



## NEW JERSEY STATE BAR ASSOCIATION

JERALYN L. LAWRENCE, PRESIDENT  
Lawrence Law LLC  
776 Mountain Boulevard, Suite 202  
Watchung, NJ 07069  
908-645-1000 • FAX: 908-645-1001  
jlawrence@lawlawfirm.com

March 21, 2023

Honorable Stuart Rabner, Chief Justice  
Supreme Court of New Jersey  
Hughes Justice Complex  
25 W. Market Street  
P.O. Box 970  
Trenton, NJ 08611

Re: Mental Health/Bar Admissions Process

Dear Chief Justice Rabner:

We know it is simultaneously true that attorneys seeking admission have just been through one of the most stressful personal and educational journeys of their lives and that attorneys must be able to manage the stressors of the profession in an evenhanded way to ensure their clients and the courts are well served. The veil of shame has begun to lift around the freedom people feel to seek assistance and discuss their mental health, yet several reports indicate law students are increasingly reluctant to seek mental health assistance out of fear that act of wellness could jeopardize their bar admission. Seeking treatment from a mental health provider or having a specific diagnosis is something law students believe they will need to report to the Committee on Character and Fitness, which could delay or even derail their admission to the bar.

This is particularly alarming when coupled with the results of a recent survey conducted by the New Jersey State Bar Association and its Putting Lawyers First Task Force that found high percentages of anxiety, burnout, feelings of isolation and other mental health-related issues among attorneys, including suicidal ideation. An American Bar Association study focused solely on law students showed similar results, with more than half of the respondents reporting a mental health diagnosis.

The NJSBA believes that, instead of contributing to a reluctance to seek mental health assistance, we should be championing efforts of bar applicants and attorneys to seek the help they need as early as possible. For this reason, the NJSBA calls for the elimination of questions on the New Jersey bar application about an applicant's mental health and in particular question 12B on the New Jersey Character and Fitness application. Question 12B currently requires applicants to

disclose any condition or impairment, including a mental, emotional or nervous disorder or condition, that affects the applicant's ability to practice law. The question further asks for a description of any ongoing treatment programs to reduce or ameliorate the condition. By focusing on conditions and impairments, rather than conduct exhibited by applicants, the question stigmatizes mental health conditions and fails to collect relevant information.

Importantly, eliminating question 12B is consistent with action taken by 26 other states that have either eliminated, substantially modified or never used mental health status on their bar applications.

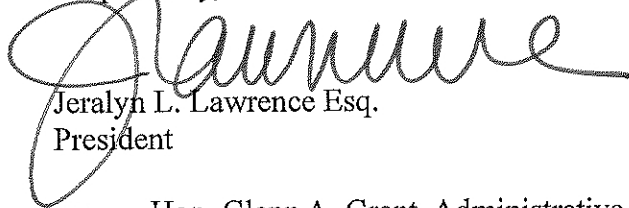
Further, the leadership of both Rutgers and Seton Hall Law Schools also support the elimination of question 12B. In the attached letters, law school representatives describe their personal experiences that demonstrate in stark terms the prevalence of mental health issues among law students and the negative perception of the need to report mental health treatment on any bar application. The Institute for Well-Being in the Law and the Conference of Chief Justices have called for similar action in eliminating mental health questions on bar admissions applications.

For some students who experience mental health challenges (and thereafter, admitted attorneys), lack of treatment can lead to "self-medicating" with alcohol or drugs. In short, the harm that Question 12B seeks to prevent may be exacerbated by the question's very existence. The question effectively targets people who seek help for their concerns and rewards those who may live in denial. A person who has never sought help may answer Question 12B in the negative; but that does not mean they do not have mental health challenges that could impact their ability to practice law.

The NJSBA notes there are other ways to obtain relevant information needed to make an effective determination about a bar applicant's fitness to practice law. Question 12A on the bar application, for instance, already specifically addresses past conduct of an applicant and the impact that conduct will have on the applicant's ability to practice in a competent, professional and ethical manner. By focusing on actual conduct rather than "conditions" or "impairment," this inquiry, more than 12B, provides pertinent disclosures necessary to examine an individual's fitness to practice and accomplishes the goal of gathering information necessary to protect the integrity of the practice.

For these reasons, the NJSBA urges the Court to eliminate question 12B on the application for bar admission and focus any inquiry on actual past conduct. The wellness of the profession depends on it.

Respectfully,



Jeralyn L. Lawrence Esq.  
President

cc: Hon. Glenn A. Grant, Administrative Director of the Courts  
Timothy F. McGoughran Esq., NJSBA President-Elect  
Angela C. Scheck, NJSBA Executive Director



January 4, 2023

Jeralyn L. Lawrence  
President, NJSBA  
One Constitution Square  
New Brunswick, NJ 08901

We, the Co-Deans and Associate Deans for Student Affairs at Rutgers Law School, write to lend our support for the removal of question 12B of the Health Section of the New Jersey State Bar's Character and Fitness Application ("the Mental Health Question").

