BRIAN BATES

ATTORNEY AT LAW

1985 Grand Avenue
Saint Paul, Minnesota 55105

(612) 690-9671

(H)

November 13, 1997

Clerk of Appellate Courts
Minnesota Judicial Center
Saint Paul, Minnesota

RE: In re Petition of Michael Ravnitzky for an Order of the Supreme Court Directing the State Board of Law Examiners to Open Administrative Portions of Board Meetings and Make Administrative Portions of Board Minutes, Past and Future, Available to the Public.

Please find enclosed for filing:

1) Original and 14 copies of Petition with attachments of Michael Ravnitzky;

2) Original and 14 copies of Motion to proceed in forma pauperis;

3) Original Affidavit of service.

Regards,

Brian Bates

STATE OF MINNESOTA
IN THE SUPREME COURT

In re Petition for Order of this Court Directing the State Board of Law Examiners to Open Administrative Portions of Board Meetings and Make Administrative Portions of Board Minutes, Past and Future, Available to the Public.

FILE NUMBER: C8-97-2104

PETITION OF MR. MICHAEL RAVNITZKY, A LAW STUDENT ATTENDING WILLIAM MITCHELL COLLEGE OF LAW AND, AS SUCH, A REPRESENTATIVE OF MINNESOTA LAW STUDENTS, FOR AN ORDER OF THE SUPREME COURT DIRECTING THE BOARD OF LAW EXAMINERS TO OPEN ADMINISTRATIVE[1] PORTIONS OF BOARD MEETINGS TO THE PUBLIC AND MAKE ADMINISTRATIVE PORTIONS OF BOARD MINUTES AVAILABLE TO THE PUBLIC.

I. BACKGROUND

Mr. Ravnitzky, a second year law student at William Mitchell School of Law, wrote an article published in the Spring 1997 edition of that school's newsletter, The Opinion. The article was entitled Minnesota May Soon Use a New Type of Bar Exam and was written in four sections. The sections were subtitled A New Type of Bar Exam, Special Testing Accommodations, The Bar Admissions Advisory Council, and Character and Fitness Issues. See Exhibit A. The opening paragraph of Petitioner's article reads:

> Each year, roughly 900 law students undergo a grueling effort to qualify as attorneys in Minnesota. It's ironic that law students pay little attention to the rather secretive organization that scrutinizes their lives in such detail, and

[1] As used throughout this petition "administrative" portions of Board meetings or "administrative" portions of meeting minutes means those portions which do not reveal any information relating to any applicant's file. Petitioner seeks public access to, and particular records concerning, the Board's administrative, procedural, and policy discussions and actions.

> holds the power to decide their ability to practice law. Many students are apprehensive of the character investigation, the written application and the dreaded bar examination itself. In spite of the Board's attempts to explain and clarify the screening process, the bar exam and its accouterments have become a great source of myth, mystery and angst to its "victims."

In researching this article, Petitioner filed a formal request of the Minnesota Board of Law Examiners (the Board) for certain information. This petition flows from the Board's May 16, 1997 denial of Petitioner's requests. See Exhibit B. It is Petitioner's intent by this petition to preserve Board records for their historic value, for their use in scholarly research, and to reduce the "myth, mystery and angst" associated with the Board's functions. Petitioner does not seek disclosure of Board records which reveal applicant-specific data.

II. PARTIES

Petitioner is a law student and author, resident of the City of Saint Paul and the State of Minnesota, and a citizen of the United States.

The Board of Law Examiners is one of several boards authorized by the Supreme Court. The Board was created by Chapter 36, General Laws of 1891 which provided for the Court's appointment to the Board of one attorney from each congressional district. Exhibit D. The Board's primary function is to certify individuals for the practice of law in Minnesota and to discipline those allowed to so practice. The Board is responsible to the Minnesota Supreme Court.

III. JURISDICTION

Jurisdiction in the Supreme Court is based on the Supreme Court's inherent power to administer boards authorized by that Court.

IV. PROCEDURAL HISTORY

Petitioner filed several requests of the Board for the release of certain administrative information, primarily Board minutes, when researching his article about the Board. Further, Petitioner appeared before the Board on November 15, 1996 to present his request in person. Board members asked no questions of Petitioner during or after Petitioner's presentation. In a letter dated May 16, 1997, Board Director Corneille stated the Board had considered Petitioner's "request to make portions of [the Board's] meetings open to the public, and to make available minutes of Board meetings." See Exhibit B. The Board denied Petitioner's request stating the Board's rules "do not authorize either open meetings or public access to minutes." Id.

The Board did, however, find merit in Petitioner's request and stated the Board would make recommendations to the Supreme Court to change the Board's rules to allow access to the administrative information for which Petitioner now petitions. Id.

In effect, the Board supports this petition. Yet, it is unclear whether a change in the Board's rules would have retrospective effect. See Ravnitzky's Affidavit ¶ a. It is critical to Mr. Ravnitzky's petition, and his underlying purpose

and intent, that past as well as future administrative information be made available to the public.

V. STANDARD OF REVIEW

The standard of review is de novo. The Supreme Court reviews the Board's decisions independently but gives appropriate weight to the Board's deliberations. In re Petition of John A. Zbiegien, 433 N.W.2d 871, 874 (Minn. 1988) (overruling Board's decision to deny admittance to bar applicant.)

VI. DISCUSSION

A. THE BOARD'S INTEREST IN KEEPING ADMINISTRATIVE INFORMATION CONFIDENTIAL IS OUTWEIGHED BY THE PUBLIC'S INTERESTS IN DISCLOSURE.

i) The Interests of Affected Persons are Significant and Important.

Most legal challenges to the Board's actions are challenges by adversely affected persons applying for admittance to the Minnesota bar. Very occasionally, though, the Board's policies are challenged. One such policy challenge involved the Board's investigation into the fitness of applicants. The Supreme Court held the Board's well established policy of asking questions about mental health counseling was inappropriate and should cease. The Court found "that the prospect of having to answer the [Board's] mental health questions in order to obtain a license to practice causes many law students not to seek necessary counseling ..." In re the Petition of Frickey, et al., 515 N.W.2d 741 (Minn. 1994).

Here, also, the welfare of law students is at issue. Denial

of access to administrative information of the Board's practices, policies, and procedures, while less damaging than being required to reveal mental health services, works a hardship on many more people. People contemplating law school, and law school students, are contemplating, or making, very significant investments of time, effort, and money. The wisdom of the investment depends, in large part, on whether those making the investment are allowed to practice law in Minnesota. People contemplating, or making, such investments have a very real interest in the workings of that entity which will eventually determine whether they are allowed to practice law in Minnesota.

People may decide against making an investment in law school because they assume they would have difficulty during the bar admissions process. Conversely, people may embark on the law school experience unaware of difficulties which arise later during the application process. Granting Petitioner's request to open the Board's administrative records will somewhat decrease the "risks" associated with law school while causing no applicant harm.

In addition, Petitioner asserts that the Board's administrative information has intrinsic value. Researchers and scholars may be interested in this information for its historic value. See section C.ii below. Others may be use the information to ensure the integrity of the Bar. See Note, Barnard v. Utah State Bar and Public Access to Private Entities Which Carry Out Governmental Functions: Is this Bar a Private Club?, 1992 Utah L.Rev. 1021.

ii) Public Access to Board Administrative Information does not Jeopardize the Confidentiality of Applicant Files.

