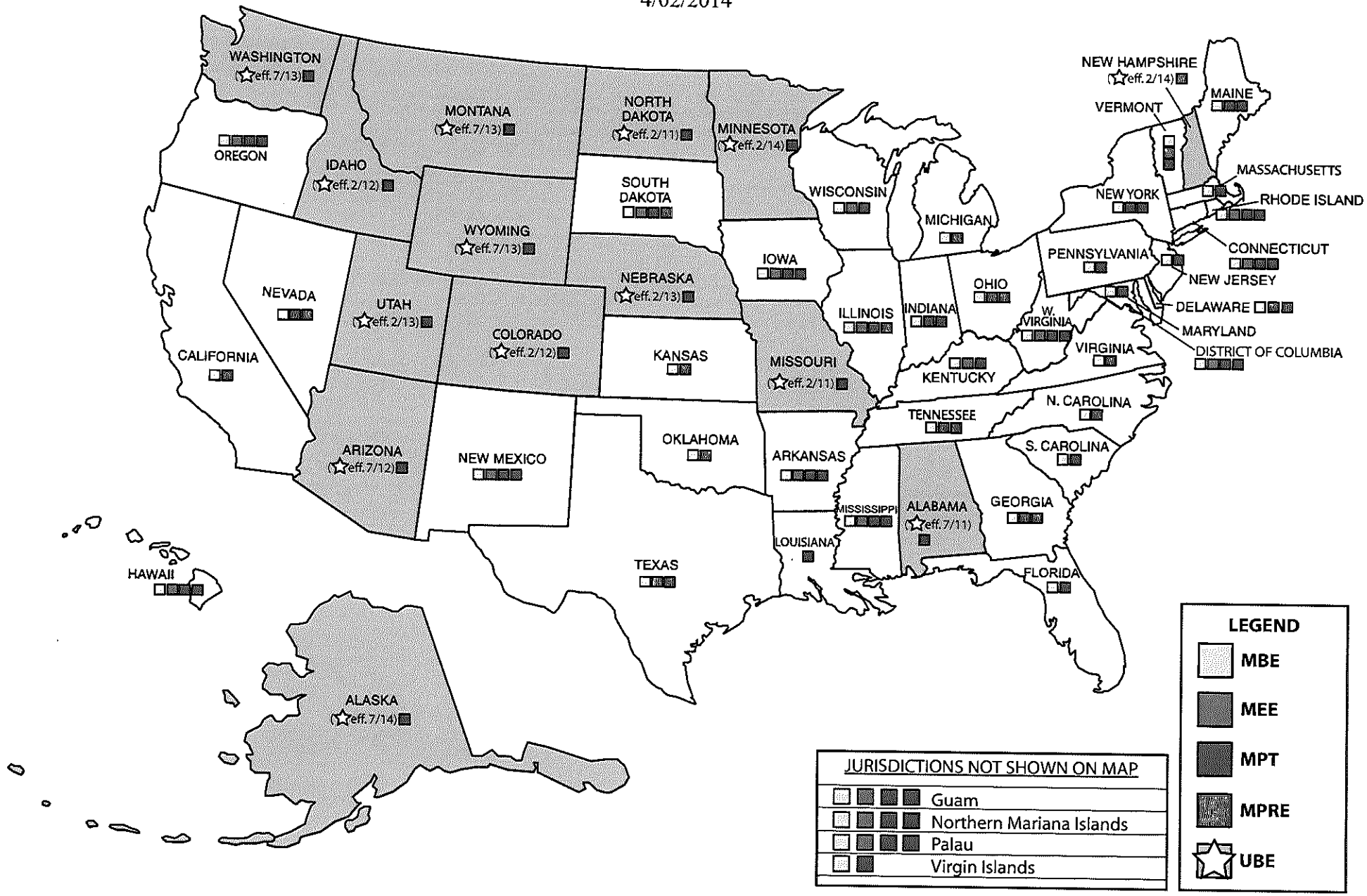
(b) Mandatory subject matter areas; 30-credit rule.
Not less than 30 of the 60 semester credits shall have been earned in regular law school courses in each of the following subject matter areas: constitutional law, contracts, criminal law and procedure, evidence, jurisdiction of courts, ethics and legal responsibilities of the legal profession, pleading and practice, real property, torts, and wills and estates.

(c) Law school certification of subject matter content of curricular offerings.
Upon the request of the supreme court, the dean of each such law school shall file with the clerk a certified statement setting forth the courses taught in the law school which satisfy the requirements for a first professional degree in law, together with a statement of the percentage of time devoted in each course to the subject matter of the areas of law specified in this rule.

Adoption of the Uniform Bar Examination

with Other NCBE Testing Services Depicted

4/02/2014



Bar Admission process
Jim Morrison to: rules.comments 07/10/2014 04:52 PM

FILED
JUL 10 2014
CLERK SUPREME COURT

1 attachment

Iowa Supreme Court letter.docx

Attached is a document in support of the Diploma privilege rule you are considering.

Thank you.

Jim Morrison
715-330-3465

James A. Morrison
Po Box 422
Marinette, Wi 54143
715-330-3465

July 10, 2014

To the members of the Iowa Supreme Court:

I have been asked to offer my personal perspectives on the petition currently pending before you to adopt the diploma privilege as a form of admission standard for graduates of Iowa law schools. I am happy and honored to be asked.

I must state that the opinions which I offer are mine exclusively. I do not speak for the Wisconsin Supreme Court or the Wisconsin Board of Bar Examiners.

During my time on the Board of Bar Examiners[1] we had occasion to carefully examine both the diploma privilege and the bar examination as a means of ensuring that attorneys admitted to practice in Wisconsin through either the diploma privilege or the bar examination would have basic competence to practice law in this state. It is a historical fact that the Wisconsin Supreme Court Justices and the members of the Board of Bar Examiners publicly, on the record, and unequivocally have expressed their conviction that the diploma privilege is a very effective means of accomplishing that very important public purpose.

While on the Board of Bar Examiners, we were constantly looking for ways to improve the bar examination as it is utilized to determine the minimum competence of applicants who have not graduated from Wisconsin law schools (me included). Like Iowa, Wisconsin utilizes a hybrid type of bar examination in that we use the multistate, 200 multiple-choice questions, basic legal knowledge instrument as well as a full day of essay testing. During my time on the Board of Bar Examiners we moved from the system where we essentially wrote all of the

[1] Attached is a brief resume covering my relevant experience

essay questions ourselves (or with the assistance of law school professors in Wisconsin), to a system where we purchased some essay questions from the National Conference of Bar Examiners, wrote some ourselves, and purchased some from law school professors or practicing lawyers.

We also added one or two performance tests (MPT) as a substitute for some of the essay questions because of our very substantial concern that the vast majority of the bar exam, both the "objective" multiple-choice and the essay questions all required the extraordinarily unlawyerlike skill of memorization rather than research and reasoning. Members of the Board of Bar Examiners constantly stated their concern that lawyers who would answer real client questions based upon memory were almost certainly guilty of malpractice. For that reason the multistate performance questions which provide the examinee with a fact situation and statutes, decisions, and sometimes other legal materials and ask for a memo, a draft decision, etc. seemed to us to be a more realistic and fair measure of true lawyer reasoning.

Towards the end of my tenure as chair of the Board of Bar Examiners the board, at my suggestion, set up a committee to study, basically from scratch, how a proper bar examination would look if we could invent it today. On that committee was a retired member of the Wisconsin Supreme Court, former chairs of the Board of Bar Examiners, a representative of the State Bar continuing legal education program, and input was provided from the Office of Lawyer Regulation, (the office that deals with lawyer misconduct issues), and from Wisconsin Lawyers Mutual Insurance Company which writes most of the malpractice insurance in the state.

Over approximately 18 months we studied and considered virtually all forms of competency-based testing for lawyers including extending the diploma privilege to graduates of any accredited law school, required mentorships, the development of a curriculum of mandatory continuing legal education for new lawyers and a number of other methods. While all of these seem to offer positives they also all carried substantial negatives as well. Ultimately the committee concluded that our current system is serving the citizens and the Court well.

I have burdened you with considerable introduction because I hope that you will consider my comments to be not only thoughtful but the product of considerable and current thought and study.

I have received and reviewed your order of May 13, 2014 calling for public comment with respect to the adoption of the diploma privilege, the report of the blue ribbon committee on legal education and licensure dated December 2013 submitted to the court by the Iowa State Bar Association, proposed changes to Chapter 31 of your rules, the staff report on the diploma privilege dated May 2014 and additional materials from the Iowa State Bar Association.

The proposal enhances public protection. It does not dilute it.

I believe the proposal being made to your Court offers you an historic opportunity to substantially improve protection of the public by the adoption of the diploma privilege uniquely suited to the needs of Iowa lawyers and most importantly the Iowa public. I can tell you from my own experience both as an attorney and the judge, and my experiences investigating lawyer disciplinary and competency cases as a District Investigator and then as a Board member responsible for lawyer qualification and continuing lawyer education, that the Wisconsin system, upon which your proposal is patterned, is very effective at protecting the public. In our consideration and study of the bar exam on the one hand and the diploma privilege on the other, we could find no difference in the quality of lawyers admitted to the bar under either method. Representatives of our malpractice insurance carrier advised us, as did those of the Office of Lawyer Regulation that they saw no meaningful difference in complaints relating to either ethics or competence from lawyers admitted under either system.

It is, of course, completely unrealistic to expect any test to assure competence in a field as broad as the law. Competence is a product of basic education, coupled with experience and fortified with continuing education. If protection of the public is, as it ought to be, the cardinal concern, then I would suggest that the most important place to put one's efforts would be on ensuring that all lawyers who practice in Iowa have a broadly-based legal education and that they continue to add to that by a robust program of continuing education.

I think it is a mistake to fall prey to the argument that the diploma privilege dispenses with testing because of course it does not. The diploma privilege is a series of tests over wide ranging course over three years. Certainly the argument can be made that all students who take the bar exam have had such basic education in the first place however that argument misses one of the most important advantages, in my opinion, of the diploma privilege i.e., the Court's opportunity to require a minimum curriculum and course of study that covers those basic issues

and subjects which any Iowa lawyer can face. That is definitely not required in law schools today.

Under the current system one can graduate from law school taking with a very narrow curriculum which could miss entirely critical aspects of the legal practice which lawyers "in the real world" actually face and then allow that lawyer to be admitted to practice law after cramming those missing basic and critical subjects in an expensive and horrible experience euphemistically called "bar review". I do not think any serious argument can be made against the proposition that one of the least effective ways to truly learn and **retain** any subject matter is to cram it for a high stakes test- but that is exactly what bar review courses are all about- cramming information for short-term recall [2]

Public protection would be enhanced were the Iowa Supreme Court, as the Wisconsin Supreme Court has done, to insist that lawyers who are admitted under the diploma privilege actually have taken core courses in subject matters that lawyers may actually face in real world situations. [3]

Lawyers are constantly faced with fact situations that present problems across multiple subject matters and it is critically important that lawyers practicing be able to at least spot the issues and properly categorize the problems. A broad-based legal education, under a curriculum mandated by your Court, is the very best possible way to ensure that when members of the public present a fact situation (usually a jumble of facts) to a lawyer that that lawyer has the best possible chance of recognizing all of the legal implications of those facts.

Once recognizing those implications, any competent lawyer will go to the books to find the current law. No competent lawyer would depend upon memorized answers from a bar review cram course to actually address a problem. I believe there is a far better chance that a lawyer with a robust curriculum studying

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[2] Having taken three bar exams I have personal experience with bar review courses and having graded literally thousands of bar exam questions I have seen regurgitated drivel time and again where a hapless examinee has misread the question but flawlessly answered an entirely different question.

[3] In an Iowa public radio program several months ago, I heard a recent graduate of one of your law schools state that the bar exam she would be talking in Arizona would be testing her on subjects that she had no intention of practicing. Without any criticism of her, how can she possibly know at the dawn of her legal career whether her opportunities may or may not take her into an area of law beyond her current interest in employment law?

subject matter for a semester (or even a year) will have a far better chance to recognize issues and obtain and apply the right legal principles, than someone who spent their legal education time studying interesting but perhaps esoteric issues in law school and then spent six weeks cramming memorized answers for the bar exam.

This is not a retreat to the backwoods.

Some that has suggested it because all States other than Wisconsin have abandoned their diploma privilege, that the adoption of an excellent and very workable system patterned upon Wisconsin's tested and successful diploma privilege is somehow a step into the backwoods. Without inappropriate pride, Wisconsin takes a backseat to no other State in forward thinking, progressive, innovative and consumer oriented advances.

This is not about law school or law student protection, it is about consumer protection.

Also, the adoption of this proposal does not need to be motivated either by concern for protecting Iowa law schools or reducing the debt of Iowa law students. The overriding concern of this Court is, I am certain, the protection of the public and other than conclusions advanced without factual support that Iowans would be imperiled, there is just no evidence that diploma privilege lawyers are any less competent that bar exam admitted lawyers.

The suggestion that a Supreme Court prescribed rule that would govern roughly half of the law school course work would dilute the educational vibrancy of your law schools is likewise without merit. Can it be seriously suggested that law students at the University of Wisconsin or Marquette have been hampered by the basic diploma privilege curriculum comprising one half of their overall requirements? Does the diploma privilege, for example, discourage Marquette Law School students from benefitting from that law school's nationally recognized expertise in sports law and management, or reduce in any way the opportunity for Wisconsin students to participate in its superb innocence project?

The Wisconsin experience can be transferable to Iowa if you wish it.

Iowa is very much like Wisconsin in many ways. You are basically a rural, progressive state and at the forefront of many issues, as is Wisconsin. You have

two excellent law schools, one public and one private, as does Wisconsin. We have and you can certainly have the opportunity for very close collaboration between those law schools, the Iowa Supreme Court and you're bar examining officials.

In Wisconsin, by Supreme Court rule, representatives of the deans of both of the law schools are full, active, contributing members of the Board of Bar Examiners. They participate in every respect, grading bar exams, supervising character and fitness issues, overseeing continuing legal education curriculum just like all other members of the board. This assures that the concerns of the Board of Bar Examiners and by extension the Wisconsin Supreme Court are effectively communicated on a monthly and regular basis to the deans of both law schools.

Many of the criticisms of this proposal are unfounded.

It is suggested that the diploma privilege will make Iowa look provincial because it will elevate graduates of your schools above those of "national law schools." No evidence is offered to support that claim and it is certainly not the case in Wisconsin. Graduates of law schools[4] across the nation and overseas gravitate to Wisconsin.

It is also suggested that this proposal runs counter to the trend of "uniformity in bar admission standards." That is true but is it undesirable?

We are a nation of separate, sovereign states and one of great advantages of this system is that the separate States have different law and different approaches to issues, e.g. comparative negligence v contributory negligence or no- fault v fault based tort systems. Iowa lawyers need, it seems to me, to know well your approaches and your jurisprudence. This desire for national conformity may work well in the physical sciences but falls very short in fields such as law where what is true in one State may very well not be true in Iowa.

By casting your lot with the national trends what do you give up in autonomy as well?

There are ancillary benefits to this proposal.

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[4] Including Harvard, Yale, Minnesota (where I attended)

Certainly the opportunity to permit students to get into legal practice sooner and thereby to reduce substantial debt is attractive benefit however, in my opinion, that should not be an overriding concern. Protection of the public by guaranteeing minimum competence in all lawyers should trump any other concerns. This is simply a nice additional benefit.

It is suggested that this proposal may improve the quality of students coming to your law school and certainly may encourage top graduates of your law schools to stay in your state.

It is likely that the diploma privilege will permit students to remain in rural portions of Iowa and in public service. I suggest here the requirement of a broad-based Iowa centered curriculum is especially important for practitioners who are likely to be practicing on a solo basis or with a small firm and especially in rural areas because these lawyers will have wide-ranging legal problems coming into their offices every day for which a broad-based curriculum is essential to spotting the issues and finding the answers.

Of incredible importance is that the Iowa Supreme Court may insist that diploma privilege graduates actually study Iowa legal principles. Currently your system of utilizing national bar exam testing resources does not test on Iowa law at all. Adoption of the diploma privilege would be an excellent step in the direction of correcting that deficiency. A return to some Iowa based testing of non-diploma privilege graduates would be excellent second step.

There is the 800 hundred pound gorilla in the room as well. Some suggest that becoming a lawyer should be hard, as if three years of study and mountains of debt are not sufficient boot camp.

The bar examination is not a fraternity initiation or hazing ritual. It is expensive, painful and arduous and can only be justified because public protection requires it, certainly not because we endured it so new applicants must as well. I know it because I have done it three times myself and have witnessed hundreds of Wisconsin applicants do so as well. It seems to me that the expense, pain and angst is warranted and justified only if there is no better way to protect the public. In Wisconsin we have a better way, it works very well for us.

It takes courage to be different. We in Wisconsin take no backseat to anyone on issues of consumer protection or cutting edge legal improvements. That is our history and heritage. For myself, I invite to join us.

Sincerely,

James A. Morrison

Resume attached

Resume James A. Morrison

I am a 1973 graduate of the University of Minnesota law school, JD, cum laude, and a member of the Minnesota Law Review.

Upon graduation I returned to my home state of Illinois where I took and passed the Illinois bar examination in 1973 (before the multistate was used there). I practiced law in Chicago for approximately 3 years.

In 1976 I took and passed the Wisconsin bar examination and began practicing in Marinette Wisconsin (Northeast Wisconsin approximately 50 miles north of Green Bay). In 1983 I took and passed the Michigan bar examination because my Wisconsin practice was on the Wisconsin/ Michigan border.

From 1973 through 2012 I was in private practice of law covering wide ranging areas in virtually every area of law except intellectual property.

In February 2012 I was appointed Marinette County Circuit Court Judge and then was elected in that position to that position in the April 2013 election. As a circuit judge I handle every aspect of civil and criminal law.

Among many other civic and professional involvements, I was appointed by the Wisconsin Supreme Court to the District 10 investigating committee of the Board of Attorneys Professional Responsibility (BAPR) and served six years as a volunteer investigating claims of attorney ethical misconduct and competence. Subsequently I was appointed by the Wisconsin Supreme Court to the Board of Bar Examiners, (BBE) on which I served the maximum allowable six years, two year as Vice Chair and two years as Chair.

BBE is responsible for the evaluation and determination of the character and fitness of all applicants for admission to the Wisconsin bar, diploma privilege and bar exam alike. BBE also conducts, and the members of the board, actually grade the essay portion of the Wisconsin bar examination .

BBE is also responsible to oversee and approve all continuing education programs for the State of Wisconsin's mandatory continuing education program.

Since leaving BBE , I have continued to grade the bar exam each February and July.

Bar Admission Process
Onwuachi-Willig, Angela I
to:
rules.comments@iowacourts.gov
07/10/2014 05:20 PM
Hide Details
From: "Onwuachi-Willig, Angela I" <angela-onwuachi@uiowa.edu>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

FILED
JUL 10 2014
CLERK SUPREME COURT

1 Attachment

Diploma Privilege Send.docx

Thank you very much for the opportunity to provide comments. I have attached my comments to this e-mail.

Sincerely,

Angela Onwuachi-Willig
Charles M. and Marion J. Kierscht Professor of Law
University of Iowa College of Law
456 Boyd Law Building
Iowa City, IA 52242
(319) 335-9043
(fax) (319) 335-9098
http://www.law.uiowa.edu/faculty/angela-onwuachi-willig.php

THE UNIVERSITY OF IOWA

COLLEGE OF LAW

Iowa City, Iowa 52242-1113
Phone 319-335-9043 *Fax* 319-335-9098

July 9, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Delivered via e-mail to rules.comments@iowacourts.gov

Re: **Blue Ribbon Committee's Proposal for the Iowa Supreme Court to Adopt Diploma Privilege and the Uniform Bar Examination**[1]

Dear Iowa Supreme Court Justices:

I write to highlight one particular argument in favor of the Blue Ribbon Committee's proposal for adoption of a diploma privilege for graduates of the University of Iowa College of Law and Drake Law School and the Uniform Bar Examination as the means for admission to the Iowa Bar through examination. To my mind, the Blue Ribbon Committee's proposal does not lower the standards for admission to the Iowa Bar, but rather heightens the standards for admission and does so in a more pedagogically sound manner than the current process. Also, I write to respond to two arguments that opponents of the proposal have articulated against adopting the diploma privilege in Iowa.

I. As a Pedagogical Matter, the Blue Ribbon Committee's Curriculum-Based Proposal for Obtaining Admission to the Iowa Bar Absent Examination (for University of Iowa College of Law and Drake Law School Graduates) Is Superior to the Current Bar Admissions Process Through Examination.

Both supporters and opponents of the Blue Ribbon Committee's proposal believe that the Iowa Bar, clients, and the general public are best served when potential lawyers are exposed to key legal subjects that are currently covered as part of the bar examination, but that are not currently required for law school graduation. Indeed, in their comments, a number of opponents indicated that they themselves had not taken courses in some of these key subjects before preparing for and taking the bar examination, and they praised the current admission-by-examination process for forcing them to gain exposure to these areas. What they failed to note, however, is that being exposed to these key subjects in an individual law school course *that is*

[1] This letter represents only my personal position on the Blue Ribbon Committee's proposal and should not be taken to represent any official position by the University of Iowa College of Law. The law school takes no position on the proposal.

dedicated to each individual subject over a thirteen or fourteen-week period (and in some cases, twice that long) results in better understanding and retention of the material in each subject than simply being exposed to those subjects *over an accelerated six-week course that covers a dozen-and-a-half, different subjects and thus leaves only a few days to focus on each individual subject*.

If the proposal was to grant diploma privilege to every graduate of the current two Iowa law schools regardless of the courses he or she satisfactorily completed during law school, I would not support the Blue Ribbon Committee's proposal. The proposal, however, requires students who seek the diploma privilege to satisfactorily complete (1) "at least 30 semester credits in required regular law school courses in the subject matter areas generally known as: those subjects tested on the Multistate Bar Examination (MBE) which includes constitutional law, contracts, criminal law and procedure, ethics and professional responsibility, evidence, real property, torts, and the additional subjects of legal writing and legal research, civil procedure, and Iowa Practice and Procedure" and (2) an additional 30 "semester credits in regular law school courses," excluding those taken as required courses, "among the subject matter areas generally known as: those subjects tested on the Uniform Bar Examination (UBE), which include business associations, conflict of laws, constitutional law, contracts, criminal law and procedure, evidence, family law, federal civil procedure, real property, torts, trusts and estates, and Uniform Commercial Code, and the additional subjects areas of professional responsibility and ethics, administrative law, creditor's rights, health law, insurance, intellectual property, legislation and legislative process, labor and employment law, practice and procedure (including Iowa and appellate practice and procedure), public utilities, taxation, trade regulation, and civil procedure, including in each case advanced courses in the listed subject areas." *See* Report of the Blue Ribbon Committee on Legal Education and Licensure, Admission to the Bar, December 2013, Appendix A, Proposed Rule 31.20(3).

Currently, as a number of opponents of the proposal have indicated, many law students choose not to take non-required bar courses during law school and do not encounter those subjects until they actually enroll in their bar review courses. My own experience reflects this reality. Like many students at my law school, I did not focus primarily on taking bar review courses. A common refrain among my peers in law school was: "You'll learn what you need to know about (blank subject) for the bar examination in the review course." In fact, the piece of information that I remember most from my own bar review course was a frequent saying by one of the instructors—clearly in an attempt to assure students that they could learn all that was required of them during their short-term, all-subject course—that "glib knowledge" of each subject area was all that was needed to pass the bar examination. In contrast, in a semester-long course, students are not just gaining "glib knowledge" of a subject; instead, they are pushed to engage with case law, statutes, and related materials over and over, review those materials, think critically about them, and apply them—all of which add to greater depth of understanding and better retention by students.

Although there are not many studies, particularly recent studies, regarding the benefits of semester-long courses as compared to accelerated courses, most of the existing studies reveal that accelerated courses, though also effective tools for learning, are inferior to longer term courses when it comes to student growth, understanding, and assessment. *See* Richard M. Jenson, *Can Growth in Writing Be Accelerated? An Assessment of Regular and Accelerated College Composition Courses*, 26 RESEARCH IN THE TEACHING OF ENGLISH 194 (1992) (comparing accelerated college writing courses and regular college writing courses that used the same faculty and curriculum and that differed only in the time required to complete the writing instruction and finding that, "although essay group means of students completed the accelerated English courses did not differ significantly from the group means of students who completed regular courses, a higher percentage of students in the regular group were judged competent writers than students in the accelerated group (52.94 percent in the regular group, 42.86 in the accelerated)"); *see also* Donald W. Paden & M. Eugene Moyer, *Some Evidence on the Appropriate Length of the Principles of Economics Course*, 2 J. ECON. EDUC. 131, 132, 134-35 (1971) (comparing learning between a two-semester economics course and a one-semester economics course that "covered the same content, watched the same television lectures and were taught by the same teaching assistants [and] differed only in the length of time spent on the subject matter common to both groups" and finding that "students in the two-semester course scored significantly higher on a series of test of economic content than did the students in the one-semester course"). Although some studies indicate that intensive courses may be as or more effective than traditional courses, such studies are less persuasive than those that find traditional courses to be more effective because rather than relying on actual evaluations/tests of learning by students, these studies tend to rely on student evaluations to measure the effectiveness of instructors, which may very well reflect student preferences about scheduling instead of actual effectiveness. *See, e.g.*, John V. Kucsera & Dawn M. Zimmaro, *Comparing the Effectiveness of Intensive and Traditional Courses*, 58 COLLEGE TEACHING 62, 63 (2010) (also noting that "most research addressing differences in the effectiveness of intensive and traditional courses [that conclude that intensive courses are equal to or better than traditional courses] reflects many methodological limitations").

Even if studies that assert that intensive courses are as good as or better than traditional courses were persuasive, they are not applicable to the comparison I am making between the curriculum required under the proposed diploma privilege plan over the course of three years in law school and the six-to-seven-week bar review courses that are typically offered. Unlike the intensive courses in these studies, a bar review course is not merely an accelerated version of a semester-long course. Instead, it is an accelerated version of 18 semester-long courses, compressed all into six or seven weeks. In essence, the intensive subject courses in this instance are really only a few days long rather than a few weeks long, and no study asserts that such brief intensive courses are effective for understanding and retention.

II. The Blue Ribbon Committee's Proposal Does Not Unfairly Discriminate Against Graduates from Out-of-State Law Schools.

Offering the diploma privilege to University of Iowa College of Law and Drake Law School graduates who satisfy all of the necessary requirements does not unfairly discriminate against the out-of-state graduates. As Professor Deborah Hellman has highlighted, many of our society's laws and policies discriminate. For instance, laws that permit only those who are 16 years or older discriminate against persons who are 15 years or younger, but most of us agree that such discrimination is not unfair. *See generally* DEBORAH HELLMAN, WHEN IS DISCRIMINATION WRONG? (Harvard University Press 2011) (arguing that discrimination is wrong when it demeans the individuals who are affected by it). Similarly, laws that offer in-state residents a lower state university tuition rate than non-residents do not unfairly discriminate against non-residents. Just as there are legitimate reasons for offering in-state residents a lower tuition rate at a state university than out-of-state residents, there are legitimate reasons for not granting the diploma privilege to graduates of out-of-state law schools. For one thing, in addition to not attending law school in Iowa, graduates of non-Iowa law schools will not have satisfied the curricular requirements for the diploma privilege, including the required course on Iowa Practice and Procedure. Second, given the need for lawyers in rural parts of the state, it makes sense to grant the privilege to the graduates of the state's two excellent law schools who decide to make a commitment to Iowa by both attending law school in the state and working to fulfill the requirements for the privilege.

Furthermore, adopting the diploma privilege for the two Iowa law schools will not discourage Iowa residents from attending out-of-state law schools any more than in-state tuition discourages Iowa residents from attending national, out-of-state law schools. Just as Iowa residents must currently engage in a cost-benefit analysis to determine whether the benefits of attending national, out-of-state law schools outweigh the costs of giving up in-state tuition at the University of Iowa, they would (if the diploma privilege is adopted) engage in a similar cost-benefit analysis when weighing the decision of attending an out-of-state law school against attending one of the two fine in-state law schools that will offer them the benefit of a diploma privilege.

III. Adopting the Diploma Privilege Will Not Make the State of Iowa Look and Seem Provincial.

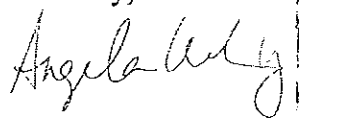
The best evidence that the state of Iowa's reputation will not be damaged by adoption of the diploma privilege comes from years of experience in Wisconsin. Data regarding the student profiles at both Marquette University Law School and the University of Wisconsin Law School reveal healthy enrollments from both in-state and out-of state residents and from college students who attended a variety of colleges and universities across the nation. For example, the Fall 2013 Entering J.D. Class at Marquette University Law School consisted of 47% Wisconsin residents and 53% out-of-state residents. The class profile data also reveal that students entering

Marquette University Law School in 2013 represented 27 states, plus the District of Columbia and Puerto Rico. *See* Marquette University Law School, Prospective Students, Class Profile, Fall 2013 Entering J.D. Class, at https://law.marquette.edu/prospective-students/class-profiles. Additionally, students in the entering classes of Marquette University Law School in the years 2011 to 2013 came from a broad range of colleges and universities, including Boston University, the University of California (at Davis, Irvine, Riverside, and San Diego), Drake University, Grinnell College, the University of Chicago, Georgetown University, the University of Iowa, Santa Clara University, Wellesley College, and Yale University, to name just a few. *See* Marquette University Law School, Colleges and Universities Represented in the 2011-2012-2013 Entering Classes—Full and Part-Time Students, at https://law.marquette.edu/assets/prospective-students/pdf/11-12-13-UG-SCHOOLS.pdf. Similarly, the Fall 2013 Entering J.D. Class at the University of Wisconsin Law School consisted of 58% Wisconsin residents and 42% out-of-state residents. The class profile data also reveal that students entering the University of Wisconsin Law School in 2013 represented 25 states, with non-Midwestern states such as Texas, New York, and California among the states with the most students enrolled, and that 95 different colleges and universities were represented among the 186 entering J.D. students for that year. *See* University of Wisconsin Law School, ABA Required Disclosures, Admissions and Employment Statistics, Recent Admissions Statistics, at http://law.wisc.edu/prospective/stats.html#adminstats.

Additionally, a quick review of the attorneys who work at the branch of two national law firms, Foley & Lardner and Quarles & Brady, in Madison, Wisconsin, which is the backyard of the University of Wisconsin, offers more evidence that Iowa will not lose its appeal as a place for practice simply because the diploma privilege is adopted. Of the 40 attorneys in the Madison office of Quarles & Brady, 42.5%, or 17, of them graduated from law schools other than the University of Wisconsin Law School and Marquette University Law School. These 17 attorneys represented a broad range of national law schools, including the law schools at Chicago-Kent Institute of Technology, the University of Chicago, George Washington University, Harvard University, the University of Iowa, the University of Illinois, the University of Michigan, New York University, Northwestern University, Syracuse University, Valparaiso University, and Yale University. Similarly, of the 53 attorneys in the Madison office of Foley & Lardner, 45.3%, or 24, of them graduated from law schools other than the University of Wisconsin Law School and Marquette University Law School. These 24 attorneys represented a broad range of national law schools, including the law schools at the University of Alabama, American University in Washington, D.C., Boston College, University of California-Hastings School of Law, Chicago-Kent Institute of Technology, Columbia University, Duke University, Harvard University, the University of Iowa, the University of Illinois, the University of Kansas, the University of Michigan, New York University, Stanford University, Valparaiso University, Vermont, the University of Washington-Seattle, and Yale University.

In conclusion, I urge the Iowa Supreme Court to give careful and serious consideration to accepting the Blue Ribbon Committee's thoughtful proposal for the adoption of the diploma privilege and the Uniform Bar Exam. Thank you very much for your time and attention to this matter.

Sincerely,



Angela Onwuachi-Willig
Charles M. and Marion J. Kierscht Professor of Law
University of Iowa College of Law

Bar Admission Process

Tom Levis to: rules.comments@iowacourts.gov 07/11/2014 10:09 AM

1 attachment

14.07.08.Justice Cady.doc

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JUL 11 2014
CLERK SUPREME COURT

Thomas J. Levis
Attorney

Telephone: 515-274-1450
Facsimile: 515-274-1488
tom.levis@brickgentrylaw.com

July 11, 2014

Iowa Supreme Court
Attn: Chief Justice Mark S. Cady
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: Bar Admission Process

Dear Chief Justice Cady and Justices of the Iowa Supreme Court:

I write in support of abolishing the current Bar exam and adopting the Diploma Privilege for graduates of Drake University Law School and the Iowa College of Law. As a parent of a child about to enter law school, I have a somewhat personal viewpoint on this issue.

The current Bar examination does not test students on their judgment, on their legal reasoning or on their legal understanding. It does not test on actual skills that an Iowa lawyer needs to know. In fact, the current Bar examination does not test on Iowa law. Rather, the current exam is prepared and administered by an out-of-state testing business that tests students on esoteric legal rules that have little value or applicability to the practice of law in Iowa or, for that matter, any other state.

The timeline for the current Bar examination keeps law school graduates in "employment limbo" for nearly six months after graduation from one of Iowa's law schools. Not only is this a waste of time for students who have already convinced the professors of one of our excellent law schools that they are qualified to be lawyers, but it is also an additional expense on top of the already expensive law school education. According to the Iowa Bar Association, taking the current Bar Exam and waiting for the results costs a typical law school graduate about $30,000. Adding debt to an already financially burdened young lawyer makes little sense.

Abolishing the Bar examination and adopting the Diploma Privilege places authority in the Iowa Supreme Court and not a California testing service to determine the competency standard which must be met by licensed Iowa attorneys. Adopting the Diploma Privilege would allow the Iowa Supreme Court to require certain specific course work, including courses in Iowa law and Iowa procedure for all individuals awarded the Diploma Privilege.

Abolishing the Bar examination and adopting the Diploma Privilege might not work for states with multiple unaccredited law schools, but it would work well in Iowa. Iowa has two

excellent law schools that work closely with the Iowa Supreme Court and with the Iowa Bar Association. The Court, the Iowa law schools and the Iowa Bar Association are all committed to ensuring that new lawyers are competent to represent the citizens of Iowa. It makes no sense to leave the decision to license Iowa lawyers to an out-of-state testing service.

Like all lawyers, I remember taking the Bar exam. Like most law graduates, I took the Bar examination course and spent a couple of weeks cramming as much legal trivia into my brain as possible. After taking the test, I forgot most of the trivia, but 37 years later, I still remember the anxiety I experienced preparing for, taking the Bar examination, and waiting a day for the results. Today, law graduates have to experience the anxiety for nearly six months. Does that make them better lawyers? In conversations I've had with my fellow lawyers, no one ever told me that they were better lawyers because they passed the Iowa Bar Examination. In fact, I'm confident that I'm not a better lawyer today because I suffered through and passed the Bar examination. I'm just glad I don't have to do it again.

Chief Justice Cady, I hope you and the Supreme Court abolish the Bar examination and adopt the Diploma Privilege as recommended by the Iowa Bar Association. Thank you for your consideration.

Best personal regards,

Thomas J. Levis

Diploma privilege
Janece Valentine
to:
rules.comments
07/11/2014 11:43 AM
Hide Details
From: "Janece Valentine" <jvalentine@valentinelaw.net>
To: <rules.comments@iowacourts.gov>,

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JUL 11 2014
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I am writing to register my thoughts regarding the consideration of offering the diploma privilege in the State of Iowa. I have the privilege of seeing the issue from a number of different angles: as a previous examinee, as a grader that graded the all Iowa essay exam, as a grader that has graded the non-specific Iowa essay exam, and as a practicing attorney that expects her colleagues to be knowledgeable and professional.

When I took the bar exam, it was the 2 1/2 day all essay, all Iowa law exam. I think it ran around $300 -500 to take the review course and the exam. Going to Iowa Law School, I hadn't learned much Iowa specific law so I found the review course extremely helpful. We learned whether we passed or failed the following day when it was posted at the Drake Law School building. It was one of the sick-to-your-stomach moments you never forget but the ecstasy and relief of not seeing your number posted (and yes, I checked to be sure three times) was indescribable.

By the time I started grading, examinees were taking the Multistate Bar test and then answering a number of essay questions written by Iowa lawyers pertaining to Iowa law. Graders would be paired and you would go through the one essay question you were assigned to grade and reach an agreement on a grade with your partner. I don't recall the year, but the exam changed to having the essay questions come from a national testing board. They were no longer based on Iowa law. The questions were no better and no worse than the questions crafted by our own Iowa lawyers.

So with that perspective, I was keenly interested when I first heard chatter about changing to a diploma privilege. Like most lawyers, change is not something we take lightly or comfortably. Not to mention, there is always some "right of passage" mentality that enters into a change such as this. "I survived it and so must everyone else." That being said, my initial gut reaction was one of opposition to the idea. But then I actually read the proposal and thought about it.

My paramount concern when first considering the diploma privilege was public perception. Would the public have confidence in the legal services being provided? But then one must consider that particularly with the current testing method, what assurance are we giving the public when the test does not encompass Iowa law? While Iowa law does not conflict directly with any of the questions I've seen, there are certainly nuances not addressed that can make a difference when practicing in Iowa. If the testing doesn't directly pertain to Iowa law, how are we assuring the public of competency under the current system? The assurance to the public under the diploma privilege is an Iowa-intense curriculum the likes that neither Iowa or Drake have ever seen. Students graduating completing that curriculum will know more Iowa law upon graduation than any of their predecessors.

Another reason to question the need for the bar exam is the consistent pass rate of over 90%. What are we accomplishing with the test other than padding the pockets of the examination companies. The current BARBRI class geared for Iowa costs around $1300. Simple math demonstrates that the test is better at generating income than it is at weeding out bad attorneys.

Finally, no set of classes nor any test, regardless of the method, is capable of "creating" a good lawyer. It is a skill that is honed daily, needs mentoring from the start, and needs continual education. Even lawyers that have

successfully passed the bar can fail at the practice of law. That is true with any trade or profession.

I have come to the conclusion that the purpose behind the testing has lost any significance, assuming it ever had any. The state of Iowa is fortunate to have two very high caliber law schools that take the responsibility of training future lawyers very seriously. With the intense curriculum changes required by going to the diploma privilege, the public should be assured that successfully completing semesters of education regarding Iowa law is far superior than anything learned while cramming for a test in a few weeks. I fully support the diploma privilege as the required changes to the curriculum will only improve the competency of the legal system in the state of Iowa.

Janece Valentine
Valentine Law Office, P.C.
809 Central Avenue, Suite 415
Fort Dodge, Iowa 50501
phone: 515.955.5544
fax: 515.955.5580
jvalentine@valentinelaw.net

My mission in life is not merely to survive, but to thrive and to do so with some passion, some compassion, some humor, and some style.
---Maya Angelou

Bar Admission Process
Allan Vestal
to:
rules.comments@iowacourts.gov
07/11/2014 01:00 PM
Hide Details
From: Allan Vestal <allan.vestal@drake.edu>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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2 Attachments

allan vestal letter.pdf

AWV letter.docx

Ms. Humpal,

I've attached my letter regarding the proposed amendments to Iowa's bar admission process. It is attached once as a pdf (allan vesta letter.pdf) and once as a Word document (AWV letter.docx).

Thank you.

Allan

Allan W. Vestal, Professor
Drake University Law School
103 Legal Clinic
2400 University Avenue
Des Moines, Iowa 50311-4505
515.271.3865
allan.vestal@drake.edu

FILED
JUL 11 2014
CLERK SUPREME COURT

July 11, 14

The Chief Justice and Justices of the Iowa Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319
co: Ms. Donna Humpal, Clerk of the Supreme Court

Re: Bar Admissions Process

Dear Chief Justice Cady and Justices Wiggins, Hecht,
Appel, Waterman, Mansfield, and Zager,

Thank you for the opportunity to comment on the bar admissions proposal of the Iowa State Bar Association's Board of Governors, now under consideration by the Iowa Supreme Court. As a member of the bar committee that developed the proposal, and as a faculty member and former dean of the Drake University Law School, I enthusiastically support the proposal.

I start from the proposition that the purpose of a bar admissions procedure is two-fold: to provide assurances at an acceptable level of confidence of both the character and fitness and the minimum substantive knowledge of applicants. In adopting a bar admissions rule the Court balances the interests of a number of constituencies. Knowing that no bar admissions procedure is perfect, the Court is called to adopt a procedure that is the best balance of such considerations.

It is sometimes passed over in these discussions that the Board of Governors proposal would not make any changes the first part of the bar admissions procedure, the character and fitness evaluation. Applicants would still be required to pass the multi-state ethics exam and successfully complete the character and fitness screening process. The proposed change relates to the second object of the bar admissions procedure, the minimum substantive knowledge evaluation.

There seems to be widespread consensus that Iowa's present bar admissions procedure with respect to the substantive knowledge evaluation is flawed in several respects. The two most common observations are that we do not test on Iowa law and procedure and that the system is expensive and slow.

The bar committee considered a broad range of alternatives to the present bar admissions procedure. Upon careful examination, a number of popular options, some of

which have received support in the comments made in this proceeding, present insurmountable implementation challenges. For example, it has been suggested that we simply add on an Iowa-law component of our own creation to the existing bar exam. While this might address the criticism of the current admissions procedure that it does not include Iowa law, it would not address the delay problem. And, the committee heard, the creation of an Iowa component where the test questions were properly vetted and screened for efficacy would be beyond our expertise and resources. Other proposals, such as one suggestion that bar admissions be done through applicant interviews with judges, raise serious questions of substantive coverage and uniform treatment. Still other proposals, for example a modular approach where students take a bar admissions test on each substantive area in conjunction with their law school classes, would address the delay problem but not the Iowa material problem. And the implementation of such a model would require a national program that is simply beyond our control.

Of all the options considered by the bar committee, the Wisconsin-style diploma privilege presented the best combination of attributes. With the requirements that students pass a requisite number of credits from two listings of specified courses, and with the required Iowa practice and procedure course, the proposal meets both the Iowa content deficit and the delay problem of the current procedure.

I am well aware of the range of questions that have been raised as to the diploma privilege proposal. One suggestion is that preparation for the bar exam causes students to learn the material. In this regard, a commenter suggested that "people study because they will be tested." I agree, but he is mistaken in equating the preparation that students do for the tests in substantive classes with the preparation that students do for the bar exam. I am perfectly willing to stipulate that a student preparing for a three-hour test in evidence upon completion of a semester-long evidence course will use that opportunity to help master the substantive area of evidence. But the preparation for the bar exam – because of the number and breadth of the areas tested and the predictability of the questions within those areas – is much more oriented toward testing techniques than it is toward substantive knowledge. And, of course, most students study for the bar examination with the foundation of having taken exams is the substantive areas. I agree with the analysis on this point of University of Iowa College of Law Professor Angela Onwuachi-Willig in her letter to the Court.

A related point is the suggestion that merely testing on Iowa practice and procedure would assure that candidates are adequately trained in the law of this jurisdiction. Surely the best preparation in Iowa practice and procedure is that provided in the diploma privilege proposal: the combination of a required class in Iowa practice and procedure and a required number of credits in courses stipulated by the Court.

