MEMORANDUM

DATE: February 6, 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
National Conference of Bar Examiners

RE: Report from NCBE

Thank you for inviting NCBE to attend your February meeting. I am honored to make a presentation about NCBE’s activities since your last meeting.

UBE
The UBE has currently been adopted in 35 jurisdictions (see attachment 1). The Texas Supreme Court just announced that Texas’s first UBE administration will be in February 2021. In February 2019, North Carolina, Rhode Island, and Tennessee will administer their first UBEs.

As of January 1, 2019, 101,116 UBE scores have been earned and 13,480 scores have been transferred. Please see attachment 2 for more UBE information.

The February 2019 bar exam is scheduled for February 26–27, 2019.

November 2018 MPRE Results
In November 2018, 20,580 examinees took the MPRE, down about one percent from 20,798 examinees in November 2017. The November 2018 MPRE mean was 95.5, an increase of 1.4 points from the November 2017 average and the highest mean since November 2015 (see attachment 2).

Testing Task Force
Our Testing Task Force is in the first two stages of its comprehensive, future-focused study to ensure that the bar examination continues to test the knowledge, skills, and abilities required for competent entry-level legal practice in the 21st century. The initial phase of the study, conducted by ACS Ventures LLC (http://www.acsventures.com/), is focused on gathering stakeholder input about the bar examination. In November, the first bar exam stakeholder focus groups took place in Denver with members of the
Council of Bar Admission Administrators (CBAA). In January, stakeholder focus groups were held at the Association of American Law Schools (AALS) Annual Meeting, the UBE Jurisdiction Forum, and the ABA Midyear Meeting. Additional stakeholder meetings will be held at NCBE’s Annual Bar Admissions Conference in May and with other groups later in 2019.

The second phase of the study, a future-focused practice analysis conducted by the American Institutes for Research (AIR) (https://www.air.org/), will identify the job activities (tasks) of newly licensed lawyers and the knowledge, skills, abilities, and other characteristics (KSAOs) required to perform them. The first steps of this second phase, which involve meeting with subject matter experts and newly licensed lawyers, begin this month.

In the third phase of the study, ACS will use the information obtained in the first two phases to develop multiple options for program design, taking into account stakeholder perspectives and needs, logistical issues, best practices in high-stakes testing, and fidelity to the practice of law.

For more information on the details of the study and its projected timeline, please see the Overview of NCBE’s Testing Task Force Study (attachment 3) or visit the Task Force website (https://www.testingtaskforce.org/research/) and subscribe for updates.

Educational Programming
We will convene our semi-annual MEE and MPT Grading Workshop in Madison, Wisconsin, on March 1–2 immediately following the February bar exam. We have remote participation options, including conference calling and on-demand viewing. These flexible participation options allow over 400 graders to participate in training.

And, as mentioned above, our Annual Bar Admissions Conference is scheduled for May 2–5, 2019, in San Francisco.

NCBE Collaboration
On February 7–8, we are co-sponsoring a conference with LSAC entitled Best Practices in High-Stakes Testing: What Legal Educators Need to Know. The conference will be focused on innovative ways to measure student success. We will discuss a range of measurement topics, including bar preparation, job and skills analyses, test development, standard setting, validity and reliability, and outcomes assessments. For more information, visit the conference website: Best Practices in High-Stakes Testing: What Legal Educators Need to Know.

NCBE is also working with BenchPrep (https://benchprep.com/) to replace our current bar exam study aids with an online learning management system that offers high-quality and interactive study aids at an affordable price in an effort to democratize bar preparation. We already offer free and low-cost materials, but their formats are limited. We hope to have the new materials available this spring.

NCBE on Social Media
NCBE is now on Twitter, LinkedIn, Facebook, and Instagram. Please follow us!

jag/ltm
attachments
Adoption of the Uniform Bar Examination (UBE)
January 29, 2019

JURISDICTIONS NOT SHOWN ON MAP
Guam
Northern Mariana Islands
Palau
Virgin Islands (eff. 7/17)

LEGEND
- Adopted UBE

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**UBE* Scores Earned and Transferred**
as of January 1, 2019

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

**November 2018 MPRE**

**20,580** November 2018 MPRE Examinees

<table>
<thead>
<tr>
<th>Year</th>
<th>March Exam</th>
<th>August Exam</th>
<th>November Exam</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>17,699</td>
<td>16,699</td>
<td>19,888</td>
</tr>
<tr>
<td>2015</td>
<td>16,800</td>
<td>19,601</td>
<td>23,160</td>
</tr>
<tr>
<td>2016</td>
<td>16,480</td>
<td>19,821</td>
<td>20,260</td>
</tr>
<tr>
<td>2017</td>
<td>17,326</td>
<td>20,798</td>
<td>20,346</td>
</tr>
<tr>
<td>2018</td>
<td>16,651</td>
<td>20,580</td>
<td></td>
</tr>
</tbody>
</table>

**MPRE Mean Score 2014–2018**

<table>
<thead>
<tr>
<th>Year</th>
<th>March Exam</th>
<th>August Exam</th>
<th>November Exam</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>93.1</td>
<td>92.9</td>
<td>94.5</td>
</tr>
<tr>
<td>2015</td>
<td>93.5</td>
<td>92.7</td>
<td>94.6</td>
</tr>
<tr>
<td>2016</td>
<td>93.0</td>
<td>93.7</td>
<td>94.5</td>
</tr>
<tr>
<td>2017</td>
<td>93.0</td>
<td>92.7</td>
<td>94.1</td>
</tr>
<tr>
<td>2018</td>
<td>93.0</td>
<td>93.7</td>
<td>95.5</td>
</tr>
</tbody>
</table>

MPRE scores are reported on a scale ranging from 50 to 150. The values reflect valid scores available electronically as of 1/11/19 on both standard and alternative forms of the MPRE.
Overview of NCBE’s Testing Task Force Study

The Testing Task Force is undertaking a comprehensive, future-focused study to ensure that the bar examination continues to test the knowledge, skills, and abilities required for competent entry-level legal practice in the 21st century. The study will consider the content, format, delivery method, and timing of the bar examination and the MPRE, and it will be done collaboratively, with input from stakeholders solicited throughout the study.

