

July 20, 2020

Dear Members of the Idaho State Bar:

The Idaho Supreme Court has the obligation to oversee the practice of law in our state. We take this obligation seriously. While we recognize that COVID-19 has placed applicants in a difficult position, we will not compromise the standards we have set for admission to the bar. As the professional licensure exam for lawyers, the bar exam helps ensure the professional integrity and competence of the legal profession, creating a standard that informs and protects both the attorneys operating in our state and the clients who retain their services.

For those who elect to take it, the Idaho State Bar, in recognition of state and local health guidelines, will be implementing additional procedures to provide a testing environment which is fair and as safe as possible under the circumstances. Those measures include:

- Thermal screening prior to entering the testing site;
- Mandatory masks at all times;
- Enhanced cleaning and sanitation protocols throughout the shared spaces;
- Exam takers seated in large rooms with 20 or fewer people, spaced six feet or more apart; and
- All examination supplies have been pre-packaged well in advance to further safeguard from touch transfer of the virus.

These steps are in addition to existing rules for taking, handling and grading the Bar Examination pursuant to IBCR 217.

For those who decide not to take the exam in July 2020, this Court has taken additional steps to ameliorate the impact of COVID-19 by:

- waiving all fees associated with deferring taking the bar exam which would ordinarily apply under Rule 219 of the Idaho Bar Commission Rules; and,
- by emergency order of the Idaho Supreme Court, dated July 20, 2020, we have extended the term of a limited license to practice law pursuant to Idaho Bar Commission Rule 226 until October 31, 2021, for any 2020 graduate of an ABA accredited law school who has already registered for the exam and elects to defer taking the bar exam. Rule 226 of the Idaho Bar Commission Rules enables recent graduates to obtain a limited license to practice law under the supervision of a licensed attorney. The decision to extend that limited license until October 31, 2021, would enable applicants to defer taking the exam and allow them to work with a limited license until the fall of 2021. This will allow the applicant to sit for one of two exams in 2021.

The Idaho Supreme Court appreciates and respects the advocacy of law students and others who have reached out to us about the upcoming Idaho Bar Examination. We have heard from those



who urge the Court to eliminate the exam and grant an emergency diploma privilege to applicants who have graduated from ABA-accredited law schools. We have also heard from those who urge the Court to hold the exam as scheduled. After deliberation, and input from the Bar, the Court has made the decision to direct the Idaho State Bar to administer the exam on July 28 & 29, as previously scheduled. However, recognizing that some may be reluctant to sit for the Idaho bar exam, we have adopted certain measures which may assist those who make that personal decision to delay taking the bar exam at this time.

The Idaho bar examination is given to students from across the nation. Approximately half of this year's test takers attended law schools outside of Idaho. Many of these students have spent countless hours and substantial resources in preparing for the bar exam to take place as scheduled. If Idaho were to cancel or postpone the bar exam, both Idahoans and these out of state examinees would obviously be greatly disadvantaged

Some students and law school faculty have argued this bar examination be replaced by a system of diploma privilege. This system would allow 2020 graduates of any law schools to be automatically privileged to practice law in Idaho. However, the license granted through diploma privilege would not be transferrable for admission to other states. In addition, the Idaho bar exam typically has a pass rate of approximately 70 percent. A diploma privilege program would mean approximately 30 percent of those who could not pass this basic hurdle of competency would be allowed to practice law. We do not believe that granting diploma privilege under such circumstances upholds our duty to the citizens of Idaho.

As part of the Idaho bar exam, our state administers the Uniform Bar Examination (UBE), which is given in 36 sister states and allows those successful in passing the bar exam to transfer their score to other states and to be admitted in some sister states. In a challenging job market, the ability to transfer a bar exam score instead of having to take another state's exam provides an advantage for many graduates of law schools. As previously stated a diploma privilege would only enable a person to be licensed in Idaho, thereby reducing professional opportunities.

The Court does, however, understand some graduates have expressed safety concerns about taking the July bar exam, even with the enhanced safety measures in place. As a result, we have decided to allow applicants for the July 2020 Idaho bar exam to elect to take a remote, online version of the bar exam created by the National Conference of Bar Examiners that will be administered by the Idaho State Bar on October 5-6, 2020. This test is not transferrable for admission in other states, but a passing score will allow the person to receive a license to practice in Idaho. The Idaho State Bar will provide instructions about how to make this election.

Sincerely,

A handwritten signature in black ink that reads "Roger Burdick". The signature is written in a cursive, flowing style.

Roger Burdick,
Chief Justice