

John N. Fountain Attorney and Certified Mediator Nick.Fountain@youngmoorelaw.com Direct Dial 919-861-5113 After Hours Ext. 113

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Joint Legislative Administrative Procedure Oversight Committee North Carolina General Assembly 16 West Jones Street Raleigh, NC 27601

Att'n: virginia.barlow@ncleg.gov

Joint Legislative Commission on Governmental Operations North Carolina General Assembly 16 West Jones Street Raleigh, NC 27601

Att'n: govops@ncleg.net

Office of State Budget and Management MSC 20320 Raleigh, NC 27699-0320

Att'n: charles.perusse@osbm.nc.gov

RE:

Covid-19 Regulatory Flexibility Report

Senate Bill 704

North Carolina Board of Law Examiners

Dear Committee Members:

Pursuant to Section 4.38(c) of Senate Bill 704 of the 2019 General Assembly, we provide this Regulatory Flexibility Report on behalf of the North Carolina Board of Law Examiners. I am counsel to the Board.

The Board of Law Examiners is responsible for the issuance of licenses to practice law in North Carolina. Its purpose is to examine applicants and provide rules for admission to the North Carolina State Bar to ensure that all applicants seeking admission to practice law in North Carolina possess the requisite competency, character and fitness. In furtherance of its duty to assure the competence of applicants seeking to practice law in North Carolina, the Board prepares, administers, and grades the semi-annual North Carolina Bar Examinations. The North

Carolina Board of Law Examiners has no role in the discipline, trust accounting or continuing education of attorneys after licensure, as regulation of attorneys falls within the purview of the North Carolina State Bar.

Well before Senate Bill 704 was filed on April 28, 2020, the Board began assessing the impact of Covid-19 and the steps which might be necessary to meet both the needs of the public for access to competent representation and the needs of bar applicants for an opportunity to be examined safely without delay, to enable them to begin jobs contingent on passage of the exam and begin repayment of their significant student loans. Careful attention was paid to exam security and exam integrity. The great majority of applicants counted on the Board to find a way to move forward with the Bar Exam safely as scheduled, though a sizeable and vocal minority expressed their personal conviction that an in-person exam for several hundred persons could not be conducted safely.

In light of all the foregoing, the Board has taken the following steps:

- 1. A COVID-19 Protocol was developed involving streamlined check-in procedures, additional entrances at test sites, mandatory daily temperature checks, face-covering requirements, use of additional test sites, modified spacing of exam applicants to assure required physical distancing, modified dismissal procedures, and full disclosure by the Board to applicants regarding the process and the risk of potential exposure. The COVID-19 Protocol was made available to the Office of the Governor to assure compliance with all COVID-19 emergency orders. The same information was provided to the North Carolina State Bar and to the North Carolina Supreme Court. At each point the Protocol was modified based on additional information, or changes in recommendations by the Center for Disease Control and Prevention (CDC) or North Carolina Department of Health and Human Services (NCDHSS), the modifications were shared.
- 2. Full disclosure of the COVID-19 requirements were provided to all applicants. The Board carefully assessed the maturity of the Applicants and the likelihood of their compliance with the Protocol. The Board permitted applicants who were concerned about attending the July 2020 North Carolina Bar Exam due to the pandemic to withdraw their application and transfer their application fee to the February 2021 examination at any time up to conclusion of the examination on July 29, 2020, without penalty. The same opportunity will be offered for the February 2021 examination.
- 3. The Board modified notarization requirements to permits applicants to utilize sworn declarations in lieu of notarized signatures until March 1, 2021.
- 4. The Board extended the deadline for applicants to submit requests for special testing accommodations for the July 2020 exam. This change provided all applicants additional time to gather information and submit necessary medical documentation of any need for accommodation due to disability. The Board granted accommodations to all applicants who

requested accommodation due to being immunocompromised. Fourteen applicants were granted private testing rooms with a designated proctor.

- 5. In recognition of the additional stress caused by the COVID-19 pandemic, the Board reduced the passing score for the July 2020 bar examination and the February 2021 bar examination from two hundred seventy to two hundred sixty-eight.
- 6. The Board proceeded with the in-person examination on July 28–29, 2020 and implemented public health and safety protocols recommended by CDC, NCDHHS and the Governor's Office. Six hundred sixty-eight (668) applicants sat for the July examinations, spread over three (3) examination sites and fourteen (14) private rooms. Masks were required each day, temperature checks were required each day, and all applicants were required each day to reaffirm COVID-19 screening information previously provided in a written certification, assuring the absence of any known exposure to COVID-19. No person had to be excluded from taking the examination due to arrival with a fever or known COVID-19 exposure. No person reported a positive COVID-19 test to the Board in the weeks following the examination. One hundred forty-eight (148) applicants requested to transfer their fees to the February 2021 examination and did not sit in July 2020. Five hundred fifty-five (555) of the six hundred sixty-eight (668)applicants who sat for the exam passed.

The Board is pleased to report that it was able to safely without delay fulfill its duty to administer the July 2020 North Carolina Bar Examination and provide applicants an opportunity to earn a Uniform Bar Examination (UBE) transferable score, enabling licensure in other UBE states as well as North Carolina.

We appreciate the confidence of the General Assembly, the Supreme Court and the State Bar in the work of the North Carolina Board of Law Examiners and its ability to provide regulatory flexibility and carry out its mission safely and successfully.

Sincerely yours,

YOUNG MOORE AND HENDERSON, P.A.

John N. Fountain

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