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BAR ADMISSIONS: NEW OPPORTUNITIES TO ENHANCE PROFESSIONALISM

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I. INTRODUCTION

Discussions about enhancing professionalism among bar members usually involve scrutiny of misconduct in practice. Use of harassing discovery techniques, assertion of baseless claims or baseless defenses, incivility in depositions, and lack of truthfulness in day-to-day practice are cited as evidence that legal practitioners are not conducting themselves in accord with the high standards that the legal profession prides itself in maintaining. Recommendations about how to improve lawyer professionalism are likely to include suggestions about increasing continuing legal education courses on professionalism, promulgation of civility standards, proposing amendments to the rules of professional conduct, and other means of addressing lawyer conduct.

Serious consideration of the role that the bar admission process should or could play in promoting or enhancing professionalism is rarely heard. In fact, many view the bar admission process as having little or no connection with professionalism. However, the problems that animate discussions of

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professionalism in the practice are the same problems that bar examiners address in the bar admission process: concerns about lawyer competence and concerns about the character of lawyers.

The purpose of this discussion is to explore common themes between the bar admission process and the professionalism movement and to explore how new developments in bar admissions—particularly the skills-based "performance test" component within the bar exam and the "conditional admission" option within the character and fitness process—may have a beneficial effect on maintaining and increasing standards of professionalism in the bar.

II. THE BAR EXAMINATION

The common dictionary definition of a "profession" is "an occupation or vocation requiring training in the liberal arts or the sciences and advanced study in a specialized field;" a "professional" is "one who has an assured competence in a particular field or occupation."[1] In the legal profession, the standard of "assured competence" is shown by acceptable legal training (in most states by graduation from an American Bar Association approved law school), a passing score on a state bar examination, and certification from a state admission authority finding that the bar applicant is a person of "good character and fitness."[2]

In most states, the bar exam is a comprehensive essay exam covering the traditional law school subjects as well as various subjects states determine to be essential to the competent practice of law.[3] In every state but two,[4] the bar exam consists of a state-developed essay exam along with the Multi-State Bar Exam (MBE) produced by the National Conference of Bar Examiners (NCBE).[5] The MBE is a two hundred multiple-choice question test covering core legal subjects.[6] Increasingly, both of these exam formats are supplemented by a "performance test" component which tests the examinee's ability to

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1. THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE (William Morris ed., Houghton Mifflin Co., 1969).

2. A.B.A. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR & NAT'L CONFERENCE OF BAR EXAM'RS, COMPREHENSIVE GUIDE TO BAR ADMISSION REQUIREMENTS 2000 vii-x (Margaret Fuller Corneille & Erica Moeser, eds. 2000) [hereinafter BAR ADMISSION REQUIREMENTS].

3. *See id.* at 23-24.

4. With Indiana's adoption of the MBE in February 2001, Washington and Louisiana are the only states among the United States jurisdictions that do not use the MBE. *See id.* at 17, 23-24.

5. The NCBE is a private non-profit organization affiliated with the American Bar Association which produces and markets a number of bar examining test instruments and provides a range of services to the states related to bar admissions. *See 1999 Statistics*, 69 B. EXAMINER 6, 18 (May 2000).

6. The subjects tested on the MBE are contracts, torts, real property, constitutional law, evidence, and criminal law. *See id.*

perform an assigned task using a variety of factual material and a limited number of legal sources.[7]

Bar exams are used to screen out those who are not competent to practice. While not perfect, the bar exam represents the state high courts' commitment to protecting the public by requiring potential lawyers to show evidence of their legal competence.[8] The existence of the bar exam in every state indicates that the high courts, which hold plenary authority to regulate admission to the bar, are not satisfied merely with graduation from law school as an indicator of competence to practice. The high courts, as well as the bar examiners whom they appoint to carry out the admission function, are well aware that law schools graduate a number of students who perform at a very low level on what is in essence a national bar examination.[9] As a result, the bar examination becomes the standard of last resort for determining who is capable of representing the legal concerns of members of the public in need of legal counsel.[10] Despite the critical role the bar exam plays in determining who will enter the profession, it is a standard that is not given much attention and one which is not well understood, even within the legal profession.

