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OF ERIE COUNTY

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October 15, 2019

*Via email to*  
[reportsgroup@nysba.org](mailto:reportsgroup@nysba.org)

Henry M. Greenberg, Esq.  
New York State Bar Association  
1 Elk Street  
Albany, NY 12207

*Re: Impact Legality, Use and Utility of Mental Disabilities Questions  
on the New York State Bar Application*

Dear Mr. Greenberg,

The Board of Directors for the Bar Association of Erie County and our Lawyers Helping Lawyers Committee has reviewed "The Impact, Legality, Use and Utility of Mental Disability Questions of the New York State Bar Application."

This letter is submitted in support of the report and recommendation made by the Working Group on Attorney Mental Health of the New York State Bar Association in the report, "The Impact, Legality, Use and Utility of Mental Disability Questions of the New York State Bar Application."

The Working Group's conclusion and recommendation that "mental health inquiries should be eliminated from the application for admission to the Bar of New York State" is fully supported by the Bar Association of Erie County (BAEC).

Thank you to the New York State Bar for championing this issue.

Best Regards,

BRIDGET M. O'CONNELL  
President

cc: Kathleen Baxter, Esq., NYSBA General Counsel  
Anne M. Noble, Executive Director  
David Gutowski, BAEC, LHL Chairman  
Pamela Thibodeau, ECBF President



**NEW YORK  
CITY BAR**

**COMMENT ON AUGUST 13, 2019 REPORT BY THE NEW YORK STATE BAR  
ASSOCIATION WORKING GROUP ON ATTORNEY MENTAL HEALTH:**

**“THE IMPACT, LEGALITY, USE AND UTILITY OF MENTAL DISABILITY  
QUESTIONS ON THE NEW YORK STATE BAR APPLICATION”**

The New York City Bar Association supports eliminating Question 34, the mental health-related question, in the NYS Bar Application. The question penalizes law students with disabilities who have the fitness and character for admission to the bar (which can be fully evaluated through other channels such as interviews, academic records, and background checks), and is not sufficiently probative considering that the applicant has never practiced law and is without the knowledge or experience to answer the question presented. We do not see a meaningful distinction between this question and a pre-employment inquiry as to an applicant’s disability, which the American with Disabilities Act prohibits. We believe that the question is anachronistic in that it presumes that a disability, and particularly a mental health condition, is a defect of character rather than a medical condition that does not necessarily impair an individual’s performance of work-related duties. We are mindful that the legal profession has well-above average instances of substance use and dependence. The question subtly suggests to applicants to the bar that they should not reveal mental or emotional conditions or challenges, which we believe makes attorneys more likely to self-medicate through substance use, to the detriment of themselves, their families and clients, and the legal profession generally.

We applaud and greatly appreciate the work of NYSBA’s Working Group on Attorney Mental Health and fully support the recommendations in the report.

October 17, 2019

Roger Juan Maldonado  
President, New York City Bar Association

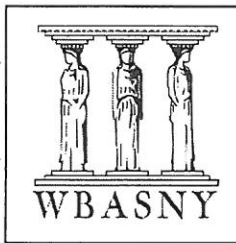
Disability Law Committee  
John W. Egan, Chair

Lawyer Assistance Program Committee  
Ralph L. Wolf, Chair

Mental Health Law Committee  
Karen P. Simmons, Chair

# Women's Bar

OF THE STATE



# Association

OF NEW YORK

October 29, 2019

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Deirdre L. Hay

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Henry M. Greenberg, Esq.  
President, NYSBA  
1 Elk Street  
Albany, NY 12207

Dear President Greenberg:

This letter is submitted by the Women's Bar Association of the State of New York (WBASNY) after review by the Wellness Committee and full Board vote in support of the report and recommendation made by the Working Group on Attorney Mental Health of the New York State Bar Association in the report, "The Impact, Legality, Use and Utility of Mental Disability Questions of the New York State Bar Application."

