

IN THE SUPREME COURT OF THE STATE OF MONTANA

AF 11-0244

IN RE THE RULES FOR ADMISSION
TO THE BAR OF MONTANA

PETITIONTo Adopt Temporary Rules for
Admission to the Bar of Montana

The State Bar of Montana Board of Trustees respectfully petitions the Montana Supreme Court to adopt Temporary Rules for Admission to the Bar of Montana, which authorize provisional admission to the Montana Bar for certain eligible persons. *See* Exh. A, Proposed Temporary Rules for Admission to the Bar of Montana.

The Montana Board of Bar Examiners intends to administer the Montana Uniform Bar Exam on July 28-29, 2020. However, in light of the ongoing outbreak of COVID-19 throughout the United States, some candidates who apply to sit for the Montana Uniform Bar Examination will be unable or unwilling to do so and will choose to defer the bar exam until a future administration. Deferring the bar examination without a mechanism to practice in the interim may impair the livelihoods of those persons, as well as the lawyers and law firms who intended to employ those persons.

The only existing mechanism allowing temporary practice in Montana is the Montana Student Practice Rule. However, that rule does not provide practitioners with a license to practice law. As a result, those who practice under this rule are unable to obtain legal malpractice insurance.

The American Bar Association Board of Governors recently approved a resolution encouraging state licensing authorities to immediately adopt emergency rules authorizing those who cannot take a bar exam because of COVID-19 to engage in a limited practice of law under certain circumstances. *See* Exh. B, ABA Resolution and Report (adopted April 7, 2020). As discussed in the ABA Report, state authorities have adopted a variety of rules to address the challenges posed by a two-day in-person bar examination.

While some states have merely changed the dates on which the bar exam will be administered, others have enacted temporary rules that will allow recent graduates to practice under supervision. For example, Utah adopted a temporary diploma privilege, while Georgia adopted provisional admission. *See* Exh. C, *In re: Matter of Emergency Modifications to Utah Supreme Court Rule of Professional Practice, Rules Governing Admission to the Utah State Bar, Order for Temporary Amendments to Bar Admission Procedures During Covid-19 Outbreak* (April 21, 2020); Exh. D., *In re: Provisional Admission to the Practice of Law in Georgia* (April 17, 2020).

Upon recommendation from the Alexander Blewett III School of Law at the University of Montana, the Board of Bar Examiners, and the Commission on Character and Fitness, the State Bar Board of Trustees proposes a provisional admission rule similar to that adopted by Georgia. It exceeds the criteria articulated by the ABA because only those persons who have been certified by the Montana Commission on Character and Fitness will be eligible for provisional admission. *See* Proposed Temporary Rules § B, at 3-4.

Through provisional admission of eligible persons, the Court can mitigate the economic hardships for those candidates who are unable or unwilling to sit for the Montana bar

examination while fulfilling the Court's responsibility to protect the public by ensuring that persons practicing law in Montana are competent to do so.

The State Bar Board of Trustees respectfully requests that the Court's public comment period and public hearing allow the Court to issue a decision by the end of June 2020.

RESPECTFULLY SUBMITTED this 5th day of June, 2020.

STATE BAR OF MONTANA

By: /s/ Juli Pierce
Juli Pierce, President

By: /s/ Brian C. Smith
Brian C. Smith, Chair, Board of Trustees

CERTIFICATE OF SERVICE

I, Brian Carl Smith, hereby certify that I have served true and accurate copies of the foregoing Petition - Other to the following on 06-05-2020:

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