Every state bar exam has a point below which an examinee is judged not to be minimally competent to practice law. That point is called the pass-fail line or "cut score." While there is variation among states in determining where to place the cut score,[11] the national average passing MBE score in the forty-eight United States jurisdictions which administer the test is estimated to be between 138 and 142 out of two hundred points.[12] The number of those who fail bar examinations is significant. National failure rates hover around twenty-five percent for first time takers.[13]

State bar examiners' primary concern is with those at the bottom of the performance ladder, that is, those falling near or below the cut score. Examinees who are writing failing papers are inadequately prepared, lack sufficient knowledge of basic legal principles, lack the ability to apply legal

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7. For an analysis of the Performance Testing components of the bar exam, see Stephen P. Klein, *The Costs and Benefits of Performance Testing on the Bar Examination*, 65 B. EXAMINER 13 (Aug. 1996).

8. *See* BAR ADMISSION REQUIREMENTS, *supra* note 2, at ix.

9. A total of forty-eight states and the District of Columbia are using the MBE as a component of the bar exam; thirty-four of those forty-nine jurisdictions scale the essay grades to the distribution of scores achieved on the MBE. MBE scores allow a state to compare its average and minimum passing MBE score with those of other states. *See* BAR ADMISSION REQUIREMENTS, *supra* note 2, at 23-24.

10. *See* BAR ADMISSION REQUIREMENTS, *supra* note 2, at ix.

11. *See* BAR ADMISSION REQUIREMENTS, *supra* note 2, at 23-24 (detailing the specific passing scores in various jurisdictions).

12. *1999 Statistics*, *supra* note 5, at 20. This national average passing score was identified by Stephen P. Klein, Ph.D. as 134 in an unpublished report on bar passage scores produced for the Minnesota Board of Law Examiners in 1999.

13. *See 1999 Statistics*, *supra* note 5, at 13.

principles in hypothetical situations, or some combination of these problems.[14] In any event, they lack the basic knowledge and skill to practice law safely. Large law firms, corporate legal departments, and competitive government agencies who hire lawyers graduating at or near the top of the class often do not deal with those whose bar exam performance places them near the cut score. Those seeking to increase the standards of professionalism must be concerned about whether new lawyers have the necessary legal knowledge and skills to safely represent the legal concerns of others. Those who are concerned about professionalism should be conversant about minimum competence standards expressed through bar exam performance. The state boards of law examiners need not be the only segment of the bar that understands and is accountable to the public and to the profession in assuring that new lawyers have a minimal level of legal knowledge.

III. MACCRATE REPORT AND THE DEVELOPMENT OF THE PERFORMANCE TEST

The 1992 Report of the Task Force on Law Schools and the Profession (the MacCrate Report) has had a significant influence on legal education and on bar examining, especially with respect to testing professional skills.[15] The MacCrate Report attempted to turn the focus of legal education from the theoretical to the practical through its identification of the fourteen fundamental lawyering skills and values found to be essential for competence as a lawyer.[16] Shortly after the release of the MacCrate Report, the NCBE—the national organization which has been producing the MBE for the past twenty-five years—began development of a "performance test."[17] The performance test component is designed to test the MacCrate skills, and to do so in a manner that had not been possible using the traditional essay and multiple choice bar exam.[18]

The performance test simulates some tasks a supervising attorney might give to a new attorney. A performance test packet includes an assortment of factual material, a small library of legal authorities and an assignment—all that

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14. The purpose of the bar exam is to test an applicant's ability to identify legal issues, engage in reasoned analysis, and "to arrive at a logical solution by the application of fundamental legal principles, in a manner which demonstrates a thorough understanding of these principles." BAR ADMISSION REQUIREMENTS, *supra* note 2, at ix.

15. A.B.A. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM (1992) (Report of the Task force on Law Schools and the Profession: Narrowing the Gap) [hereinafter "MacCrate Report"].

16. The MacCrate Report's Fundamental Skills are: "problem solving, legal analysis, legal research, factual investigation, communication, counseling, negotiation, litigation and alternative dispute resolution, organization and management of legal work, and recognizing and resolving ethical dilemmas." *See id.* at 135-207. The Fundamental Values are: "provision of competent representation, striving to promote justice, fairness, and morality, striving to improve the profession, and professional self-development." *See id.* at 136, 207-27.

17. *See* Klein, *supra* note 7, at 13.

