

July 8, 2020

Ralph D. Gants, Chief Justice
Massachusetts Supreme Judicial Court
John Adams Courthouse
One Pemberton Square, Suite 2500
Boston, MA 02108

Re: Proposed Expedited Consideration of Diploma Privilege for Law School
Graduates and Temporary Emergency Practice Authority

Dear Chief Justice Gants,

Thank you again for the thoughtful work that the Supreme Judicial Court and the Board of Bar Examiners have been doing to address the challenges and uncertainties caused by the COVID-19 pandemic. We are grateful to you and to BBE Executive Director Wellington for your transparency and for the hard, creative work you've been doing to adapt as circumstances continue to change rapidly.

Though we know it has not been long since you announced the shift to an online bar exam, we write to urge you, in light of the rapidly evolving pandemic, to give further consideration to granting temporary emergency practice authority while also expediting consideration of the diploma privilege. As you know, Executive Director Wellington had, prior to the pandemic, spoken with all of the Massachusetts law deans about the Court's considering the diploma privilege, and we understand that the Standing Committee on Bar Admissions will, this Fall, take up the question of a permanent diploma privilege.

We believe, however, that the growing disruptions caused by the surging COVID-19 pandemic give greater urgency to that process. The impacts of this public health crisis have been severe, as so many have had to care for children or parents, have faced economic dislocation, or have had to deal with their own illness or the illness or loss of those dear to them. The burdens of this pandemic, moreover, have not fallen evenly across the population. As you and your colleagues on the Court noted in your June 3 letter, "African-Americans have suffered disproportionately from the COVID-19 pandemic, both in terms of the number of deaths and the extent of economic hardship it has caused." The burdens of sitting for the bar exam this October will fall hardest on the vulnerable populations and communities of color most affected by this cruel and unpredictable public health crisis.

We recognize, of course, that the decision to adopt a diploma privilege involves careful consideration – and that your Court and the BBE plan to establish a process for identifying criteria for a diploma privilege that will continue to assure high quality legal representation for those seeking legal services within the Commonwealth. We urge the Court, however, to find a way to conduct the needed inquiry while still

finding a way to provide immediate relief to those now dealing with the effects of an unprecedented global health crisis.

In particular, we urge you to take three steps to achieve that goal. First, we ask that you expedite the work of the Standing Committee on Bar Admissions, with their inquiry into diploma privilege to begin immediately. Second, we ask that, while that process takes place, you grant the temporary emergency practice authority that we requested in our letter to you dated April 15, 2020. Third, we ask that the SJC apply whatever criteria your Court establishes for the diploma privilege retroactively to all who can be certified by their law schools to have satisfied those criteria, including members of the Class of 2020 and others who might otherwise sit for the bar exam this Fall.

In making this request, we are mindful of the enormous challenges of the situation your Court faces and are grateful to the SJC and the BBE for the thoughtful and adaptable approach taken thus far to help find ways for our students to sit for the bar. Given the sharply negative trajectory of COVID-19, the unpredictability of its course, and the disparate impact of the pandemic on the most vulnerable members of the population and on communities of color, we urge you to embrace the alternative we have outlined here.

Thank you for your consideration.

With respect,

Michael Coyne
Dean and Professor of Law
Massachusetts School of Law

Allison Dussias
Dean and Professor of Law
New England Law

James Hackney
Dean and Professor of Law
Northeastern University School of Law

John Manning
Dean and Professor of Law
Harvard Law School

Eric Mitnick
Dean and Professor of Law
University of Massachusetts Law School

Angela Onwuachi-Willig
Dean and Professor of Law
Boston University School of Law

Andrew Perlman
Dean and Professor of Law
Suffolk University Law School

Vincent Rougeau
Dean and Professor of Law
Boston College Law School

Sudha Setty
Dean and Professor of Law
Western New England University School of Law