Petitioner distinguishes between administrative information and judicial information. Petitioner seeks public access only to Board administrative information, including administrative portions of meeting minutes and administrative portions of Board meetings. Petitioner seeks no confidential applicant information.[2]

The Board, during its meetings, could also distinguish between administrative and judicial issues. Procedurally, it is common that boards meet first in public session and close the meeting to the public if there is a need to discuss sensitive issues. Opening Board meetings need not create a burden on the Board nor jeopardize the confidentiality of applicant files.

B. SUPREME COURT RULES, BOARD RULES, AND MINNESOTA'S POLICY OF PUBLIC ACCESS ARE CONSISTENT WITH DISCLOSURE OF BOARD ADMINISTRATIVE INFORMATION.

i) Supreme Court Rules do not Restrict Public Access to Board Administrative Information.

In her letter of May 18, 1997, Board Director Corneille relates

> the Rules of the Board of Law Examiners do not authorize either open meetings or public access to minutes. However, as a matter of policy, the Board determined that it will recommend to the Court that the Rules of the Board be amended

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[2] At least one other State also distinguishes between confidential information and administrative information, allowing public access to the latter. Conn. Bar Examining Comm. v. Freedom of Information Comm'n, 209 Conn. 204, 550 A.2d 633 (Conn. 1988) (holding committee records relating solely to administrative functions must be made public, unless doing so would interfere with the performance of the committee's judicial function).

> to permit the opening of certain portions of its meetings, and to allow public access to the minutes of public portions of meetings. Exhibit B.

In fact the Board is not so restricted. The authority of the State Board of Law Examiners flows from the Supreme Court. Supreme Court Rule I. The Board is authorized in part to make rules not inconsistent with the rules of the Supreme Court. Rule I(B)(7). Supreme Court Rule VIII specifies which information the Board may release and to whom. An applicant's file may be reviewed by the applicant. Rule VIII(A). Examination information may be disclosed at the sole discretion of the Board. Rule VIII(B). Any information may be "exchanged" with a disciplinary agency and released to bar authorities in other jurisdictions. Rule VIII(C). Application information may be disclosed to investigative agencies. Rule VIII(D). Information relating to any misconduct may be referred to the appropriate authorities. Rule VIII(E).

The final clause of Rule VIII reads:

> All other information contained in the files of the Office of the Board is confidential and will not be released to anyone other than the Court except upon order of the Court. Rule VIII(F).

In this context the phrase "information contained in the files" of the Board can only reasonably be interpreted to mean information in the Board's applicant files. Petitioner seeks no information in an applicant's file, nor examination information, nor application information, nor information of any misconduct. Petitioner seeks only to know what has transpired and will transpire during the administrative portions of past and future Board meetings, through attendance and/or though access to Board

minutes.

Even if Board meeting minutes were typed and filed in a Board file cabinet it is unreasonable to conclude the minutes are "information contained in the files" of the Board. Any meeting minutes are simply a summary of what occurs at a Board meeting. If Board meetings were public, a member of the public could attend and take notes, or minutes. If Board meetings were public, it would necessarily follow that minutes of public meetings be made public. To do otherwise would discriminate between members of the public who are able to attend Board meetings and those who cannot.

ii) Board Rules do not Restrict Public Access to Board Administrative Information.

As argued above, public access to purely administrative portions of Board meetings does not conflict with any Supreme Court Rule. But Director Corneille suggests that public access to administrative portions of Board meetings, while good policy, is not authorized by the Board's rules.

Board rules authorize the release of examination results and examination scores. Rule 101(E), Rule 102(B)(C), Rule 105(K). Statistical information may be released at the Board's discretion. Rule 102(A). But, again, we seek no examination results or scores nor statistical information.

Admittedly, Board rules do not authorize public access to meetings nor the release of meeting minutes. But neither do Board rules prohibit such public access. We argue that public access to administrative portions of Board meetings is presumed and must be allowed if not specifically prohibited.

iii) A Presumption of Access Underlies Minnesota's Policy of Public Access to Administrative Information.

The State of Minnesota has adopted a policy of public access to administrative information. The Minnesota Data Practices Act specifically contemplates public access to licensing boards. Minn. Stat. § 13.41. "Licensing boards" include all state boards, departments, and agencies. Minn. Stat. § 13.41(1). Information generated by these boards is confidential or public. Minn. Stat. § 13.41(3)(4). Public information, by definition, includes "licensing agency minutes." Minn. Stat. § 13.41(4).

The minutes of the Minnesota boards which license plumbers to physicians are public. Admittedly, the Minnesota Data Practices Act does not apply to the Board of Law Examiners. But holding the Board's administrative information confidential is inconsistent with Minnesota's overall policy of public access.

The Minnesota Data Practices Act sets the tenor for the presumption of public access to administrative information in Minnesota.

> All government data collected, created, received, maintained or disseminated by a state agency, political subdivision, or statewide system shall be public unless ... Minn. Stat. § 13.03(1).

Information is presumed public unless it falls within an exception.

The Minnesota Data Practices Act defines government data as information held by any "state agency, political subdivision, or statewide system ..." Minn. Stat. § 13.02(7). By definition, the Judiciary is "excepted" from the scope of the Minnesota Data

Practices Act.[3]

However, access to the records of the Judiciary is governed by Rules of Public Access to Records of the Judicial Branch. Rule of Public Access 2 states "records of all courts and court administrators in the state of Minnesota are presumed to be open" to the public. Judicial Information is presumed public. But again, there are exceptions to the general policy of public access. One exception is "access to records of the various Boards and Commissions of the Supreme Court." Rules of Public Access 1.

The presumption of public access flows from the most inclusive Minnesota Data Practices Act to the narrower scope of the Rules of Public Access to Records of the Judicial Branch and thence must flow to the rules of the Board. Board information must be presumed public unless specifically excepted by prohibition or restriction.

The Board has no rule which prohibits or restricts public access to administrative information. Therefore, the Board's administrative information must be presumed public.

C. BOARD POLICY MUST ALLOW PUBLIC ACCESS TO BOTH FUTURE AND PAST, OR HISTORIC, ADMINISTRATIVE INFORMATION.

Petitioner is not confident that any change in Board rules now being contemplated by the Board will allow public access to past administrative information. If Petitioner were confident that a rule change would have retrospective effect, Petitioner may not

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[3] For a short time, from June 5, 1985 to August 1, 1987, the Minnesota Data Practices Act did covered access to Judiciary records. Minn. Stat. 13.90

have filed this petition.

But conversations with Ms. Corneille have convinced Petitioner that any rule change would have exclusively prospective effect. Ravnitzky Affidavit, ¶ a.

i) The Precedent Set by the Supreme Court in Petition of Frickey Supports Public Access to Past Administrative Information.

In Petition of Frickey the Supreme Court found the Board's practice of asking certain questions inappropriate. The Supreme Court ordered the Board to remove the inappropriate questions from the application for admission to the Minnesota Bar. Further, the Court ordered the Board to disregard any past applicant's answers to the inappropriate questions. Petition of Frickey, 515 N.W.2d 741. The Supreme Court gave its order retrospective effect. To do otherwise, logically, the Supreme Court would have to find the questions were once appropriate but have become inappropriate.