A number of commenters suggest that adoption of the proposal would diminish the reputation of Iowa lawyers. While they offer no support for this assertion, there is a great body of evidence to the contrary. On this point, as on others involving the proposal,

we have a wealth of information in the experience of Wisconsin, a state much like Iowa which has had the diploma privilege for generations. We need not speculate on the Wisconsin experience. Many of us, myself included, have been members of the bar in Wisconsin and have seen first hand that there is no diminution of the reputation of their lawyers from the diploma privilege, and certainly no distinction among Wisconsin lawyers based on the protocol under which they were admitted.

I would point to the letter of Wisconsin Judge James Morrison before you, where he speaks authoritatively of the Wisconsin diploma privilege experience. And I would note that Judge Morrison's positive evaluation is wholly consistent with those of Wisconsin Supreme Court Chief Justice Shirley Abrahamson and the other Wisconsin commenters. It seems to me that in a discussion with many opinions and few facts, the experiences of our colleagues and friends in Wisconsin carry great weight.

As I have said throughout this process, the proposal approved unanimously by the Iowa State Bar Association Board of Governors before you today would not be appropriate for every state in the Union. It is, I think, appropriate at this place and at this time because of a confluence of circumstances. We have the history of a productive working relationship among our law schools and the Court, a record of our graduates passing the existing bar exam at a very high rate, and an existing bar admissions procedure that is widely thought unsatisfactory. We have the very positive experience of a similar sister state that has long had the policy here advocated. We have a Supreme Court that has demonstrated its willingness to be innovative and creative. I adopting this proposal, the Court can be a national leader in this important area.

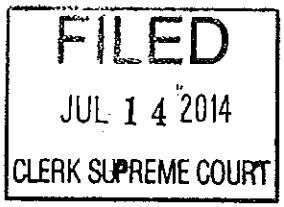
Thank you for considering the proposal and these comments.

Best regards.

Sincerely,

Allan W. Vestal, Professor

Bar Admission Process
Danny Cornell
to:
rules.comments
07/11/2014 02:41 PM
Hide Details
From: Danny Cornell <danny@cornelldisabilitylaw.com>
To: rules.comments@iowacourts.gov,



1 Attachment

Public comment re. Iowa Bar Exam 071114.docx

Iowa Clerk of the Supreme Court

Attached please find a letter in Microsoft Word format for consideration as public comment to the Iowa Supreme Court regarding the ISBA's Iowa bar exam proposal. Please contact me if you have any difficulties, questions or concerns.

--

Danny L. Cornell
111 East Washington Street
P.O.Box 27
Mount Pleasant, IA 52641
(319) 219-2800 phone
(319) 385-2148 fax
(319) 931-1004 mobile
danny@cornelldisabilitylaw.com
www.CornellDisabilityLaw.com

CORNELL LAW

Danny L. Cornell, P.C.

July 11, 2014

FILED
JUL 14 2014
CLERK SUPREME COURT

Iowa Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50519

Re: Public Comment Regarding Iowa Bar Exam

Dear Honorable Justices:

Please accept the following correspondence as written public comment regarding the Iowa State Bar Association's proposal for modification of the current policy and procedure for bar admission in the State of Iowa. I support the recommendation of the Iowa State Bar Association allowing for an optional track for admission by graduates of Iowa's two law schools who complete 60 credits in courses specified by the Iowa Supreme Court; successfully complete a law school class on Iowa Practice and Procedure; and pass the multi-state ethics exam.

In my estimation, the current exam fails to measure an applicant's proficiency in Iowa law. Moreover, the exam fails to prepare an applicant for practice as an Iowa lawyer. The exam was at its best when it consisted entirely of Iowa case and statute specific essay questions. I still use my bar review materials as a starting point in my research and I was admitted in 1995. Short of returning to that process for all applicants, I believe the Iowa State Bar Association's proposal is the next best alternative.

Very Truly Yours,

Danny L. Cornell

111 East Washington Street · P.O. Box 27 · Mt. Pleasant, IA 52641
(319) 219-2800 Telephone · (319) 385-2148 Facsimile
danny@cornelldisabilitylaw.com · www.cornelldisabilitylaw.com

Bar Admission Process
Tim Semelroth
to:
'rules.comments@iowacourts.gov'
07/11/2014 02:44 PM
Hide Details
From: Tim Semelroth <tsemelroth@fightingforfairness.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

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JUL 14 2014
CLERK SUPREME COURT

1 Attachment

Semelroth Official Comment.docx

Attached please find my comment.

Tim Semelroth | Board-Certified Trial Attorney
RSH Legal
425 Second Street SE, Suite 1140 | Cedar Rapids, IA 52401
P: 319-365-9200 | F: 319-365-1114
1-800-67-FAIRNESS
FightingForFairness.com

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Clerk of the Supreme Court
Judicial Branch Building
1111 East Court A venue
Des Moines, IA 50319

July 11, 2014
Delivered via e-mail to
rules.comments@iowacourts.gov

Re: Blue Ribbon Committee's Proposal for the Iowa Supreme Court to Adopt Diploma Privilege and the Uniform Bar Examination

Dear Iowa Supreme Court Justices:

As a member of the committee who examined the Iowa legal licensing process and ultimately made a number of recommendations based upon that examination, I intended to let the committee's report speak for me. I changed my mind, however, when I reviewed a number of comments to the committee's report that appeared to be fueled by misconceptions about the "diploma privilege" option.

The biggest misconception I have seen is the belief that the "diploma privilege" option somehow makes the process of becoming licensed as an Iowa lawyer **easier**. I do not believe that is a fair interpretation of the proposal and it was certainly not the committee's intent. The goal of the proposal is to make the Iowa legal licensing process **better**.

Why did the Committee believe that the current Iowa legal licensing process needs to be improved?

The biggest factors for me personally were:

1. **The current Iowa bar exam does not require a test-taker to demonstrate proficiency in Iowa law.** The Iowa bar exam has not tested on Iowa law since 2008. People are currently being licensed to practice law in Iowa without ever being tested on Iowa case law or procedure. Several members of the Committee were shocked to learn this fact. It is not common knowledge amongst the Iowa bar or the public.

2. **The creation of the current Iowa bar exam and the corresponding pre-exam preparation courses have been outsourced to out-of-state entities whose methods leave much to be desired.** The out-of-state entity who creates the current bar exam relies heavily on multiple-choice testing. It tests on "bar exam" law which is not necessarily real law and which – in some instances – conflicts with Iowa law.

   The out-of-state entities who offer preparation courses for the current bar exam test-takers do not offer live lectures that allow for real-time give and take between student and instructor. Instead, this training appears to consist primarily of watching pre-recorded videos and doing practice tests online. Unfortunately, these preparation courses are the only game in town so most law school graduates feel compelled to pay stiff fees for these courses for fear of being left behind by fellow test-takers.

3. **The significant time and expense associated with the current Iowa bar examination process is an economically-inefficient way to "gate-keep" the profession for graduates of our state's law schools.** Over 95% of graduates of Drake Law School and the University of Iowa College of Law pass the current bar exam. The current system requires this vast majority to go through six to seven weeks of expensive preparation and then waste two additional months (while waiting for exam results) in order to "weed out" the very few. This drawn-out ordeal comes after satisfactorily completing 3 years of law school. It was the committee's view that there must be a better, less expensive way to identify the small minority of Iowa law school graduates who could not - on one particular occasion - demonstrate the academic competence to practice law.

I believe the "diploma privilege" option will **improve** the Iowa legal licensing process for those law students who choose to avail themselves of this path (it must be remembered that this is a voluntary option and it does not foreclose students from opting to take the bar exam for personal reasons – like a desire for professional portability) in the following ways:

1. **It puts the power to dictate the type of training necessary to become an Iowa lawyer in the hands of the Iowa Supreme Court.** According to the Committee's proposal, the Iowa Supreme Court would tell the Iowa law schools what specific classes a law student must take and pass in order to be eligible for the diploma privilege option. This provides the opportunity for ongoing collaboration between Iowa's Supreme Court and its law schools to ensure that Iowa law school graduates are getting relevant training that will benefit the public. The Iowa law schools have expressed a willingness to submit to this arrangement. I think it would be a mistake to let this opportunity to improve legal training in Iowa pass.

2. **It protects the public by preserving the requirements of passing an ethics exam and undergoing a character and fitness investigation before becoming eligible for an Iowa law license.** The vast majority of formal complaints made against Iowa lawyers (which, thankfully, are relatively few) do not have to do with a lack of academic competence. Instead, most complaints against lawyers arise out of ethical lapses. The diploma privilege preserves the tools that are currently in place to prevent ethical problems in the Iowa legal profession.

3. **It changes the emphasis of the process from reliance on standardized, multiple-choice testing provided by an out-of-state testing company to 3 years of essay tests written and graded by law professors in Iowa.** Professional competency does not lend itself to being accurately measured by bubble test sheets. Legal judgment can rarely be reduced to multiple choice questions. Fifty percent of the current Iowa bar exam consists of multiple choice questions administered on one day. The committee felt that a more accurate assessment of professional competency would come from periodic essay tests written, administered and graded by Iowa law professors and given over the course of three years.

I would like to point out that – despite intimations in some of the other comments – none of the reasons listed above have anything to do with trying to provide benefit to Iowa's two law schools in a challenging financial climate. The committee's mission was to evaluate the Iowa legal licensing process – not provide assistance to Drake or Iowa. Its recommendations were not made to benefit the law schools; they were made to benefit future Iowa lawyers and the clients they will represent.

For the reasons in the committee's report and the reasons listed above, I urge the Court to adopt the committee's proposals.

Sincerely,

Tim Semelroth

Bar Admission Process
Matthew Dore
to:
'rules.comments@iowacourts.gov'
07/11/2014 02:50 PM
Hide Details
From: Matthew Dore <matt.dore@drake.edu>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

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JUL 14 2014
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1 Attachment

MDoreBarProposalLetter.docx

To the Iowa Supreme Court Staff:

Attached is a letter to the Iowa Supreme Court concerning the attorney licensure proposal that is currently pending before the Court. If you have any problems with the attachment (which is in Microsoft Word format) please let me know.

Thanks very much,

Matt Doré

Matthew G. Doré
Richard M. & Anita Calkins Distinguished Professor
Drake University Law School
matt.dore@drake.edu
515-271-4136

THE LAW SCHOOL

Drake
UNIVERSITY

FILED
JUL 14 2014
CLERK SUPREME COURT

July 11, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Ave.
Des Moines, IA 50319

Re: Diploma Privilege Proposal

Dear Chief Justice Cady and Justices of the Iowa Supreme Court:

I write in support of the new attorney licensure proposal from the Iowa State Bar Association's Blue Ribbon Committee on Legal Education and Licensure. While I am not formally authorized to speak on behalf of my Drake Law School colleagues, you should know that my wife, Drake Law Professor Laurie Doré, also supports the Blue Ribbon Committee's proposal. And as far as I am aware, so do all of my Drake Law Faculty colleagues.

Our endorsement of this proposal is not rooted in concerns about whether Drake Law graduates will pass the Iowa bar examination. As the Blue Ribbon Committee's report reflects, Drake Law graduates, and the University of Iowa College of Law graduates, pass the Iowa bar examination in overwhelming numbers. Rather, we support the proposal because we agree that the bar examination is an expensive waste of time for our graduates, that the exam is not a good measure of our graduates' fitness to practice law in Iowa, and that the Blue Ribbon Committee's proposal provides a superior approach to Iowa attorney licensure.

The background research for the Blue Ribbon Committee's proposal documents quite well the costs (and loans) that our students must incur in order to prepare for the current Iowa bar exam and await its results. As a former bar review lecturer, and as a teacher in areas covered by the MultiState Essay Bar Exam

including Agency & Partnership, Corporations, and Secured Transactions, I have carefully monitored Iowa bar examination questions on these and other topics since becoming a law professor. I have come to appreciate that most bar exam questions have an incredibly narrow focus—almost like lightning bolts—and thus are, at best, an uncertain measure of an applicant's understanding of the topics that are tested.

To prepare for these questions, the applicant, usually with the assistance of an expensive private review course, memorizes as much black letter law as possible, hoping that the questions ultimately selected will strike on topics that match his or her ability to recall and regurgitate. While law school examinations covering these and other MultiState Exam topics are far from perfect, our exams (typically 3 – 4 hours each) provide a much better measure of student competency in the areas that are tested. Recognizing this, the Blue Ribbon Committee's proposal will channel more Iowa law students into courses that are critical to attorney competency and thus better prepare those students for practice in Iowa.

As you are all well aware, while Iowa law is often based on model and uniform sources, there are many unique aspects of Iowa law and practice. Yet the current bar examination scheme requires graduates of Drake and the University of Iowa to "unlearn" much of the Iowa law they may have studied while attending law school. I and many other members of the Drake Law faculty devote considerable time and energy to scholarly analysis of a wide variety of Iowa legal topics, and to developing and drafting Iowa law reform proposals. If the Blue Ribbon Committee's proposal is adopted, we will be pleased to develop and teach the two-credit course in Iowa law and practice that will focus Drake and Iowa law students (and any students from out-of-state law schools who wish to participate) on these unique Iowa practice issues.

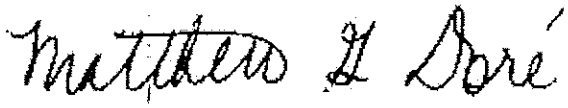
While the purpose of my letter is to advise you that I and my Drake colleagues support the Blue Ribbon Committee's proposal, I should also add that informed members of the bench and bar support the proposal as well. Over the past few months, I and other Drake colleagues have made presentations to various Iowa attorney groups concerning the proposal. For example, at the annual CLE event that Drake Law School hosts for the Iowa Chapter of the Association of Corporate Counsel (ACC), I made a presentation that explained the proposal to more than 100 attorneys from across the state. While some of these lawyers were initially skeptical, once

they learned more about the current Iowa bar exam and about the Blue Ribbon Committee's proposal details, they were broadly supportive of it.

My ACC audience included attorneys that had been initially licensed in Wisconsin. Those lawyers were quick to remind others about Wisconsin's successful diploma privilege experience for graduates of the University of Wisconsin and Marquette Law Schools. The parallels between Wisconsin and Iowa—both relatively small states with one public and one private law school—are clear, and the Blue Ribbon Committee's proposal wisely draws from the Wisconsin model.

I certainly hope that you will approve the Blue Ribbon Committee's proposal. Should you have any concerns about the role that Drake Law School and its faculty will play in the proposal's implementation, please do not hesitate to contact me or one of my Drake colleagues.

Respectfully,



Matthew G. Doré
Richard M. & Anita Calkins
Distinguished Professor of Law

cc: Drake Law School Faculty

Bar Admission Process
Kelly Dolinar
to:
rules.comments@iowacourts.gov
07/11/2014 03:07 PM
Cc:
Gerry Neugent
Hide Details
From: Kelly Dolinar <Kelly.Dolinar@knappproperties.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

Cc: Gerry Neugent <gerryn@knappproperties.com>

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3 Attachments

2014-07-11-Letter to Iowa Supreme Court Chief Justice Cady re Bar Admission Process.docx

Kelly Dolinar | Executive Administrative Assistant
KNAPP PROPERTIES, INC.
5000 Westown Parkway, Suite 400 | West Des Moines, IA 50266
direct 515.222.5213 | fax 515.222.5220
www.knappproperties.com

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July 11, 2014

VIA U.S. MAIL AND EMAIL

Chief Justice Mark S. Cady
Iowa Supreme Court
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Dear Chief Justice Cady:

Please let this letter serve as a recommendation that the Iowa Supreme Court adopt the Diploma Privilege for graduates of Drake University Law School and University of Iowa Law School and the Uniform Bar Exam for potential new licensees who do not qualify for admission by Diploma Privilege. I am a graduate of Drake University Law School and was admitted to the Bar in January 1976 and have been licensed continuously since that date. I practiced law in Polk County from 1976-1993. I left the private practice of law and joined Knapp Properties, Inc., an Iowa real estate company based in Polk County.

I have reviewed the report of the Blue Ribbon Committee on Legal Education Licensure and agree with its findings and conclusion. My support of the recommendation of the Committee is based on several facts:

1. As a native of Wisconsin and graduate of Marquette University for my undergraduate degree, I know many attorneys who practice in Wisconsin by virtue of the Diploma Privilege granted to Marquette and University of Wisconsin Law Schools. In fact, my daughter-in-law recently graduated from Marquette Law School and was admitted to the Bar as part of the graduation ceremony. Over the years I have worked with the Wisconsin lawyers from the two universities and find their level of practice to be equal to that of the Iowa Bar.

2. Like Wisconsin we have two law schools both of which have a long standing record of excellence in legal education. The graduates of both law schools have a very high percentage of passage of the Iowa Bar Exam. It is not necessary to have a Bar Exam to

weed out incompetence or unprepared candidates with respect to the graduates of our in-state law schools.

3. The waiting time following graduation to determine if an applicant has passed the Bar is unacceptable. My daughter graduated from Drake Law School in 2003 and took the Illinois Bar Exam in July of that year. She was not admitted to practice and could not start work until November of 2003. Although somewhat shorter, a similar result would have occurred had she taken the Iowa Bar Exam.

It is my hope that the Court adopt the recommendation of the Blue Ribbon Committee.

Respectfully submitted,

Gerard D. Neugent
President and CEO

Diploma Privilege for Iowa Law School Graduates
James Kramer
to:
'rules.comments@iowacourts.gov'
07/11/2014 03:14 PM
Hide Details
From: James Kramer <James.Kramer@JohnsonLawIA.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

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I do not favor elimination of a bar exam. I took the Iowa bar examination in 1973, back when it was entirely an essay test on topics on Iowa, general and federal law. We got our results the day we wrote our last essay. Years later, I had the opportunity to be a grader and was astonished over the difference between a passing and a failing answer. Those who failed were ignorant of the legal issues and how to resolve them and should not have been able to practice law without first learning more and then demonstrating it by passing the bar exam.

While I oppose the elimination of a bar exam in favor of Diploma Privilege, I do not favor the present system that does not measure knowledge of Iowa law. The delay between completing the exam and receiving the results places a great financial burden on recent law school graduates.

If a change is needed, we should revert back to the prior system where the questions were prepared by the Iowa Bar Examiners and the tests were promptly graded and results announced so that young lawyers could begin their practice immediately.

I attended the University of Minnesota Law School at the time that a diploma privilege was being debated there and there were only two law schools in the state. The concern was that a diploma privilege would result in the Minnesota Supreme Court imposing a detailed curriculum that would limit the topics offered and the opportunity of faculty and students to select and design their classes to fit their interests. The proposal of the diploma privilege was dropped. Faculty still needed to cover the basics and students were responsible to learn what was required to pass the bar exam. If Iowa were to adopt the diploma privilege, I assume that Iowa Supreme Court would need to design the law school curriculum and supervise its implementation and teaching. I fear that the law schools' desire for this change reflects the schools' need to attract more applicants, not the welfare of their students or the citizens of Iowa.

However much one may have specialized in law school, you still had to obtain and demonstrate a broad understanding of legal issues in order to pass the bar. Preparation for the Bar Exam forces you to review what you learned in the prior three years and to obtain a basic knowledge of areas of law that you did not emphasize in your studies. That knowledge of areas outside my typical practice has alerted me to issues faced by my clients that should be referred to others. While expertise in one area of law is good, ignorance of much of the law is bound to get you and your clients in trouble. You need to be able to "think like a lawyer" so that you can analyze the facts, identify the legal issues and find the answers and solutions. You can't do that if you don't have a basic understanding of broader areas of the law.

While I favor retaining the bar exam, retention of the present system should be examined. It should be possible to develop a bar exam that measures an applicant's qualification to practice law in Iowa with some assurance of basic legal knowledge, skill and competence.

James L. Kramer
Johnson, Kramer, Good, Mulholland, Cochrane & Driscoll, PLC
809 Central Ave., Suite 600, Fort Dodge, Iowa 50501

Bar Admission Process
DeDe A. Ruhnke
to:
rules.comments@iowacourts.gov
07/11/2014 03:57 PM
Hide Details
From: "DeDe A. Ruhnke" <dar@hanftlaw.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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1 Attachment

DOCS-#624321-v1-JDK_-_letter_to_Chief_Justice_and_Associates_Justices_re_proposed_diploma_privilege.docx

DeDe Ruhnke
Legal Administrative Assistant to John D. Kelly, Richard R. Burns, David L. Tilden and Holly LaBoone-Haller
Hanft Fride, A Professional Association
1000 US Bank Place
130 West Superior Street
Duluth, MN 55802-2094
218-529-2415 phone
218-529-2401 fax
dar@hanftlaw.com

>>>
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July 11, 2014

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WRITER'S DIRECT DIAL
218/529-2437
WRITER'S EMAIL
jdk@hanftlaw.com

Sent via email to
rules.comments@iowacourts.gov

Honorable Chief Justice Mark S. Cady
Honorable Justice David S. Wiggins
Honorable Justice Daryl L. Hecht
Honorable Justice Brent R. Appel
Honorable Justice Thomas D. Waterman
Honorable Justice Edward M. Mansfield
Honorable Justice Bruce B. Zager
Iowa Supreme Court
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319

Re: Bar Admission Process

Dear Honorable Chief Justice Cady and Associate Justices of the Iowa Supreme Court:

I am submitting this letter in response to the Court's Order of May 13, 2014 inviting comments on the ISBA's recommendation that this Court adopt diploma privilege for graduates of Drake University Law School and the University of Iowa College of Law. I believe that it would be a mistake to adopt diploma privilege.

I served as a member of the Minnesota Board of Law Examiners for 21 years, including 11 years as president. I am familiar with the diploma privilege rule in effect in Wisconsin, and I have followed recurring discussions of the merits and disadvantages of diploma privilege in Minnesota and our neighboring jurisdictions.

A core responsibility of a supreme court is the oversight and regulation of lawyers admitted to practice and applicants for admission to practice in its jurisdiction. This includes responsibility for providing reasonable assurance to the public that newly admitted attorneys possess minimum competence to practice law. In most jurisdictions, this is done by means of a bar exam devised by or approved by the jurisdiction's board of law examiners, alone or in combination with exams provided by the National

Conference of Bar Examiners. State bar examiners have an opportunity to review and evaluate the questions to be administered to bar examinees for relevance to the practice and degree of difficulty. The point is that the exam is developed, assessed and overseen by the supreme court of the jurisdiction through its appointed bar examiners.

The problem with diploma privilege is that it does away with a comprehensive test process intended to gauge minimum competence across a spectrum of basic subjects, overseen by the licensing authority. In its place, diploma privilege invests law schools with the responsibility of assuring minimum competence to practice. This is a troublesome transfer of responsibility. I have found that law deans are not anxious to embrace that particular responsibility. I have heard law deans say their schools provide education in the law for anyone interested in such an education and for whatever purpose they may have. This is different from assuming responsibility for providing the public with assurance that each graduate possesses minimum competence to practice law. Moreover, law schools are not licensing authorities. In the end, that assurance should come from the licensing authority.

I am particularly troubled about the prospect of diploma privilege in a time when law schools face economic problems resulting from a downturn in applicants, a weak employment market, and the pressure to keep classes filled to meet costs. The bar exam administered to all applicants is the only means of assuring that all applicants are being tested on the same scale, and it serves as a useful measure of the performance of the schools from which bar applicants have graduated in comparison to one another.

I do not mean to imply that the bar examination is a perfect instrument for assuring minimum competence. It is not, and the fact that it has been the subject of ongoing study by bar examiners across the country, resulting in important changes to the contents and methods of testing, shows that bar examiners are sensitive to this. However, diploma privilege is not an answer to any problems associated with the bar exam. Continuing study for the continuing evolution of the bar exam is a better approach, leaving the licensing authority with the basis for assuring the public that newly admitted lawyers possess minimum competence to practice.

Thank you for considering my comments.

Respectfully,

John D. Kelly

John D. Kelly

JDK/dar

Bar Admission Process
Marion James
to:
rules.comments
07/11/2014 04:12 PM
Hide Details
From: "Marion James" <JamesLaw@iowatelecom.net>
To: <rules.comments@iowacourts.gov>,

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1 Attachment

Argument in opposition to diploma privilege.docx

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In the Supreme Court of Iowa

In the Matter of Request for Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process	Argument in Opposition to "Diploma Privilege"

Argument. The proposed amendments to Iowa's Bar Admission Process, termed a "diploma privilege," are contrary to the best interest of the public, the legal profession, and are based on recommendations that are not credible.

Public Interest. The public and the legal profession have been well served for many years by the rules governing the eligibility to practice law in the State of Iowa that are based upon the successful passage of the bar exam. The content, scope of the exam and grading lie outside the control of the law schools which clearly have a vested interest in assuring that its graduates are admitted to the Bar. This decision should remain outside the determination of law schools and left to the hands of qualified disinterested third parties who are able to carry out their responsibility with objectivity and total detachment.

Denigration of legal profession. Nothing could cheapen the legal profession more in the State of Iowa than a "diploma privilege" which tells the public that practicing law merely requires graduating from an Iowa law school located in disregard of an independent process for measuring an individual's qualifications for that responsibility. To carry this point further, a student graduating from a truck-driving class still must pass an examination to obtain a commercial driver's license which is necessary for employment as a truck driver. Likewise, before becoming a licensed electrician, an individual must not only take and complete classes but also must successfully pass an examination to measure their skills and knowledge. Why should the practice of law be governed by a lesser standard? The proposal, if adopted, would lead to the conclusion that lawyers are less professional than Certified Public Accountants who must pass a qualifying exam regardless of where they attended school. That is to say, anyone seeking to practice law in Iowa should also be required to pass a qualifying test in the form of a bar examination without the benefit of a so-called "diploma privilege."

Basis for a "diploma privilege" is not credible. Without question, the indebtedness incurred by law students is overwhelming and oppressive, but to assert that between 27% and 30% of their loans are attributable to a 4 ½ month delay between graduation and Bar admission lacks credibility when measured against the timeframe of enrollment through graduation. Moreover, the advantage of eliminating a delay of 135 days assumes the availability of immediate employment that would pay an annual salary of $57,000 plus benefits at 30% is not grounded in the reality of the job marketplace for aspiring young lawyers. Furthermore, a claim that a "diploma privilege" would bring additional young attorneys to rural areas ignores the

realities of practicing in small communities where those decisions are influenced more by economic limitations of a lower earning potential, counter balanced by the lifestyles and nature of practicing in rural Iowa.

Alternative remedies. The previous procedure for Bar examination consisting of essay questions graded by examiners with results issued the same day the exam was completed served well the needs of the judiciary, the profession and society for many years. Perhaps, the time has come to return to that method of examination. A bar exam could also be conducted incrementally during the last year of law school so graduation and admission to the Bar could occur simultaneously. From a different perspective, schools simply may be forced to become more creative in containing or reducing the cost of attending law school. Business and government have been forced to do so; why should law schools be exempt? Also, more opportunities should be provided through employment that would include student loan forgiveness as a benefit although, of course, this is outside the control of the judiciary and is a matter that must be addressed by society at large.

Conclusion. The recommendation for the adoption of a "diploma privilege" is merely a thinly veiled subsidy for the law schools at the expense of greatly lowering the stature of the legal profession and relinquishing control over admission to the practice of law in the State of Iowa. The determination of who is qualified to enter the practice of law should be by examination administered under the direction of the Iowa Supreme Court independent of law schools, except as their input may be helpful in designing that test.

Dated this 11th day of July, 2014.

MARION E. JAMES
205½ N Elm Street
Creston, Iowa 50801
(641) 782-6000

Bar Admission Process
Iowa Academy of Trial Lawyers
to:
rules.comments
07/11/2014 05:01 PM
Hide Details
From: Iowa Academy of Trial Lawyers <iowaacademy@gmail.com>
To: rules.comments@iowacourts.gov,

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2 Attachments

Academy Letter.docx

Bar Admission Process.pdf

Comments from David Brown, Secretary/Treasurer of the Iowa Academy of Trial Lawyers, are attached. David specified that he wanted these to be on Academy Letterhead, so the original, signed version is attached as a PDF. However, I have also attached a Word document, as per the submission instructions specified in the order signed by the Chief Justice.

Thank you,

Lisa Allison
Attorney at Law
Iowa Academy of Trial Lawyers

206 6th Avenue, Suite 520
Des Moines, IA 50309

515-282-9477
iowaacademy@gmail.com

IOWA ACADEMY OF TRIAL LAWYERS
206 Sixth Avenue, Suite 520 Des Moines, Iowa 50309-4025
p: (515) 282-9477 • f: (515) 282-5236 • iowaacademy@gmail.com • iowaacademyoftriallawyers.org

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John A. McClintock*
Served 1995 - 2008

July 11, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: In the Matter of Request for Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process

Dear Members of the Iowa Supreme Court:

I write as the Secretary-Treasurer of the Iowa Academy of Trial Lawyers. The Iowa Academy is a professional organization limited in number to 250 attorneys who have demonstrated outstanding preeminence in the trial of contested matters, have demonstrated unimpeachable integrity, and have dedicated their professional lives to the improvement of the administration of justice. The Iowa Academy strongly supports the adoption by this Court of the Diploma Privilege as proposed by the Iowa State Bar Blue Ribbon Committee. The proposal that was submitted to the Court is a bold, collaborative, progressive step that significantly improves the process for licensing of attorneys in Iowa.

The proposal places the ultimate authority for licensing where it should be – with the Iowa Supreme Court. The proposal vastly improves the protection for the public by assuring that law students at Drake University Law School and the University of Iowa Law School are tested on Iowa subjects during the term of their legal education. There will be more testing by those students at Drake University and the University of Iowa on Iowa subjects than clearly exists with the current exam as well as the former test which graded solely on Iowa practice over a three day period. The Diploma Privilege ensures a comprehensive study of applicable Iowa principles which new graduates need to master and demonstrate competence in before they are admitted to the Iowa Bar.

PAST PRESIDENTS

The proposed change in Iowa licensing is modeled on the Wisconsin Diploma Privilege which has successfully served the citizens of Wisconsin for approximately 75 years. The Deans of both the University of Wisconsin-Madison and Marquette University are extremely pleased with the process. The Wisconsin Supreme Court is extremely pleased with the process and believes it fully protects the public and enhances the process for generations of lawyers who have graduated from the Universities and those who will in the future.

Over 150 years ago members of the Iowa Supreme Court helped create the University of Iowa Law School and Drake University Law School. The connection between the Court and the resident law schools has been strong since the beginning. When our two resident law school Deans strongly endorse this advancement in licensing in Iowa, we believe the Court should embrace this proposal and adopt it without undue delay. The suggestion some have made that we wait five years to see what national trends reveal is not a solution. We have an opportunity to be a national leader in legal education and licensing. We should not let this opportunity pass without moving the profession to its rightful place as a leader throughout the United States.

I applaud the Blue Ribbon Committee, the Iowa State Bar Board of Governors and those who have supported the adoption of this proposal. I thank the Court for the opportunity to study this approach in a transparent public forum. While some may disagree with the Academy's stated position, I truly appreciate the engagement of so many in the process which is important for the administration of justice and the next generation of Iowa lawyers. I applaud the Immediate Past President of the Iowa Bar, Guy Cook, for his national leadership in this process.

Respectfully Submitted,

David L. Brown
Secretary/Treasurer

July 14, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: In the Matter of Request for Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process

Dear Members of the Iowa Supreme Court:

I write as the Secretary-Treasurer of the Iowa Academy of Trial Lawyers. The Iowa Academy is a professional organization limited in number to 250 attorneys who have demonstrated outstanding preeminence in the trial of contested matters, have demonstrated unimpeachable integrity, and have dedicated their professional lives to the improvement of the administration of justice. The Iowa Academy strongly supports the adoption by this Court of the Diploma Privilege as proposed by the Iowa State Bar Blue Ribbon Committee. The proposal that was submitted to the Court is a bold, collaborative, progressive step that significantly improves the process for licensing of attorneys in Iowa.

The proposal places the ultimate authority for licensing where it should be – with the Iowa Supreme Court. The proposal vastly improves the protection for the public by assuring that law students at Drake University Law School and the University of Iowa Law School are tested on Iowa subjects during the term of their legal education. There will be more testing by those students at Drake University and the University of Iowa on Iowa subjects than clearly exists with the current exam as well as the former test which graded solely on Iowa practice over a three day period. The Diploma Privilege ensures a comprehensive study of applicable Iowa principles which new graduates need to master and demonstrate competence in before they are admitted to the Iowa Bar.

The proposed change in Iowa licensing is modeled on the Wisconsin Diploma Privilege which has successfully served the citizens of Wisconsin for approximately 75 years. The Deans of both the University of Wisconsin-Madison and Marquette University are extremely pleased with the process. The Wisconsin Supreme Court is extremely pleased with the process and believes it fully protects the public and enhances the process for generations of lawyers who have graduated from the Universities and those who will in the future.

Over 150 years ago members of the Iowa Supreme Court helped create the University of Iowa Law School and Drake University Law School. The connection between the Court and the resident law schools has been strong since the beginning. When our two resident law school Deans strongly endorse this advancement in licensing in Iowa, we believe the Court should embrace this proposal and adopt it without undue delay. The suggestion some have made that we wait five years to see what national trends reveal is not a solution. We have an opportunity to be a national leader in legal education and licensing. We should not let this opportunity pass without moving the profession to its rightful place as a leader throughout the United States.

I applaud the Blue Ribbon Committee, the Iowa State Bar Board of Governors and those who have supported the adoption of this proposal. I thank the Court for the opportunity to study this approach in a transparent public forum. While some may disagree with the Academy's stated position, I truly appreciate the engagement of so many in the process which is important for the administration of justice and the next generation of Iowa lawyers. I applaud the Immediate Past President of the Iowa Bar, Guy Cook, for his national leadership in this process.

Respectfully Submitted,

David L. Brown
Secretary/Treasurer

Bar Admissions Process
Goode, Wendy L. (MKE x1360)
to:
'rules.comments@iowacourts.gov'
07/11/2014 05:05 PM
Hide Details
From: "Goode, Wendy L. (MKE x1360)" <wendy.goode@quarles.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

FILED
JUL 14 2014
CLERK SUPREME COURT

2 Attachments

2014-07-11 Honorable Mark S. Cady Chief Justice - Iowa.DOCX

FrankDaily.doc

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FRANK J. DAILY
411 East Wisconsin Avenue, Ste 2350
Milwaukee WI 53202
414-277-5381
frank.daily@quarles.com

FILED
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July 11, 2014

VIA E-MAIL
rules.comments@iowacourts.gov

Honorable Mark S. Cady
Chief Justice, Iowa Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines IA 50319

RE: Bar Admission Process

Dear Chief Justice Cady:

I am privileged to write in strong support of the petition currently pending before the Supreme Court to adopt the Diploma Privilege for graduates of the two Iowa Law Schools - The University of Iowa and Drake University. I am most impressed by the extraordinary amount of work and detailed analysis that has already been performed by the Blue Ribbon Committee on Legal Education and Licensure and the extensive materials I have reviewed.

I graduated from the Marquette University Law School in 1968 and I remain grateful to have been the beneficiary of the diploma privilege and the outstanding legal education I received at Marquette. Also, I am privileged to support the proposal for the adoption of the Diploma Privilege in Iowa, a state where my parents were married (in Waterloo) and where I spent some of my undergraduate days in Iowa City. I am also proud to have had the privilege of practicing law with the significant number of Iowa graduates we have in our firm.

I also have had the privilege of being in a law firm that has a large number of graduates from both Marquette and Wisconsin as well as many other law schools around the country including Iowa. During all those years, I have never discerned any advantage that lawyers who took the Wisconsin Bar Exam had over graduates of Marquette and Wisconsin.

On the other hand, I am aware of the many benefits of the Diploma Privilege which the committee and those who have written in support of its proposal have already eloquently expressed. I know from my own long experience that you will attract quality law students, both from within Iowa and all different parts of the country, because of the advantage the Diploma Privilege provides. In addition, the Diploma Privilege has encouraged students of Marquette and

Wisconsin to stay in Wisconsin to practice and to bring their talents to many areas of our state that are underserved. The financial impact on today's law school graduate is unprecedented and shows no signs of decreasing. Anything that law schools can do to alleviate some of the huge financial burden to students will benefit the law schools in a time of declining enrollments as well as the general public.

For those who may express concerns about the quality of legal education potentially being diminished if the Diploma Privilege is adopted, I can say without fear of successful contradiction that the legal education I received at Marquette taught me to practice law at the highest level, whether in private practice, in-house practice with a business or any number of areas of public service. The core courses we were required to take meant that all Marquette law graduates had months of immersion in various areas of practice they could not reasonably ever acquire by cramming for a bar exam. In addition, Marquette and Wisconsin law students have the opportunity to participate in a variety of legal clinics, volunteer work and pro bono programs that give them additional skills from which they will benefit all through their careers.

I have had the privilege of trying cases and arguing appeals in state and federal courts all over the country. I have never felt any disadvantage at being up against lawyers who pass bar exams, and, in fact, often felt an advantage at having had the kind of intensive hands-on education provided at a law school where valuable practical skills are taught by law professors as well as adjunct faculty members with extensive experience. I have attached my resume to further detail the experience I have had in trying cases and participating in legal education programs around the country.

The Diploma Privilege as I experienced it at Marquette has provided me with a complete legal education because of my concentrated study of various areas of the law throughout my three years of quality legal education. It gave me the benefit of considerable practical experience which served me well and actually gave me a head-start in the practice of law compared to those lawyers who have to delay the beginning of their careers to take a bar exam and then have to take time to try to develop the practical skills I learned in law school.

I believe, and my experience has taught me, that the public is well served by those lawyers who have taken core courses in subject matters and areas that lawyers actually use in dealing with clients in the widely varied issues that arise in the course of the practice of law. Our diploma privilege has served us well for all of my 46 years as a lawyer, just as it will for generations of future Iowa lawyers.

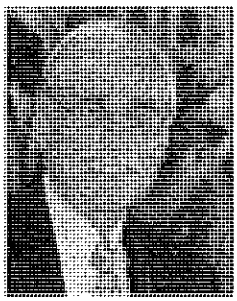
I respectfully urge the Supreme Court to take this positive step forward to advance the cause of legal education in Iowa, to the benefit of both the legal profession and the public we are privileged to serve, by joining your Wisconsin brethren in adopting the Diploma Privilege. I am confident that you will not regret your decision.

Thank you for considering my comments and according me the professional privilege of presenting them.

Respectfully submitted

Frank J. Daily

Professional Resume Attached



Frank J. Daily
Retired Partner

Milwaukee Office
411 East Wisconsin Avenue
Suite 2400
Milwaukee, Wisconsin 53202
(414) 277-5381
Fax: (414) 978-8991
frank.daily@quarles.com

Professional Experience

Frank Daily is a retired senior partner with Quarles & Brady. He has specialized in the trial of major product liability cases, and is a leader in the Firm's national Product Liability Practice Group.

Mr. Daily attended the University of Iowa and is a *cum laude* graduate of Marquette University. He also attended Marquette University Law School where he served as an Editor of the *Marquette Law Review*. He is a Fellow in the International Academy of Trial Lawyers, and has represented numerous manufacturers on a regional and national basis. He has tried numerous product liability jury cases representing both plaintiffs and defendants in both state and federal courts throughout the country.

Mr. Daily has lectured extensively on product liability law and trial practice subjects at Marquette, Wisconsin and Harvard Law Schools, and is past president of the Marquette University Law Alumni Association. He is a member of the Circle of Champions at the University of Alabama and has been a member of the Executive Committee of the President's Councils at Marquette University and Wake Forest University, where he also served on the Law School Board of Visitors. He is a former co-chairperson of the Discovery Committee of the Litigation Section of the American Bar Association, and has participated in numerous seminars on product liability and trial techniques sponsored by the ABA and various state bar associations across the country.

He is a sustaining member of the Product Liability Advisory Council and a life sustaining member of the American Law Institute. He is listed in *Who's Who in America*, *Who's Who in American Law*, the *International Who's Who of Product Liability Defense Lawyers* and *The Best Lawyers in America*.

- Founder and former head of the Firm's nationally recognized and acclaimed product liability trial practice.
- Forty-four years of experience with more than 125 jury trials in state and federal courts throughout much of the United States.
- Represented manufacturers of chemicals, pharmaceuticals, agricultural products, forestry equipment, construction equipment, automobiles, forklifts, jet skis, motorcycles, industrial products and various consumer products in state and federal courts throughout the United States.
- Successful representation of both corporate and individual plaintiffs in commercial and personal injury cases in a wide and varied number of jurisdictions.

Quarles & Brady LLP

- Successfully argued the appeal in *Mackenzie v. Miller Brewing Company* in both the Court of Appeals and Wisconsin Supreme Court, achieving the reversal of a $30-plus million verdict against Miller Brewing Company.

Education and Honors

- Marquette University Law School (J.D., *cum laude*, 1968)
  Alpha Sigma Nu. Delta Theta Phi. *Marquette Law Review*, Editor, 1967-1968. Marquette University Law Alumnus of the Year, 2000.
- Marquette University (A.B., *cum laude*, 1964)

Bar Admissions

Wisconsin, 1968

Court Admissions

U.S. Supreme Court, 1998
U.S. District Court, Eastern District of Michigan, 1990
U.S. District Court, Central District of Illinois, 1990
U.S. Court of Appeals, 11th Circuit, 1990
U.S. Court of Appeals, 10th Circuit, 1990
U.S. Court of Appeals, 9th Circuit, 1990
U.S. Court of Appeals, 8th Circuit, 1990
U.S. Court of Appeals, 6th Circuit, 1990
U.S. Court of Appeals, 4th Circuit, 1990
U.S. Court of Appeals, 5th Circuit, 1985
U.S. Court of Appeals, 3rd Circuit, 1985
U.S. Court of Appeals, 7th Circuit, 1977
U.S. District Court, Western District of Wisconsin, 1971
U.S. District Court, Eastern District of Wisconsin, 1968
Wisconsin Supreme Court, 1968

Professional Recognition

Fellow of the Wisconsin Law Foundation Class of 2013.

Listed in *Who's Who In America*; *Who's Who In American Law*; Brother Rice High School (Chicago) Man of the Year Award, 2000; *International Who's Who*.

Listed in *The Best Lawyers in America*® (1993-2009: Mass Tort Litigation, Personal Injury Litigation, Product Liability Litigation).

Selected for inclusion in the 2005-2010 *Wisconsin Super Lawyers*® lists (Personal Injury Defense: Products).

Martindale-Hubbell AV® Peer Review Rated.

Professional and Civic Activities

- Product Liability Advisory Council (Sustaining Member).
- Milwaukee Bar Association.
- Federal Bar Association.
- American Bar Association (Former Vice Chairman, Products, General Liability and Consumer Law Committee, Tort and Insurance Practice

Section, 1984; Former Member, Litigation Section, Co-chairperson of the Discovery Committee, 1985-1987; Manufacturers Liability Sub-Committee of Litigation Section, 1983).

- State Bar of Wisconsin (Member, Litigation and Environmental Law Sections).
- Bar Association of the Seventh Federal Circuit.
- Defense Research Institute.
- American Law Institute.
- President's Council of Marquette University (Former Director).
- Marquette University Law Alumni Association (Former President, 1977-1978).
- Marquette University (Alumni Board).
- National I-Club - University of Iowa.
- University of Alabama (Circle of Champions).
- Board of Trustees, Farrah Law Society University of Alabama Law School.
- International Academy of Trial Lawyers (Fellow).
- American Association for Automotive Medicine (Lifetime Fellow).
- Wisconsin Judicial Commission (Member).