18. *See id.* at 13-14.

the student will need to complete the assigned task.[19] Because the performance test is not a test of substantive law and contains all of the source material the student will need to answer the question, it may cover topics that examinees have not been required to study for the bar exam.[20]

The performance test is designed to test the examinee's skill in problem solving, legal analysis, fact analysis, and communication.[21] In addition, because it is constructed as a ninety-minute task, with a greater amount of reading material compared to an essay question, the examinee calls upon her skills of time management and organization.[22] While the performance questions are not intended to test the subtleties of negotiation, mediation, or ADR skills, these factual scenarios are used in the performance test and thus call upon the examinee to use nonlitigation skills to resolve problems.[23]

Identifying and resolving professional responsibility issues is another area that frequently arises in performance questions and affords the examinee the opportunity to show that she can deal with professionalism issues in a realistic setting.[24] Because every performance test question contains a library of relevant and irrelevant legal sources, the examinee's legal research skills are called upon.[25] Finally, because the task is often formatted on resolution of a client problem, client-counseling skills can be called upon. Potentially, the performance test addresses, to an extent, each of the ten MacCrate skills.

Research done on the performance test shows that those who perform well on the MBE and on essay exams usually perform well on the performance test.[26] The disparity in these test results suggests that the three different components of bar exams are not testing identical skills. As with other components of the bar exam, there is a high correlation between success in law school and success on the bar exam, confirming examiners' experience that those who are likely to fail the bar exam are primarily those who did not do well in law school.

In 1999, the Conference of Chief Justices published a report titled *National Action Plan on Lawyer Conduct and Professionalism* that established the linkage between professionalism and performance testing.[27] In its executive summary the Action Plan identified a widespread concern about a "perceived decline in lawyer professionalism and its effect on public confidence in the legal profession and the justice system."[28] The Conference of Chiefs challenged

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19. *See id.*
20. *See id.* at 17.
21. *See id.* at 15-16.
22. *See id.* at 16-18.
23. *See* Klein, *supra* note 7, at 17.
24. *See id.* at 15-16.
25. *See id.* at 17.
26. *See id.* at 16.
27. *See* A.B.A. CONFERENCE OF CHIEF JUSTICES, A NATIONAL ACTION PLAN ON LAWYER CONDUCT AND PROFESSIONALISM (1999), *available at* http://ccj.ncsc.dni.us.natlplan.htm.
28. *See id.* at vii.

bar examiners to increase their emphasis on testing practical skills.[29] They recommended that the bar exam be "modified to increase the emphasis on the applicants' knowledge of applied practical skills, including office management skills."[30]

This recommendation comes at a time when more then half of all the states have already incorporated performance testing into their bar exams.[31] The spreading use of the performance test comes at a time when professionals are increasingly demanding that law schools offer more professional skills courses.[32] As the performance test increases in popularity among bar examiners, the call for skills classes will increase as well.

One aspect that the performance test cannot assess is the MacCrate values. Nor is the test expected to develop in that direction. However, as the use of the performance test continues to spread, the demand for law skills courses will increase and with it, the abundant opportunities for teaching professional values which skills courses provide.

IV. CHARACTER AND FITNESS STANDARDS

In addition to administering a bar exam, all states make a determination about each bar applicant's "character and fitness" to practice law.[33] The typical character and fitness investigation is based upon a lengthy applicant questionnaire which seeks details about the applicant's criminal record, educational and employment history, as well as the applicant's record of meeting or not meeting a range of obligations, especially financial obligations.[34] In most states, third-party contacts are made, particularly with the applicant's law school.[35] In some cases, credit checks, criminal record checks and docket searches may be used to complete the picture.[36] The investigation is designed to produce a comprehensive record of the applicant's past conduct upon which a good character decision can be made for the purpose of bar admission. The process is designed to protect the public by assuring that only persons of good character are admitted to the practice of law.

The character and fitness process reflects the legal profession's commitment to requiring high character standards as a precondition of

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29. *See id.* at 15-16.

30. *See id.* at 16.

31. The NCBE began offering the performance test in February, 1997. Since then, twenty-three states and the District of Columbia are using or preparing to use the NCBE's performance test. In addition, California and Alaska have had a performance test component in use for many years. *See* BAR ADMISSION REQUIREMENTS, *supra* note 2, at 23-24.

32. *See* MacCrate Report, *supra* note 15, at 265-68, 276-77.

33. *See* BAR ADMISSION REQUIREMENTS, *supra* note 2, at 8-9.

34. *See id.* at 8-9.

35. *See* A.B.A. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, A MODEL FOR DIALOGUE § II (1998) [hereinafter MODEL FOR DIALOGUE].

