
by Arturo Torres and Bryan J. Guymon

This bibliography is meant to be a resource for academics, bar examiners, students, and others who are interested in finding leading articles written about the bar examination and/or admission to the bar. It is an update of three period-specific bibliographies printed in The Bar Examiner.1 The current bibliography includes applicable articles published in U.S. law reviews and The Bar Examiner between 1998 and 2007.

We performed searches in Westlaw’s Legal Resource Index (electronic companion to Current Law Index), LEXIS’s Legal Resource Index, and the Index to Legal Periodicals and Books, via Wilson Web. Searches using “bar examination,” “bar exam!,” “admission to the bar,” and “bar admissions” along with an appropriate date qualification were performed and the results reviewed by the authors for relevancy and applicability. Any non-academic publications, with limited exceptions including The Bar Examiner, were excluded at this point. We then annotated the remaining articles. Finally, we examined the footnotes of each selected article for additional relevant citations.

We examined each selected article and assigned it to one of two broad categories—The Bar Examination or Admission to the Bar. We then filed each article into a specific subcategory. Some of these subcategories were adopted from the 1989–1997 bibliography, and other subcategories are new. For any article that fit into more than one subcategory, we determined the principal subject and assigned the article accordingly.

Finally, although we have aimed for comprehensiveness, it is possible that we have inadvertently overlooked some excellent pieces, and for that, we apologize in advance. Readers are invited to call our attention to any relevant work for possible inclusion in a future update.

I. THE BAR EXAMINATION

A. In General

Barkan, Steven M., Should Legal Research Be Included on the Bar Exam? An Exploration of the Question, 99 LAW LIBRARY JOURNAL 403 (Spring 2007).

Articulates various reasons why legal research should be included on the bar examination and why doing so would lead to new admittees’ having better legal research skills.

Case, Susan M., Licensure in My Ideal World, 74 BAR EXAMINER 26 (November 2005).

The ideal bar examination is the subject of this essay, which concludes that no one test format should be used in isolation, but that various formats should be combined.


Arguing for the status quo and against the Society of American Law Teachers (SALT)'s alternative proposal to the traditional bar examination.

Kane, Michael T., The Role of Licensure Tests, 74 BAR EXAMINER 27 (February 2005).

An argument for using the bar examination as a test of entry-level competency, even though it may not gauge effective performance in practice.

Kaufman, Keith A. et al., Passing the Bar Exam: Psychological, Educational, and Demographic Predictors of Success, 57 JOURNAL OF LEGAL EDUCATION 205 (June 2007).

Provides a comprehensive analysis of bar examination passage predictors by evaluating the role of demographics and educational variables; the effects of psychological variables such as worry, test anxiety, and personality; and the effects of time management. In part, the authors conclude that among the psychological variables, test anxiety and neuroticism had a significant relationship to performance on the bar examination.

Kennedy, Dennis, Internet Resources for Bar Examiners, 67 BAR EXAMINER 37 (November 1998).

Provides some of the Internet resources and sites that may assist bar examiners in preparing questions.

Kuechenmeister, Marcia, Admission to the Bar: We’ve Come a Long Way, 68 BAR EXAMINER 25 (February 1999).

Reviews characteristics of the MBE, MEE, and MPT, and focuses on how these exams, when taken together, validate bar admission decisions.

Logan, David A., Upping the Ante: Curricular and Bar Exam Reform in Professional Responsibility, 56 WASHINGTON AND LEE LAW REVIEW 1023 (Summer 1999).

A call for states to include professional responsibility on the essay portion of their bar examinations.


Two bar examination experts reflect on their now fifteen-year-old predictions on what the bar examination would be like and predict the same into the future.

Moeser, Erica, Rethinking Assessments and Alternatives to Assessments from the Perspective of a Bar Examiner, 20 GEORGIA STATE UNIVERSITY LAW REVIEW 1051 (Summer 2004).

Argues that the overriding objective of the bar examination and bar admission ought to be consumer protection.


A call to include Alternative Dispute Resolution (ADR) concepts, principles, methodologies, and public policy questions on the bar examination.


Summarizes and comments on some of the issues—such as ADA, cheating, testing standards, etc.—discussed at the Council on Licensure, Enforcement, and Regulations (CLEAR) conference.

Sekhon, Vijay, The Over-Education of American Lawyers: An Economic and Ethical Analysis of the Requirements for Practicing Law in the United States, 14 GEORGE MASON LAW REVIEW 769 (Spring 2007).

After justifying the education requirements needed to become a lawyer, the author proceeds to outline the same for the bar and moral character examinations. In the end, he questions whether these prerequisites are reasonably tailored to achieve their imputed ends and whether their benefits outweigh the substantial economic and ethical costs they impose.


Criticizes various states for raising the requisite passing bar examination score; the statement offers three major arguments against this trend and highlights several alternatives to the existing bar examination model.

More-current reflections by authors on their predictions in 1985 as to the fate of bar admissions.


Criticizes the self-interested nature of permanent admission rules.


Based on research conducted at the author’s law school, this article summarizes current bar examination practices, proposes reform, and recommends ways to better prepare students to take and pass the exam.


A reflective piece by an attendee of a conference comprising various groups concerned with bar admissions.

**B. Testing**

1. **Principles of Testing**


A description and explanation of validity and reliability in “high-stakes examinations” such as the bar examination.


A report on an AALS three-hour program entitled “How to Conduct Exams,” which emphasized test reliability.


Describes the procedures used by NCBE in scaling essay scores to the MBE.


Cautions MBE test takers who fail the exam that simply relying on raw test scores may be misleading since they are not scaled scores, which take into account the difficulty of the particular questions answered.


Explains scaling, the statistical procedure that puts essay scores on the same score scale as MBE scores.


Describes the services offered by NCBE to jurisdictions.


Describes the differences between raw and scaled scores, with emphasis on the usefulness of the latter.


Because the difficulty of essay questions can vary, this paper presents and explains the statistical method used to ensure that all questions are weighted equally in the total test score.

Harris, Deborah J., *Equating the Multistate Bar Examination*, 71 BAR EXAMINER 12 (August 2003).

An explanation of the need for equating (a statistical adjustment allowing examinee score comparisons over time), the equating process, and how equating affects scores.

