

ORIGINAL

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

Ed Smith
Case #11-0244

IN THE SUPREME COURT OF THE STATE OF MONTANA

CLERK OF THE SUPREME COURT
STATE OF MONTANA

AF 11-0244

IN RE PETITION TO AMEND MONTANA SUPREME COURT BOARD OF BAR EXAMINERS' RULE 104	Public Comment on the Board of Bar Examiners' Proposed Rule 104(F), Providing Accommodations for Breastfeeding Mothers
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COME NOW the undersigned members of the State Bar of Montana and Petitioner Elizabeth Crespo¹ to comment on the Board of Bar Examiners' proposed Rule 104(F), allowing accommodations for breastfeeding mothers who are taking the Montana bar exam. We applaud the Court and the Board for allowing reasonable accommodations for this natural part of many women's lives, but request a few minor revisions. We disagree with the proposed rule's arbitrary cutoff date for infants over 12 months old, and with the implication that 15 off-the-clock minutes will sufficiently accommodate all breastfeeding mothers who need time to either breastfeed or pump.

The Board's proposed accommodations for a breastfeeding mother include permission to bring a breast pump and cooler, access to a private room in which to breastfeed or pump, and/or additional time. Proposed Rule 104(F). This range of

¹ Ms. Crespo petitioned the Court in January 2017 for breastfeeding accommodations during the bar exam. Petition, PR 06-0422. The Court denied her petition but asked the Board to recommend rule revisions for breastfeeding accommodations. Order (Feb. 9, 2017).

accommodations acknowledges the challenges breastfeeding mothers face. A woman with a young infant who nurses every two hours will need additional time to nurse or pump, whereas a woman who is breastfeeding a 15-month-old child may not need extra time, but may still need a private space to pump during a break. Importantly, women who receive extra time to nurse are not getting extra time to take the exam; they are simply getting time off the clock to nurse or pump.

A mother usually breastfeeds less frequently as her baby gets older, which may mean she does not need a time accommodation for the bar exam; however, she may still require a separate room, or permission to bring a pump and cooler to the exam. Her right to request appropriate accommodations should not be absolutely prohibited simply by the age of her baby. Under the proposed rule, the Board retains the discretion to determine accommodations on an individual basis, making an absolute cutoff age unnecessary as well as unfair.

In addition, the amount of time that an individual nursing mother may need to pump or nurse should reflect her particular circumstances, and not be arbitrarily limited to a maximum of 15 minutes. If a woman must pump at some point during the three-hour exam, 15 minutes may not be enough time to set up the pump, pump the milk, store the milk, and rinse the pump parts. Again, the extra time provided a nursing mother is to breastfeed or pump, not to take the exam. We request that the

Court explicitly state that each accommodation will depend on the applicant's circumstances. When it comes to breastfeeding, one size does not fit all.

The Montana Legislature has identified breastfeeding as an important public policy issue, stating that breastfeeding “must be protected in the interests of maternal and child health and family values.” M.C.A. § 50-19-501. Nationally, “[b]reastfeeding, with its many known health benefits for infants, children, and mothers, is a key strategy to improve public health.” Centers for Disease Control (CDC), Breastfeeding Report Card -- United States 2016 at 4, available at <https://www.cdc.gov/breastfeeding/pdf/2016breastfeedingreportcard.pdf>. Essential to that public health strategy is support “from healthcare providers, family members, and employers.” *Id.*

According to the CDC, almost a third of Montana mothers are breastfeeding when their babies are 12 months old. *Id.* “The American Academy of Pediatrics recommends that infants be exclusively breastfed for about the first 6 months with continued breastfeeding alongside introduction of complementary foods for **at least 1 year.**” *Id.* at 2 (emphasis added). Similarly, the World Health Organization (WHO) recommends complementary foods and continued breastfeeding “**up to 2 years of age or beyond.**” WHO, *Nutrition: Exclusive breastfeeding*, http://www.who.int/nutrition/topics/exclusive_breastfeeding/en/ (emphasis added).

A bar examination is a capstone experience that most lawyers undergo only once in their lifetimes. The Board's proposed rule could add to the list of lifetime experiences the necessity to wean one's infant, if the infant was born more than 12 months before the exam. Under the proposed rule, a woman whose infant was born July 30, 2017, could request breastfeeding accommodations for the July 2018 bar exam, whereas a woman whose infant was born only two weeks earlier, on July 16, 2017, could not. The decision to continue breastfeeding is a personal medical decision that has no bearing on a woman's ability to sit for the bar exam. Similarly, the decision to sit for the bar exam and pursue one's chosen career should not require weaning. Weaning is a personal decision that depends on the mother, her infant, her doctor's advice, and a multitude of other factors outside the purview of the Board of Bar Examiners.

