

PRESIDENT'S PAGE

by Erica Moeser

This issue of the magazine brings readers the annual rendition of state and national bar examination and admission statistics. Thanks to all the bar admission administrators who contributed to this effort, and thanks to our tireless editor, Claire Huisman, for locating and corralling any missing members of the flock!



Year after year, the statistics issue represents the one annual snapshot of performance on the bar examination. At a time when the number of law schools is increasing and the lingering effects of economic uncertainty may be affecting the law school applicant pool, the information we collect is even more important.

Failing the bar exam is a devastating experience for the individuals who have invested so much time, money, and hope in the attempt to obtain a professional credential. A review of the statistics for bar passage confirms that this experience is not an uncommon one.

I have enduring memories of the profound impact of bar exam failure on unsuccessful candidates. In my years as a bar admission administrator, I met with failing candidates who wished to review their test materials. The sting of their disappointment that I observed repeatedly is familiar to all boards and administrators. At NCBE we are driven to continually improve our tests so that the instruments we produce that form the basis of licensing

decisions are as good as we can make them. Candidates will continue to fail the examination. Our job is to do the best we can to make the tests that they encounter fair.

Because most newly minted J.D.'s spill out of law school in late spring, the cohort that sits for the winter bar exam has a larger percentage of repeaters (those whose first effort at bar passage in summer was unsuccessful).

Characteristically, the February 2010 bar examination reported here differs in certain respects from the July 2009 exam as reported in our February 2010 edition of this magazine, and there is no reason to expect that the July 2010 examination and the February 2011 exam just past will differ markedly from those of earlier years. Two sets of numbers drawn from the statistics tell the tale:

	Number of Candidates	Percentage of Repeaters	Mean MBE Score
July 2009	57,305	15%	144.5
February 2010	22,936	47%	136.6

Since I am perched on my soapbox, might I add that I believe the time has come for universal transparency with regard to the release of test scores to candidates? Policies on release are all over the map at this point. For jurisdictions that agree to administer the Uniform Bar Exam, there will be

a uniform release of a written score (derived from the Multistate Essay Examination and the Multistate Performance Test), a multiple-choice score (from the Multistate Bar Examination), and a total score. I commend this approach to all jurisdictions, with release to all candidates—not just those who fail.

A common explanation for why jurisdictions do not release scores, particularly to passing candidates, is that the score will play into employment decisions, with employers fixed on hiring individuals with the highest bar exam scores. While there is a possibility that there will be occasional anecdotal evidence of this, the fact that many jurisdictions already operate transparently when it comes to score release encourages me to believe that the likelihood of widespread use of bar exam scores as employment criteria is minimal. (Interestingly, the use of medical “board scores,” as they are called, is reportedly accepted in terms of qualifying rising medical students for sought-after residency programs.)

I think every bar exam taker deserves to receive the feedback of written and multiple-choice scores as well as a total score. These three figures are due those who have laid so much on the line in order to obtain a license.

I can report—with delight—that the great state of Washington has acted to become a UBE jurisdiction in 2013. I know that a lot of thought, care, and hard work went into making the decision, which will also bring Washington in as the 49th state (leaving only Louisiana) and the 54th jurisdiction to use the MBE. (Actually, Washington had been an early user of the MBE, so this action marks its return to that test.) Washington has indicated that it will use

an educational model to teach and evaluate knowledge of state law.

I can also report—with similar delight!—that the Alabama Supreme Court has voted unanimously to adopt the UBE effective with the July 2011 examination. Alabama is a jurisdiction that already uses the three components of the UBE: the Multistate Bar Examination, the Multistate Essay Examination, and the Multistate Performance Test. This has positioned Alabama to move into the UBE fairly seamlessly. Alabama will continue the use of its separate half day of testing on Alabama practice and procedure as an adjunct to the UBE.

In both Alabama and Washington, the idea of adopting the UBE was subjected to broad scrutiny, with involvement of the bar examining board, the state bar, the state Supreme Court, and the law schools. Sharing the UBE concept via such broad discussion is the model that seems best suited to introducing it and securing its adoption.

We are rapidly approaching our invitational Annual Conference in late April in San Francisco. This year’s event is drawing a large crowd from almost every jurisdiction. We have a record number of state Supreme Court justices registered. Every year we try to set agendas that meet the needs of new and experienced examiners, administrators, and justices, and that span a broad range of issues. We think we have succeeded again.

Finally, this edition of the magazine marks a change in our printing schedule. We are moving our publication dates forward one month (to March, June, September, and December) in recognition of the fact that these dates align more logically with the NCBE calendar of events. 📅