Kane, Michael T., *To Round or to Truncate? That Is the Question*, 72 BAR EXAMINER 24 (November 2003).

Discusses whether to round or truncate MBE test scores with various scenario results as to the three proposed rules.


Detailed description of the equating process used by NCBE in scoring the MBE. Equating procedures are used to adjust for any variability in difficulty across the different MBE test forms.


Explains the most common types of scores (e.g., raw scores, percentile rank, and scaled scores) and identifies issues that may affect their proper interpretation.

Provides basic background information on the nature and detection of test bias and concludes by describing the procedures taken by NCBE and others to prevent test bias.


Describes possible options and statistical caveats for jurisdictions allowing transfer applicants (e.g., applicants who have already passed the MBE in another jurisdiction).


Briefly describes NCBE’s MBE test scaling and combining service using one of two methods: the standard deviation or the equipercentile.


A detailed discussion of copy detection analysis and how performing such analysis can bolster an allegation of answer copying. Specifically, the article describes the interpretation of answer copying indices and how they should be used in practice.

2. Standard Setting

Corneille, Margaret Fuller, *Examining Passing Examination Scores*, 70 BAR EXAMINER 17 (November 2001).

A description of Minnesota’s attempt to use the Klein Method to increase the cut score of the Minnesota Bar Examination.

Kane, Michael T., *Conducting Examinee-Centered Standard-Setting Studies Based on Standards of Practice*, 71 BAR EXAMINER 6 (November 2002).

The second of two related articles on standard setting. This article’s focus is on specific design aspects of examinee-centered standard-setting procedures, containing suggested ways to relate performance standards to practice.


The first of two related articles on standard setting. This article reviews the general issues involved in developing licensure examination standards, arguing that performance standards for bar examinations that are limited to practice requirements can be achieved by using examinee-centered standard-setting procedures.


Describes test-centered versus examinee-centered standard-setting methods while concluding that the choice of a passing-level score is a matter of public policy.


Explains his bar examination standard-setting method, known as the Klein Method.


Unlike other critiques of the methodology of Stephen Klein (a nationally recognized expert in psychometric testing), this piece applies to his methodology a cost-benefit analysis, viewed in light of New York’s raising the bar examination passage score. The author also offers suggestions to improve the Klein Method.

Merritt, Deborah J. et al., *Raising the Bar: A Social Science Critique of Recent Increases to Passing Scores on the Bar Exam*, 69 UNIVERSITY OF CINCINNATI LAW REVIEW 929 (Spring 2001).

A critique of the movement by certain states in the 1990s to raise the passing scores on their bar examinations.


Argues that raising the bar examination passage scores hampers the diversification of the bar.


Provides background and explanation of the 2003 Florida Supreme Court’s decision to raise the pass/fail line from 131 to 136.


Presents some general guidelines for setting pass/fail scores and describes some of the more persistent myths about this procedure.
3. Test Security
Dows, Mark S., One Administrator’s Thoughts on—and Experiences with—Security of Test Materials, 74 Bar Examiner 6 (August 2005).
A state bar examiner provides security tips to bar examiners.

Offers descriptions of bar examination security: (1) current security steps taken by NCBE with respect to test development and administration, (2) suggested practices to enhance security, and (3) suggested procedures in case of a security breach.

This piece uses a question-and-answer format to provide advice on examination security by experts on the consequences of losing a test book, the techniques used to steal test books, and the investigative process.

Newton, Thomas, Recent Developments in High-Tech Cheating, 74 Bar Examiner 10 (August 2005).
Briefly summarizes and describes how applicants might use technology to cheat on bar examinations and touches on suggested procedures to deal with this kind of cheating.

4. The Multistate Bar Examination (MBE)
Bonner, Sarah M., A Think-Aloud Approach to Understanding Performance on the Multistate Bar Examination, 75 Bar Examiner 6 (February 2006).
A report of research conducted on 25 recent law graduates preparing for the Multistate Bar Examination, entailing audio recording of examinee reactions to practice exams. The study found that high performance on selected items was associated with effective use of legal principles in analyzing fact situations rather than on factors such as reading comprehension and test-taking techniques.

Reviews the MBE results from the February 2002 examination and explains the various analyses conducted to validate the exam.

Describes the newly released National Conference of Bar Examiners MBE-AP (the MBE Annotated Preview), designed as an Internet tool to assist subscribers/test takers in preparing for the MBE.

A study conducted by NCBE showing that men outperformed women on the MBE by about five points.

The authors found that repeat takers do not benefit from reuse of selected previously used MBE test questions.

A tongue-in-cheek piece poking fun at the MBE.

5. The Multistate Professional Responsibility Examination (MPRE)
Provides a detailed account of the history, development, implementation, and possible future of the Multistate Professional Responsibility Examination (MPRE).

After describing the background of the MPRE, the author questions whether it is the best instrument for ensuring that bar applicants acquire and demonstrate knowledge of professional responsibility concepts.

6. Essay Examinations
Encourages jurisdictions to use the Multistate Essay Examination
(MEE) or develop their own similar questions rather than use questions from an exam bank.


The executive director of the Missouri Board of Law Examiners describes the implementation and administration of the board’s grading conference, whereby all graders come together for 2½ days to grade bar examinations, which appears to improve test reliability.

Gundersen, Judith A., A New Mix of Questions on the Multistate Essay Examination, 75 Bar Examiner 6 (August 2006).

A detailed account of the revamped MEE with brief discussions of its history, purpose, content, features, and pricing structures.

Walljasper, Annie & Marlyce Gholston, Drafting and Grading Essay Questions in Oregon, 68 Bar Examiner 23 (November 1999).

A detailed account of the drafting and grading of the Oregon bar examination essay questions.

7. Performance Tests


Describes the Multistate Performance Test (MPT), designed as a test of fundamental lawyering skills, and presents test-taking strategies for the MPT based on the author’s experience using the California Performance Test (CPT).


Outlines the rationale expressed by the Georgia Board of Bar Examiners for adopting the MPT.


Over half of the jurisdictions now test lawyering skills through the MPT. The author describes this test and analyzes how its components can be incorporated into the classroom.

Gundersen, Judith A., Happy Birthday, MPT!, 76 Bar Examiner 18 (November 2007).

Recounts the history of the MPT; explains how a typical MPT item is developed, administered, and graded; and provides an example of a recent MPT task memorandum.