Breastfeeding accommodations for bar exam candidates are a relatively new development. Our research found that states' rules vary; however, none impose an arbitrary cutoff date based on the baby's age. Exhibit A, Table of State Bars' Breastfeeding Accommodation Rules. States tend to fall into one of three tiers: those that provide the gamut of accommodations to breastfeeding mothers, including off-the-clock breaks to breastfeed or pump ("Tier I," shown in green); those that allow women to bring a pump and a cooler in which to store milk, and to request special seating close to an outlet and/or a private room for nursing or

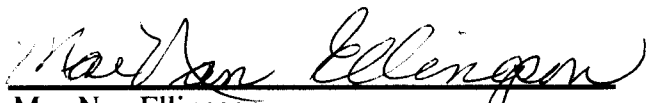
pumping (“Tier II,” shown in yellow); and those that provide ADA accommodations only (“Tier III,” shown in red). *Id.*, Summary. Our research found no rule (other than the Board’s proposed rule) that imposes an arbitrary cutoff based on the infant’s age.

For the most part, proposed Rule 104(F) represents a progressive approach to accommodating breastfeeding mothers during the bar exam. If adopted, it will put Montana into the “Tier I” category of states, allowing a range of accommodations reflecting a woman’s individual circumstances, including the option of off-the-clock time so they do not have to use valuable test time to pump or nurse. We fully support the proposed rule, with minor revisions.


We urge the Court to delete from the proposed rule, “Such requests may be granted only when the infant is under the age of 12 months at the time of the exam.” Additionally, we ask the Court to delete “up to 15 minutes” in subsection three, and add “depending on the facts of each individual applicant’s circumstances.” These revisions will not create more work for the Board or its staff, and will promote the underlying policy served by the rule -- to encourage breastfeeding and create a fair testing environment for all Montana bar exam candidates.

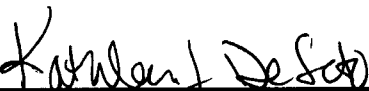
RESPECTFULLY SUBMITTED this 14th day of August, 2017.



Elizabeth A. Brennan
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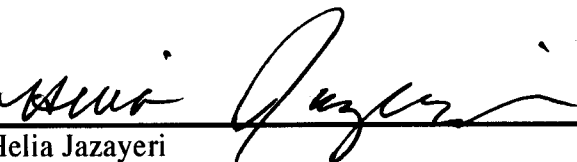

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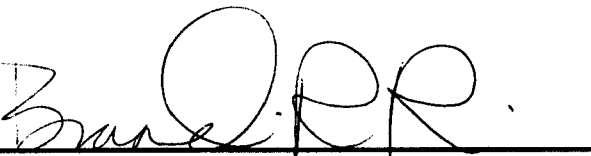

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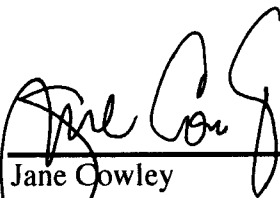

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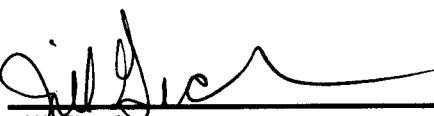

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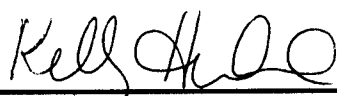

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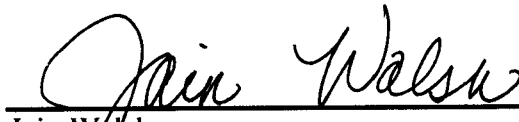

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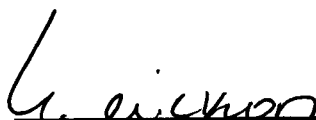

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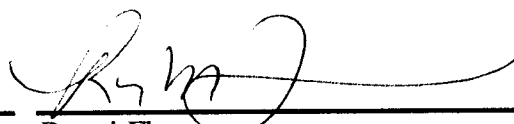

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The following Montana lawyers have authorized us to sign on their behalf:

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| 3. Katie Mazurek, Bozeman | 12. Abigail Brown, Helena |
| 4. Johnna Preble, Kalispell | 13. Hannah Cail, Helena |
| 5. Erica Grinde LaPorte, Missoula | 14. Greg Munro, Missoula |
| 6. Andrea Utick Fox, Kalispell | 15. Danielle Shyne, Helena |
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| 8. Dan Rice, Miles City | 17. Megan McCrae, Billings |
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| 23. Matthew Clifford, Oakland, California | 31. Domenic Cossi, Bozeman |
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| 25. Kaylan Minor, Dillon | 33. Jessica Fehr, Billings |
| 26. Cynthia Ford, Missoula | 34. Eric Nord, Billings |

EXHIBIT A

Summary

Summary of State Rules Addressing Accommodations for Breastfeeding Mothers During the Bar Exam

This list was compiled by visiting the websites detailing the policies and procedures for bar exams in each state (and the District of Columbia), and perusing rules, policy statements, and forms upon which to request accommodations. After compiling all of the information in the subsequent tables, a pattern emerged revealing three “tiers” of jurisdictions vis-à-vis breastfeeding accommodations.

Tier I jurisdictions generously accommodate breastfeeding mothers in the bar exam. They allow women to bring breast pumps to the bar exam, to request special seating near an outlet or closer to a room where they can breastfeed or pump, and they may provide off-the-clock breaks from the exam during which a woman can pump or breastfeed.