Likewise, the Board policy challenged in this Petition must be held inappropriate now and in the past. To do otherwise would suggest that the Board's policy of holding administrative information confidential was once appropriate but has become inappropriate. Petitioner cannot divine any set of circumstances which would cause an abrupt change in the character of the Board's policy or the character of the administrative information itself.

ii) The Public Would be Denied the Historic Value of the Board's Administrative Information.

The historic value of Board administrative records could include perspectives on women applicants, applicants of color, or applicants of certain political persuasions. See Exhibit C.

To predict the historic value of Board administrative information is to predict the interests and purposes of future researchers or scholars. Petitioner recognizes the futility of such an endeavor yet, does recognize the intrinsic historic value of the Board's administrative information.

iii) The Board has Waived the Confidentiality of Many of its Records.

From 1960 to 1965 many of the Boards files were archived at the Minnesota Historical Society (MHS) and available to the public. Exhibit D. Some Board files are still archived at MHS and available to the public. Ravnitzky Affidavit ¶ c.

If past Board records are not made available, two classes of similarly situated persons will be created: those interested in the records which were at the MHS and who had access to those records and those interested in the same records who have no such access.

ORAL ARGUMENT

The opportunity of an oral argument is requested.

RELIEF

As and for relief, Petitioner seeks:

1) An Order of the Supreme Court that future and past, or historic, Board administrative information be open to the public, and

2) An Order of the Supreme Court granting Petitioner all costs and attorney fees of this petition necessitated by the Board's refusal to grant Petitioner's requests and brought solely for

public benefit. Ravnitzky Affidavit ¶¶ a, d.

Respectfully submitted,

Dated November 13, 1997

Richard Brian Bates
Atty # 218315
1985 Grand Avenue
Saint Paul, Minnesota 55105
Phone: 612-690-9671

Attorney for Petitioner

AFFIDAVIT OF MICHAEL RAVNITZKY

IN THE MATTER OF a petition to the Supreme Court to order the Board of Law Examiners to make administrative information available to the public.

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

I, Michael Ravnitzky, being first duly sworn under oath, state as follows:

a) In 1996, I requested and was denied access to certain Board information which I believe would have been beneficial in my research. In a telephone discussion with Ms. Corneille, in September, 1997, she stated that the change in Board Rules now being contemplated would have no retrospective effect, i.e. no past Board records would become public.

b) Mr. Rodgers' letter of October 31, 1996 is evidence that some of the Board's files were archived and publicly available at the Minnesota Historical Society (MHS) for many years.

c) Despite the fact that most of the Board's records were withdrawn from MHS, some records still remain. In the spring of 1997 I personally examined records of the Board at MHS which are still available to the public.

d) I want the Board's administrative records to be treated in a manner consistent with other state records. The records should be preserved and catalogued for purposes of historical and scholarly research. I have no commercial or pecuniary interest in these records.

e) I wrote the article published in the Opinion. I aver that all exhibits are originals or accurate copies of originals.

Subscribed to and sworn before me
this 11 day of November, 1997

Margaret L. Roybal
Notary Public

MARGARET L. ROYBAL
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
My Commission Expires Feb. 6, 1998

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VOLUME 42 NUMBER 1

THE OPINION

SPRING 1997

MINNESOTA MAY SOON USE A NEW TYPE OF BAR EXAM

Michael Ravnitzky

Part One of Four Parts on the Bar Exam and Minnesota Board of Law Examiners

Each year, roughly 900 law students undergo a grueling effort to qualify as attorneys in Minnesota. It's ironic that law students pay little attention to the rather secretive organization that scrutinizes their lives in such detail, and holds the power to decide their ability to practice law. Many students are apprehensive of the character investigation, the written application and the dreaded bar examination itself. In spite of the Board's attempts to explain and clarify the screening process, the bar exam and its accouterments have become a great source of myth, mystery and angst to its "victims."

The Minnesota State Board of Law Examiners (BLE) is looking at some fundamental changes in how to evaluate candidates for the bar. This is likely to result in changes in how Minnesota law schools teach their students. Major changes are in the works, and to some degree those changes are inevitable. The Minnesota Legislature established the Board in 1891, seating one attorney from each of the state's congressional districts. That system has long since disappeared seven of the nine Board members are Twin Cities metro-area residents.

Steering the Board into the future is Director Margaret Fuller Corneille, an attorney licensed in both Minnesota and Ohio, who attended school and originally practiced in Ohio. I interviewed Ms. Corneille recently. It was easy to see that she cares very much about the integrity and fairness of the bar admissions process, and works closely with the Board members to keep it effective and fair. Yet the Board has not yet deemed it useful to bring students, arguably stakeholders, into the process.

According to Corneille, the three primary bar admissions issues that may be of interest to law students are: the structure of the bar exam itself, special testing accommodations, and character and fitness issues. This article focuses on the structure of the bar exam itself. Subsequent articles will highlight special testing accommodations required under the Americans With Disabilities Act, and character and fitness issues.

A NEW TYPE OF BAR EXAM

The national organization serving bar examiners has developed a new type of test component for bar exams. The National Conference of Bar Examiners (NCBE), located in Chicago, has been marketing the test as a supplement or replacement for the essay components of state bar exams for several years. The test, says Corneille would be a Multistate Performance Test (MPT) to replace or supplement one or more of the essay questions. (The current multistate multiple choice test would remain.) The MPT is written to test six fundamental skill areas: problem solving, legal analysis and reasoning, factual analysis, communication, organization and management of a legal task, and recognition and resolution of ethical dilemmas. Instead of testing a specific area of substantive law, the MPT indicates the candidate's analytical and communication skills. The candidate is presented with a portfolio of documents including evidence, client interview, case law, statutes, and notes. From this sort of material, the bar candidate is expected to develop guidance and advice by performing some integrated legal task such as writing a letter to a client, or a memo to a senior attorney.

Corneille says that there is no particular reason for Minnesota to rush into the new test methodology, but that Minnesota will likely start to use the MPT within the next 3-5 years. She said that one significant issue for Minnesota is how much notice will be provided to applicants (including law students) before the MPT is introduced, and then to what extent to integrate it into the current bar exam. Corneille feels that students and faculty deserve some notice before the Board makes these substantial changes. She implied that the first group of law students to be tested in this manner will be so informed during their first year in law school. During the Bar Admissions Advisory Council meeting on January 24, 1997, WMCL Dean James Brooks pointed out that Mitchell already offers a Trial Advocacy Course, now called "Lawyering" that teaches these types of skills. Many students he added, also pick up such skills in other courses and activities, such as legal writing research, moot court, the Legal Practicum. For this reason, Brooks says, lengthy advance notification is less critical, perhaps 1-2 years would be sufficient."

NEW TEST POPULAR

Some critics have questioned how students will respond to this new form of bar exam. The NCBE has published favorable evaluations of the MPT format from experts and Bar candidates around the country. As noted in the May 1995 issue of The Bar Examiner, NCBE's official journal, students generally have responded favorably to MPT. Perhaps William Lindberg (a West Publishing attorney who represents the Minnesota State Bar Association at the BAAC meetings,) put it best: "[The MPT] may help address the [widespread] perception that the bar exam does not represent the skills required in the real world." NCBE believes that the MPT can be a third dimension, an additional way to assess the competency of applicants; it complements, not necessarily replaces the essay tests."