The author attempts to develop a framework in the law school curriculum for including the skills of practice that are tested by the MPT.


An argument for including the MPT alongside the MBE and essay examinations.


The column provides responses to frequently asked questions about the MPT, emphasizing the procedures used in its development.

C. Minority Applicants


Using the National Longitudinal Bar Passage study data, the author demonstrates that a gap exists in bar passage rates across racial categories. He concludes that law schools exacerbate the gap, but offers several suggestions on how to minimize this gap.


Traces the history of the current Texas bar examination and criticizes it based on the large number of minority test takers who fail it each year.


Presents evidence that the bar examination has had an adverse impact on diversification of the legal profession due to the lower pass rates of minority examinees as compared to non-minority examinees.

Gregory, Rachel L., Florida’s Bar Exam: Ensuring Racial Disparity, Not Competence, 18 Georgetown
Critical of the Florida Supreme Court’s stated 2003 decision to raise the passing bar examination score from 131 to 136, the author challenges the motives of the court based on statistical and other data, concluding that the decision to raise the passing score ignored the likely disparate impact and was not supported by the stated evidence.


Summarizes some of the main results of the New York State Board of Law Examiners’ studies. The findings show that the difference in pass rates between the Caucasian/White and Black/African American groups was fairly large.


During the 1990s, several states raised their bar passage scores, causing the author to question the phenomenon using social closure theory and labor market analysis and to conclude that the National Conference of Bar Examiners (NCBE) should minimize the disparate impact of the MBE for people of color.


A report of NCBE’s initial research on ethnic group performance on the Multistate Bar Examination (MBE) showing significant differences between black, white, and Hispanic examinees.

**D. Applicants with Disabilities and the ADA**


Discusses the legal implications of learning disabilities and whether they impede the practice of law.


Explains learning disabilities as they relate to lawyers, the legal balance between the individual and the institution, and stereotypes about learning disabled students.


Discusses the five titled cases and their possible impact on bar examiners when confronted with Americans with Disabilities Act (ADA) accommodation requests on the bar examination.

Burgoyne, Robert, *ADA Update: Bartlett Decided on Remand from the Supreme Court, Two Other Noteworthy Decisions, and the Supreme Court Hears Argument on the ADA and the 11th Amendment*, 69 Bar Examiner 7 (November 2000).

A review of several noteworthy cases involving ADA and professional licensure issues.


Describes the appropriate treatment of examinees with temporary or non-disabling conditions who request accommodations.


A description of various testing accommodations for bar examination applicants with disabilities, including suggestions as to how bar examiners should address requests for accommodations.


This short essay calls for the integration of learning disabled attorneys into the profession.
Gordon, Michael et al., Attention Deficit Hyperactivity Disorder (ADHD) and Test Accommodations, 67 BAR EXAMINER 26 (November 1998).

Offers guidelines for bar examiners in dealing with the seeming explosion of requests for accommodations from applicants with ADHD.

Haight, Marilyn et al., Ensuring Access to the Multistate Professional Responsibility Examination: High-Stakes Professional Testing and Accommodations Under the Americans with Disabilities Act, 76 BAR EXAMINER 19 (February 2007).

Describes four considerations when accommodating MPRE examinees with disabilities: request, review process, test validity, and security.


Briefly reviews the Bartlett v. New York Board of Law Examiners case in which the Second Circuit concluded that the defendant violated the plaintiff’s right under the ADA to reasonable accommodation to take the bar examination.


Argues that persons with learning disabilities are entitled under the ADA to reasonable accommodations on the bar examination.


The author questions and takes issue with the rationale and validity of the ADA as it pertains to disabilities that impair reading, writing, and organizational skills, claiming that these skills are central to the lawyer’s craft.


The author is not convinced that the current balance between speed and accuracy in traditional professional examinations for law is justified in terms of measuring skills essential for the practice of law. He argues that accuracy ultimately is more important for most tasks performed by an attorney than is the speed of the response.


The ability to raise Eleventh Amendment and Rooker-Feldman defenses to claims asserted in federal court under the ADA was curtailed by certain Supreme Court decisions. The article provides an overview of these decisions and discusses the likely effects for bar examiners and administrators.


Provides an update on ADA procedures and cases as they pertain to Attention Deficit Hyperactivity Disorder (ADHD).

Snyder, Michael T., Comment, An Examination of the New York State Board of Law Examiners’ Policy Towards Individuals with Learning Disabilities, 62 ALBANY LAW REVIEW 737 (1998).

Examines a variety of issues that arise when learning disabled applicants seek accommodations for the bar examination and offers suggestions aimed at the New York Board of Law Examiners, but perhaps applicable to other boards as well.


A transcribed podcast of a panel discussion featuring various experts, including the director of character and fitness for the Maryland Board of Law Examiners, on students with disabilities and the bar examination, specifically addressing the issue of how to work with students with particular ADA issues in such a way as to level the playing field without being unfair to other exam takers.


A description of procedures used by an expert in evaluating requests for accommodations for psychiatric disabilities, with a section on test anxiety.

Williams, Justin G., The ADA and Bar Examinations: The Relationship Between Applicants, Physicians, and

Examines the ADA as applied to bar examinations in light of Ware v. Wyoming Board of Law Examiners.


Reviews the background surrounding the term “learning disability,” concluding that learning disabled individuals should not be given extra time in the bar examination because it is unfair to individuals with comparable academic disabilities.


With increasing numbers of test takers requesting accommodations under the ADA for an array of reasons, the author explores whether test anxiety may fall within the ADA purview, concluding that it may under certain circumstances.

E. Legal Education


Description by a law school dean of what one law school did in response to the raised passing score for the Ohio Bar Examination.

Bratman, Ben, For-Credit Bar Exam Preparation: A Legal Writing Model, 76 BAR EXAMINER 26 (November 2007).

The author describes his law school’s for-credit bar preparation course, which focuses on the written portions of the bar examination.


After providing a brief history of the bar examination and an explanation of the need for bar preparation courses, this essay describes the William Mitchell College of Law’s bar preparation workshop.


A summary of the ABA’s A Survey of Law School Curricula (2005), finding little evidence to suggest that the “bar factor” drove law school curricular decision making regarding graduation requirements.

