IN THE COURT OF APPEALS OF MARYLAND

ADMINISTRATIVE ORDER
ON
THE OCTOBER 2020 MARYLAND BAR EXAMINATION
AND
OPTION FOR TEMPORARY SUPERVISED PRACTICE OF LAW

WHEREAS, as part of the regulation of the practice of law in Maryland, the Court of Appeals establishes requirements for admission to the Maryland Bar, including rules governing examinations for admission;

WHEREAS, pursuant to Maryland Rules 19-101 *et seq*. the State Board of Law Examiners ("Board") is charged by the Court with administering the process for admission to the Maryland Bar;

WHEREAS, pursuant to Maryland Code, Business Professions & Occupations Article, §10-209, Maryland Rules 19-201(a)(3) and 19-203, and Board Rule 5, the Board is to administer the Uniform Bar Examination ("UBE") in Maryland as part of the process for admission to the Maryland Bar;

WHEREAS, Maryland Rule 19-203(c) provides that the purpose of the bar examination is "to enable applicants to demonstrate their capacity to achieve mastery of foundational legal doctrines, proficiency in fundamental legal skills, and competence in applying both to solve legal problems consistent with the highest ethical standards" and

that it is the policy of the Court "that each applicant be judged for fitness to be a member of the Bar as demonstrated by the examination answers;"

WHEREAS, an applicant's score on the UBE is a key element that permits those who take the UBE in Maryland to rely on their UBE score when seeking admission in other jurisdictions – sometimes referred to as the "portability" of the examination result;

WHEREAS, the outbreak of the novel coronavirus, COVID-19, according to guidance by the Centers for Disease Control and Prevention and the Maryland Department of Health, poses a threat of harm to individuals who congregate in large groups;

WHEREAS, the COVID-19 emergency requires measures to protect the health and safety of applicants to the Maryland Bar;

WHEREAS, in April 2020, the Chief Judge of the Court of Appeals established a working group to evaluate the feasibility of creating a temporary authorization to practice law in Maryland, subject to various conditions, in the event that the COVID-19 emergency rendered it impracticable to conduct the Maryland Bar Exam in the normal manner;

WHEREAS, on May 26, 2020, recognizing the impracticalities associated with administering a July 2020 bar examination, the Court, in conjunction with the Board, initially postponed the administration of the UBE in Maryland to September 9-10, 2020;

WHEREAS, on June 17, 2020, the Court approved the Board's recommendation and authorized the announcement of remote administration of a shortened version of a bar examination similar in content to the UBE, developed in conjunction with bar admission authorities of other jurisdictions and the National Conference of Bar Examiners ("NCBE"), to be administered October 5-6, 2020, with examination materials delivered by ExamSoft Worldwide ("ExamSoft"), in lieu of the in-person September 2020 examination;

WHEREAS, as of the date of this order, the Board has reciprocal agreements for portability of scores earned on the October 2020 remote bar examination with bar admission authorities in Connecticut, the District of Columbia, Illinois, Kentucky, Massachusetts, New Hampshire, New Jersey, New York, Oregon, Ohio, Tennessee and Vermont, and bar admission authorities in Texas have announced that Texas will accept transferred scores earned on administration of the October remote bar exam from all states listed above;

WHEREAS, on July 31, 2020, certain applicants to the Maryland Bar submitted to the Court a document entitled "Emergency Petition for Temporary Suspension of UBE Requirement and Order Granting Emergency Diploma Privilege Plus" ("Diploma Privilege Petition"), in which those applicants requested that the Court waive the requirement under Maryland Rule 19-201(a)(3) that an applicant achieve a qualifying score on the UBE;

WHEREAS, the Court requested that the Board provide an update on the plans for the remote administration of the October bar examination and the Board provided that update in a letter dated August 18, 2020;

WHEREAS, on August 20, 2020, the Court sought public comment on the Board's update;

WHEREAS, the Court has received numerous comments concerning the Diploma Privilege Petition and the Board's update, and has carefully considered those comments, as well as the alternatives to the UBE adopted by other jurisdictions;

WHEREAS, the Court is satisfied that the Board has, in coordination with bar admission authorities in other jurisdictions and the NCBE, developed a remote bar examination that offers the best alternative, based on all available information, for retaining the integrity of the Maryland Bar Exam consistent with the policy stated in the Maryland Rules;

WHEREAS, the concerns expressed in the comments received include the availability of a quiet location without distraction in which to take the remote examination, and other concerns about the ability to successfully take the remote examination;

WHEREAS, law schools and other entities have space that can provide a quiet location without distraction for those taking a remote examination;

WHEREAS, the Court believes that, for those applicants who remain uncomfortable with taking the October 2020 remote bar examination during the current pandemic, it is also in the interest of justice to offer an option to apply for a temporary special authorization for supervised practice of law in Maryland, in lieu of taking the October 2020 remote bar examination – an option that is set forth in a separate Order issued on this same date; and it is this 28th day of August 2020

ORDERED, by the Court of Appeals that:

(a) The originally planned administration of the in-person UBE in Maryland during September 2020 is cancelled;

(b) The Board shall proceed with administration of the remote bar examination on October 5-6, 2020;

(c) The Board shall provide in-person testing locations for the October bar examination only to the extent necessary to carry out previously-approved ADA test accommodations requiring non-standard, non-electronic test materials;

(d) For those applicants who lack a quiet location without distraction in which to take the examination, the Board shall assist law schools and other entities desiring to provide testing locations for those applicants to develop protocols for such test locations, publicize the availability of those locations to applicants, and

facilitate, to the extent practicable, the ability of applicants to take the examination at such locations;

(e) The Board shall cause all applicants registered for the now-cancelled in-person UBE in Maryland to receive appropriate information permitting registration for the October 2020 remote bar examination, including a deadline for registration;

(f) Applicants intending to take the October 2020 remote bar examination shall complete all steps necessary for registration with ExamSoft by the registration deadlines established by the Board and ExamSoft;

(g) The Board shall withdraw the Notice of Intent of any applicant failing to register with ExamSoft by the registration deadlines established by the Board and ExamSoft;

(h) The Board shall apply a policy, similar to the policy applied at in-person bar examinations, that an applicant is responsible for any mechanical failure or malfunction of the applicant's computer or other equipment, including equipment involved in accessing the internet, before, during, or after the administration of the remote bar examination.

(i) No new, additional, or extended application filing period shall be provided by the Board, absent further Order of this Court;

(j) Requests for the Board to accept late-filed applications pursuant to Maryland Rule 19-206(d) and Board Rule 2 shall be addressed pursuant to those Rules;

(k) The Board shall advise applicants by email, posting on its website, and other means as appropriate, information concerning the remote bar examination, including, among other things, access to passwords, the availability of mock examinations, and policies concerning permitted and prohibited electronic devices; and

(l) The Board shall provide periodic updates to the Court on any significant developments related to the administration of the remote bar examination.

/s/ Mary Ellen Barbera
Chief Judge

/s/ Robert N. McDonald

/s/ Shirley M. Watts

/s/ Michele D. Hotten

/s/Joseph M. Getty

/s/ Brynja M. Booth

/s/ Jonathan Biran

Filed: August 28, 2020

Pursuant to Maryland Uniform Electronic Legal Materials Act
(§§ 10-1601 et seq. of the State Government Article) this document
is authentic.

Suzanne Johnson
2020-08-28 13:53-04:00

Suzanne C. Johnson, Clerk

/s/ Suzanne C. Johnson
Clerk
Court of Appeals of Maryland