



**NEW YORK  
CITY BAR**

**COMMENT ON AUGUST 13, 2019 REPORT BY THE NEW YORK STATE BAR  
ASSOCIATION WORKING GROUP ON ATTORNEY MENTAL HEALTH:**

**“THE IMPACT, LEGALITY, USE AND UTILITY OF MENTAL DISABILITY  
QUESTIONS ON THE NEW YORK STATE BAR APPLICATION”**

The New York City Bar Association supports eliminating Question 34, the mental health-related question, in the NYS Bar Application. The question penalizes law students with disabilities who have the fitness and character for admission to the bar (which can be fully evaluated through other channels such as interviews, academic records, and background checks), and is not sufficiently probative considering that the applicant has never practiced law and is without the knowledge or experience to answer the question presented. We do not see a meaningful distinction between this question and a pre-employment inquiry as to an applicant’s disability, which the American with Disabilities Act prohibits. We believe that the question is anachronistic in that it presumes that a disability, and particularly a mental health condition, is a defect of character rather than a medical condition that does not necessarily impair an individual’s performance of work-related duties. We are mindful that the legal profession has well-above average instances of substance use and dependence. The question subtly suggests to applicants to the bar that they should not reveal mental or emotional conditions or challenges, which we believe makes attorneys more likely to self-medicate through substance use, to the detriment of themselves, their families and clients, and the legal profession generally.

We applaud and greatly appreciate the work of NYSBA’s Working Group on Attorney Mental Health and fully support the recommendations in the report.

October 17, 2019

Roger Juan Maldonado  
President, New York City Bar Association

Disability Law Committee  
John W. Egan, Chair

Lawyer Assistance Program Committee  
Ralph L. Wolf, Chair

Mental Health Law Committee  
Karen P. Simmons, Chair