Committee on Bar Admissions and Lawyer Performance & Richard A. White, AALS Survey of Law Schools on Programs and Courses Designed to Enhance Bar Examination Performance, 52 JOURNAL OF LEGAL EDUCATION 453 (September 2002).

In order to determine how law schools were reacting to the increased scores required to pass bar examinations in the 1990s, the Association of American Law Schools (AALS)’s Committee on Bar Admissions and Lawyer Performance developed and administered a survey, the results of which led to the conclusion that preparation for the bar examination is an important issue for law schools.


Reviews bar examinations in general, the passage rate decline, and the need to reverse the decline, and offers suggestions of what law schools can do to improve bar passage rates.

Dean, Kenneth D., Information Sharing with Law Schools—One Dean’s Perspective, 71 BAR EXAMINER 15 (February 2002).

A Missouri law school dean offers his perspective on information sharing between the state’s law schools and the Missouri Board of Law Examiners with respect to bar examination results and admissions.


Describes the Missouri Board of Law Examiners’ process for sharing bar examination statistics with the state’s law schools.


Reviews and presents criticism of the bar examination and offers empirical evidence that bar support programs may increase a school’s bar passage rate.


Summarizes the author’s approach to helping students prepare to retake the bar examination.

In view of the American Bar Association (ABA)’s new interpretation permitting law schools to grant academic credit for bar preparation courses, the author provides a detailed road map for schools to follow.


Advocates that law schools teach bar-examination–specific writing skills using the “reader expectation” approach.


By analyzing the bar examination performance of recent graduates in Missouri, the authors sought to discover whether there was an empirically proven relationship between taking bar examination subject-matter courses and passing the Missouri Bar Examination. In part, this study also explored whether there were relationships between the taker’s LSAT score, undergraduate grade point average, LSAC index score, and law school rank. Among other corollary findings, the authors concluded that there was no statistically significant advantage in requiring weaker students to enroll in upper-division bar examination subject-matter courses.

Tessier, Michelle L., Chapter 534: Raising the Bar for Unaccredited Law Schools in California, 38 McGEORGE LAW REVIEW 31 (2007).

Describes California’s new law, intended to address the low bar passage rates of students from unaccredited law schools and programs, that transfers oversight and regulation of all its law schools to the California State Bar’s Committee of Bar Examiners (CBE).

F. Alternatives to the Bar Examination


A description of New Hampshire’s pilot project of a performance-based bar examination alternative.

Cunningham, Clark D., Rethinking the Licensing of New Attorneys—An Exploration of Alternatives to the Bar Exam: Introduction, 20 GEORGIA STATE UNIVERSITY LAW REVIEW vii (Summer 2004).

An introduction to this symposium issue, inspired by the Society of American Law Teachers’ bar examination report of 2002. The articles are divided into three broad areas: state-based alternatives to the conventional bar examination, how lawyers are licensed in other countries, and how the training and licensing of physicians provides a potential model for bar admissions.


Arguing that the current bar examination overemphasizes a very limited number of skills while completely disregarding others, the author critiques the existing bar examination and proposes several bar examination alternatives.


Describes the development, requirements, and implementation of a performance-based bar examination alternative, which joins necessary practice skills with law school courses.

Glen, Kristen Booth, In Defense of the PSABE, and Other “Alternative” Thoughts, 20 GEORGIA STATE UNIVERSITY LAW REVIEW 1029 (Summer 2004).

An expansion and refinement of the author’s prior writing on the subject. In this piece, she outlines why she believes that the Public Service Alternative Bar Examination (PSABE) is the best alternative to the existing bar examination.

Glen, Kristen Booth, Thinking Out of the Bar Exam Box: A Proposal to “MacCrate” Entry to the Profession, 23 PACER LAW REVIEW 343 (Spring 2003).

In this expansion of her earlier paper (102 COLUMBIA LAW REVIEW 1696), the author documents in detail the PSABE as a viable alternative to the current bar examination.

Glen, Kristen Booth, When and Where We Enter: Rethinking Admission to the Legal Profession, 102 COLUMBIA LAW REVIEW 1696 (October 2002).

Critiques the current bar examination model as being exclusive and, in part, negatively impacting
diversity. Proposes a three-month, court-based PSABE that would use the skills set forth in the MacCrate Report.


An argument for the use of standardized clients, an assessment technique model developed by the medical profession, as part of the bar examination.

Grosberg, Lawrence M., Standardized Clients: A Possible Improvement for the Bar Exam, 20 GEORGIA STATE UNIVERSITY LAW REVIEW 841 (Summer 2004).

Advocates use of a public service alternative to the traditional bar examination by developing and using standardized clients, as is done in the medical model.

Hutson, John D., Preparing Law Students to Become Better Lawyers, Quicker: Franklin Pierce’s Webster Scholars Program, 37 UNIVERSITY OF TOLEDO LAW REVIEW 103 (Fall 2005).

A detailed description of the Webster Scholar Honors Program, a practice-based teaching and alternative bar examination program launched in 2005. Completion of this law school program certifies one to have passed the New Hampshire bar examination.

Kaufman, Eileen, Community Service Component of an Alternative Bar Exam, 20 GEORGIA STATE UNIVERSITY LAW REVIEW 1057 (Summer 2004).

Advocates use of community service as an alternative to the traditional bar examination, primarily for underserved populations.


Proposes to eliminate or reduce the importance of bar examinations by advocating the use of the South African model, which places emphasis on postgraduate apprenticeship programs in lieu of written examinations. Another article, Thuli Mhlungu’s Educating and Licensing Attorneys in South Africa, 20 GEORGIA STATE UNIVERSITY LAW REVIEW 1005 (Summer 2004), provides a personal account of the South African model.


Describes the Wisconsin diploma privilege, advocates its adoption by other jurisdictions, and compares it to the bar examination, concluding that the diploma privilege bests the bar examination in each area of concern.

Simpson, Sally & Toni M. Massaro, Students with “CLAS”: An Alternative to Traditional Bar Examinations, 20 GEORGIA STATE UNIVERSITY LAW REVIEW 813 (Summer 2004).

Outlines a proposed alternative to the bar examination—a one-year postgraduate apprenticeship.

G. International


A detailed discussion of the Japanese system of legal education and its reform to incorporate graduate/professional schools, modeled after the U.S. system. In light of these developments, the author outlines his country’s bar examination system.


