

UPDATE: As of 3:37 p.m. on July 20, 2020, LSERC is working on new petition and is asking anyone registered for the PA October Bar Exam to complete the following Hardship Survey: <https://forms.gle/oPqSniRZqvrZtf179>

UPDATE: As of 12:50PM on Saturday, 4/18 we have 505 signatures. We submitted the amended letter on Saturday, 4/18 to PABOLE, Governor Wolf, and the Justices of the PA Supreme Court. The letter and form remain open for signatures. All additional signatures will be added to our website in batches on a regular basis. Thank you for your continued support. The amended letter submission can be viewed here: <https://bit.ly/3cxiXUt>

***Cover Letter 4.12.20* (actual letter follows below)**

April 12, 2020

Pennsylvania Board of Law Examiners
601 Commonwealth Ave., Suite 3600
Harrisburg, PA 17106-2535

Dear Board of Pennsylvania Law Examiners,

We hope that you are safe and well during these difficult times. We are grateful for your recent decision to extend the deadline for the “timely” application fee for the July 2020 bar exam. This has provided some immediate relief for many students.

Today we are writing to share with you our position on the July 2020 bar exam, as we know you are working to determine the best path forward. We respectfully ask that the Board grant emergency diploma privileges to applicants registered to take the July bar exam.

The undersigned submit that, given the realities that the Commonwealth and graduating applicants currently face, a policy of granting emergency diploma privileges upon satisfaction of the character and fitness requirements would safeguard the integrity of the legal profession while providing necessary services to our communities. We are grateful that the Pennsylvania Bar Association’s COVID-19 Task Force shares our concerns about postponing the July exam and recognized that, under these exceptional circumstances, alternatives must be considered.

Diploma privilege is the necessary response because of the immediate and expanded need for legal representation, especially for indigent and vulnerable members of our communities. Considering the uncertainty of this pandemic, a postponed bar exam would create future public health concerns and more confusion going forward for employers and bar applicants. This would have devastating effects on the careers and mental health of new lawyers.

We ask for your time and consideration in reading our attached letter. Over 200 graduating students have signed, representing all nine of Pennsylvania’s law schools as well as out-of-state

students who plan to practice in the Commonwealth. In the interest of expediency, we are sending this letter to you now so that our perspective may be considered as you weigh possible options. However we have only just begun circulating the letter and will continue to receive new signatures. We plan to provide you with an updated list of signees at the end of the week.

Thank you for your leadership during this unprecedented crisis. Please let us know if you have questions about the contents of our letter or our deliberation process.

Respectfully,

Law Students for
Equitable Responses to COVID-19

Letter to PABOLE attached to cover letter sent 4.12.20:

April 12, 2020

Pennsylvania Board of Law Examiners
601 Commonwealth Ave., Suite 3600
Harrisburg, PA 17106-2535

Dear Pennsylvania Board of Law Examiners,

We, the undersigned, are prospective Pennsylvania Bar applicants, legal professors, and practitioners. We urge a comprehensive and proportional response from the Pennsylvania Board of Law Examiners to the current crisis brought on by the COVID-19 pandemic. We respectfully request that the Board of Law Examiners grant diploma privileges to all Fall 2019 and Spring 2020 graduates who plan on taking the July 2020 bar exam to ensure that the legal needs of our communities are met during this uncertain time.¹

COVID-19 has changed the way each and every one of us navigates the world, and it will affect our lives for an indeterminable amount of time. In Pennsylvania, all sixty-seven counties are under a Stay at Home Order through April 30.² All non-life-sustaining businesses and services have been forced to cease in-person operations.³ The Wolf Administration is strongly encouraging Pennsylvanians to suspend any gatherings of more than ten people and to cancel any such gatherings planned over the next eight weeks.⁴

¹ This letter was modeled after the letter and petition submitted to the State Bar of California, *available at* <https://bit.ly/3boKAP0>. The California letter was authored by members of the Class of 2020.

