MEMORANDUM

DATE: August 2, 2019

TO: Dean Emeritus and Professor Jeffrey Lewis, Chair
    Barry Currier, Managing Director
    Members of the Council
    Section of Legal Education and Admissions to the Bar

FROM: Judith A. Gundersen, President

RE: Report from NCBE

Thank you for inviting NCBE to attend your August meeting to report on NCBE’s recent activities.

**July 2019 Bar Exam**

As you heard, the State Bar of California inadvertently released its essay topics and performance test task on July 27, three days BEFORE administration of the locally written portion of the California bar exam. The state bar’s press release noted that on July 25, it had sent the essay exam topics to 16 California law school deans invited to a grading calibration session—an email that apparently routinely goes out AFTER the exam is administered. The state bar noted that, while it did not think that any of the 16 deans had disclosed the topics, it decided to share the topics with all examinees out of an “abundance of caution and fairness.”

None of NCBE’s tests or programs (MBE, MEE, MPT, or UBE) were implicated in this disclosure. NCBE had social media posts up by midday on July 28 and on our websites on July 29 confirming that the security of the bar exam in the rest of the country was not affected by California’s actions. We also alerted all bar admissions authorities on July 28 and confirmed with them that the MEE and MPT topics/tasks were not breached and also that the MBE and UBE were unaffected. NCBE received very few inquiries regarding the incident.

NCBE works in partnership with jurisdictions to ensure all UBE and NCBE test materials remain confidential until *all* examinees have completed testing. We have developed detailed protocols and procedures regarding everything from shipping to seating to collecting and inventorying materials. All confidential communications (including topic areas) with jurisdictions are done via encrypted channels.
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**MPRE**
The Multistate Professional Responsibility Examination (MPRE) will begin transitioning from paper to a computer-based testing format when approximately 4500 examinees take the CBT version of the test on August 10, 2019. We plan to be completely computer-based starting with the March 2020 exam administration. NCBE is working with Pearson VUE on this transition.

**UBE**
Thirty-six jurisdictions have adopted the UBE, and 33 administered it on July 30–31, 2019, including Illinois and Maryland for the first time. (Please see Attachment 1.) To date, 110,809 UBE scores have been earned and 16,970 have been transferred.

**Testing Task Force**
The Testing Task Force concluded Phase 1 of its study and published a First Year Report. An Executive Summary of the stakeholder listening sessions will be available soon on the Task Force’s website. (Over 400 stakeholders participated in the sessions.)

Phase 2 of the study has been under way for several months and centers on a nationwide practice analysis survey, which launched on August 1, 2019. (Please take the survey.) State supreme courts and bar associations from 53 jurisdictions are assisting with the distribution of the survey. The results of the practice analysis, which will be available early next year, will provide empirical data regarding the tasks newly licensed lawyers perform and the knowledge, skills, abilities, and other characteristics they need to accomplish their work, as well as the technology used in law practice.

Phase 3 of the study will focus on program and test components design: the Task Force will rely on the results of Phases 1 and 2, psychometric guidance, and additional stakeholder input as it considers various options for the future bar exam. The study is slated to conclude at the end of 2020.

Please visit the Testing Task Force webpage for more information.

**Annual Bar Admissions Conference**
Our Annual Bar Admissions Conference was held in San Francisco, May 2–5, 2019. Fifty-four jurisdictions were represented by 381 attendees, including 39 state Supreme Court justices, who held their own roundtable session at the opening of the Conference. The Conference offered twenty-two workshops, roundtables, and Testing Task Force listening sessions.

Barry Currier was a presenter at our opening plenary session, and Chief Justice Scott Bales was part of our closing plenary panel, giving the courts’ perspective on admissions. Also note that former Council member Sammy Chang was a speaker. (Please see Attachment 2.)
BarNow™
NCBE recently launched BarNow™, which consists of released test questions in a learning management system that supplies individualized feedback, MEE questions grouped by topics, and simulated MBE tests with new Civil Procedure materials, among other offerings. BarNow™ materials cost a fraction of the price (from $10 to $250) of materials offered by commercial bar prep companies. Law schools can also order bulk subscriptions for the simulated multiple-choice exams for classroom use and can receive examinee performance statistics.

NCBE Academic Support Conference
NCBE will host an invitational academic support/bar prep conference in Madison, September 16–18, in an effort to help bridge the gap between law schools and the bar exam. NCBE Testing staff members and MBE and MPT drafting committee members will train attendees to write high-quality multiple-choice questions for formative assessment and will help attendees understand what essay and MPT graders seek in bar exam answers. Given the recent revision of ABA Standard 316, we think the timing is good for this outreach. We have over 75 participants attending.

Board Leadership
With heartfelt thanks to outgoing board member Hon. Rebecca White Berch, NCBE is pleased to announce our 2020 Board leadership:

Hon. Cynthia L. Martin (Chair)
Michele A. Gavagni (Immediate Past Chair)
Hulett H. (Bucky) Askew (Chair-Elect)
Suzanne K. Richards (Secretary)

Additionally, we welcome new board member Justice Ann Scott Timmer of Arizona.