Although this paper is mostly about reforming legal education, it contains a brief discussion on the effects of the bar examination as an obstacle to reform, especially in Asian countries.


Kim provides a brief overview of the Korean National Bar Examination, its problems, proposals for reform, and the Presidential Committee of Judicial Reform’s draft bill, which seeks to reform the Korean legal education and training system.

Steiner, Mark E., Cram Schooled, 24 WISCONSIN INTERNATIONAL LAW JOURNAL 377 (Winter 2006).

Describes the bar preparation courses used in several other countries, which, unlike their U.S. counterparts, last 18 months and run concurrently with formal studies.

Wolff, Heinrich Amadeus, Bar Examinations and Cram Schools in Germany, 24 WISCONSIN INTERNATIONAL LAW JOURNAL 109 (Winter 2006).

Provides a brief overview of legal education in Germany, including the bar examination and the role of the bar preparation schools.
H. Miscellaneous

Braun, Jerome, an interview with, Preparing for Disaster, 71 BAR EXAMINER 7 (August 2002).

In question-and-answer format, this piece covers several scenarios dealing with emergencies or other unexpected events on exam day.

Gross, Michael P., New Mexico Pioneers Indian Law on the Bar Exam, 71 BAR EXAMINER 25 (August 2002).

Describes New Mexico’s Indian law bar examination requirement.

Hagood, Lewis R., A Brief History of the Tennessee Board of Law Examiners and the Standards for Bar Admissions in Tennessee, 71 TENNESSEE LAW REVIEW 571 (Spring 2004).

Recounts the Tennessee Board of Law Examiners’ origin and history through reference to public acts, court cases, rules of court, and other records.

Rofes, Peter K., Mandatory Obsolescence: The Thirty Credit Rule and the Wisconsin Supreme Court, 82 MARQUETTE LAW REVIEW 787 (Summer 1999).

Calls for the “modernization” of Wisconsin’s Thirty Credit Rule, which is the basis for the state’s diploma privilege.


A comprehensive review of jailhouse lawyering, including a call for a standardized Jailhouse Lawyer Bar Examination, with discussion of the nature of the exam, the organization that might administer it, and the privileges accorded to successful takers.


New Mexico was the first state to place Indian law on its bar examination. This paper discusses the history and process involved, along with the pedagogical challenges of teaching an Indian law bar course.

II. ADMISSION TO THE BAR

A. In General


A collection of writings, one of which includes a detailed description and account of the Matthew Hale bar admission controversy in Illinois.


Explains the medical model of incremental licensure testing and advocates its use in the legal profession.

Barton, Benjamin Hoorn, Why Do We Regulate Lawyers?: An Economic Analysis of the Justifications for Entry and Conduct Regulation, 33 ARIZONA STATE LAW JOURNAL 429 (Summer 2001).

Gives an economic analysis of current bar admission regulations and concludes that jurisdictions should move from the current consumer protection rationale to one focusing on lawyer competence.

Beckman, Kristin L., Comment, Banned from the Bar: Classification of the Temporary Alien in Louisiana, 51 LOYOLA LAW REVIEW 139 (Spring 2005).

Under Louisiana law, admission to the state bar is predicated on being a U.S. citizen or resident alien. This comment focuses on what happens when the applicant is neither but attended (on a student visa) and graduated from a Louisiana law school, addressing the application of equal protection principles to state regulation of aliens in the context of bar admissions.

Corneille, Margaret Fuller, Bar Admissions: New Opportunities to Enhance Professionalism, 52 SOUTH CAROLINA LAW REVIEW 609 (Spring 2001).

The executive director of the Minnesota Board of Law Examiners argues that the bar admission process may play a role in establishing and maintaining professional standards, especially by using skills-based performance tests and conditional admission.


A brief description of the efforts of the Tri-State Task Force on Bar Admissions to coordinate bar examination and admission among New Hampshire, Vermont, and Maine.

Hanson, Sam, The Relationship Between Bar Admissions and Law Schools, 72 BAR EXAMINER 7 (August 2003).
A call for better coordination between the law schools and the bar examination boards with respect to curriculum and licensure issues, among others.


Rourke, Melissa & Meredith Schoenfeld, The Honesty Standard and the Need for a More Stringent Standard: An Update on Model Rule 8.1, 15 GEORGETOWN JOURNAL OF LEGAL ETHICS 895 (Summer 2002). Contends that Rule 8.1 of the Model Rules of Professional Conduct leaves interpretation of the “honesty standard” to local jurisdictions and that as a result there is no bright-line standard which the various bar admission agencies can rely on.


Stuckey, Roy, Why Johnny Can’t Practice Law—And What We Can Do About It: One Clinical Law Professor’s View, 72 BAR EXAMINER 32 (May 2003). The author suggests and explains four steps that licensing authorities can take to improve the preparation of lawyers.

B. Admission on Motion


Dalianis, Linda Stewart & Hulett H. Askew, Three States Add or Revise Motion Admission Rules: New Hampshire and Vermont Establish Reciprocity and Georgia Resurrects “Comity” Admission, 72 BAR EXAMINER 1 (February 2003). A description of the processes and background involved in developing the New Hampshire and Vermont reciprocal admission agreement, whereby practitioners from each state are eligible to be admitted in the other state after three years of good standing. Also provides an overview and a description of the requirements of Georgia’s 2002 Admission on Motion Rule, modeled after the ABA’s Model Rule on Admission on Motion.

Martin, Cindy Reams with Kellie Early, Admission on Motion in the Era of Multijurisdictional Practice: Missouri’s Experience with “Lawful Practice” vs. “Practice Where Admitted” as Fulfilling the “Active Practice” Requirement, 75 BAR EXAMINER 12 (August 2006). Admission on motion generally involves an “active practice” requirement. This article highlights the relevant factors taken into consideration in determining whether an applicant has been engaged in “active practice.”

Minnich, Diane K. et al., Reciprocal Admission Between Idaho, Oregon, and Washington, 71 BAR EXAMINER 21 (February 2002). Describes the changes made by the three states with respect to their admission rules to allow reciprocity without requiring lawyers to take additional bar examinations.

