

University of the District of Columbia School of Law

## Digital Commons @ UDC Law

---

Menstrual Policies and the Bar

Faculty Scholarship

---

2021

### Letter to State Bar of Nevada

Legislation/Civil Rights Clinic

Follow this and additional works at: [https://digitalcommons.law.udc.edu/menstrual\\_policies](https://digitalcommons.law.udc.edu/menstrual_policies)



Part of the [Law and Gender Commons](#), [Legislation Commons](#), and the [State and Local Government Law Commons](#)

---

#### Recommended Citation

Legislation/Civil Rights Clinic, "Letter to State Bar of Nevada" (2021). *Menstrual Policies and the Bar*. 1. [https://digitalcommons.law.udc.edu/menstrual\\_policies/1](https://digitalcommons.law.udc.edu/menstrual_policies/1)

This Correspondence is brought to you for free and open access by the Faculty Scholarship at Digital Commons @ UDC Law. It has been accepted for inclusion in Menstrual Policies and the Bar by an authorized administrator of Digital Commons @ UDC Law. For more information, please contact [lawlibraryhelp@udc.edu](mailto:lawlibraryhelp@udc.edu).

November 16, 2021

Dean Gould  
Director of Admissions  
State Bar of Nevada  
3100 W. Charleston Blvd. Suite 100  
Las Vegas, NV 89102  
*Sent via first-class mail and electronic mail to deang@nvbar.org*

Re: Addressing Menstruation in Bar Examination Policies and Procedures

Dear Mr. Gould and Admissions:

We write to urge the State Bar of Nevada to adopt the enclosed Menstruation and the Bar Exam Policy and Operating Provisions, created by our client, Menstrual Policies and the Bar (“MP and the Bar”). Founded in 2020 by law professors Elizabeth B. Cooper (Fordham Law School), Margaret E. Johnson (University of Baltimore School of Law), and Marcy L. Karin (UDC Law), MP and the Bar’s mission is to remove menstruation-related barriers to entering the legal profession, including during the bar exam. MP and the Bar is available as a resource and for technical assistance as you consider the enclosed Model Policy.

We hope to work with you to best address test takers’ concerns about menstruation-related barriers to the bar exam. We understand that you are similarly concerned about any possible sex discriminatory barriers that may exist in the administration of the bar exam and invite you to join us for *Addressing Menstruation in Bar Exam Policies* on December 3, 2021 at 12:00 P.M. EST.<sup>1</sup> This dialogue will cover cited concerns about the experience of menstruating test takers during the bar exam, existing policies related to menstruation (including some recent changes), law examiners’ concerns about maintaining exam security and integrity, and MP and the Bar’s Model Policy. We also want to hear from you to learn about any concerns, questions, and potential policy modifications to adequately address menstruation and the bar exam.

By way of background, MP and the Bar has conducted extensive research, surveys, and analysis on existing bar exam policies regarding menstruation.<sup>2</sup> Currently, these policies fail to adequately recognize that examinees may menstruate and, consequently, may cause examinees’ harm related to: (1) privacy and respect; (2) fairness and non-discrimination; (3) health; (4) denying accommodations; and (5) lack of policy transparency.<sup>3</sup> For example, some jurisdictions prevent personal menstrual products from being brought into the exam, declare that products may be brought only in a clear bag, or require menstruating examinees to surrender their products and go through a check out process to access them.

---

<sup>1</sup> RSVP for the dialogue at <https://bit.ly/MPandTheBar-Dialogue>.

<sup>2</sup> See Marcy L. Karin, Elizabeth B. Cooper & Margaret E. Johnson, *Menstrual Dignity and the Bar Exam*, 55 UC DAVIS L. REV. 1 (forthcoming 2021), available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3790439](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3790439).

<sup>3</sup> *Id.* at 7.

Test takers have experienced harassment, such as when proctors demand, as one examinee reported, “Do you really need those?”, or by limiting menstruating examinees to examiner-provided products accessible solely in women’s restrooms—creating additional barriers for some transgender, genderqueer/nonbinary, and intersex individuals.<sup>4</sup> Additionally, many jurisdictions do not provide administrative accommodations for these FDA-classified medical devices.<sup>5</sup> Further, unscheduled bathroom breaks are limited, time consuming, or prohibited altogether. As one examinee recalled, she reluctantly accepted bleeding through her pants during the exam, stating she felt the administrator “doesn’t care.”<sup>6</sup>

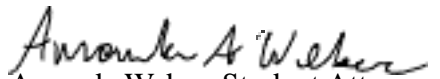
Many menstruators reported feeling anxious or frustrated by the lack of transparency of policies related to menstruation and their inability to properly manage menstruation on exam days. Moreover, survey respondents expressed fear regarding lack of access to bathrooms, additional clothing, and products intended to capture menstrual flow. These concerns led some test takers to report thoughts, and some actions, of self-adjusting birth control to attempt to skip their period, or of postponing or withdrawing from the exam if they were to have their period on exam days.<sup>7</sup>


Building on this work, MP and the Bar developed the enclosed Model Policy to address these harms, without compromising the integrity of the exam. The policy also builds on a July 2020 MP and the Bar letter, co-signed by over 2800 members of the legal community, asking for clarity and public bar exam policies related to menstruation, including, at a minimum, allowing examinees to bring personal menstrual products into the testing room.<sup>8</sup> It also is consistent with ABA Resolution 105 and the work of a range of other academics, lawyers, and bar leaders.<sup>9</sup>

Accordingly, to fulfil your commitment to inclusion and non-discrimination, we urge adoption of the enclosed policy and again invite you to join MP and the Bar on December 3rd at 12 pm EST to explore these issues and policy revisions. RSVP at <https://bit.ly/MPandTheBar-Dialogue>. We can be reached at [MPandTheBar@gmail.com](mailto:MPandTheBar@gmail.com) should you have questions.

Thank you again for your time and consideration.

Sincerely,

  
Amanda Weber, Student Attorney

  
Jonteal Hasty, Student Attorney

  
Marcy L. Karin, Director

CC: Elizabeth B. Cooper, Margaret E. Johnson

---

<sup>4</sup> *Id.* at 69.

<sup>5</sup> *Id.* at 49.

<sup>6</sup> *Id.* at 28.

<sup>7</sup> *Id.* at 43.

<sup>8</sup> Letter from Elizabeth B. Cooper, Margaret E. Johnson, Marcy L. Karin et al., to Judith Gundersen, President & CEO, Nat’l Conf. of Bar Exam’rs (July 20, 2020), <https://bit.ly/30Aga8w>.

<sup>9</sup> AM. BAR ASSOC., ABA MID-YEAR HOUSE OF DELEGATES RESOLUTION 105 (Feb. 22, 2021), <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2021/105-midyear-2021.pdf>; *see, e.g.*, ASSOCIATION OF ACADEMIC SUPPORT EDUCATORS, BEST PRACTICES FOR ONLINE BAR EXAMINATION (2021), <https://associationofacademicssupporteducators.org/statements/association-of-academic-support-educators-bar-advocacy-committee-best-practices-for-online-bar-examination>; Bridget J. Crawford, *Menstruation and the Bar Exam: Unconstitutional Tampon Bans*, 41 COLUM. J. GENDER & L 63 (2021).