Tier II jurisdictions allow women to bring breast pumps to the bar exam, and to request special seating near an outlet or closer to a room where they can breastfeed or pump. These are generally done through “administrative” or “courtesy” accommodations, similar to an accommodation that would be made for an applicant who had a broken leg, or needed diabetes medication. These kinds of accommodations are usually made through a simple form, a letter, or even an email or phone call.

Tier III jurisdictions provide accommodations for ADA disabilities only. Pregnancy and breastfeeding are not disabilities under the ADA.

Tier I

Idaho	New York	North Carolina
South Dakota	Vermont	

Tier II

California	Colorado	Delaware
Florida	Georgia	Illinois
Iowa	Massachusetts	Minnesota
Missouri	Nebraska	New Hampshire
New Mexico	North Dakota	Pennsylvania
Utah	Virginia	Washington
West Virginia		

Tier III

Alabama	Alaska	Arkansas
District of Columbia	Hawai'i	Indiana
Kansas	Kentucky	Louisiana
Maine	Maryland	Michigan
Ohio	Oklahoma	South Carolina
Tennessee	Texas	Wisconsin
Wyoming		

State Rules Addressing Accommodations for
Breastfeeding Mothers During Bar Exams (*as of Aug. 9, 2017*)

**Tier I: States that accommodate breastfeeding mothers by allowing equipment,
special seating, and/or off-the-clock breaks**

<p>Idaho https://isb.idaho.gov/admissions/bar-exam/reasonable-accommodations/</p> <p>Comprehensive policy for breastfeeding mothers.</p>	<p>Under Idaho Bar Commission Rule 214, an applicant with a physical impairment may seek reasonable testing accommodations for taking the Idaho Bar Exam. “Physical impairment” is defined as a “disorder or condition or anatomical loss affecting one or more of the body’s systems.” I.B.C.R. 214(a)(4). Pursuant to I.B.C.R. 214, reasonable testing accommodations for applicants who are breastfeeding may be available to enable such applicants to express breast milk during the examination.</p> <p>Process for submitting requests: Applicants should submit a request for accommodations for breastfeeding in writing to Maureen Ryan Braley, Director of Admissions of the Idaho State Bar. Applicants should list all accommodations you believe will be necessary on the day of the exam with as much specificity as possible.</p> <p>Accommodations may typically include:</p> <ul style="list-style-type: none"> • Permission to bring a breast pump and accompanying equipment, storage containers, and a cooler if necessary. • A private location for expressing milk (other than a bathroom), with an electrical outlet. • Exam room seating that affords the swiftest possible route between the test room and the lactation area during breaks. • Additional off-the clock break time if existing breaks are insufficiently frequent for an individual’s circumstances. <p>Your written request must be accompanied by medical documentation from your child’s pediatrician or your qualified medical provider verifying the child’s date of birth and that you are breastfeeding. You must also submit a written recommendation from your child’s pediatrician or your qualified medical provider regarding specific accommodations to be provided to you on the bar exam.</p>
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State Rules Addressing Accommodations for
Breastfeeding Mothers During Bar Exams (*as of Aug. 9, 2017*)

	<p>Please be advised that applicants may, upon request of the Idaho State Bar, be required to submit additional medical documentation to support a request.</p> <p>Except in extraordinary circumstances or due to a recently emergent event, requests for lactation-related accommodations must be received by the Idaho State Bar at least four (4) weeks prior to the first day of the bar examination.</p>
<p>New York Administrative accommodations: up to 30 minutes per session</p>	<p>Administrative Accommodations.</p> <p>1. ASSISTIVE DEVICES. Applicants who only want permission to bring into the examination room an assistive device, such as a lumbar cushion, diabetic supplies or a lactation pump, should make a written request to the Board on the form provided by the Board which is available on our website (Administrative Accommodation Request). Such applicants do not need to complete a paper ADA application. Likewise, nursing applicants seeking off the clock breaks (up to 30 minutes per session) during the exam to use a lactation pump do not need to complete an application for test accommodations, but must complete the Administrative Accommodation Request form, available on the Board's website at www.nybarexam.org. The request must be received by the Board no later than the first day of the month of the scheduled exam. If the request is granted, the Board will provide a letter granting the request which must be presented to security at the entrance of the test center.</p> <p>2. SEATING REQUEST. Applicants who only want to request a special seating arrangement due to a medical condition, such as near a restroom or near the examination room door, should make a written request to the Board on the form provided by the Board which is available on our website (Administrative Accommodations Packet). Such applicants do not need to complete a paper ADA application. The request must be received by the Board no later than the first day of the month of the scheduled exam.</p> <p><u>http://www.nybarexam.org/Docs/ADAHandBook.pdf</u></p>

State Rules Addressing Accommodations for
Breastfeeding Mothers During Bar Exams (*as of Aug. 9, 2017*)