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JUL 14 2014
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Bar Admission Process
Greg Murphy to: rules.comments 07/11/2014 07:00 PM

1 attachment

Comment on Bar Admissions.docx

Dear Clerk of the Court: In accordance with the Iowa Supreme Court's order of May 13, 2014, attached for consideration by the Court is a comment on the recommendations pending before the Court relating to the bar admission process in Iowa. The comment is in Microsoft Word format, as directed by the Court. If at all possible, I would appreciate an acknowledgment of receipt of this email and the attachment so that I may be assured they found their way through cyberspace by the deadline, July 14, 2014. Thank you very much.

Sincerely,

Greg Murphy
5533 Gene Sarazen Drive
Billings, MT 59106
(406) 672-3827
greg.murphy10@gmail.com

Gregory G. Murphy
5533 Gene Sarazen Drive
Billings, MT 59106
(406) 656-9129

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JUL 14 2014
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July 11, 2014

Via email attachment only to: rules.comments@iowacourts.gov

Chief Justice Mark S. Cady
Justice David S. Wiggins
Justice Daryl L. Hecht
Justice Brent R. Appel
Justice Thomas D. Waterman
Justice Edward M. Mansfield
Justice Bruce B. Zager
Iowa Supreme Court
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: Bar Admission Process

Dear Mr. Chief Justice and Justices of the Iowa Supreme Court:

I write in response to the Court's invitation for public comment on the recommendation of a commission of the Iowa State Bar that the Court grant the "diploma privilege" to the graduates of the University of Iowa College of Law and graduates of Drake University Law School, and the commission's proposal for adoption by Iowa of the Uniform Bar Examination.

I believe I have some experience qualifying me to comment. By way of background, I have been practicing law since 1980, and have been continuously active in bar admissions since 1985. With one hiatus, I have been involved in law school accreditation since 2002. Among other activities, I have enjoyed the privilege of chairing the Montana Board of Bar Examiners, the National Conference of Bar Examiners, the American Bar Association Law School Accreditation Committee, and the Multistate Bar Examination Committee. (My resume is attached.) I currently serve on the Council of the Section of Legal Education and Admissions to the Bar of the ABA, and I co-chair the Special Committee on the Uniform Bar Examination of the National Conference of Bar Examiners.

In considering proposals relating to the bar admissions process, one should always bear in mind the essential purposes of the licensing of lawyers---to help assure that only those competent to practice are admitted, and to promote public confidence in the judicial system and the practice of law generally. Proposals that may have the unintended consequence of detracting from those purposes ought to be viewed with much skepticism. One cannot help note the

irony that would be evident if the Court were to grant the diploma privilege to graduates of the two Iowa law schools, while at the same time Iowa insists that the graduates of the state's schools of cosmetology achieve at least a minimum score on a written licensing examination. (See, Chapter 60 of the Iowa Code)

The report by the Court's staff is excellent and persuasive. Among other things, it accurately summarizes why Montana abolished the diploma privilege. I can state without qualification that the bar admissions process in Montana was dramatically improved by the elimination of the diploma privilege. The granting of a diploma privilege in Iowa would represent a step backward rather than forward in the licensing process.

The Section of Legal Education and Admissions to the Bar was the first section of the ABA to be established. The Council of the Section and the Section's Accreditation Committee are the national law school accrediting authorities. Both the Council and the ABA have a long-established policy relating to the examining of candidates for admission to the practice of law. The policy is stated in the Preface to the Standards for Approval of Law Schools: "The Council and the ABA believe that every candidate for admission to the bar should have graduated from a law school approved by the ABA and that every candidate for admission should be examined by public authority to determine fitness for admission." In other words, both the ABA and the Council do not consider graduation from one of the Council's approved law schools alone to be sufficient for fulfilling the purposes of licensing. Examination by public authority is a vital prong of the admissions process that should not be eliminated. As admirable as the legal academy is, including the law schools in Iowa, one should not put too much faith in it, just as one should not put too much faith in the bar examination. The examination by public authority provides essential incentives for law schools and their faculties. Moreover, one should not underestimate the value to the applicant gained in the preparation for the bar examination.

Those who argue that the diploma privilege should be granted in order to help address the looming problems of the high cost of legal education and the associated incurring of student debt make the weakest of arguments. The high cost of legal education and the increasing student debt are not due to the bar examination, or to the costs of studying for the bar examination after graduation from law school. Rather, the explosion in the cost of legal education and the associated debt is a function of: (1) the federal policy of granting essentially unlimited credit for financing legal education; (2) the perverse incentives created by the U.S. News and World Report law school rankings that give weight to the amount spent per student; and, (3) the consequent dramatic increase in the size of law school faculties since the U.S. News and World Report rankings became so important to law schools' competition with each other for students. In the 11 years from 2002 to 2013 tenured and tenure-track law school faculty increased from 5,164 to 6,906 or 34%. Total other full-time law faculty increased from 1,649 to 2,423, or 47%. The total increased from 6,813 to 9,329, or 37%. Since law faculty expense is by far the largest expense of a law school, it is no surprise why law school costs students more now than it did decades ago. Of course,

with the rapid and dramatic decline in law school applications and matriculations since the onset of the Great Recession in 2008, law schools are looking for any competitive advantage they can offer over their peers. Being able to boast of a diploma privilege would add an arrow to the competitive quivers of Iowa and Drake, but would do nothing to serve the purposes of the licensing process of protecting the public and promoting confidence in the system of justice and the practice of law.

The commission argues that affording the diploma privilege to graduates of Iowa and Drake may help keep qualified Iowa students in Iowa and attract qualified students from other states. It also argues that it may promote more lawyers practicing in rural areas of the state because they will have less debt. However, the commission offers little to no data to support these arguments. The first argument would serve merely to promote a race to the bottom in terms of the required elements for admission. The argument relating to the promotion of rural practice due to lower debt fails to recognize that the costs of studying for and taking the bar examination pale in comparison to the costs of legal education and the debt assumed to finance it. The challenge of attracting practitioners to rural areas will not be eliminated by the granting of the diploma privilege. Moreover, and most importantly, neither argument tends to promote the two essential purposes of the licensing process.

Turning to the proposal to adopt the Uniform Bar Examination ("UBE"), let me note that the public comments posted to date on the Court's website reveals little opposition to this psychometrically valid and reliable examination. Moreover, adopting the UBE would indeed promote the ability of qualified graduates from elsewhere to become licensed in Iowa if they meet the Iowa-established minimum score on the examination, and the ability of Iowa and Drake graduates to transfer their scores to other UBE jurisdictions and become admitted. Iowa already employs the three elements of the UBE (the Multistate Bar Examination, the Multistate Essay Examination, and the Multistate Performance Test), so little adaptation would be required if the Court were to order the adoption of the UBE. There would also still be room as a part of the admission procedure for a test or other process for promoting knowledge of unique Iowa law, procedure, and other features of the Iowa justice system.

Thank you for the opportunity to comment on the proposals before the Court. I confess to experiencing no small amount of trepidation about sending a comment because I am not an Iowan. I am keenly aware of and support our federal system. The decision on how best to license prospective lawyers is by law and good policy left to Iowa. I trust that my comments will be received in the same spirit in which they are offered. Please accept my very best wishes in your deliberations.

Sincerely,

/s/ Gregory G. Murphy

Gregory G. Murphy

Gene Sarazen Drive
Billings, MT 59106
(406) 672-3827
Greg.Murphy10@gmail.com

Personal:

Born Helena, MT 1954.
Married Kate Murphy 1977.
Three children, Megan, Brian, and Allison.

Education:

University of Montana, B.A. History with High Honors 1976.
University of Notre Dame, J.D. 1979.

Employment:

1979-1980, Law Clerk to Hon. John F. Kilkenny, U.S. Court of Appeals for the 9th Circuit.
1980-1984, Associate, Moulton Bellingham PC, Billings, MT.
1984-2011, Shareholder, Moulton Bellingham PC.

Bar Admissions:

United States Courts:
- Supreme Court
- Court of Appeals for the 9th Circuit
- Montana District
- Oregon District

State Courts:
- Montana
- Oregon

Tribal Courts:
- Crow
- Northern Cheyenne
- Fort Peck (Assiniboine and Sioux)
- Fort Belknap (Gros Ventre and Assiniboine)
- Rocky Boy (Chippewa Cree)

Peer Ratings:

Martindale Hubbell: AV.
Best Lawyers in America.
Mountain States "Super Lawyer."
Litigation Counsel of America.

Honors and Activities:

Legal Education:

Elected Member, ABA Council of the Section of Legal Education and Admissions to the Bar, ABA. Member of Executive Committee. (Regulatory Authority American Law Schools.)
Chairman, ABA Law School Accreditation Committee.

Honors and Activites cont:

Bar Admissions:

Chairman, Montana Board of Bar Examiners.
Chairman, National Conference of Bar Examiners.
Chairman, Multistate Bar Examination Committee.
Chairman, Special Committee on Uniform Bar Examination.
Member, Multistate Performance Test Drafting Committee.

American Law Institute, Elected for Life (ALI is the Publisher of the Restatements of the Law.)

Montana State Bar Distinguished Service Award.

Billings Rotary Club:

Member, Board of Directors.
Service-Above-Self Award.

Member, St. Vincent Healthcare Ethics Committee.

Member, St. Healthcare Foundation Board of Directors.

Billings Symphony:

Officer and Member Board of Directors.
French Horn player, 23 years.

Law School and College:

Thomas and Alberta White Scholar, U. of Notre Dame.
Associate Editor, Notre Dame Law Review.
Knight and Chancellor, Silent Sentinel, U of Montana.
Univ. of Montana Honor Scholar.
Member, U. of Montana Central Board.
Principal French horn, U. of Montana.

Practice Experience:

Complex Commercial Litigation (Recognized as "Best Lawyer").

Insurance: Representation of insurance companies and of claimants against Insurance companies in insurance coverage and in claims litigation.

Health Law: Representation of largest health system in Montana, and its hospitals and clinics.

Indian Law: Expert in the law of tribal jurisdiction, and have tried cases in tribal courts.

Professional Liability: Representation of oral surgeons in malpractice cases.

Antitrust: Health care antitrust litigation.

Banking and Lender Liability: Representation of largest banking system in Montana in foreclosure litigation and lender liability cases at trial and on appeal.

Product Liability: Representation of major pharmaceutical and biological manufacturers in product liability litigation.

ERISA: Representation of major insurance companies in litigation under ERISA litigation.

Bankruptcy: Representation of creditors in cases under Chapters 7 and 11 of the Bankruptcy Code. Five years service as Chapter 7 Trustee for Bankruptcy Court.

Environmental: CERCLA litigation relating to soil and ground water contamination with hazardous chemicals; Insurance coverage litigation relating to liability for hazardous substances contamination.

Employment: Representation of employers and of employees in discrimination and wrongful discharge litigation.

Recreation and Hobbies:

Golf, Backpacking, French horn, history buff, and an old BMW Z3 roadster.

Bar Admission Process
Hope Wood
to:
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From: Hope Wood <hope@hopewoodjd.com>
To: rules.comments@iowacourts.gov,

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As one of the small percent of attorneys who failed my first attempt at the bar exam, I wanted to provide some feedback on the proposed change to adopt a diploma privilege for graduates of Drake and The University of Iowa law schools.

Above all, I am glad that I passed the bar, have a license to practice, and don't have to be directly impacted by this change.

I may be indirectly affected, but only time would tell. I have a solo law practice. What would my clients perceive if new law students didn't have to pass the bar exam? Will clients believe that lawyers should be able to charge what they charge per hour if they haven't passed the highly coveted bar exam? As someone who is self-employed with her own shingle, billable time and collecting fees are an incredible burden. I believe clients pay attorneys a high hourly rate because of the rigorousness of our training.

The bar exam may be arbitrary, but it does provide secondary training in the form of stress management, endurance, the ability to focus, the necessity of having a support system, and much more. It is a completely different animal than taking a final exam for law school.

I compared the bar exam preparation like doing my 1L year of law school all over again. Confidence shattering from poor results of sample test questions, learning how to study and answer questions in a completely new way, and questioning whether I should be doing it at all.

I tell myself, that if I was finishing law school and met the qualifications for the diploma privilege, I would apply and attempt the exam anyway. I say that now, but I've already passed so its not a very powerful statement.

The recommendation on the diploma privilege is under researched and too narrow in its conclusion.

Like a good brief, both sides need to be addressed. The Blue Ribbon Committee report does not address what will go unchanged with the implementation of the diploma privilege. Here are a few things I came up with.

1. There are still very few jobs available in the legal field following the recession.

2. The cost of 3 years of law school is still the biggest burden - how about looking into 2.5 years and taking the bar exam during what would have been the last semester.

3. Law school grads are often hired contingent on passing the bar UNLESS they apply for a state job which requires passing the bar - ask the state to implement the same contingency.

4. The legal jobs that existed 10 years ago are not coming back and law students, other than the top 15% of the class, are not going to have a job offer starting their 3L year.

5. The waiting period for the results of the exam doesn't have to be 3 months - the committees who grade the essays can be scheduled to start grading the day the exam is over, like it was 30 years ago. I don't know about the MBE (scantrons) but they are run through a machine for grading - that may be able to be expedited. I understand there are limitations to shortening the results window, but whether it can be done should be considered.

6. What if employers still required passing the bar to be hired - if someone from out of state has to take it, wouldn't they want all new associates to come in on the same playing field?

Although 90% of test takers pass on the first try, it isn't because the exam isn't difficult. The exam doesn't test minimal competency, if it did, a person wouldn't need to take the bar prep classes.

On my first attempt, I got behind on the BarBri class schedule because I had back surgery the week after graduation. I got so behind on the course that I decided I was going to focus on my outlines from their lectures, take some practice questions and know the outlines forward and backward. What I learned is knowing the law on the bar exam isn't enough - the exam questions are designed to make all the answers seem plausible. If you don't have the prep class training or have taken all the sample tests that point out this technique, you can't pass.

Point being - the exam is flawed, but is there a way to fix it? The standardized testing of black letter law is incredibly helpful given law school final exams are more focused on analysis and there usually isn't a completely correct answer.

If the point is to get graduates into practice sooner, it is a great recommendation, but the jobs just aren't there to get.
I was warned about this from a professor who wrote me a recommendation letter for my law school application. I reminded myself of his warning all through law school to remember that it was just going to be harder after law school than during law school.
Students are getting keen on the idea that attorney jobs are incredibly difficult to come by and law school applications are dropping, I think as much as 30%.

I applaud the money that will be saved if a student doesn't have to take the exam - that is perhaps the biggest advantage

The proposed changes to law school curriculum can be done regardless of whether someone takes the exam and I think there are great recommendations for the law school curriculum.

I guess, it just feels like the change is too much too soon - sort of like going down a black diamond when a green slope is more safe.

I will support whatever decision is made; I'm glad I don't have to be the one to make it.

Best of luck!

--

Hope Wood, JD
Attorney & Problem Solver
Hope@hopewoodjd.com
HopeWoodJD.com
p. (515) 650-1532
f. (515) 505-7266

505 5th Avenue, Suite 535
Des Moines, Iowa 50309

Bar Admission Process
Steven Moore
to:
'rules.comments@iowacourts.gov'
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Hide Details
From: Steven Moore <moore@cflaw.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

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JUL 14 2014
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Dear Honorable Members of the Iowa Supreme Court:

I am an active practicing attorney and a member in good standing of the Iowa Bar, having been admitted by examination in June 1975.

I am very strongly opposed to the proposal to eliminate the bar examination as the primary means of gaining admission to the Iowa Bar for graduates of the University of Iowa Law School and the Drake University Law School.

Please refer to the comments contained in a letter dated July 3, 2014, from Paul Morf of the Cedar Rapids, Iowa, law firm of Simmons Perrine Moyer Bergman. He has made what is to me a compelling case NOT to eliminate the bar examination.

I could rehash Mr. Morf's comments, but my comments would largely be duplicative of those of Mr. Morf.

Please retain the current requirement for admission to the Iowa Bar by written examination for graduates of these 2 Iowa law schools.

Thank you for your consideration of my views and those of Mr. Morf.

Sincerely,

Steven D. Moore
Redfern, Mason, Larsen & Moore, P.L.C.
415 Clay Street, P.O. Box 627
Cedar Falls, IA 50613
Telephone: (319)277-6830
Facsimile: (319)277-3531
Email: moore@cflaw.com

Bar Admission Process
Cindy Moser
to:
rules.comments@iowacourts.gov
07/12/2014 05:31 PM
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From: Cindy Moser <Cynthia.Moser@heidmanlaw.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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2 Attachments

Comments re. diploma privilege.07.12.14 (00519563xB7457).docx

Please see attached.

Cynthia C. Moser, Attorney
Direct PH (712) 222.4150 Direct FX (712) 222 4134
Cynthia.Moser@heidmanlaw.com www.heidmanlaw.com
HEIDMAN LAW FIRM 1128 Historic Fourth Street
P.O. Box 3086
Sioux City, IA 51102
PH (712) 255 8838 FX (712) 258 6714

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Cynthia C. Moser
Heidman Law Firm
1128 Historic 4th Street
P.O. Box 3086
Sioux City, IA 51102

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July 11, 2014

Sent via email to: rules.comments@iowacourts.gov
Iowa Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: Bar Admission Process

Dear Chief Justice Cady and Justices of the Iowa Supreme Court:

I write this letter to express my enthusiastic support for the diploma privilege proposal recommended to the Iowa Supreme Court by the Iowa State Bar Association's Blue Ribbon Committee on Legal Education and Licensure (the "Committee"). I believe the proposal not only adequately protects the public interest in assuring that lawyers admitted to practice in the state of Iowa possess the basic knowledge and moral character and fitness necessary to earn the privilege of a law license, it returns the authority to determine an appropriate competency standard to the Iowa Supreme Court, where it belongs.

I confess that I did not eagerly embrace the concept of transitioning to a diploma privilege when the idea was initially proposed. I was admitted to the practice of law in Iowa in 1977. At that time the bar examination consisted of two and a half days of written essay questions covering a broad range of Iowa law. Results were typically delivered within 36 hours after completing the examination and successful examinees were sworn in by the end of the same week. Thereafter, I served as a temporary bar examiner for many years, starting in the late '80s, and have read and graded hundreds of bar exams under both the "old" system and the more recent Multistate Bar Examination/Essay Examination/Performance Test. Suffice it to say, I have committed considerable time and effort over the years to the Iowa bar examination. Change does not come easy and the changes being proposed are significant. However, after reviewing the Committee's report and carefully considering it, I am convinced that the recommendations are well supported and should be adopted.

The examination currently being administered does not test one's knowledge of Iowa law and it is a misnomer to refer to it as the "Iowa bar exam". It does not measure the key attributes critical to assess fitness to practice law: demonstrated understanding and basic mastery of relevant legal concepts and areas of law, judgment and reasoning skills, and the ability to assist and advise clients. A virtual industry has grown around the administration of the bar examination over the years since Iowa adopted the Multistate Bar Exam and its progeny. Yet, rather than streamlining the process and making it more efficient, it has added significant costs

and has further exacerbated the heavy debt load that many law students bear after completing their education by delaying the ability to enter into practice by several months. Given the extraordinarily high pass rates currently enjoyed by Iowa and Drake grads, it is difficult to see how today's bar exam serves as a valid or reliable screening mechanism.

The Committee's proposal provides a meaningful opportunity to change an anachronistic system and do better by our young lawyers and the citizens that Iowa lawyers serve. We are fortunate to have two outstanding law schools in Iowa that have embraced this opportunity and pledged to develop and implement curricula and standards approved by the Iowa Supreme Court that will enhance their students' knowledge of Iowa practice and procedure. The proposal would extend the comprehensive character and fitness screening currently required for admission to practice in Iowa. The companion adoption of the Uniform Bar Exam would provide graduates of out-of-state law schools with a vehicle to secure an Iowa law license, as well as offer a mechanism for graduates of the University of Iowa College of Law and Drake University Law School who may want to seek licensure in another state.

I appreciate the opportunity to provide these comments and respectfully urge the Court to adopt the recommendations of the Committee.

Very truly yours,

Cynthia C. Moser

Bar Admission Process
Gary Dickey
to:
rules.comments@iowacourts.gov
07/13/2014 12:32 PM
Hide Details
From: Gary Dickey <Gary@dickeycampbell.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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JUL 14 2014
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1 Attachment

Bar Admission Process 071314.doc

Attached please find my comments concerning the proposed changes to the bar admissions process.

gdj

Gary Dickey

DICKEY&CAMPBELL
LAW FIRM P.L.C.

Gary Dickey
gary@dickeycampbell.com

Angela Campbell
angela@dickeycampbell.com

FILED
JUL 14 2014
CLERK SUPREME COURT

July 13, 2014

VIA E-MAIL ONLY TO: rules.comments@iowacourts.gov

Iowa Judicial Branch
1111 East Court Avenue
Des Moines, Iowa 50319

Re: In the Matter of Request for Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process.

To whom it may concern:

I write in response to Chief Justice Cady's May 13th Order inviting comments on the proposed rule changes to Iowa's Bar Admission Process. Specifically, I strongly urge the Court to reject the Iowa State Bar Association's ("ISBA") recommendations altogether. As far as I can tell, ISBA offers three reasons for the rules changes:

- Ease the effect of law school debt by allowing earlier entry into the job market for graduates;
- Lowering barriers to underrepresented areas of practice such as rural Iowa and the public sector; and
- Increasing diversity in the bar.

While all three reasons are admirable, none will be served by removal of the bar exam requirement.

Having graduated from Drake University Law School in 2002, I still have *eight years* of monthly payments remaining on my student loans. That is to say, I know firsthand the burdens associated with law school debt. For this reason, I am pleased by the ISBA's interest in the issue of student loan debt. I am equally dismayed, however, by its reluctance to confront the undeniable root of the problem:

the unsustainable rising costs of law school tuition in Iowa.[1] Indeed, to my knowledge, the ISBA has never engaged in any meaningful dialogue with either Drake Law School or the University of Iowa Law School about the soaring cost of tuition.

Most telling, ISBA's recommendations offer *nothing* to lower law school tuition—and correspondingly—law school debt. They simply address the timing of repayment. If that is indeed the genuine concern, which I believe it is not, then several better options exist. For example, it would be simpler to amend Rule 31.8 to allow students graduating in May to sit for the February bar exam. That way, students could use the Winter break to study for the test and eligible to practice immediately upon graduation. Surely, Iowa law schools would be willing to adjust their schedules to accommodate the testing dates. Alternatively, the Court could expand Rule 31.15 to allow recent graduates the privilege to practice law immediately after graduation upon the condition of successfully completing the bar exam within the following year. Either alternative would better respond to ISBA's concerns without dispensing with the bar exam.

As for lowering barriers to underserved areas of the legal market, ISBA's recommendations fall wide of the mark. I am aware of nothing empirically, or anecdotally, that suggests law school debt deters new lawyers from practicing in rural Iowa. The reason I practice in Des Moines is the same vis-à-vis rural Iowa as it is to New York City. That is, Des Moines offers a quality of life for my family that I find more attractive than elsewhere. The amount of law school debt (and certainly the timing of repayment) had no influence on my decision where to live, work, and raise a family. I suspect the same is true for most, if not all, other law school graduates as well.

Similarly, I am not aware of a problem filing public sector positions with new lawyers. In my experience, it is more difficult for a recent graduate to find employment with a government agency (such as the county attorney, public defender's office, or the Iowa Department of Justice) than with a large law firm. To the extent there is a labor shortage for public sector attorneys in Iowa, elimination of the bar examination is hardly the cure.

I am most puzzled by ISBA's last suggestion that diversity will be further served through its recommendations. On the spectrum of reasons that suppress diversity in Iowa's legal practice, the requirement that lawyers must pass the bar exam does

---

[1] By no means is this phenomenon unique to Iowa schools. For example, tuition at Harvard Law School has increased ten-fold in constant, inflation-adjusted dollars. *See* Paul Campos, *Legal Academia and the Blindness of the Elites*, 37 Harv. J. L. & Pub. Pol'y 179, 182 (2012).

not even register. At the most basic level, there must be more diversity in the ranks of law school graduates to translate to more diversity in the bar. ISBA's recommendations do nothing to address this issue.

In the end, I perceive the recommendations as a thinly-veiled attempt to bolster attendance at Iowa's law schools. It is no secret that the University of Iowa Law School's enrollments in recent years have been vastly below desired levels. Likewise, Drake Law School is lowering admission standards simply to maintain an acceptable enrollment level. Undoubtedly, eliminating the bar examination for Iowa law school graduates would make both schools more attractive for students desiring to practice here. If that is the goal, then ISBA should simply say so. We should at least be honest with the public about the reason for the proposed rules changes instead of offering a pretext.

Nonetheless, I would still oppose the changes. The bar examination is a *minimum competency* test. If a person cannot pass the bar examination, then he or she likely is not suited for the practice of law. Not only would ISBA's recommendations put the general public at risk by watering down the quality of attorneys, they would lower the esteem associated with being a member of the Iowa bar. I cannot support either outcome.

I would be happy to visit with your further about this important issue. You can contact me by phone at 515.288.5008 or by email at gary@dickeycampbell.com. Thank you for your attention on this matter.

Sincerely,

/s/ Gar Dickey
Gary Dickey

Bar Admission Process
SBA
to:
rules.comments@iowacourts.gov
07/13/2014 06:05 PM
Hide Details
From: SBA <sba@drake.edu>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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JUL 14 2014
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1 Attachment

Drake Law School SBA Diploma Privilege Letter.docx

Dear Clerk:

Attached please find the Drake Law School Student Bar Association's letter to the Iowa Supreme Court in favor of the diploma privilege. Hard copy to follow.

Regards,

Melanie Thwing
Student Bar Association President
Drake University Law School

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Dear Chief Justice Cady and Honorable Justices of the Iowa Supreme Court:

My name is Melanie Thwing and I am writing on behalf of Drake University Law School Student Bar Association. On March 13, 2014, after great debate and information gathering, the Student Bar Association passed a resolution in favor of implementing the diploma privilege for the State of Iowa.

In coming to this decision, the governing body of Drake Law School looked at four decisive factors: (1) Drake Law School has a history and reputation for graduating students who are well prepared and well qualified for the practice of law; (2) the Drake University Law School Student Bar Association believes that citizens of Iowa seeking legal representation would be better served by attorneys with practical knowledge; (3) the elimination of the bar exam for University of Iowa College of Law and Drake University Law School would reduce the debt level of new attorneys; (4) elimination of the bar exam would both help University of Iowa and Drake University attract students, as well as persuade graduates to stay in the State of Iowa to practice law.

(1) The structure of the bar examination as currently implemented does not prove that an individual is prepared for the practice of law <u>within</u> the State of Iowa. While portions of the commentary note licensing and certification tests for other professions are required, it is important to note the practice of law requires specialization that is not comparable to other fields.

Due to the fact that individual state bar associations have varying requirements, it seems to have a logical basis that tailoring course requirements and enacting stricter testing at the law school level while eliminating the bar examination would provide Iowa citizens with competent attorneys. The bar examination, as currently implemented, tests on restatements and uniformed codes or proposed codes that often times have not only not been effectuated in Iowa but also run contrary to current Iowa law. The standing system of bar examinations does little else than attempt to "fit a square peg in a round hole."

While we recognize that it is necessary for many specialties and professions to have universal testing guidelines, these professions recognize universal techniques for their craft. In the practice of law, while there are certain universal principles, the vast majority of legal study is conditioned upon the jurisdiction in which the lawyer is practicing. As such, a universal examination—while necessary for some professions—is not necessary for attorneys.

Wisconsin has successfully implemented a diploma privilege for three quarters of a century. Wisconsin is cited to this rationale of discontinuing the bar examination for students who graduate from their two state school:

> The privilege was adopted by the legislature 'as an incentive to encourage prospective lawyers to prepare for the profession by a regular course of academic

study at the University of Wisconsin law school rather than by apprenticeship or "reading the law" and then passing a bar examination.'[1]

The Drake University Law School Student Bar Association has been fortunate to have the faculty and staff include us in preparations for the steps which must be taken should the diploma privilege come into effect. When the ISBA issued the recommendation, the administration at Drake immediately began preparations for implementing a plan for current and future students. This plan focuses on teaching students Iowa law, which at this point is not possible due to the structure of the bar examination. It is the Drake University Student Bar Association's belief that members of the community would be better served by attorneys with specific training and knowledge in Iowa law rather than attorneys who now spend invaluable time being instructed on principles of law needed to pass a test, but which are not tailored for practice in the State of Iowa.

(2) Since its founding, the Drake University Law School Legal Clinic has been preparing students for the real world practice of law. Every semester, the Iowa Supreme Court trusts students with real clients, real situations, and real problems. Under the guidance of a supervising attorney from the community, second and third year students gain practical experience through the real world practice of law in Iowa courts.

Students practice in civil, criminal, taxation, transactional, probate, elder, child rights, and juvenile law with the approval of the Iowa Supreme Court. Unlike any other legal clinic in the country, students participate in hearings, plea negotiations, trials, and perhaps most importantly, client communications. This shows the community recognizes the need for practical, real world experience outside of class and exams for exemplary legal services.

Furthermore, this facially indicates students graduating from Drake University Law School possess the ability to adequately represent clients in the State of Iowa, without the need for a bar exam. Citizens of the State of Iowa would be better served if future attorneys were instructed in the practice of law through legal clinic experiences rather than the generalized instruction which accompanies a bar examination.

(3) In Iowa, the bar examination delays qualified attorneys from practicing while incurring large amounts of debt. Since the early 1970s, the cost of legal education has been rising. [2] In 2002, the median cost of law school was $24,920 and 87% of students borrowed money for their legal education.

---

[1] Petition to Amend or Repeal Sup. Ct. R. 40-30 (Sept. 25, 2009) (Ch. 79, Laws of 1870).

[2] ABA Comm'n on Loan Repayment & Forgiveness, *Lifting the Burden: Law Student Debt as a Barrier to Public Service* (2003), *available at* http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/lrapfinalreport.authcheckdam.pdf

As the cost of education rises, students are forced to forego two months of income to study for a bar examination which, again, is not applicable to Iowa law. Generally, students spend three hours in lectures five to six days a week. [3] Outside of this, students spend an additional 7–8 hours a day on assignments and review.[4]

While many of us take for granted daily expenses, these students are faced with the decision on how to pay housing, rent and utilities, medical insurance, tuition costs of the preparatory program, books, and other miscellaneous costs. When a student has loans supplemented by work, this is manageable. When a student must take two months to study for an exam, it is not.

Wells Fargo is only one example of a company that offers bar loans. Students may borrow up to $12,000 with a minimum APR of 7.23% and interest rates starting at 9.07%[5]. In 2002, many law students had over $80,000 borrowed.[6] The Iowa bar examination puts not only educational pressure on students but also monetary pressure.

Even if the Court discounts these two months of preparation for the bar examination, students working after the test but waiting for results find themselves earning a clerk's salary. Historically, when students in Iowa took the bar examination, it was graded within days and graduates knew their fate. Students who took the bar examination on February 25 and 26, 2014 received their results April 18, 2014. [7] This equates into roughly six weeks of salary lost, which prolongs the time to pay loans, requires students to rely on credit cards or relatives to make necessary payments, and plainly, causes students to go even farther into debt. Graduates have already paid three years of tuition while the bar examination spirals into thousands of dollars worth of hidden costs. Graduates being forced to take this examination go farther into debt while not learning practical knowledge of Iowa law.

(4) If Iowa were to abolish the bar examination for students graduating from University of Iowa and Drake University, new attorneys would be more likely to stay in Iowa. Graduates will be better prepared for practice and would have an incentive to practice in the state. The diploma privilege can also boost enrollment for University of Iowa and Drake University.

---

[3] *Iowa Bar Review Course Information*, BARBRI, http://www.barbri.com/courseInfo/barReviewCourse.html?selectedState=IA (last visited June 13, 2014).
[4] *Id.*
[5] *Wells Fargo Bar Exam Loan*, WELLS FARGO, https://www.wellsfargo.com/student/graduate-loans/bar-exam/ (last visited June 13, 2014).
[6] *Iowa Bar Review Course Information*, BARBRI, http://www.barbri.com/courseInfo/barReviewCourse.html?selectedState=IA (last visited June 13, 2014).
[7] *Bar Exam Announcements*, IOWA JUDICIAL BRANCH (April 18, 2014), http://www.iowacourts.gov/For_Attorneys/Bar_Information__Admissions/Bar_Exam_Announcements/

Elimination of the bar examination may serve as the deciding factor for students making the choice between an Iowa school and an out of state school. Certainly there are students who live in Council Bluffs who choose to attend a Nebraska law school because of cost. These students know they will have to take a bar examination to practice in either state, so attending one of these schools is a logical choice. However, with a diploma privilege in place, students will be drawn to Iowa schools, therefore helping to boost enrollment and qualified attorneys entering the legal market.

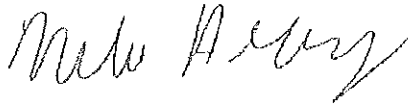
The current system of bar examinations allows students to test in any state. If students from Iowa schools can start practicing immediately, it will deter students from seeking jobs outside of Iowa. Graduates are less likely to spend thousands of dollars on a bar examination if they can start practicing directly after graduation.

Graduates will have the ability to start building their career and clientele immediately. This will also deter graduates from leaving the state. Due to lower costs, graduates may be more willing to expand their job search outside of the Des Moines or Iowa City metro to surrounding rural counties, thus bolstering a struggling legal community in certain areas.

In today's legal economy, graduates will make the decision to practice based on the most financially responsible option available. Gradates who are required to take a bar examination are just, if not more, likely to take a job in Texas as they are to take a job in Albia, Iowa. For these reasons the bar examination as implemented in Iowa does not offer any incentives for graduates to stay in the state.

Guy Cook, President of the Iowa State Bar Association has been quoted as saying the following: "It's nothing more than a final hazing that tests students on esoteric material they will probably never use . . . It doesn't test students on Iowa law, and leaves students who have already spent three years in law school in limbo." For the reasons laid out in this recommendation, the Student Bar Association of the Drake University Law School agrees with Mr. Cook and is in favor of eliminating the bar examination.

Thank you for your consideration,



Melanie Thwing
Student Bar Association President
Drake University Law School

Bar Admission Process
Fitchett, Rhonda to: rules.comments 07/13/2014 08:39 PM

1 attachment

RESOLUTION of the WEBSTER COUNTY BAR ASSOCIATION.docx

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Rhonda Fitchett, JD, MBA, CFP®
AXA Advisors, LLC
900 Central Ave, Ste 23
Fort Dodge, Iowa 50501
515-576-6841
Fax 515-576-5382
Cell 515-571-5723
email: rhonda.fitchett@axa-advisors.com

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RESOLUTION of the WEBSTER COUNTY BAR ASSOCIATION

NOW on this 11th day of July, 2014, the Webster County Bar Association at its regularly-scheduled meeting adopted the following resolution.

BE IT RESOLVED that the Webster County Bar Association opposes the Blue Ribbon Committee's recommendation to eliminate the Bar exam for University of Iowa Law School and Drake Law School Graduates in favor of a "diploma privilege" process of Bar admission.

IT IS FURTHER RESOLVED that the Webster County Bar Association supports the continued study of alternate testing to eliminate the delay in time between taking the Bar exam and entering the practice of law.

Respectfully submitted,

WEBSTER COUNTY BAR ASSOCIATION
By: Rhonda Fitchett, Secretary

Bar Admission Process
Greenwood, James
to:
'rules.comments@iowacourts.gov'
07/14/2014 07:21 AM
Hide Details
From: "Greenwood, James" <jgreenwood@ftc.gov>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

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1 Attachment

Greenwood Bar Admissions Process Comment.rtf

To: Iowa Supreme Court
From: James Greenwood
RE: Bar Admissions Process
Date: July 14, 2014

Executive Summary

I favor a move away from the current bar exam system. However, I find the unaltered acceptance of the Blue Ribbon Committee proposals problematic. The court should adopt the proposals but make modifications to more closely monitor Iowa's two law schools and provide clarity on the desired breadth of coursework required of graduates to minimize risks associated with over-specialization. These proposals would limit downside risks identified by other commenters and would better provide for protection for the rights of Iowa's citizens for decades to come.

The Blue Ribbon committee of the Iowa State Bar Association recently provided proposals for changes to the Iowa bar exam requirements. The first proposal was the adoption of diploma privilege for graduates of Iowa's two law schools. The second proposal was that Iowa shift to a Uniform Bar Exam.

The first proposal requires modification to insure that there is more control by the Iowa Supreme Court. First, the Court should better control the curriculum requirements broadening the basic knowledge requirements beyond those specified in the current proposal perhaps identifying specific coursework that the Court views as critical. Second, the court should adopt the Committee's proposals for character and fitness checks. Third, the court should closely monitor the legal education programs in the state to insure maintenance of the current high standards. These modifications will make the proposal more robust and better serve Iowa citizens.

The second proposal, the adoption of the Uniform Bar Examination, should be

adopted in full. This proposal will improve greatly the utility delivered by Iowa's law schools as the graduates from these schools will be able to better utilize their legal education across state lines. In the alternative, the court should offer an Iowa specific bar exam to rectify the major issues associated with the four or five month delay from graduation to practice that law graduates currently experience.

Please find attached an outline and discussion of a few of the comments as well as a proposal with regarding some of the most prominent comments. Thank you for your time and consideration regarding this matter.

Sincerely,

James Greenwood
JD/MBA Candidate 2015
Drake University Law School

This e-mail reflects only my personal views and in no way reflects the views of the U.S. Government or the Federal Trade Commission.

Correspondence from Harlan Bud Hockenberg
Natalie Smith
to:
rules.comments@iowacourts.gov
07/14/2014 08:16 AM
Cc:
Bud Hockenberg
Hide Details
From: Natalie Smith <NatalieS@csmclaw.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

Cc: Bud Hockenberg <HdHockenberg@csmclaw.com>

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JUL 14 2014
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1 Attachment

20140714070637.pdf

Sir/Madame:

Attached please find correspondence from Mr. Hockenberg.

Thank you.

Natalie J. Smith
Coppola, McConville, Coppola
Carroll, Hockenberg & Scalise, P.C.
2100 Westown Parkway, Ste. 210
West Des Moines, Iowa 50265
Telephone: 515-453-1055
Facsimile: 515-453-1059
Natalies@csmclaw.com
www.csmclaw.com

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of
COPPOLA, McCONVILLE, COPPOLA, CARROLL, HOCKENBERG & SCALISE, P.C.
A PROFESSIONAL CORPORATION
2100 WESTOWN PARKWAY, SUITE 210
WEST DES MOINES, IOWA 50265

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CHARLES A. COPPOLA
RICHARD O. MCCONVILLE
CHRISTOPHER B. COPPOLA
MICHAEL J. CARROLL
HARLAN D. HOCKENBERG
LAWRENCE F. SCALISE

TELEPHONE: (515) 453-1055
FACSIMILE: (515) 453-1059

JOHN R. SANDRIE
(1947-2006)

Writer's Email Address:
hdhockenberg@csmclaw.com

July 14, 2014

Dear Members of the Iowa Supreme Court:

As I participate in my 61st year of law practice in the State of Iowa I am encouraged by the leadership of the two resident law school deans, the Iowa State Bar Blue Ribbon Committee and the Board of Governors of the Iowa State Bar Association in advancing the proposal to improve the process for licensing of attorneys in Iowa.

This proposal will provide more testing by those students at Drake University and the University of Iowa on Iowa subjects and clearly exists with the current exam as well as the former test which graded solely on Iowa practice over a three-year period.

I urge the adoption of this proposal and recognize the significant improvement in protection for the public by assuring that Iowa Practitioners are proficient skilled and effective in knowledge of the Iowa Law.

Respectfully Submitted,
COPPOLA, McCONVILLE, COPPOLA, CARROLL, HOCKENBERG & SCALISE, P.C.

Harlan (Bud) Hockenberg
Harlan D. Hockenberg
Attorney at Law

HDH/njs

Bar Admission Process
Lande, John E.
to:
'rules.comments@iowacourts.gov'
07/14/2014 08:20 AM
Hide Details
From: "Lande, John E." <jlande@dickinsonlaw.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

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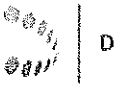
2 Attachments

Comment on Diploma Privilege Proposal.docx (00445439xB8DF0).docx

Please find attached my comments.

John E. Lande



DICKINSONLAW

Dickinson, Mackaman, Tyler & Hagen, P.C.
699 Walnut Street, Suite 1600
Des Moines, Iowa 50309-3986
Direct:(515)246-4509
Fax: (515)246-4550

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Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA, 50319

FILED
JUL 14 2014
CLERK SUPREME COURT

Re: Diploma Privilege

Iowa Supreme Court:

I am a 2011 graduate of the University of Iowa College of Law. I sat for the Iowa Bar Exam in the summer of 2011, and was sworn in as an Iowa attorney in the fall of 2011. I currently practice law as an associate attorney at Dickinson, Mackaman, Tyler, & Hagen, PC, in Des Moines. As a recent graduate, I believe I am able to provide a helpful perspective on the current state of the Iowa Bar Exam and the diploma privilege proposal now under consideration.

As the Supreme Court considers revising the licensure requirements for lawyers, I believe it is important to a have a clear idea of licensure's purpose. In my view, the purpose of licensure is to ensure that Iowa has competent, professional attorneys who are capable of advising clients on the implications of Iowa law.

I believe the Supreme Court should not lose sight of the fact that the current licensure requirements could do a better job of serving that purpose. The current multi-state bar exam does little more than compel students to cram information for two and a half months. The information is not retained for long, and it is of little use in any event to new practitioners since it is not always an accurate characterization of Iowa law.

The basic skills course does little to remedy this deficit. There is little benefit derived from a CLE-style avalanche of Iowa law over the course of two days. Dumping information on new practitioners does not prepare them to help clients understand Iowa law's requirements.

As it considers the diploma privilege proposal, the Iowa Supreme Court should consider ways to give new practitioners the tools they need to practice in Iowa. The current bar exam and basic skills course do not do an adequate job. Whether the Iowa Supreme Court ultimately decides to institute the diploma privilege, it should make sure that new practitioners are given a thorough introduction to Iowa law.

Thank you for your consideration,

John E. Lande

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JUL 14 2014
CLERK SUPREME COURT

Bar Admission Process
Dwight James to: rules.comments 07/14/2014 09:28 AM

Members of the Supreme Court:
I wish to express my opinion that the Bar Examination remains a valid qualifier for admission to the bar of the state of Iowa. It requires one to focus on all that was learned in law school. There is no other time in the training of a lawyer that all of the knowledge comes together in preparation for entry into the practice of law. For those who are going to enter into the practice before the courts of Iowa this is a necessary test of knowledge and important right of passage. I encourage you to reject the new rules. While I understand that you want this on Microsoft Word, I don't know how to do that, so if this isn't read, I a sure others have expressed my concerns.

Dwight James
Member of the Bar of the State of Iowa
dwightjames1@me.com

Bar Admission Process
Bruce Toenjes to: rules.comments
Cc: Bruce Toenjes

FILED
JUL 14 2014
CLERK SUPREME COURT

07/14/2014 09:52 AM

1 attachment

Bar Admission Comment.doc

Attached is my comment to the ISBA recommendations regarding diploma privileges and the UBE.

--
Bruce J. Toenjes
Nelson & Toenjes
PO Box 230
Shell Rock, IA 50670
319-885-4346

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JUL 14 2014
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COMMENT ON THE BAR ADMISSION PROCESS
July 14, 2014

I am submitting the following comment in response to the Order filed May 13, 2014, soliciting public comment on the ISBA recommendations to remove the requirement to pass the Iowa bar exam and instead adopt a diploma privilege, and to adopt the UBE for applicants who would not qualify under the diploma privilege.