Stiglitz, Jan, A Modest Proposal: The Model Rule on Admission on Motion, 71 BAR EXAMINER 31 (August 2002). Briefly describes the 2000 ABA Model Rule on Admission on Motion, designed to take into account the reality of today’s multi-jurisdictional practice environment.

C. Pro Hac Vice Admission

Allen, Wendell, Pro Hac Vice Requirements and Pro Bono Status, 22 JOURNAL OF THE LEGAL PROFESSION 193 (Spring 1998). From a case arising out of the Mississippi state courts, the author concludes that states can correctly deny exemptions for out-of-state
attorneys, serving their clients pro bono, from requirements for pro hac vice status.


Reviews pro hac vice admissions in state courts and argues in favor of relaxing the current rules.

D. Multijurisdictional Practice


Corneille, Margaret Fuller, Multijurisdictional Practice: A Challenge for Bar Examiners, 69 BAR EXAMINER 16 (November 2000).

Today’s transnational practice often involves or requires multijurisdictional practice. This piece reports on a symposium on the topic, specifically addresses potential bar examiner issues, and concludes with several suggestions.

Davis, Anthony E., Multijurisdictional Practice by Transactional Lawyers—Why the Sky Really Is Falling, 70 BAR EXAMINER 15 (February 2001).

A strong plea for legalizing the multijurisdictional practice of law by transactional lawyers.


The author provides several scenarios in which lawyers with multijurisdictional practice might come into conflict with the rules on the unauthorized practice of law. He also calls for state bar regulators to bring the rules closer to the reality of modern law practice.

McCallum, Charles E., Excerpts from MJP: A Review of Proposals for Reform, 71 BAR EXAMINER 26 (February 2002).

Calls for changes in multijurisdictional practice and discusses three major proposals for reform.


Briefly describes contemporary bar admissions practice in the United States and calls for reevaluation of current testing schemes in light of today’s increasing emphasis on cross-border practice.

Wickerham, Elizabeth A., Behind Bars: Are Corporate Counsel Captive to State Licensure?, 44 WILLIAM & MARY LAW REVIEW 1913 (March 2003).

Because of increasing cross-jurisdictional practice, the author argues that in-house attorneys should be afforded an exception to the unauthorized practice of law rules to allow them to perform extended practice for their employers in foreign jurisdictions.

E. Character and Fitness

1. General


A proposal to screen for good moral character during the entire professional life of an attorney, with multiple standards, questionnaires, and other instruments intended to determine whether the attorney is continuing to meet fitness standards.

Carey, Flynn P., Case Note, In re Hamm: From Behind Bars to the Arizona Bar?, 48 ARIZONA LAW REVIEW 397 (Summer 2006).

The applicant was previously convicted of first-degree murder and subsequently granted an absolute discharge of the conviction. He applied for admission to the Arizona Bar but was denied based on character and fitness grounds. This short piece reviews the committee’s rationale for denial.

Clemens, Aaron M., Facing the Klieg Lights: Understanding the “Good Moral Character” Examination for Bar Applicants, 40 AKRON LAW REVIEW 255 (2007).

After criticizing character examinations in general, the author offers a short history of character and fitness investigation, highlights issues that are likely to be of interest to character and fitness committees, and suggests methods for applicants to use in dealing with selected problem issues.


Examines the good moral character requirement for admission to the bar as it pertains to gay or lesbian applicants and contends that there is no rational basis for
adverse treatment of gay or lesbian bar applicants.


Examines the purpose of the character and fitness requirement, and concludes that arrests not resulting in convictions as well as expunged information should not be the basis for excluding bar applicants, since denial of an application without an underlying conviction contradicts the basic assumption of the criminal justice system—that an individual is innocent until proven guilty.

McCulley, Elizabeth Gepford, Note, School of Sharks? Bar Fitness Requirements of Good Moral Character and the Role of Law Schools, 14 GEORGETOWN JOURNAL OF LEGAL ETHICS 839 (Spring 2001).

Urges law schools to provide better notice of the fitness requirement from the first years of law school, and offers several suggestions on what can be done.

Pratt, Carla D., Should Klansmen Be Lawyers? Racism as an Ethical Barrier to the Legal Profession, 30 FLORIDA STATE UNIVERSITY LAW REVIEW 857 (Summer 2003).

This article concludes that a racist such as Matthew Hale cannot have the requisite moral character to be an attorney.


Discusses current issues, definitions, history, and jurisprudence of good moral character and calls for a uniform national standard.

Ritter, Matthew A., The Ethics of Moral Character Determination: An Indeterminate Ethical Reflection upon Bar Admissions, 39 CALIFORNIA WESTERN LAW REVIEW 1 (Fall 2002).

Discusses the history, jurisprudence, and ethics of examining good moral character as a condition for professional licensing of lawyers.


Traces the history of the “good moral character” requirement, claiming that it is a relatively recent development and concluding that it is an appropriate prerequisite.

Simmons, Malika, Case Note, Hale v. Comm. on Character & Fitness, 335 F.3d 678 (7th Cir. 2003), 10 WASHINGTON & LEE RACE AND ETHNIC ANCESTRY LAW JOURNAL 199 (2004).

Reviews and analyzes the Matthew Hale case up to the Court of Appeals for the Seventh Circuit. The decision denied Hale admission to the Illinois bar because his racist beliefs did not meet the character and fitness standards of the state.

Sloane, Richard L., Note, Barbarian at the Gates: Revisiting the Case of Matthew F. Hale to Reaffirm that Character and Fitness Evaluations Appropriately Preclude Racists from the Practice of Law, 15 GEORGETOWN JOURNAL OF LEGAL ETHICS 397 (Winter 2002).

Another note on the Matthew Hale case reviewing the history and societal underpinnings of good moral character. Concludes that the Illinois State Supreme Court was correct in denying Hale’s application.


Reviews the standards of good moral character from a law student perspective.

2. Academic Misconduct


Discusses the role of academic misconduct in the character and fitness aspect of the bar admission process, and proposes that the term “academic misconduct” in the Code of Recommended Standards for Bar Examiners be changed to “aggravated academic misconduct.”

Vaughan, Julia E., Addressing Law Student Dishonesty: The View of One Bar Admissions Official, 45 SOUTH TEXAS LAW REVIEW 1009 (Fall 2004).

A review of the Texas character and fitness requirements and the effects of conduct in law school.