The Task Force has selected two independent research consulting firms—ACS Ventures LLC (ACS) and American Institutes for Research (AIR)—to support its study. ACS is a psychometric consulting firm that focuses on test design, operational support, and quality assurance within the credentialing, education, and workforce sectors. AIR is a nonprofit behavioral and social science research organization that specializes in analyzing job requirements.

The goal of the Task Force’s study is to develop a set of recommendations for the NCBE Board of Trustees that is supported by the research data gathered by its consultants and that takes into consideration logistical and psychometric requirements along with stakeholder input to lay the groundwork for the next generation of the bar examination. The study will proceed in overlapping phases, with each phase building on the previous ones.

PHASE 1: Stakeholder Research

The initial phase of the study, conducted by ACS, will focus on gathering stakeholder input about the bar examination. During this phase, ACS will conduct a series of focus groups and listening sessions with stakeholders (e.g., bar admission agencies, state supreme courts, bar leaders, legal educators, law students, practitioners) to gather information about uses and perceptions of the bar examination and ideas and opinions about the future direction of the bar examination in a changing legal profession. This phase will begin in November 2018 and will overlap with the beginning of Phase 2.

PHASE 2: Future-Focused Practice Analysis

Some results of the first phase of the study will help inform the second phase, a future-focused practice analysis conducted by AIR to identify the job activities (tasks) of newly licensed lawyers (NLLs) and the knowledge, skills, abilities, and other characteristics (KSAOs) required to perform them. The practice analysis will be comprehensive and systematic, based on multiple sources of job knowledge (e.g., new practitioners, supervisors, legal subject matter experts) and using multiple methods to obtain input (e.g., focus groups and surveys). It will address both the current state of the profession and expected changes to the profession in the coming years to accurately identify the critical knowledge, skills, and abilities required for competent entry-level practice now and in the future.

The practice analysis will consist of five steps, each designed to allow multiple opportunities for subject-matter experts to provide input and to build on the work done in the preceding steps. The first step is already under way.

1. Conduct environmental scan. AIR will review the results of the 2012 NCBE practice analysis and other available studies, reports, articles, books, websites, and online databases to develop an initial list of tasks of NLLs and the KSAOs needed to perform those tasks.
2. **Conduct focus groups.** AIR will conduct multiple focus groups to ask practitioners and experts about changes to the field and the future direction of the profession. AIR will also work closely with various subject matter experts, NLLs, and supervisors to refine the list of tasks and KSAOs to develop the future-focused practice analysis survey.

3. **Administer future-focused practice analysis survey.** AIR will develop an updated inventory of tasks and KSAOs informed by the first two steps and will administer a nationwide web-based survey presenting this inventory to licensed lawyers in their first five years of practice, and their supervisors, for their input. Survey respondents will provide ratings on job tasks and KSAOs that will help determine criticality to entry-level practice.

4. **Conduct linkage exercises.** AIR will conduct meetings with subject matter experts to link the critical tasks identified in the survey results to the corresponding KSAOs needed to complete each task. The purpose of the linkage exercise is to identify which KSAOs are necessary for completing the most critical work entry-level lawyers perform.

5. **Prepare practice analysis technical report.** Finally, AIR will prepare a technical report that documents its methodology, analyses, and final list of critical tasks and KSAOs. The report and the results from this study will provide the foundation for decisions regarding any future changes to the bar examination and its test specifications.

We anticipate that this phase of the study will be completed in early 2020.

**PHASE 3: Bar Examination Program Design and Test Components Design**

In this phase of the project, ACS will use the information collected in the first two phases to develop multiple options for program design, taking into consideration stakeholder perspectives and needs, logistical issues, best practices in high-stakes testing, and fidelity to the practice of law (representation of the professional framework of expected competencies). ACS will lead an iterative process where the Testing Task Force reviews and considers program design options and solicits comments from stakeholders. The program design plan is expected to delineate the number of exam components, the domains that each component will cover, and the expected path/relationship among the components (e.g., pass exam A before exam B, domain-specific versus general skills). ACS will then use the program design to develop recommendations for test components design. Test components design involves decisions about the measurement format, test administration plans, and scoring strategy. The test components design will present a structured plan for the development, delivery, and maintenance of each proposed test component. We anticipate that this final phase of the study will be completed by the fall of 2020.

As the study progresses, the Task Force will publish summaries and reports of findings on its website. The Task Force expects that its study will produce useful information for the benefit of all, including data and insights about core competencies that could be adopted by other stakeholders such as law schools, bar associations, employers, and others involved in ensuring that newly licensed lawyers are prepared to practice effectively and safely.

**STUDY TIMELINE (September 2018 – September 2020)**