Over the last several years, we have seen a marked increase in students coming to our Law School staff reporting a range of mental health concerns. In speaking with colleagues, we have learned that our experience in this regard is not unique and mirrors what other law school administrators, faculty, and staff are seeing at their institutions. We regularly refer students to our campus Counseling Centers for the care that they need and, far too often, upon making such a referral, students seek treatment. They ask questions like "Won't I have to report that to the bar?" or "If I speak with a therapist, will it hold up my Character and Fitness application?" We want to answer no to these questions because we do not want students to avoid needed mental health care but we feel obligated to provide a qualified response -- that they must report but that they should still seek treatment. Research has shown that our students are not alone in feeling deterred from seeking mental health or substance use treatment because of a Mental Health Question on a bar application.<sup>1</sup>

From day one at first year orientation, we impart to our law students the importance of honest and candid disclosure to the bar. It is a theme we continue to highlight and revisit with frequency during their time with us. Our students take this responsibility seriously. For some it is a source of great anxiety, made much worse by the existence of the Mental Health Question. Students understand their duty to be forthright and honest, and some believe it easier to not seek needed treatment than to have to disclose such treatment to the bar examiners.

We have to do better, and many states have already made the much-needed change. According to the American Bar Association, at least eleven states do not ask candidates about their mental health.<sup>2</sup> More and more states are recognizing the unfairness of mental health questions on bar applications and are changing their applications accordingly. Most recently, the Supreme Court

---

<sup>1</sup> Jerome M. Organ, David B. Jaffe & Katherine M. Bender, *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. LEGAL EDUC. 116, 154 (2016).

<sup>2</sup> AMERICAN BAR ASSOCIATION, MENTAL HEALTH CHARACTER & FITNESS QUESTIONS FOR BAR ADMISSION (2022), available at <https://www.americanbar.org/groups/diversity/disabilityrights/resources/character-and-fitness-mh/#:~:text=Thirty%2Dfour%20states%20and%20Washington,health%20status%20of%20an%20applicant.>

of Ohio decided to remove its mental health treatment and diagnosis question from their state bar application effective January 2023.<sup>3</sup>

There are other more effective and less intrusive ways to screen candidates for personal characteristics that affect their fitness to practice. This inquiry should be based on *conduct* and not health records. Conduct on an applicant's record such as patterns of substance use, criminal offenses, financial irresponsibility, even unexplained gaps in work or education history might bring to light issues around mental health that impact an applicant's fitness to practice. At best, a question about mental health, standing alone and without connection to conduct, is invasive and unnecessary. At worst, as we have seen anecdotally from our Rutgers Law students and more concretely through the studies referenced in this letter, question 12B deters students from seeking needed mental health treatment and, lamentably, sends a message that further stigmatizes mental health issues and related treatment. Let us put New Jersey on the right side of this issue by following the example of the many states that have already removed mental health questions from their applications, and, in doing so, support the future members of our profession. This change, we believe, will have a directly positive effect on our students and on the entire legal community. Law students who receive the mental health care that they need become healthier law graduates and contribute to a healthier community of lawyers practicing in the State of New Jersey.

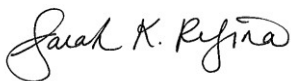
Sincerely yours,



Rose Cuison-Villazor  
*Interim Dean, Professor of Law and  
Chancellor's Social Justice Scholar*



Kimberly Mutcherson  
*Co-Dean and Professor of Law*



Sarah K. Regina  
*Associate Dean for Student Affairs (Newark)*



Louis Thompson  
*Associate Dean for Student Affairs (Camden)*

---

<sup>3</sup> See Csaba Sukosd, *Bar Application Updates Include Changes to Mental Health Disclosure*, available at [https://www.courtnewsOhio.gov/happening/2022/CharacterRuleChange\\_120622.asp#.Y5Ck2OzMJqw](https://www.courtnewsOhio.gov/happening/2022/CharacterRuleChange_120622.asp#.Y5Ck2OzMJqw)



SCHOOL OF LAW

# Seton Hall University

One Newark Center, Newark, New Jersey 07102-5210

Tel: (973) 642-8498

Fax: (973) 642-8031

Email: [kip.cornwell@shu.edu](mailto:kip.cornwell@shu.edu)

**John Kip Cornwell**

INTERIM DEAN

Jeralyn L. Lawrence  
President, NJSBA  
One Constitution Square  
New Brunswick, NJ 08901

On behalf of the Seton Hall Law School, the undersigned support removal of the mental health question at item 12B of the Character and Fitness Questionnaire portion of the New Jersey Bar Exam Application (“Question 12B”). Our position is premised on our collective experience as professors and administrators providing an array of academic guidance and support to New Jersey law students. Our experience finds support in research on the negative impact of mental health questions as part of bar admission processes. Finally, experience and research combine with our unwavering commitment of service to the New Jersey bar which requires continual advancement toward a healthy and thriving legal community.