3. Financial Irresponsibility

Jackson, Niles, Bankruptcy as It Affects Character and Fitness, 72 BAR EXAMINER 6 (November 2003).

After providing a brief history and an explanation of the types and effects of bankruptcy, the author addresses how a bankruptcy affects the applicant’s character and fitness determination for admission and concludes that in such a case the application ought to be tabled, or the applicant admitted conditionally, until the applicant’s good-faith effort is evident.

Describes how a bar applicant’s fitness to practice law in Florida is investigated and determined when the applicant has filed for bankruptcy.

### 4. Mental Health and the ADA

Alikhan, Mariam, Note, *The ADA Is Narrowing Mental Health Inquiries on Bar Applications: Looking to the Medical Profession to Decide Where to Go from Here*, 14 Georgetown Journal of Legal Ethics 159 (Fall 2000).

“Are mental health inquiries appropriate in light of the passage of the ADA?” is the focus of this note, which concludes with suggested steps to avoid discriminatory questioning.


A review of the emotional and mental health components of the fitness standards, arguing that these types of inquiries are a violation of privacy and discourage treatment, and concluding that mechanisms already exist to discipline attorneys for improper actions related to mental health difficulties.


Examines the implications of allowing disability inquiries in the bar admission process, concluding that many of the questions currently in use cannot be justified under the ADA and suggesting reform to avoid violating the ADA.


Provides background with respect to the validity of mental health inquiries under the ADA, asserts that the North Carolina practice of asking invasive mental health questions violates the ADA, and concludes by urging immediate review and revision of the mental health questions in use.


After a brief review of the mental health fitness requirement, the author suggests that bar examiners ought to focus on the applicant’s behavior rather than on his or her mental health status.


An account of a ruling by the Rhode Island Supreme Court finding that inquiries made to a bar applicant about the applicant’s mental health treatments and substance addictions violated the ADA and the applicant’s privacy rights.

### 5. Conditional Admission


Reviews Idaho’s conditional admission system and offers suggestions for improvement.

### 6. Rehabilitation


Discusses the Arizona courts’ determination that it is “virtually impossible” for an applicant convicted of a serious crime such as attempted murder to prove his or her good moral character through rehabilitation.


After describing the concept of rehabilitation, the author advocates for the adoption of a per se rule supporting the notion that the general integrity of the judicial system takes precedence over the individual claim of rehabilitation.


A review of issues relating to rehabilitation that frequently confront state bar admission authorities.

### F. Constitutional Issues

Law school graduate Matthew Hale was denied admission to the Illinois Bar because of his overt racist beliefs. This article explores the free speech rights of bar applicants such as Hale and asserts that states should not deny admission solely on the basis of privately held racist beliefs.

Brisman, Avi, Note, Rethinking the Case of Matthew F. Hale: Fear and Loathing on the Part of the Illinois Bar Committee on Character and Fitness, 35 CONNECTICUT LAW REVIEW 1399 (Spring 2003).

The state of Illinois ruled that Matthew Hale was not fit to practice law due to his racist beliefs; this note reviews the criticisms of the state's decision and offers additional reasons why the state should have granted Hale admission.


A discussion of Matthew Hale's bar application and hearing before the Illinois Supreme Court, and an analysis of First Amendment implications of denying a self-declared racist admission to the state bar.


A review of the constitutionality of reciprocity agreements demonstrates that states are generally required to show a mere rational reason for such agreements to be upheld despite the fact that numerous applicants continue to challenge these agreements under the Due Process, Equal Protection, and Full Faith and Credit clauses.


Argues that the “good moral character” requirements have a chilling effect on bar applicants’ First Amendment right of expression.


In light of the U.S. Supreme Court’s 1999 decision in Saenz v. Roe, this note explores whether state bar admission requirements are constitutional under the Privileges and Immunities Clause. It concludes that state laws regulating bar admissions would likely survive, except for those laws that prohibit transactional lawyers from practicing in states in which they hold no bar membership.

Perlman, Andrew M., A Bar Against Competition: The Unconstitutionality of Admission Rules for Out-of-State Lawyers, 18 GEORGETOWN JOURNAL OF LEGAL ETHICS 135 (Fall/Winter 2004).

This article claims that retake requirements for the MBE by different states only serve the admitting state’s goal of protecting its lawyers from out-of-state competitors and that not only do these retake procedures create poor public policy, but they are also unconstitutional.

Stevenson, Mathew, Comment, Hate vs. Hypocrisy: Matt Hale and the New Politics of Bar Admissions, 63 MONTANA LAW REVIEW 419 (Summer 2002).

Argues that Matthew Hale’s denial of admission to the Illinois and Montana bars flies in the face of established rules of law set forth by the U.S. Supreme Court, basically concluding that Hale’s racist speech is immune from consideration by the character and fitness committees.


Freedom of speech trumps the hate speech of Matthew Hale, according to the ACLU’s position.


Reviews the constitutional issues (e.g., the principle of viewpoint neutrality and the unconstitutional conditions doctrine) present in bar admission cases like that of Matthew Hale, the avowed white supremacist from Illinois, concluding that the Constitution prohibits its state bar admission authorities from preventing Hale’s licensure.

Another perspective on the background of, procedures used in, and First Amendment issues raised by the Matthew Hale case.

G. Foreign-Trained Attorneys

Damania, Farzad, Alternatives for Non-U.S. Attorneys in the United States, 8 ILSA JOURNAL OF INTERNATIONAL & COMPARATIVE LAW 581 (Spring 2002).

Explaines that non-U.S. attorneys wishing to practice in the United States have two options: (1) receiving a limited license as a Foreign Legal Consultant (FLC), or (2) becoming fully licensed by passing a bar examination. This paper also reviews the provisions of each individual state with respect to FLC requirements.


Critizes the Ohio Singh decision, discusses the inappropriateness of classifying English proficiency as a character and fitness issue, and provides other more appropriate ways of characterizing English proficiency as a bar admissions requirement, including by a cost-benefit analysis.


A description of New York’s legal consultant program, whereby foreign lawyers may practice within the state on a limited basis.

Hollenhorst, Pamela Stiebs, Options for Foreign-Trained Attorneys: FLC Licensing or Bar Admission, 68 BAR EXAMINER 7 (August 1999).