² *Responding to COVID-19 in Pennsylvania*, PA.gov, <https://www.pa.gov/guides/responding-to-covid-19/#StatewideMitigation> (last updated April 8, 2020 5:15 PM).

³ *Id.*

⁴ *Id.*

As the Commonwealth adapts to a new normal, so must law students. We must acknowledge the disproportionate impact COVID-19 has on certain populations of law students: immunocompromised students, low-income students, students who have contracted the virus, and students with significant family obligations. Enactment of a diploma privilege, where graduates who pass character and fitness requirements are admitted to the Bar by virtue of obtaining a law school diploma instead of passing a bar exam, for recent graduates and the class of 2020, would ensure fairness and equity to all law students and larger society. The diploma privilege should include a mechanism that allows LL.M. students to have similar access to diploma privilege. The implementation of diploma privilege will allow all of us—J.D. and LL.M. graduates—to meet the needs of the clients the legal profession purports to serve.

Given the uncertainty and precariousness of the COVID-19 pandemic, state courts and boards of bar examiners have realized the necessity of adapting the July 2020 bar examination. Eight jurisdictions have so far announced the postponement of the July bar exam until the fall, including neighboring states New York and New Jersey.⁵ Some states have postponed the exam until an indeterminate date in the fall of 2020. Yet, postponing the bar exam will have grave consequences. The unprecedented delay will harm clients, law school graduates, employers, and the state budget. A reduction in newly licensed lawyers exacerbates access to justice issues in a time of greater need. The uncertain examination date will also complicate employers' hiring and employment decisions and certainly lead to further hiring freezes or rescinded offers. Law school graduates' careers will be halted, resulting in greater financial insecurity and increased unemployment. Moreover, the delay will complicate logistics for the PA Bar due to the difficulty of choosing a “safe” date and the potential necessity to reschedule the exam multiple times.⁶

Pennsylvania should not opt for this messy alternative.

Diploma privilege is feasible. After all, Wisconsin exclusively offers diploma privileges.⁷ The emergency diploma privilege is a superior alternative to postponement because it provides greater certainty and job security for law school graduates and employers and greater ability for Pennsylvanians to obtain competent legal services in the coming months. In support of our request, we set forth the reasons below:

⁵ Nat'l Conference of Bar Exam'rs, *July 2020 Bar Exam: Jurisdiction Information* <http://www.ncbex.org/ncbe-covid-19-updates/july-2020-bar-exam-jurisdiction-information/> (last visited Apr. 10, 2020). The jurisdictions postponing the July 2020 bar exam so far are Alaska, Connecticut, Guam, Hawaii, Massachusetts, New Jersey, New York, and Vermont.

⁶ New York Law Schools deans also urged the New York State Court of Appeals to reconsider postponing the July 2020 bar to the Fall in an April 1, 2020 letter for these reasons. The Deans also asked the NY Bar to consider alternatives to admission to the Bar that do not require sitting for a bar exam. The letter is available at <https://images.law.com/contrib/content/uploads/documents/292/Chief-Judge-DiFiore3-2-1.pdf>.

⁷ *Diploma Privilege*, U. Wis.-Madison L. Sch., https://law.wisc.edu/current/diploma_privilege/ (last visited Apr. 8, 2020).

1. Our communities in Pennsylvania need us now more than ever.

On March 22, 2020, several scholars, whose research focuses on licensing for legal practice, circulated [a white paper](#) with numerous alternatives to the traditional bar exam.⁸ These scholars urged the state bars to forgo traditional methods in favor of a more open licensing system that allows for the continued flow of trained advocates into the legal system. A shortage of lawyers in the midst of a crisis would be devastating. A working paper addressing COVID-19's consequences for legal licensure summarizes the need for new attorneys in an average year:

In 2018, the most recent year for which we have data, 24,398 graduates of ABA-accredited law schools took jobs that required bar admission. Almost half of those jobs (48.6%) were with government (2,725); public-interest organizations (1,812); firms of 1-10 lawyers (5,556); and firms of 11-25 lawyers (1,763). Employers in these four categories rely heavily on new lawyers to meet client needs.⁹

