



Working for Justice Since 1967

Columbia Legal Services advocates for people who face injustice and poverty. We seek to achieve social and economic justice for all, using policy reform, litigation, and innovative partnerships to reveal and end actions that harm the communities we serve.

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Received
Washington State Supreme Court

FEB - 1 2016

Ronald R. Carpenter
Clerk

January 27, 2016

Washington State Supreme Court
PO Box 40929
Olympia, WA 98504-0929

Re: Proposed Admission to Practice Rules 20 to 25

Dear Honorable Justices:

Columbia Legal Services strives to support a justice system that is fair and equitable for all. In that spirit, we offer these comments regarding admission to practice law for people with mental disabilities.

The Washington State Bar Association is to be commended for proposing to eliminate discriminatory, intrusive and unnecessary questions concerning the mental health of bar applicants. The bar's current questions ask applicants to disclose mental health conditions or impairments, or treatment for conditions or impairments, which erroneously are considered to impair the ability to practice law. We understand that some bar applicants have even felt pressure to "over" disclose impairments or mental health treatment in an abundance of caution in reporting their condition to the bar, or confusion about what and how much information to disclose.

In 2014, the U.S. Department of Justice issued an opinion to, and reached a settlement agreement with, the Louisiana Supreme Court with respect to evaluating bar applicants with mental health disabilities. The DOJ expressed concerns as to whether the Louisiana process complied with the Americans with Disabilities Act. The agency instructed the Louisiana Supreme Court to refrain from inquiring into a mental health diagnosis or treatment, unless the applicant voluntarily disclosed the information, or the Court learned from a third party that the applicant raised a mental health diagnosis or treatment as an explanation for conduct that may warrant denial of admission. The DOJ agreement set forth strict methods for "narrowly, reasonably, and individually tailored" inquiry into a mental health diagnosis or treatment, including requests for independent medical examinations.

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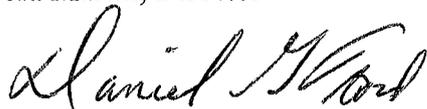
Following the DOJ's review of the Louisiana process, the WSBA formed a workgroup to address the APR process with respect to mental health disabilities. The workgroup recommended a conduct-based approach to the questions asked on the bar application. In other words, an applicant could be disqualified by conduct that may put the public at risk, but could not be disqualified for mental health diagnosis or treatment.

Columbia Legal Services strongly endorses the conduct-based approach to bar admissions for people with mental disabilities. This approach provides that persons with disabilities are judged by what they do, not their mental health status. Any disqualification on the basis of mental health status, diagnosis, or treatment would discourage bar applicants from obtaining treatment that would benefit the applicant as well as the public. Such disqualifications would also discriminate against persons with disabilities.

Thank you for your consideration.

A handwritten signature in cursive script, appearing to read "Aurora Martin".

Aurora Martin, Director

A handwritten signature in cursive script, appearing to read "Daniel G. Ford".

Daniel G. Ford, Attorney