There appear to be few barriers to the use of the MPT in Minnesota. As Corneille stated in response to a question during the BAAC meeting: "We can incorporate...[the MPT] type of test into the existing bar exam without too much trouble, except for some increased work on the part of the test graders."

GRADING

Grading of the MPT will be different from grading essay test questions. At least one test grader in Minnesota feels that essay grading is primarily issue spotting that the written quality of the answer is less significant than advocate mode of the current issues. If this is true a well written essay answer including all the issues could be given the same score as a low quality (even an incorrect) response that identifies the same issues. Corneille indicates that analysis is also a significant component for grading essay questions. By focusing on analysis rather than knowledge, the MPT may offer some advantages potential shortcomings in the essay grading and scoring process. The performance test, says Corneille, highlights areas other than issue spotting; how you use those issues is also significant.

Most students are unaware that the essay questions on Minnesota's bar exam are written by out-of-state professors. When asked how out-of-state professors can write good essay questions that address Minnesota law, Corneille explained, "The Board tests on general principles of law and not simply laws specific to Minnesota. Where Minnesota law is different, then analysis is based on Minnesota law is rewarded. Someone who recognizes the differences [between Minnesota law and other jurisdictions] and analyzes those differences will do well, but an analysis according to general principles of law will also be satisfactory." She added that the people who grade the exams are Minnesota practitioners, not law professors, which avoids potential conflict of interest. The Minnesota Bar essay questions are only used in Minnesota.

Although Corneille says that her office does not

New Bar Exam continued on page 4

Delta Theta Phi Annual Talent Show

Kathy Samsa

Flashback: Dancing clog men, bagpipe serenades, and Rick Springfield's greatest hit, all on one night. Flash forward: This year you can join the ranks of these famous performers by participating in the Delta Theta Phi Talent Show. This annual event will be on Saturday, February 22, from 7:00-9:00 p.m. It will be held in the WMCL auditorium, and the masters of ceremonies will be WMCL's very own Dan Le and Dan Griffith. The talent show is an annual event at WMCL, with all proceeds raised benefitting the William Mitchell Child Care Center. A $5.00 entry fee for each act is required. Prizes will be awarded to the two top performers, as determined by a distinguished panel of judges. This event thrives on the participation of William Mitchell students, faculty, and staff. This is a great opportunity to strut your stuff, become famous, and support the child care center. Both solo and group performers are encouraged to participate. Interested talent should contact [illegible]. All talent is welcome!

New Bar Exam continued from page 1

specifically recruit younger attorneys to grade the bar exam essay questions, Minnesota seems to end up with mostly younger graders—those recently out of law school. Corneille explained in the July 8, 1996, issue of The National Law Journal that the graders tend to be younger. partly because only recent law school graduates are interested in grading. She said that there is another advantage of more recent graduates. They have a clearer recollection of [taking the bar exam], and they know that they are not testing for experience level, but for the candidates' ability to touch on basic points that need to be covered. In Minnesota, bar exam graders are paid $275 plus $1 per essay book. Corneille says that the BLE uses 24 graders for each exam, from a general pool of about 35 or 36 people who have done grading recently."

In comparison, the MPT questions are uniform nationwide. Because the MPT is graded independently within each jurisdiction (state), the NCBE will be holding grading workshops in Chicago to familiarize the graders in each jurisdiction with the grading methodology. NCBE will also supply a Handbook to each state to assist in the grading process. The payment arrangement for grading the MPT exams, when instituted, has still not been determined.

MPT USE IS SPREADING

Erica Moeser, President of the NCBE, says that there are four states currently using home-grown performance-type tests: Hawaii, California, Colorado and Alaska. She stressed that these states are not using the MPT yet, but that a couple of them will be switching over to the MPT soon. California's Performance Test, first used in 1983, was initially criticized for excessive focus on litigation, but has since diversified the structure of their test to include non-litigation problems. This February, four states will offer some form of the NCBE-supplied MPT: Georgia, Hawaii, Iowa and Missouri. By next year, nine more jurisdictions are scheduled to begin using the MPT: Colorado, Washington, DC, Nevada, New Mexico, Illinois, Oregon, Texas, West Virginia and, pending court approval, Mississippi.

Minnesota's Law Examiners have not yet [illegible]

Minnesota Board of Law Examiners

Minnesota's Board of Law Examiners under the direction of Margaret Fuller Corneille has been quietly resolving one of today's most significant issues in bar exam testing: establishing formal procedures for special testing accommodations for the "differently abled" as required by the Americans With Disabilities Act. Along the way, the BLE has been giving other states a leg up on the process. "Peg Corneille is widely considered a national expert on the ADA as it pertains to bar exam issues," says Erica Moeser, President of the National Conference of Bar Examiners (NCBE), Chicago, Ill. Corneille recently delivered a talk on this issue at the 1996 NCBE National Conference.

The BLE has for many years allowed bar candidates to request special accommodations, a process that has been bolstered by the passage of the ADA. Under the Board's interim policy, according to Corneille, candidates were asked for a description of the special accommodations they needed due to verifiable impairments. Also required by specific deadlines were medical and psychological records to justify each request. "If [the special request] seems reasonable," explains Corneille, "we notify them by letter. If we don't think that the documentation supports the request, we send the material to one of five specialists in the medical or psychological field. We ask them if an accommodation is merited, and if so, what kind. Based on the specialist's recommendation, the request is either accepted, denied or modified." The Board usually grants either a full or partial accommodation—it's rare that an application is denied in full.

There are more applications for special accommodations than most people realize. 900+ candidates take the bar exam each year, either in February or in July. Of that number, the number of special accommodation requests typically runs between 30 and 40 each year, according to Corneille. These special accommodation requests are from candidates with such conditions as legal blindness (such as tunnel or peripheral vision), complete blindness, hand/arm disability, back problems, dyslexia, attention deficit disorder, etc.

Last spring, the Board published a formal [illegible]

Minnesota bar exam essay questions (they are written by law professors in other states), faculty members do describe the difficulty and clarity of those questions, and write model answers. The scores allocated for particular essay questions on the bar exam are weighted based on the results of input from law school faculty. "Some faculty members are more involved in providing comments than others," he added.

Brooks said that the Board selects questions based on what a General Practitioner might need in his or her practice. Recent areas added were Family Law (three or four years ago) and Administrative Law (about eight years ago). Occasionally, says Brooks, areas of law are dropped from the exam, which affects the courses students select. As an example, since Negotiable Instruments was dropped as a test subject on the bar exam, the number of students taking the course has dropped significantly.

Other issues raised by the law school deans at these meetings involve the questions raised on the character and fitness application. These questions are a double-edged sword. Brooks notes that if you ask "Have you had counseling for alcohol abuse?", you'll determine the candidates who recognize a problem and are dealing with it, but you may inadvertently dissuade law students from seeking counseling if they know that they'll be asked about it later. Bar candidates are required to allow the Board access to any records that the law school holds about them that may indicate a lack of character or fitness. Says Brooks, "We usually discuss broad issues, but those issues may come up as a result of a pattern or series of specific related problems."

But does the Board provide guidance to the schools on teaching issues? "Not really," says Corneille. The point that law schools do not teach to the bar exam is accurate.

