March 24, 2011

Joan H. Howarth, Dean
Michigan State University
College of Law
368D Law College Bldg.
E. Lansing, MI 48824

Re: Foreign-Educated Applicants for the New York Bar Examination

Dear Dean Howarth:

Many of the foreign-educated law graduates seeking to take the bar examination in New York do not meet the requirements for eligibility to take the New York bar examination. An increasing number of students who obtain an LL.M. degree at an ABA-approved law school believe that such a degree will qualify them to sit for the New York bar examination only to have their applications denied, either because their foreign education or their LL.M. program did not satisfy the educational eligibility requirements established by the New York Court of Appeals. The purpose of the correspondence is to better inform your institution of the various aspects of New York’s current Rule 520.6 so that your staff may properly advise students regarding New York’s requirements.

The educational eligibility requirements for foreign-educated law graduates are contained in Rule 520.6 of the Rules of the Court of Appeals for Admission of Attorneys and Counselors at Law [22 NYCRR 520.6]. By reference, Rule 520.6 incorporates the eligibility requirements for domestically-educated Juris Doctor applicants contained in Rule 520.3 [22 NYCRR 520.3]. The Rules may be accessed on the Board's website at http://www.nybarexam.org/Rules/Rules.htm.

Rule 520.6 has four major eligibility requirements:

1. Qualifying Degree (520.6[b][1]). The foreign-educated applicant must have fulfilled the educational requirements for admission to the practice of law in the foreign country. The applicant must have a qualifying degree, which must be a degree in law.

2. Accreditation (520.6[b][1]). The qualifying degree must be from a school recognized by a competent accrediting agency of the government of the foreign country and be deemed qualified and approved.

3. Durational Equivalence (520.6[b][1]). The applicant’s period of law study must be successfully completed and be "substantially" equivalent in duration to a full-time or part-time
program required at an ABA-approved law school in the United States. The definition of a full-time or part-time program is contained in Rule 520.3(d) and (c).

4. **Substantive Equivalence (520.6[b][1][i]).** The foreign country's jurisprudence must be based upon the principles of the English Common Law, and the program and course of study must be the "substantial" equivalent of the legal education provided by an ABA-approved law school in the United States. The specific instructional requirements are contained in Rule 520.3(e).

An applicant who was educated in a common law country or a non-common law country and whose legal education was not of sufficient duration or was not substantively equivalent to an ABA-approved law school program may cure either the durational deficiency or the substantive deficiency (but not both) by successfully completing a full-time or part-time program consisting of at least 20 semester hours of credit, or the equivalent, in professional law subjects (the "cure provision") (22 NYCRR 520.6(b)(1)(ii)). This course of study must include basic courses in American law. The Rule 520.6 program must be conducted at an ABA-approved law school in the United States. Credits obtained on foreign campuses will not qualify.

The following is a synopsis of how the Board of Law Examiners and the Court of Appeals interpret and apply the "cure provision":

1. The phrase "basic courses in American law" requires at least two courses in subjects tested on the bar examination, or if not tested on the examination, the courses must be approved in advance by the Court of Appeals.

2. The 20 credit hour program must take place over the course of a full academic year (two or more academic semesters) in order for those students to acquire meaningful exposure to an American law school community and be provided sufficient time for the reflective study of law. Accelerated programs and programs conducted exclusively during the summer are not recognized.

3. The program must be successfully completed.

4. All of the courses must be taken at an ABA law school campus located within the United States.

5. Courses offered on-line or electronically, correspondence courses, and other distance learning courses are not recognized. Credits earned in directed research or independent study do not count toward the 20-credit minimum.

All foreign-educated applicants are now required to complete an online Request for Evaluation Form in advance of applying to sit for the bar examination. We encourage applicants to request early evaluation of their foreign educational credentials and their anticipated course of American law study at least one year in advance of their application to sit for the bar examination. The Online Foreign Evaluation Form may be found at: [https://www.nybarapply.org/feval/](https://www.nybarapply.org/feval/).
Beginning with the July 2011 examination, foreign-educated applicants who have "cured" a substantive or durational deficiency at an ABA-approved law school will be required to file the enclosed Certificate of Attendance Form, certified by the ABA-approved law school they attended, along with a copy of their transcript. An electronic fillable version of this form will be available on our website when the application period opens on April 1.