The Working Group's conclusion and recommendation that "mental health inquiries should be eliminated from the application for admission to the Bar of New York State" is fully supported by WBASNY. Attorneys should be evaluated on their conduct and competence to practice law, not based upon the seeking of mental health treatment, or a diagnosis or treatment an applicant has received.

One of the most troubling issues related to question number 34 of the New York State Bar Application is illustrated by the Working Group's clear analysis that the inquiry violates Title II of the Americans with Disabilities Act. Answering said question in the affirmative may also require the disclosure of confidential medical information for evaluation by non-medical professionals. The potential illegality of the question, the evidence showing the question's ineffectiveness in excluding applicants whose ability to practice law is impaired, and its inconsistent application and interpretation throughout New York State are alarming concerns.

The Working Group's report reiterates a 2014 Yale Law Study showing that law students identifying as "women" were among those more likely to experience mental health issues during law school than their counterparts. Further, the report repeatedly attributes added stress due to financial uncertainty of a law student's future which also relates to the issue of the pay discrepancy faced by women in the profession. It is well established that our profession is best served through diversity. As such, WBASNY takes a special interest in this issue.

WBASNY lends its support in the elimination of question number 34 from the New York State Bar Application as a positive step that will help reduce the stigma of seeking mental health treatment for law students, as well as attorneys. Thank you to the New York State Bar Association for conducting this study and addressing this issue.

Yours sincerely,

Deirdre L. Hay (S.J.D.), Esq.  
President, WBASNY

**EXECUTIVE DIRECTOR**

Linda A. Chiaverini

Cc: Alyssa Barreiro, Esq.



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October 7, 2019

Dear President Greenberg:

This letter is submitted in support of the report and recommendation made by the Working Group on Attorney Mental Health of the New York State Bar Association in the report, “The Impact, Legality, Use and Utility of Mental Disability Questions of the New York State Bar Application.”

The Working Group’s conclusion and recommendation that “mental health inquiries should be eliminated from the application for admission to the Bar of New York State” is fully supported by the New York Association on Independent Living (NYAIL). NYAIL is a statewide, not-for-profit membership association created by and composed of Independent Living Centers across New York State. NYAIL’s mission is to lead statewide Independent Living Center efforts to eliminate physical and attitudinal barriers to all aspects of life and to fight for the civil rights and full independence of all people with disabilities. As such, at NYAIL we believe that attorneys should be evaluated on their competence and conduct, not on their seeking mental health treatment or any diagnosis or treatment that the applicant has received.

The elimination of mental health questions from the bar application is a positive step that will help reduce stigma around seeking mental health treatment. Law students, and the entire profession, will benefit from this change. Thank you to the New York State Bar for championing this issue.

Sincerely,

Lindsay Miller  
Executive Director



# NEW YORK STATE BAR ASSOCIATION

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## COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR

### **PROF. LAWRENCE H. CUNNINGHAM**

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### **Marta Galan Ricardo**

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October 2, 2019

Mr. Hank Greenberg  
President  
New York State Bar Association  
One Elk Street  
Albany, NY 12207

Dear President Greenberg:

This letter is submitted in support of the report and recommendation made by the Working Group on Attorney Mental Health of the New York State Bar Association To Review The Bar Admission Questionnaire Mental Health Questions ("Working Group") in the report, "The Impact, Legality, Use and Utility of Mental Disability Questions of the New York State Bar Application."

Members of the Committee on Legal Education and Admission to the Bar ("Committee") have participated in the creation of the Report as members of the Working Group. In addition, the Report, including the recommendation that Question 34 be eliminated, has been presented to the members of the Committee who support the conclusions and recommend that it be submitted to the NYSBA House of Delegates at its November 2019 meeting.

The elimination of mental health questions from the bar application is a positive step that will help reduce stigma around seeking mental health treatment. Law students, and the entire profession, will benefit from this change. Thank you to the New York State Bar for championing this issue.