CHARACTER & FITNESS ISSUES

Part Four of Four Parts on the Bar Exam and Minnesota Board of Law Examiners

On January 2, 1997, the Case of *In Re Timothy Heckman*, Docket C3-96-1755, was decided by the Minnesota Supreme Court. Mr. Heckman was subjected to severe penalties and prohibited from practicing law for at least five years for not disclosing pertinent facts on his Bar Application forms. At the meeting of the Bar Admissions Advisory Council on January 24, 1997, Heckman

violation of ADA, Minnesota Human Rights Act and federal and state constitutions, and may unduly deter law students from seeking...counseling, unduly invade privacy and have a disproportionally disadvantageous effect upon women applying for admission to the Bar.

As a result of the Frickey ruling, the questions were dropped entirely. It is instructive, however, that the Board was unwilling to make such a decision by itself; rather the parties were required to petition the Supreme Court for relief. Perhaps this reflects that the Board is sometimes an autonomous agency and sometimes merely an administrative arm of the Minnesota Supreme Court, depending upon the circumstances.

But the candidate application is not the only place where such sensitive and controversial character and fitness questions appear.

INPUT FROM THE SCHOOLS

During the meeting of the BAAC on January 24, 1997, the attendees (Board members, law school deans and members of the Minnesota State Bar Association) discussed the gradual unraveling of an unwritten, informal understanding between the Board of Law Examiners and the law schools. In the past, law schools have provided a certificate of character and fitness to the Board for all graduating students. According to Corneille, the BLE has expected (and still expects) the Minnesota law school deans to provide from their personal knowledge or files, sua sponte, any "adverse" information to the Board that reflected poorly on the student, or called into question the student"s character and fitness to be an attorney. According to Dean Brooks, this requirement is simply a proposal on the table. This may be a genuine issue of material fact. Over the years, due to increasingly restrictive federal and state laws concerning privacy and data practices, the ambiguous prior arrangements fell by the wayside. All participants seem to feel that the certificate itself, without additional information, may be only of nominal value to the Board.

Character and fitness questionnaires are sent to the law schools of out of state candidates. Such questionnaires aren't sent to candidates from Minnesota law schools. The reason for this difference in questionnaires is that the Board, as discussed above, assumes that the Law Schools will notify the Board if the Deans have adverse information. Since this arrangement did not

quite likely that next year's graduating class of full-time students will be taking some portion of the MPT when they graduate.

Although the response to MPT has so far been fairly positive, and appears to be a long-overdue move toward more realistic testing, the test is not without its critics. Some point out that MPT does not test significant legal skills such as persuasive advocacy, planning, decision-making, and self-reflection. Others allege that there is no evidence that any test, whether performance based, essay or multiple-choice accurately predicts the capacity of a law school graduate to be a competent lawyer. Others feel that data on possible race and gender impact of the test is incomplete.

But NCBE and State Bar Admissions Boards may have some financial stake in the outcome of this grand experiment to use the MPT nationwide. There is a lot of money involved in almost every facet of the admissions process, be it registration fees, testing costs, test licensing, fees for reporting test results to students, or character and fitness investigation fees. These fees vary wildly from state to state. MPT promises to reduce testing costs over the long run for some jurisdictions (implies an article in The Bar Examiner, August 1996, p. 19), and will certainly create demand for this new NCBE product. (A recent article in the Bar Examiner evaluated comparative costs for the Essay, MBE and MPT tests.)

The NCBE is a not for profit 501(c)(3) organization and Bar Admissions Boards are usually quasi-independent judicial agencies. Nevertheless, their financial bottom lines are still closely scrutinized by their Boards. Most 501(c)(3) non-profit organizations establish strategic goals that include showing of a surplus (a profit) each year. Many have surplus sharing programs for employees. On the other hand, Bar Admission Boards must carefully account to the State Supreme Court or the State Legislature, or both for their budgets. And, of course, both BAR/BRI and WestBar (West Publishing's Bar Exam Preparation Division) have announced that they will provide preparatory classes for this new type of bar exam.

Get ready! The MPT is coming to a test center near you.

SPECIAL TESTING ACCOMMODATIONS

Part Two of Four Parts on the Bar Exam and

impairment," "qualified applicant with a disability," and "reasonable accommodation." The formal policy even allows for emergency requests and expedited review of accommodation decisions. Form B specifies such accommodations as Braille versions of tests, large print (18-20 point type) testing books, audio cassette version of the test, use of a tape recorder and/or Dictaphone, use of a test reader who can mark answers, and/or additional test-taking time.

What part of the overall bar exam process could be improved? "The thing on top of my list is a need to revise and update the rules," explains Corneille. "We've tried to address all the most serious deficiencies that were in the process. I've been here ten years, and during that time we've put [informal or unwritten] policies and procedures in writing, and published brochures for the students [to explain those policies]. We've tried to respond to ADA-required changes. The process is always undergoing reevaluation."

THE BAR ADMISSIONS ADVISORY COUNCIL

Part Three of Four Parts on the bar exam and Minnesota Board of Law Examiners

Law school deans and members of the Minnesota State Bar Association have an opportunity for limited input into the Bar Admissions process. In 1937, a Joint Advisory Council was formed to discuss issues touching on legal education. That group continues to meet sixty years later as the Bar Admissions Advisory Council (BAAC), whose most recent meeting was held at William Mitchell College of Law on January 24, 1997. Discussions at the most recent meeting were candid and uninhibited regarding issues of mutual concern."

According to WMCL's Dean of Students James Brooks, the Council provides input to the Board on various matters including suggesting testing areas for future bar exam essay questions, character and fitness questions. The Board also provides information to the law school Deans, giving them a "heads up" on any new subjects being considered for the bar, to take back to the faculty. Brooks says that the law school deans are "in the loop" throughout the year; interaction is not just limited to these advisory meetings.

Brooks pointed out that while the Minnesota law school faculty members do not write

continuing problem the Minnesota Board of Law Examiners (BLE) finds troubling: small legal or ethical transgressions by bar candidates that go unreported to the Board. In 1993, five candidates were turned down because of their lack of character and fitness out of approximately 900 applicants.

Let's start at the beginning. Each student applying to law school in Minnesota must disclose certain information to the school. Each student graduating from law school and applying to the Bar must fill out an extremely detailed questionnaire including several pages of character and fitness related data. Although some of the items may be small, the Board considers a candidate's failure to mention those items quite significant.

Although the Board was chartered in 1891, they did not establish any written standards for screening applicants and identifying what types of misconduct can be investigated and how the information will be used. Soon after becoming BLE Director, Margaret Fuller Corneille prepared written guidelines based upon ABA model standards. Corneille said that before the establishment of written guidelines, prospective attorneys were subjected to similar but unwritten standards, reported the *Minneapolis Star-Tribune* on September 23, 1988.

COUNSELING AND MENTAL HEALTH

Until recently, the questionnaire asked three questions about counseling or mental health treatment that many applicants found offensive. In 1993, after much criticism, the Board decided to retain the counseling and mental health questions, but to limit the inquiry to the most recent ten years. Minnesota law schools felt that this still might dissuade students from seeking counseling if they needed it.