Please be aware that the Board is contemplating making the following recommendations to the Court of Appeals for modification of the "cure provision" of Rule 520.6. These modifications include:

a) Requiring an LL.M. degree (no certificate programs);

b) Increasing the minimum credit hours from 20 to 24;

c) Requiring a period of instruction of no fewer than two semesters (again, not exclusively during the summer) of at least 13 weeks each, or the equivalent, exclusive of reading periods, examinations and breaks;

d) Requiring: (i) a course in legal research, writing and analysis; (ii) a course in American legal studies, the American legal system or a similar course; (iii) at least three courses in subjects tested on the New York bar examination;

e) Mandating completion of the program within 24 months of matriculation.

The Board will advise you when and if these modifications are adopted.

The Board's objective is to reduce the number of foreign-educated students who are unable to qualify to sit for New York's bar examination despite completion of a period of study at an at ABA-approved law school. To further this goal, the Board hopes that you will (1) distribute a copy of this letter to all staff members responsible for processing and admitting foreign-educated students into your LL.M. or certificate programs; (2) review your prescribed curriculum for LL.M. and certificate programs offered to foreign-educated students intending to take the New York bar examination to ensure compliance with Rule 520.6; (3) inform foreign-educated students intending to sit for the New York bar examination about the advance evaluation requirement; and (4) inform your students regarding the new Certificate of Attendance form that will be required for the July 2011 examination.

Thank you for your attention and assistance.

Very truly yours,

[Signature]

John J. McAlary
Executive Director

Enclosure
20-CREDIT PROGRAM CERTIFICATE OF SUCCESSFUL COMPLETION
FOR COMPLIANCE WITH RULE 520.6(b)(1)(ii) or (b)(2)

Instructions for Applicants: If you are required to complete a 20 credit program of study at an ABA-approved law school in the United States as required under Section 520.6 of the Rules of the Court of Appeals of the State of New York you must complete this form and submit it for certification by an authorized official at the ABA-approved law school attended. The law school must submit this form directly to the Board office together with an official transcript. The completed form and transcript must be received at the Board office no later than February 1st for the February examination and no later than June 15th for the July examination.

1. Name: ____________________________________________  2. BOLE ID: __________________
   Last               First               Middle

PROGRAM OF STUDY

3. ABA-Approved Law School: ________________________________

4. Program of Study (i.e., LLM, Master of Law, SJD) ________________________________

5. I was in good and regular attendance and took and successfully completed the prescribed course of instruction required at the above named law school and duly graduated with the degree/certificate of __________________________ on the ______ day of __________________________ 20_____.

6. For each semester/term attended indicate below the dates of attendance for that semester/term (mm/dd/yyyy) and circle whether you were enrolled full-time or part-time.

   From ___ / ___ / ___ to ___ / ___ / ___       FT or PT
   From ___ / ___ / ___ to ___ / ___ / ___       FT or PT
   From ___ / ___ / ___ to ___ / ___ / ___       FT or PT
   From ___ / ___ / ___ to ___ / ___ / ___       FT or PT

7. Coursework: I was enrolled and successfully completed the following courses as part of the program of study. [You must indicate the credit hours for each course and indicate with an “X” whether the course was a “basic course in American law.”]

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8. **Location Attended:** Did you attend all courses at the ABA-approved law school campus located within the borders of the United States?  □ Yes  □ No If any of the courses were taken at a campus located outside the borders of the United States then you should answer “NO” and list the courses and locations below.

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9. **Online/Distance/Correspondence Study:** Was any part of your law school study completed by online study, distance study, correspondence study or electronically on DVD or other media?  □ Yes  □ No If you answered “Yes” list the courses and indicate the mode of study (i.e., online, distance, correspondence, DVD).

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10. **Applicant Certification:** By my signature below, I certify under penalty of perjury, that all of my answers on this form are true and accurate in all respects to the best of my knowledge and understanding.

______________________________  __________________________
Applicant Signature  Date

______________________________

**LAW SCHOOL CERTIFICATION**

The undersigned, being a duly authorized official of ____________________________, hereby certify to the New York State Board of Law Examiners that the all of the information contained in this form, including applicant’s period of attendance, prescribed course of instruction and successful completion, is true and accurate. I further certify that the above named applicant was duly graduated from this law school with the degree/certificate of ____________________________ on the ______ day of _______.

WITNESS my hand and the seal of said Law School at ____________________________,
this ______ day of ____________, 20____.

(SEAL)  Dean or other officer authorized to sign