



North Carolina Association of Women Attorneys

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June 7, 2021

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Submitted via email to abradley@ncble.org

Re: Request for Consideration and Adoption of ABA Resolution 105

Dear Chairperson Herrick and the North Carolina Board of Law Examiners,

On behalf of the North Carolina Association of Women Attorneys (NCAWA), the North Carolina Association of Defense Attorneys' Women Litigators Committee (NCADA-WLC), and the North Carolina Advocates for Justice Women's Caucus (NCAJ-WC), we respectfully request that the North Carolina Board of Law Examiners consider and adopt the American Bar Association's model policy regarding the allowance and use of menstrual products during the bar exam. We believe this model policy maintains the dignity of menstruating test takers while maintaining the integrity of the bar exam.

Current North Carolina Examination Regulations allow menstrual products to be brought into the examination room if they are in the original packaging within the test taker's clear plastic bag. This procedure can cause embarrassment and anxiety on a day when test takers are already extremely nervous. It is our position that menstruating test takers should not have to endure this additional anxiety.

In response to concerns regarding the handling of menstrual products during bar examinations, the ABA investigated this issue and passed Resolution 105. This resolution urges bar admission authorities in each jurisdiction to (1) allow bar examinees to bring menstrual products into the exam in opaque containers, and to access those menstrual products unilaterally; (2) establish clear, fair policies and rules regarding access to menstrual products during the bar exam; and (3) publish, disseminate, and make easily accessible these new policies.

We believe the North Carolina Board of Law Examiners should revise its rules and policies to conform to this resolution. Allowing test takers to bring menstrual products into the examination room via an opaque container would avoid subjecting menstruating test takers to the heightened stress, anxiety and loss of privacy caused by having their menstrual products on display in a clear plastic bag. We appreciate that security measures are required to ensure the integrity of the bar exam; however, the ABA's investigation found no instances where menstrual products had been used to cheat on a bar examination in any jurisdiction. We believe that allowing opaque (rather than clear) containers strikes a proper balance by creating a less stressful and intrusive



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environment for test takers without impairing the integrity of the examination. Allowing unilateral access to menstrual products and restrooms protects the health and privacy of menstruating test takers. Establishing and publishing clear policies on this issue would also reduce the anxiety felt by menstruating test takers by allowing them to prepare for their menstrual needs with minimal questions from proctors.

Additionally, during these unique times when virtual testing is becoming more prevalent, we ask that the Board of Law Examiners carefully consider how its procedures (such as requiring test takers to remain in view of their cameras) might create disadvantages for menstruating test takers and take steps to eliminate those disparities.

Our goal is to level the playing field during the bar exam. With the current policies in place, menstruating test takers must endure conditions that could cause embarrassment and heightened anxiety. This is a situation that does not affect non-menstruating test takers, particularly men. NCAWA, NCADA-WLC, and NCAJ-WC strongly encourage the North Carolina Board of Law Examiners to adopt ABA Resolution 105.

Enclosed please find a copy of ABA Resolution 105, adopted on February 22, 2021, and the accompanying ABA Report. If you would like to discuss our organizations' support for ABA Resolution 105, our leadership would be happy to speak with you regarding this matter. Please feel free to email NCAWA President Laura Loyek at laura@lawyersmutualinc.com.

Thank you for your dedication to the integrity of the North Carolina bar exam and the opportunity to provide input on this matter.

Sincerely,

NORTH CAROLINA ASSOCIATION OF
WOMEN ATTORNEYS

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