As scholars have noted, “we cannot afford to close the doors to the profession in these precarious times.”¹⁰ The times are precarious indeed, requiring more and not fewer legal advocates. Residents across the state have already begun to experience the toll of COVID-19 in numerous ways. For example, as of April 10, Pennsylvania has 22,833 confirmed cases and 507 deaths.¹¹ A study projects that the virus will have killed more than 3,000 Pennsylvanians by August 1, 2020.¹² No one can project how many Pennsylvanians will lose their lives when the next likely wave of the virus strikes in the fall of 2020.¹³ Nor can anyone project if or when a third wave strikes.¹⁴

⁸ See generally Claudia Angelos et al., *The Bar Exam and the COVID-19 Pandemic: The Need for Immediate Action* (Ohio St. Univ., Moritz C. L., Ctr. for Interdisc. Law & Pol’y Stud., Legal Studies Working Paper Series No. 537, Mar. 22, 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3559060.

⁹ *Id.* at 2 (citing NALP, *Class of 2018 National Summary Report*, https://www.nalp.org/uploads/NationalSummaryReport_Classof2018_FINAL.pdf).

¹⁰ *Id.*

¹¹ *COVID-19 Cases in Pennsylvania*, Pa. Dep’t of Health, <https://www.health.pa.gov/topics/disease/coronavirus/Pages/Cases.aspx>. (last visited Apr. 12, 2020).

¹² Marc Stier, Keystone Res. Ctr. & Pa. Budget & Pol’y Ctr., *The Likely Impact of COVID-19 on Pennsylvania* (Mar. 30, 2020), https://www.krc-pbpc.org/research_publication/the-likely-impact-of-covid-19-on-pennsylvania/?fbclid=IwAR3GaANNXLWnLVqFgUFwhYu78mZs9iCVSIVvNartkm7VvX7pP5vVSG_ogvk.

¹³ Chris Riotta, *Dr. Fauci Warns of Another Coronavirus Outbreak in the Fall. Here’s Why He says It Will Be “Very Different,”* *Indep.* (Apr. 1, 2020), <https://www.independent.co.uk/news/world/americas/coronavirus-fall-outbreak-anthony-fauci-trump-covid-19-peak-us-a9438311.html>.

¹⁴ Alexi Cohan, *Coronavirus Cases in the U.S. Likely To Resurge in the Fall*, *Bos. Herald* (Mar. 25, 2020), <https://www.bostonherald.com/2020/03/25/coronavirus-in-u-s-likely-to-resurge-in-the-fall-virologist-predicts/>.

According to The Brookings Institution, small businesses are experiencing the brunt of COVID-19.¹⁵ Individuals are losing their jobs and associated benefits at a rapid rate. Lost income and savings coupled with new expenses for child and elder care will especially hit the working-class. More than 17 million Americans have applied for unemployment benefits during the last four weeks.¹⁶ With a grave economic recession on the horizon,¹⁷ families will require the assistance of sensitive legal advocates to navigate this difficult time, including but not limited to small business counsel and bankruptcy and consumer bankruptcy, health care matters, wills and estates, and accessing public benefits. Further, Pennsylvania will need attorneys to ensure that our state's most essential workforce is not exploited. Farmworkers, medical personnel, frontline service workers, and construction workers, among others, will need Pennsylvania attorneys to safeguard fundamental employment rights and advocate for appropriate remedies when our workforce experiences wage theft, discrimination, and unsafe work conditions.

Individuals and families across Pennsylvania will likewise require housing advocates. The Pennsylvania Supreme Court has extended a moratorium on evictions until April 30.¹⁸ However, once the moratorium is lifted, thousands (if not hundreds of thousands) of families will be promptly evicted unless they can provide an upfront payment of past due rent. There is a high likelihood that many families will be unable to make such payments, considering a record 1.1 million Pennsylvanians filed for unemployment since COVID-19 shutdowns began, representing 1 out of 6 workers in the state.¹⁹ This will disproportionately impact working-class people with little to no disposable income or savings, communities of color, and other vulnerable groups.