As a result, in 1994 deans and faculty from all three Minnesota law schools petitioned the Supreme Court (*In re Petition of Frickey, et al.*, 515 N.W.2d 741) to order the Board of Law Examiners to delete three specific questions from the bar application. Those questions asked for information about mental health treatment and counseling. Prof. Philip Frickey, a law professor at the U. of M. and his co-petitioners argued successfully that the questions may be in

questionnaire has been required. Even so, the Board members noted at the BAAC meeting that it's difficult to verify that the out-of-state character and fitness questionnaires are complete and accurate.

During the January meeting, BLE members made it crystal clear that they needed better information to assess the character and fitness of applicants and the law schools would be expected to provide such information to the Board. One of the suggestions that was brought up was to provide a "laundry list" of questions to the law schools, a checklist of potential problem areas.

But the deans are torn between the need to inform the Board of potential problems, and the need for confidentiality in counseling, as well as federal privacy protections. WMCL Dean of Students James Brooks says that he prefers a checklist to uncircumscribed disclosure, but that at the same time the student must give his written permission for such disclosure. Brooks added that the items in question are specific factors that may impact upon the candidate's character and fitness, not other derogatory information that isn't specifically requested, or even things that don't show up in printed form in the college files but may be known to staff or faculty. In fact, most law students aren't aware that copies of their aging law school applications are subject to Board scrutiny.

ACCUSATIONS

Right now, the Board asks the law school about accusations, proven or not. The ambiguity, according to Ed Butterfoss, Dean at Hamline University Law School, is that anyone can make an accusation, legitimate or not. According to the Board, such accusations have to be reported. Accusations may be investigated, found to be without merit and dismissed, or else they can resolved in such a way that doesn't require action by the school. Some accusations may be adjudicated on the express condition that they will be removed from the student's permanent file if no violations occur in the future. Each school may or may not have unique policies and procedures on this matter.

The definition of what is "in a student's file" differs from school to school. Who judges what is and what isn't relevant, or part of the

New Bar Exam continued on page 8

New Bar Exam continued from page 4

permanent file? Is a law school dean obligated to disclose information obtained from other sources besides the student? Is a law school employee obligated to disclose personal information received from the student during counseling?

The net result may be that the Board will seek disclosure at the student level, as is done in other states. Students may soon be required to undergo some type of character and fitness evaluation while or even before they get into law school, as occurs already in seven other states.

A TECHNICAL VIOLATION OF PRIVACY?

A certification of fitness, and any potentially adverse or derogatory information relating to such certification, is sent to the Board *before* the College has received any sort of release form. The Board feels that the law school has implied release authority because the request for adverse information only applies to students who signed up to take the bar exam. Those students have filled out a privacy waiver, but the waiver is in the possession of the Board, and not the schools. This is an area that the Board and the schools are now resolving.

THE INVESTIGATION

The BLE hires the National Conference of Bar Examiners to conduct character and fitness investigations on most of the out of state candidates, referred to as "Motion applicants." The BLE also buys an investigation on a small percentage (generally less than 20%) of the recent law school graduates that appear to have potential problem areas in their applications.

The NCBE charges $200 for an investigation of experienced attorneys from out of state, approximately $150 for investigations of recent graduates, and $125 for screening law school applicants in the seven states where law students must undergo preliminary character and fitness checks. (In the early 1950's, the NCBE raised their fees from $25 to $50 as they annually investigated a total of approximately 1000 applications.) The NCBE now conducts approximately 14,000 investigations nationally, out of a total of approximately 45,000 recent law school graduates and several thousand attorneys changing jurisdictions, according to Erica Moeser, President of the NCBE. She says that the bar examining authorities in thirty states make use of this service. (Other jurisdictions hire their own investigators, while some only perform investigations only when necessary.) That's over two million dollars each year in revenue. Sumner Bernstein, former chairman of the NCBE, said in an interview in 1985 that a character and fitness check involves verification of the schools and references cited by candidates on their applications and a check of the American Bar Association's Discipline Bank for any mention of a candidate.

Corneille says that the bar exam is only half of the process of being accepted to practice law in Minnesota. Investigation is the other half. The Board requires a completed lengthy application, a statement from the law school, a police check in Minnesota, and if the student is from other states, checks of those police records as well. A credit check is performed on some applicants on a random basis, although Corneille declined to say what percentage of applicants are affected. (Since credit bureaus are fairly liberal in granting access to their files, and the cost of running a credit check is nominal, and access to credit files will disclose many potential problems, the logical implication is that the credit history of most applicants is pulled, most likely through CSC Minneapolis/St. Paul, an affiliate of Equifax.) Attorneys who have been practicing for a while in other states, or applicants with any debts should expect a credit check automatically. It is unclear whether the credit reports for spouses of applicants are checked. The Board also makes random checks of other types of reference information provided by applicants.

Minnesota has not yet taken the step of taking fingerprints from applicants for future reference. Several years ago, a Star Tribune reporter discussing the difficulty of locating fugitive Minnesota lawyer Mark Sampson asked Corneille about fingerprinting of Minnesota bar candidates. Corneille reported that she was fingerprinted upon admission to the Ohio bar, and believes it is something worth considering for Minnesota. "We'd have to consider the cost and the value," she said. "It's done in some states." There are no current plans, however, to fingerprint Minnesota's law candidates.

MORE EXPENSIVE IN SOME STATES

Why is the application cost more than double for applicants who have practiced law in other states than for recent graduates? According to Corneille, the cost to "check out" recent graduates is far less than for attorneys who have been practicing in other areas. The true costs are reflected more by the assumption that a practicing attorney has a lengthier record to examine, and more opportunities for potential difficulties. So if the cost to apply to the bar seems excessive, note that it is probably slightly subsidized to some extent by annual attorney registration fees and fees assessed attorneys from other states, indicates Corneille. Corneille said that attorneys from other states, even those who have practiced for several years, are not exempt from the requirement that they attended an ABA-approved law school to be allowed to practice in Minnesota.

NCBE NO LONGER SHARES INFORMATION WITH THE FBI

Some bar candidates may be interested in a historical footnote. From 1936 until as recently as 1976, the FBI and National Conference of Bar Examiners illicitly (and illegally) shared information on bar admissions candidates, according to articles that appeared in the National Law Journal, Washington Post and Los Angeles Times in June 1985. Confirmation of the story was found in FBI files released as a result of discovery in a lawsuit by the National Lawyer's Guild charging unwarranted surveillance by the federal government. The National Lawyer's Guild is a politically progressive bar group established in 1936 as an alternative to the ABA. The NCBE was formed in 1931 to aid state and local bar licensing panels in investigating applicants' character and fitness for admission to practice.

The newspapers reported that one FBI memo indicated that the NCBE had been "extremely cooperative" with the FBI for the past several years. The arrangement was started by J. Edgar Hoover, himself an attorney, in 1936. In exchange for access to NCBE files, the FBI also agreed to conduct security checks on conference employees, without their knowledge, said the National Law Journal. The articles went on to say that the FBI demanded that its involvement be treated as "strictly confidential" and indeed on one occasion investigated NCBE's Executive Secretary for what it initially thought had been a breach of the confidence. In 1961, Hoover wrote in a memo: "One of the considerations in our making this exceptional service available is the fact that on a reciprocal basis we will, of course, have access to [NCBE] files for our official need." A letter from the NCBE to the FBI in 1976 said that it was discontinuing its "routine" requests for information because of restrictive court rulings and privacy statutes. However, an FBI memo dated the next day, stated that "liaison channels between the Bureau and NCBE remain open concerning matters of mutual interest."