I have a general practice in a small town. I am a member of the Board of Governors of the Iowa Bar Association representing District 2A. I have graded the bar exam since 2009.

The response that I have received from members of the bar regarding the proposal of the ISBA's "Blue Ribbon Committee" and the approval of the Blue Ribbon Committee's report by the ISBA's Board of Governors ("BOG") has been uniformly negative. Furthermore, this proposal has been the subject of substantially more comment to me from the members of the bar in 2A than any other issue during my term as a member of the Board of Governors, which began in 2011.

It is troubling to me that the Blue Ribbon Committee's report has been represented as being unanimously approved by the BOG. I made my dissent known to the President prior to the meeting. I expressed my concerns that the Blue Ribbon Committee did not consult the members of the board of law examiners, and that the membership of the Blue Ribbon Committee did not include any current members of the board of law examiners, nor was it representative of practicing attorneys with recent experience in grading the bar exam. I was unable to attend the BOG meeting when the report was considered. I asked to participate in the BOG's deliberations and vote by telephone. When the matter was reached on the agenda, I was not contacted by

telephone to participate in the deliberations or the vote. I am informed that my concerns were not communicated to the members of the BOG before the vote. The result was approval of the report. The approval was unanimous of those voting; there was at least one abstention from a Governor who felt inadequately informed, and the remaining members of the BOG were, in my opinion, not fully informed.

Several factors have made it difficult for me to explain the rationale for the creation of the Blue Ribbon Committee or its recommendations to the members in my district. These include that the Committee was created and tasked without the approval of the BOG; there was little opportunity for input from the Bar membership to comment before the report was submitted to the BOG for approval; the member of the Blue Ribbon Committee from our district had no particular experience with the bar exam, grading, or licensing, other than his personal experience years earlier in taking the exam; and there was a perception that the chair of the Committee was opposed to the current system of examination and licensing.

Similarly, I have received a number of comments from clients and the public regarding the proposal to adopt diploma privileges, all negative.

The concerns that have been expressed to me by attorneys in 2A, clients, and the public are concerns that I share. They include those listed above, and the following.

- While the passage rate for in-state law school graduates may be high, there is a concern that those who do not now pass would be allowed to practice under the proposal. In my experience, those who have not achieved passing scores on the essay questions that I have graded probably should not be practicing law. If anything, it is too easy to obtain a passing score on the essay portion of the exam.

- The law schools are perceived to have a conflict of interest in considering and recommending the diploma privilege.
- There is a sense that the proposal is unfair to law students from western Iowa who would attend Creighton, and non-traditional students who attend Hamline's weekend program.
- One of the defining points of a profession is that a profession has an entrance examination, confirming that the applicant has obtained and can apply the knowledge necessary to practice in the profession. Elimination of the exam is inconsistent with the practice of law as a profession.
- If cost to the applicants from the delay in obtaining the results is truly a problem, Iowa could return to the system of Iowa-specific questions and local and immediate grading. The concerns about the financial burden of delay in obtaining the results of the bar exam are overstated. Almost all but solo practitioners are able to work for their ultimate employers in the interim between the exam and the results, even if they are not able to practice law. There is a perception that other alternatives to reducing the cost or burden were not considered.
- If reducing any barrier to new attorneys entering rural practice imposed by the current examination system was a purpose of the Blue Ribbon Committee, then the Rural Practice Committee of the Iowa State Bar Association should have been represented on the Blue Ribbon Committee or consulted by the Blue Ribbon Committee. There is a perception that other alternatives to reducing the barriers to rural practice were not considered.
- Our profession has a problem with how we are perceived by the public. Adopting

diploma privilege is counterproductive to our efforts to maintain and improve the perception of our profession.

- The ABA does not support diploma privileges.

I have received far fewer negative comments about moving toward the UBE than adopting the diploma privilege, although I share the concern expressed to me that the pool of states using the UBE and providing reciprocity is not sufficiently large, nor are they states that will provide significant advantage to Iowa lawyers seeking reciprocity. The advantage of recirocity will obtained only if subtantially more and larger states adopt the UBE.

I believe that the proposal to adopt diploma privileges raises sufficient concerns that the proposal should not be adopted at this time. If any reform is made at this time, it should be to move to the UBE. Other measures should be considered to reduce financial burdens or barriers imposed by the current examination system. The perceived problems with the process leading to the recommendation have only amplified the substantive concerns with adopting a diploma privilege. For these reasons, the recommendation to adopt diploma privileges should not be adopted in its current form at this time.

Bruce J. Toenjes
PO Box 230
Shell Rock, Iowa 50670
319-885-4346

Bar Admission Process
Daniel Anderson
to:
rules.comments@iowacourts.gov
07/14/2014 10:00 AM
Hide Details
From: Daniel Anderson <DAnderson@wertzlaw.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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JUL 14 2014
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1 Attachment

Iowa Bar Exam.docx

Daniel J. Anderson
Attorney at Law
Wertz & Dake
1500 Center Street NE
P.O. Box 849
Cedar Rapids, IA 52406-0849
Telephone: 319/861-3001
Toll Free: 888/860-6060
Fax: 319/861-3007
danderson@wertzlaw.com

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July 14, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: *Bar Admission Process*

To the Honorable Chief Justice and Justices of the Supreme Court of Iowa:

I am writing to express my concern regarding the proposed "diploma privilege" modification to the requirements for admission to the Iowa Bar. I am a 2006 Drake University Law School graduate and have been practicing law in Iowa since that time.

Despite its best intentions, I believe the proposed modifications will have a net detriment on the legal profession in Iowa, the current members of the Bar, and possible future members. Although certainly imperfect, the bar exam I took in the summer of 2006 incorporated the multi-state multiple choice exam and Iowa specific essays. The existence of that kind of exam served two essential functions: it narrowed the field of those qualified to practice law in the State of Iowa, and required potential members to actually study, understand, and demonstrate proficiency in Iowa law. My concerns about "diploma privilege" will be addressed more fully below, but the deficiencies in the present bar exam's failure to test proficiency in Iowa law should also be considered by the Supreme Court when considering any rule modification.

As I understand it, the present admission process does not test on Iowa law in any way. After passing the bar exam, new admittees are required to attend an eight-hour CLE which provides a short, generalized overview of several areas of Iowa law. CLE attendees are not tested on the presented materials and in theory become proficient in Iowa law based upon this one-day seminar. Without testing, there is no accountability and little incentive to actually learn the information presented. Regardless of whether this CLE provides any benefit, these new lawyers are then cleared to represent Iowa citizens in legal matters and become ambassadors of the Iowa Bar to the general public.

The fundamental problem with the trend in modification of the bar exam is that we are becoming less discerning and less rigorous when we should be doing the opposite. There is no shortage of lawyers in Iowa. When I graduated in 2006, many of my classmates (including many who had passed the bar exam) were unable to locate jobs in the legal profession. This scarcity of jobs continues today, and I know several bar admittees who have been forced to take non-lawyer or even non-legal jobs despite a strong desire to practice law in Iowa.

Thomas M. Wertz Matthew D. Dake Daniel J. Anderson

1500 Center Street NE | P.O. Box 849 | Cedar Rapids, IA 52406-0849
Phone: 319.861.3001 | Toll Free: 888.860.6060 | Fax: 319.861.3007 | www.wertzlaw.com

We likely have all heard stories from the general public about bad experiences with ignorant or otherwise less-than-competent attorneys. There should be little doubt that at least some of these complaints have merit. We are at a unique juncture in the economy of our profession. We have the opportunity to raise the quality and proficiency of future lawyers in Iowa, without negatively impacting access to representation. The goal should be access to *quality* representation, which cannot be accomplished by watering down standards or giving a "free pass" to those who pay tuition to Iowa law schools. When I chose to attend law school in Iowa, I had also been admitted to schools in Wisconsin which promoted their bar exam waiver program. However, I chose an Iowa law school because I wanted to practice in Iowa. Those who might be deterred from attending law school in Iowa or from practicing in Iowa because of a rigorous bar exam and admission process may not be the kind of individuals we wish to attract and keep. The better practice is to build a superior bar in Iowa by raising admission standards, resulting in better representation, a more efficient judicial system, and an improved reputation with the general public.

With this opportunity, I encourage the Supreme Court strengthen admission requirements, not waive them. Those who seek the privilege of representing Iowans in Iowa Courts should be rigorously tested on Iowa law. Minimum competency (or a willingness to take certain classes at an Iowa law school) should not be the standard for our profession. Instead, we should use this unique opportunity to demand higher skills and abilities of those who seek to practice law in Iowa. Thank you for your willingness to accept and consider public comment on this critical issue.

Sincerely,

Daniel J. Anderson
Attorney at Law
danderson@wertzlaw.com

Bar Admission Process
George Jones
to:
rules.comments@iowacourts.gov
07/14/2014 10:02 AM
Hide Details
From: George Jones <lamonilawyer@hotmail.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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JUL 14 2014
CLERK SUPREME COURT

1 Attachment

Comment on Proposed.docx

See attached word document for my comments.

George B. Jones, Attorney at Law
Lamoni Office: 117 S. Linden Street, P.O. Box 36, Lamoni, IA 50140
Tel: 641-784-6970 Fax: 641-784-6969 Se habla Español

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Comment on Proposed "diploma privilege"

Date: July 14, 2014

From: George B. Jones, Iowa Attorney, Lamoni, Iowa

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During my career, I have practiced actively in four states: Colorado, Alabama, Florida, and Iowa. In 1987, and again in 2001, I relocated my law practice to another state. Because I was a young lawyer without the number of years to gain admission by reciprocity, I took three bar exams in my first two years out of law school: Colorado, Alabama, and Florida. When I moved to Iowa in 2001 I was able to gain admission by motion based on reciprocity. This privilege made a cross country move with my family much less stressful.

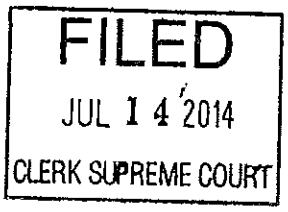
I know that each state has its own rules about reciprocity. My concern with the proposed "diploma privilege" is its potential to "water down" the reciprocity rights of Iowa lawyers, potentially making it more difficult to move their practices from Iowa to other states.

Has anyone done the research/investigation to determine whether the adoption of a process whereby some Iowa lawyers are admitted without ever having passed a bar exam would lead to the exclusion of Iowa lawyers from eligibility for reciprocity with other states? I would hope this concern would be addressed before a decision is made.

George B. Jones

Attached please find my letter regarding the proposed adoption of the diploma privilege rule.

Thank you,
Lora McCollom



Lora L. McCollom
McCollom Law Firm, PLLC
4401 Westown Parkway, Suite 208
West Des Moines, IA 50266
T. 515-974-6500
F. 855-974-6500
E. lora@mccollomlawiowa.com
Fellow of the American Academy of Matrimonial Lawyers

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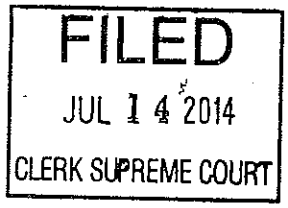
McCollom Law Firm, PLLC

4401 Westown Parkway, Suite 208
West Des Moines, IA 50266
T: 515.974.6500 | F: 855.974.6500

*Lora L. McCollom
lora@mccollomlawiowa.com
www.mccollomlawiowa.com



July 14, 2014

The Honorable Mark S. Cady
Chief Justice, Iowa Supreme Court
1111 Court Avenue
Des Moines, IA 50319

RE: Diploma Privilege Proposal

Dear Chief Justice Cady and Justices of the Iowa Supreme Court:

Thank you for the opportunity to comment regarding the proposal pending before the Court regarding the diploma privilege. I am writing to express my heartfelt and vehement opposition to this proposal. As you know, I have served as a member of the Board of Law Examiners since June 2009 ("the Board"). Prior to my appointment to the Board, I served as Temporary Bar Examiner and graded the essay questions on the exam for approximately fourteen years. The comments herein are mine, and I certainly do not purport to write on behalf of the entire Board. I do, however, believe that my experience on the Board provides me with the background necessary to comment on this important issue.

As you know, Iowa adopted the bar exam decades ago. For many years, the format of the exam consisted solely of essay questions based upon Iowa law. In the early 1990s, the Supreme Court added the Multistate Professional Responsibility Exam (MPRE) to the bar exam and applicants were required to pass that exam in addition to the essay exam on Iowa law. Starting with the February 1997 exam, the Supreme Court included the Multistate Bar Exam (MBE), which consists of 200 multiple-choice questions, and the Multistate Performance Test (MPT), which consists of two essay questions, in addition to the MPRE. The Court also changed the essay portion of the exam to include six essay questions on Iowa law. In 2009, the Supreme Court adopted the Multistate Essay Exam (MEE), which consists of six essay questions, in addition to the MPRE, the MBE, and the MPT. The MEE questions replaced the essay questions based upon Iowa law. The 2009 updates to the bar exam remain in place at this time. *See* Iowa Ct. R. 31.3.

*Fellow of the American Academy of Matrimonial Lawyers

In 2011, the American Bar Association, the National Conference of Bar Examiners, and the Association of American Law Schools updated the Code of Recommended Standards for Bar Examiners. Although the Code is not mandatory, the recommended standards represent the results of over fifty years of experience and study and provide guidance and assistance to bar examiners across the country. Section IV, paragraph 16 of the Code of Recommended Standards addresses written examinations:

> 16. *Necessity of Written Examination.* A person who is not a member of the bar of another jurisdiction of the United States should not be admitted to practice unless the person has passed a written bar examination administered under terms and conditions equivalent to those applicable to all other applicants for admission to practice.....

The goal of the bar exam is to assess minimum competence for the practice of law in the State of Iowa. The goal of the bar exam is *not* to require "functional mastery" of various subject matter, nor is the goal to provide examines with an experience akin to "hazing." Rather, the exam tests for broad knowledge of legal principles in specific areas of law, as set forth in Iowa Ct. R. 31.3(b). Many of these principles, as my colleague Dick Lyford noted, are uniform principles and are consistent with the laws of the State of Iowa.

Admittedly, there are some benefits to a diploma privilege. There are no costs for bar preparation, graduates are admitted faster, and graduates alleviate the stress of bar examination preparation. It is true that both Drake and Iowa have high pass rates for those who take the test the first time. However, these benefits do not come close to outweighing the detrimental impact of a diploma privilege. I have outlined some of the detriments of the diploma privilege below.

1. Delegation of Authority. The Iowa Supreme Court has governed the admission process for Iowa lawyers for decades. Although there is some delegation with regard to character and fitness investigations, the Court retains the ultimate authority to determine whether an applicant may sit for the bar or be admitted to the bar. (See Iowa Ct. R. 31.2(c) which states, "The Supreme Court shall make the final determination as to those persons who shall be admitted to practice in this State.") Although implementation of the diploma privilege would retain the character and fitness portion of the admission process, it would divest the Court of any objective method for screening applicants who are admitted to, and graduate from, accredited law schools in Iowa.

2. Anonymous and Merit-Based. As you know, the bar exam is graded anonymously pursuant to Iowa Ct. R. 31.10. Law school exams are not. Even though a large percentage of the applicants do pass the first time they take the exam, they are required to summon their legal knowledge and prove through comprehensive testing (in three formats) that they are minimally competent. Without the bar exam, there is no way to assess minimum competence; quite simply, a graduate could barely survive law school but become a lawyer simply by virtue of graduation from an Iowa law school.

Although merit is certainly an admission consideration, law schools do not base their admission decisions on merit alone. They may admit whomever they choose, for what ever reason they choose. Diversity and financial considerations may be admission considerations for law schools, among other non-merit based criteria (for example, Drake may giver preferential admission to Drake undergraduates). Although the law schools are free to populate their classes in any manner they choose, the Supreme Court should retain the authority to determine who does and does not practice law in Iowa.

3. Minimum Competence. The bar exam screens out, on an anonymous basis, applicants who cannot demonstrate minimum competence. In my years on the Board, I can assure you that there are graduates of both Drake and Iowa who have taken and failed the bar exam more than twice, more than five times, and more than seven times. I believe that you have also been provided with the data from the July 2013 exam which shows that several in-state graduates, including first-time takers, scored more than thirty-five (35) scaled points *below* our pass rate of 266 points. Allowing these folks to automatically become lawyers, just because they graduated from Iowa law schools, does not protect the public.

4. Due Process. *Wiesmueller v. Kosobucki*, 571 F.3d 699 (7th Cir, 2009), the Wisconsin case in which the plaintiff class challenged the diploma privilege pursuant to the dormant commerce clause, provides little guidance as to whether the diploma privilege could survive a due process challenge. The Seventh Circuit addressed the case in an "evidentiary vacuum" crated by a prematurely-granted motion to dismiss. *Id.* at 704. The Court's opinion was limited to the finding that the plaintiffs were denied the opportunity to try to present their case. *Id.* at 707.

Although I certainly do not profess to be a constitutional scholar, I respectfully submit that the diploma privilege does not treat all law school graduates equally, nor does it treat all Iowa residents equally. As such, it would be subject to challenge through the due process clauses of both the United States Constitution and the Iowa Constitution, as follows:

a. The diploma privilege discriminates against graduates of other accredited law schools that are not located in Iowa but who want to be admitted to practice in Iowa (for example, Creighton Law School graduates) - because only graduates of Iowa law schools would be admitted without taking the bar exam.

b. The diploma privilege discriminates against Iowa residents who attend law school somewhere other than Drake or Iowa, even though they plan to return to Iowa to practice. It is unfair to those Iowa residents to be treated differently than both Iowa and non-Iowa residents who are in the State only for the purpose of attending law school.

5. Licensure Examinations. Elimination of the bar exam would seriously undermine public confidence in the profession and the legal system. Virtually all professions require applicants to pass comprehensive examinations before becoming licensed, including but not limited to doctors, nurses, physical therapists, occupational therapists, psychologists, social workers, accountants, architects, and the list goes on. I don't mean to make light of this situation, but the State of Iowa requires the folks who sell our real estate, who cut our hair, and who manicure our nails to pass a test before obtaining their licenses. Why would we *not* require lawyers – who represent clients in life-changing matters and who may someday become judges themselves – to pass a test before obtaining their license?

The diploma privilege will not cure the issues of high debt and lack of employment opportunities for graduates. Additionally, it would not encourage lawyers to practice in the rural areas of Iowa. Moving the bar exam to a time frame closer to graduation would help ease some of the financial burden that accompanies studying for the bar exam, and should the National Conference of Bar Examiners revise its administration schedule for the bar exam, I would encourage the Court to amend Iowa Ct. R. 31.3(a) accordingly.

I respectfully submit that it is not the Court's responsibility to create a marketing strategy for Iowa law schools by allowing diploma privilege. Just as we, as Iowa lawyers, have continued to support and defend the merit selection process for our Judges, we should now support and defend the merit selection process for Iowa lawyers....and that begins with the bar exam.

Thank you again for the opportunity to provide comments on this very important topic.

Very truly yours,

Lora L. McCollom

LLM/lm

Bar Admission Process
Hughes, Emily A
to:
rules.comments@iowacourts.gov
07/14/2014 12:19 PM
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From: "Hughes, Emily A" <emily-hughes@uiowa.edu>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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JUL 14 2014
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1 Attachment

Hughes.PublicComment.docx

Clerk of the Supreme Court
Judicial Branch Building
111 East Court Avenue
Des Moines, Iowa 50319

Dear Clerk of the Supreme Court:

Please find attached to this email my comments regarding the Iowa State Bar Association's Blue Ribbon Committee on Legal Education and Licensure. According to the directions in the Iowa Supreme Court's Order (In the Matter of the Request for Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process), I am submitting my comments as an attachment in Microsoft Word Format.

Thank you for your time.

Emily Hughes

Boyd Law Building
130 Byington Road
Iowa City, Iowa 52252

Emily Hughes
Boyd Law Building
130 Byington Road
Iowa City, Iowa 52242
July 14, 2014

FILED
JUL 14 2014
CLERK SUPREME COURT

Dear Honorable Justices of the Iowa Supreme Court:

I am writing in strong support of the four recommendations proposed in the Report by the Blue Ribbon Committee on Legal Education and Licensure. I write this letter as an Iowa lawyer who became a member of the Iowa Bar through the 1997 Iowa Bar examination. While I am also a professor at the University of Iowa College of Law, the views I express in this letter are my own. I do not speak for either the University of Iowa or the University of Iowa College of Law.

As a lawyer and a teacher, I support the Blue Ribbon Committee's recommendations for many reasons. I highlight three reasons in particular: (1) The proposed changes are more rigorous and pedagogically sound than the current system; (2) The proposed changes establish a strong collaboration between the Iowa law schools and the Supreme Court to train and test Iowa lawyers in their competency to practice law; and (3) The proposal to adopt the Uniform Bar Exam for Admission Upon Examination is a logical improvement over the current system.

(1) The proposed changes are more rigorous and pedagogically sound than the current system.

When people first hear about the diploma privilege recommendation, some people's initial reaction is to worry that a diploma privilege would negatively impact the high quality of practice among Iowa lawyers. I believe the proposed recommendations would actually strengthen the process of becoming an Iowa lawyer and would help retain the high caliber of practice and professionalism we all cherish in Iowa lawyers.

Last week I had lunch with some of our recent graduates who have been studying for the Iowa Bar examination this summer. I asked them whether any of their Iowa bar exam lectures had been given by a person standing before them in the classroom. They told me they have been watching nothing but taped lectures on a videoscreen. They had not experienced a single "live" lecture. Everything we know about adult learning theory tells us that this is not the best way for people to learn.

The Blue Ribbon Committee's proposed changes are a significant improvement over the current system. As it stands now, many students do not take some of the basic courses tested on the Iowa Bar exam. They cram for those subjects after watching a few hours of a taped lecture. Learning about subjects from a live person who is interacting with students over the course of a semester is a significant improvement over the current system. Because the proposal requires students to satisfactorily complete at least 60 semester hours by choosing from an array of subjects that students might not otherwise take—including such courses as taxation, trusts and estates, or labor and employment law—the 60-hour requirement will result in a deeper understanding of subjects than students would have had if they had just crammed for those subjects after a few hours of videotaped lectures. In addition, my understanding is that subjects like taxation and labor and employment law are not tested by the current Bar exam, so by requiring students to take 60 semester hours from courses in a variety of fields, the proposal may encourage students to take a wider array of courses than they would have otherwise taken.

I also support the Blue Ribbon Committee's proposals regarding revisions in the Iowa Basic Skills course. A 2-semester hour course in Iowa practice and procedure would be an improvement because it would engage students in Iowa practice and procedure in more depth and with more rigor than the current Iowa Basic Skills course has the capacity to do, and which the current Iowa Bar exam does not do at all. I also support the Committee's recommendation to investigate other ways to provide alternatives to the Iowa Basic Skills course than currently exist.

(2) **The proposed changes establish a strong collaboration between Iowa law schools and the judiciary to train and test Iowa lawyers in their competence to practice law.**

As a person who teaches in one of Iowa's law schools, I am especially interested in working with the judiciary to develop more pedagogically sound ways to ensure that lawyers practicing in Iowa have a solid grounding in basic Iowa procedure and skills before they begin practicing. I would be thrilled to teach such a course, as well as to integrate aspects of Iowa procedure and skills into my existing courses.

To be sure, the learning curve continues to be steep after graduation, and a 2-semester hour course would not alleviate the steep learning curve that will exist when new lawyers first start practicing law. I welcome the ongoing collaboration between the judiciary and the law schools that the proposed changes suggest. I would anticipate that professors from Iowa's law schools who teach such courses would meet regularly with members of the judiciary to evaluate how theiprocess is working and what improvements could be made. I see the Blue Ribbon's recommendations as a first step that would continue to be honed and improved over time. I would look forward to being part of this thoughtful and collaborative process.

(3) **The proposal to adopt the Uniform Bar Exam for Admission Upon Examination is a logical improvement.**

When I took the Iowa Bar exam in 1997, we studied for Iowa specific essays, we took multiple choice questions testing multistate material, and we wrote essays for the multistate performance test. Because the exam that is currently administered in Iowa has already done away with the Iowa specific essays, I see no reason why Iowa should not adopt the Uniform Bar Exam.

According to information available through the website for the UBE, fourteen jurisdictions have already adopted the UBE. This includes our Eighth Circuit sister states of Minnesota, Missouri, Nebraska, and North Dakota, and our neighboring state of Colorado. Because many of our sister and neighboring states give the UBE, because our current exam is not very different from the UBE, and because the UBE exam is very portable for Iowa lawyers who wish to become members of the Bar in other states (including our neighboring states), I support adopting the UBE in the state of Iowa.

* * *

Thank you for your time considering all of the public comments you are receiving. I appreciate the care with which the Court is approaching this important question.

Truly,

Emily Hughes

Bar Admission Process
Angela Campbell
to:
'rules.comments@iowacourts.gov'
07/14/2014 12:20 PM
Hide Details
From: Angela Campbell <Angela@dickeycampbell.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

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1 Attachment

Bar Admission Process 071414.doc

See attached,

Angela L. Campbell
DICKEY & CAMPBELL LAW FIRM, P.L.C.
301 East Walnut, Suite 1
Des Moines, Iowa 50309
Phone: 515-288-5008
Fax: 515-288-5010
www.dickeycampbell.com

DICKEY&CAMPBELL
LAW FIRM P.L.C.

Gary Dickey
gary@dickeycampbell.com

Angela Campbell
angela@dickeycampbell.com

FILED
JUL 14 2014
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July 14, 2014

VIA E-MAIL ONLY TO: rules.comments@iowacourts.gov

Iowa Judicial Branch
1111 East Court Avenue
Des Moines, Iowa 50319

Re: Bar Admission Process

To whom it may concern:

I write in response to Chief Justice Cady's May 13th Order inviting comments on the proposed rule changes to Iowa's Bar Admission Process. I am strongly opposed to the proposed rule change. I know that several of my colleagues have offered severe criticisms of the reasons proffered by the Committee in support of the changes and I join in many of those criticisms. (*See, e.g.*, letter from Gary Dickey; and letter from Erik Bergeland, James Bryan, Michael Kuehner, and Adam Zenor.)

I wish to add a few additional comments to those made by my colleagues. My concerns are threefold:

(1) The stated goal of lowering student debt is misapplied to the bar exam and ignores the role of law schools in the rising debt load.

(2) Elimination of a minimum competency exam could lower Iowa lawyers' abilities to waive into the bars of other states.

(3) The problems with the current state of the bar exam can be rectified in ways that do not eliminate it altogether.

(1) The stated goal of lowering student debt is misapplied to the bar exam and ignores the role of law schools in the rising debt load.

My colleagues have offered a number of criticisms of the Committee for including references to rising student debt as a rationale for eliminating the bar exam. As they have aptly stated, the bar exam is not the reason students have high law school debt. I do think it worth noting that while the law school deans support the elimination of the bar exam as a means to lower student debt,

the law schools simultaneously maintain rules and policies which prevent students from lowering debt in other ways. The Residence Credit requirement at Drake Law School is a prime example.

Residence Credits at Drake Law School are separate from the credits that students received by taking classes at the law school and are instead assigned in relation to semesters a student is enrolled in law school. (*See* Drake University Law School Student Handbook, page 12, ¶ 5.2.6). In order to graduate, the law students need to get Residence Credits, as well as regular credit hours. The policies of the law school prevent students from getting full Residence Credits for summer hours, or using audit hours for these credits. In my opinion, the Residence Credit is used in order to prevent students from graduating law school in two years – something any student could conceivably do under the regular ABA standards for obtaining real law school credits. As such, the law school actually increases the students' debt load to achieve the sole goal of keeping them enrolled as long as possible at the school, regardless of the number of credits a student obtains by taking classes.

Taken to its logical end, the Residence Credit prevents students from taking the bar exam after two years of law school classes, even if they have the full number of credits needed to graduate. Thus, the Residence Credit is the reason students not only accrue debt for an extra six months to a year, but also prevents students from starting to practice as soon as possible. This policy, which in my opinion is not based on a valid educational goal, is much more at fault for rising law school debt than the bar exam ever will be.

If the law schools, or the Committee, were truly interested in lowering student debt, they would have considered other ways to lower the students' debts in conjunction with their proposal to eliminate the bar exam. From the materials I have reviewed from the Committee, it does not appear that they considered any other means to achieve this goal. As such, I think the Supreme Court should discount this proffered reason for eliminating the bar exam until the Committee and the bar has fully explored other, more rational and effective ways of lowering the debt.

(2) Elimination of a minimum competency exam could lower Iowa lawyers' abilities to waive into the bars of other states.

As I am sure the Court is aware, a number of states allow Iowa lawyers to waive into their jurisdictions without sitting for the exam. These waiver requirements vary by state. *See Comprehensive Guide to Bar Admission Requirements*, beginning page 35, available at http://www.ncbex.org/assets/media_files/Comp-Guide/CompGuide.pdf. I have reviewed these requirements and believe that removing the bar examination will lower the number of states who, under their own guidelines, will no longer allow Iowa lawyers to waive into their bars without taking an exam. See, for example, Arizona (requires the applicant to have been admitted by bar examination in another jurisdiction); District of Columbia (requires prior admission by examination in another jurisdiction); New Jersey (law professors may waive in if they were admitted by examination in another state).

Taking the bar exam after practicing ten years when the lawyer wants to move to another state would be much more difficult for that lawyer than if she had taken it during, or immediately after, law school. Lowering the number of states who will allow reciprocity means that more of

these lawyers will have to sit for future exams in the middle of their careers if they don't take the exam to first get licensed in Iowa. To my knowledge, there has been no study done, or research published, by the Committee on the impact of future lawyers for eliminating the bar exam. This indicates to me that the main goal of the Committee is to help the law schools, not the law students, in the future.

(3) The problems with the current state of the bar exam can be rectified in ways that do not eliminate it altogether.

As a member of the bar of three different states – New York, Massachusetts, and Iowa – I have sat for three separate bar examinations. Iowa's was, in my opinion, the easiest exam. This fact, however, does not lead to any logical conclusion that because it was easier that the other states' exams, we should just eliminate it altogether.

There are a number of options to help address the concerns of the Committee and its supporters that do not involve eliminating the minimum competency exam:

(a) Convert the exam back to an Iowa specific exam if we are truly concerned about the content of the current exam.
(b) Make the exam harder if we are truly concerned about the high pass rate.
(c) Allow the exam to be taken in whole or in part during law school if we are truly concerned about the two months of additional study time law students use to take the July exam.
(d) Provide provisional licenses to the law students after graduation if we are concerned about getting law students into the workforce quicker after graduation.
(e) Give the exam in sections so that the students can work and study at the same time if we are concerned about students taking time off from work to study for the exam.
(f) Provide loan forgiveness to more law students if we are concerned about helping law students lower their debt.
(g) Provide fellowship opportunities or additional loan forgiveness in rural Iowa if we are truly concerned about diversity and jobs in rural Iowa.
(h) Allow law students to finish law school in a shorter period of time if we are truly concerned about rising costs of law school and the time it takes to get into the workforce.
(i) Study the reasons behind lower diversity rather than assuming diverse students are deterred from the study of law because of the exam, if we are truly concerned about diversity.

I understand the proponents of eliminating the exam believe their approach is "innovative." I am often a proponent of innovation – if it has a true purpose. I have yet to see a research study, a real-life example, or an argument that convinces me there is a true, rational purpose for eliminating the bar exam. Indeed, many of the states have "innovated" in the opposite direction. According to Wikipedia at least, as many as 32 states and the District of Columbia offered the diploma privilege at one time, all of whom then eliminated it as a way to "tighten requirements" for the profession. http://en.wikipedia.org/wiki/Diploma_privilege, last accessed 7/14/14.

Respected professions require competency exams: doctors, accountants, real estate brokers, bankers, and truck drivers all require their licensed members to pass an exam. Lawyers should not be different. For all of these reasons, I request the Court to decline to amend the bar admission process as recommended by the Committee.

I would be happy to visit with your further about this important issue. You can contact me by phone at 515.288.5008 or by email angela@dickeycampbell.com. Thank you for your attention to this matter.

Sincerely,

/s/ Angela L. Campbell

Angela Campbell
Managing Partner

Bar Admission Process
Ben Bergmann
to:
rules.comments@iowacourts.gov
07/14/2014 12:39 PM
Hide Details
From: Ben Bergmann <bbergmann@ParrishLaw.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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To the Honorable Justices of the Iowa Supreme Court:

I write you today regarding the proposed change to the bar admission process. I have no strong opinion on granting a diploma privilege or not. I do, however, have a strong opinion about the guiding principle you should use to determine whether an applicant should join the Iowa bar: Is this person knowledgeable about Iowa law? Unfortunately, the admission process right now offers no insight whatsoever as to whether or not the applicant has the faintest idea about Iowa law. I make the following observations.

As the system stands now, current successful applicants to the Iowa bar may not have the faintest idea about Iowa law. I took the bar in May of 2007. I believe I was in the second to last iteration of the Iowa bar that actually tested Iowa material. In the following year, for reasons still unclear to me, Iowa abandoned testing on Iowa specific material altogether. Instead, applicants are tested only on general principles of law. Therefore, the best we can say about the applicants that have been accepted into the Iowa bar since 2008 is that they are strong on generally applicable principles of law.

Unfortunately, I have yet to be able to convince a judge or appeals court that a generally applicable principle of law trumps the Iowa Code, a binding decision of the an Iowa court of appeals, or the Iowa Constitution, but perhaps I have not articulated it correctly. Citing to Iowa statutes and rules, Iowa precedent opinions, and the Iowa Constitution has earned good results for my clients. This may be anecdotal evidence, but I am fairly certain that a plurality, if not a majority, of my colleagues would agree.

Second, under the current system, there is no onus on our two law schools to teach Iowa specific material. In fact, it seems that there is some predilection against teaching Iowa-specific material in class, or at least there was when I was in law school at Drake from 2004-2007. I cannot speak to whether Iowa Law School focuses more on Iowa specific material, or perhaps if they take an even more intellectual perspective of on the law.

Finally, new attorneys are now less able to familiarize themselves with Iowa law. because of the legal economy in the state, more and more attorneys are opening their own shops. Fewer and fewer attorneys are being hired at larger firms, or even smaller established firms. Because of this, many of our attorneys lack mentors that would be able to quote the current state of Iowa law to their younger associates. Perhaps even more worrisome is that these younger attorneys, out of their own, are likely unable to have a Westlaw or Lexis subscription whereby they would be able to learn a particular area of Iowa law.

Instead, the only solace we have is that we require all our attorneys to take a basic skills seminar. Not to challenge the value of CLE's (a topic for another day), but these new attorneys sit in a conference room for a day or two learning the law they will actually be practicing. What have they been doing the last three years, one wonders? What would the citizens of the State of Iowa think to know that the recently admitted members of the bar have only sat in a two-day seminar to learn the material needed to sell their service to the public? The basic skills class is woefully inadequate.

In summary, our current bar admission process currently admits attorneys that:

1. know nothing about Iowa specific law;
2. have been taught no Iowa specific law in law school; and,
3. very well may not have the tools at their disposal to familiarize themselves with Iowa law.

Frankly, this is somewhat frightening. I do not have a specific recommendation to you all, save this one: please create a system whereby the next generation of attorneys that we accept into our Iowa bar is, at a minimum, familiar with Iowa law. This aim could be reached by a series of required courses in law school (following the diploma privilege proposal) or an exam on Iowa law topics (changing the current bar exam). I don't care if the passage rate is 100%. The people of Iowa deserve to have attorneys that know the law of the State of Iowa.

Thank you for your consideration.

Very truly yours,

Benjamin D. Bergmann
Attorney at Law
Parrish Kruidenier Dunn Boles Gribble & Gentry L.L.P.
2910 Grand Avenue
Des Moines, Iowa 50312
(515) 284-5737
(515) 284-1704 (FAX)
http://www.parrishlaw.com

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Bar Admission Process
Dennis Groenenboom to: rules.comments

07/14/2014 12:51 PM

1 attachment

Clerk Supreme Court re comments on Bar Admission Process.doc

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See attached.

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Dennis Groenenboom, Executive Director
Central Administrative Office
1111 9th Street, Suite 230
Des Moines, Iowa 50314-2527
Direct Phone: 515-243-2980, Extension 1620
E-Mail: dgroenenboom@iowalaw.org
Iowa Legal Aid Website: www.iowalegalaid.org

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IOWA LEGAL AID
HOPE. DIGNITY. JUSTICE.

1111 9TH STREET, SUITE 230
DES MOINES, IOWA 50314-2527

515-243-2151 OR 800-532-1275
SE HABLA ESPAÑOL
FAX: 515-246-6075
WWW.IOWALEGALAID.ORG

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July 14, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319

RE: Bar Admission Process

Dear Clerk of the Supreme Court:

Iowa Legal Aid has been asked by a member of the Iowa State Bar Association's Blue Ribbon Committee on Legal Education and Licensure to provide some information to the Court regarding the impact of educational debt on attorneys' willingness and ability to seek and accept employment with Iowa Legal Aid.

In our experience with recruitment of attorneys to work in Iowa Legal Aid regional offices statewide, we have observed a growing concern amongst attorneys regarding the impact that the increasing costs of education and larger debt loads have on their ability to do public interest work. The impact is two-fold. Given the entry level salary for attorneys with Iowa Legal Aid (currently $41,250 annually) some individuals do not apply for a position at all. Others may accept employment, but determine once law school debt payments begin that they will not be able to maintain employment with Iowa Legal Aid or other public service positions. It would be very difficult to measure and we do not know whether adoption of this proposal would be enough to impact the decision of attorneys to apply for or stay with Iowa Legal Aid. As with any employment decision, there are many factors that will impact whether an individual will be interested in and able to work with Iowa Legal Aid.

Sincerely,

/s/
Alan O. Olson
President, Iowa Legal Aid Board of Directors

STUART TINLEY
Law Firm LLP

CenturyLink Building
310 W Kanesville Blvd, Second Floor
P. O. Box 398
Council Bluffs, Iowa 51502
Phone Number: (712) 322-4033
Fax Number: (712) 322-6243
Web Site: STUARTTINLEY.COM

FACSIMILE

To: Clerk of Court, Supreme Court of Iowa
Fax number: 515-242-6164

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From: Robert M. Livingston

Date: July 14, 2014

RE: In the Matter of Request for Public Comment Regarding Proposed Amendments to the Iowa Bar Admission Process

Contact Person and Phone number for follow-up:
Jennifer M. at (712) 322-4033 or
mcdermott.jennifer@stuarttinley.com

Comments:

( ) Original will be sent.

( ) Original will not be sent.

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(Including Cover Page)

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STUART
TINLEY
Law Firm LLP

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July 14, 2014

William R. HUGHES, JR.*
Gary R. FAUST
Kristopher K. MADSEN*
Rick D. CROWL*
Robert M. LIVINGSTON*
Jennifer A. CARLSON*
Also admitted in Nebraska
Robert M. Stuart 1914-1986
Jack W. Peters 1931-1993
Emmet Tinley 1916-2002
James E. Thorn 1935-2008

VIA FAX 515-242-6164
VIA U.S. MAIL

Clerk of Court
Supreme Court of Iowa
Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319

Re: In the Matter of Request for Public Comment Regarding Proposed Amendments to the Iowa Bar Admission Process

Dear Members of the Iowa Supreme Court:

I write in support of the Diploma Privilege as proposed by the ISBA's Blue Ribbon Committee.

I understand the difficulties law students face in choosing where they have to work when faced with staggering law school debt. There are a number of recent graduates that expressed an interest in practicing in small to medium size firms or in service to the public through Iowa Legal Aid or the Public Defender's Office. Some of those recent graduates have abandoned their intentions in order to earn a wage that would support their student debt obligation.

That obligation is complicated by a cumbersome and expensive delay between graduation and notice of passing the bar exam. Employment decisions are often made while students are in school and well in advance of the bar exam. By allowing graduates of Iowa law schools to escape the process of preparing, taking, and awaiting results of the Bar exam, it should assist prospective Iowa lawyers choose a career path unhampered by avoidable delay and expense.

For over eleven years, I helped prospective Iowa lawyers prepare for the Iowa specific portion of the Bar exam while serving as President of the Iowa State Bar Review School, a Committee of the Young Lawyers Division. During

P: 712.322.4033
F: 712.322.6243
STUARTTINLEY.COM • CenturyLink Building • 310 W Kanesville Blvd. • Second Floor, P.O. Box 398 • Council Bluffs, IA 51502

that time, I learned that many students graduate from law school with little recognition of the differences between hypothetical black letter law and Iowa law. Now that the Bar exam only tests over black letter law, I fear that newly admitted lawyers may not be as prepared to practice law in our State.

The Diploma Privilege will help prepare graduates of our Iowa law schools to practice Iowa law. With the assistance of the Deans of both law schools, our future grads may be better prepared to practice and better familiarized with the nuances of Iowa law than their current peers. While the current admittees must fulfill the mandatory familiarization with Iowa law, a more structured and integrated system through the law schools could be a superior method for instituting an awareness of Iowa law and competence in legal practice.

I trust the Court will recommit to the high ideals we have for our fellow Iowa lawyers and adopt the Diploma Privilege in order to help prepare graduates of our Iowa law schools to practice in Iowa and to know Iowa law.

I want to thank the Court for requesting public comment and studying the Diploma Privilege. I also extend my gratitude to the Blue Ribbon Committee and Iowa Bar Association for their efforts to ensure access to quality legal services in our State.

Respectfully Submitted,

Robert M. Livingston

Direct email: livingston.robert@stuarttinley.com
RML:jm

Bar Admissions Process
Nate Boulton to: rules.comments@iowacourts.gov 07/14/2014 01:26 PM

1 attachment

Bar Admission Process.pdf

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Please see the attached letter. Thank you.

Nate Boulton

HEDBERG & BOULTON P.C.
ATTORNEYS AT LAW

100 Court Avenue, Suite 425
Des Moines, IA 50309
T 515.288.4148
F 515.288.4149
www.hedberglaw.com

Mark T. Hedberg
Nathaniel R. Boulton
Of Counsel
Arthur L. Hedberg, Jr.

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July 14, 2014

VIA EMAIL

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319

Re: Bar Admission Process

To the Honorable Justices of the Iowa Supreme Court:

First of all, I want to thank the Supreme Court for taking the time to evaluate the process by which our state determines the admission process for new attorneys. It is beneficial to our community that our legal system continues to assess the proper means and standards by which the license to practice law in Iowa is granted.

I have had the opportunity to experience the bar admission process in four different lights. My first experience was when I took the bar exam the July after completing law school. At the time I was tested, the bar exam essays focused on Iowa Law. Since that time, I have taken a portion of the new multi-state formatted essays. This was done on a volunteer basis when the newer format for essays was being evaluated. My third experience with the bar exam comes from serving as an adjunct professor at one of our state's law school. Thus, allowing me to evaluate the process from an educational standpoint. Lastly, I have served as a grader for the bar examination for the past few years. When reflecting upon those experiences as a whole, I must agree that our system could use improvement.

The need for improvement, however, does not mean our system is defunct. The current process has a purpose to which it adequately serves. However, it is important to ask ourselves as a profession if that purpose could be served in a more efficient manner—I undoubtedly think it can.