Additional Information
The Bar Examiner website is the online version of our print magazine. Visit the website (https://thebarexaminer.org/) or subscribe here: https://thebarexaminer.org/subscribe/.

NCBE is now on Twitter, LinkedIn, Facebook, and Instagram. Please follow us!
Jurisdictions that have Adopted the UBE (as of May 10, 2019)*

*Illinois and Maryland will begin administering the UBE in July 2019. Ohio will begin administering the UBE in July 2020. Texas will begin administering the UBE in February 2021. Arkansas will begin administering the UBE in February 2020.
### SCHEDULE AT A GLANCE

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#### THURSDAY, MAY 2

- **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, MAY 3

- **6:30 a.m.** Morning Run/Walk
- **7:00–8:15 a.m.** The Next Generation of the Bar Exam: Share your ideas and opinions about whether and how the bar exam should change in this interactive discussion led by one of the NCBE Testing Task Force’s research consultants.
  - **Special Note:** The 7:00–8:15 a.m. session and the 3:00–4:30 p.m. workshop are identical—you should attend only one.
- **8:00–9:00 a.m.** Breakfast and Conference Welcome
- **9:00–10:30 a.m.** PLENARY: Cast of Characters: The Good, the Bad, and the . . .
  - Mark Albanese, Ph.D.; Barry Currier; Camille deJorna; James Leipold
- **10:30–10:45 a.m.** Break
- **10:45 –11:45 a.m.** Breakout Sessions (A1–A4)
- **11:45 a.m.–12:45 p.m.** Lunch
- **12:45–1:30 p.m.** PLENARY: Sparks! Sessions on Ideas and Innovations
  - The Homeless Rights Advocacy Project
    - Sara Rankin
  - Mental Health First Aid
    - Kristene Smith
  - Gender and Sexual Orientation Categories
    - Josiah Evans, Ph.D.
  - Computer-Based Testing Update
    - Theresa Healy
- **1:30–1:45 p.m.** Break
- **1:45–2:45 p.m.** Breakout Sessions (B1–B3)
- **2:45–3:00 p.m.** Break
- **3:00–4:30 p.m.** Workshops: A hybrid of presentation and hands-on exercises
  - 1: Case Studies in Character and Fitness
    - Barbara D’Aquila
    - Emily Eschweiler
  - 2: Evaluating Communication in Writing and Why We Should Care
    - Adisa Harrington
    - Joëlle Moreno
  - 3: Communicating To and Through the Press
    - Sophie Martin
    - Sheila Shanks
  - 4: The Next Generation of the Bar Exam
    - See 7:00 a.m. session for description.
- **5:30–6:30 p.m.** Reception

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**Note:** This presentation has been deemed worthy of an encore by past Conference attendees.
**SCHEDULE AT A GLANCE**

*See page 3 for descriptions of breakout sessions and workshops.*

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**SATURDAY, MAY 4**

- 7:30–8:30 a.m. Breakfast and Welcome
- 8:30–9:30 a.m. **PLENARY**: Cast of Characters: Who Are the Millennials and Generation Z?
  - Gicine Brignola, Sammy Chang, Laura Graham
- 9:30–10:15 a.m. **PLENARY**: The Price of Entry: Law School Enrollment, Costs, Tuition, and Bar Passage
  - Kyle McEntee, Jerry Organ
- 10:15–10:30 a.m. Break
- 10:30–11:30 a.m. Breakout Sessions (C1–C4)
  - C1: Current Issues in Character and Fitness
    - Link Christin
    - Hon. Thomas Durkin
    - Jill Thomas
  - C2: Emerging Technologies in Cheating Detection and Prevention
    - Rachel Schoenig
    - Jennifer Semko
  - C3: The ADA in Practice: What We Are Observing in Law and Medicine
    - Dwan Bovell
    - Brad Gilbert
  - C4: Beyond the Bachelor’s and Before the JD: What Undergraduates Think
    - Jeff Allum
    - Judith Areen
- 11:30–11:45 a.m. Break
- 11:45 a.m.–12:30 p.m. **PLENARY**: A View from the Courts
  - Hon. Scott Bales, Hon. Paula Nakayama, Hon. Jenny Rivera

**SUGGESTED TRACKS**

*See page 3 for descriptions of breakout sessions and workshops.*

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<td>For those interested in character and fitness: A1, B1, Workshop 1, C1</td>
<td>For those whose focus is testing: A2, B3, Workshop 2, C2</td>
<td>For big-picture, future-focused thinkers: A4, B3, Workshop 3 or 4</td>
<td>For those seeking to understand and address the justice gap: A4, B2, C4</td>
<td>For those interested in the Americans with Disabilities Act: A3, C3</td>
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