Information the FBI gave to the NCBE included whether bar applicants criticized Supreme Court decisions, supported labor unions or attended National Lawyer's Guild meetings.

NCBE'S Moeser had no comment concerning this (historical) situation. "WE don't do it now, and I've never seen any reference to such activates."

FBI EXCHANGED DATA ON MINNESOTA BAR APPLICANTS

Although no one contends that such transfer of data has occurred in at least twenty years, this historical footnote has Minnesota implications as well. Minnesota relied primarily on the NCBE to conduct checks of attorneys moving to Minnesota from other states. Long ago, the parochial nature of character and fitness data and the lack of electronic data transfer made it difficult for any state Board of Bar Examiners to verify information from other locations. As a result, many jurisdictions relied on the NCBE to check credentials and character for some of their applicants. The NCBE relied, in turn, on FBI resources. The states of Florida, California and New York, for example, worked very closely with the FBI to conduct fingerprint checks in their admissions process, according to several historical NCBE publications. Florida depended on the FBI to tell Florida's bar examiners "whether any member of the applicant's family has ever been associated with any Communist front organization." The Bar Examiners' Handbook, a 1968 NCBE publication proudly describes NCBE's use of 78 former FBI agents, "deployed about the country," for reference checking and investigation.

Minnesota's Board of Law Examiners was one of the states that made use of the NCBE investigations, according to several NCBE publications. Thus, for many years the supposedly confidential information provided by many bar candidates over the years found its way into FBI files. Almost as shocking is that information that the FBI deemed derogatory about a candidate may have been used in that candidate's bar application process.

Bar examiners and Boards of Law Examination, according to the NCBE model codes, should adhere to extremely high standards of ethical behavior. Illicit transfer to the FBI of confidential information about bar applicants probably doesn't represent the high standards of conduct that one would expect from such organizations. But let's be fair. In the same way that bar applicants are expected to come clean regarding early problems and shortcomings, we shouldn't hold these early transgressions against the BLE and the NCBE, provided they come clean with the details and don't conceal any relevant factual discussion.

Minnesota Judicial Center
25 Constitution Avenue
Suite 110
St. Paul, Minnesota 55155
(612) 297-1800
(612) 296-5866 Fax

TTY Users - 1-800-627-3529
Ask For 297-1857

Margaret Fuller Corneille, Esq.
Director

THE SUPREME COURT OF MINNESOTA

BOARD OF LAW EXAMINERS

May 16, 1997

Mr. Michael Ravnitzky
612 Lincoln Avenue #301
St. Paul, MN 55102

Dear Mr. Ravnitzky:

At the April meeting of the Minnesota Board of Law Examiners, Board members considered your request to make portions of its meetings open to the public and to make available minutes of Board meetings.

The Board concluded that current law does not require that the Board open its meetings. In addition, the Rules of the Board of Law Examiners do not authorize either open meetings or public access to minutes. However, as a matter of policy, the Board determined that it will recommend to the Court that the Rules of the Board be amended to permit the opening of certain portions of its meetings, and to allow public access to the minutes of public portions of meetings.

The Board also determined that its current Rules require that all Board records are confidential except those which are specifically authorized for release. This includes minutes of past meetings. Minutes of future Board meetings will not be not be made available until such time as the Rules are amended to permit publication.

The Board plans to begin work on rule re-drafting this year. We expect to present recommendations to the Court in the fall.

Because of the interest you have shown in this matter, I will be happy to provide you with a copy of the petition when it is filed by the Court. Please let me know if you have any questions. I can be reached at 297-1857.

Very truly yours,

MINNESOTA BOARD OF LAW EXAMINERS

Margaret Fuller Corneille
Director

MFC:ts

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The Washington Post

Monday, June 17, 1985

B02

FBI, Bar Said to Share Files Law Journal Reports Information Exchange

Margaret Engel
Washington Post Staff Writer

The FBI and three lawyers' groups-including one in the District-had longstanding agreements to share information about bar applicants, according to a report to be published today by the National Law Journal, a weekly newspaper for lawyers.

According to the Journal, documents released by the FBI show that the bureau gave information on individuals from 1936 through 1976 to the National Conference of Bar Examiners, a private Chicago-based group that researches the backgrounds of applicants for state bar associations. The files of the conference also were available to the FBI, according to the newspaper.

An FBI spokesman said the bureau is researching the charges and will have a statement sometime this week. "We don't know what [the Journal] has, so how can we respond to them?" said special agent Manuel Marquez. "We know what we supplied the court, but we don't know what [the newspaper] has."

According to the documents, information also was shared with the "character committees" of the District and Manhattan bar associations.

There are two separate bar associations in the District-the 114-year-old, voluntary Bar Association of the District of Columbia, and the 13-year-old, mandatory D.C. Bar. The newspaper does not specify which of the two bodies had the agreement to share information with the FBI. The mandatory bar is too young to have had a longstanding agreement; a past president of the voluntary group said it has no "character committee." Past officials of both groups said that they were unaware of any such agreement.

According to the newspaper, the president of the National Conference of Bar Examiners discontinued in 1976 that group's routine requests to the FBI for information, citing privacy concerns. The newspaper says that an FBI memo sent to the conference the following day, however, states that information would still be shared on items

of "mutual interest."

Sumner T. Bernstein, of Portland, Maine, current chairman of the conference, said the documents show that "it is entirely possible there was some exchange of information" in past years, but said he believes there is no exchange today. "We're not a state agency," he said. "Under the law, there is no way we are entitled to FBI information."

He said the conference checks the schools and references cited by candidates on their 16-page application and then checks with the American Bar Association's Discipline Bank for any mention of a candidate.

The documents were released by the FBI as part of the discovery process in a New York lawsuit brought against the government by the National Lawyers Guild, which was founded in 1937 as an alternative to the American Bar Association and is charging decades of harassment by the FBI.

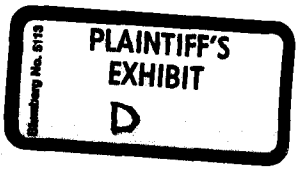
According to the newspaper, the documents indicate that Edward A. Tamm, a former FBI official who was appointed as a federal district judge in 1948 and is now a judge on the U.S. Circuit Court of Appeals for the District, served as liaison between the FBI and the District bar character committee.

Tamm could not be reached for comment.

Jim Jordan, a past president of the voluntary District bar association, said all local applications are sent to the National Conference of Bar Examiners for processing. "We don't have any character committee," he said.

The mandatory D.C. Bar also does not pass on the fitness of candidates, and relies instead on a committee appointed by the D.C. Court of Appeals that monitors admission, said past president Marna Tucker.

MINNESOTA HISTORICAL SOCIETY



October 31, 1996

Michael Ravnitzky
612 Lincoln Ave. #301
St. Paul, MN 55102

Dear Michael:

After talking with you this morning I discovered a little information about the records returned to the Law Examiners Board from the State Archives. This information comes from our unnumbered accession file for the Law Examiners Board and is a public record.