Currently, one of the most problematic elements of the system is the fact it lacks a foundation in Iowa law. This is the very law we expect our new practitioners to possess a competent understanding of as they begin representing Iowans in the legal process. In an attempt to remedy this, new

practitioners are required to attend a two-day seminar where they are instructed on Iowa law. It is naïve to believe that such a short, overview course can come close to the formal rigors of actually studying Iowa-specific law. In other words, the first year skills course does not serve as an adequate replacement for Iowa-specific law on the bar examination. Based on such, I would highly encourage a reconsideration of the complete elimination of Iowa law from the examination itself. Even in limited sense, the idea of studying Iowa law as part of the preparation process would take a huge step towards ensuring new Iowa lawyers have considered the basics of Iowa law in a much more impactful setting.

My other concern with the current system is based on time. The four month delay between receiving their diploma and license has become truly burdensome for new attorneys. During the delay, new attorneys are facing very real financial constraints. Many are forced to take out bar examination loans while also confronting the issue of starting repayment on both their undergraduate and graduate school loans. Placing law school graduates into a financial endurance test should not be part of the process at all. The compelling desire to be fair and accurate in the grading standards does not outweigh the burdens young lawyers are facing.

Based on my above outlined concerns and knowledge that the diploma privilege is being evaluated, I would simply express that the current system's failures outweigh its benefits. The currently utilized exam focusing on multi-state law is not wholly distinct from most law school exams. Moreover, the Iowa bar exam has consistently licensed approximately 90% of all examinees, each exam. Therefore, affirming that the current system does not serve the examination's core purposes in an appropriate manner.

Absent making Iowa law part of the bar examination process and decreasing the financial burden placed on law school graduates, the examination itself should be replaced with a structured diploma privilege system that ensures competency in Iowa law.

I trust the Iowa Supreme Court will do the right thing by using this opportunity to at least reform our bar admission process to make certain that it best serves the overall purpose of licenses: protecting our public by licensing attorneys who are competent and prepared to represent citizens in our judicial system.

Thank you for your consideration.

Sincerely,

Nathaniel R. Boulton

Bar Admissions Process
Culhane, Marianne B. to: rules.comments@iowacourts.gov 07/14/2014 01:43 PM
Cc: "Dallon, Craig W."

2 attachments

Creighton Law School Comments.pdf

Creighton Law comments on Bar Admissions Process.docx

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Dear Chief Justice Cady:

Attached please find the comments of Creighton University School of Law on the Iowa Bar Association's proposed changes to the process of admission to the Iowa Bar. We appreciate the opportunity to comment on this important matter.

Yours very truly,

Marianne B. Culhane

Dean and Professor of Law
Creighton University School of Law
2500 California Plaza • Omaha, NE 68178
T: (402) 280-2874 • F: (402) 280-3161

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JUL 14 2014
CLERK SUPREME COURT

July 14, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319

Re: Bar Admission Process: Comments on Proposed Amendments to Iowa's Bar Admission Process

To the Honorable Justices of the Iowa Supreme Court:

On behalf of the Creighton University School of Law, we state our strong opposition to Recommendation 1, adoption of the "diploma privilege," proposed by the Iowa State Bar Association's Blue Ribbon Committee on Legal Education and Licensure (the "Blue Ribbon Committee"). We take no position on the merits of the diploma privilege generally.[1] Instead, we oppose Recommendation 1 because it asks the Court to implement a bar admission process which (1) unfairly discriminates against applicants graduating from non-Iowa law schools; (2) stands to significantly harm the Creighton University School of Law by placing it at a competitive disadvantage; and (3) ignores Creighton's close ties with the state of Iowa and its legal community.

On the other hand, we do support Recommendation 3, the adoption of the Uniform Bar Examination. The Uniform Bar Examination increases flexibility and opportunity for law school graduates.

I. THE PROPOSED DIPLOMA PRIVILEGE UNFAIRLY DISCRIMINATES AGAINST STUDENTS GRADUATING FROM NON-IOWA LAW SCHOOLS

Recommendation 1 advocates that the Court confer upon graduates of the two Iowa law schools the advantage of avoiding the expense, effort, and challenge of taking a bar examination. The Blue Ribbon Committee suggests that a successful education at an Iowa law school (along with the credit hour requirements noted), is an adequate substitute for

[1] Creighton acknowledges arguments on both sides of this debate. One argument against the diploma privilege worth serious consideration is that it disadvantages Iowa lawyers in unintended ways. An Iowa lawyer admitted under the diploma privilege would be hampered in engaging in multistate practice or seeking employment in other jurisdictions. Most jurisdictions will not admit a recently admitted lawyer if the lawyer has not passed a bar examination, and some jurisdictions will not admit by motion any practicing lawyer who has not passed a bar examination. The Iowa lawyer could take the bar examination in another jurisdiction, but it is a daunting prospect to take the examination some years out of law school when the breadth of legal knowledge is no longer fresh. Similarly, the quality of the Iowa bar could suffer because weaker students, who statistically are at the greatest risk of failing the bar examination, will have a strong incentive to stay in Iowa in order to avoid taking a bar examination.

passing a bar examination. However, there is no reasonable basis to single out Iowa law schools for special treatment.

This approach establishes a system whereby certain applicants are arbitrarily singled out for favorable treatment, while other applicants who received an education comparable in every aspect, do not receive the benefit. Establishing a distinction that favors graduates of Iowa law schools and disfavors graduates of other ABA-accredited law schools creates a disincentive for students who intend to practice in Iowa from attending non-Iowa law schools. Iowa residents considering law school might limit their consideration of law school options to Iowa-based schools due to the diploma privilege. This would limit their educational options, and might foreclose significant scholarship awards or educational opportunities. Student choice and opportunity in the marketplace of law schools would suffer under the proposal.

The unfairness of this approach is apparent. Under the proposed diploma privilege, an applicant from an Iowa law school who satisfies the credit hour and course requirements set forth in the proposed rule would qualify for the admission privilege. A Creighton Law School graduate (or a graduate of any other non-Iowa ABA- accredited law school), who met all the same credit hour and course requirements, however, would not qualify.

Significantly, most Creighton Law School graduates will already meet the proposed credit hour requirements except for the Iowa practice and procedure requirement. All Creighton graduates must complete at least 89 credit hours.[2] All Creighton Law School graduates also exceed the proposed 30 semester credit hour (primarily Multistate Bar Examination topics) requirement.[3] In fact, Creighton requires that *all* Creighton law students take courses in *every* topic listed on the proposed 30-credit hour list (Proposed Rule 31.20(c)), except Iowa practice and procedure.[4] The 60 semester credit hour requirement from Uniform Bar Examination topics is also very close to the required standard at Creighton, and in practice, Creighton students exceed this standard.[5] It would

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[2] The 84 semester credits requirement is required or exceeded by nearly every accredited law schools. ABA Standard 304 (currently requires the equivalent of 83 credit hours); American Bar Association, *A Survey of Law School Curricula: 2002-2010*, at 27 (figure 5, nearly all law school require 84 or more credit hours for a JD) (Catherine L. Carpenter editor, 2012).

[3] Creighton's entire 32 hour required first year curriculum is on topics in the proposed 30-credit list. The courses are contracts, constitutional law, criminal law, civil procedure, property, torts, and legal research and writing. In fact, every topic on the proposed 30-credit list, except Iowa practice and procedure is required at Creighton in either the first year or upper-level required curriculum.

[4] In addition to the required first year courses, Creighton requires the following upper-level courses: professional responsibility, evidence, second year legal research and writing, criminal procedure, business associations, trusts and estates, and commercial law (UCC).

[5] Between the Creighton required first year and required upper-level courses, all Creighton students must take 52 hours from the 60-credit hour list (Proposed Rule 31.20(b).) As a result, students, as part of their 37 hours of electives, need to take only 8 additional hours from the 60-credit hour list to satisfy the proposed requirement. A large majority of Creighton's electives are on the 60-credit hour list, and nearly all students probably currently do satisfy this aspect of the proposal.

be an easy adjustment for Creighton to offer the 2 credit hour Iowa legal practice and procedure course.[6]

In short, the only difference between an applicant admitted without examination under the proposal and a Creighton graduate would be the location of the applicant's law school. Conferring a benefit solely on the basis of geographic location of a law school does not meet the standard of basic fairness or even a minimal rational basis analysis.[7] At a minimum, non-Iowa schools should be able to avail themselves of the diploma privilege for applicants who meet the credit hour requirements as well as take a course in Iowa practice and procedure.

II. THE PROPOSAL WOULD SIGNIFICANTLY HARM THE CREIGHTON UNIVERSITY SCHOOL OF LAW BY PLACING IT AT A COMPETITIVE DISADVANTAGE

Unfortunately, Recommendation 1 in its current form would harm Creighton University by creating a strong incentive for students who wish to practice law in Iowa to attend Iowa law schools, based solely on states lines rather than merit of the law school, convenience for the student, or best fit for the student.

Iowa students are a valued and important part of the Creighton University School of Law student body. The Creighton Law School is located in Omaha, Nebraska, and is literally less than two miles from the Iowa border and approximately two hours and ten minutes from Des Moines. Not surprisingly, traditionally, Iowa is the home to more Creighton Law students than any other state except Nebraska.[8] Although Creighton's Iowa students predominantly come from western Iowa, students come from all over the state to receive an education at Creighton.

In turn, Creighton Law graduates often seek and find employment in Iowa. Over the past ten years, about 9% of Creighton Law graduates who were employed nine months out of law school were employed in Iowa.[9] This number does not account for the many students working in Omaha but who are also licensed to practice in both Nebraska and Iowa. In some recent years, more Creighton graduates have taken the Iowa bar

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[6] In the past, Creighton did offer this course.

[7] Indeed, even the Wisconsin diploma privilege has not escaped criticism. An applicant brought an action against the Wisconsin Board of Bar Examiners and the Wisconsin Supreme Court in 2007, alleging that the Wisconsin diploma privilege was unconstitutional under a Commerce Clause analysis. The district court twice dismissed the claim and the 7th Circuit twice reversed the district court and remanded the case. *See* Weisueller v. Kosubucki, 571 F.3d 699 (7th Cir. 2009). Ultimately, the case settled and was not heard on the merits. *See also* Daniel B. Nora, Note, *On Wisconsin: The Viability of Diploma Privilege Regulations Under the Dorman Commerce Clause Review,* 37 J.C. & U.L. 447 (2011) (questioning the constitutionality of the Wisconsin diploma privilege).

[8] In the past 10 years, students identifying Iowa as their home state have ranged from as low as 8% of the Creighton student body to as high as 17% of our student body. (For those same years, Nebraska students ranged from 35% to 43%.) In 8 of the past 10 years, after Nebraska, Iowa has been the home state to the highest number of students.

[9] For the past 5 years, over 11% of our graduates employed at 9 months out were employed in Iowa.

examination than any other examination including the Nebraska bar examination.[10] In every year, the Iowa bar is the top or second most frequently taken bar examination for Creighton students.

Although under Recommendation 1, an Iowa student could still choose to attend Creighton Law School and ultimately seek admission to the bar in Iowa through bar examination, the proposal creates a strong incentive for students wanting to practice law in Iowa to choose a law school located in Iowa. Every year a significant number of Creighton applicants apply to both Creighton and Drake and choose between those schools. Proposal 1 arbitrarily puts Creighton at a disadvantage in this process. Due to its close geographical proximity to Iowa, Creighton is likely to be more negatively impacted than any other law school.

III. CREIGHTON HAS CLOSE TIES TO THE STATE OF IOWA AND THE IOWA LEGAL COMMUNITY AND SHOULD BE INCLUDED IN ANY DIPLOMA PRIVILEGE ADOPTED BY THE COURT

The Creighton University School of Law has close ties to the State of Iowa and the Iowa legal community. Should the Court choose to adopt the diploma privilege, it should extend the privilege to qualified Creighton graduates. Creighton would gladly offer a course in Iowa practice and procedure as anticipated by proposed rule 31.20(d). Creighton has the capacity and willingness to teach such a course. In the past, Creighton did offer the course.[11] With three full-time faculty members, one part-time adjunct faculty member, and one full-time staff attorney, all licensed to practice in Iowa, Creighton currently has the expertise necessary to teach Iowa practice and procedure.

A. Omaha and Southwest Iowa are closely connected and part of the same metropolitan area.

Omaha, Nebraska and Council Bluffs, Iowa are economically and culturally linked communities. Council Bluffs, Iowa, with a population of about 62,000, is a regional hub for southwest Iowa. Omaha, Nebraska is Nebraska's largest city and leading economic center. The two cities are linked by three major bridges over the Missouri River and interstate highways, I-80, I-480, and I-680, as well as a pedestrian bridge. The United States Department of Labor, Bureau of Labor Statistics recognizes Omaha, Nebraska and Council Bluffs, Iowa as a single metropolitan statistical area.[12] A metropolitan statistical area is "an

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[10] In July 2011, 60 out of 144 students taking the bar examination took the Iowa bar examination. Twenty-three took the Nebraska bar examination. In July 2012, 57 out of 150 students taking the bar examination took the Iowa bar examination. Twenty-three took the Nebraska bar examination. In July 2013, more Creighton students took the Nebraska bar examination than the Iowa examination probably due to Nebraska's adoption of the Uniform Bar Examination. During that examination, 30 out of 112 Creighton graduates took the Iowa bar examination.

[11] The course was a two credit hour course entitled Iowa Civil Procedure.

[12] The Omaha-Council Bluffs, NE-IA metropolitan areas combines five Nebraska counties (Cass, Douglas, Sarpy, Saunders, Washington) with three Iowa counties (Harrison, Mills, Pottawattamie), and has a population of about 828,000 people.

area containing a large population nucleus and adjacent communities that have a high degree of integration with that nucleus."[13]

B. Creighton's students, alumni and law faculty have close ties with Iowa.

Iowa students comprise a significant and valued part of the Creighton University School of Law student body. At less than two miles from Creighton's campus, Iowa is natural part of Creighton's geographic market and community. Many Creighton law students reside in Iowa while attending law school. In addition to students who live in Carter Lake or Council Bluffs, Iowa, students commute from several towns in Iowa. One December 2013 graduate, the city manager for Avoca, Iowa, commuted from Avoca. One May 2013 graduate commuted from his farm in Malvern, Iowa. Other current students commute from Glenwood, Iowa.

Creighton students don't just live in Iowa. They also work and learn in Iowa as part of their formal legal education. Creighton each semester and during summers places law students in externships and grant-funded positions[14] with non-profit private or government law offices. Several of those externships and positions are in Iowa.[15]

Many Creighton law graduates accept employment in Iowa and become licensed to practice in Iowa. Creighton boasts several current prominent members of the Iowa legal community including Iowa state and federal judges,[16] county attorneys, current and past bar presidents, the president of the Iowa Bar Foundation, the current Iowa Secretary of State, and outstanding lawyers at firms and law offices throughout the state.[17] Also, due to the connection between the Omaha area and Southwest Iowa, many Omaha law firms encourage their attorneys to be licensed in both Nebraska and Iowa.

Creighton's law faculty also has close connection with Iowa and the Iowa legal community. Two full-time law faculty members and one adjunct faculty member live in Iowa communities. Three members of the full-time law faculty are licensed to practice law in Iowa, including the current dean of the law school.[18] Three members of the current law faculty are graduates of the University of Iowa, College of Law. One of Creighton Law School's prior deans and faculty member, Dean Emeritus Rodney Shkolnick, now retired,

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[13] 75 Fed. Reg. 37246 (Jun. 28, 2010).

[14] Creighton has a program called the "Creighton Fund for Clerkships in the Public Interest" where a number of students receive grant funds to work in government or non-profit legal offices during their summers.

[15] Creighton has 8 externships in Iowa. Creighton University is registered with the Iowa College Student Aid Commission as follows: "Creighton University is registered in Iowa in order to provide Iowans with postsecondary educational programs via distance education, including a program(s) that requires an internship, practicum, or clinical experience that an Iowan may participate in at an Iowa location...."

[16] Creighton educated judges in Iowa include Judge Donald O'Brien (senior status, N.D. Iowa); Judge Robert Pratt (senior status, S.D. Iowa); Judge David Danilson, Iowa Court of Appeals; and numerous judges in the first, second, third, fourth and fifth districts of Iowa.

[17] Although not now an Iowa citizen, one of Creighton Law's best known alumni is current Nebraska U.S. Senator and former U.S. Secretary of Agriculture, Mike Johanns. Senator Johanns was born and raised in Osage, Iowa.

[18] Additionally, one full-time staff attorney in the Creighton legal clinic is licensed in Iowa.

was also a University of Iowa College of Law graduate and Iowa native.[19] Moreover, the current President of Creighton University, Timothy R. Lannon, S.J., is a native of Mason City, Iowa, and the immediate past President of Creighton University, John P. Schlegel, S.J., is a native of Dubuque, Iowa.

Creighton has also been active in supporting the Iowa Bar's effort to encourage new lawyers to locate in rural Iowa communities through the Rural Practice Committee Program. Phil Garland, chair of that committee, is a Creighton Law graduate. As part of the Committee's work, in 2012, Creighton and the Iowa State Bar Foundation jointly funded two summer clerkships in rural Iowa.[20] In recent years, Creighton Law students have returned to smaller Iowa communities to work or practice law.[21]

Finally, each year at the Iowa State Bar Association annual meeting three law schools host lunches for alumni members of the Association. Those law schools are Creighton, Drake and Iowa. Creighton is not just one of 200 other non-Iowa law schools. In a meaningful way, Creighton *is* an Iowa law school, and it should not be excluded from the good company of Drake and Iowa.[22]

IV. ADOPTION OF THE UNIFORM BAR EXAMINATION

The Creighton University School of Law does support Recommendation 3 and adoption of the Uniform Bar Examination ("UBE"). Currently fourteen states use the UBE. Every year, students who have not located permanent employment prior to their third year of law school struggle with the question of where to apply for bar admission. Often, they are anticipating where they think they will find employment. The UBE makes the process less stressful. Students applying for admission to a UBE jurisdiction have the assurance that their examination score will be fully transferrable to another UBE jurisdiction. This allows students to broaden their job searches and obviates the need to retake a different bar examination should a graduate find employment in a different jurisdiction than where he or she took the bar examination. In short, this increased coordination between state bars increases employment opportunities for recent law graduates and helps law students without sacrificing specific needs of the bar.

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[19] Dean Shkolnick served on the Creighton Law faculty for over forty years.

[20] *See Attorneys and Students See Value in Rural Summer Clerkship Program*, 72 The Iowa Lawyer 8-9 (Oct. 2012) (noting participation of two Creighton law students who clerked in Mason City and Sidney).

[21] For example, two graduates from our most recent class (2014) plan to work in Avoca, Iowa and Spirit Lake, Iowa. Two 2013 graduates now practice law in Story City, Iowa, another in Sibley, Iowa, and another in Sidney, Iowa.

[22] This adjustment could be made with a simple amendment to Rule 31.20(3) as follows: "An applicant who has been awarded a juris doctor or comparable first degree in law from a law school located primarily in this state, or within 10 miles of this state, that is fully..." Alternatively, the rule could insert the phrase "or within a city bordering this state".

V. CONCLUSION

The Creighton University School of Law respectfully requests that the Court reject Recommendation 1, the diploma privilege, as it is currently proposed, and adopt Recommendation 3, adoption of the UBE. Should the Court be inclined to adopt the diploma privilege, we request that the Rule be amended to extend the privilege to graduates of the Creighton University School of Law.

Sincerely,

Marianne B. Culhane

Marianne B. Culhane
Dean and Professor of Law

Bar Admission Process
Potter, Andrea [IFA]
to:
rules.comments@iowacourts.gov
07/14/2014 01:46 PM
Hide Details
From: "Potter, Andrea [IFA]" <Andrea.Potter@iowa.gov>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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JUL 14 2014
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4 Attachments

Iowa Diploma Privilege Public Comment.docx

TITLE GUARANTY

ANDREA POTTER
TITLE GUARANTY INTERN
2015 Grand Avenue | Des Moines, Iowa 50312
800.432.7230 | fax 515.725.4901
IowaTitleGuaranty.gov

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Iowa Diploma Privilege Public Comment

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I am currently attending Drake Law School and am in favor of the Diploma Privilege in Iowa. The current bar exam is inapplicable to Iowa law and what it takes to become a competent attorney. Iowa needs to adopt the diploma privilege because it will likely decrease student debt, increase law school enrollment, and actually turn out more competent Iowa lawyers. Right now the pass rate is so high that the Bar Exam is doing next to nothing. People are worried that incompetent lawyers will become licensed. My response to that is, if we are accepting and passing students at law schools who aren't competent to be attorneys, we are doing something very wrong. Some current attorneys see it as a sort of "right of passage" for those entering the profession; this is not the way to look at it. It is not okay to say that you have to do it because I had to do it. If the bar exam dealt with Iowa law it would be different. But, as a law student who plans to stay in Iowa the rest of my life, I would like to see the Diploma Privilege pass as it shows Iowa's ability to innovate, lead, and pave the path to a successful future.

Thank you,

Current Drake University Law School 3L

Bar Admission Process
Jerry Foxhoven
to:
'Rules.Comments@IowaCourts.gov'
07/14/2014 01:58 PM
Hide Details
From: Jerry Foxhoven <jerry.foxhoven@drake.edu>
To: "'Rules.Comments@IowaCourts.gov'" <Rules.Comments@IowaCourts.gov>,

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JUL 14 2014
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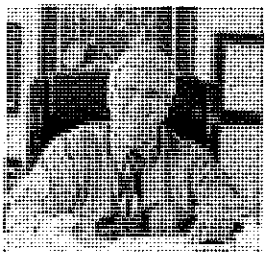
1 Attachment

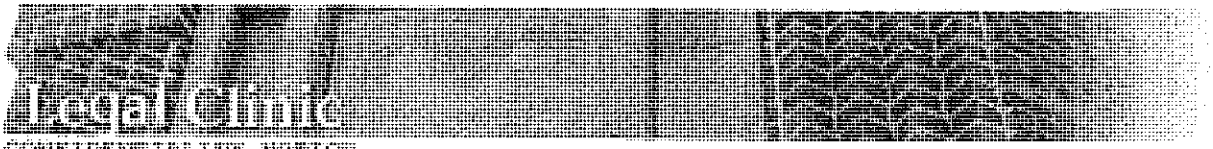
Comment on Bar Admission Process Proposal.doc

Please find, attached, my letter containing comments pertaining to the Proposal to change the Bar admission Process pursuant to Chief Justice Cady's order dated May 13, 2004.

Jerry



JERRY R. FOXHOVEN
Professor of Law
Executive Director of Clinical Programs
Drake University Law School
2400 University Avenue
Des Moines, Iowa 50311
Phone: 515.271.2073
Fax: 515.271.4000
Email: jerry.foxhoven@drake.edu



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July 14, 2014

Sent Via Email
Clerk of the Iowa Supreme Court
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319
Email: Rules.Comments@IowaCourts.gov

Re: Bar Admission Process

Dear Chief Justice Cady, Rules Committee, and the Iowa Supreme Court:

I have practiced law in the State of Iowa for over 35 years, having passed the Iowa Bar Exam in 1977. I unreservedly support the proposal to grant the "diploma privilege" to graduates of the University of Iowa School of Law and the Drake University Law School for a number of reasons.

First, the proposal is far better financially for recent law graduates. New law school graduates are faced with an incredible debt for their education and, under the current system, are unable to work as an attorney for 3 to 4 months after graduation. This situation creates more debt for new attorneys (both for the expensive bar review courses and for living expenses between graduation and licensure) and results in the beginning of student loan payments almost immediately upon employment. The current system means that new lawyers are immediately under severe financial strain. This financial strain can challenge the success of the new lawyer in many ways.

Second, the passage of a bar examination is a false (and therefore misleading) measure of a young lawyer's legal knowledge and abilities. The bar exam rewards graduates who are best at "cramming" for an exam. While this "cramming" occurs over several months, the truth is that the student's intense study for the bar exam does not reflect the years of detailed studies and reflection that has occurred throughout the law school process. Everyone who has every "crammed" for an exam can remember the process of "erasure"

Drake Legal Clinic
2400 University Avenue
Des Moines, Iowa
50311

T. 515.271.2073
F. 515.271.4000

that occurs as soon as the test is completed. It is not surprising that graduates who pass the bar exam may or may not be able to successfully take the exam just months later. If that is the case, then the taking of the bar exam does nothing to accurately gauge the young lawyer's understanding and application of the law.

Finally, and, in my opinion, most importantly, the adoption of the proposal will allow recent law school graduates to be more prepared to practice law in Iowa. The current system, because it requires a bar exam that is not Iowa-specific, penalizes those students who are most knowledgeable of Iowa law. It is hard for many not familiar with the current bar exam to understand that, in some cases, the exam-taker who answers a question on the bar exam that is correct under Iowa law will miss the credit for that question in the bar exam. This causes two problems. First, the student who has a great deal of practical experience is forced to "unlearn" Iowa law before taking the bar exam. As Executive Director of the Drake Legal Clinic, I regularly see students who are very knowledgeable in Iowa law (either because of their clinical or internship experiences or because they have clerked for a private law firm) struggle with "un-learning" Iowa law in order to properly answer the questions on the bar exam. Second, law professors are hesitant to teach Iowa law in the substantive courses because to do so may lower the success rate for takers of the Iowa Bar Exam. The proposal does just the opposite of the current system: It requires graduates who want to take advantage of the "diploma privilege" to successfully complete a law school course on Iowa law in the various substantive law areas. This proposal would ensure that new admittees to the Iowa bar will have a much better understanding of Iowa law than under the current system.

I know that many lawyers feel that they took the bar exam and that it is only fair for new lawyers to do so as well. However, times have changed and the reasons for requiring the taking of the bar exam in the past are no longer applicable to today's law school graduates.

I hope that the members of the Iowa Supreme Court will take the progressive and valuable step of adopting the proposal for changes in Iowa's bar admission process.

Sincerely Yours,

Jerry R. Foxhoven

Jerry R. Foxhoven, Executive Director
Drake Legal Clinic

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JUL 14 2014
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Bar Admission Process
Theresa Howard to: 'rules.comments@iowacourts.gov'
Cc: Benjamin Ullem

07/14/2014 02:29 PM

1 attachment

Bar Admission Process comments - Dean Ullem.docx

Please see the attached letter from Drake Law School Dean Ben Ullem regarding the bar admission process.

Thank you.

Terri Howard
Administrative Assistant
Drake University Law School
2507 University Avenue
Des Moines, IA 50311
515-271-3985
theresa.howard@drake.edu

FILED
JUL 14 2014
CLERK SUPREME COURT

July 14, 2014

Iowa Supreme Court
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: Bar Admission Process

Dear Chief Justice Cady and Justices of the Iowa Supreme Court,

Drake Law School supports the proposed diploma privilege now under consideration. While this endorsement may seem self-serving, it is supported for many important and compelling reasons. Also know that should it be adopted, we would vigorously institute the additional teaching responsibilities the diploma privilege envisions.

You recently received a letter from Matt Doré, a long time professor from Drake Law School, who clearly stated the case for adopting the privilege. I would like to support that letter without repeating it, and also with the experience of many years in private law practice before becoming dean of Drake's law school.

First, the multistate bar exam does not provide a good test of lawyering ability. The questions and "correct" answers are not based on Iowa law, nor are they necessarily aimed at the most likely issues to arise in real life situations. As we all know, practicing law is not a multiple choice exam, yet the MBE is all multiple choice. The essays on the MEE are not a particularly good test of ability either. Students have half an hour to read each question and write an answer.

If a student should fail to pass the bar examination, we review the reason. Invariably, the cause has little to do with legal ability, but instead is the result of outside issues such as health or family reasons. The diploma privilege will be based not on several hours of some standardized tests but instead on the student's abilities crafted through many exams, papers, simulations, practice experiences, internships, clinical hours of monitored client representation and practice oriented exercises over an intense three years of legal education. In addition to learning Iowa law in classes, which is already done at Drake, students will be required to take and pass a course on Iowa Practice and Procedure in their third year to reinforce their knowledge of Iowa law. The list of courses in the proposal that are required to qualify for the diploma privilege should

ensure that graduates are familiar with the concepts and rules necessary for practice in whatever field they choose.

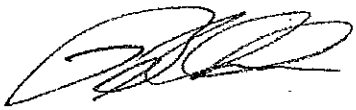
Further, the delay in obtaining bar exam results creates a problem. Some firms will not hire a law graduate until after he/she is admitted to the bar. This delays the ability of the graduate to earn income and it may cause special problems for rural attorneys in areas in which there are not as many applicants. Given that nearly all graduates from Iowa's two law schools pass the bar, the likelihood that these graduates would not be admitted later is small.

Some people have expressed concern that the diploma privilege will permit unqualified people to practice law. Aside from Drake's traditionally high pass rates on the Iowa bar, Wisconsin has had that privilege for approximately 75 years and it does not have a less qualified bar than other states.

We commit that we will do our utmost to make certain that, if the privilege is passed, we will strengthen our efforts to make sure every graduate who qualifies for the privilege is, in fact, also qualified to practice in Iowa.

In my law practice which has occurred in many places throughout the nation, I have never seen nor felt that I was any less ready to do legal work than any other lawyer with whom I interacted, and in fact more often than not better equipped. I did not come to that conclusion or experience that ability due to a test taken (although I did have to pass the bar exam), but instead based upon my legal education from Drake Law School. The bar exam in Iowa is not the best way to bring highly qualified attorneys to communities, the courts and the boardrooms in Iowa.

Sincerely,



Benjamin B. Ullem, Dean

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Lynn DeGroot
to:
rules.comments@iowacourts.gov
07/14/2014 03:10 PM
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From: Lynn DeGroot <ldg@roxanneconlinlaw.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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1 Attachment

2014.07.14 - Diploma Privilege.doc

Lynn DeGroot
Legal Assistant to Roxanne Conlin
Roxanne Conlin & Associates, P.C.
319 7th Street
Suite 600, Griffin Building
Des Moines, IA 50309
Telephone: 515-283-1111
Facsimile: 515-282-0477

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Law Offices

ROXANNE CONLIN & ASSOCIATES, P.C.
319 7th Street, Suite 600
Des Moines, Iowa 50309
(515) 283-1111
Roxanne Barton Conlin *FAX: (515) 282-0477*
Email: roxlaw@aol.com
www.roxanneconlinlaw.com

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July 14, 2014

Iowa Supreme Court
Iowa Judicial Branch Building
1111 E Court Ave
Des Moines, IA 50319

Re: Diploma Privilege

Dear Members of the Iowa Supreme Court,

I took the bar examination nearly 50 years go. It was the worst three days of my life. As one of only three women to take the bar at that time, I knew that my handwriting would reveal my gender to the all-male review panel. Being a female and being a lawyer was considered impossible or at the very least bizarre. I was putting my fate into the hands of people who could make sure I did not do that impossible or bizarre thing. I studied non-stop for three years. I paid three years of tuition, most of it scholarships and student loans. All of that could be for naught if I didn't pass the 25 question essay test. I would continue to owe my student loans, but how would I ever be able to pay, if I could not be a lawyer?

I was terrified. My two female colleagues and I shared a room and we kept one another from jumping out the window. The way we studied and worried, you would have thought we were ranked as the bottom three members of our class, rather than the top three. We all passed and I vowed I would never take another bar examination as long as I lived, a promise I have kept.

Since then, I have had other kinds of stress. I have tried hundreds of cases, all consequential for the parties, and some consequential for the state, the nation and the law. But I have never felt the raw fear or the overpowering anxiety that I felt while taking the bar examination. The bar examination measures absolutely nothing that is important to the ethical practice of law. It does not improve the likelihood that a person who passes the multiple choice test will be any better at being a lawyer than someone who doesn't.

It should be forever consigned to the dust bin of history as an outdated artifact of times gone by.

I am aware that there are some who look at the bar examination as a rite of passage, who feel that they had to go through it and so should everyone else. That might be a reasonable approach if the bar examination was otherwise useful – which it is not. I do not want or need for any other person to suffer.

The well-researched and thoughtful proposal by the special committee shows great promise for truly measuring the skills and abilities necessary to responsibly practice law. The Supreme Court of Iowa will specify 60 credits for each law student at the two Iowa law school to successfully complete. In addition, for the first time in six years, people who wish to practice law in Iowa will have to demonstrate proficiency in Iowa law by passing a course in Iowa Practice and Procedure.

We are not pioneers with this idea. Wisconsin adopted the diploma privilege 75 year ago. Certainly no one can argue that Wisconsin lawyers are less able and ethical than Iowa lawyers. Wisconsin lawyers and judges are generally very pleased with the process they have adopted. That no other state has adopted it is testament to the traditionalism of the bar generally.

The public will be much better served and protected by a system that takes three years to complete rather than three horrendous days. A bar examination process that begins in May and does not end until September is economically burdensome and weighs most heavily on the law graduates who hope to go into public interest law or small rural practices.

I hope the Court will make history by becoming the second state in the nation to abandon a useless test in favor of automatic and immediate admission for individuals who graduate from one of the two Iowa law schools. It will be a giant step forward for the Iowa Bar.

Very truly yours,

/s/ Roxanne Barton Conlin

Bar Admission Process
Jill Hansen
to:
rules.comments@iowacourts.gov
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From: Jill Hansen <jhansen@westbankstrong.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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1 Attachment

Iowa Supreme Court comments diploma privilege Jill Hansen 071414.docx

Thank you for your consideration of the attached comments.

Jill Thompson Hansen
Vice President/Human Resources
Executive Director, West Bancorporation Foundation

Please Note: We have changed our URL and our email addresses!
www.westbankstrong.com
jhansen@westbankstrong.com

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1601 22nd Street
West Des Moines, IA 50266
Telephone: (515) 222-2305 Fax: (515) 225-8032

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FILED
JUL 14 2014
CLERK SUPREME COURT

Jill Thompson Hansen
1104 Twentieth Street
West Des Moines, Iowa 50265
515-229-4574

July 14, 2014

Clerk of the Iowa Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Honorable Justices:

I appreciate the opportunity to submit a comment concerning the proposal to adopt a "diploma privilege" for graduates of Iowa's law schools who wish to practice law in Iowa. I am vehemently opposed to this proposal as I believe it further erodes the standards the public has the right to expect of one holding himself or herself out as a lawyer.

As a former member (1991-2000) and Chair (1998-2000) of the Iowa Board of Law Examiners, and a grader of Iowa bar examination essays for several years before and after those dates, I graded and often agonized alongside several members of the Blue Ribbon Committee, including Guy Cook, David Brown, Marsha Bergan, Judge Tom Bice, Judge Jim Ellefson, David Mason, and Sharon Soorholtz Greer. Although only a small percentage of law graduates failed the exam in the years I was involved, the writing and reasoning skills of those we determined should fail, after hours of re-reading and discussion, were truly abysmal. Many, although of course not all, were graduates of the University of Iowa College of Law and Drake Law School. I remember spirited discussions with my fellow bar examiners, including members of the Blue Ribbon Committee, in which we wondered aloud how the ill-prepared authors of such ill-reasoned responses could ever have graduated from law school. So now we propose to unbar the gates and let them all in? The Blue Ribbon Committee's own statistics acknowledge that 68 graduates of the two Iowa law schools failed the bar exam on their first try from 2008-2013. Although the Committee attempts to de-emphasize that number by pointing to the number who passed on a subsequent try, it is important to remember that under the proposed diploma privilege, assuming they satisfied the proposed requirements for application of the privilege, all of those 68 would be licensed to practice the day they graduated from law school with no requirement for review, remediation, or study.

Although successfully passing a bar examination certainly doesn't mean a graduate is a competent attorney, neither does graduating from an Iowa law school. When I graduated from law school, the bar exam questions were chosen from 35 different subject areas, with many of which I had only a nodding familiarity. However, preparing and studying for the exam certainly

solidified my knowledge base and required me to assimilate what I had learned over a three-year period, in itself a useful skill for a practicing attorney. All lawyers are called upon to assimilate the knowledge acquired both in training and in practice, and to express it in a coherent way to a client, a partner, a judge, or a jury.

I would add that knowing certain subjects were tested on the bar exam certainly guided my classmates and me in our course selection in law school. Whether or not our visions of the future included practice in certain subject areas, courses in criminal procedure, constitutional law, family law, federal taxation, bankruptcy, and corporate law were always popular electives "because they are on the bar exam." I have to say that even though my eventual career trajectory did not include many of the classes I elected to take in law school, having a general acquaintance with a broad base of legal topics made me a better lawyer and more valuable to my community, whether informally advising friends and family members, serving on nonprofit boards, or doing volunteer intake for Legal Aid.

A primary motivation for the proposal, given its prominence in the Blue Ribbon Committee's Report, is that it would enable graduates to begin practicing law earlier and thereby begin paying off their burdensome student loans. Of course, this wasn't an issue prior to the Iowa Supreme Court's decision to require applicants to the bar to take the multi-state bar examination, the results of which are not available until September for an exam taken in July. When the bar examination was administered and graded by Iowa attorneys, successful examinees were sworn in on the Friday of the week they took the bar exam and could start work the very next Monday morning. Even now, there are many law firms and corporations in Iowa, including my own employer, who employ law graduates as clerks or legal assistants prior to their knowing the results of the bar examination. For law graduates who are not so fortunate, it would seem that part-time employment during the period they are awaiting their exam results would not be an unreasonable expectation. I would suggest that if this financial burden is really the major motivation behind adoption of the diploma privilege, perhaps another task force could look at ways the bar could encourage its members to employ law graduates in some capacity prior to the bar results, or perhaps fund partial payment of student loan obligations for graduates who agree to practice for a time in rural areas where lawyers are scarce. However, eliminating the bar exam seems an extreme overreaction to this issue and also a paternalistic response to the graduates' personal financial decisions.

Although the report cites the reduction of law school debt as the primary benefit of the diploma privilege, the cynical side of me believes that the law schools' support for this proposal is directly related to their well-documented declining enrollment (U of I made the National Law Journal's list of the 25 law schools with the largest enrollment decline from 2010 to 2013, with a 28% decline). Another motivation may be the perhaps deserved criticism that each year there are students who pay a lot of tuition for three or more years but are unable to pass the bar exam and therefore cannot practice in their chosen field. I do not believe that the elimination of the bar exam is an appropriate or well-tailored response to the enrollment problems facing our state's law schools. Although the adoption of this proposal may result in more applicants to our state's law schools, are we so desperate that we really want to attract students whose primary motivation for attending law school in Iowa is to avoid taking a bar exam? It is very ironic that a top graduate of a Top Ten law school who was born and raised in Iowa, went away to law school,

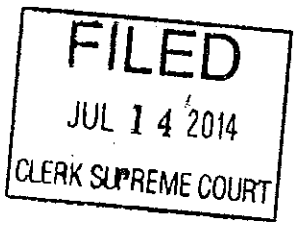
then wishes to return to take a job in Iowa, would be required to take the bar exam but the lowest-ranked graduate of Iowa (ranked #27, U.S. News 2014) or Drake (ranked #113), who may or may not have any Iowa roots, would not. I do not believe this is the way to enhance the quality of legal services in our state. It should be our goal as attorneys to attract the best and brightest qualified young attorneys to our state, regardless of where they attended law school. The provincialism inherent in this proposal is as offensive to me as the State Board of Regents' recent directive that funding to all Regents schools be determined on the basis of the percentage of Iowa residents enrolled. Institutionalized provincialism will do nothing to contribute to the diversity of our profession, or to benefit the increasingly diverse populations it serves.

Much has appeared in the Des Moines Register of late concerning overzealous licensing boards that appear to take their gatekeeper roles *too* seriously, such as the boards regulating hairdressers, cosmetic tooth whiteners, and interior designers. It makes me sad and somewhat embarrassed that there are those who believe the gatekeeper to the legal profession in the state of Iowa, the Iowa Supreme Court, would seriously consider compromising its own oversight duties by abdicating its role to the law schools. If ever there were an area in which zealousness is justified, it is that of access to the legal profession. Iowa attorneys have always taken pride in our own self-regulation, from the Board of Law Examiners to the Grievance Commissions, and our credibility with the public depends upon it. I urge the Court to jealously guard its role as gatekeeper and to decline to adopt the diploma privilege proposal.

Very truly yours,

Jill Thompson Hansen
Graduate, University of Iowa College of Law (1980)
Admitted to the Iowa Bar 1980

Bar Admission Process
Wayne Van Heuvelen
to:
rules.comments
07/14/2014 03:15 PM
Hide Details
From: Wayne Van Heuvelen <waynedm@aol.com>
To: rules.comments@iowacourts.gov,



1 Attachment

barexaminationrule.0714.docx

See attached

Wayne Van Heuvelen

I graduated from Drake Law School and have been a member of the Iowa State Bar Association since 1986. I question the arguments in favor of eliminating the bar examination for graduates of Drake University Law School and the College of Law at the University of Iowa provided that the applicant practices within the state of Iowa.

The major argument of the proponents for eliminating the bar examination for these certain applicants is that the examination does little to wean out those who may not be qualified to practice law in the state of Iowa because the pass rate is consistently in the 90 percentile range.

The reason for this high pass rate, of course, is that the applicants study nearly continuously for months on end. Our son passed the Iowa bar exam in 2010 and I witnessed his months of preparation on the part of his "study group".

I challenge those who say that the bar examination is meaningless because the pass rate is so high to prove their theory by asking applicants to take the test prior to their intense preparation. The high pass rate is not because the bar examination is meaningless in terms of measuring the knowledge of the applicants. It is the intense preparation of the applicants that makes the pass rate extremely high.

We should celebrate the fact that applicants are taking their preparation so seriously and not use their hard work and success as a reason to eliminate the bar examination because it is somehow so easy it is deemed meaningless.

If, as the proponents say, the bar examination is meaningless because the pass rate is so high that same logic means that we should eliminate the ethics examination as well. The pass rate for the ethics examination is extremely high as well. That test, according to the logic of the proponents, must be meaningless.

If the powers-that-be argue that we should drop the bar examination since it's an easy exercise that most any law school grad can pass, let's at least be consistent and drop the ethics examination as well.

The other major reason for dropping the bar examination for some applicants is that it enables students to begin working and paying off their debt quicker.

My first reaction is that the medical community is not pushing to drop their board examinations in order to allow medical school graduates (who may very well have considerably more debt) the opportunity to begin paying down debt quicker. Our son-in-law is in residency and there is absolutely no push to weaken the requirements to begin practicing medicine.

Other professions, such as accountants, are not lowering requirements to practice. The accounting students have debt as well but the requirements for them to practice are being raised – not lowered.

If indeed there is a problem with law school graduates having to spend months after graduation preparing for the bar examination, we should address that particular problem. Why not give the bar examination within a week or two after graduation? If I recall correctly, in the 1980s bar review classes began on a weekly basis in January and the applicants took the bar examination within a couple of weeks of graduation in May. The results were posted within a couple of days of completion of the examination.

That was essentially before computers. Today test results can be given instantly by using technology.

This of course could eliminate the problem that we currently have of students studying for months after graduation from law school and waiting an additional month to get the results. If indeed the delay is a problem, that problem can be easily fixed by using technology and the same schedule that was used thirty years ago.

The only reason not to give the bar examination a week or two after graduation from law school in late May is that it would be more of a challenge for the applicants since they have less time to prepare and hence the pass rate could very well go down. I suppose a lower pass rate would convince the proponents of this rule that the bar examination is truly doing a great job of weeding out those who are not qualified to practice law…and the major argument for this proposed rule is eliminated

I do not think it is a mere coincidence that the push for dropping the bar examination is being thrust upon us when the law school enrollment at both Drake and the University of Iowa has declined dramatically. Given the timing, it seems apparent the idea of the elimination of the bar examination for some applicants is in reality a recruiting tool for our in-state law schools as they compete against neighboring law schools for qualified students.