A review of the options available to and the related requirements for foreign-trained attorneys along with a brief statistical look at their history in the United States.


Questions whether a foreign-trained attorney earning an LLM in the U.S. satisfies the educational requirement to practice law in the United States.


A discussion of the history and development of the New York rules governing the admission and practice of foreign-educated attorneys, explaining how the New York regulatory scheme fits within the framework of international trade.


The author first reviews selected state rules and then advocates that foreign legal consultant licensing should be made uniform throughout all U.S. jurisdictions.

H. International


After discussing the traditional path to the legal profession in European Union member states and the subsequent liberalization of requirements, this article contrasts the various methods of admission that might be available to foreign lawyers in the United States.

Duncan, Nigel, Gatekeepers Training Hurdles: The Training and Accreditation of Lawyers in England and Wales, 20 GEORGIA STATE UNIVERSITY LAW REVIEW 911 (Summer 2004).

A detailed explanation of the education, training, and licensing of attorneys in England and Wales, in which work and clinical experiences are viewed as essential components of licensure.

Duncan, Nigel, Training and Licensing Lawyers in England and Wales, 74 BAR EXAMINER 16 (November 2005).

Explains lawyer training and licensing in England and Wales, giving particular attention to the way in which ethical competence is assessed through simulations.


A review of the European Union’s provisions for the mobility of lawyers.

Korioth, Stefan, Legal Education in Germany Today, 24 WISCONSIN
An overview of the German legal education system, including a brief description of the bar admissions, practical training, and examination processes.

Law, John, Articling in Canada, 43 SOUTH TEXAS LAW REVIEW 449 (Spring 2002).

Articling is a form of apprenticeship and a prerequisite to becoming a Canadian lawyer. This paper reviews the background, current status, objectives, and issues of the Canadian practice of articling.

Law, John M., Canadian Bar Admissions, 74 BAR EXAMINER 14 (November 2005).

Briefly outlines the reviews of and subsequent changes to legal education in selected Canadian provinces.


In question-and-answer format, this piece details the bar admission process in Ontario, Canada.

Maharg, Paul, Professional Legal Education in Scotland, 20 GEORGIA STATE UNIVERSITY LAW REVIEW 947 (Summer 2004).

A description of the Scottish legal education and bar admissions systems, with suggestions about Scottish lawyer training and admission practices which may be considered as alternatives to the U.S. bar examination.


Outlines the legal education and licensure process in China and suggests further reform.

Mhlungu, Thuli, Educating and Licensing Attorneys in South Africa, 20 GEORGIA STATE UNIVERSITY LAW REVIEW 1005 (Summer 2004).

This article describes in detail legal education and lawyer licensure in South Africa and complements Peggy Maisel’s article on South Africa’s community service requirement in licensing attorneys, An Alternative Model to United States Bar Examinations: The South African Community Service Experience in Licensing Attorneys, 20 GEORGIA STATE UNIVERSITY LAW REVIEW 977 (Summer 2004).

Miyazawa, Setsuo, Education and Training of Lawyers in Japan—A Critical Analysis, 43 SOUTH TEXAS LAW REVIEW 491 (Spring 2002).

A critical review of the Japanese system for training and educating lawyers, primarily focused on its two main components—the National Bar Examination and the Legal Training and Research Institute.

Parker, Stephen, Legal Education in Australia: The Perfect Storm?, 43 SOUTH TEXAS LAW REVIEW 535 (Spring 2002).

Provides brief descriptions of Australia’s legal education and admission to the bar.

Ross, Eve, Comment, A Venerable Profession Enters the Global Economy: South Carolina Lawyers and the General Agreement on Trade in Services (GATS), 57 SOUTH CAROLINA LAW REVIEW 969 (Summer 2006).

This comment reviews and analyzes the potential conflicts that might arise between the GATS and the current South Carolina admission rules and offers suggestions for dealing with the conflicts.


The author is critical of the Japanese bar reform efforts, which entailed adoption of American-style law schools. He describes the government’s reform efforts and why they failed so miserably.


Describes the bar requirements in China, England, Germany, and the United States, including education, examination, and moral requirements, with observations and suggestions for future practice.

Terry, Laurel S., GATS, Legal Services, and Bar Examiners: Why Should You Care?, 71 BAR EXAMINER 25 (May 2002).

The author provides a series of articles giving updates on the General Agreement on Trade in Services (GATS) and how it impacts legal services, especially the admission of foreign lawyers to practice in the United States. In the process, these articles provide background information about the GATS and legal services. Subsequent articles can be found at The GATS, Foreign Lawyers and Two Recent Developments: Could Your State’s Actions Affect U.S. Trade Policy?, 71 BAR EXAMINER 20 (November 2002);
Latest Developments Regarding the GATS and Legal Services, 72 Bar Examiner 27 (August 2003); Current Developments Regarding the GATS and Legal Services: The Cancun Ministerial GATS Negotiations, 73 Bar Examiner 38 (February 2004); Further Developments Regarding the GATS and Legal Services: Extending the Accountancy Disciplines to Lawyers, 73 Bar Examiner 34 (August 2004); The GATS and Legal Services: The Resumed GATS Negotiations Trigger Additional U.S. and Other Activity, 74 Bar Examiner 43 (February 2005); Current Developments Regarding the GATS and Legal Services: The Hong Kong Ministerial Conference and the Australian Disciplines Paper, 75 Bar Examiner 26 (February 2006); and Current Developments Regarding the GATS and Legal Services: The Suspension of the Doha Round, “Disciplines” Developments, and Other Issues, 76 Bar Examiner 27 (February 2007).


Discusses the reformation of the Japanese legal education system, including a minor discussion of the impact that the National Bar Examination has had on the process.

I. Miscellaneous


A description of the Washington State Supreme Court’s Special Admission Rules for military lawyers who are on full-time active duty in the state.


Focuses on Georgia’s Board to Determine Fitness of Bar Applicants and its development and use of the Independent Medical Evaluation (IME) in the bar certification process.


A description of Indiana’s efforts to increase bar admission diversity through its Conference on Legal Education Opportunities (CLEO) program.

Not included in this bibliography, but available on the NCBE website’s Bar Examiner article archive, are additional Testing Columns, annual bar examination and bar admission statistics, and various essay collections.

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