Sincerely yours,

Larry Cunningham (Associate Dean and Professor, St. John's)  
Marta Galan Ricardo (Assistant Dean and Dean of Career Services, Columbia)



October 18, 2019

President Hank Greenberg  
New York State Bar Association  
One Elk Street  
Albany, New York 12207

Re:    Report for Working Group on Attorney Mental Health

Dear President Greenberg:

This letter is submitted in support of the report and recommendation made by the Working Group on Attorney Mental Health of the New York State Bar Association in its report: *The Impact, Legality, Use and Utility of the Mental Disability Question on the New York State Bar Application*.

Our Committee members are passionate concerning the issues presented in the Report and agree that the mental health inquiry should be entirely eliminated from the application for admission to the Bar of New York State. As the Report so aptly demonstrates, the mental health question can lead law students to forgo counseling and treatment, is of dubious legality under the Americans with Disabilities Act, and there is compelling evidence across jurisdictions that such questions are ineffective and unnecessary. We believe that attorneys should be evaluated on their competence and conduct, not on their seeking mental health treatment or any diagnosis or treatment that the applicant has received.

The elimination of mental health questions from the bar application is a positive step that will help reduce stigma around seeking mental health treatment. Law students, and the entire profession will benefit from this change. We commend the primary authors, including our Committee member, Simeon Goldman, for their investigation and drafting. We extend our thanks to you and the New York State Bar Association for championing this issue.

Sincerely,

Alyssa M. Barreiro  
Co-Chairperson

Sheila E. Shea  
Co-Chairperson

# Capital District Lawyers Helping Lawyers

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**David H. Keehn, Esq.**

**Co-Chair**

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625 Broadway

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**Professor Joseph M. Connors, Esq.**

**Co-Chair**

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October 3, 2019

Henry M. Greenberg, Esq.

President

New York State Bar Association

One Elk Street

Albany, NY 12207

Dear President Greenberg:

This letter is submitted in support of the report and recommendation of the Working Group on Attorney Mental Health of NYSBA (WG) in the WG's report "*The Impact, Legality, Use and Utility of Mental Disability Questions of the New York State Bar Application.*"

The WG's conclusion and recommendation that "mental health inquiries should be eliminated from the application for admission to the Bar of New York State" is fully supported by the Capital District Lawyers Helping Lawyers Committee (CDLHL). The CDLHL reviewed and discussed the report and voted unanimously to support the report and its conclusions.

As stated in our Mission Statement, the CDLHL is committed to "giving the bench and bar a better understanding of [substance abuse and other mental health problems that threaten or impair attorneys and law students]...." The CDLHL believes that prospective attorneys should be evaluated on their competence and conduct, not on whether they have sought mental health counselling or treatment, or on any diagnosis or treatment that the applicant has received.

The inclusion of the current question on mental health issues in the bar application is an active impediment to getting help to those who may need it. Its elimination from the application will be a positive step and will help reduce stigma around seeking mental health treatment when needed. Law students, the entire profession and by extension our society will benefit from this change. We extend a hearty thanks to you personally and to the New York State Bar Association for championing this issue.

Sincerely,



David H. Keehn, Esq.



Professor Joseph M. Connors, Esq.



**YOUNG LAWYERS SECTION**

*2019-2020 Officers*

**LAUREN E. SHARKEY**

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Cioffi Slezak Wildgrube PC  
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October 9, 2019

**MICHAEL D. DiFALCO**

Chair-Elect  
Aiello, DiFalco & Gianakos LLP  
600 Old Country Road – Suite 520  
Garden City, New York 11530  
[mdd@matlawyers.com](mailto:mdd@matlawyers.com)

President Greenberg:

This letter is submitted in support of the report and recommendation made by the Working Group on Attorney Mental Health of the New York State Bar Association in the report, “The Impact, Legality, Use and Utility of Mental Disability Questions of the New York State Bar Application.”

**ANNE LOUISE LABARBERA**

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**BRANDON LEE WOLFF**

Secretary  
[brandonleewolff@gmail.com](mailto:brandonleewolff@gmail.com)

The Working Group’s conclusion and recommendation that “mental health inquiries should be eliminated from the application for admission to the Bar of New York State” is fully supported by Young Lawyers Section.

