MEMORANDUM

DATE: January 19, 2018

TO: Dean Maureen O’Rourke, Chair
    Barry Currier, Managing Director
    Members of the Council

FROM: Judith A. Gundersen, President
      National Conference of Bar Examiners

RE: Report from NCBE

Thank you for inviting me to your meeting. I am honored to attend and am pleased that the Hon. Rebecca White Berch (ret.), the current chair of NCBE and well known to the Council, will be joining me.

UBE
Thirty jurisdictions have now adopted the Uniform Bar Exam (UBE), which is composed of the Multistate Essay Exam (MEE), the Multistate Performance Test (MPT), and the Multistate Bar Exam (MBE). The latest two jurisdictions to adopt are North Carolina (effective February 2019) and Maryland (effective date TBD, but not before July 2019). Massachusetts will administer its first UBE in July 2018. Adoption of the UBE is under consideration in other jurisdictions as well, including Tennessee and Ohio. (See the Facts & Figures page from the latest issue of The Bar Examiner for map.)

Bar Exam Facts & Figures
The Facts & Figures page attached also shows the national mean scores on recent administrations of the MBE and MPRE (Multistate Professional Responsibility Exam) and the number of examinees sitting for these exams in 2017. The national mean on the MBE has increased on each of the last two July bar exams. We look forward to the February 2018 exam, but February results are typically harder to predict and always have lower average performance than in July because of the higher percentage of retake applicants in February. We are pleased to hear that many law schools have improved their bar passage rates. We will have a breakout session at our Annual Conference this April devoted to strategies for raising bar exam scores.
New Initiatives at NCBE
This past fall we hosted a multiple-choice question (MCQ) writing workshop for 37 law school faculty members who teach MBE subjects. The workshop was led by Professor Tim Davis of Wake Forest University School of Law and Dean Emerita Mary Kay Kane of UC-Hastings College of Law. Professor Davis and Dean Kane taught attendees how to write high-quality MCQs for use as formative assessment in the classroom. (See attachment.)

NCBE is taking steps to ensure that our exams remain robust, relevant, and reliable. We have engaged a firm to work with us on a series of small-scale validity studies. These studies are aimed at generating future-focused data about content that should be tested on the bar exam. We expect that these studies will inform preparations for our next full-scale job analysis. (NCBE conducted a full-scale job analysis in 2012; we anticipate completing the next full-scale analysis by no later than 2022.) The purpose of these studies and of a job analysis is to ensure that bar exam content aligns with the knowledge, skills, and abilities newly licensed lawyers need to enter the profession. You can expect to learn more about these studies in upcoming issues of The Bar Examiner and via our educational efforts. Our first focus group study is planned for spring.

We are also exploring migrating the MPRE to computer-based testing (CBT). While we are in the early stages of studying CBT, we are excited about the possibilities of an enhanced testing experience for examinees, among other benefits, with no downside for the state bar admissions staff, examiners, and courts that rely upon MPRE scores in admitting applicants to the bar.

NCBE aims to be a proactive communicator of bar admissions and examination-related news and information, and an accessible source for education, especially on measurement issues. We are directing resources toward enhancing communications to stakeholders, improving our website (www.nebex.org), moving The Bar Examiner to HTML, and offering e-subscriptions to that publication.

External Collaboration
NCBE staff members have met with members of the ABA Commission on the Future of Legal Education and the Task Force on the Texas Bar Exam, and will attend the AccessLex Mayflower Meeting in May. NCBE looks forward to assisting these groups in their work to the extent possible without compromising our responsibility to jurisdictions and examinees to maintain exam security, safeguard proprietary information, and adhere to best practices in the high-stakes testing context.

Upcoming Events
Our annual educational program will be held in April in Philadelphia. At the present time, there are 43 state supreme court justices and 300+ bar examiners and bar admission office staff members registered from every U.S. jurisdiction. Attached is a copy of the program, which includes sessions on legal education and presenters from the ABA, the ABA Commission on the Future of Legal Education, NALP, LSAC, and several law school faculties.

jag/af
attachments
FACTS & FIGURES

30 UBE* Jurisdictions

27 jurisdictions currently administer the UBE.

3 jurisdictions will begin administering the UBE at a future administration (Massachusetts, July 2018; North Carolina, February 2019; and Maryland, to be determined).

*The Uniform Bar Examination results in a portable score that can be used to apply for admission in other UBE jurisdictions.

46,627 July 2017 MBE Examinees

20,798 November 2017 MPRE Examinees

July 2017 MBE Mean Score 141.7

MBE Mean Score 2015–2017

2015 139.9
2016 140.3
2017 141.7

136.2 135.0 134.1

2015 February 2016 July

STANDARD DEVIATIONS

2015 15.1
2016 15.0
2017 14.7

The values reflect valid scores available electronically as of 12/22/17.

