

April 3, 2020

Hon. Nathan L. Hecht, President  
Conference of Chief Justices  
c/o Association and Conference Services  
300 Newport Avenue  
Williamsburg, VA 23185-4147

Re: COVID-19 and the Bar Exam

Dear Chief Justice Hecht:

We recognize that in many states there exists significant uncertainty surrounding the administration of the July 2020 bar examination in light of the public health emergency caused by the COVID-19 pandemic. We write to offer our support to the Conference of Chief Justices and to state courts throughout the nation, as well as to offer a suggestion.

As background, we are deans of law schools from universities that form the Big Ten Academic Alliance. Established in 1958, the Big Ten Academic Alliance consists of fourteen world-class institutions that are among the nation's leading research universities. Our law schools include some of the oldest and most well respected public and private law schools in the United States. Our students hail from all over the country and the world, and our graduates collectively sit for bar exams in every state. We write with shared concerns over the impacts that a delay in bar exam administration may have on our legal system and on our graduates' careers. We are also worried about the significant burdens and financial stresses that some of our graduating law students are facing.

Our primary message is that we are willing to assist state courts in whatever way we can. We recognize that the circumstances are unprecedented, and that the situations in all states are not identical. We are convinced, however, that it remains essential as a country to continue licensing new lawyers to meet the nation's legal needs. Many of us are already meeting with boards of law examiners or chief justices in the states in which our schools are located. Because our graduates sit for bars throughout the United States, however, we felt it appropriate to reach out to the Conference with the hope that you would pass on our letter to your members.

We know that states are considering a range of options in response to the public health emergency. Our respectful suggestion is that, aside from these plans—whether they include modifications to the July bar exam's administration, a fall exam, state diploma privileges, or other approaches—courts also consider shorter-term, narrowly drawn licensing measures in the event July exams are not administered. Such measures would permit graduating students to begin their careers upon law school graduation and start serving our states and country. Many states already have existing rules that permit graduates from ABA-accredited law schools to practice under appropriate supervision prior to sitting for bar exams and receiving bar results. In many states, these practice rules extend even to enrolled law students. In essence, we encourage states to expand these programs. This week, New York's Chief Judge on

behalf of the New York Court of Appeals publicly indicated New York's willingness to explore this approach. We know a number of other states are beginning to discuss short-term immediate licensing options as well, and we encourage all states to consider them.

We raise the possibility of short-term licensing measures for several reasons. First, our soon-to-be graduates are worried about the effect of any delay in the timeline of starting their careers. Many are under enormous strain as a result of new financial realities, as well as child care, elder care, and other responsibilities. Announcing that law graduates would be able to practice for some period of time under the supervision of licensed attorneys would immediately alleviate some of that worry, particularly if temporary licensure were in place until the pandemic has abated and a bar exam could be administered. Second and related, students are concerned that a delay in licensure may result in a loss of jobs since employers will have less use for graduates who can't practice for an extended period; immediate, temporary licensure might help on the margins alleviate that concern. Third, should the pandemic continue, the need for legal services will likely increase during and immediately after the health crisis, particularly in the area of government benefits and services for the poor. Having newly minted lawyers who could provide legal services will be critical to addressing these vital needs. Fourth, some of the proposals that are being considered (e.g., state diploma privileges) may help graduates from schools within a certain state, but would not alleviate hardship for out-of-state graduates. Each of our Big 10 Alliance schools has a significant number of graduates who will practice outside of the state in which their particular school is located.

We are grateful for the leadership demonstrated by the highest courts throughout the nation. Announcing back-up plans now, should it prove necessary to delay July bar administrations, would alleviate anxiety, allow for planning, and express needed support for our future attorneys and their clients. Thank you for considering our thoughts. We are, individually and collectively, happy to talk with you more any time. We hope you and the Chief Justices you represent will consider us as partners in working through this difficult situation.

Sincerely,

Vikram David Amar  
Dean & Iwan Foundation  
Professor of Law  
University of Illinois College of Law

Melanie B. Jacobs  
Interim Dean & Professor of Law  
Michigan State University  
College of Law

Garry W. Jenkins  
Dean & William S. Pattee  
Professor of Law  
University of Minnesota Law School

Richard E. Moberly  
Dean and Richard C. & Catherine S.  
Schmoker Professor of Law  
University of Nebraska College of Law

Hari M. Osofsky  
Dean & Distinguished Professor of Law  
Penn State Law

Kimberly M. Mutcherson  
Co-Dean & Professor of Law  
Rutgers Law School

Austen Parrish  
Dean & James H. Rudy Professor  
Indiana University  
Maurer School of Law

Margaret Raymond  
Fred W. & Vi Miller Dean and  
Professor of Law  
University of Wisconsin Law School

Donald B. Tobin  
Dean & Professor of Law  
Maryland Carey School of Law

Kevin K. Washburn  
N. William Hines Dean &  
Professor of Law  
The University of Iowa College of Law

Kimberly A. Yuracko  
Dean & Judd & Mary Morris  
Leighton Professor of Law  
Northwestern Pritzker School of Law