Wayne Van Heuvelen
Urbandale, IA

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Bar Admission Process
Leslie Behaunek
to:
rules.comments
07/14/2014 03:24 PM
Cc:
Maria Brownell, Sarah Walstrom, anna.w.mundy, "mundy@carneyappleby.com", mirepstein
Hide Details
From: Leslie Behaunek <lesliebehaunek@gmail.com> Sort List...
To: rules.comments@iowacourts.gov,
Cc: Maria Brownell <maria.e.brownell@gmail.com>, Sarah Walstrom <skwalstrom@gmail.com>, anna.w.mundy@gmail.com, "mundy@carneyappleby.com" <mundy@carneyappleby.com>, mirepstein@yahoo.com

1 Attachment

Public Comment re Blue Ribbon Committee Report.doc

Please find attached our public comment regarding the proposed changes to Iowa's bar admission process.

Thank you for your time,

Leslie Behaunek

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Leslie Behaunek
lesliebehaunek@gmail.com

Maria Brownell
maria.e.brownell@gmail.com

Sarah Grotha
skwalstrom@gmail.com

Anna Mundy
anna.w.mundy@gmail.com

Nathan Mundy
mundy@carneyappleby.com

Miriam Van Heukelem
mirepstein@yahoo.com

July 14, 2014

VIA E-MAIL: rules.comments@iowacourts.gov

Re: Bar Admission Process

To the Chief Justice and Associate Justices of the Iowa Supreme Court:

We write upon review of the Blue Ribbon Committee's Report ("Report") and in opposition of Recommendation 1 that seeks to adopt a "diploma privilege" for graduates from the state's two law schools. The other comments submitted by attorneys from across the state illustrate the faulty reasons for adopting the diploma privilege – student loan debt and rural practice needs – as the privilege really does nothing to assist with those problems.[1]

---

[1] See Comment submitted by Jack B. Bjornstad, May 14, 2014; Comment submitted by Brian P. Rickert, May 15, 2014; Comment submitted by Dustin J. DeGroote, May 14, 2014; Comment submitted by Kristofer J. Lyons, May 16, 2014; Comment submitted by Ben Arato, June 17, 2014; Comment submitted by Steven Waechter, June 30, 2014; Comment submitted by Paul P. Morf, July 3, 2014; Comment submitted by Erik Bergeland, Jim Bryan, Michael Kuehner, and Adam Zenor on July 9, 2014.

We are concerned that removing the Bar Exam from Iowa's licensure process for attorneys will greatly harm the reputation of the Iowa Bar in and out of the state. Attorneys are already vilified by the public; making it "easy" to practice law, which is how the public will view the diploma privilege, is a step in the wrong direction if our profession wants to be respected by non-lawyers.

As has been repeatedly stated in other public comments, numerous other professions require a licensure exam as a way to ensure the high quality of members holding a particular license, including doctors, CPAs, dentists, and others in positions of health, safety, or public trust. This is to ensure that everyone meets a minimum threshold of competency and aptitude for the profession, regardless of the education received in school. It is also meant to serve as certification of an individual's acceptance into the profession, held out to the public in a way that holds great meaning to those who are not part of the profession.

The proponents of the Report assert that the Bar Exam is broken, so we must make law school more rigorous and utilize that as our licensure threshold. However, the specific rules changes proposed in the Report do not create a more rigorous standard by any means; rather, the new rules appear to give ample discretion to the schools to categorize classes to meet the topic requirements set forth in 31.20(3)(b), as well as complete discretion to determine whether a student has "satisfactorily completed" the requisite courses. The only specific course requirement set forth in the new rules is a two credit course in Iowa legal practice and procedure.

In our current economic legal climate, the quality of legal education at law schools will become a growing concern. Although the current faculty and admission standards at both Drake and Iowa are excellent, if the Report is adopted, attorney licensure in Iowa would truly become dependent upon the economic stability, leadership, and faculty at the schools. Both schools have an economic incentive to ensure their students graduate and become practicing attorneys – they have less economic incentive to create objective testing opportunities to act as a gatekeeper for the Iowa Bar.

To essentially throw out this threshold examination without fully analyzing ways to fix our current exam system is incredibly drastic, and we encourage the Court to set this Report aside and revisit it in the future after other alternatives have been fully explored. The proponents of the Report assure everyone that the hand-selected committee considered other alternatives to fix the current Bar Exam, but the haste with which they acted to get the Report approved by the Board of Governors before allowing for discussion with attorneys state-wide has unfortunately left many Bar members frustrated and confused. There are certainly better alternatives to getting rid of the Bar Exam for the vast majority of individuals intending to practice law in Iowa; we urge the Court to allow the Iowa Bar to fully explore those alternatives in order to create a better solution for licensure of Iowa attorneys.

Thank you for allowing the public to comment on the Report, and thank you also for your continued work in ensuring that Iowa's justice system is fair, impartial, and something we can all be proud of.

Respectfully,

Leslie Behaunek
Maria Brownell
Sarah Grotha
Anna Mundy
Nathan Mundy
Miriam Van Heukelem

Bar Admission Process
Frank Pechacek
to:
rules.comments@iowacourts.gov
07/14/2014 03:36 PM
Hide Details
From: Frank Pechacek <FPechacek@willsonpechacek.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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JUL 14 2014
CLERK SUPREME COURT

2 Attachments

-supremecourt.docx

SKMBT_C28014071415350.pdf

Dear Clerk: Please find a letter from our firm attached in Word format as required by the May 13, 2014 Order of Supreme Court, along with a PDF version of the letter signed by all the attorneys in our firm.

Frank W. Pechacek, Jr.
Willson & Pechacek, P.L.C.
421 West Broadway, Suite 200
Council Bluffs, IA 51503
PH: 712-322-6000
FAX: 712-322-6200
Direct emai: fpechacek@willsonpechacek.com

FRANK W. PECHACEK, JR.
JAMIE L. COX
LONNY L. KOLLN II
LEE M. RANKIN
BEN J. WISCHNOWSKI

Licensed in Iowa & Nebraska

PHILIP J. WILLSON
(1923-2014)

A Professional Limited Liability Company
(Practicing in Nebraska as Willson & Pechacek, P.C.)
WILLSON & PECHACEK BUILDING
Suite 200
421 West Broadway
Council Bluffs, IA 51503

Mailing Address
P.O. Box 2029
Council Bluffs, IA 51502
Telephone: (712) 322-6000
Fax: (712) 322-6200
www.willsonpechacek.com

OMAHA, NEBRASKA
(712) 322-6000

CARROLL, IOWA
(712) 792-0001

CLARINDA, IOWA
(712) 542-2141

HARLAN, IOWA
(712) 755-1111

OAKLAND, IOWA
(712) 482-6999

TREYNOR, IOWA
(712) 487-3444

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July 14, 2014

VIA E-MAIL: rules.comments@iowacourts.gov

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

RE: Bar Admission Process

The law firm of Willson & Pechacek, P.L.C., Council Bluffs, Iowa, strongly objects to allowing law school graduates of the Drake University Law School and/or the University of Iowa College of Law or anywhere else being admitted to practice in Iowa without taking the Iowa Bar exam. Some of the reasons for our firm's position are set forth below.

First, preparation for the Iowa Bar exam, through a Bar review course or other study, pulls together what a law school graduate has learned during his/her three years in law school and causes graduates to learn important areas of the law which they may not have studied in law school. Further, notes and materials from the Bar review course are assets to the young graduate which are utilized frequently in his/her first years of practice.

Second, under the present system, attorneys who successfully pass the Iowa Bar exam are eligible to "motion in" to other states without taking those states' bar exams. This is a big deal, especially for attorneys practicing in Iowa's border communities (i.e., Council Bluffs, Quad Cities, etc.) where admission in other states is a job preference or requirement. There is concern over whether those

states would continue to admit Iowa attorneys on motion if taking and passing the Iowa Bar exam is not required.

Third, what happens when every Iowa law graduate is not prepared for *any* bar exam? We can envision many instances where, for one reason or another, an Iowa attorney must relocate to another state, has been out of law school for many years, and has to go back to ground zero for bar exam preparation, review, and tutoring to successfully pass the exam. This certainly would not be an ideal situation for those attorneys.

Finally, many firms, including our firm, do hire and pay law school graduates from the date of graduation less any "vacation time" to prepare for and take the bar exam. It is our belief that removing the requirement of passing the bar exam will cause an unnecessary dilution of the legal skills of a young graduate being admitted to practice in the State of Iowa.

In conclusion, in our law firm's opinion, adopting a diploma privilege is a step backward and not a step forward.

Sincerely,

/S/

FRANK W. PECHACEK, JR.

/S/

JAMIE L. COX

/S/

LONNY L. KOLLN II

/S/

LEE M. RANKIN

/S/

BENJAMIN J. WISCHNOWSKI

Bar Admission Process
Dan Childers
to:
rules.comments@iowacourts.gov
07/14/2014 03:38 PM
Hide Details
From: Dan Childers <dchilders@elderkinpirnie.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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1 Attachment

Ltr to Chief Justice Cady.docx

Please see attached my letter in support of the diploma privilege proposal

Dan Childers
Elderkin & Pirnie, PLC
316 2nd St. S.E., Sutie 124
Cedar Rapids, IA 52401
P.O. Box 1968, 52406
(319) 362-2137

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Dear Chief Justice Cady:

I write in support of the recommendation of the ISBA Blue Ribbon Committee on Legal Education & Licensure that would allow qualified graduates of Iowa Law schools to be admitted to practice without examination. I believe the key provision in the recommendation is the requirement that only "qualified" graduates may be admitted without examination.

In my opinion, far too often law students expend only the minimum of effort to satisfy the core curriculum requirements of their legal education, relying on concentrated study for the bar examination to allow them to answer a few multiple choice questions on an exam so that they may be licensed to practice law in this state. I do not believe that process more adequately protects the public interest than a procedure whereby students are encouraged to meet reasonable curriculum standard in order to be admitted to practice. It is virtually certain that a lawyer trained in a particular subject matter in a semester long class will be better prepared to advise on that subject than someone who "crams" for a few weeks using a "bar review course" whose only goal (besides profit) is to increase the probability of passing the exam.

I am confident that the prominent and highly respected members of the Blue Ribbon Committee carefully considered all aspects of this proposal and the possible impact on the public. I doubt that anyone could reasonably question either the motives or the acumen of the members of the committee. The dismissive opinions against the proposal that have appeared in public during the comment period are distressing. If one is not in favor of the proposal, it is indeed that person's right to say so, and why. To impugn the integrity of the proposal or those who designed it is neither appropriate nor persuasive.

Under the proposal it is the responsibility of the law schools to provide the appropriate minimum requirements to make its graduates eligible to be admitted to practice without examination. If a school fails to meet that standard, then its graduates will have to gain admission by examination. One might have expected to see in the prior sentence the phrase "the old fashioned way." Alas, the examination for admission to practice is no longer administered "the old fashioned way." That fact is a significant argument in favor of the diploma privilege. The bar examination as it is now administered in Iowa is more designed to allow graduates of Iowa law schools to prepare themselves for admission to other state bars or for out of state law students to more easily pass the Iowa bar. There may be very good reasons for pursuing those goals, but it belies the concerns of those who suggest that a diploma privilege will weaken the protection of the public.

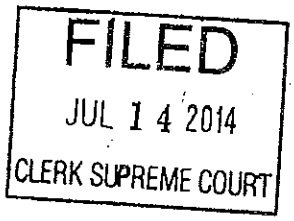
In short, I believe a diploma privilege is a reasonable alternative means of screening candidates for admission to practice in Iowa. It should be adopted.

Dan Childers

Elderkin & Pirnie, PLC

Cedar Rapids

Emailing: Bar Admission Process
Joe Feller
to:
rules.comments
07/14/2014 03:42 PM
Hide Details
From: "Joe Feller" <kkfeller@hickorytech.net>
To: <rules.comments@iowacourts.gov>,



2 Attachments

Joe%202015[1].png

Bar Admission Process.docx

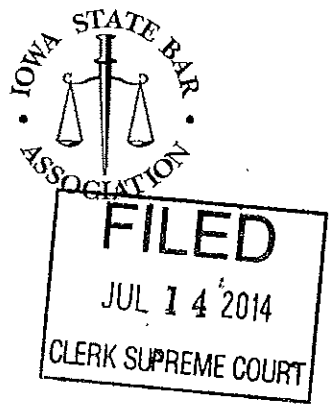
Attached please find my comments. Thank you.

Joe

Joseph M. Feller
President, The Iowa State Bar Association
P.O. Box 37, Sibley, Iowa 51249
712-754-4654
kkfeller@hickorytech.net

THE
IOWA STATE BAR ASSOCIATION
823 Third Avenue
PO Box 37
Sibley, IA 51249-0037
(712) 754-4654
FAX (712) 754-2507

Joseph M. Feller
President
kkfeller@hickorytech.net



July 14, 2014

Iowa Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

RE: In the Matter of Request for Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process

Dear Chief Justice Cady and Justices of the Iowa Supreme Court:

I write this letter on behalf of the Iowa State Bar Association to register our strong support for the adoption by this Court of the Diploma Privilege as proposed by our Iowa State Bar Association Blue Ribbon Committee and supported on a unanimous basis by our Board of Governors. After careful consideration, the ISBA has made this proposal because it is the best way to protect our public and make sure our new attorneys are ready and competent to practice in Iowa.

The proposal calls for a bold, progressive change that will guarantee not only that our law graduates that decide to practice in Iowa are knowledgeable about Iowa law but competent as well. The proposal calls for collaboration between the Supreme Court and our two law schools where for the first time the Court would control and require the successful completion of a certain law school curriculum.

For those students that elect the diploma privilege, their test of competency would be successful completion of three years of course work, mandated by the Court rather than testing them once with a multi-state bar exam that is expensive, time consuming and controlled by an out of state testing company, which surprisingly does not test over any Iowa law.

The time to act is now and without delay. In addition to the core reason to adopt, creating higher competency among graduates, one of the added benefits of adoption is the elimination of the 7th semester of law school. These law students, upon successful completion of three years of mandatory course work under the Diploma Privilege will enjoy the certainty of eligibility for admission to the bar upon graduation and avoid the unnecessary delay and expense not to mention the stress of studying for and taking the bar exam and then waiting three months for the results.

When the proposal is adopted, we also look forward to keeping highly qualified potential lawyers right here in Iowa where they can join our ranks providing legal services to Iowans all over the State.

In preparation for the August 27th public hearing, I have requested that David L. Brown, Chair of the ISBA's Blue Ribbon Committee on Legal Education and Licensure, make arrangements to provide several presenters to speak on behalf of the ISBA and the Diploma Privilege. David will be speaking to you or Molly Kottmeyer on my behalf to make those arrangements.

Thank you in advance for your careful consideration of this matter.

Yours very truly,

Joseph M. Feller

Joseph M. Feller, President

JMF/dmh

Diploma Privilege Comment
James Sheets
to:
rules.comments
07/14/2014 03:43 PM
Hide Details
From: James Sheets <jas.sheets@gmail.com>
To: rules.comments@iowacourts.gov,

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1 Attachment

Comment.on.DiplomaPrivilegeRule.2014.pdf

Dear Rules Committee/ Iowa Supreme Court:

Please find attached my comment upon the proposed Diploma Privilege Rule currently before the Rules Committee.

Respectfully Submitted,

--

--

James Sheets
Attorney at Law
Sheets Law, P.C.
Adm. DC., IA
PO Box 12016
Des Moines, Iowa 50312

Phone (515) 442-7228
FAX (866) 611-0764
Email: jas.sheets@gmail.com

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July 14, 2014

James Sheets
Sheets Law Firm, P.C.
3100 St. Johns Road
Des Moines, Iowa 50312
(515) 442-7228

Iowa Supreme Court
Attn: Rules Committee
1111 E. Court Ave.
Des Moines, Iowa 50319

RE: Bar Admission and Proposed Diploma Privilege Rule

To the Rules Committee:

I am submitting this letter in response to the proposed Diploma Privilege Rule which I believe should not be adopted. The use of a diploma privilege rule is inherently flawed and its adoption would be a detriment to the practice of law in Iowa and only serve to lessen the legal profession in Iowa.

The focus of the ISBA Blue Chip Committee in making its recommendation in support of the diploma Privilege Rule is as a measure to reduce the "student debt burden" for students of Iowa law schools. It is argued that eliminating the bar examination would reduce the total debt assumed by students in becoming lawyers. It appears though in review of the total debt assumed by students that very little debt, as a percentage of total debt accrued, actually comes from monies borrowed to study for the examination. The sometimes massive amount of debt assumed by law students throughout the country is largely the result of the tuition fees in which legal education - and especially in recent years - is being priced out at exorbitant prices. Herein lies the source of student debt: and it is not the bar examination. While the problem of and solution to school debt, and law school debt in particular, remains a complex socio-economic problem (and one beyond the cognizance of a court), I do not believe that it can be appreciatively remedied through the adoption of an administrative rule which eliminates a core hallmark of a professional: an examination on the merits in accordance to standards developed by practitioners in the designed profession.

A secondary consideration in making the recommendation in support of a diploma privilege is that the current bar examination passage rate is so high that in fact the bar examination is redundant and thus should be eliminated. This argument fails as a quality assurance for three reasons. It is frequently during preparing for the bar examination that many students either begin or continue to study long hours and it is in the course of this study that the student, formulating a general perspective on the knowledge and rules relative to the practice of law, matures into an independent thinking professional attorney. Alternatively, if is it argued that the high passage rate by Iowa law schools students on the bar examination renders the

examination superfluous and as such the examination is a non-event, or a "no-brainer," then measures should be adopted to strengthen the examination so as to render it a true vetting process. Finally, the measure to adopt a diploma privilege rule cannot attempt to provide any assurance of the training of lawyers other than the issuing of the law school diploma itself.

To eliminate the bar examination, however, is to conflate an educational degree with a professional license: each have different standards, forms of review, and goals. It is also not clear at present as to the scope and degree that law schools vets their students for the bar through the act of graduation. The graduation rate for law students in Iowa and throughout the country has been - historically - quite high. In one finding, approximately 90 percent of all students enrolling in law school on a nationwide basis subsequently graduated with a degree. This is to say that law schools typically vet out or "weed out" approximately 10 percent of their initial enrollees. This is in stark contract with other professional and graduate schools which sometimes a significantly large portion of the student population (in some instances greater than 50 percent) do not finish their degree – a fact due in part because of strict matriculation standards which are not sensitive to student retention policy and cannot be characterized as tuition/student loan driven. Schools of higher education - and law schools as a component of this industry - have a vested interest in retaining and graduating a student once enrolled which can come into conflict with a vetting or "weeding out" process which reduces the total tuition monies received by the school. I think it is critical in retaining the standards of professionalism of the bar that any assurance of professional qualification originate out of and stand apart from the matriculation process which has a direct or indirect financial interest in passing the applicant. This is why a vetting process independent of the school degree is necessary.

In review of the proposed diploma rule and the comments submitted thereto, there is nothing that can be recommended in this rule that will help and promote professional standards or the quality of attorney practice in the state of Iowa. Educators and the legal profession should be concerned about the issue of student debt and their recent efforts to reduce law school tuition fees are commendable. To eliminate the bar examination, however, will not materially reduce this debt: it will, however, significantly reduce the professional standards of the bar in the state of Iowa: a result which is contrary to public policy, legislative intent, and any standard of peer review.

Respectfully submitted,

/s/ James Sheets

James Sheets, J.D./Ph.D.
Attorney (Adm. DC, IA)

Diploma privilege
Tom Hobart
to:
rules.comments@iowacourts.gov
07/14/2014 03:43 PM
Hide Details
From: Tom Hobart <tomh@meardonlaw.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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JUL 14 2014
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I support the admission of attorneys who graduate from U of I or Drake and have taken the requisite courses without necessity of taking the bar exam. We have had a number of associates who have been delayed in commencing practice until the fall following their graduation in order to complete the testing now required. This is a hardship for both the graduates and the law firms who wish to hire them. That is a substantial departure from the situation which existed in Iowa for many years prior to adopting the multi state examination. The law schools are willing to undertake education of their students in order to assure the bar and public that they have been exposed to Iowa law. In my opinion, the law schools' commitment will result in graduates better prepared for practice than spending several months studying for an exam which does not test knowledge of Iowa law.

Very truly yours,

Thomas D. Hobart
Meardon, Sueppel & Downer P.L.C.
122 S. Linn St.
Iowa City, IA 52240
319-338-9222
tomh@meardonlaw.com

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Thank you.

Bar Admission Process
Eric Dale
to:
rules.comments@iowacourts.gov
07/14/2014 03:48 PM
Hide Details
From: Eric Dale <ericdale24@yahoo.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

FILED
JUL 14 2014
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Please respond to Eric Dale <ericdale24@yahoo.com>

1 Attachment

BarExamPublicComments.docx

ERIC J. DALE
Attorney at Law
1313 Harrison Street
Davenport, IA 52803
Telephone: (563) 323-8054
FAX: (563) 323-9112
E-mail: EricDale24@yahoo.com

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JUL 14 2014
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July 14, 2014

Re: Bar Admissions Process

Dear Sir or Madame,

I am writing this letter as a response to the invitation for public comment regarding the proposed rule changes to attorney admissions that would allow Drake or Iowa Law School graduates to be admitted to the Iowa Bar without examination.

I respectfully voice my opposition to these proposed rule changes for a number of reasons. It has been pointed out that our contemporary bar exam no longer is "Iowa Specific" and thus we don't really lose anything in the way of competency by doing away with the exam for certain graduates. I believe this only points out the mistake it was to do away with the Iowa specific nature of the bar exam to begin with.

I attended and graduated from Drake University in December of 2006 and was admitted to the bar in April of 2007 after examination. Had this rule been in effect seven years ago, I might have been spared a great deal of stress (and a good deal of weight gain). That said, after the ordeal that was the bar examination and the fact that it forced me to learn Iowa specific law gave me the strong foundation and confidence to build my law practice from the day I was admitted. In fact, the bar preparation materials for what was then the Iowa essay portion of the exam is, to this day, of the most valuable resources I have in my office.

Iowa subsequently switched to a more multi-state essay exam along with the multi-state bar exam as part of their admissions. I have always felt that his was a mistake. In the seven years I have practiced, I have never seen a judge persuaded by the sort of out of state thinking that the multi-state bar exam encourages. Iowa judges always want Iowa specific law, and have little patience for the rulings of other states. There has always been something wrong with the fact that an individual can go through the rigors of law school and a bar exam and have so little an incentive to learn about their specific state law until they're already in practice.

My second objection is that this rule will lead to our law schools to change their curriculum. When I attended Drake, we learned about the about civil procedure, evidence, criminal procedure, and other subjects through the paradigm of federal law. State specific rules, if they ever came into the discussion, were almost an afterthought and always in contrast to the "prevailing" federal rule. Obviously, this was more in line with the "multi-state" mindset that we would eventually face in the Multi-State Bar exam but wouldn't be very practical once we had to actually practice law in state court. Change Iowa law to make our law schools only about Iowa law, and out of state students will lose incentive to come here.

My last objection would be regarding the number of lawyers we already have in the bar. A strong criticism of rules restricting who and who cannot do business (whether its licensing doctors, lawyers, nurses, barbers or teachers) is that it artificially restricts the competition and pushes the prices for those services. Young lawyers are already starting out at $35,000.00 at firms or are forced to hang out their shingle with no real experience in the practice of law to begin with, taking whatever court appointments or clients who promise to pay (but seldom do) they can get. We already have a glut of attorneys. Why would make that problem even worse?

I thank you for your time and consideration and I implore you to keep an affective bar examination in place and to consider reinstating Iowa specific essay requirements as had been in effect during the February 2007 examination.

Very truly yours,

Eric J. Dale

EJD
Enclosure

In re Request for Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process
Catherine M. Lucas
to:
'rules.comments@iowacourts.gov'
07/14/2014 03:52 PM
Hide Details
From: "Catherine M. Lucas" <Lucas.Catherine@bradshawlaw.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

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JUL 14 2014
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1 Attachment

C Lucas Public Comment.pdf

Ms. Humpal,
I have attached my letter regarding the proposed amendments to Iowa's bar admission process.

Thank you.

Catherine

Catherine M. Lucas
Bradshaw, Fowler, Proctor & Fairgrave, P.C.
801 Grand Avenue, Suite 3700
Des Moines, IA 50309-8004
Phone: (515) 246-5853
Fax: (515) 246-5808
E-Mail: lucas.catherine@bradshawlaw.com
Web: www.bradshawlaw.com

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LAW OFFICES
BRADSHAW, FOWLER, PROCTOR & FAIRGRAVE, P.C.
801 GRAND AVENUE, SUITE 3700
DES MOINES, IOWA 50309-8004
TELEPHONE (515) 243-4191
FAX (515) 246-5808
WEB www.bradshawlaw.com
WRITER'S DIRECT DIAL NUMBER
(515) 246-5853
WRITER'S E-MAIL ADDRESS
lucas.catherine@bradshawlaw.com

MICHAEL R. FIGENSHAW
EDWARD E. JOHNSON
DAVID J. W. PROCTOR
DENRY M. DENNIS
DONALD F. HEIMAN
MARK L. TRIPP
DAVID L. JENKINS
STEVEN M. ANGSFURGER
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MATTHEW R. PHILLIPS
CAROLINE K. BETTIS
CATHERINE H. LUCAS

CHARLES S. BRADSHAW
1871-1963
P. H. FOWLER
1893-1972
W. Z. PROCTOR
D. J. FAIRGRAVE

OF COUNSEL
SMITH & KRAMER, P.C.
WILLIAM S. SMITH
JAN MOHRFELD KRAMER
KENT M. FORNEY
JOHN C. CORTESIO, JR.
JAMES M. HOLCOMB

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JUL 14 2014
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July 14, 2014

Sent via E-mail: rules.comments@iowacourts.gov

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue,
Des Moines, Iowa, 50319

Re: In Re Request for Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process

Dear Clerk and Honorable Members of the Iowa Supreme Court:

Thank you for the opportunity to comment on the bar admission proposal of the Iowa State Bar Association's Board of Governors, now under consideration by the Iowa Supreme Court. As a member of the bar committee that developed the proposal, and as a young attorney who went through the current licensure system, I enthusiastically support the proposal. I write on my own behalf and not that of the committee or my firm.

I will leave the explanation of the facts to those lawyers with far greater advocacy experience than I have. I read through the public comments and I am inspired that someday I will be able to be such an advocate for a position and patiently dispel non-supporting statements. I am also humbled at how far I have to go.

What I uniquely bring to the conversation is my firsthand experience transitioning from a Drake Law student to an Iowa attorney through the current licensure system. As a third-year student at Drake, I had the opportunity to participate in the Criminal Law Clinic and complete my first jury trial—O.W.I., hung jury. I experienced how Iowa law works in a real setting.

Then the bar exam happened. I forced all Iowa law out of my mind and crammed

songs and phrases like "Frank Sinatra Didn't Prefer Orville Redenbacher"[1] into my head. I borrowed money from my brother to pay expenses because my reserves were non-existent after three years of school. I jumped through the appropriate hoops. I passed the test. I then started my first job as a law clerk for the Fourth Judicial District in Council Bluffs. Significant time was spent researching points of law I should have known from the Criminal Clinic, but I could not remember if the law in my head was Iowa law or bar exam law. The bar exam was a disservice to me, the State of Iowa Judicial Branch as my employer, and the litigants that came before the judges of the Fourth Judicial. I do not think my experience is unique.

This is contrary to Erica Moeser, President of NCBE, who wrote to this Court explaining the remaining "rancor about the decision" to take all Iowa law off the exam is because "there is undoubtedly some nostalgia about the abandonment of that practice." I find her comment condescending. I have zero nostalgia for "the olden days." As a young, female attorney, I most often hear of "the olden days" and cringe. My "rancor" about the current bar is that it made an already difficult transition even more difficult. What I undoubtedly believe is a system that forces young attorneys to forget what they learned in three years to memorize what brand of popcorn Frank Sinatra liked should be abandoned. The competency of bar admittees is tested time and time again in law school. The Court, by taking the oversight back from Ms. Moeser's company, can ensure the law schools maintain the integrity of the students and thus the integrity of the bar. The proposal is not doing away with testing, the diploma privilege as suggested by the committee is <u>three years</u> of testing over a multitude of subjects that will do a far better job of assuring competency than any two day hazing.

The time is right for this Court to acknowledge the current system is broken. One of the steps the Blue Ribbon Committee took was discussing why we have a bar exam. Maintaining public perception and consumer protection were among the most popular responses, though more cynical responses such as maintaining the size of the bar to lessen competition and ensure high fees by making it more difficult to become an Iowa attorney were also among the reasons suggested. The current system does not accomplish the honorable reasons, though it may tend to accomplish the more cynical one.

The true question before this Court is whether three years of legal education prepares a student to begin practice in the State of Iowa or is something more needed. Based on my experience with the bar exam in its current format, my three years of legal

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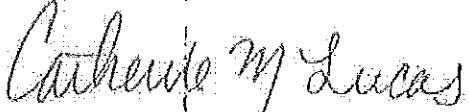
[1] <u>F</u>ee <u>S</u>imple <u>D</u>eterminable <u>P</u>ossibility of <u>R</u>everter.

education prepared me to begin practice. The bar exam set me back. It is our duty to change the profession to make it better. As Iowa attorneys, we have an obligation to lower the ladder behind us to build the profession with young talent rather that to pull it up with us. We cannot continue asking recent law graduates to spend money and time for a system that cannot be justified and will make the beginning of their career more difficult with no benefit to the public. What is particularly noteworthy about the proposal is that the deans of both Iowa law schools are prepared to step forward and have their curriculum reviewed as part of a quid pro quo for the acceptance of diploma privilege. This is a huge return of the regulatory power back to Iowa.

In conclusion, I urge this Court to give careful and serious consideration to accepting the Bar Association's proposal for the adoption of the diploma privilege and the Uniform Bar Exam. Please take back the control over the licensure of new attorneys from a non-Iowa company and implement a system that will produce high quality young attorneys.

Very truly yours,



Catherine M. Lucas

CML/cml

Bar Admission Process
gfdavison to: rules.comments

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07/14/2014 03:58 PM

1 attachment

07142014 Bar Admission Process comments to the Iowa Supreme Court.docx

Attached in Word format are comments from George F. Davison, Jr.

George F. Davison, Jr.
LAW OFFICE OF GEORGE F. DAVISON, JR., LC
2746 Lynner Drive
Des Moines, IA 50310-5835
Telephone: 515-250-1553
Facsimile: 515-864-0110
Email: gfdavison@georgedavisonlaw.com
Blog: http://georgedavisoniowalaw.typepad.com/

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Bar Admission Process

To the Honorable Justices of the Iowa Supreme Court:

The ability of a person to appear on behalf of clients before the courts of this state, to advocate for individuals and entities, to provide advice and counsel on legal issues, and to practice law is a privilege. It is **NOT** a right.

The privilege to practice law in the state of Iowa is earned. It is not granted. To obtain the privilege to practice law in the state of Iowa, a specific level of education is required. The person seeking the privilege must demonstrate ethical conduct. An examination has traditionally been required to gain admission to the Bar of the Iowa Supreme Court. In the past, the examination tested the individual's ability to recognize legal issues arising under Iowa law and to present solutions which would be consistent with the laws of the state of Iowa. To maintain the privilege to practice law before the courts of this state, the Court has for many years required attorneys to attend Continuing Legal Education (CLE) and to meet certain standards of conduct. Various regulations govern the way persons authorized to practice law must maintain clients' funds. There is a process by which persons licensed to practice law in Iowa who breach their duties to clients are investigated and disciplined.

The issue before the Iowa Supreme Court is whether or not students who graduate from the University of Iowa Law School and Drake University Law School, who take required courses, and who pass a background check should be admitted without taking an Iowa bar examination.

I find this proposal on its face to be discriminatory and inappropriate. In my opinion the concept as proposed violates the equal protection provisions of the Constitution of the State of Iowa.

> We begin by recognizing the constitutional pledge of equal protection does not prohibit laws that impose classifications. *Chicago & Nw. Ry. v. Fachman*, 255 Iowa 989, 996, 125 N.W.2d 210, 214 (1963) (recognizing "it is often necessary in accomplishing efficient and beneficial legislation to divide the subjects upon which it operates into classes"). Many statutes impose classifications by granting special benefits or declaring special burdens, and the equal protection clause does not require all laws to apply uniformly to all people. *Nordlinger v. Hahn*, 505 U.S. 1, 10, 112 S.Ct. 2326, 2331, 120 L.Ed.2d 1, 12 (1992). Instead, **equal protection demands that laws treat alike all people who are " 'similarly situated with respect to the legitimate purposes of the law**.' " *RACI II*, 675 N.W.2d at 7 (quoting *Coll. Area Renters & Landlord Ass'n v. City of San Diego*, 43 Cal.App.4th 677, 50 Cal.Rptr.2d 515, 520 (1996)) (emphasis omitted).

Varnum v. Brien, 763 N.W.2d 862, 882 (Iowa 2009)(Emphasis added). Why should law students from the University of Iowa and Drake University be granted a "pass", when students who attend Creighton in Omaha, the University of South Dakota in Vermillion, the University of Minnesota in Minneapolis, the University of Wisconsin in Madison, the University of Missouri – Columbia, or any of the law schools in Illinois could gain admission to the Bar of the Iowa Supreme Court only upon examination. This proposal on its face is contrary to the Iowa tradition of openness and fairness. This proposal creates a special class of law students. It sends a message of exclusion ("We really don't want law school graduates from out of state."). This is not consistent with the Iowa tradition of fairness to all nor the way that the courts of Iowa have worked during the past 150 years.

The proposal to allow graduates of the University of Iowa Law School and Drake University Law School to be admitted to the bar without an examination appears to have economics at its roots. Graduates and applicants have to wait four and one-half months or so to get results from the existing examination which is based upon the multi-state bar exam. During

the waiting period, recent graduates cannot practice as an attorney, these persons cannot earn an income, and they cannot pay on their student loans. While these are legitimate concerns, in and of themselves, they are not good reasons to eliminate the bar exam.

Others have argued that the existing bar examination serves no real purpose. It does not test an applicant on the law of the state of Iowa. It is a costly hurdle to gain admission to the profession. It is an attempt to keep some persons from practicing law in Iowa (Those who cannot pass the multi-state bar exam.) This argument, too, has some appeal, but it is not sufficient to eliminate the bar examination for all applicants.

Several years ago the structure of the Iowa Bar Examination was changed. In my opinion, the decision to use the multi-state bar examination was a major mistake. The decision reportedly was made in the name of fairness, but I see nothing fair nor appropriate about an exam that (1) does not test an applicant on the laws of the state of Iowa, and (2) is not graded promptly. A person who wishes to obtain the privilege to practice law in the state of Iowa should be examined on his or her knowledge of the laws of this state and their application. The applicant should have the results of the examination provided within a reasonable, yet short, period of time.

The "traditional" Iowa bar exam began on a Monday. An applicant was required to answer 25 essay questions over two and one half days. The questions coverage a variety of Iowa legal issues. Volunteer bar examiners graded the exams as they were completed. Grading of the exams was completed by Thursday afternoon of the week when the exam was administered. Successful applicants were admitted to practice before the Iowa Supreme Court on Friday.

It is my opinion that the bar examination serves a very important function and purpose. It impresses upon the applicant the serious nature of the practice of law in the state of Iowa. A person admitted to practice law in the state of Iowa is held to the fiduciary standard, the highest benchmark imposed by law. The examination provides a standard by which persons admitted to the Bar of the Iowa Supreme Court can and should be judged by judges, peers and the public. A quality and relevant bar examination assures the Iowa Supreme Court that the successful applicants have been properly prepared to advocate on behalf of clients, to proffer advice and counsel, and to comply with the Court's rules and regulations.

It is respectfully requested that the Court reject the proposal to eliminate the bar examination for graduates of the University of Iowa Law School and Drake University Law School. Instead, it is suggested that the Court review the existing bar examination structure, and that it return to an Iowa-focused exam for all persons who seek the privilege to practice law in the state of Iowa. Such an examination would help to assure the Iowa Supreme Court and the citizens of the state of Iowa that applicants for admission to the Bar of the Iowa Supreme Court are well prepared, know and understand Iowa law, and have acknowledged their duties and obligations as attorneys to comply with the rules and regulations of the Iowa Supreme Court.

Respectfully submitted on this 14th day of July, 2014,

George F. Davison, Jr. AT0001915
2746 Lynner Drive
Des Moines, IA 50310-5835
Telephone: 515-250-1553
Facsimile: 515-864-0110
Email: gfdavison@georgedavisonlaw.com

Bar Admission Process
David Mason, Sr.
to:
'rules.comments@iowacourts.gov'
07/14/2014 03:59 PM
Sent by:
Marsha Dengler <dengler@cflaw.com>
Cc:
"David Mason, Sr."
Hide Details
From: "David Mason, Sr." <mason@cflaw.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

Cc: "David Mason, Sr." <mason@cflaw.com>
Sent by: Marsha Dengler <dengler@cflaw.com>

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JUL 14 2014
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1 Attachment

Letter to Iowa Supreme Court.pdf

At the request of David R. Mason, I am sending you the attached correspondence.

Marsha Dengler, Secretary
REDFERN, MASON, LARSEN & MOORE, P.L.C.
415 Clay Street, P.O. Box 627
Cedar Falls, IA 50613
Office: (319) 277-6830
Fax: (319) 277-3531
Reply: mason@cflaw.com

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REDFERN, MASON, LARSEN & MOORE, P.L.C.

ATTORNEYS AT LAW
415 CLAY STREET
P.O. BOX 627
CEDAR FALLS, IOWA 50613
Established 1898

TELEPHONE (319) 277-6830
FACSIMILE (319) 277-3631

Website: www.cflaw.com

DAVID R. MASON
JOHN C. LARSEN
STEVEN D. MOORE
DONALD B. REDFERN
MARK W. FRANSDAL
MARK S. ROLINGER
BRUCE L. GETTMAN, JR.
DAVID H. MASON
BRADLEY M. STROUSE
BRANDON J. GRAY
KIRSTEN N. ARNDLD

LEROY H. REDFERN
1919-2007

WM W. McKINLEY
1926-1981

GEORGE F. NEWMAN
1908-1988

JAMES B. NEWMAN
1870-1958

July 14, 2014

Sent via email: rules.comments@iowacourts.gov

Iowa Supreme Court
Judicial Branch
1111 E. Court Ave.
Des Moines, IA 50319

RE: Bar Admissions Process (Proposed Diploma Privilege)

Dear Justices of the Honorable Court:

I have practiced law in the State of Iowa for forty-three years and was associated with the Iowa Board of Law Examiners as a grader, an adjunct and then a Board member over a period of twenty-seven years. I was involved in the writing, grading and administration of the Bar exam in this state as it transitioned from an all-Iowa essay, to a combination of multi-state multiple choice with Iowa essay and then finally to the present format, which does not test Iowa law at all.

Over the years, I have been very respectful of the Bar examination process and those who have been involved with it. Unfortunately, for reasons that are not important today, the Bar examination transformed into one more test of issue spotting and discussing hornbook law principles.

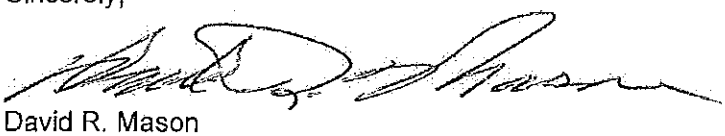
For a long time, I have believed that such process and testing are best left to our two fine law schools. The plan before you does maintain the integrity of the process of qualifying Iowa lawyers. It does maintain the strict character and fitness requirements which are so important to the administration of justice and protecting the public, and it does require applicants for admission to successfully complete a curriculum of courses that would ensure that the applicants have knowledge of certain basic principles of Iowa law, such as our unique comparative fault/joint and several liability system.

I reject the idea that the Bar examination must be given as some sort of a mechanism to satisfy a tradition or rite of passage principle.

In a day when choice seems to be important to many, it would appear that the proposal for diploma privilege allows for choice. A person who wishes to complete the prescribed curriculum in law school and wishes to practice in Iowa would not be required to take the Bar examination for admission to the Iowa Bar. On the other hand, a student wishing to opt for opportunities in other states or who chooses not to take the prescribed law school curriculum would still be allowed to take an examination in order to obtain admission.

For the reasons above, I would urge the Court to adopt the proposed rule that would allow the diploma privilege as recommended by the Blue Ribbon Committee and the Board of Governors of the Iowa State Bar Association.

Sincerely,



David R. Mason

DRM/mjd

Bar Admission Process
Chafa, Emily [DIA]
to:
rules.comments@iowacourts.gov
07/14/2014 03:59 PM
Hide Details
From: "Chafa, Emily [DIA]" <Emily.Chafa@dia.iowa.gov>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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JUL 14 2014
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1 Attachment

Diploma Privilege Comments.docx

My comments on the Bar Admission process and the ISBA's proposal are attached. Thank you for providing this opportunity for public comment on the proposal.

Emily Gould Chafa

Honorable Justices of the Iowa Supreme Court

Re: ISBA's Diploma Privilege Proposal

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I will briefly state a few reasons for my opposition to the Iowa State Bar Association's proposed "diploma privilege." These are my own personal opinions, not those of my employer or any organization I may represent.

1. Bar examinations test a person's ability to spot legal issues in a given scenario. A practicing attorney must regularly spot various legal issues which are often buried within a client's story or recitation of a legal problem. Individual law school classes do not teach or test this important skill. Lawyers in a rural county seat general practice office are more likely to need these issue-spotting skills. These clients deserve a lawyer who proved his or her mettle by successfully demonstrating issue-spotting skills in a bar exam. Likewise, the newly minted attorneys who strike out on their own must demonstrate this skill, for the sake of clients who expect at least a certain measure of competency from an inexperienced lawyer.
2. Bar examination preparation requires in-depth study and review of subjects that a law school graduate might or might not study in a regular class setting. This review helps to prepare the person to quickly recall the important points of that subject, providing a starting point for further research and analysis of a client's legal issue.
3. The Iowa Supreme Court should retain its traditional jurisdiction over the bar admission process, for all lawyers in this state, no matter where each of them attended law school. Delegating any of that authority to two law schools would be dangerously short sighted. As other commenters mentioned, native Iowans may choose to attend out-of-state law schools for many valid reasons. The bar examination continues to serve an important function, to weed out law school graduates who fail to demonstrate basic competency in their bar exam answers. All or most of the concerns expressed in the ISBA Blue Ribbon Committee's report can be addressed by other means without resorting to this drastic measure.