<p>North Carolina Administrative accommodation that includes off-the-clock breaks</p> <p>Must submit petition and breastfeeding verification form.</p> <p>https://ncble.org/applicants-requesting-administrative-non-standard-testing-accommodations-due-to-breastfeeding/</p>	<p>Specific form to petition for breastfeeding accommodations</p> <p>II. ACCOMMODATIONS REQUESTED FOR THE NORTH CAROLINA BAR EXAMINATION (CHECK ALL THAT APPLY)</p> <p>Permission to bring lactation equipment and supplies to examination site</p> <p>Access to private area for breastfeeding and/or use of lactation equipment and supplies</p> <p>Off-the-clock breaks as needed for breastfeeding and/or use of lactation equipment and supplies</p> <p>http://ncble.org/wp-content/uploads/2015/08/Form-I-new.pdf</p>
<p>Oregon Rules of Admission of Attorneys (Aug. 1, 2017), https://www.osbar.org/docs/rulesregs/admissions.pdf</p>	<p>An applicant who is breastfeeding may request accommodations to enable the applicant to express milk during the examination. Request for accommodations must be submitted timely using the procedures and forms prescribed by the Board for special testing accommodations. Applicants must submit medical documentation from a qualified medical provider supporting the request for accommodations, including verification that the applicant is breastfeeding and the child's date of birth.</p>
<p>Rhode Island</p> <p>RI Supreme Court adopted policy for breastfeeding accommodations during bar exam in February 2016. http://www.riaclu.org/news/post/ri-supreme-court-adopts-breastfeeding-accommodations-at-urging-of-advocates</p>	<p>An applicant who is otherwise eligible to take the bar examination, but who does not qualify for accommodations under the Americans with Disabilities Act (ADA), as amended, may request administrative nonstandard test accommodations when applying for admission. Examples of nonstandard test accommodations are: the ability to wear a wrist guard or brace as a result of an injury that may not qualify as a disability under the ADA; whatever accommodations may be necessary to pump breast milk during the bar examination; and/or permission to take certain medications during the bar examination for conditions that do not rise to the level of a disability under the ADA.</p> <p>Applicants seeking breastfeeding-related accommodations must file a completed Form 8: Applicant Request for Administrative Nonstandard Test Accommodations, but are not required to submit any additional documentation.</p>

State Rules Addressing Accommodations for
Breastfeeding Mothers During Bar Exams (*as of Aug. 9, 2017*)

	<p>https://www.courts.ri.gov/AttorneyResources/baradmission/PDF/Nonsstandard_Testing.pdf</p> <p>Form 8 asks whether applicant wants to bring device into bar exam, whether it requires access to an electrical outlet, whether special seating is requested, and whether extra breaks are requested. (duration and frequency are to be requested), or whether other arrangements are needed.</p>
<p>South Dakota http://ujs.sd.gov/uploads/barexaminers/BarExamParagraph.pdf</p> <p>Specific breastfeeding accommodations available.</p>	<p>An applicant requesting lactation accommodations must submit a request for accommodations in writing, provide medical documentation verifying breast feeding, and list the accommodations believed necessary with as much specificity as possible. Except in extraordinary circumstances, requests for lactation-related accommodations must be submitted at least four (4) weeks prior to the first day of the bar examination.</p>
<p>Vermont “It is the Board’s view that providing reasonable accommodations for an applicant who is breastfeeding at the time of the exam is consistent with public accommodations laws.”</p> <p>https://www.vermontjudiciary.org/sites/default/files/documents/Bar_Exam_Accommodations_for_Breastfeeding_Information.pdf</p>	<p>If the only accommodation you seek is access to an appropriate private space outside of the scheduled test periods (over the lunch hour, for example), the administrator may be able to arrange that without the Board’s involvement. A formal request for accommodations related to breastfeeding should be made by letter to the Board of Bar Examiners; should include confirmation from a health care professional that you are or will be breastfeeding at the time of the exam; should outline the specific accommodations you seek; and, absent extraordinary circumstances, should be received by the Board no later than the application deadline. You must provide reasons for any requested change to the usual testing schedule. The Board may ask for additional information or ask the exam administrator to discuss the request further with you.</p> <p>https://www.vermontjudiciary.org/sites/default/files/documents/Bar_Exam_Accommodations_for_Breastfeeding_Information.pdf</p>

State Rules Addressing Accommodations for
Breastfeeding Mothers During Bar Exams (*as of Aug. 9, 2017*)

**Tier II: States that accommodate breastfeeding mothers by allowing
equipment and special seating, but no additional time**

