

STATE OF MINNESOTA
IN SUPREME COURT
ADM10-8008



**ORDER DENYING PETITION FOR PROPOSED TEMPORARY
WAIVER OF BAR EXAMINATION REQUIREMENT AND
PROVISION OF EMERGENCY DIPLOMA PRIVILEGE**

An applicant for admission to the Minnesota bar must take a written examination and secure a passing score, among other criteria for admission. Minn. R. Admission to the Bar 4(A)(4) (requiring an applicant for admission to the Minnesota bar to obtain a “[p]assing score on the written examination”). The Minnesota State Board of Law Examiners holds the bar examination in February and July each year, Minn. R. Admission to the Bar 6(A), and this year, in light of the current public health emergency, will also administer the exam on September 9–10, 2020.

The Board of Law Examiners ensures “that those who are admitted to the bar have the necessary competence and character to justify the trust and confidence” of clients, the public, and the legal profession. Minn. R. Admission to the Bar 1. Graduation from an accredited law school and passage of a written bar examination are among the requirements for admission to the Minnesota bar. *In re Dolan*, 445 N.W.2d 553, 554 (Minn. 1989) (stating that a written bar exam plus graduation is the standard for admission to the bar); *In re Hansen*, 275 N.W.2d 790, 798 (Minn. 1978) (“We use a two pronged test—graduation from an accredited law school plus passage of the bar examination—to determine whether an attorney should be admitted to practice.”).

A petition was filed on June 22, 2020, requesting a temporary waiver of Rule 4 of the Minnesota Rules for Admission to the Bar. The petition asserts that the current public health emergency, the civil unrest in Minnesota beginning in late May 2020, and the inadequacy of the measures implemented by the Board of Law Examiners (BLE) for the July and September bar examinations present exceptional circumstances that warrant a waiver of the exam requirement. We opened a public comment period, and received comments from applicants for admission to the Minnesota bar and their family members, law school deans and professors, practicing attorneys, the Minnesota State Bar Association, and BLE. Every comment was reviewed and considered.

In considering the petition, we have reviewed carefully the measures BLE has taken for the 2020 bar examination. BLE will provide two exam dates, additional space per examinee, increased air flow, and other measures, as recommended by public health officials. These measures, and others, have been implemented with this court's review and oversight and after consultation with public health officials regarding the criteria for indoor venues in the Governor's executive order, Emergency Executive Order No. 20-74, at ¶ 7(c)(ix) (June 5, 2020). BLE has also implemented measures to provide flexibility to recent law school graduates and bar examinees based on individual circumstances, including proposing, and now administering, supervised practice rules, allowing examinees to delay either the 2020 bar examinations or the February 2021 bar examination with no postponement fee, and making special accommodations as requested based on examinees' individual circumstances.

The court has carefully considered the public comments, monitored the developments for licensing examinations, in other jurisdictions and in other professions, and evaluated

alternatives to, or instead of, a written bar examination in 2020. The court is also aware that a diploma privilege would not provide a transferable score for purposes of the Uniform Bar Examination.

Certainly, the public health emergency that has unfolded in Minnesota and elsewhere over the last 6 months presents unanticipated and unprecedented challenges. Minnesota's 2020 examinees have also been witness to, and in some cases a part of, the national reckoning with racial injustice. Our decision today to proceed with the written bar examination is not intended to either reject or minimize the significance of the challenges faced by some bar examinees in recent weeks and months; rather, it is to acknowledge that proceeding forward with the 2020 bar examination is the best solution in an imperfect setting.


Ultimately, we conclude that none of the alternatives to a written bar examination provides a perfect solution for all 2020 bar examinees and a diploma privilege could, instead and unintentionally, exacerbate some challenges. Further, we conclude that now more than ever public confidence and trust in the competency of Minnesota's lawyers must be honored, and thus we decline to discard a longstanding requirement for admission to the Minnesota bar, even temporarily.

Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the petition for an Emergency Rule Waiver and for Provision of an Emergency Diploma Privilege be, and the same is, denied.

Dated: July 14, 2020

BY THE COURT:



Lorie S. Gildea
Chief Justice

THISSEN, Justice (dissenting in part).

I would proceed with the bar examinations scheduled for July and September, 2020, but I would allow a diploma privilege as an alternative to taking the written examination for those examinees who graduated from an accredited law school by June 2020.