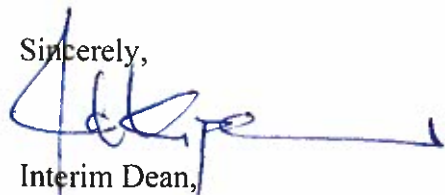
From acceptance into law school through entry into the profession, our work with law students is consistent with research findings that mental health diagnosis and treatment questions are unrelated to the competent practice of law.<sup>i</sup> Inquiries like Question 12B are widely reported to deter students from seeking mental health services by causing fear that diagnoses or treatment might delay, or even prevent, entry into the profession. Data gathered in the 2014 ABA Survey of Law Student Well-Being<sup>ii</sup> provided early confirmation that, due to mental health questions on bar applications, 45% of law students would not seek mental health intervention, believing it might threaten their ability to be admitted to the bar.<sup>iii</sup> Similarly, 44% believed that they would increase their likelihood of being admitted to the bar if a mental health problem were hidden.<sup>iv</sup> These data clearly elucidate the detrimental impact of mental health questions like Question 12B.

Since dissemination of the initial 2014 ABA Survey, the profession has progressed in addressing mental health issues prevalent in the legal community. In 2018, the ABA Organized a Working Group to Advance Well-Being in the Legal Profession. In 2019, the ABA undertook further study on law student well-being, publicizing findings about alcohol use, substance abuse, mental health issues and help-seeking behaviors of lawyers.<sup>v</sup> Together, this work demonstrates the continuing need to address mental health concerns as a normal aspect of professional well-being. Making the deterrent effect Question 12B has on seeking support particularly grave.

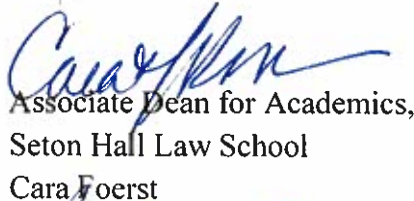
Because the stakes are multifaceted and far reaching, students, law schools, and members of the bench and bar have advocated for removal of mental health questions from bar admission processes and many jurisdictions have responded.<sup>vi</sup> The ABA's work in this area supports what we know from working directly with New Jersey law students: the profession requires greater resources for mental health services and expansion of attorney-specific prevention and treatment interventions – not deterrents to seeking needed services.

As Deans of the Seton Hall Law School, we join the multitude of professional, educational, and advocacy organizations that have adopted public positions calling for the removal of questions on bar applications inquiring into mental health diagnoses and treatment. We respectfully urge our Supreme Court to join in this movement by removing Question 12B from the Character and Fitness Questionnaire of the New Jersey Bar Examination Application.

Sincerely,



Interim Dean,  
Seton Hall Law School  
John Cornwell



Associate Dean for Academics,  
Seton Hall Law School  
Cara Foerst



Assistant Dean for Student Services  
Seton Hall Law School  
Andrea Cascarano

---

<sup>i</sup> Hudson, David L. Jr. and Gemignani, Andrea (2022), *The Other Bar Hurdle: An Examination of the Character and Fitness Requirement for Bar Admission*, 48 Mitchell Hamline Law Review Iss. 2. Article 3 (2022).

<sup>ii</sup> Published as J.M. Organ, D.B. Jaffe & K.M. Bender, *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. Legal Education, No. 1 (2016).

<sup>iii</sup> D. Jaffe and J. Stearns, *Conduct Yourselves Accordingly: Amending Bar and Character and Fitness Questions to Promote Lawyer Well-Being*, *The Professional Lawyer*, Vol. 26, No.2, January 2020.

<sup>iv</sup> *Id.*

<sup>v</sup> Krill, Patrick R. JD, LL.M.; Johnson, Ryan MA; Albert, Linda MSSW. *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*. 10(1) *J. of Addiction Medicine*, Jan/Feb 2016, at 46-52.

<sup>vi</sup> Thirteen states no longer ask any questions about mental health status: Arizona, California (except a question about substance abuse), Connecticut, Illinois, Indiana, Massachusetts, Mississippi, New Hampshire, New York, Pennsylvania (except a question about substance abuse), Virginia, Washington and Wisconsin. Christine Charnosky, *Ahead of the Curve: Examining Character & Fitness Mental Health Questions*, *The American Lawyer* (July 18, 2022), <https://www.law.com/2022/07/18/ahead-of-the-curve-examining-character-fitness-mental-health-questions/>.)