36. *See* BAR ADMISSION REQUIREMENTS, *supra* note 2, at 8-9.

becoming a legal professional. State supreme courts have produced a significant body of case law on character and fitness issues. But until 1987, there was no agreed upon definition of good character and fitness. In 1987, a committee of the American Bar Association (ABA) condensed the general principles of the character and fitness case law and practice into a statement of "Character and Fitness Standards."[37] These Character and Fitness Standards (the "Standards") were adopted by the ABA, NCBE and the American Association of Law Schools (AALS) and were published as a part of the NCBE's Code of Recommended Standards.[38] Since 1987, published character and fitness standards have been adopted by thirty-four states.[39] Included within the NCBE/ABA version of the Standards is the following comprehensive definition of good character in the practice of law:

> A lawyer should be one whose record of conduct justifies the trust of clients, adversaries, courts and others with respect to the professional duties owed to them. A record manifesting a significant deficiency in the honesty, trustworthiness, diligence or reliability of an applicant may constitute a basis for denial of admission.[40]

The Standards identify thirteen types of "relevant conduct" that bar examiners should treat as "cause for further inquiry" before a decision is made concerning the character and fitness of the applicant.[41] The relevant conduct includes:

1. unlawful conduct
2. academic misconduct
3. making of false statements, including omissions
4. misconduct in employment
5. acts involving dishonesty, fraud, deceit, or misrepresentation
6. abuse of legal process
7. neglect of financial responsibilities
8. neglect of professional obligations
9. violation of an order of a court
10. evidence of mental or emotional instability
11. evidence of drug or alcohol dependency
12. denial of admission to the bar in another jurisdiction on character and fitness grounds

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37. *Id.* at vii.
38. BAR ADMISSION REQUIREMENTS, *supra* note 2, at vii-viii, ¶¶ 7-15.
39. *See* BAR ADMISSION REQUIREMENTS, *supra* note 2, at 6-7.
40. *Id.* at viii, ¶ 12.
41. *Id.* at viii, ¶ 13.

13. disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction.[42]

The Standards focus character and fitness committees on applicants' conduct not on applicants' political views, past diagnoses, or financial hardship.[43] The Standards describe the specific types of conduct that are cause for further inquiry.[44] The Standards not only guide bar examiners, they also inform applicants about the types of behaviors that might be viewed negatively. The Standards have been influential in encouraging states to conduct their character and fitness investigations in a uniform manner and to make admission and denial determinations that are fair and consistent. When the admission process is conducted in a fair, consistent, and professional manner, the profession itself benefits.

Just as the bar examination focuses upon those at the lowest levels of performance, the character and fitness screening process focuses most of its attention upon those applicants with the most serious conduct problems. Bar admission authorities closely scrutinize those whose past conduct raises valid questions about their fitness to practice law and attempt to gather comprehensive information about those applicants. And there is no shortage of bar applicants with a history of problems to investigate. The common lament of bar examiners is that they are seeing an increasing number of bar applicants who have serious character and fitness concerns. Among those applicants with problems, the easiest to deal with are those with a recent history of false statements and those who fail to tell the truth in the bar application itself. If they are unable or unwilling to tell truth to their own supreme court's board of bar examiners, they are clearly not prepared to assume the responsibilities of licensure.

Surprising to many members of the bar who assume that most young lawyers enter the profession with a clean slate, there are a significant number of applicants who have a serious history of misconduct. It is not unusual for bar examiners to encounter an applicant with a history of cocaine addiction, or a long history of financial mismanagement, or a record of having lost a securities traders license for professional misconduct, or even a former trustee who misappropriated trust funds. These cases would be simple if there is a failure to be truthful in the application process or if the conduct is very recent and there is no significant showing of rehabilitation.

Most difficult to determine are those applicants who present a record of serious misconduct, but who also present credible evidence of some rehabilitation. For example, if the securities trader lost his license for conduct many years ago and never sought to restore the license, there is no current misconduct. If the trustee who misappropriated funds has now repaid the

42. *Id.*
43. *See id.* at vii-viii.
44. *Id.*

money, there is evidence of rehabilitation. In these cases, admission authorities are reluctant to deny admission. In other instances, the applicant's attendance at law school seems to close the chapter on prior bad conduct. The board seeks to give the applicant a fresh start in legal practice. Where there is significant evidence of rehabilitation, there may still be concern but not enough, it seems, to justify denial of admission. Or, in other instances, the board simply concludes that the bar discipline counsel's office will address the applicant's problems if they arise in practice. But in many of these cases, there appears to be a public protection risk if a person with a serious history of misconduct is admitted.