¹⁵ Sifan Lu & Joseph Parilla, *What the Great Recession Can Tell Us About the COVID-19 Small Business Crisis*, Brookings, (Mar. 25, 2020), <https://www.brookings.edu/blog/the-avenue/2020/03/25/what-the-great-recession-can-tell-us-about-the-covid-19-small-business-crisis/> (“Because small businesses have greater credit constraints and are more sensitive to weak consumer demand, they are often hit the hardest in economic downturns. The COVID-19 recession is uniquely damaging to them . . .”).

¹⁶ Heather Long & Andrew Van Dam, *America Is in a Depression. The Challenge Now Is To Make It Short-lived.*, Wash. Post (Apr. 9, 2020, 7:07 p.m.), <https://www.washingtonpost.com/business/2020/04/09/66-million-americans-filed-unemployed-last-week-bringing-pandemic-total-over-17-million/>

¹⁷ Ezra Klein, *How the Covid-19 recession Could Become a Depression*, Vox (Mar. 23, 2020), <https://www.vox.com/2020/3/23/21188900/coronavirus-stock-market-recession-depression-trump-jobs-unemployment> (quoting Mark Zandi, chief economist at Moody's Analytics, as calling the economic landscape an “economic tsunami”).

¹⁸ Cynthia Fernandez & Gillian McGoldrick, *Pennsylvania's Highest Court Extends Eviction Moratorium as Coronavirus Shutdowns Lead to Record Unemployment*, Phila. Inquirer (Apr. 1, 2020), <https://www.inquirer.com/news/pennsylvania/spl/pennsylvania-coronavirus-evictions-moratorium-rent-tenants-20200401.html>.

¹⁹ Andrew Maykuth, *One in Six Pennsylvania Workers Has Now Filed for Unemployment Since Coronavirus Shutdowns Started*, Phila. Inquirer (Apr. 6, 2020), <https://www.inquirer.com/jobs/pennsylvania-unemployment-claims-coronavirus-shutdown-impact-20200406.html>.

As COVID-19 continues to spread through detention centers, the need for attorneys to litigate immigration cases promptly will become even more crucial. Pennsylvania alone detains over 900 immigrants who are facing civil immigration charges.²⁰ In the midst of this pandemic, ICE enforcement officers and agents also remain committed to continue daily enforcement operations to make criminal and civil arrests.²¹ Advocates are deeply concerned about the potential effects of COVID-19 on immigrants in detention, especially considering that two ICE facilities in Pennsylvania have acknowledged positive COVID-19 tests among staff and detained individuals. Legal advocates and scholars have long-recognized the backlog in immigration court,²² and this backlog will be even more burdensome on families and adjudicators alike as the COVID-19 crisis grows. Immigration judges recently noted that COVID-19 is heavily impacting their caseload, pleading for guidance on how to act in the face of an unprecedented challenge.²³ Like the criminal justice system, advocating for clients in detention is procedurally intensive—any bottlenecks in the supply of newly licensed attorneys will denigrate the already limited constitutional rights afforded to immigrant detainees.

Pennsylvania will also need public defenders and district attorneys to work together in facilitating the continued adjudication of criminal cases. We need attorneys present at arraignments, advocating on behalf of their clients at preliminary hearings, delivering pre-trial motions, negotiating plea deals, and preparing for trials. Lawyers will be needed at the appellate level too, to vindicate the rights of clients should any constitutional violations emerge. The Sixth Amendment mandate is clear: every criminal defendant has the right to the assistance of counsel. The Commonwealth must uphold this mandate, especially during these uncertain times, when our most vulnerable populations are especially defenseless.²⁴

2. The alternatives to the diploma privilege licensing scheme are detrimental to public health at worst and inefficient at best.

²⁰ *Detention by the Numbers*, Freedom for Immigrants, <https://www.freedomforimmigrants.org/detention-statistics> (last visited Apr. 8, 2020).

²¹ *Guidance on COVID-19*, U.S. Immigration and Customs Enforcement, <https://www.ice.gov/coronavirus> (last updated March 15, 2020).

