CONNECTICUT BAR EXAMINING COMMITTEE
SPECIAL MEETING
HARTFORD, CONNECTICUT
DECEMBER 6, 2013

The Chair, Hon. Anne C. Dranginis (Ret.), called the public portion of the meeting to order at 10:00 a.m. (EST). Present were Richard F. Banbury, Cynthia Baer, Raymond L. Baribeault Jr., Earl F. Dewey II, Karen L. Karpie, Hon. C. Ian McLachlan (Ret.), Gail E. McTaggart, Irving H. Perlmutter, Sharon A. Peters, Denise Martino Phelan, Robert D. Silva, Alix Simonetti, Frederic S. Ury, Matthew Wax-Krell, and Michael J. Whelton. Present by invitation were: Justice David M. Borden (Ret.); Justice Richard N. Palmer; Dr. Walter Borden; Dean Emeritus Brad Saxton (Quinnipiac University School of Law); Dean Timothy S. Fisher (UCONN School of Law); Kathleen B. Harrington, Deputy Director, Attorney Services; and Jessica F. Kallipolites, Assistant Administrative Director.

Upon motion duly made by the Chair, seconded by Ms. Phelan, it was voted unanimously to accept and record, without amendment or correction, the minutes of the public session of the Regular Meeting of October 4, 2013.

Dean Fisher, on behalf of the Deans of the Connecticut Law Schools, presented proposed amendments to the admission without examination rule (Practice Book § 2-13) to allow full-time faculty and full-time clinical fellows to qualify for such admission regardless of whether s/he is admitted in a reciprocal jurisdiction. The main reason for the proposed amendments would be to allow such individuals to engage in pro bono work. To a lesser extent, such individuals would also like to be allowed to work as expert consultants for law firms in their particular areas of expertise on a case-by-case basis. Discussion was had regarding protection of the public, minimal competence, and why sitting for the bar exam was not an acceptable option. Upon motion duly made by Justice McLachlan, seconded by the Chair, it was voted unanimously to recommend to the Rules Committee the adoption of the proposed changes put forth by the Deans of the Connecticut Law Schools.

Additional proposed amendments to the admission without examination rule (Practice Book § 2-13) were considered by the Committee after having been tabled at the October 4, 2013 meeting. Upon motion duly made by the Chair, seconded by Mr. Ury, it was voted unanimously to recommend to the Rules Committee that the words “in reciprocal jurisdictions” and “in such reciprocal jurisdiction” in Practice Book § 2-13 (a) (2) be deleted. Upon motion duly made by the Chair, seconded by Mr. Ury, it was voted unanimously to recommend to the Rules Committee that the language referring to supervision of law students and submission of an affidavit from the dean in Practice Book § 2-13 (a) (4) be deleted. Upon motion duly made by the Chair, seconded by Mr. Dewey, a majority voted not to recommend the deletion of the intent requirement from Practice Book § 2-13 (a) (4) by a vote of 9-7.

Upon motion duly made by the Chair, seconded by Mr. Perlmutter, it was voted unanimously to recommend to the Rules Committee that the words “in a reciprocal

jurisdiction" in Practice Book § 2-13 (b) be deleted and that the words "in which the activities were performed, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice" be added to end of that subsection. Upon motion duly made by the Chair, seconded by Ms. Peters, it was voted unanimously to recommend to the Rules Committee that the language appearing after the semicolon (starting with "however") in Practice Book § 2-13 (b) (2) be deleted. Upon motion duly made by the Chair, seconded by Ms. Peters, a majority voted to recommend to the Rules Committee that a new subsection (6) be added to provide for "service as authorized house counsel" in Practice Book § 2-13 (b) by a vote of 11-4. Upon motion duly made by the Chair, seconded by Ms. Peters, a majority voted to recommend to the Rules Committee that a new subsection (7) be added to provide for "service as authorized house counsel in Connecticut before July 1, 2008 or while certified pursuant to Section 2-15A" and that the original subsection (6) be renumbered to (8) in Practice Book § 2-13 (b) by a vote of 11-4. Upon motion duly made by the Chair, seconded by Ms. McTaggart, it was voted unanimously to recommend to the Rules Committee that Practice Book § 2-13 (c) be deleted in its entirety.

Justice Borden made a presentation to the Committee regarding concerns about the character and fitness review typically conducted by the Committee and the mental health and substance abuse questions asked on the bar exam application. He noted that referral for independent medical evaluations could be done before results are released to lessen the consequences on the applicants, that medical documentation should be reviewed by a qualified medical professional, and that only Questions 34 and 36 are proper inquiries – but conceded that Questions 37 and 38 would be acceptable if re-worded. Next, Dean Saxton presented information concerning law students foregoing treatment out of a concern that disclosure of such treatment would be required on the bar exam application. It was his sense that alcohol abuse and depression were pandemic among law students and that vast numbers were not seeking treatment.

Thereafter, Justice Palmer presented material addressing whether Questions 37 and 38 were allowable under state law. He noted that Practice Book § 2-9 (b) allows the Committee to consider "conduct or behavior that would otherwise have rendered the candidate currently unfit to practice law," but that Questions 37 and 38 request disclosure of conduct or behavior that led to treatment – thus, equating receipt of treatment with being unfit to practice law. He explained that any inquiry into such matters will be subject to strict scrutiny and that Questions 37 and 38 as currently drafted may not satisfy that level of review. Finally, Dr. Borden addressed the Committee and indicated that it is an impossible job to predict future misconduct. He also explained that medical records contain information that is irrelevant to the inquiry conducted by the Committee and requiring an individual to turn such records over to the Committee could be humiliating to the individual. He indicated that a better practice would be for a qualified medical professional to receive and review the records.

Upon motion duly made by the Chair, seconded by Ms. Peters, it was voted unanimously to adjourn the public portion of the meeting at 1:15 p.m. (EST) and to reconvene in the non-public portion of the meeting.

Respectfully submitted,

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IRVING H. PERLMUTTER
Secretary