<p>California http://www.calbar.ca.gov/Admissions/Examinations/Testing-Accommodations</p>	<p>“Applicants with mental or physical disabilities can file a petition for reasonable testing accommodations that are needed to take an exam. Applicants with temporary medical conditions, such as a pregnancy or broken leg, and mothers who are nursing, etc. may also file requests for accommodations.”</p> <p>However, all forms are for disability accommodations, the rules do not mention temporary medical conditions, and it is not clear what types of accommodations will be made for nursing mothers.</p>
<p>Colorado http://www.coloradosupremecourt.com/PDF/BLE/Courtesy%20Accommodations%20for%20Health-Related%20Conditions.pdf</p> <p>Not clear that additional time will be allowed for “courtesy” accommodations.</p>	<p>Lactating Women</p> <p>Courtesy accommodations for women who are lactating are available upon request. A request for lactation accommodations must include documented medical evidence from your child’s pediatrician or your obstetrician verifying your child’s reliance on breast milk and the child’s date of birth. List all accommodations you believe will be necessary on the day of the exam. Do not assume a particular accommodation will be granted if not listed in your request; be specific. Accommodations may typically include: • permission to bring a breast pump and storage container for supplies (a cooler if necessary) • a private location for expressing milk • electrical outlet • exam room seating that affords the swiftest possible route between the test room and the lactation area during breaks*</p> <p>*Most venues are not equipped with private lactation rooms or if provided, the lactation room is a considerable distance from the designated testing room. Therefore, in an effort to provide a private space located more conveniently to the test room, the lactation area may be temporary in design and structure.</p>
<p>Delaware</p> <p>ADA disability</p>	<p>DO NOT FILE THIS APPLICATION if you are only requesting permission to bring with you into the examination room a medical assistive item or device that is not explicitly permitted by the Board’s testing security policies (such as diabetic supplies, a lumbar support, a lactation pump, or prescription medication), and/or</p>

State Rules Addressing Accommodations for
Breastfeeding Mothers During Bar Exams (*as of Aug. 9, 2017*)

<p>Not clear whether time accommodation would be made for breastfeeding. Administrative accommodation for breast pump and/or special seating. http://courts.delaware.gov/bbe/docs/2017-RequestforAdministrativeAccommodations.pdf</p>	<p>you are requesting special seating because of a medical condition. FOR SUCH REQUESTS, YOU ONLY NEED TO FILE A REQUEST FOR ADMINISTRATIVE ACCOMMODATIONS. http://courts.delaware.gov/bbe/docs/2017_Application_for_Testing_Accommodations.pdf</p>
<p>Florida Bringing a pump or getting special seating; no time</p>	<p>What if I am a nursing mother who needs to pump during the examination? If you are a nursing mother who needs to have a lactation pump at the examination site and a location in which to pump, you should submit a Notice of Medical Alert or Condition Requiring Special Seating or Assistive Devices. The document must be completed and submitted to the board's office 2 weeks in advance of the examination. If your request is approved, a letter will be provided giving you permission to bring the requested items. A new notice is required for each administration of the examination that you attend. https://www.floridabarexam.org/web/website.nsf/52286AE9AD5D845185257C07005C3FE1/43061AC83E005D4385257ED1006FBEA7#C4C2</p>

State Rules Addressing Accommodations for
Breastfeeding Mothers During Bar Exams (as of Aug. 9, 2017)

EXHIBIT A

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<p>Georgia</p> <p>Administrative accommodations – permission to bring breast pump or have special seating arrangement; no mention of time</p>	<p>As directed by the National Conference of Bar Examiners, the Board of Bar Examiners does not allow applicants to bring food, snacks, or drinks of any kind other than water (in clear plastic unlabeled bottles) into the examination room. Applicants who want authorization to bring into the examination room only an assistive device such as diabetic supplies or food, a lactation pump, or lumbar support cushion, or applicants who may need special seating arrangements due to a medical condition, must submit an Administrative Accommodation Request Form to the Office of Bar Admissions. You may be asked to provide documentation to support your request. If the request is granted, the Office of Bar Admissions will send you a letter approving the request which must be presented to the Office of Bar Admissions Staff at the examination site.</p> <p>Click the link, Administrative Accommodation to view specific information and to access the Administrative Accommodation Form. The completed Administrative Accommodation Form MUST be received in the Office of Bar Admissions no later than December 1 for the February Bar Examination and May 1 for the July Bar Examination.</p> <p>https://www.gabaradmissions.org/appinfo.action?id=6</p>
<p>Illinois</p>	<p>An administrative accommodation provides a courtesy arrangement for applicants with certain health-related issues in standard test rooms following <i>the standard testing schedule</i>. Applicants can obtain administrative accommodation information and request the form at any time by visiting the information & applications page. The forms and instructions are also available with examination forms during periods of time that bar examination registration is open. This form with medical documentation must be received by our office no later than February 1 for a February exam, and no later than July 1 for a July exam.</p>

State Rules Addressing Accommodations for
Breastfeeding Mothers During Bar Exams (*as of Aug. 9, 2017*)

<p>Iowa</p> <p>Complete this form to request any of the following arrangements to address a health-related condition: • Permission to bring an assistive device (such as diabetic supplies, a lumbar support, or breast pumping supplies) into the secure exam area. • Special seating in the exam room. • Special arrangements for lactating mothers.</p>	<p>Applicants seeking testing accommodations based upon a condition not covered by the Americans with Disabilities Act, including but not limited to breast-pumping, pregnancy, or the need to access medication at the exam site, should complete and file the form below as soon as the need for accommodations becomes apparent. The board of law examiners will address such requests on an individualized basis and may require medical documentation. The board will ensure breast-pumping applicants can bring necessary equipment to the exam site and are able to express milk in a sanitary and private setting with access to electrical outlets.</p> <p>http://www.iowacourts.gov/wfData/files/ProfessionalRegulation/BarExam/Iowa%20Courtesy%20Accommodations%20Form.pdf</p>
<p>Massachusetts</p> <p>Health-related conditions request form; no mention of additional time</p> <p>http://www.mass.gov/courts/docs/bbe/assistance-for-health-related-conditions-form.pdf</p>	<p>The Massachusetts Board of Bar Examiners provides reasonable and appropriate accommodations on the Massachusetts Bar Examination for qualified applicants with documented disabilities who demonstrate a need for accommodation.</p> <p>http://www.mass.gov/courts/court-info/sjc/attorneys-bar-applicants/bbe/gen-info-and-request-forms/info-concerning-nonstandard-testing-accommodations.html</p> <p>Special Arrangements due to Health-Related Conditions Applicants who have a health-related condition that can be addressed in a standard testing room and without deviation from the standard testing schedule may request special arrangements. Some common special arrangements include: • Permission to bring medication into the examination room. • Permission to bring an assistive device such as a lumbar support, diabetic supplies, or lactation pump into the examination room. • Special arrangements for lactating purposes. • Permission to bring food into the examination room.</p>