²² *Immigration Court's Active Backlog Surpasses One Million*, TRAC Immigration, <https://trac.syr.edu/immigration/reports/574/> (last updated Sept. 18, 2019).

²³ Cindy Carcamo et al., *Coronavirus is Turning an Overloaded Immigration System into a 'Tinderbox'*, L.A. Times (Mar. 18, 2020), <https://www.latimes.com/california/story/2020-03-18/coronavirus-strains-immigration-system>.

²⁴ Philadelphia jails alone “have a higher COVID-19 infection rate than New York City, Lombardy, Italy and Wuhan, China.” *COVID-19 in Philly's Jails*, Phila. Defender, <https://www.philadefender.org/covid-philly-jails/> (last updated Apr. 4, 2020). Furthermore, if the July bar exam is simply postponed, those entering public defense jobs may have to practice even longer under the certified legal intern rule in Pennsylvania, placing further strain on supervisory resources than is necessary and warranted. Recent graduates awaiting bar results and representing defendants in the criminal system cannot practice in court without a supervisor present. See Pa.B.A.R 322, https://www.pabarexam.org/bar_admission_rules/322.htm.

The scholars who authored the white paper referenced above noted that there are six potential alternative licensing schemes for states to consider: (1) postponement; (2) online exams; (3) exams administered to small groups; (4) emergency diploma privilege; (5) emergency-diploma privilege-plus; and (6) supervised practice.²⁵ They came to the conclusion that the first three options were likely to fail. Despite these recommendations, six states have now decided to postpone the July 2020 bar exam.²⁶ We understand that Pennsylvania may want to follow in the footsteps of neighbors New York and New Jersey in choosing to postpone the July exam. However, this would be a grave public health mistake. As public health professionals and officials have noted, COVID-19 infections (like other outbreaks) will have a progression that consists of second and potentially third waves.²⁷ Given that vaccinations and preventative medical therapies will not open to the market for at least a year, the potential for another outbreak is simply a matter of time. A shortsighted decision to merely postpone the July exam, if met with the high probability of subsequent outbreak and a resulting further postponement, will jeopardize public health and deprive Pennsylvanians of crucial legal assistance in the months ahead.

Pennsylvania holds the bar exam in massive venues, such as the Pennsylvania Convention Center, David L. Lawrence Convention Center, and Pennsylvania Farm Show Complex & Expo Center. These venues can and typically do accommodate hundreds of test takers at once. Yet, on March 16, 2020, President Donald Trump issued guidance discouraging gatherings of 10 or more people.²⁸ Insisting that students sit for a bar exam before adequate testing regimes, knowledge about the possibility of reinfection, and a vaccination is developed, even if there are no longer legal stay at home orders, places test takers and the public in significant danger and is contrary to all public health recommendations. Indeed, this approach, while offering “some initial appeal . . . is very likely to fail”²⁹ because of the nature of outbreak resurgences.

The only reasonable solution for these unprecedented times is the extension of diploma privilege for the class of 2020 and recent graduates. Diploma privilege, while unique, is not unheard of. Wisconsin has a long history of diploma privilege.³⁰ Given the cyclical nature of COVID-19, and the likely resurgence in the fall,³¹ any postponement will likely result in a subsequent

²⁵ Angelos et al., *supra* note 8.

²⁶ *See supra* note 5.

²⁷ Kiesha Prem & et al., *The Effect of Control Strategies To Reduce Social Mixing on Outcomes of the COVID-19 Epidemic in Wuhan, China: A Modelling Study*, *Lancet* (Mar. 25, 2020), <https://www.thelancet.com/action/showPdf?pii=S2468-2667%2820%2930073-6>.

²⁸ Knavel Sheikh, *No More than 10 People in One Place, Trump Said. But Why?*, *N.Y. Times* (Mar. 16, 2020), <https://www.nytimes.com/2020/03/16/health/coronavirus-social-distancing-crowd-size.html>.

²⁹ *See supra* note 3, at 3.