Emily Gould Chafa

J.D. Loyola School of Law, Chicago, 1987
Licensed in Illinois, 1987, by examination
Licensed in Iowa, 1990, by examination
Occasional Iowa bar exam grader

Bar Admission Process
Melissa Martinache
to:
rules.comments@iowacourts.gov
07/14/2014 04:09 PM
Hide Details
From: Melissa Martinache <MMartinache@siouxcitylawyers.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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1 Attachment

Bar Admission Process Comments.docx

Melissa Martinache, Paralegal
Vriezelaar, Tigges, Edgington, Bottaro, Boden & Ross, LLP
613 Pierce Street/P.O. Box 1557
Sioux City, IA 51102
Phone (712) 252-3226
Fax (712) 252-4873

Email MMartinache@siouxcitylawyers.com
Website www.siouxcitylawyers.com

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VRIEZELAAR, TIGGES, EDGINGTON, BOTTARO, BODEN & ROSS, L.L.P.
Attorneys at Law

KENT VRIEZELAAR +*
DALE C. TIGGES
RAY H. EDGINGTON *
TIMOTHY S. BOTTARO
SUZAN E. BODEN +
RYAN C. ROSS +*
AMANDA VAN WYHE +*
COLBY M. LESSMANN +*

+ Also Admitted in SD
*Also Admitted in NE

613 Pierce Street
The Historic Williges Building
P.O. Box 1557
Sioux City, IA 51102-1557

Telephone: (712) 252-3226

Fax: (712) 252-4873

Email:
tbottaro@siouxcitylawyers.com
Website:
www.siouxcitylawyers.com

July 14, 2014

Via email: rules.comments@iowacourts.gov

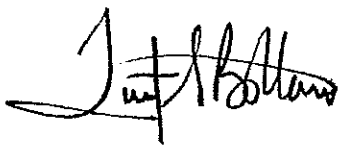
Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Dear Supreme Court Justices:

I am in favor of the Iowa State Bar Association's proposal to award diploma privilege to Drake University Law School and University of Iowa College of Law students successfully completing classes focused on Iowa-specific law, allowing them to practice law in Iowa without taking, and successfully completing, the current Iowa Bar Examination.

The current Iowa Bar Examination is not Iowa-specific. The general information studied by law students for the current examination is not as relevant as successfully completing classes on Iowa-specific law would be to practicing law in Iowa upon graduation. Allowing diploma privilege is a win-win for students and the legal system, allowing qualified Iowa graduates the opportunity to enter the Iowa workforce immediately upon graduation and begin contributing to the growth of Iowa's economy and legal system. In addition, in these times of huge student loan indebtedness, the sooner new lawyers can begin earning a living in their new profession, the sooner they can (hopefully) achieve financial solvency.

I fully endorse the Committee's proposal to allow diploma privilege.



Timothy S. Bottaro
Attorney at Law

Public comment re: proposed amendments to Iowa's bar admission process
Susan Ewing
to:
rules.comments
07/14/2014 04:14 PM
Hide Details
From: "Susan Ewing" <amta@dwx.com>
To: <rules.comments@iowacourts.gov>,
Security:
To ensure privacy, images from remote sites were prevented from downloading. Show Images

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1 Attachment

Sharp_Copier_20140714_161544.pdf

Please see attachment from Richard M. Calkins

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Richard M. Calkins, Past Dean Drake University Law School

The comments I make have probably been made by many others. However, I do want to add my name to the list of those supporting diploma privilege for Iowa Law Schools and Drake Law School graduates.

First, I am concerned with the costs incurred in preparing for the LSAT test to even enter law school. Then there are the costs of completing three years of law school. To add to the financial burden, students are encouraged to take bar review courses, which are extremely expensive, and then pay to take the examination. In other words, we have financially overburdened our students before they even consider entering the practice. Much of this cost is generated by the American Bar Association and private organizations which reap huge profits, all of which are outside the State of Iowa.

Second, I question the value of the multi-state examination which is not geared to Iowa law. It is run by an organization outside of Iowa and again there is a four-month delay from the time the examination is given and the results. And the questions are primarily multiple choice with only a few essay questions like the exam used to be in Iowa.

Third, we have two excellent law schools which care about the students they train for the practice. I think they should be trusted to weed out the incompetent and recommend the qualified. To place this determination in the hands of those outside of Iowa is a discredit to our schools

Fourth, in permitting diploma privilege, the Supreme Court can indicate core courses that every student must take with a passing grade of C or better.

Fifth, an examination covering ethics could still be required and given by the Iowa bar.

Respectfully submitted,

Richard M. Calkins
Past Dean of Drake University Law School

Bar Admissions Process
Ryan Koopmans
to:
'rules.comments@iowacourts.gov'
07/14/2014 04:16 PM
Cc:
Jess Vilsack
Hide Details
From: Ryan Koopmans <RKoopmans@nyemaster.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

Cc: Jess Vilsack <JVilsack@nyemaster.com>

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1 Attachment

Koopmans_Vilsack letter re Bar Admissions Process.DOC

Attached is a Word copy of our comment to the proposed amendments to Iowa's bar-admissions process.

Ryan G. Koopmans
Nyemaster Goode, P.C.
700 Walnut Street, Suite 1600
Des Moines, IA 50309
Telephone: (515) 283-3173
Facsimile: (515) 283-8045
Email: rkoopmans@nyemaster.com
www.iowaappeals.com

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Ryan G. Koopmans
426 44th Street
Des Moines, Iowa 50312

Jess W. Vilsack
35302 Cabernet Circle
Waukee, Iowa 50263

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July 14, 2014

The Chief Justice and Justices of the Iowa Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319
co: Ms. Donna Humpal, Clerk of the Iowa Supreme Court

Re: Bar Admissions Process

Dear Chief Justice Cady and Justices Wiggins, Hecht, Appel, Waterman, Mansfield, and Zager:

We support the ISBA's diploma-privilege proposal, which does not remove the screening process for admission to the Iowa bar, but instead replaces it with something better—at less cost.

In their recent article, *Moneyball for State Regulators*,[1] Harvard Law professor (and former "regulatory czar") Cass Sunstein and Harvard economics professor Edward Glaeser argue that state regulations and licensing requirements (which the bar exam is) should undergo a careful cost-benefit analysis before implimentation. That doesn't seem like a ground-breaking proposition; and it shouldn't be. But it is. As Sunstein and Glaeser explain, too many state regulators "favor intuition over information," meaning that they are "tempted to listen far too much when they were told that 'the public is very worried,' or that 'polls show that the majority of people strongly favor protection against air pollution,' or that 'the industry has strong views,' or that 'the environmental groups will go nuts,' or that 'if an accident occurs, there will be hell to pay.'" As Sunstein and Glaeser note, "none of those observations addresses the real question, which is what policies and regulations would achieve."

We see the potential for the same trap here. The critiques of the ISBA's proposal are based mostly on intuition: "If doctors, CPAs, and barbers have to take a licensing exam, why shouldn't lawyers?"; "If the students don't have to take a test, the public will lose all confidence in the bar."; and "Instead of doing away with the bar exam, we should be doing everything we can to uphold the standards of our profession."

None of these arguments addresses what the bar exam achieves, and none addresses what the bar exam costs.

The fact that doctors, CPAs, nurses, and even barbers must take some kind of written exam to become licensed is of zero relevance to whether the Court should adopt the ISBA's proposal. Those professions are vastly different from law and from one another, and so is the schooling that goes along with them. Law school is nothing like medical school—or any other professional school—because the practice of law is more of an art than a science. But more to the point: It

[1] Available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2418306

doesn't matter. The fact that CPAs have to take a written test says nothing about what the bar exam achieves and what it costs. Nothing. It sounds good; it seems to make intuitive sense; but it is a meaningless comparison.

The same is true for the concern over public perception. We think the ISBA proposal will make for better-prepared students on the whole, so the public's perception of Iowa lawyers should get better. But that's also beside the point: The role of the Judicial Branch is to ensure that the costs of its licensing requirements don't exceed the benefits, not to follow the political and sometimes irrational winds. The public might have more confidence in lawyers if they passed three exams instead of one (Chartered Financial Analysts do that), but no one is suggesting that we up the number of tests, even though it would probably give the public more confidence. Moreover, there's no evidence that the level of public trust in Wisconsin is any less than it is here. So this public-perception argument doesn't seem to hold up on the facts. It's a hunch; nothing more.

There's also the values argument: the claim that we must do "everything we can to uphold the standards of our profession." We agree that lawyers hold a special place in society, and thus the Court should take its gate-keeping role very seriously. But that doesn't justify licensing requirements that achieve relatively little and cost a lot. By the ISBA's count, the opportunity cost for bar-exam takers was almost $30 million the last five years because of the lag time between graduation and swearing in. And based on the current $1,300 price tag of the Barbri bar-review course, those same 996 students paid an additional $1.3 million for a six-week course that teaches them how to answer test questions.

The benefits? We're not sure, and we don't think anyone else is either. By the ISBA's count, only 25 law-school graduates were screened (kept) out by the bar exam over a five-year period. Many commenters who disfavor the diploma-privilege assume that these individuals would do something terrible if allowed to practice law, but there's no hard data to back that up: only intuition. We're not denying that some of these individuals may have been bad lawyers (they certainly need to work on their multiple-choice testing skills). But some of them would almost certainly have been just fine; indeed, they successfully completed three years of rigorous legal course work at one two respected law schools. In any event, we are skeptical that the cost to society would approach anywhere near $31.3 million every five years, especially since we think at least some of these students would have become productive, upstanding lawyers.

But the Court doesn't have to assume that to be true, because the diploma privilege doesn't just do away with the bar exam; it replaces it with a better option. Any student who wants to gain admission through the diploma privilege must take several core law-school courses that aren't required for graduation. And they also have to take a two-credit course on Iowa practice and procedure. Those courses won't be taught by volunteers who put in varying amounts of time; they'll be taught by law-school professionals who do this education thing for a living and who are employed by one of two fine law schools.

That's worth so much more than cramming for six weeks to answer 200 multi-choice questions and a handful of issue-spotting essays on generic common law. The Iowa practice and

procedure class, alone, will be a boon for new Iowa lawyers, because when lawyers trip up, they do so in that area: They forget deadlines; they don't understand pleading standards; they don't understand discovery.

At least that's what our gut tells us. Which is part of our point: We can all speculate about the contrasting benefits of the bar exam and the diploma privilege. But what we need are facts. On-the-ground facts. The Blue Ribbon Committee's Report and the excellent letters from Dean Vestal, other legal educators, judges, and lawyers provide many of those facts, which don't need to be repeated here. Based on those facts, we support the ISBA's proposal.

Best Regards,

Ryan G. Koopmans

Jess W. Vilsack

Bar Admission Process
Sue Hill
to:
rules.comments@iowacourts.gov
07/14/2014 04:18 PM
Hide Details
From: Sue Hill <shill@ParrishLaw.com>
To: "rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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1 Attachment

Bar Exam.docx

Please find attached from Alfredo Parrish.

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July 14, 2014

Delivered via e-mail to **rules.comments@iowacourts.gov**

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: Blue Ribbon Committee's Proposal for the Iowa Supreme Court to Adopt Diploma Privilege and the Uniform Bar Examination

Dear Iowa Supreme Court Justices:

From *In Re the Matter of Ralph, the Admission to the Bar of Arabella A. Mansfield* and the recent *Varnum v. Brien*, the Iowa Supreme Court demonstrates its leadership in doing what is right, fair and just. By adopting the Missouri Plan, Iowa advanced one of the most progressive selection processes available, removing politics and money from judicial selection. It is not by accident that Iowa Courts are so respected.

Once again, the Iowa Courts are confronting a very difficult decision. The issue is whether or not future lawyers who have studied in our law schools should be subject to a bar examination before they can practice in Iowa. Those of us who have successfully undergone the process believe there is some validity in the testing process. However, examining the current testing procedures, we know that it is rendered by an independent testing agency bearing only a slight resemblance to the crucible we faced years ago. There is a question of whether there is any real test of Iowa Law.

The best possible process for achieving the goal of developing the best possible Iowa lawyers in incredible rapidly changing times is creating an unbreakable bond and partnership between the Iowa Supreme Court, the University of Iowa and Drake University. It is within this framework that the Iowa Courts will not only maintain its leadership role but create a standard others will emulate.

I consider myself a very lucky person to be practicing a time honored profession in Iowa. Every day, I try to think about improving my abilities as a lawyer. I also think about what I attribute my current skills to other than courtroom battles. The answer is simple. I owe it to my time at the University of Iowa College of Law, the seminars I attend and the never-ending interactions with my colleagues who share a love of the law.

In my opinion, removing the bar examination for future lawyers who have studied law in Iowa law schools would be a bold step in the right direction. It melds Iowa's future with its history.

Sincerely yours,

PARRISH KRUIDENIER DUNN BOLES
GRIBBLE & GENTRY L.L.P.

BY:_____

Alfredo Parrish
aparrish@parrishlaw.com

AP:sh

Diploma Privilege Comments
Phil Redenbaugh
to:
rules.comments
07/14/2014 04:20 PM
Hide Details
From: Phil Redenbaugh <phil@redenlaw.com>
To: rules.comments@iowacourts.gov,

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To Whom It May Concern:

I am writing in whole-hearted support of the recommendations of the Blue Ribbon Committee on Diploma Privilege to practice in Iowa after graduation from law school. This has worked very effectively in Wisconsin. To expect a young lawyer, after graduation from college and law school, with vigorous testing in law school, to wait months for a decision on whether or not he or she can practice in Iowa is too onerous a burden. In my view it accomplishes nothing.

We have unanimous agreement in the office that the bar exam, as currently constituted, is of limited or no benefit.

PHIL REDENBAUGH
Law Offices of
PHIL REDENBAUGH, P.C., RYAN A. MOHR & BRETT C. REDENBAUGH
Telephone: 712-732-1873 after
Fax: 712-732-4274
Email: phil@redenlaw.com

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E.M. CARR 1850-1933
HUBERT CARR 1877-1967
E. MICHAEL CARR
JOHN M. CARR
STEVEN E. CARR

CARR & CARR
ATTORNEYS AND COUNSELORS AT LAW
117 S. FRANKLIN ST.
P.O. BOX 333
MANCHESTER, IOWA 52057-0333

TELEPHONE (563) 927-4164
FAX (563) 927-5654

July 11, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Ave
Des Moines, IA 50319

Re: Bar Admission Process

Friends,

I work with my father and brother as an attorney in Manchester, Iowa (county seat of Delaware County) and would like to weigh in with my opinion on the "diploma privilege" proposal.

I am in favor of the proposal with the requirement that in order to receive this privilege the graduating student must have met a certain grade level and/or level in their graduating class (i.e. graduated in the top ___% of their class). This requirement seems to remove any idea we will have the worst students practicing law in Iowa simply by virtue of graduating from Drake or Iowa. If the required grade level or graduating position is not achieved, the student would be required to pass the bar examination.

It is my understanding the proposal would also require a student to complete a significant number of courses specified by the Supreme Court. Consequently, a law student must dedicate and commit themselves early in law school to gain the diploma privilege. This student who is motivated from the start to practice law in Iowa should be rewarded. One of the "rewards" would of course be the diploma privilege however another reward would be to put this student in a better position to obtain jobs in Iowa (and particularly jobs where a license to practice law is necessary) which are available in May, June, July or August following their graduation. It makes sense to reward students graduating from an Iowa law school an earlier opportunity to obtain jobs in our state (and to start earning money without significant delay).

Thank you for your consideration.

Very truly yours,

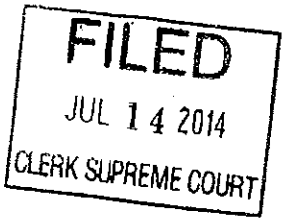
John M. Carr

JMC:clk

Philip L. Garland
Attorney at Law

Post Office Box 134
200 State Street
Garner, Iowa 50438-0134

Phone (641) 923-3792
FAX (641) 923-2693
garlandlawfirm@gmail.com



July 9, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 E. Court Avenue
Des Moines, IA 50319

Re: Bar Admission Process

Dear Clerk:

I am writing in response to the request for public comments from the Iowa Supreme Court concerning the Iowa State Bar Association's proposal to eliminate the Bar exam. My response is as follows.

Public Confidence

Lawyers do not have good standing in the public eye. Anything that we do as a body to diminish that public confidence needs to be weighed seriously. It is difficult to see in any fashion how the Blue Ribbon Committee's (committee's) recommendation does anything but further dilute that public confidence.

While the committee indicates that most Iowa and Drake graduates eventually pass the exam anyway, that is a little deceptive as many of those grads do not take the exam a second time. In examining the statistics, it is also somewhat surprising to find over the past several years Iowa has become one of the easier states for passage. The overall rate has gone from the mid 80s for as far back as I could find statistics to over 90% for first time takers. That alone is somewhat concerning but now the ISBA is recommending that we have individuals practicing who may not be qualified to do so.

As you no doubt have heard, every profession has an exam. In discussing with various professionals their exam, their comments are similar to the committee's report in that the exam has very little to do with their education, nor with what they do in practicing their profession. Yet most of these professionals believe there needs to be a standard and board exams are a reliable standard.

A parallel of the committee's recommendation can be drawn with the nursing profession. Several universities and colleges in our state provide BSNs in nursing and besides four years of schooling have a high passage rate. Those graduates take the same board exams as registered nurses. The following schools have a combined passage rate over the past year of 94%: University of Iowa- Allen College, Coe College, Luther College, Mount Mercy University, Saint Ambrose University, and the University of Iowa (which had a 97.48% passage rate). Would it be wise to allow all graduates of those schools to avoid their boards? They comprise nearly 25% of the students taking the test. But 28 of those students did not pass the exam and while that is a small percentage, it is certainly a large number, especially if you stretch it out over the life-time of practicing their profession of say 40 years. That could well mean there would be 1,000 nurses who never passed a board exam. How much public confidence would we have in that system?

The trust of lawyers would erode, not only in our profession but in any profession that does not have an independent test administered by an agency other than the schools. It not only affects lawyers but every other profession. However, it affects lawyers more because of the public's view of us in general.

Diploma Privilege

Much emphasis has been put on diploma privilege and the Supreme Court's ability to control the curriculum of the law schools. The mere taking of those courses does not necessarily mean that these individuals are better prepared to practice law in Iowa. The committee, and for that matter almost everyone in our profession, seems to be overly concerned with Iowa substantive law. While it is important for lawyers to learn Iowa rules and law, in large part that is why we have the Code of Iowa and so many research tools. Unless one practices in an area every day, it is a daily routine for most of us to research in the Iowa Code and spend even more time and extensive research on Iowa case law on many issues.

Personally, I have never understood this concern. I took the Bar exam 41 years ago and did not take the bar review course. It was not as extensive then as it is for the multi-state and I believe may have been one week. I did not go to Iowa or Drake and passed the Iowa exam with no study time. If there was Iowa substantive law I either missed it or did well enough on the rest of the exam "thinking like a lawyer" that allowed me to pass. The issue as to substantive Iowa law concerns are stressed far too much. We all know that part of the reason for continuing legal education is to keep up on case law changes, as well as changes in the Code of Iowa, all of which are ongoing.

We should call this what it is: DIPLOMA ADVANTAGE! If one's child wanted to go to a school other than Drake or Iowa, it would seem very unfair to have him or her decide that because of the bar exam, they would go to an in-state school. Additionally, if that child wanted to go to Yale or any other of the top ten law schools, why should they have to take the bar exam? While a case could be made in some states (such as South Dakota) where the overwhelming majority of lawyers attend one or two state colleges, it

hardly seems appropriate when 55% of the practicing lawyers in Iowa attend Drake or Iowa. Approximately 50% of the students going to Iowa come from out-of-state and approximately 50% of its graduates leave the state. It is good for the diversity of the school with this blend, just as the diversity of our Bar is better served with lawyers coming from other schools.

This proposal gives a decidedly unfair advantage to those students who do not have to take the bar exam, as they will be able to practice upon graduation, while the other 45% spend time and money in preparing for the exam. Obviously, a firm is going to be more inclined to hire somebody that it knows does not have to take the exam versus somebody that may have to wait until September to obtain the results. Law should be about fairness and what is fair with this?

Additionally, it was quite disingenuous of the committee to suggest the UBE which is prepared by the same organization as the test currently being given in Iowa. The costs are virtually the same and the test is given at the same time and the period for grading is virtually the same. So much of what Iowa does is a part of the UBE and actually the UBE is one step further than our current process. It hardly seems reasonable for nearly half of our Bar to be subjected to an exam based upon where they went to school regardless of that school's standing and ranking.

It is also noted that the organization for both for what Iowa does and the UBE was formed in the 30s pursuant to the request of the ABA. The suggestions made by the committee about this organization hardly seems reasonable given the ABA's position and its recommendation.

The ABA has long advocated a standardized test for all 50 states. It should be noted that 49 states use the multi-state exam. The suggestion that law schools be in charge goes against the "Report and Recommendations, American Bar Association Task Force on the Future of Legal Education" of January 2014. Nowhere in that well researched and thought out report was any suggestion made of doing away with bar exams but it does suggest that we have a nationwide exam, although that was not the purpose of the report and those comments were more of an aside.

Conclusion

Public confidence is quite important for the Bar Association. This court is well aware of that. The efforts to reach out to the public by holding its sessions in various corners of our state have not only put the average Iowan in touch with our court system but allowed them to further appreciate just what not only the court does but lawyers and judges in general. This proposal will move our system backwards in the public eye. While an exam might not be the most effective measure of a person's ability to practice law, there does not seem to be any other practical tool that was either suggested by the committee nor is such a standard available.

The comments that non-lawyers have made concerning this are many and varied. Some of those are as follows: "Why do you guys look for trouble?"; "There you go again, making your own rules"; "It is just another dumbing down of our society". The positive comments have been few but the negative ones have been plentiful.

Additionally, even though this court may be able to control the course of study, how those studies are administered would be quite a difficult task to monitor. We are a government of checks and balances. Should we really put that much in the hands of law schools? The ABA report does not seem to think so.

Finally, will our profession be better because of no bar exam? I do not see how.

Respectfully submitted,

Philip L. Garland

PLG:sw

HARVEY LAW OFFICE

Attorneys at Law
109 W. Montgomery Street
P.O. Box 85
Creston, Iowa 50801

FILED
JUL 14 2014
CLERK SUPREME COURT

Edward T. Harvey, Jr
Loretta L. Harvey, J.D.

Telephone: 641-782-7051
Fax: 641-782-7053
harvey_law_office@mediacombb.net

July 11, 2014

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Dear Clerk:

Please consider this letter as my public comments on the "diploma privilege" recommendation.

I do not support the "diploma privilege" recommendation. I believe that taking an Iowa Bar Exam measures a person's aptitude and provides a standard. The time preparing and studying for a bar exam tests and challenges a person's determination and drive to succeed not only on the exam, but on into the practice of law. As many attorneys know, the practice of law can be challenging whether it is solving problems for a client or trying a case. The bar exam is just the beginning of challenging steps.

Further, I encourage the association to reconsider the type of bar exam that is required. I have had the opportunity to grade the exam several items in the last three or four years. I am concerned with the entire test being the format of multi-state-multiple choice and multi-state essay. As a practitioner, it seems as if the multi-state- multi choice and Iowa Law based essays provides a more diverse overview of the student's knowledge. As a grader, I want to infer Iowa Law into the essay portion. However, the examiners are to use the "law" that is in questions. As practitioners we depend heavily on the Iowa Code for our answers. It seems like the best way to prepare our future attorneys for the practice of law would be to test their knowledge of the Iowa Code.

Additionally, I believe the bar exam is just the beginning of a person's journey into the practice of law. We have a number of graduates who are passing the bar and immediately going out on their own to hang up a shingle and practice law. I encourage the commission to consider implementing some type of an internship/residency program for all new attorneys.

Thank you for your consideration. Please feel free to contact me with any questions or concerns.

Sincerely,

Loretta L. Harvey

Loretta L. Harvey, J.D.
LLH:nrc

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JUL 14 2014
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Bar exams

Judy Moore to: rules.comments@iowacourts.gov 07/14/2014 06:21 PM

It doesn't take a rocket scientist to know that to eliminate the exam for new lawyers in Iowa is the most absurd proposal yet. I am a real estate agent here in Iowa and would have loved it if I hadn't had to take the test for licensing, besides saving the cost. However, almost all professional people in this state are required to take some sort of test to be able to work in their chosen profession. This is how the state says they are protecting the consumers. So Why should lawyers be above this process?

The court, above all, is suppose to support non-discrimination & yet this proposal is the epitamy of discrimination. And, oh, boo hoo, I feel so sorry for those law students that made a choice to pay the high cost of law school & now have to pay to take the bar exam. They all knew going in that this was going to be a cost for them when they finished law school. And Just exactly who is at fault for not having an Iowa part on the test? Other lawyers may think this is a good idea, but I highly doubt that the public who hire them will want to hire a lawyer who has not passed a bar exam.

I think this is a bad proposal for the Iowa consumer in that we all expect our professionals to be licensed, whether it be our doctor, lawyer, accountant, etc. We have a right to expect that lawyers be held to the same standard as others by taking an exam to be part of the practicing community of their chosen profession.

Judy Moore
Osceola,Iowa

Sent from my iPad

Bar Admission Process - public comments
Waterman, Bob to: 'rules.comments@iowacourts.gov' 07/14/2014 05:46 PM

1 attachment

img-714173813-0001.pdf

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JUL 14 2014
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Please see attached letter.

ROBERT V. P. WATERMAN, JR.
Tel: 563.333.6618
Fax: 563.324.1616
Email: bwaterman@L-WLaw.com

LANE & WATERMAN LLP
Established 1854

220 North Main Street, Suite 600
Davenport, Iowa 52801-1987
Tel: 563.324.3246
www.L-WLaw.com

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LANE & WATERMAN LLP
ATTORNEYS AT LAW SINCE 1854
IOWA & ILLINOIS

220 North Main Street, Suite 600
Davenport, Iowa 52801-1987
Telephone (563) 324-3246
Fax (563) 324-1616
bwaterman@L-WLaw.com
direct: 563-333-6618

Joe R. Lane (1858-1931)
Charles M. Waterman (1847-1924)
C. Dana Waterman III
David A. Dettmann*
Terry M. Giebelstein*
Rand S. Wonio
Curtis E. Beason
Robert V. P. Waterman, Jr.*
R. Scott Van Vooren*
Richard A. Davidson*
Michael P. Byrne*
Edmund H. Carroll*
Theodore F. Olt III*
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Ian J. Russell*
Benjamin J. Patterson*
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Rian D. Waterman*

Abbey C. Furlong*
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Brett R. Marshall*
Kelsey A. W. Marquard*
Kyle R. Day*
Andrea D. Mason*
Sharad K. Bijanki

Registered Patent Attorney
April A. Price*

Of Counsel
Robert A. Van Vooren*
Thomas N. Kamp
William C. Davidson*
Charles E. Miller*
James A. Mezvinsky
Peter J. Benson*
Michael L. Noyes
Jeffrey W. Paul*

*Also Admitted in Illinois

Illinois Office
3551 7th Street, Suite 110
Moline, IL 61265

July 14, 2014

Sent via email only to: rules.comments@iowacourts.gov
Iowa Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: Bar Admission Process

Dear Chief Justice Cady and Justices of the Iowa Supreme Court:

As a Past President of the Iowa State Bar Association, I write to submit my strong endorsement of and support for the conclusions and recommendations reached by the Blue Ribbon Committee on Legal Education and Licensure in its report dated December 2013, which report was unanimously approved by the ISBA Board of Governors at its June 2014 meeting. Much has been written both in favor of and in opposition to the proposed diploma privilege. I will avoid repeating the compelling comments supporting the Blue Ribbon Committee's recommendations that have already been submitted to this court. Rather, I will focus on a few of the prophetic remarks delivered by Illinois Second District Appellate Justice Ann Jorgensen at the Iowa State Bar Association's annual meeting last June.

Justice Jorgensen is co-chairing a task force established by the Illinois State Bar Association that is currently studying problems related to the delivery of legal services in Illinois, including how to improve those services for the public's benefit while at the same time correcting the tremendous challenges new lawyers are facing caused by staggering law-school debt and a stifling job market. During her recent remarks, Justice Jorgensen cheered Iowa for its diploma privilege proposal, calling it "progressive" and "forward thinking," and coming at a time when our profession is at a "serious crossroads" and in desperate need of change. She pointed to competing factors that threaten the legal profession: a significant increase in demand for legal services by those who can least afford it, a decrease in funding for indigent defense, a decrease in law school applications, a decrease in jobs for young lawyers, and an increase in non-

lawyers providing legal services. Importantly, Justice Jorgensen noted that both New York and California are currently studying the adoption a diploma privilege in their states for the same reasons the Blue Ribbon Committee has recommended it for Iowa.

The Iowa Supreme Court has a long tradition of being progressive and at the forefront of the law since *In re Ralph* when it ruled in 1838 that a slave from a slave state could not be forced to return to the slave state from Iowa soil. Similarly, Iowa has a long history of being more progressive than most states since, for example, 1838 when as a territory it ruled that unmarried women had a right to own property, which right became law in 1846 when Iowa became a state. For all the reasons articulated in the Blue Ribbon Committee's outstanding report, the Iowa Supreme Court should continue its strong tradition of leadership and vision and adopt the Committee's recommendations for a diploma privilege in Iowa.

Thank you for your consideration.

Sincerely,

Robert V.P. Waterman, Jr.

RE: Bar Admission Process (Amended Version)
Mock, Michael
to:
mark.cady@iowacourts.gov, rules.comments@iowacourts.gov
07/14/2014 05:24 PM
Hide Details
From: "Mock, Michael" <MMock@sfgmembers.com>
To: "mark.cady@iowacourts.gov" <mark.cady@iowacourts.gov>,
"rules.comments@iowacourts.gov" <rules.comments@iowacourts.gov>,

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JUL 14 2014
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1 Attachment

Iowa Sup. Ct. Bar Exam Comments.docx

The attached amended version corrects a handful of typographical errors.

Thanks,
Mike

From: Mock, Michael
Sent: Monday, July 14, 2014 5:05 PM
To: 'mark.cady@iowacourts.gov'; 'rules.comments@iowacourts.gov'
Subject: Bar Admission Process

Chief Justice Cady,

Attached in Word format are my comments on the Bar Admission Diploma Privilege proposal. I apologize for being a few minutes late in the submission, as I had several meetings run long this afternoon.

Please let me know if you have any questions.

Thanks,
Mike

Michael L. Mock | Vice President & Associate General Counsel | Midland National Life Insurance Company | North American Company for Life & Health Insurance | Sammons Retirement Services, Inc. | Sammons Financial Group Member Companies | 4350 Westown Parkway | West Des Moines, IA 50266 | **Office 515.440.5541** | Cell 515.490.3676 | Fax 877.208.6136 | MMock@SFGmembers.com

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Michael L. Mock
6980 Cody Dr., #6
West Des Moines, IA 50266
(c) (515) 490-3676
(w) (515) 440-5541
MMock@SFGmembers.com

FILED
JUL 14 2014
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July 14, 2014

Hon. Mark S. Cady
Iowa Supreme Court
1111 East Court Avenue
Des Moines, IA 50319

Re: Proposed Amendments to Iowa Bar Admission Process
Public Comment in Opposition to "Diploma Privilege" Proposal

Chief Justice Cady:

The Iowa State Bar Association (ISBA) Blue Ribbon Committee on Legal Education and Licensure (the "Committee") has issued a Report recommending adoption of a "Diploma Privilege" which would permit graduates of in-state law schools (currently Drake University Law School and the University of Iowa Law School) (the "In-State Law Schools") to become licensed to practice law in Iowa without need to take or pass a traditional bar exam. After reviewing the Report, I am opposed to adoption of the Diploma Privilege because the Committee has failed to articulate a logical rationale for such a radical change in professional licensing.[1]

By way of background for my comments, I grew up on a farm in rural Nebraska. I attended Drake University for both undergraduate and law school studies (B.A. magna cum laude in Philosophy & Religion, 1992; J.D. with honors, 1995). While in my third year of law school, I was editor-in-chief of the *Drake Law Review*. Following law school, I worked in private practice with the Des Moines law firm of Bradshaw, Fowler, Proctor & Fairgrave, P.C., doing traditional insurance and commercial litigation. In early 2011, I took an in-house legal position as Vice President and Assistant General

[1] Although I oppose the Committee's recommendation, I do have great regard for the Committee members, many of whom I have had the privilege to encounter professionally, and all of whom have well-deserved stature in the Iowa legal community. My critique of the Report and the Diploma Privilege recommendation in no way reflects negatively on the Committee's significant efforts in wrestling with such significant issues as increasing law school costs and access to legal services in rural and other underserved communities.

Counsel for FBL Financial Group, as well as joining the law firm of Parker, Simons & McNeill, P.L.C. In July 2013, I moved to my current position as Vice President and Associate General Counsel for Sammons Financial Group.[2]

My career as an Iowa lawyer has developed alongside dramatic recent changes to legal education and the law profession. My law school class at Drake was part of the wave of students who have flocked to law schools in greater numbers since the late 1980s; my class was at that time the largest first year law class admitted to Drake. Also, my law school class was among the last to take the traditional Iowa bar exam consisting solely of essay questions on Iowa specific law spread over two and a half days of testing, with the results known almost immediately, and swearing in of successful applicants conducted the Friday of the exam week. I quite literally was taking my first deposition within two weeks of sitting for the bar exam.

The change in the mid-1990s to the Multi-State Bar Exam has seemed to have no discernible negative effect on law students or the Iowa legal community. I have hired, supervised, and worked with numerous law students both from the in-state Law Schools and several out of state law schools. The law students have seemed to accept the bar exam process as a natural part of becoming a lawyer, and have never expressed concern about the time period between graduation and licensing (approximately four months) being a significant burden. Also, most law students who have a job offer prior to graduation are able to work as law clerks while awaiting their bar exam results.

More profound than the changes to the bar exam during my career have been the major changes in the broader legal profession. The economic recession in the mid-2000s has caused a great deal of turmoil in the hiring practices of law firms,[3] and a resulting reduction of jobs along with a stagnation or reduction of wages for new law school graduates.[4]

The employment prospects for recent law graduates have been challenging, to say the least. Employment rates for law graduates, particularly in traditional legal careers where passage of a bar exam is required, have plunged since 2007, in the aftermath of the recent recession.[5] Those graduates fortunate enough to land job offers often find themselves with starting salaries substantially less than received by law graduates in the

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[2] The views expressed in this letter are purely personal and do not reflect the views of my current or prior employers or law partners.

[3] *See* http://www.newrepublic.com/article/113941/big-law-firms-trouble-when-money-dries

[4] *See* http://insidethelawschoolscam.blogspot.com/2012/09/labor-day.html ; http://www.businessweek.com/articles/2013-04-01/the-case-against-law-school

[5] Statistics gathered by the National Association for Law Placement (NALP) are an eye-opener both as to the anemic job placement rates for law graduates and the sharp decline in salaries since 2007. The summary statistics for 2013 law graduates (the most recent available) are available here: http://www.nalp.org/2013_selected_pr

early 2000s if they enter private practice, while public sector starting salaries have remained flat (and significantly lower than private practice).[6]

Against this backdrop of the new landscape facing current law students, the accumulation of significant law school debt in pursuit of a legal degree may well be a poor economic decision.[7] Certainly the Iowa legal community should be concerned about the impact of law student debt on the future of the legal profession. But the Diploma Privilege proposal is simply the wrong solution to a complex problem.[8]

I. The Committee's Rationales for the Diploma Privilege Proposal Are Mere Suppositions Not Supported by Evidence or Logic.

A. The adoption of a Diploma Privilege will have negligible impact on law student debt.

The primary basis cited by the Report for adopting the Diploma Privilege is the economic benefit to law graduates who could start work *as attorneys* approximately four months earlier than graduates who take the bar exam. To support this contention, the Report contends that "For a student with average amounts of law school student loans, the cost of such delay is around $29,000 per applicant, between 27% and 30% of the typical student's law school student loan balance at the two Iowa law schools."

The Report can only reach this conclusion, however, by relying on some improbable assumptions and creative accounting. Some of the Report's more suspect reasoning includes:

- **Assumption:** All law graduates will work immediately upon graduation.

  Reality: Many law graduates take time off prior to beginning work, ranging from a couple of weeks to several months. Often this time is used to move to a new home, get married, travel, or simply relax before beginning a career.

- **Assumption:** Law graduates who take the bar exam cannot or do not work before being sworn in as attorneys.

  Reality: Many law graduates can and do work as law clerks with their future employers prior to becoming sworn in as attorneys. Other law

---

[6] *Id.*

[7] http://www.theatlantic.com/business/archive/2013/07/is-law-school-a-good-deal-after-all/277927/

[8] Frankly, thinking the Diploma Privilege proposal will cure the law school debt problem is akin to a doctor seeing a patient with massive internal injuries propose slapping a bandaid on a knee scrape as the best treatment available.

graduates take non-law related employment opportunities while waiting for bar exam results, or while searching for employment.

- **Assumption:** The amount that can be earned by non-lawyer graduates prior to being sworn in is nominal.

  Reality: Law clerks at my past employer, FBL Financial Group, earned $25/hour, which was commensurate with the general prevailing law clerk wage scale in Des Moines. Even if a graduate taking the bar exam works only 8-10 weeks out the 19 weeks between graduation and becoming licensed following the bar exam, the graduate would earn $8,000-$10,000 (or more, if overtime were available). While this might be less than the salary for a starting associate, the potential earnings differential during the four month window cited in the Report is not nearly as dramatic as suggested by the Committee.

- **Assumption:** The full gross wages earned as an attorney will be applied immediately to reduce law school debt.

  Reality: The Report states, "Thus the $29, 000 cost of delay is 30% of average law school debt for a University of Iowa law student and 27% for a Drake law student." This implies that a law graduate will apply his or her full gross wages to reduce student debt. Of course, this implication is nonsense. First off, the Report relies on both gross wages and an assumed 30% benefits value. The Report fails to reduce this gross value for taxes and required employee contributions toward benefits (*e.g.*, 401(k) matching and health insurance premiums). Further, the earnings are not paid in one lump sum, but earned over time. Finally, the Report takes no account of the graduate's need to pay normal living expenses (an oversight certain to be noticed by the graduate's creditors). Even at the salary levels assumed by the Report, graduates will likely be living paycheck to paycheck for several years.

Although law graduates who start work immediately upon graduation will likely earn more for a brief four month period than their colleagues who must take the bar exam, the differential is far less than the $29,000 windfall suggested by the Report. Further, the implication that eliminating the bar exam will result in a 30% reduction in law school debt within the first four months of graduation is specious. For nearly all graduates, repayment of large student loan debts will be an undertaking requiring 10 years or longer. The difference in repayment of law school debt exceeding $100,000 because of four months of somewhat higher earnings from not taking the bar exam is economically insignificant.

B. The adoption of a Diploma Privilege will have negligible impact on encouraging law school graduates to take jobs in rural or underserved areas.

The Report stretches its dubious economic reasoning further by asserting:

> By allowing the new graduates of our two Iowa law schools to reduce the amounts of their student debt by eliminating the four and one half month delay between graduation and bar admission we will remove a barrier to them locating in our rural communities. The same is true as to the opportunities for such new lawyers to serve other historically underrepresented communities and to enter into public service practice.

The Report offers no justification for this conclusion. As discussed previously, the economic benefit of eliminating the bar exam is negligible. But even assuming some law graduates would find an economic benefit approaching even half of what the Report promises, the Report fails to connect that economic benefit to increased interest in pursuing careers in rural or underserved communities, or in the public service sector.

I grew up on a farm in a rural area of western Nebraska.[9] I know firsthand the struggles faced by rural areas in the face of several decades of significant economic and demographic changes. One common and easily identified change is the regionalization of businesses, as local communities can no longer support the same level of economic activity, and as local businesses find it impossible to compete with larger businesses. Driving 30 to 60 minutes one way in order to shop for groceries or clothes, get supplies, or find professional services is commonplace. Elementary and high school education has progressed from local to county to even regional as schools consolidate. It should hardly be a surprise that traditional general practice "county seat attorneys" are feeling the same economic pressure.

The problem with the Report is that it assumes, without justification, that law school debt is the primary barrier to rural practice. But the equation is much more complicated for most law students. One law clerk who worked for me recently asked for my advice when he was considering competing job offers from a traditional law firm in a larger town and from a small five-person firm in his rural Iowa hometown. The concerns we discussed were not all, or even primarily, economic. Some of the factors law students might consider include:

- Social life
- Living further from amenities of larger cities (e.g., shopping, health care, restaurants, specialized services)
- Opportunities for dating

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[9] My high school graduating class had a total of seven students.

- Career opportunities for a spouse
- Educational opportunities for children (including projecting the local educational environment out 20+ years)
- Impact of working in a rural practice if one wanted to leave for a larger city or a different career in the future
- Future economic outlook for the practice as law becomes increasingly regionalized
- Being required to be a general practitioner, and potentially losing the economic advantages of being a specialist in a larger firm setting
- Living near to family

As our society becomes increasingly urban, it is hardly surprising that fewer law students will hail from rural backgrounds; it is those students who are most likely to embrace the small town or rural lifestyle. And even for those students with an openness to rural practice, career objectives might make rural practice less inviting. It seems doubtful that any law students are currently choosing not to pursue rural practice merely because they have to take the bar exam.

C. The adoption of a Diploma Privilege will have negligible impact on legal employment in Iowa, nor will it increase diversity in the Iowa legal community.

The Report offers as its final justification for the Diploma privilege this puzzling rationale:

> The proposed rule for admission absent examination will also benefit the bar and bench by making practice in Iowa more competitive for the graduates of our Iowa law schools. To the extent this helps the Iowa bar and bench become more diverse, by assisting our law schools in attracting and our state in retaining diverse individuals, it is a particularly beneficial outcome.

It is near impossible to determine what the Committee meant by this comment. The Report offers no evidence to support a conclusion that the Iowa legal community is unable to compete for graduates of the In-State Law Schools. In fact, I suspect that the majority of licensed Iowa attorneys graduated from one of the In-State Law Schools, and that more recent graduates of the In-State Law Schools took their first legal job in Iowa than in all other states combined.

But this contention is beside the point. The purpose of the bar exam and the licensing process is to guarantee the competency of those who wish to practice law in Iowa *without regard for where they attended law school.* If Iowa law firms are having trouble recruiting graduates of the In-State Law Schools, or if the In-State Law Schools

are having trouble placing their graduates in Iowa jobs, those are economic issues which have nothing to do with licensing requirements. Rather, the solution is for the In-State Law Schools to better train students for legal careers,[10] and for the Iowa legal community to offer sufficiently compelling job opportunities for those students. The Iowa Supreme Court's slate of responsibilities does not include serving as an adjunct career services department for the In-State Law Schools and the Iowa legal community.

The Report's reference to "attracting and retaining diverse individuals" borders on gobbledygook.[11] The Committee offers no explanation as to how the Diploma Privilege will supposedly accomplish this result. Logically, the Diploma Privilege will attract exactly one kind of student not already interested in one of the In-State Law Schools—students who are afraid they will not be able to pass the bar exam. Iowa's Law Schools and legal community can probably survive without that kind of diversity

II. The Traditional Bar Exam Serves a Valuable Purpose by Protecting the Public in Establishing a Baseline Level of Legal Competence for All Lawyers.

Q: What do you call the person who finishes last in his medical school class?

A: Doctor.

The old medical school joke reflects a certain cynicism about the varying qualifications of those who hold professional degrees. Yet that cynicism underscores the

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[10] At the Association of Life Insurance Counsel (ALIC) Annual Meeting this past May, a discussion panel was hosted by the deans of the law schools at St. John's University, University of Texas, and Tulane University regarding the state of law school education. The consensus of ALIC membership (both in-house counsel and traditional law firm attorneys) was that the current law school educational model is failing to produce law graduates ready to begin work as attorneys. Common complaints were that the current law school model lacks sufficient emphasis on business and economic principles, as well as failing to provide sufficient practical experience via clinical experience, and paid externships or clerkships.