Young lawyers are particularly vulnerable to stress and experience more mental health issues than ever before as a result of crushing student debt and an uncertain job market, in addition to the demands of law school. We believe that law students seeking admission to the bar should be evaluated on their competence and conduct, not on their seeking mental health treatment or any diagnosis or treatment that the applicant has received.

The elimination of mental health questions from the bar application is a positive step that will help reduce stigma around seeking mental health treatment. Law students, and the entire profession, will benefit from this change. Thank you to the New York State Bar for championing this issue.

Very truly yours,  
YOUNG LAWYERS SECTION

Lauren E. Sharkey, Chair





## Mental Health Association in New York State, Inc.

Glenn Liebman, MA  
CEO

Ellen Pendegar, MS, RN  
Board Chair

Henry M. Greenberg, Esq.  
President  
New York State Bar Association  
One Elk Street  
Albany, NY 12207

October 29, 2019

Dear President Greenberg:

This letter is submitted in support of the report and recommendation made by the Working Group on Attorney Mental Health of the New York State Bar Association in the report, "The Impact, Legality, Use and Utility of Mental Disability Questions of the New York State Bar Application."

The Working Group's conclusion and recommendation that "mental health inquiries should be eliminated from the application for admission to the Bar of New York State" is fully supported by the Mental Health Association in New York State, Inc. At the Mental Health Association in New York State, Inc. we believe that attorneys should be evaluated on their competence and conduct, not on their seeking mental health treatment or any diagnosis or treatment that the applicant has received.

The elimination of mental health questions from the bar application is a positive step that will help reduce stigma around seeking mental health treatment. Law students, and the entire profession, will benefit from this change. Thank you to the New York State Bar for championing this issue.

Sincerely,

Glenn Liebman  
CEO

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### HEALTHY MINDS FOR A HEALTHY NEW YORK

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**NAMI**

National Alliance on Mental Illness

# New York State

October 1, 2019

Hank Greenberg  
President, New York State Bar Association  
1 Elk Street  
Albany, New York 12207

President Greenberg:

This letter is submitted in support of the report and recommendation made by the Working Group on Attorney Mental Health of the New York State Bar Association in the report, "The Impact, Legality, Use and Utility of Mental Disability Questions of the New York State Bar Application."

The Working Group's conclusion and recommendation that "mental health inquiries should be eliminated from the application for admission to the Bar of New York State" is fully supported by the National Alliance on Mental Illness-New York State (NAMI-NYS). At NAMI-NYS we believe that attorneys should be evaluated on their competence and conduct, not on their seeking mental health treatment or any diagnosis or treatment that the applicant has received. NAMI-NYS deplors the practice of perpetrating the stigma associated with mental health issues, as people with mental illness who receive effective treatment live and work successfully every day.

The elimination of mental health questions from the bar application is a positive step that will help reduce stigma around seeking mental health treatment. Law students, and the entire profession, will benefit from this change. Thank you to the New York State Bar for championing this issue.

Sincerely,

Wendy Burch  
Executive Director



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# NASSAU COUNTY BAR ASSOCIATION

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October 15, 2019

Henry Greenberg, President  
New York State Bar Association  
One Elk Street  
Albany, NY 12207

Dear President Greenberg:

This letter is submitted in support of recommendations made by the Working Group on Attorney Mental Health of the New York State Bar Association to eliminate mental health inquiries from the New York State Bar application.

The Nassau County Bar Association, its Lawyer Assistance Program, and Lawyer Assistance Committee fully support this effort. Attorneys should be encouraged to seek mental health treatment when needed without fear that this could negatively impact their career or admission to the Bar.

The elimination of mental health questions from the bar application is a positive step that will help reduce the stigma associated with seeking mental health treatment. Law students, the legal profession and the public that they serve will benefit from this change.

Thank you for your efforts to address this important issue.

Sincerely,

RICHARD D. COLLINS  
President