³⁰ Wis. Sup. Ct. R. 40.03.

³¹ Cohan, *supra* note 14.

postponement, which presents an unnecessary and harmful amount of uncertainty for law clients, law school graduates, employers, and the state budget and economy.

3. Law students will be adversely impacted by a failure to adopt diploma privilege.

First and foremost, diploma privilege will allow the legal community to meet the needs of clients and the legal system. Postponement cannot and will not meet these needs. However, diploma privilege will also address the valid concerns and worries of law students throughout the nation who seek to practice in Pennsylvania.

Put simply, postponement risks the physical health of law students and test administrators. It is unclear when COVID-19 will subside, and, as mentioned above, there is research to suggest COVID-19 will come in waves. Postponement still calls for students to sit in large groups for two days, placing them at completely undue risk for COVID-19. Further, those students who are immunocompromised, or live with friends and family members at an increased risk, will be at a disproportionate risk of infection. Many students will feel uncomfortable exposing themselves to potential illness, and some may choose to forego the exam completely out of a precaution for themselves and their loved ones. The question is not whether a postponed exam will lead to further infections but rather how many.

Postponement also opens the door for an incredible number of questions for law students and employers. Many law students arranged to begin working with employers starting late Summer or Fall 2020. If the Pennsylvania bar exam were to be postponed, it is unclear if students will begin working, as planned. Will employers force students to defer the start of their employment to a later date? Job deferment was an unfortunate reality for students in the midst of the 2009 economic downturn. Deferment would have a particularly devastating impact on LL.M students, whose immigration status may be affected as many jobs are contingent on Bar passage. For many international LL.M students returning to their home countries, employers require Bar admission to provide cross-jurisdictional legal services and it is unlikely they will wait for LL.M students to study and complete the Bar exam at a later date.

It is unclear how students with limited means will financially support themselves, and their families, if their employment starts at a later date. For all, it is unclear if students will be expected to begin making payments on their student loans at the six month mark after graduation. For employers who have the resources to still hire students on-schedule, many job start-dates begin as early as August 2020. Further, it is burdensome and inequitable to ask every graduate of the class of 2020 to study for the bar exam while many will be working to support themselves and their families. In those years not plagued by a pandemic and economic downturn, many students dedicated 2-3 months to studying for the exam, full-time. While we recognize that

law students are very capable, and that some law students work full-time while attending school or studying for the bar exam, it would be far too inequitable to force so many students into that situation now during this pandemic. Especially among those sectors with high caseloads and long hours, the idea of studying for the exam while working full-time may be a nonstarter.

Lastly, we cannot discount the toll COVID-19 has had on the mental health of law students across the country. Students are suffering educational, familial, and financial disruptions. Many students have been suddenly required to leave their school campuses, forcing them to scramble for housing.³² Many have lost full- or part-time jobs to support themselves and their families. Still others have been directly infected with COVID-19, or are caring for those infected or at-risk. Now, law students must grapple with the reality that they may become lawyers much later than anticipated, impacting life and employment plans.

In the midst of sudden chaos, law students are still expected to complete their graduation requirements, including attending virtual class. It is no secret that the legal profession has a mental health crisis, with close to a third of lawyers reporting depression and two-thirds reporting anxiety.³³ These data will only look increasingly grim post-pandemic. Diploma privilege is the humane alternative to postponement and, in light of current circumstances that evolve daily and are impossible to predict, is the only route that can offer clarity and certainty to the Bar. Furthermore, action to maintain the bar exam by allowing class of 2020 graduates to practice under licensed attorneys until they take a bar exam does not go far enough to address the realities of this pandemic and the inequities COVID-19 is producing for students and society.³⁴

4. The Pennsylvania Bar Association's COVID-19 Task Force initially cautioned against administering or postponing the July bar exam.