As the Minnesota Historical Society research center's catalog indicates, minutes (1918-1950, 2 volumes), complaint record (1923-1943, 2 volumes) and register of applicants (1891-1952, 2 volumes) were returned to the Law Examiners Board in July of 1965. Enclosed is a copy of the receipt transferring the records back to the board. Pardon the poor copy. It was made from an old thermofax copy. Our unnumbered accession file states the above records were transferred from the board to the State Archives in August of 1960. There is no explanation why the records were returned to the board five years later.

For your information I have enclosed copies of inventories for Law Examiner Board records preserved in the State Archives. Also included are copies of our State Archives brochure. Please let me know if you have any questions or comments about the enclosures. I would be happy to talk with staff at the Law Examiners Board about State Archives services, the transfer ~~for~~ of records, access to records, etc. Thank you.

Sincerely,

Charles L. Rodgers

Charles L. Rodgers
Government Records Analyst
Division of Library
and Archives

CLR/bje
enclosure

STATE OF MINNESOTA

DEPARTMENT State Archives & Records Service

Office Memorandum

TO : Mr. John F. Markert
State Board of Law Examiners

DATE: July 21, 1965

FROM : Fred R. Thibodeau

SUBJECT: Transfer of public records.

On June 29, 1965 the State Archives Commission authorized the return of the following records to the State Board of Law Examiners:

1. Minutes of the Board of Law Examiners, June 10, 1918 through June 23, 1950. (2 volumes)

2. Complaint Record, July 2, 1923 through October 9, 1943. (2 volumes)

3. Register of Applicants, June 18, 1891 through July 25, 1952. (2 volumes)

. . . . . .

RECEIPT

I have this date received from the State Archives the records listed above. They will henceforth be retained by the Board of Law Examiners, relieving the State Archives of further responsibility for their care and preservation.

John F. Markert
Assistant Director of Bar Admissions

By Edward J. Bade
Acting Attorney Examiner

Date
July 22, 1965

LAW EXAMINERS BOARD

Accepts applicants for, composes, and administers the state bar examination and recommends successful candidates to the supreme court, which grants admission to the bar.

The board consists of seven attorneys at law appointed by the supreme court to nonconcurrent three-year terms (Minnesota Statutes 481.0).

The board was created by Chapter 36, General Laws of 1891, which provided for the court's appointment to the board of one attorney from each congressional district.

MINNESOTA STATE ARCHIVES

Record Group: LAW EXAMINERS BOARD

Subgroup:

Series: Bar Examination Files

Dates: 1944-1958

Quantity: 3.5 c.f. (4 boxes)

Location: 53.B.1.2F - 1.5B

Description/Box List

Printed examination questions, manuscript questions submitted by board and law school faculty members, names and scores of examinees, and related correspondence.

There is one such file for each testing period. No files exist for 1954 or 1955.

Arrangement: Chronological.

Box 1.	1944-1948.	53.B.1.2F
Box 2.	1948-1951.	53.B.1.3B
Box 3.	1952-1953, 1956.	53.B.1.4F
Box 4.	1957-1958.	53.B.1.5B

DAM:3-78-1000

MINNESOTA STATE ARCHIVES

Record Group: LAW EXAMINERS BOARD

Subgroup:

Series: General Account Book

Dates: 1926-1948

Quantity: 1 vol.

Location: 46.G.2.8F (~~ov~~ nc) (box size 12"x20"x5")

Description/Box List

Includes an abstract of disbursements (1926-1948), a general ledger (1926-1943), and a cash deposit record (1926-1944).

The volume documents all the board's financial transactions, including examination fees and appropriations received, and funds paid out for salaries, supplies, printing, rents, and other expenses.

Arrangement: Chronological by record type.

DAM:3-78-1000

MINNESOTA STATE ARCHIVES

Record Group: LAW EXAMINERS BOARD

Subgroup:

Series: General Correspondence

Dates: 1930-1955

Quantity: 4 c.f. (4 boxes)

Location: 53.B.1.6F - 53.B.1.9B

Description/Box List

The board's correspondence is with law schools, professional organizations (especially the Minnesota State Bar Association), colleagues, the state supreme court, and members of the public.

Correspondence includes data on Minnesota law schools, the state bar examination, and admission to the bar; requests for information on particular lawyers; professional activities of board members; legislation and court orders affecting legal practice; and routine facilitative correspondence among board members. Related papers filed with the correspondence include bar examination questions, court orders, admission and disbarment lists, and board meeting agendas.

Arrangement: Alphabetical.

Box 1.	A-E.	53.B.1.6F
Box 2.	E-M.	53.B.1.7B
Box 3.	M-R.	53.B.1.8F
Box 4.	S-Z.	53.B.1.9B

DAM:3-78-1000

MINNESOTA STATE ARCHIVES

Record Group: LAW EXAMINERS BOARD

Subgroup:

Series: Minutes of Joint Advisory Council

Dates: 1937-1943

Quantity: 1 vol.

Location: 46.G.2.8F (~~ov~~) (box size 12"x20"x5")

Description/Box List

Minutes of infrequent meetings of a state joint advisory council composed of the Law Examiners Board, faculty representatives from Minnesota law schools, and a member of the Committee on Ethics and Legal Education of the state bar association.

The council was organized in 1937 to serve as a liaison between the board and the law schools in dealing with mutual concerns, primarily state bar examinations and bar admission requirements. Those concerns are reflected in the minutes.

Arrangement: Chronological.

DAM:3-78-1000

MINNESOTA STATE ARCHIVES

Record Group: LAW EXAMINERS BOARD

Subgroup:

Series: Register of Attorneys

Dates: 1891-1921

Quantity: 1 vol.

Location: 46.G.2.8F (ov) (box size 12"x20"x5)

Description/Box List

Chronological listing of lawyers admitted to the Minnesota state bar.

For each registrant, the register provides city of residence, means of admission (examination or certificate), date of court admission order, date of certificate, registration number, and occasional miscellaneous remarks.

Arrangement: Chronological.

DAM:3-78-1000

AFFIDAVIT OF SERVICE

IN THE MATTER OF: PETITION OF MICHAEL RAVNITZKY

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

I, Brian Bates, being first duly sworn under oath, state as follows:

that at the City of Saint Paul, County of Ramsey, State of Minnesota, on the 13th day of November, 1997, I served the Petition of Michael Ravnitzky, with all attachments on the Board of Law Examiners by hand delivering a copy of the petition and attachments to the Board of Law Examiners at their offices in the Minnesota Judicial Center.

Brian Bates
Atty # 218315

Subscribed to and sworn before me
this 13th day of November, 1997

Notary Public
Ramsey County

ANTHONY J. BOHATY
NOTARY PUBLIC-MINNESOTA
My Commission Expires Jan. 31, 2000

BRIAN BATES

ATTORNEY AT LAW

1985 Grand Avenue
Saint Paul, Minnesota 55105

(612) 690-9671

(H)

November 13, 1997

Clerk of Appellate Courts
Minnesota Judicial Center
Saint Paul, Minnesota

RE: In re Petition of Michael Ravnitzky for an Order of the Supreme Court Directing the State Board of Law Examiners to Open Administrative Portions of Board Meetings and Make Administrative Portions of Board Minutes, Past and Future, Available to the Public.

Please find enclosed for filing:

1) Original and 14 copies of Petition with attachments of Michael Ravnitzky;

2) Original and 14 copies of Motion to proceed in forma pauperis;

3) Original Affidavit of service.

Regards,

Brian Bates