State Rules Addressing Accommodations for
Breastfeeding Mothers During Bar Exams (as of Aug. 9, 2017)

<p>Minnesota</p> <p>Policy and Procedure for Breastfeeding-Related Requests During the Bar Exam https://www.ble.mn.gov/wp-content/uploads/2016/02/Policy-and-Procedure-for-Breastfeeding-Related-Requests-during-the-Bar-Exam-1-1.pdf</p>	<p>The typical types of accommodations that have been and may be granted by the Board include the following: • Permission to bring to the exam and store at the testing site necessary medical equipment and supplies, including a breast pump, storage supplies and a cooler. • A clean, quiet, private or semi-private location (not a restroom) with electrical outlets if requested, to express breast milk; a semi-private location is defined as one that is located away from other examinees, except other examinees who are also expressing milk. Occasionally, additional accommodations may be granted when the request is submitted along with a statement by the examinee's or infant's treating physician describing the specific accommodations requested and how such accommodations are medically necessary for the health of the mother and/or the infant.</p>
<p>Missouri</p>	<p>If you have any health-related or medical condition that may require special attention during the examination submit a <u>Health-Related or Medical Condition Notice Form</u> by February 1 for a February examination and by July 1 for a July examination. If the need is for food/juice, medication, an assistive device, or special seating (unless the need is for wheelchair access), a statement from your medical doctor verifying your condition and supporting your need must be included. This form does not apply to applicants seeking disability accommodations.</p> <p>https://www.mble.org/appinfo.action?id=1</p>

State Rules Addressing Accommodations for
Breastfeeding Mothers During Bar Exams (as of Aug. 9, 2017)

<p>Nebraska</p> <p>Nothing in rules</p>	<p>PLEASE NOTE: Individuals with non-ADA qualifying health related conditions (e.g. breastfeeding, diabetes, pregnancy, mobility impairments etc.) may request a non-ADA administrative accommodation. The request may be made in the form of a letter. The request must state the health condition and the specific accommodations desired. Medical documentation verifying the condition is required. The request should be submitted with the application for the bar exam, no later than the filing deadline. Requests are granted on a case by case basis. Non-emergency requests that are not made on or before the filing deadline will be denied.</p> <p>https://supremecourt.nebraska.gov/administration/attorney-services-division/admission-practice-law/admission-by-exam</p>
<p>New Hampshire</p> <p>Administrative accommodations other than additional time</p>	<p>Applicants testing in standard testing rooms, with the standard testing schedule, who have health-related conditions that do not rise to the level of a disability requiring nonstandard testing accommodations under the Americans with Disabilities Act (ADA), may request special arrangements. Some common special arrangements include: • Permission to bring an assistive device such as a lumbar support, diabetic supplies, or lactation pump into the examination room. • Special arrangements for lactation during breaks. • Permission to bring food into the examination room because of a medical condition. • Special seating arrangements (i.e. near a restroom).</p> <p>https://www.courts.state.nh.us/nhbar/NHBBE-special-arrangements.pdf</p>
<p>New Mexico</p> <p>"Accommodations are also available for pregnant and nursing mothers." http://nmexam.org/bar-exam/take-the-bar-exam/process-forms-deadlines/testing-accommodations/</p> <p>Nothing specific in rules about accommodations.</p>	<p>Includes "nursing mother" on list of reasons for accommodation, and "private room for expressing milk and secure storage of equipment" in list of requested accommodations. See Form A, http://nmexam.org/wp-content/uploads/2015/11/Accommodation-Forms-BAR.pdf</p> <p>Includes temporary and permanent disabilities on form requesting accommodations. See Form B.</p>

