To: ABA Entities, Courts, State and Local Bar Associations, Affinity Organizations, Law Schools, and Individuals

From: Paula J. Frederick, Chair
ABA Standing Committee on Professional Regulation

Re: Comment Draft Resolution on Proactive Management-Based Regulation

Date: March 6, 2019

The ABA Standing Committee on Professional Regulation (“Committee”)\(^1\) seeks your comments on the attached draft Resolution and Report urging state supreme courts to study and adopt jurisdictionally appropriate Proactive Management-Based Regulation (“PMBR”) Programs. We developed this proposal with the Young Lawyers Division (“YLD”) Ethics and Professionalism Committee. The YLD Assembly adopted a PMBR Resolution developed by both entities at its 2019 Midyear Meeting. After incorporating comments, we plan to file this Resolution for consideration by the ABA House of Delegates at the 2019 Annual Meeting. We believe it is timely and furthers the ABA’s commitment to improving lawyer practice and protecting the public.

PMBR is a systematic approach to help lawyers develop ethical infrastructures that will, to the extent possible, prevent misconduct and the resulting need for involvement with the lawyer disciplinary process. PMBR programs are not one-size-fits-all, and therefore afford to courts desired flexibility in designing initiatives best suited to their jurisdictions.

The Committee has been studying PMBR since 2015. We have held three geographically diverse PMBR Workshops, convened roundtables, presented to the National Conference of Bar Presidents, updated the Conference of Chief Justices, and developed a PMBR web resource.\(^2\) Illinois and Colorado recently adopted PMBR initiatives as part of their focus on prevention instead of prosecution (with positive feedback to date). Several other U.S. jurisdictions are studying and determining whether to adopt PMBR programs. PMBR has been adopted with good results in Australia and some Canadian provinces.

Your views are important to us. We want to hear from you before we file the final version of the Resolution and Report with the House. Please email your comments **by April 15, 2019** to Regulation and Global Initiatives Counsel Ellyn S. Rosen at ellyn.rosen@americanbar.org. Comments may be posted to the Committee’s website.

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\(^1\) The Committee’s diverse membership consists of regulators, lawyers who represent other lawyers in disciplinary and malpractice matters, small and large firm practitioners, and academics. Liaisons from the National Organization of Bar Counsel and Association of Professional Responsibility Lawyers also participated in the development of this proposal.

\(^2\) [https://www.americanbar.org/groups/professional_responsibility/scpd_cpr_pmbr_web_resource/](https://www.americanbar.org/groups/professional_responsibility/scpd_cpr_pmbr_web_resource/).