The Pennsylvania Bar Association's (PBA) COVID-19 Task Force issued a now-modified recommendation that the Board of Law Examiners cancel the July 2020 bar exam and instead permit graduating applicants to obtain a provisional license.³⁵ The PBA convened the COVID-19 Task Force specifically to provide expert opinions on how to adequately respond to the “issues

³² Abigail Hess, *Harvard Gives Students 5 days To Evacuate Dorms over Coronavirus Fears--Here's What Students Have To Say*, CNBC (Mar. 10, 2020), <https://www.cnbc.com/2020/03/10/harvard-gives-students-5-days-to-evacuate-dorms-over-coronavirus-fears.html>.

³³ Lizzy McLellan, *Lawyers Reveal True Depth of Mental Health Struggles*, Law (Feb. 19, 2020), <https://www.law.com/2020/02/19/lawyers-reveal-true-depth-of-the-mental-health-struggles/>.

³⁴ Tennessee, Indiana, and Arizona have extended supervised practice rules for class of 2020 graduates in recognition that their July 2020 bar exam may need to be postponed. New Jersey has also extended supervised practice for graduates until their postponed bar exam in the fall of 2020. *See supra* note 5.

³⁵ Pa. Bar Assoc. COVID-19 Task Force, Recommendation and Report (Apr. 7, 2020) (on file with Law Students for Equitable Responses to COVID-19).

facing the practice of law during the COVID-19 pandemic.”³⁶ The Task Force explicitly acknowledged that its recommendation “shares characteristics with diploma privileges.”³⁷ Although this proposal differed from ours in certain respects, it shared our common message—namely, that a sensible solution to the COVID-19 pandemic must involve the cancellation of the July 2020 bar exam:

- No one knows when the current public health crisis will end, which means that it is incredibly difficult, if not impossible, to predict when the bar exam could safely be administered;³⁸
- Postponing the bar exam would “delay[] graduated students, facing enormous educational debt, from earning and living,” and would preclude them “from taking vital positions in our profession and penalized for conditions beyond their control”;³⁹ and
- Pennsylvanians, especially “indigent members of our society,” will lose access to legal services “at a time when legal services are already stressed beyond capacity.”⁴⁰

The COVID-19 Task Force’s report and recommendation “was modified, following presentation to and receiving input from the PBA Board of Governors to reflect that the PBA recognizes provisional licensure as an innovative and effective approach not only to helping 2020 Bar Examination applicants but also those in our society who will desperately be in need of legal services at a critical time, subject to Supreme Court requirements while awaiting a safely rescheduled Bar Examination.”⁴¹

However, the COVID-19 Task Force’s initial report and the PBA’s modified report offered the same exact reasons to support two divergent recommendations.⁴² In fact, the language quoted above, taken from the COVID-19 Task Force’s initial report, appears verbatim in the PBA’s final report and recommendation.⁴³ For all intents and purposes, the modification to the COVID-19 Task Force’s initial report and recommendation reflects the deeply held belief in the legal profession that the bar examination is necessary to ensure that only those competent to practice law are admitted to the Bar.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* Just like that of the PBA’s COVID-19 Task-Force, our recommendation would “put Pennsylvanians in a position to be ready to confront these issues in ways it currently is not.” *Id.*

⁴¹ Email from Michael B. Jones, Co-Chair, PBA COVID-19 Task Force, to Dominique Montoya, Temple University, Beasley School of Law, Class of 2020 (Apr. 16, 2020) (on file with recipients).

⁴² Compare Pa. Bar Assoc. COVID-19 Task Force, Recommendation and Report (Apr. 7, 2020) (on file), with Letter from Anne John, Pres. Pa. Bar Ass’n, to David R. Fine, Chairman, Pa. Board of Law Exam’rs (Apr. 9, 2020) (on file).

⁴³ Letter from Anne John, Pres. Pa. Bar Ass’n, to David R. Fine, Chairman, Pa. Board of Law Exam’rs (Apr. 9, 2020).

The bar exam is widely touted as the most efficient, albeit “imperfect,”⁴⁴ measure of an applicant’s minimum competency practice law. In extraordinary times such as these, when the Commonwealth faces an unprecedented global health crisis that has disrupted every aspect of human life, that the bar exam is an imperfect measure of minimum competency should be enough reason to cancel the bar examination and, at the very least, implement a policy of provisional licensure that does not require graduating applicants to sit for the exam at a later indeterminable date.