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<p>North Dakota http://www.ndcourts.gov/court/committees/barbd/accom.pdf</p> <p>Administrative accommodation = no extra time</p> <p>Can request accommodation to bring pump and have special seating</p>	<p>Applicants who have a health-related condition that can be addressed in a standard testing room and without deviation from the standard testing schedule may request an administrative accommodation. Some common reasons for administrative arrangements include: • Specific medical condition that may require emergency medical attention. • A need to bring items into the exam room that are usually prohibited but are required due to a medical condition such as prescription medication/medical device. • Special seating arrangements because of a medical condition. • Special arrangements for breastfeeding purposes. This form must be filed for each bar examination for which you apply in North Dakota. A timely request for the February administration of the North Dakota Bar Examination must be postmarked not later than December 1 immediately preceding the examination for which application is made. A timely request for the July administration of the North Dakota Bar Examination must be postmarked not later than May 15 immediately preceding the examination for which application is made. If you do not complete this form by the deadline, the Board's office will not be able to process your request, except in extraordinary circumstances or due to a recently emergent event. Approval is not guaranteed. Please be advised that applicants are typically required to submit medical documentation to support a request. To expedite your request, a doctor's note should accompany this request. The doctor's note should verify your condition, explain the purpose of the medication/device needed, and state when and how often you must have access to the medication/device.</p>
<p>Pennsylvania http://www.pabarexam.org/bar_exam_information/lactation.htm</p>	<p>Lactation Equipment and Use Request</p> <p>Applicants sitting for the bar examination who are breastfeeding and who wish to have access to a breast pump and storage container during the examination must file a medical alert form with the Board office with medical documentation. Upon receipt of the form, a board staff member will call the applicant to discuss her personal situation. The standard exam schedule includes three hour test sessions. For many women, this suits their lactation schedule. For others, arrangements vary based upon the site venue, the number of women at the exam requesting lactation courtesy arrangements, the exam schedule, and the need for exam security.</p>

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<p>Utah Courtesy provisions only</p>	<p>Complete this form if you have a medical condition that will require you to bring medical equipment (e.g. inhaler, insulin pump, lactation pump, etc.), food, or drink into the exam room or if you have a condition which calls for special seating. Available seating options are: near the restroom, near the entrance, wheelchair accessible, front of the room, or back of the room.</p> <p>Doctor's note required.</p> <p>http://www.utahbar.org/admissions/admissions-application-forms-and-instructions/</p>
<p>Virginia</p> <p>Differentiate between requests for additional time and requests to bring a prohibited item into the bar exam room or ask for special seating.</p> <p>http://barexam.virginia.gov/bar/barnstguidelines.html</p>	<p>The Board recognizes that other non-ADA medical conditions may necessitate a request for testing modifications. Petitions for Non-Standard testing will be reviewed by the Board's expert(s) and should comply with the guidelines below.</p> <p>PLEASE NOTE: ONLY those applicants requesting additional testing time should complete the Petition for Non-Standard Testing. Applicants who wish to request permission to bring an item into the exam, which is not on the Allowed Items list, or request special seating due to a medical condition (i.e., seated near a restroom or exit), should submit a Medical Accommodation Request Form.</p>
<p>Washington http://www.wsba.org/Licensing-and-Lawyer-Conduct/Admissions/Application-and-Exam-Information#special</p> <p>Not clear whether additional time is given for breastfeeding or pumping.</p>	<p>Additional items or requests such as pillows, chairs, religious headgear, or special foods or medication, that you need to take into the exam room, or requests for use of the nursing mother room, must be requested online at least 18 days in advance of the bar exam and be supported with a doctor's statement (if applicable). See also the Bar Exam Security Policy. Note: New mother's nursing room is provided onsite for all exams.</p>
<p>West Virginia</p> <p>"Courtesy" accommodations; no time accommodation</p> <p>http://www.courtswv.gov/legal-community/Bd-of-Law/forms/CourtesyAccommodations.pdf</p>	<p>NOTE: Requests for additional testing time, a separate testing room, modified testing materials, and similar accommodations pursuant to the Americans with Disabilities Act must be made in accordance with the General Instructions for Requesting Test Accommodations and must be postmarked by May 1st preceding the July examination or December 1st preceding the February examination. The following types of courtesy accommodations for lactating women must be</p>

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West Virginia (cont'd)	<p>requested no later than June 1st preceding the July examination or January 1st preceding the February examination using the form below.</p> <p>Courtesy accommodations for women who are lactating may be available upon request. A request for lactation accommodations must include documentation from your child's pediatrician or your obstetrician verifying your child's reliance on breast milk and the child's date of birth. List all accommodations you believe will be necessary on the day of the exam. Do not assume a particular accommodation will be granted if not listed in your request; be specific. Accommodations may typically include: • Permission to bring a breast pump and storage container for supplies (a cooler if necessary) • A private location for expressing milk • Electrical outlet • Exam room seating that affords the swiftest possible route between the test room and the lactation area during breaks* *The exam venue may not be equipped with a private lactation room conveniently located to the testing room. Therefore, in an effort to provide a private space located more conveniently to the testing room, the lactation area may be temporary in design and structure.</p>
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Tier III: States that accommodate ADA disabilities only