November 2017 MPRE Mean Score 94.1

MPRE Mean Score 2015–2017

2015 97.3
2016 94.6
2017 92.9

1973 1901 1883

2015 March 2016 August 2017 November

STANDARD DEVIATIONS

2015 17.4
2016 17.6
2017 17.1

The values reflect valid scores available electronically as of 12/22/17 on both standard and alternative forms of the MPRE.

The Bar Examiner, Winter 2017-2018 7
Writing Multiple-Choice Questions: A Training Session
September 11–12, 2017 | Madison, Wisconsin

On September 11–12, 2017, NCBE hosted a training session on the subject of writing multiple-choice questions for use as formative assessments in law school classes covering core subjects. The training, which was attended by 37 faculty members representing 23 jurisdictions, each of whom teach a core subject represented on the Multistate Bar Examination (MBE), included hands-on learning about drafting questions as well as some testing basics.

The training session consisted of four segments. The first segment, “Testing Basics and the Function of Multiple-Choice Questions,” was led by NCBE staff members Mark Albanese, Ph.D., Director of Testing & Research; Joanne Kane, Ph.D., Associate Director of Testing; and Andrew Mroch, Ph.D., Research Psychometrician.

It was followed by “Multiple-Choice Questions on the Bar Exam and in the Classroom,” led by Professor Timothy Davis of Wake Forest University School of Law (who attended remotely due to travel complications from Hurricane Irma) and Dean Emerita Mary Kay Kane of Hastings College of the Law of the University of California—both of whose familiarity with the drafting of multiple-choice questions comes from their experience in the development of the MBE—along with NCBE MPRE Program Director Nina Chang and NCBE MBE Program Director Beth Hill.

Professor Davis and Dean Emerita Kane then provided instruction during “The Nuts and Bolts of Drafting Multiple-Choice Questions.”

Chang and Hill, joined by NCBE MEE/MPT Associate Program Director Sonja Olson and four NCBE Test Editors, led the concluding segment, “Small-Group Multiple-Choice Question Drafting Exercises.”

The day of presentations concluded with a wrap-up and discussion session. The training session was videotaped by NCBE to make it available for use by law schools.
SCHEDULE AT A GLANCE

(See next page for breakout session descriptions.)

<table>
<thead>
<tr>
<th>Category</th>
<th>ADA</th>
<th>Bar Admissions</th>
<th>Character and Fitness</th>
<th>Foundations</th>
<th>Legal Education</th>
<th>Legal Profession</th>
<th>Research</th>
<th>Testing</th>
</tr>
</thead>
</table>

THURSDAY, APRIL 19

3:00–6:00 p.m. | Registration
4:00–5:30 p.m. | Roundtable for Supreme Court Justices (Justices only)
5:30–7:00 p.m. | Opening Reception

FRIDAY, APRIL 20

6:30 a.m. | Morning Run/Walk
7:30–8:30 a.m. | Breakfast
8:30–8:45 a.m. | Conference Welcome
8:45–9:45 a.m. | PLenary: In the Queue: Profiles of Applicants, Law Students, and New Lawyers
Barry Currier, James Leipold, Kellye Testy
9:45–10:00 a.m. | Break
10:00–11:00 a.m. | PLenary: Alcohol Abuse, Addiction, Stress, and Other Wellness Challenges to the Legal Profession
Anne Braford, Bree Buchanan, James Coyle, Patrick Krill
11:00–11:15 a.m. | Break
11:15 a.m.–12:15 p.m. | Breakout Sessions (A1–A4)

A1: Crime, Character, and Admissions
Hon. Anne Dranginis TBD

A2: Basic Testing Concepts for Bar Examiners
Joanne Kane, Ph.D.
Andrew Mroch, Ph.D.

A3: New Cases and a New Presidential Administration, But Has Anything Changed?
Robert Burgoyne

A4: So, What Does Raise Bar Exam Scores?
Robert Kuehn
Leo Romero

12:15–1:00 p.m. | Lunch
1:00–2:00 p.m. | PLenary: Sparks! Sessions on Ideas and Innovations
Communicating to the Press
Sophie Martin
LGBTI Judicial Training
Todd Brower
Legal Incubators
Stephanie Everett
Legal Design
Margaret Hagan
Washington
LLLT
Steve Crossland
Computer-Based Testing
Douglas Ripkey
Why the GRE?
University of Arizona

2:00–2:15 p.m. | Break
2:15–3:15 p.m. | Breakout Sessions (B1–B4)

B1: Character and Fitness — One Jurisdiction’s Approach to Conducting Investigations Through Final Determination
JT Almon
Mark Huntsberger

B2: Prosecuting Cheating Cases
Mark A. Albanese, Ph.D.
Christine Kenefick

B3: Diversity in Recruitment and Enrollment: Implications for the Future
Tiffanie Cochran
Aaron Taylor, Ph.D.