We understand that the Pennsylvania Bar must remain committed to the integrity of the legal profession and to ensuring that Pennsylvanians receive the quality of representation to which they are entitled. We are not asking that the Board set a precedent for disposing of the bar exam. We are only asking that the Board, for the sake of your future colleagues and vulnerable Pennsylvanians, fully consider the urgency of our plight in light of the immediate crisis brought on by COVID-19.

For the aforementioned reasons, we the undersigned request that the Pennsylvania Board of Law Examiners and the Supreme Court of this Commonwealth recognize the imminent need for legal advocates in the very near future, and take the most humane, public-health conscious, and ethical approach by enacting a diploma privilege licensing scheme for recent graduates and the class of 2020 seeking admission to the PA Bar.

We implore Pennsylvania to display leadership during these trying, unprecedented times by paving the way for the timely provision of desperately needed legal services. Just as our colleagues in medical schools have been called upon to join the front lines fighting COVID-19,⁴⁵ so too are attorneys needed to fight for the rights of individuals most affected by this pandemic. Indeed, the COVID-19 pandemic has and will continue to exacerbate existing disparities in society, including those in the access to legal services. Now, more than ever, Pennsylvania must reaffirm its commitment to securing equal justice under the law and allow recent graduates to join the front lines to ensure that COVID-19 does not render these disparities insurmountable.

In solidarity with the communities we serve,

⁴⁴ See Maria Dinezo, *California Inches Toward Lowering Bar-Exam Standards*, Courthouse News Serv. (July 31, 2017), <https://www.courthousenews.com/california-inches-toward-lowering-bar-exam-standards/>; Lauren P. Duncan, *Setting the Bar for Law Schools: A National Debate*, Chi. Daily L. Bull., https://www.chicagolawbulletin.com/law-day/2017/ld17_lawschools_debate (last updated May 1, 2017, 10:08 AM).

⁴⁵ Emma Goldberg, *Early Graduation Could Send Medical Students to Virus Front Lines*, N.Y. Times (Mar. 26, 2020), <https://www.nytimes.com/2020/03/26/health/coronavirus-medical-students-graduation.html>.

Follow This Link To Sign the Petition:<https://forms.gle/XWBKxTF3cSXscsFKA>

Graduating Applicants

Abigail Bryman, Temple University, Beasley School of Law, JD
Abigail de Uriarte, Temple University, Beasley School of Law, JD
Adam Farraye, Temple University, Beasley School of Law, JD
Alan Kaplan, Temple University, Beasley School of Law, JD
Alex A., Widener University, Delaware Law School, JD
Alex Hamilton, Temple University, Beasley School of Law, JD
Alexander Garcia, Temple University, Beasley School of Law, JD
Alexander Miller, Duquesne University School of Law, JD
Alexander N. Palmer, Villanova University, Charles Widger School of Law, JD
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Alexandra Robinson, Temple University, Beasley School of Law, JD
Alexandra Woods, Temple University, Beasley School of Law, JD
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Alina Lewandowski, Temple University, Beasley School of Law, JD
Alisa L. Petersen, Pennsylvania State Dickinson School of Law, JD
Allison Grady, Pennsylvania State Dickinson School of Law, JD
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cc: Governor Tom Wolf, Commonwealth of Pennsylvania
The Honorable Thomas G. Saylor, Chief Justice, Pennsylvania Supreme Court
The Honorable Max Baer, Justice, Pennsylvania Supreme Court
The Honorable Christine Donahue, Justice, Pennsylvania Supreme Court
The Honorable Kevin M. Dougherty, Associate Justice, Pennsylvania Supreme Court
The Honorable Sallie Updyke Mundy, Justice, Pennsylvania Supreme Court
The Honorable Debra McCloskey Todd, Justice, Pennsylvania Supreme Court
The Honorable David N. Wecht, Justice, Pennsylvania Supreme Court