[11] It is possible the Committee comments here are an oblique reference to assisting the In-State Law Schools with improving their rankings by various organizations by producing better statistics on law school admissions and post-graduate job placements. If so, it is not the responsibility of the Iowa Supreme Court to help the In-State Law Schools paper over their economic problems. In any event, the current law school and legal community crises are problems years in the making, as law schools churned out far too many graduates for the number of available jobs. Getting rid of the bar exam is not going to alleviate the current inevitable market correction. *See* http://www.slate.com/articles/news_and_politics/view_from_chicago/2013/04/the_real_problem_with_law_schools_too_many_lawyers.html

purpose of the bar exam—ensuring the competence of the lawyers practicing in Iowa. The bar exam is not intended to serve as a replacement for law school classes or practical training, but instead serves as a screening device that verifies law school graduates have learned sufficient legal principles to serve in a position of public trust.[12]

A look at the actual data for Iowa bar exam results demonstrates that the bar exam does, in fact, serve as a screening device.[13] Passage rates vary widely, but generally seem to fall in a range of 75%-95%. The Committee tries to smooth over the bar exam failure rates by noting that many In-State Law School graduates who fail the exam once (or more) "ultimately" pass. Based on this fact, the Committee contends that the bar exam is essentially pointless because almost all law school graduates who take the bar eventually pass the bar.

Here, the Committee confuses the causation issue. The fact that most current In-State Law School graduates can pass the bar ("ultimately") simply means that students who apply to law school know they will have to take the bar, law schools admit students who are capable of passing the bar, law students select elective courses that will help them prepare for the bar, and law professors teach classes with an eye toward the bar exam. In other words, the existence of the bar exam serves as an incentive for students, administrators, and professors to admit and educate individuals in a manner where they are likely to succeed in taking the bar exam.

The proposed Diploma Privilege would remove this important check on the legal education system, and introduce incentives for students, administrators, and professors to approach legal education in a manner that produces unqualified attorneys in practice. For example, law students could take classes solely with an eye toward the professor's reputation as an easy grader—the law school equivalent of "rocks for jocks". Professors could be pressured to grade easier to keep up law school graduation rates or as a favor to a wealthy alum. Administrators could feel compelled to admit unqualified students because of pressure from an influential donor or politician.

Such concerns are not far-fetched. Recently, the prestigious University of Texas Law School was embroiled in controversy when its graduates managed only a 59% passage rate on the state bar exam.[14] Records revealed that several graduates who failed the bar exam were admitted to the law school despite underwhelming credentials

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[12] Throughout my career I have routinely used knowledge learned during bar review or tested by the bar exam, even with years elapsed since I learned the information. The bar exam process tests not only the ability to identify important legal principles, but also the ability to learn an unfamiliar area of the law in a relatively short time.

[13] Iowa Supreme Court Staff Report on Diploma Privilege.

[14] *See, e.g.*, http://www.rawstory.com/rs/2014/05/21/cronyism-blamed-for-half-of-univ-of-texas-law-school-grads-inability-to-pass-the-bar/ ; http://www.foxnews.com/opinion/2014/05/20/corruption-rampant-cronyism-at-university-texas-school-law/

because of the influence of various politicians. Now imagine what might happen with no bar exam to measure the quality of a law school's graduates. For the Iowa Supreme Court to abdicate its responsibility for guaranteeing the quality of Iowa's attorneys to the In-State Law Schools is akin to allowing the proverbial fox to guard the hen house.[15]

III. Less Radical Alternatives Exist to Alleviate the Perceived Negative Effects of the Four Month Delay Between Law School Graduation and Licensure.

The complex issues of reducing law school debt and providing incentives for law graduates to pursue careers in rural and underserved areas cannot be solved by eliminating the bar exam. However, if the four month time lag between graduation and licensing is perceived to be such a significant issue for law graduates, there are possible alternatives that could be considered:

- Permit law students to take the bar exam during their final year of study and then become licensed upon graduation.
- Provide for "conditional licenses" to any graduate of an accredited law school.[16] The conditional license would permit the graduate to work as an attorney under the supervision of a fully licensed attorney. The graduate would then have one year (or two bar exams) in which to pass the bar exam before losing the conditional license.

Of course, these proposals, much like the Diploma Privilege proposal, cannot solve the complex problem of law student debt. One modest proposal for solving the problem of law student debt would be for law schools to reduce tuition.[17] If a one-time $27,000 check will supposedly cure all that ails law graduates, then the In-State Law Schools could solve the problem by reducing tuition by $27,000. Or, if that is too radical, law graduates who pass the bar exam could be given an incentive payment of $27,000, or have that amount of their student loans forgiven (perhaps through tax

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[15] This is not to suggest any of the current administrators or professors at the In-State Law Schools would act unethically. Yet, as American journalist Damon Runyon said, "Trust, but verify."

[16] Having recently hired law clerks from out-of-state law schools such as Creighton and Northern Illinois, there seems no reason to believe that the graduates of the In-State Law Schools are superior to out-of-state students such that they deserve any special treatment. In my experience, the in-state and out-of-state law students have been equally well prepared (or unprepared, as the case may be) for practical legal work.

[17] Several law schools have actually announced tuition cuts, including the University of Iowa. See http://time.com/#67168/law-school-college-tuition/ . Of course, this only puts Iowa law school tuition back to its already high 2007-08 rates, but it is a move in the right direction as the legal education market corrects itself.

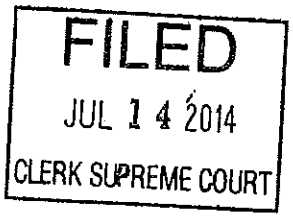
credits). Although perhaps more difficult to accomplish, these proposals would at least be tied directly to the perceived problem of law student debt, unlike the Diploma Privilege proposal.

Sincerely,

/s/ Michael Mock

Michael L. Mock

Bar Admission Process
Ryann Glenn
to:
rules.comments
07/14/2014 05:17 PM
Hide Details
From: "Ryann Glenn" <ryann@petersenlawcb.com>
To: <rules.comments@iowacourts.gov>,



1 Attachment

image001.jpg

To Whom it May Concern:

I apologize for sending this 45 minutes beyond the deadline, but I wanted to provide my comments regardless. I am a practicing attorney in Council Bluffs and graduated from Creighton Law School in 2010. I would like to voice my objection to the proposed new rules regarding the diploma privilege. I have the opinion that this will only diminish the respect and level of integrity in our profession and increase the chances for attorneys to be licensed who do not have the work ethic and intelligence that is required to pass the bar exam.

I also have strong reservations that this diploma privilege will create a large influx of lawyers into Iowa who simply want to take advantage of the diploma privilege. I have a concern that after several years of this happening, Iowa will see an overabundance of lawyers with no positions available. As a result, you will see the same financial strain concern that the bar association was seeking to avoid in the first place and students who could have taken advantage of additional courses throughout law school will have chosen not to so that they could take the Iowa specific courses.

Regardless of the Court's decision on this issue, I do have the opinion that there are certain problems with the bar examination process that is currently in effect. This is primarily associated with the fact that Iowa law is not focused on at all during the exam. Perhaps one suggestion could be to make the essay portion of the examination solely applicable to Iowa law and have a separate bar examination "prep book" prepared by the Iowa law schools or bar association to go along with the Iowa multistate bar exam prep course materials students utilize.

Thank you for your consideration.

Ryann A. Glenn
PETERSEN LAW PLLC
The Creston House
215 South Main Street, Suite 301
Council Bluffs IA 51503
Phone: 712.328.8808 ext 302
Fax: 712.328.1562

ryann@petersenlawcb.com

PETERSEN LAW

public comments
Lynzey Kenworthy
to:
rules.comments
07/14/2014 04:39 PM
Hide Details
From: Lynzey Kenworthy <lynzey.kenworthy@gmail.com>
To: rules.comments@iowacourts.gov,

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JUL 14 2014
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1 Attachment

Public Comment re Blue Ribbon Committee Report.pdf

Attached please find my comments regarding Recommendation 1 of the Blue Ribbon Committee's Report.

Best regards,

Lynzey R. Kenworthy

Iowa Attorney No: AT0010053

Lynzey R. Kenworthy
lynzey.kenworthy@gmail.com

July 14, 2014

FILED
JUL 14 2014
CLERK SUPREME COURT

VIA E-MAIL: rules.comments@iowacourts.gov

Iowa Judicial Branch
111 East Court Avenue
Des Moines, Iowa 50319

Re: Bar Admission Process

To the Chief Justice and Associate Justices of the Iowa Supreme Court:

I write in opposition of Recommendation 1 of the Blue Ribbon Committee's Report ("Report"). Comments submitted by attorneys from across Iowa lend support to my conclusion that adopting the diploma privilege is the wrong answer to the issues the Committee aims to address.[1]

As the Court considers eliminating the exam, I urge you to consider the context in which this proposal is unfolding. Much of this debate feels out of focus, with many in favor of the Report's recommendation debating whether Iowa should be using either a multi-state format or Iowa-based approach to the bar exam or diploma privilege. Those advocating for diploma privilege make outstanding points, but the final Report fails to embody the "best choice" as adopting the proposal or maintaining status quo is a false option.

The Report seeks to address two critical issues facing our profession: student debt and rural practice shortages. As a young attorney who graduated in 2009, I feel uniquely qualified to suggest that the issues facing our profession have more to do with a poor economy than inherent flaws in Iowa's licensing exam. Student loan debt is a reflection of broader state and federal policies; the inability to pay them off is a statement on the economy and availability of jobs in this profession. The legal community doesn't appear to

[1] See Comment Submitted by Brian P. Rickert, May 15, 2014; Comment Submitted by Dustin J. DeGroote, May 14, 2014; Comment Submitted by Kristofer J. Lyons, May 16, 2014; Comment Submitted by Ben Arato, June 17, 2014; Comment Submitted by Steven Waechter, June 30, 2014; Comment Submitted by Paul P. Morf, July 3, 2014; Comment Submitted by Leslie C. Behaunek, July 14, 2014.

have asked the tough questions of law schools, practitioners and legal employers, such as whether we are ignoring the repercussions of delaying retirements, postponing hiring decisions and eliminating positions. In the short-term, student debt, in particular, would be less burdensome if firms implemented robust hiring plans, governments had the ability to give advance offers and strapped non-profits could offer contract legal counsel the benefits of loan forgiveness.

I submit that Iowa's legal community and consumers of legal services would be better served by rejecting Recommendation 1 of the Report in favor of a more thorough, representative study of the issues threatening the legal profession.

Accordingly, I would prefer to see a debate that explores the true causes of and solutions for burdensome student debt, the reasons attorneys are unable or unwilling to practice in rural settings and the twin aims of licensing and exams: public confidence and actual competence.

I understand that law schools everywhere are struggling to attract students because of the poor return on investment brought on by too few jobs in a global recession. I understand how the Report's recommendations may be good for Iowa's two law schools. I even respect the goals set forth by the Committee. But Recommendation 1 is bad for the Iowa legal community and it's bad for Iowa's consumers of legal services.

Thank you for allowing the public to comment on the Report. I appreciate your work in ensuring that Iowa's justice system is fair and impartial.

Respectfully,

Lynzey R. Kenworthy

Comments on Proposed Changes to Iowa's Bar Admission Process
Van Everett
to:
'rules.comments@iowacourts.gov'
07/14/2014 04:32 PM
Hide Details
From: Van Everett <Everett@whitfieldlaw.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

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2 Attachments

Ltr to IA Sup Ct.doc

Hello,

Attached are my comments on the Proposed Changes to Iowa's Bar Admission Process. Thank you for the opportunity to comment.

Van Everett

Van Everett
Attorney at Law
Whitfield & Eddy, P.L.C.
317 Sixth Ave. Suite 1200, Des Moines, IA 50309
Main: (515) 288-8041 | Fax: (515) 222-0318 | Direct: (515) 558-0156
Email: Everett@whitfieldlaw.com | Bio | Map | Website

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WHITFIELD & EDDY P.L.C.
ATTORNEYS & COUNSELORS AT LAW

Van T. Everett
317 Sixth Avenue, Suite 1200
Des Moines, IA 50309
everett@whitfieldlaw.com
Direct: 515-558-0156
Main: 515-288-6041
Fax: 515-246-1474

July 14, 2014

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JUL 14 2014
CLERK SUPREME COURT

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: **Request for Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process**

Dear Members of the Iowa Supreme Court:

My name is Van Everett; I'm an associate attorney at Whitfield & Eddy, P.L.C. I graduated from the University of Iowa College of Law in May of 2012, and have been practicing at Whitfield since I passed the bar in September of 2012. This letter is limited to my own opinions regarding the proposed amendments to Iowa's Bar admission process; I do not write on behalf of Whitfield & Eddy, or on behalf of any of the other attorneys at the firm.

I strongly support the adoption of the Diploma Privilege as articulated by the Iowa State Bar Blue Ribbon Committee's proposal. I believe it is of critical importance to the future of the practice of law in the State of Iowa that the Court adopts the Blue Ribbon Committee's proposal, because the current system – including the current Bar Exam and the Basic Skills Course – is broken.

The Bar Exam is simply not what it once was. It does not prepare lawyers for the practice of law, and it certainly does not prepare lawyers for the practice of law in the State of Iowa, since it does not even test on any Iowa law. Instead, the Bar Exam has become an exercise of memorization, and learning tricks to beat the test. Organizations like Barbri and Kaplan have become so effective at preparing applicants for the Bar that virtually every applicant who takes one of those prep courses (and actually does most the work recommended by the courses) will pass the Bar. These courses are not designed to provide any kind of lasting or meaningful knowledge of the law to applicants; I know that I forgot nearly everything I had studied during the Barbri course within about two to three weeks after taking the Bar Exam. Instead, these courses are designed to help applicants enough of the material that is tested upon so that they can pass the Exam. Frankly, these courses are so efficient at that task that a reasonably intelligent person could take a Barbri course and likely pass the bar without attending law school. As the Bar Exam is structured now, private institutions like Kaplan and Barbri have more control over which applicants are admitted to practice than the Iowa Supreme Court or the Iowa State Bar Association. This is evidenced by the extremely high passage rate in Iowa.

The Blue Ribbon Committee's proposal to adopt the Diploma Privilege puts that control back where it belongs – in the hands of the Iowa Supreme Court. The Diploma Privilege creates an environment where applicants will actually learn and retain Iowa specific law. I know I would have felt much more confident in my ability to represent clients if I had received 60 credit hours of Iowa specific classes while in law school. The Diploma Privilege would ensure that those applicants graduate with a well-rounded knowledge of Iowa law, in a way that the current Bar Exam is failing to do.

Thank you very much for the opportunity provide public comment on this matter. I sincerely hope that the Court will adopt the Blue Ribbon Committee's proposed amendments to Iowa's Bar admission process, adopt the Diploma Privilege, and get rid of the Basic Skills Course.

Sincerely,

/s/ Van T. Everett

LAW OFFICES
HANSEN, McCLINTOCK & RILEY
FIFTH FLOOR, U.S. BANK BUILDING
520 WALNUT STREET
DES MOINES, IOWA 50309-4119
www.hmrlawfirm.com
515-244-2141

CHESTER C. WOODBURN III
WILLIAM D. SCHERLE
DAVID L. BROWN
JOHN E. SWANSON
AARON T. OLIVER
ALEXANDER E. WONIO
JAY D. GRIMES

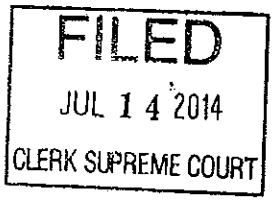
HAEMER WHEATCRAFT (1904-1983)
J. RUDOLPH HANSEN (1904-1995)
JOHN A. McCLINTOCK (1931-2008)
RONALD A. RILEY (1936-2012)

FAX 515-244-2931
WRITER'S E-MAIL:
dlbrown@hmrlawfirm.com

July 14, 2014

HAND DELIVERED

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319



Re: In the Matter of Request for Public Comment Regarding Proposed Amendments to Iowa's Bar Admission Process

Dear Members of the Iowa Supreme Court:

As Chair of the Iowa State Bar Association Blue Ribbon Committee on Legal Education and Licensure, and as authorized by Immediate Iowa State Bar Association Past President, Guy R. Gook, and current Iowa State Bar Association President, Joseph M. Feller, we respectfully request the following individuals be permitted to speak for ten minutes each at the hearing now scheduled for August 27, 2014 at the Iowa Supreme Court:

1. Guy R. Cook, Immediate Past President, Iowa State Bar Association

2. Allan Vestal, Immediate Past Dean, Drake University Law School, and member of the Blue Ribbon Committee

3. Judge Ann B. Jorgenson, Illinois Appellate Court

4. Judge Jim Morrison, Wisconsin Circuit Court

5. Angela Onwuachi-Willig, Professor of Law, University of Iowa School of Law

6. Catherine M. Lucas, a member of the Blue Ribbon Committee and a recent admittee to the Iowa Bar (2011)

7. Tim Semelroth, a member of the Blue Ribbon Committee and Past President of the Iowa Association for Justice

8. Roxanne Barton Conlin, former United States Attorney for the Southern District of Iowa, and former President of the American Association for Justice

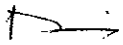
9. Frank Daily, partner at Quarles & Brady and a Marquette University Graduate (1969)

10. Thomas Miller, Attorney General of the State of Iowa

11. David L. Brown, Chair of the Blue Ribbon Committee

Each of these individuals has significant and unique comments to make in support of the Iowa State Bar Association's proposal. All should be heard by the Honorable Court.

Respectfully submitted,



DAVID L. BROWN
Chair, Iowa State Bar Association
Blue Ribbon Committee on Legal
Education and Licensing

DLB:lls

cc: Guy R. Cook
Joseph M. Feller

Bar Admission Process
Vicki Lee to: rules.comments
Please respond to "Vicki Lee"

07/14/2014 04:28 PM

1 attachment

Ltr to Supreme Court of Iowa.wpd

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Vicki Lee, Secretary
Michael R. Horn &
Brandon W. Ruopp
Moore, McKibben, Goodman
& Lorenz, LLP
PO Box 618
26 S. 1st. Ave, Suite 302
Marshalltown, IA 50158
VLee@marshalltownlaw.com
Phone- 641-752-4271
Fax-641-752-5266

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MOORE, MCKIBBEN,
GOODMAN & LORENZ, LLP

LAWYERS
FOUNDED IN 1885

26 SOUTH FIRST AVENUE
P.O. BOX 618
MARSHALLTOWN, IOWA 50158
641-752-4271
FAX 641-752-5266
www.marshalltownlaw.com

LARRY ERVIN KIBBEN
JAMES L. GOODMAN
WILLIAM J. LORENZ
DOUGLAS W. BEALS
MICHAEL R. HORN
NORMA J. MEADE
SEAN K. HEITMANN
BRANDON W. RUOPP
JAMES A. SCHWIEBERT

OF COUNSEL
ALLEN E. BRENNECKE

RETIRED
JAMES E. ROAN

MONTEZUMA OFFICE
P.O. Box 38
Montezuma, IA 50171
641-623-5964
FAX 641-623-5929

TOLEDO OFFICE
120 East High Street
P.O. Box 249
Toledo, IA 52342
641-484-2320
FAX: 641-484-3056
Formerly
Mickelson, Roan & Appelgate

July 14, 2014

Clerk of Supreme Court
Judicial Branch Bldg.
1111 E. Court Ave.
Des Moines, IA 50319
Sent Via Email Only

RE: Proposed Bar Admission Amendments

Dear Members Of The Court:

As a member of the Iowa State Bar Association and a University of Iowa Law School alumnus, I strongly support the proposed amendments to Iowa's Bar Admission Process. I believe it will benefit future law graduates in staying and practicing law in Iowa. Our current system's lengthy delay between the Bar Examination and admission is detrimental and unnecessarily costly to graduates of the two law schools. As a member of Iowa's Board of Regents, I am keenly aware of our student loan debt at graduation being the 6th highest in the nation. The proposed amendments would allow graduates of the University of Iowa and Drake University law schools to be admitted to the practice of law shortly after graduation and would discontinue the current needless delay and increased debt the current system promotes. Also, I do not feel the Multi-State Bar Exam in any way prepares students to practice law in the State of Iowa. I did not support the initial adoption of the Multi-State Bar Exam and remain strongly opposed to its continued use. For the reasons set forth above, I believe that the Supreme Court of the State of Iowa should adopt the proposed amendments to the Iowa Bar Admissions as recommended by the Iowa State Bar Association and its Board of Governors.

I appreciate your consideration and look forward to a favorable outcome for law students who will be practicing in Iowa.

Very truly yours,

MOORE, McKIBBEN,
GOODMAN & LORENZ, LLP

BY:

Larry E. McKibben

LEM/vl
enc.

Bar Admission Process
James Ellefson to: Rules Comments

07/14/2014 04:26 PM

letter JCE personal.docx

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James C. Ellefson
District Court Judge
Marshall County Courthouse
17 East Main
P.O. Box 336
Marshalltown, IA 50158-0336

Phone: 641-754-1615
Fax: 641-754-1610
james.ellefson@iowacourts.gov

JAMES C. ELLEFSON
P.O. Box 336
MARSHALLTOWN, IA 50158

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JUL 14 2014
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July 14, 2014

Iowa Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: Bar Admission Process

Dear Members of the Court:

Adoption of the diploma privilege for graduates of the Iowa and Drake Law Schools would be a serious mistake. The bar exam serves a legitimate and important function in maintaining the quality of the Iowa bar and protecting those who need the services of Iowa lawyers.

I began grading the Iowa bar examination in the summer of 1996. I served as a permanent temporary member of the Iowa Board of Law Examiners from 2000 until 2004. I became a member of the Iowa Board of Law Examiners in 2004 and served until January of 2012. I had the privilege of working as the chair of that board during the last three years.

That the examination does not specifically address Iowa law is of little or no consequence. Iowa law is not static. My knowledge of contributory negligence, alienation of affection, the rule against perpetuities or the various provisions of the tax codes of 1977 are of little value now. What the bar examination tests for is the ability to identify an issue, analyze it, and express that analysis with reasonable clarity. Those abilities will remain critical for the length of a legal career. They are core abilities for any lawyer in any professional setting.

Reading a broad sample of bar examination answers quickly leads to the conclusion that not every applicant is as well prepared as he or she ought to be. In each examination, some graduates of the in-state schools fail, sometimes spectacularly. It is not uncommon for the low score in a test to fail by 30 points or more; too often, that low score comes from an applicant educated by an in-state school.; It is important to recognize that the vast majority of people who have retaken the exam more than three times (I believe the record is 13 times, and there are several who have taken it 10 times or more) are products of in-state schools. The woefully unprepared do not come only from out-of-state schools.

The law schools at the University of Iowa and at Drake University are fine institutions and have my greatest respect. Nevertheless, not every student they turn out should be automatically admitted as a member of the Iowa Bar. While most of their students are well prepared to take the bar exam and well prepared to practice, some definitely are not.

It is difficult to distinguish between graduates of the in-state schools on the one hand and the graduates of Creighton on the other. There is little, if any, rational basis to treat Creighton graduates differently from Drake or Iowa graduates.

The fact is that the bar examination does prevent or at least delay the admission of persons who are not prepared to be members of the Iowa bar. There are too many bar examination answers that show a complete lack of understanding of a relevant topic to conclude that the bar examination does not serve a purpose.

This was true when the bar examination was entirely essay questions prepared by Iowa lawyers. It remained true when the examination went to a combination of Iowa essays and multistate multiple choice questions, and again when the essays became multistate. Changing the format did not change the fact that while most applicants are well prepared to enter practice, some simply are not.

I urge you to reject the diploma privilege.

Respectfully yours,

/s/ James C. Ellefson

James C. Ellefson

Bar Admission Process
Ambrozic, Jane [AG]
to:
'rules.comments@iowacourts.gov'
07/14/2014 04:25 PM
Hide Details
From: "Ambrozic, Jane [AG]" <Jane.Ambrozic@iowa.gov>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

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1 Attachment

Diploma Privilege letter.doc

Jane Ambrozic
Executive Secretary
Iowa Attorney General's Office
(T) 515/281-8373

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JUL 14 2014
CLERK SUPREME COURT

Department of Justice

THOMAS J. MILLER
ATTORNEY GENERAL

ADDRESS REPLY TO:
HOOVER BUILDING
DES MOINES, IOWA 50319
TELEPHONE: 515-281-5164
FACSIMILE: 515-281-4902

July 14, 2014

Iowa Supreme Court
Judicial Building
Des Moines, Iowa 50319

Dear honorable members of the Iowa Supreme Court:

I write in support of the Diploma Privilege proposal put forward by the Iowa State Bar Association's Blue Ribbon Committee on Legal Education and Licensure and unanimously endorsed by the ISBA's Board of Governors.

The interest in and the rationale for such a proposal has been building for the last few years. Since 2008, when Iowa moved entirely to the multi-state bar exam, people seeking to enter the Iowa bar have not had to be either trained or tested on Iowa law. All that is required is a one-day continuing education program on Iowa law after admission that many agree is in need of substantial change. This proposal would change that: to qualify students would have to successfully complete a regular law school course in Iowa Practice & Procedure, as well as sixty hours of courses specified by the Supreme Court. Qualified graduates will be trained and tested on Iowa law once again.

I have long viewed the States as laboratories of democracy. This concept is particularly relevant here. We can see how the proposal would work, because we can look to the Wisconsin experience. The Wisconsin rule has wide-spread support in that state, among members of the bench and bar and among the public. There is a consensus that graduates of Wisconsin's two law schools are well-prepared for practice, and that the Wisconsin program for bar admissions well-protects the public. Iowa is well-suited to this proposal. Like Wisconsin, we have two highly regarded law schools, one public and one private. Our law schools train their students well: over the most recent five-year period, the ISBA committee found only 2% of their graduates who took the Iowa bar exam were ultimately excluded.

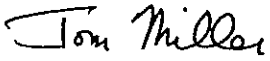
It is important that the serious character and fitness protections for the public are unchanged under the proposal. Qualified graduates will be required to be approved under the Supreme Court's existing character and fitness investigation and to pass the multi-state ethics exam. Keeping these ethical safeguards in place is a compelling part of the ISBA committee's proposal.

A multi-state bar exam will still be given in Iowa for those who do not qualify under the proposed rule. Graduates who otherwise qualify would not be required to be admitted under the proposal. They could still take the multi-state bar exam, if they choose, for reasons of portability in being admitted to other multi-state bar exam jurisdictions, or if they thought there was a competitive reason to do so.

Changes in the timing of admission to the Iowa bar and concerns about the rising debt load carried by law school graduates offer more reasons to support the committee proposal. When Iowa first adopted the multi-state bar exam in 1997, the schedule for bar admission changed in important ways, specifically, with the old Iowa-law test, applicants (including me) took the exam in June and were admitted the day after the exam. With the existing multi-state test, applicants take the exam in July and are admitted around October 1st. Under the proposal, qualified applicants could be sworn in upon graduation in May. By preventing them from practicing for about five months, the current system requires successful applicants to forego income equal to between 27% to 30% of the average University of Iowa or Drake law graduate's law school debt. By allowing them to reduce their student debt and letting them begin practice earlier, the proposal will make it easier for qualified graduates to enter public service and rural practice. Obviously, because of how I have spent nearly all of my legal career, I feel very strongly that we should do what we can about the crushing debt that keeps otherwise interested and qualified lawyers from pursuing a career in public service. Likewise, in a state like ours with ninety-nine counties ensuring that new lawyers can afford to build a practice in rural Iowa is of vital importance.

Thank you for this opportunity for public comment and for all each of you does on behalf of the people of Iowa. Please give serious consideration to the ISBA committee's proposal.

Sincerely,



Thomas Miller
Attorney General

Bar Admission Process
expertshot .
to:
rules.comments
07/14/2014 04:25 PM
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From: "expertshot ." <expertshot@gmail.com>
To: rules.comments@iowacourts.gov,

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JUL 14 2014
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1 Attachment

Bar Admission Process.docx

I have attached my comments concerning the Iowa Bar Admission Process for consideration.

Thank you,

--
Skylar Limkemann, J.D.
University of Iowa College of Law
Class of 2014

FILED
JUL 14 2014
CLERK SUPREME COURT

Dear Sir/Madam,

After careful consideration, I write to support the Blue Ribbon Committee's proposal to improve the mechanism for licensure.

In the late 1860s, some people thought that the profession would fall apart when the Iowa Supreme Court broke tradition and admitted the first woman – Arabella Mansfield – to practice law in 1869. In 2014, it seems that some believe that the entire legal profession in Iowa is under attack and will collapse if the Court changes attorney licensing qualifications. Throughout history naysayers have justified their positions under the guise of tradition instead of sound reasoning. Today, opponents argue that this Court should continue the practice of requiring a bar examination for *qualified* graduates essentially because "that's the way we've always done it."

Time and time again this Court has long recognized that some traditions must yield in the face of more sound reasoning. Given this rich history that we all know (I hope), especially those who have passed the bar examination, fear of change is not a sound reason to support keeping licensing as it is now. I believe the Commission has presented sound justifications for the proposal and that this Court should adopt the proposal.

There are some valid concerns about the proposal, but these valid concerns address future issues that the Court may resolve prior to implementation of the proposed rules. I note that existing rules would guard against incompetence, something no one wants. The reality is that both the bar exam and the proposed mechanism cannot prevent incompetence. However, a watchful group of attorneys and judges will.

As I prepare to take the July bar examination, I am over $150,000 in debt almost exclusively due to the costs of attending the University of Iowa College of Law. I did not benefit from the tuition reduction or many of the other changes in financial aid. I must wait until September for exam results. Until I start work after obtaining a license to practice, I am living off of credit.

While in school I took many courses which focused on Iowa law, including State Constitutional Law with the Honorable Justice Baker. I externed with the Honorable Michael J. Schilling, served as a prosecuting intern with the Des Moines County Attorney's Office, and served as a clinical intern with the City of Iowa City Attorney's Office. After becoming comfortable with Iowa law in areas I intend to practice in, I had to wipe Iowa law from my memory so I could study for a bar exam that is disconnected from reality and practicality. After much wasted time, effort, and money, I strongly believe that there is a better way for Iowa to educate and license attorneys. I support the Committee's proposal because I am convinced that it is a step in the right direction. My hope is that improving the licensing process will allow future qualifying graduates the opportunities that I, and those who came before me, did not have.

Thank you for considering my comments,

Mr. Skylar J. Limkemann, J.D.
University of Iowa College of Law, Class of 2014
1039 W. Benton St. Apt 14
Iowa City, IA 52246
skylar-limkemann@uiowa.edu

{Matter No.[7007.356]} {Kenyon, Gregory L./ISBA Probate Section}
Gregory L. Kenyon
to:
'rules.comments@iowacourts.gov'
07/15/2014 07:31 AM
Hide Details
From: "Gregory L. Kenyon" <Kenyon.Gregory@bradshawlaw.com>
To: "'rules.comments@iowacourts.gov'" <rules.comments@iowacourts.gov>,

FILED
JUL 15 2014
CLERK SUPREME COURT

1 Attachment

1251916.docx

Gentlemen:

I am writing in support of the proposal to adapt a diploma privilege for Iowa and Drake Law graduates.

Gregory L. Kenyon
Bradshaw, Fowler, Proctor & Fairgrave, P.C.
801 Grand Avenue, Suite 3700
Des Moines, IA 50309-8004
Phone: (515) 246-5829
Fax: (515) 246-5808
E-Mail: kenyon.gregory@bradshawlaw.com
Web: www.bradshawlaw.com

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WRITER'S DIRECT DIAL NUMBER
(515) 246-5829
WRITER'S E-MAIL ADDRESS
kenyon.gregory@bradshawlaw.com

July 15, 2014

Iowa Supreme Court
Bar Admission Process
Rules.comments@iowacourts.gov

Re: Diploma privilege for Iowa and Drake law school graduates

To Whom it May Concern:

I have been following the discussion on the Bar Admission process since January.

I am persuaded by the position of the Blue Ribbon Task Force that establishing a diploma privilege for graduates at Drake and Iowa Law Schools is a good idea.

Rather than repeat the arguments of the Blue Ribbon Committee, I would simply say that I support the proposal based upon the concept of the changes that would be incorporated in curriculum of the law schools as directed by the Iowa Supreme Court.

Gregory L. Kenyon
Bradshaw, Fowler, Proctor & Fairgrave, P.C.
801 Grand Avenue, Suite 3700
Des Moines, IA 50309-8004
Phone: (515) 246-5829
Fax: (515) 246-5808
E-Mail: Kenyon.gregory@bradshawlaw.com

Bar Admission Process
Jenny Schulz
to:
rules.comments
07/15/2014 05:42 PM
Hide Details
From: "Jenny Schulz" <jenny@kidsfirstiowa.org>
To: <rules.comments@iowacourts.gov>,

FILED
JUL 15 2014
CLERK SUPREME COURT

1 Attachment

ltr to supreme court re proposed diploma privilege rule.docx

Please find attached my comments to the proposed rules allowing a "diploma privilege" for graduates of Drake and Iowa law schools.

I am sorry that I was not able to submit comments yesterday. If they are not submitted timely enough to receive consideration, I understand.

Thank you,
Jenny Schulz
Kids First Law Center
420 6th Street SE, Suite 160
Cedar Rapids, IA 52401
(319) 365-5437 phone
(319) 366-3308 fax
www.kidsfirstiowa.org

July 14, 2014

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JUL 15 2014
CLERK SUPREME COURT

Clerk of the Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: Proposed Diploma Privilege

Dear Supreme Court Justices:

I submit these comments in respectful opposition to the proposed diploma privilege that would eliminate the bar examination requirement for most Drake and Iowa law school graduates.

Study for Bar Exam Gives Black Letter Law Education

I took and passed the Iowa bar exam in 1998 after obtaining a J.D. from the University of Iowa College of Law. Although the University of Iowa offered an excellent legal education, I realized as I studied for the bar that I lacked knowledge of "black letter law." I had learned competing theories and arguments, but the education was focused on the logic or arguments on both sides rather than on the letter of the law. This is as it should be; we want law students to engage in legal reasoning. So it was the act of studying for the bar exam that taught many of the things that weren't taught in law school.

Even if students must take certain core classes to avoid the bar exam, it is dangerous to rely on individual law professors to give students all of the education they need on a given topic. As an example, in my torts class, the professor covered only the first 50 pages of the textbook, through "duty." So 99% of what I know about tort law was from studying for the bar exam. The bar examination offers the opportunity to synthesize three years of law school and to understand the big picture.

At the very least, the Court should retain the professional responsibility exam requirements. Preparing for that exam may be the only time that some people read the rules of professional conduct start to finish.

Potential Conflict of Interest for Law Schools

I am concerned about a potential conflict of interest that occurs when the law schools become the gatekeepers in determining who passes and qualifies to practice law in Iowa. Under the proposed rule, law students will be required to take—and pass—certain courses. The law schools have an incentive for all graduates to be employed in practice, as that contributes to improved rankings. It follows that the schools have an interest in all students passing these core courses.

The Bar Exam Provides a Needed Filter

An article in the Iowa Lawyer noted that the Iowa pass rate is high: around 97-98% of students eventually pass the bar. The flip-side of this argument is that the bar exam helped eliminate 2-3%

of candidates. Over time, that 2-3% becomes a fair number of lawyers practicing in Iowa who would otherwise not be. Failing the bar exam is not about being a bad test taker; it suggests someone who did not take the exam seriously and study sufficiently. The bar examination is one extra obstacle that ensures that candidates are devoted to joining the profession.

I am also concerned about how well Iowa weeds out candidates based on character and fitness, so having that be the only measure seems problematic. As an example, our office had a job applicant last year who had taken the Iowa bar exam and was awaiting results. He revealed that although he passed the Florida bar exam, he was not licensed in Florida because of a criminal background and problems passing the character screening in that state. I relayed that information to a lawyer on Iowa's committee and never heard anything in reply. He was licensed in September. It is concerning that Iowa would have weaker standards of character than Florida.

The Bar Exam Legitimizes the Profession

The bar exam distinguishes lawyers from other professions, even if only in the public's eye. It gives legitimacy to the profession, just as board exams legitimize medical doctors. Otherwise, when law school becomes a two-year graduate school (which may well be on the horizon), a JD may be thought of as nothing more than a glorified MBA. Lawyers know the value of the education they receive, but there is more to the profession than what lawyers think of lawyers; the public perception is critical as well.

I'm concerned that eliminating the bar exam is an extreme approach that is taken with a too narrow view of trying to increase enrollment in our state's law schools. Middle-of-the-road approaches (i.e. allowing new graduates to practice in a firm prior to receiving bar results, maintaining the essay and/or Iowa portions on the exam, etc.) could accommodate the current concerns without sacrificing what the bar exam offers.

Thank you for taking the time to read my comments. Best wishes as you make this important decision.

Respectfully submitted,

Jenny Schulz
Executive Director
Kids First Law Center
420 6th Street SE, Suite 160
Cedar Rapids, IA 52401

Bar Admission Process
Kathleen M Mahoney
to:
rules.comments
07/15/2014 02:15 PM
Hide Details
From: Kathleen M Mahoney <Kathleen.Mahoney@nashfinch.com>
To: rules.comments@iowacourts.gov,

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2 Attachments

Ltr 7-15 diploma privilege letter.docx

20140715144153363.pdf

To Whom it May Concern:

Attached please find a pdf copy of my comments on the proposed rule to establish a diploma privilege. I am also attaching a word copy, as I have been advised that is the preferred format. Since a word version cannot be signed, I am attaching the pdf with signature included.

Thank you for your attention and let me know if you have any problems opening the documents.

Kathy Mahoney

Kathleen M. Mahoney
Executive Vice President
General Counsel and Secretary

SpartanNash.

Phone 952-844-1262
Fax 952-806-6984
Cell 612-849-3773
Kathleen.Mahoney@nashfinch.com
www.SpartanNash.com

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JUL 15 2014
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Chief Justice Mark S. Cady
Justice David S. Wiggins
Justice Daryl L. Hecht
Justice Brent R. Appel
Justice Thomas D. Waterman
Justice Edward M. Mansfield
Justice Bruce B. Zager

Iowa Supreme Court
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

July 15, 2014

RE: Bar Admission Process

Dear Chief Justice Cady and Justices of the Supreme Court of Iowa:

I submit this comment pursuant to an Order of the Supreme Court of Iowa that was filed on May 14, 2014, concerning recommendations that the Court adopt a diploma privilege and the Uniform Bar Examination. I write on my own behalf and not on behalf of SpartanNash Company.

I am a former member of the Minnesota Board of Law Examiners ("MBLE"), having served the maximum three terms as a member of the Board and having served before that for nearly a decade as a grader of the essay portion of the Minnesota Bar Exam. During my tenure on the MBLE, I was involved in examining the issue of whether to adopt the Uniform Bar Exam ("UBE") and also was a member of the Committee that took the lead in responding to the 2010 request from the Minnesota Supreme Court to analyze the issues raised in the Petition filed by graduates of unaccredited law schools seeking permission to be admitted to the Minnesota bar. As a result, I have looked at the role the bar examination plays in multiple contexts and am writing to express my views that Iowa should not adopt a diploma privilege rule.

The Iowa Board of Law Examiners ("IBLE") serves a primary role – to protect the public by ensuring that persons who receive a license to practice law are qualified to hold that license. A critical component of the qualifications a successful candidate must demonstrate is legal competence. The IBLE has chosen to measure that component through the administration of a bar examination, like nearly all other states. The IBLE utilizes the testing products made available by the National Conference of Bar Examiners, which are continuously tested and validated to

ensure there is no bias in the questioning and that the tests are adequate predictors of a candidate's ability to apply fundamental legal principles and legal reasoning to analyze given fact patterns. All candidates are subject to the same testing requirements ensuring that those who pass *actually do* possess the legal competence required to hold the privilege of a law license. In contrast, under the current proposal, graduates of either Drake Law School or the University of Iowa Law School would be presumed competent so long as they were able to maintain a GPA of 2.0 or 2.1 respectively, hardly a testament in and of itself to legal competence.

More important than the greater risk that non-qualified applicants will be granted a law license is the transfer of responsibility for gauging legal competence of Iowa law school graduates from the Board charged with protecting the public to law schools which have no such charge or responsibility. Indeed, in current economic times, the interests of law schools in maintaining enrollment despite a diminishing number of qualified applicants can be in direct conflict with the need to protect the public.

To require law schools to act first with an eye towards public protection and only secondarily with an eye towards law school administration is neither appropriate nor wise; nor is it likely to actually happen. Law schools should focus on educating future lawyers in the manner that each law school deems best, not determining whether their graduates are qualified to practice law.

I admit my opinion is influenced by the time I was exposed to the conflict between the need to protect the public and the business of running a law school when I myself was a law student. A number of students questioned why the school had not taken action with respect to a student who appeared she would not be qualified to hold a law license. The answer given was simple – 'the law school was in the business of educating people not evaluating whether they were qualified to become lawyers; making the determination of qualification to hold a law license was the responsibility of the Board of Law Examiners.' While as an idealistic student I found this approach troubling, I have since come to realize the response captured the reality of the role of a law school – delivering education as the school sees fit, not determining whether a graduate is qualified to hold a license to practice law.

Even assuming it was appropriate to delegate the protection of the public to the two law schools currently offering legal degrees in Iowa today, and I suggest it is not, would the answer be different if a new law school opened tomorrow? How can one be sure that a new law school would put the interests of the public over its own self-interest of cash flowing through receipt of tuition payments, especially in the startup years when schools are desperate for enrollment? The interests to be protected here are too important to leave to chance or the vagaries of future events. Perhaps that is part of the reason why all but one state have abandoned the diploma privilege.

I have read that at least part of the rationale for advancing the diploma privilege is the delay of the few months between graduation and licensure occasioned by the bar examination process. It is

unclear how much more quickly those who are exempted from taking the bar exam will actually be admitted, but at most it would be a matter of months. In a career that for many spans decades, the delay of a few months is hardly sufficient reason to delegate the important interest of public protection to law schools.

It would be folly to assume that the creation of a diploma privilege will attract the best and the brightest to the state; indeed the opposite may be true. Moreover, in today's world of a national job market, I would posit the best and brightest students will nevertheless take the bar exam – especially if the state adopts the Uniform Bar Exam – to better position them for future opportunities that may arise outside the state. If this surmise is true, then the candidates who will actually benefit from the abolition of the bar examination are the marginal candidates, who may pose a greater risk to the public.

Admittedly, the notion of eliminating the bar exam will resonate within some corners of the bar. I suggest that a focus on public protection leads to the conclusion that a diploma privilege role should not be adopted in Iowa.

I appreciate the opportunity the Court has provided to share these comments and hope they are helpful to the Court in its consideration of this important issue.

Very truly yours,

Kathleen M. Mahoney
Executive Vice President, General Counsel & Secretary

MEMORANDUM.

August 28, 2014

To Justices of the Iowa Supreme Court:

The following persons who are members of the Iowa Law School faculty are expressing their opinion as individuals and not on behalf of the College of Law on the diploma privilege issue currently before the court.

We believe that the diploma privilege is an unwise idea and that the faculty of a law school is an inappropriate body to determine the qualifications of persons to practice law and represent clients.

We support continuance of the current requirement in almost every state that for admission to the bar law school graduates be required to take a bar examination that is independent of any assessment made of a bar applicant's educational qualifications by law school faculty.

There are many reasons for our views but we believe in light of the issues and questions raised in your recent hearings on this subject that any elaboration by us of those reasons is unnecessary at this time.

Arthur Earl Bonfield
Allan D. Vestal Chair in Law

Jonathan Carlson
Professor of Law

Sheldon Kurtz
David H. Vernon Professor of Law

James Tomkovicz
Edward Howrey Professor of Law