

Thomas S. Obermeyer, Sr., Missouri Attorney, M.B.A.

3000 Dartmouth Drive  
Anchorage, Alaska 99508-4413  
(907)278-9455 Phone/Msg./Fax  
tsobermeyer@gci.net

February 22, 2013

TO: House Judiciary Committee: Chair Rep. Keller, Vice-Chair Rep. Lynn;  
Rep. Foster, Rep. LeDoux, Rep. Millett, Rep. Pruitt, and Rep. Gruenberg

RE: HB 63 Hearing scheduled 2/25 Extending Termination Date of AK Bar Association  
REF: Alaska Legislative Audit # 41-20075-12, Alaska Bar Association Sunset Review

I ask that the termination date of the Alaska Bar Association pursuant to HB 63 not be extended and the Alaska Bar Association be allowed to sunset. This will provide time in the next year for the Legislative Audit Division and the Alaska Bar Association to reevaluate the admissions process, particularly the Alaska Bar Exam methodology and the unjustifiably low passage rates.

I have a great deal of respect for the sponsor of HB 63 who like the new Legislative Auditor is a Certified Public Accountant. This bill is not about whether the Alaska Bar Association is financially solvent but about whether it is operating in the best interest of the public. The focus of the current Audit is an increase in mandatory Continuing Legal Education hours. This is a very minor issue compared to fair admission practices.

The Alaska Bar Association essentially has three functions: Admission, Discipline, and Continuing Legal Education (CLE), in that order of importance. The Legislative Audit on which the House Judiciary Committee relies in hearing HB 63 completely ignores the most important and pressing issue: Passage rates on the Alaska Bar Examination. The 64% passage rate found in the Audit for the last four years (including 52% on one Alaska Bar Exam) is unacceptable and will continue for another 8 years if you pass HB 63. This rate is arbitrarily set by the Alaska Bar Association through manipulative grading methodology which adjusts essay scores up or down to meet the target passage rate. Utilizing multiple regression analysis to combine the subjective (essay) and objective (multiple choice) portions of the exam inevitably results in about 1/3 failing under a bell-shaped curve.

There is little or no oversight of the Alaska Bar Exam passage rates and grading procedures by the Board of Governors or the Supreme Court, contrary to findings in the Audit. Both bodies are handed lists of names of passing applicants on the Alaska Bar Exam to rubber-stamp as admitted to practice. Failing applicants face an arduous appeal procedure taking many months through the Alaska Supreme Court, or if able, they must pay a couple of thousand dollars to prepare and take the exam again.

The National Conference of Bar Examiners (NCBE) tacitly acknowledges state control of passage rates. The difference between Alaska and other states is that most others have the decency to pass 80-90% of applicants. The NCBE has ranked Alaska Bar Exam passage rates among the lowest in the country for 30 years. At statehood one did not even need a law license to practice or to become a judge. Low passage rate on the Alaska Bar Exam is not due to a "tough exam." Instead, it is due to a fraud on the public who think Alaska applicants face a national standard. I consider the Alaska Bar Association's "rigging" or "fixing" bar exam passage rates through manipulative grading procedures and methodology a violation of constitutional due process and tantamount to a restraint of trade.

Controlling passage rates is not possible on the United States Medical Exam which is 100% objective nationwide. It took nine years for states to reach this agreement. The American Bar Association is testing a Uniform Bar Exam (UBE) in some states, but application to date is not universal nor totally objective and it is still subject to the whims of state control.

Alaska's applicants are among the best trained in the country, all graduates of American Bar Association accredited law schools. The average law student debt is \$130,000 in an economy of diminishing job prospects. Why does the Alaska Bar Association perpetuate this fraud on the public by limiting licensure, increasing revenues, protecting incomes, and limiting competition for the benefit of its own trade guild? Wisconsin licenses 100% of all graduates of its state law schools at the time the law students graduate.

In my own case as a Category I licensed attorney in Missouri for 23 years, I take 15 hours mandatory CLE each year including 2 hours ethics. I find the training in Missouri both educational and social. But before requiring mandatory CLE, Missouri first passes about 90% on its bar exam. I am now preparing to take, as I have since February, 1984, my umpteenth Alaska Bar Exam February 26-28, 2013, because the Bar Association will not accept my application for reciprocity pursuant to Alaska Bar Rule 2.2b(3) devised to exclude me, as I have been targeted for 29 years.

Respectfully Submitted,

Thomas S. Obermeyer, Sr.

Cc: Rep. Mike Hawker  
Ms. Kris Curtis, Legislative Auditor