Despite apprehension about an applicant's ability to fulfill the responsibilities of licensure and despite a lack of confidence that the new attorney has fully internalized the lessons of past misconduct, bar examiners often err on the side of admitting persons with a record of misconduct so long as there is some evidence of reform. Despite the fact that in most states the burden is on the applicant to show good character and fitness, denials are quite rare.[45]

V. CONDITIONAL ADMISSION

While the widespread adoption of written character and fitness standards has made the character and fitness process more uniform as to the kinds of misconduct and past history that will be cause for further inquiry, the American Bar Association's and National Conference of Bar Examiners' Standards do not provide guidance as to when evidence of rehabilitation is sufficient.[46] The sufficiency questions are often the most troublesome part of admission decisions.

Until recently, bar examiners had only two choices in admission matters: admit the applicant without restriction on the evidence of rehabilitation, or deny the applicant. In recent years, fourteen states have added a third option of conditional admission.[47] Under a conditional admission provision, an applicant with a history of misconduct is permitted to be licensed conditionally, subject to a requirement that the applicant provide evidence of having fulfilled certain conditions of licensure during an initial period. The conditions of admission

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45. *See generally* MODEL FOR DIALOGUE, *supra* note 36, § V, at 47 (citing statistics for the state of Ohio which totaled the number of denials for the years 1993 through 1996: from a total of 6377 applicants, fifty-eight, or less than one percent, were denied for character and fitness reasons).

46. *See* BAR ADMISSION REQUIREMENTS, *supra* note 2.

47. *See id.* at 6-7. States which have a conditional admission program include: Arizona, Arkansas, Connecticut, Florida, Idaho, Indiana, Kentucky, Montana, Nevada, New Jersey, New Mexico, North Dakota, Oregon, and Texas. In addition, eleven states—Arkansas, California, Connecticut, Florida, Idaho, Indiana, Minnesota, Montana, Nevada, New Jersey, New Mexico, Ohio, and Oregon—have a structured program of deferred admission permitting the applicant to submit additional evidence of rehabilitation after a period of time. *Id.*

may be as variable as a board can devise. Typical conditions imposed include continued psychological counseling to address past emotional problems, evidence of an additional period of continuous sobriety, or completion of a specified term of legal probation. After successful completion of the conditions, the restrictions are lifted and the license becomes unlimited. Failure to successfully complete the terms results in loss of license or perhaps continued monitoring and imposition of additional conditions.

While this seems like a perfect solution to some of the difficult cases discussed above, there are also shortcomings with the conditional admission model. One of the most serious is the failure to define the consequences in the event of failure to fulfill the conditions. Another serious drawback is the fact that in most states that have conditional licensure, conditions of licensure are kept confidential. If the purpose of licensure is for public protection then does the client not have the right to know about the attorney's conditional licensure? Applicants whose misconduct involves dishonesty or violence also present concerns. Are such applicants ever well-suited for conditional admission?

In the broadest sense, perhaps the greatest limitation with conditional admission is the fact that attorneys with a serious history of misconduct—whether admitted conditionally or after some showing of rehabilitation—may still present public protection concerns and may be at risk for future professional lapses. These concerns have a direct impact on the profession and need to be considered in any serious discourse on the subject of professionalism in the broader sense.

VI. CONDUCT AT ADMISSION: PREDICTOR OF LATER CONDUCT?

The extent to which the character and fitness investigation is an effective means of preventing the admission of attorneys who are likely to violate the rules of professional conduct has been debated by bar examiners and in the legal education community.[48] While every state has some form of character and fitness process, there is much variation among states as to the amount of resources that are devoted to the process and the degree of confidence that is placed in the process.

The extent to which the character and fitness process is capable of identifying attorneys at high risk for unprofessional conduct was explored in 1991 in a small study conducted by the Minnesota Board of Law Examiners.[49]

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48. *See generally* Deborah L. Rhode, *Moral Character as Professional Credential*, 94 YALE L.J. 491 (1985) (addressing structural and substantive problems in character assessment).

