February 20, 2019

Section of Legal Education and Admissions to the Bar Council
c/o Barry Currier
American Bar Association
321 N. Clark Street
Chicago, IL, 60654

Dear Mr. Currier and Council members,

I write on behalf of the Young Lawyers Section of the Maryland State Bar Association (MSBA YLS), representing approximately 3,700 young lawyers from across the state of Maryland. I write to emphatically express the Section’s opposition to the proposed changes to Standard 316 that were encapsulated in Resolution 105 at the American Bar Association’s 2019 Midyear Meeting. At the MSBA YLS Council Meeting on January 23, 2019, and again at the Assembly of the ABA’s Young Lawyers Division (YLD) on January 26, 2019, young lawyers rejected the argument that these changes are needed at this time. We ask you to take under consideration our opposition and the resounding opposition from the Midyear Meeting, and defer action on modification of Standard 316 until such time that the Section of Legal Education and Admissions to the Bar Council (Legal Education Council) has more adequately studied this matter.

In extensive discussion prior to the Midyear Meeting over the proposed actions, the Council for MSBA YLS identified several critical issues:

- **No changes since 2017:** the MSBA YLS, and indeed other groups, were surprised by the action of the Legal Education Council in bringing the proposed modifications before the House of Delegates for a second time. No advance notice was publicly provided that the resolution would be brought before the House, nor was there any substantive opportunity for comment or discussion since the House last rejected these proposals. As the Legal Education Council has well become aware by now, they have repeatedly encountered difficulty with young lawyers, both through the YLD and through affiliate young lawyers’ groups – and yet much needed transparency around the resolution still has not been provided.

- **Uniform Bar Exam:** In the “Standard 316 Memorandum,” released at the time that the Legal Education Council announced that it would bring Standard 316 revisions back to the Midyear 2019 meeting of the House, the Memo states that part of the reason for bringing the revisions now, again, is that “several state bar admissions processes have become UBE jurisdictions.” Maryland is one of these jurisdictions; we are administering our first Uniform Bar Exam in July 2019. While both of the law schools in our state are currently not in danger of being out of compliance with the proposed revised Standard 316, the UBE actually adds a factor of uncertainty into the equation. Over the last four years, more than 20 jurisdictions have adopted the UBE, and many have wondered whether a decline in bar passage can be attributable to the UBE, to lessened admissions scores, or to some other factor. With such a huge shift in the bar exam process, both in Maryland and nationwide, over the last few years, there is no need to take the leap on this
change right now. Consideration of the proposed revisions would be more prudent, to the extent that UBE adoption is a factor in the current timing of this revision, once the UBE has been in adopted for a sufficient time period to provide more relevant data.

- **Impact on Diversity of the Profession:** The Legal Education Council identified that one of the concerns of the House from 2017 is that the resolution may have a “disproportionate impact on minority students . . . and that the [Legal Education] Council had not done a sufficient study to ascertain the extent to which that was so.” In response, the Legal Education Council put forward the results of a voluntary survey, to which only 92 schools—less than half of the ABA accredited law schools in the nation—responded. Furthermore, the few respondents included only a small section of those institutions that could be potentially impacted (e.g., only 3 of 6 HBCU law schools and only 11 of 21 ABA approved schools in California). If a lawyer relied on data that provided only half the picture in any brief, pleading, or argument, the credibility of the data and conclusions to be drawn from it would quickly be challenged. The situation before us is no different. Absent more definitive data that suggests that the change is needed now, we urge more study before taking action.

These points are not ours alone. They were echoed by the Clinical Legal Educators Association (CLEA) and by speakers in the YLD Assembly, as well as in the House of Delegates. The YLD Assembly felt so passionately about this point at the Midyear meeting that they voted to bind their delegates to vote no in the House, and multiple young lawyer speakers rose to argue in opposition in the House. The House has resoundingly voted to reject this proposal twice.

We understand that the Legal Education Section Council is entitled to make the revisions to Standard 316 on its own under the consent decree and the ABA constitution. Nonetheless, we urge the Legal Education Council to defer action until more study is conducted.

Thank you for your consideration.

Respectfully,

Christopher Jennison, Member At-Large, YLS
On behalf of the MSBA YLS Council and Executive Committee

cc:
Hon. Pamila Brown, Maryland State Delegate
Hon. Keith R. Truffer, President, MSBA
Dana O. Williams, President Elect, MSBA
Victor Velazquez, Executive Director, MSBA