B4: The ABA Commission on the Future of Legal Education
Patricia White

3:15–3:30 p.m. | Break
3:30–4:30 p.m. | Breakout Sessions (C1–C4)

C1: Case Studies in Character and Fitness: A Hands-On Session
Barbara D’Aquilla
Emily Eschweiler

C2: You Grade the Test!
Adisa Harrington
Matthew Samuelson

C3: Primarily Engaged in the Active Practice of Law: Are We Behind the Times?
Sherry Hieber
Bradley Skolnik
Marilyn Wellington

C4: Unpacking the Bar Exam
Timothy Davis
Hon. Cynthia Martin
Alexander Scherr

5:30–6:30 p.m. | Reception

This presentation has been deemed worthy of an encore by past Conference attendees.
<table>
<thead>
<tr>
<th>Category</th>
<th>ADA</th>
<th>Bar Admissions</th>
<th>Character and Fitness</th>
<th>Foundations</th>
<th>Legal Education</th>
<th>Legal Profession</th>
<th>Research</th>
<th>Testing</th>
</tr>
</thead>
</table>

**SATURDAY, APRIL 21**

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
</tr>
</thead>
<tbody>
<tr>
<td>8:00–8:45 a.m.</td>
<td>Breakfast and Welcome</td>
</tr>
<tr>
<td>8:45–9:15 a.m.</td>
<td><strong>PLENARY: Lawyers as Heroes</strong></td>
</tr>
<tr>
<td></td>
<td>Blake Morant</td>
</tr>
<tr>
<td>9:15–10:15 a.m.</td>
<td><strong>PLENARY: Standard Setting Studies: Exploring Frameworks, Timelines, and Methodologies</strong></td>
</tr>
<tr>
<td></td>
<td>Chad Buckendahl, Ph.D.; Michael Kane, Ph.D.</td>
</tr>
<tr>
<td>10:15–10:30 a.m.</td>
<td>Break</td>
</tr>
<tr>
<td>10:30–11:15 a.m.</td>
<td><strong>Breakout Sessions (D1–D4)</strong></td>
</tr>
<tr>
<td></td>
<td>D1: Reading the Signs of Successful Rehab: Evaluating Progress and Developing Standards</td>
</tr>
<tr>
<td></td>
<td>Patrick Krill; William Sease</td>
</tr>
<tr>
<td></td>
<td>D2: A Deeper Dive Into the UBE</td>
</tr>
<tr>
<td></td>
<td>Kellie Early; John McAlary; Andrea Spillers</td>
</tr>
<tr>
<td></td>
<td>D3: The ADA in Practice—What We Are Observing</td>
</tr>
<tr>
<td></td>
<td>Brad Gilbert</td>
</tr>
<tr>
<td></td>
<td>D4: Law School Innovations: Responses to an Evolving Market</td>
</tr>
<tr>
<td></td>
<td>Darby Dickerson; Mark Gordon</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
</tr>
</thead>
<tbody>
<tr>
<td>11:15–11:30 a.m.</td>
<td>Break</td>
</tr>
<tr>
<td>11:30 a.m.–12:30 p.m.</td>
<td><strong>PLENARY: A View from the Courts</strong></td>
</tr>
</tbody>
</table>

**BREAKOUT SESSION DESCRIPTIONS**

- **A1** Recent jurisdiction experiences with applicants with substantial criminal backgrounds and the processes for evaluating their moral character and fitness.
- **A2** Foundations of measurement that every bar examiner should know—reliability, validity, equating, and scaling—and pitfalls to avoid.
- **A3** How does the new presidential administration view the Americans with Disabilities Act?
- **A4** How one law school dramatically increased its bar passage rate in a year and new research exploring the relationship between experiential coursework and bar passage outcomes.
- **B1** From application to final determination, one jurisdiction’s approach to conducting a character and fitness investigation.
- **B2** A dynamic look at building a strong cheating case from test date through prosecution based on observational evidence, data anomalies, and prior experiences.
- **B3** The current and future implications of the downturn in law school enrollments on racial and ethnic stratification and an analysis of LSAC’s Top 240 Applicant Feeder Schools list.
- **B4** The chair of the ABA Commission on the Future of Legal Education discusses key issues and the changing dynamics in legal education.
- **C1** A lively, interactive session of character and fitness scenarios presented in video format with discussion and determinations.
- **C2** Foundations of effective grading of the written components of the bar exam demonstrated in a hands-on essay grading exercise.
- **C3** A collaborative session exploring the traditional criteria for admission on motion and its current relevance in the profession and the rapidly changing legal employment market.
- **C4** Popular misconceptions and their counterarguments surrounding the purpose, integrity, scope, and composition of the bar exam.
- **D1** A foundation session on developing standards and processes for evaluating applicant progress in substance abuse treatment programs.
- **D2** An exploration of beyond-the-basics UBE policies such as concurrent applications, courtesy seating, and retime limits. How such policies can be implemented and why jurisdictions might choose not to adopt them.
- **D3** Case studies and data that identify the trends in law school and MPRE accommodations that will soon be at the bar admissions doorstep.
- **D4** Thought leaders in legal education discuss groundbreaking programs and approaches they have taken in their institutions to address the changing market.