Memorandum

To: Justice Goff
From: Bradley W. Skolnik
Date: January 27, 2021
Re: Evolution of Mental Health Questions on Bar Exam Application

The “mental health” questions on the application to sit for the Indiana bar examination have evolved significantly over the past decade. In response to concerns expressed by law students, mental health professionals, law school administrators and disability rights advocates as well as litigation under the Americans with Disabilities Act, the mental health questions on the bar application have been narrowed considerably. Today, as a result of changes made in April 2020, the two remaining mental health questions on the application focus primarily on conduct and behavior rather than a mere diagnosis.

The following is a concise timeline of the evolution of the mental health questions on the Indiana bar exam application. Should you have any questions or if you need any additional information, please contact me at any time.

Mental Health Questions Prior to February 2012 Bar Exam

20. Have you ever been addicted to any drug, including alcohol?

21. Have you been diagnosed with, treated or counseled for, or required to attend a program for substance abuse, including prescription drugs, illegal substances or alcohol, or been required to attend an education or awareness program for (a) substance abuse, (b) alcohol use or abuse, or (c) any other substances?

22. Have you been diagnosed with or have you been treated for bi-polar disorder, schizophrenia, paranoia, or any other psychotic disorder?

23. From the age of 16 years to the present, have you been diagnosed with or treated for any mental, emotional or nervous disorders?

24. Do you have any condition or impairment (including but not limited to, substance abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition) which in any way currently affects, or if untreated could affect, your ability to practice law in a competent and professional manner?

25. If your answer to Question 24 is Yes, are the limitations or impairments caused by your mental health condition or substance abuse problem reduced or ameliorated because you receive
ongoing treatment (with or without medication) or because you participate in a monitoring program?

26. Have you ever raised the issue of consumption of drugs or alcohol or the issue of a mental, emotional, nervous or behavioral disorder or condition as a defense, mitigation, or an explanation for your actions in the course of any administrative or judicial proceeding or investigation, any inquiry or other proceeding, or any proposed termination by an educational institution, employer, government agency, professional organization or licensing authority?

**Mental Health Questions: February 2012 through July 2017 Bar Exams**

24. Have you ever been addicted to any drug, including alcohol?

25. Have you been diagnosed with, treated or counseled for, or required to attend a program for substance abuse, including prescription drugs, illegal substances or alcohol, or been required to attend an education or awareness program for (a) substance abuse, (b) alcohol use or abuse, or (c) any other substances?

26. Within the past five (5) years have you been diagnosed with or have you been treated for bi-polar disorder, depression, or other emotional disorder, schizophrenia, paranoia, or any other psychotic disorder?

27A. Do you have any condition or impairment (including but not limited to, substance abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition) which in any way currently affects, or if untreated could affect, your ability to practice law in a competent and professional manner?

27B. If your answer to Question 27(A) is yes, are the limitations caused by your condition or impairment reduced or ameliorated because you receive ongoing treatment or because you participate in a monitoring or support program?

28. Have you ever raised the issue of consumption of drugs or alcohol or the issue of a mental, emotional, nervous or behavioral disorder or condition as a defense, mitigation, or an explanation for your actions in the course of any administrative or judicial proceeding or investigation, any inquiry or other proceeding, or any proposed termination by an educational institution, employer, government agency, professional organization or licensing authority?

**Mental Health Questions: February 2018 through July 2020 Bar Exams**

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

1 Per the direction of the Court, the questions on the application were changed in April 2020 midway through the application period for the July 2020 exam.
24A. Do you currently have any condition or impairment (including, but not limited to, substance abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition) that in any way affects your ability to practice law in a competent, ethical, and professional manner?

24B. If your answer to Question 24(A) is yes, are the limitations caused by your condition or impairment reduced or ameliorated because you receive ongoing treatment or because you participate in a monitoring or support program?

25. Within the past ten years, have you asserted any condition or impairment as a defense, in mitigation, or as an explanation for your conduct in the course of any inquiry, any investigation, or any administrative or judicial proceeding by an educational institution, government agency, professional organization, or licensing authority; or in connection with an employment disciplinary or termination procedure?

Mental Health Questions: July 2020 Bar Exam to Present

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

24. Within the past ten years, have you asserted any condition or impairment as a defense, in mitigation, or as an explanation for your conduct in the course of any inquiry, any investigation, or any administrative or judicial proceeding by an educational institution, government agency, professional organization, or licensing authority; or in connection with an employment disciplinary or termination procedure?