Alabama	<p>ADA disability accommodations.</p> <p>https://admissions.alabar.org/sa_gen_instruct</p>
<p>Alaska</p> <p>Nothing on breastfeeding or administrative accommodations</p>	<p>ADA only</p> <p>https://www.alaskabar.org/library/ACCOMMODATIONSFORMS2fields.pdf</p>
<p>Arizona Test Accommodation Guidelines - silent as to breastfeeding, refer only to ADA</p> <p>https://www.azcourts.gov/Portals/26/admis/pdf/Guidelines.pdf</p>	<p>ADA only</p>
Arkansas	<p>No mention of accommodations, ADA or otherwise, on website.</p> <p>https://courts.arkansas.gov/administration/professional-programs/asble</p>
<p>District of Columbia</p> <p>ADA; accommodations for medical devices, although no mention of breast pump; appears that extra time is given only for ADA disabilities.</p>	<p>The Committee on Admissions (Committee) is committed to providing reasonable and appropriate accommodations to examinees with documented disabilities who demonstrate a need for accommodations in accordance with the Americans with Disabilities Act Amendments Act of 2008 (ADAAA). The ADAAA and accompanying regulations define a person with a disability as someone with a physical or mental impairment that substantially limits one or more major life activities.</p> <p>. . . . Examinees may bring medication, glucose tablets or gel, or medical aids that are necessary to ambulate (cane, crutches, walker, wheelchair, service animal, prosthetic limb, cast, brace, or sling), are necessary to communicate (hearing aid, voice amplifier), or are required for medical or health reasons (heart monitor, insulin pump, glucose monitor, blood sugar testing kit, Epinephrine auto-injector,</p>

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	<p>TENS unit), provided that use of such items will not necessitate any deviation from the standard test policies or schedule.</p> <p>http://www.dccourts.gov/internet/documents/TestingAccommodations-GuidelinesforMedicalDocumentation.pdf</p>
<p>Hawaii Nothing on breastfeeding or administrative accommodations</p>	<p>ADA only http://www.courts.state.hi.us/docs/ADA/ADAinstructions.pdf http://www.courts.state.hi.us/docs/court_rules/rules/hbbe.pdf</p>
<p>Indiana</p>	<p>No specific information on testing accommodations found on website</p>
<p>Kansas ADA only No breastfeeding</p>	<p>The Kansas Board of Law Examiners is committed to providing reasonable testing accommodations to applicants with disabilities, consistent with state and federal law. The bar exam is designed to test the knowledge and skills necessary for one who seeks admission to the practice of law. A qualified applicant with a disability, who is otherwise eligible to take the examination but who cannot demonstrate under normal testing conditions that he or she possesses the knowledge and skills to be admitted to the Bar in the State of Kansas, may request reasonable testing accommodations. The burden of proof is on the applicant to demonstrate the need for accommodations.</p> <p>http://www.kscourts.org/Appellate-Clerk/Board-of-Law-Examiners/Testing-Accommodations.asp</p>
<p>Kentucky</p>	<p>ADA disability only. SCR 2.082. https://courts.ky.gov/courts/supreme/Rules_Procedures/20012.pdf</p>
<p>Louisiana</p>	<p>ADA accommodations only. https://www.lascba.org/BarExam/ADA.aspx</p>

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Maine No mention of administrative accommodations, nothing specific to breastfeeding or nursing.	Accommodations Application ADA-specific https://mainebarexaminers.org/wp/wp-content/uploads/2015/04/SAForms10.06.pdf
Maryland ADA only	ADA only http://www.mdcourts.gov/ble/pdfs/testaccommodations.pdf
Michigan http://courts.mi.gov/Courts/MichiganSupremeCourt/BLE/Documents/BLE_Rules_Statutes_Policy_Statements_Jan2017.pdf	ADA disabilities only; no mention of breastfeeding. http://courts.mi.gov/Courts/MichiganSupremeCourt/BLE/Documents/Request%20for%20Test%20Accommodations%20on%20the%20Michigan%20Bar%20Examination.pdf
Ohio	Nothing specific to breastfeeding; accommodations are for disabilities under the ADA. http://www.supremecourt.ohio.gov/AttySvcs/admissions/disability.asp
Oklahoma Nothing in rules	If you require special accommodations for the exam, click here to send an e-mail request for a Special Accommodations Form. Any request for special accommodations must be filed at least (90) days prior to exam date. http://www.okbbe.com/Resources/Docs/Applications/OKBBE-Exam-Application-by-Registered-Law-Student.pdf
South Carolina ADA only	Board Rules address ADA accommodations only. http://www.sccourts.org/courtReg/Part4AppendixA.html
Tennessee	ADA accommodations only http://www.tnble.org/sites/default/files/policies_and_procedures_amended_6.26.17.pdf

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Texas	<p>ADA language in rule. https://ble.texas.gov/rule12</p> <p>Nothing else on website.</p>
Wisconsin https://www.wicourts.gov/formdisplay/BE-180.pdf?formNumber=BE-180&formType=Form&formatId=2&language=en <p>No specific mention of breastfeeding</p>	<p>ADA only</p> <p>The Wisconsin Board of Bar Examiners encourages persons with disabilities to apply for test accommodations. Reasonable test accommodations for the Wisconsin Bar Examination will be made for qualified applicants with disabilities.</p>
Wyoming	<p>ADA accommodations only</p> <p>No rules specific to breastfeeding</p> <p>http://www.courts.state.wy.us/wp-content/uploads/2017/05/RULES_AND_PROCEDURES_GOVERNING_ADMISSION_TO_THE_PRACTICE_OF_LAW.pdf</p>