49. Carl Baer & Peg Corneille, *Character and Fitness Inquiry: From Bar Admission to Professional Discipline*, 61 B. EXAMINER, Nov. 1992, at 5. The Minnesota Supreme Court permitted review of private and public disciplinary records of attorneys admitted in Minnesota between 1982 to 1991. *Id.* The study found that approximately 8,000 applicants were admitted during the nine-year period, and that of those who were admitted, fifty-two were privately or publicly disciplined during the same nine-year period. *Id.* at 6. The admission files of the 8,000 applicants were sampled and it was determined that approximately twenty percent of those

The study was intended to review the types of conduct bar admission applicants were disclosing in response to character and fitness questions and comparing those responses when the same lawyers later were subject to professional discipline.[50] The study identified fifty-two attorneys who were admitted to the bar between 1982 and 1991 and who were then disciplined within the same period.[51] The study indicated that those who had been disciplined were more likely than other newly admitted attorneys to report character and fitness issues at the time of admission.[52] In other words, those who had a history of misconduct prior to admission were more likely than others to engage in professional misconduct after admission. Because the study was not conducted scientifically and involved a very small sample,[53] it does not provide a basis to establish causal relationships or precise conclusions. However, it shows a strong link between types of conduct that give bar examiners concern and the types of conduct that lead to discipline in the legal profession. It also suggests a need for additional research concerning the weight and significance bar admissions authorities should place on past misconduct when attempting to assess the risk for committing professional violations if admission is granted. Such research might be helpful making the character and fitness certification process a more effective tool in preventing professional misconduct before it occurs, a goal that would benefit the profession by reducing risk for legal clients and the public.

VII. LINKING MENTORSHIP AND CONDITIONAL ADMISSION

Mentorship of new attorneys by experienced attorneys is often mentioned as an effective means of increasing professionalism in new attorneys.[54] The counsel of experienced lawyers can be a simple but effective means of educating new lawyers and assisting them in avoiding unprofessional practices. One impediment to instituting a mentorship program for new attorneys is the great number of new attorneys who join the bar each year. The time and cost involved in training mentors and overseeing the process has significant resource implications for a state or local bar association interested in operating such a program.

One means of addressing resource considerations is to focus such a program on those attorneys who are seeking admission on a conditional basis because of a history of past misconduct. The conditions of licensure can be

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applicants reported character and fitness issues. *Id.* at 7. Of those fifty-two who were subject to discipline however, fifty percent had reported character and fitness issues upon application. *Id.*

50. *Id.*

51. *Id.* at 6.

52. *Id.* at 8.

53. *See id.* at 6.

54. The Conference of Chief Justices' National Action Plan recommended mentorship programs as one means of increasing professionalism. *See* CONFERENCE OF CHIEF JUSTICES, *supra* note 28, at 14.

tailored specifically to requirements that the new attorney participate for a certain period in a program of attorney-to-attorney mentoring. Experienced volunteer attorneys can be called upon to provide counsel to a conditionally licensed new attorney. As an additional component to the conditional admission requirement, the mentorship program would provide the new attorney with a personal resource on professionalism. The veteran attorney would not be acting as a practice supervisor but could meet with the new attorneys on a regular basis with the intention of heading off problems before they rise to the level of professionalism concerns.

Limiting mentoring opportunities to those who are identified in the admission process as being at risk—as opposed to offering it to all new attorneys—would limit the scope and cost of such a program. Requiring the mentoring attorneys to have information about the new attorneys, histories of concerns would allow the mentors to focus their vigilance. Linking such a program to the conditional admission model would provide bar examiners with another option in deciding difficult cases. This option would also better serve the public's need for increased oversight of new attorneys who have a history of concerns. Finally, applicants benefit by increasing their chances of being admitted rather than denied admission.

VIII. CONCLUSION

The bar exam exerts a subtle but steady influence on legal education in helping to maintain standards of professional competence. The introduction of the performance test as part of the bar exam reinforces a growing demand for practical skills education and affords legal educators additional opportunities to teach the values as well as the skills that are essential to professionalism. In a similar way, the character and fitness aspect of the bar admission process helps to maintain the standards of conduct that are consistent with professionalism. The strength of a state's character and fitness process will reinforce law schools' commitment to high standards of academic and personal conduct. As gatekeepers to the profession, the bar admission community is committed to developing and promoting new techniques and new tools to promote professionalism. Those tools will only be effective if the practicing bar and the law schools are interested in and supportive of maintaining high standards in bar admission.