

**Oregon State Board of Bar Examiners  
Fitness Review Task Force  
Oregon State Bar Center  
January 30, 2019 Meeting Minutes**

**Task Force Members Present:** Justice Rives Kistler, Patricia Nation, Dr. Mark Baskerville, Bob Joondeph, Elizabeth Davis, Jonathan Puente, Dr. Richard Kolbell, Doug Querin, Joanna Perini-Abbott, David Elkanich, Judge Kelly Skye and Michael Slausen.

**Absent:** Cassandra McLeod-Skinner, Vanessa Nordyke and Eleanor Wallace.

**Staff present:** Troy Wood and Vickie Hansen.

**1. Call to Order/Finalization of Agenda**

The meeting was called to order by the Chair, Justice Kistler. Members of the Task Force introduced themselves and briefly described their background.

**2. Charges**

Mr. Wood reported the charges from the chair of the BBX, Caroline Wong:

- A. The first charge of the Task Force is to review the Essential Eligibility Requirements of other states and recommend whether such requirements should be adopted by the Oregon State Bar. If they should be adopted, then the Task Force should include in their recommendation an analysis of the best practices used by those states with such requirements.
- B. The second charge of the Task Force is to evaluate the Oregon State Bar's admission application questions about mental health and substance use and the Admission Department's screening of fitness issues; and compare these questions and processes to the best practices of our sister states in a written report.

**3. Discussions related to Charges**

Mr. Wood said that studies about lawyer wellness, i.e., substance abuse and mental health, reveal a reluctance to seek treatment. Mr. Wood said that studies of law schools show that students are also reluctant to seek help because they are concerned that seeking treatment may impact their bar admission. Mr. Joondeph expressed concern that requesting any information about mental health might be discriminatory and a violation of privacy.

The group discussed how essential eligibility requirements would help the BBX in performing its functions. If adopted, the fitness questions on the admission application would need to be consistent with the essential eligibility requirements.

It was stressed that questions should focus on the behavior, as opposed to questioning whether an applicant has a condition or received treatment for a condition. The question was raised whether it is the BBX's role to require applicants to seek treatment, or if such a position is overstepping their role in the process. Mr. Wood pointed out that requiring applicants to follow the treatment recommendations of their providers is the basis of the conditional admission program.

The Task Force discussed recent changes in attitude that the profession has toward attorneys with addiction or mental health issues. Lewis & Clark has recently added a class titled "Foundations for Practice: Treatment Seeking". There was a recent article in *Insight*, the OAAP publication about the unlikelihood of denial of admission based upon revealing substance abuse issues. The message needs to get out to law students that acknowledgment of a mental health or substance abuse issue, and seeking treatment for such issue, is viewed as highly positive in the admission process. Mr. Wood indicated that the Admissions Department will be publishing historical data, so that law students can see how few students are held up based on fitness issues.

#### **4. Discussions related to Staff Support and Materials**

Two committees were created to address the issues of essential eligibility and appropriate questions. The committees will meet individually and present their findings to the full Task Force in May. The goal is to then present the Task Force's recommendations to the BBX during the August grading session, and then to OCLEAB in October.

Essential eligibility committee will be: Joanna Perini-Abbott, Dr. Richard Kolbell, Hon. Kelly Skye, Bob Joondeph, Patricia Nation and Michael Slauson. Ms. Perini-Abbott will serve as the committee chair.

Question committee will consist of: Elizabeth Davis, David Elkanich, Jonathan Puente, Dr. Mark Baskerville, Doug Querin and Bob Joondeph. Mr. Elkanich will serve as the group's chair.

Admissions staff will provide administrative support to the committees as needed.