A jurisdiction-specific component is a separate test, course, or some combination of the two that is administered by a UBE jurisdiction to assess candidate knowledge of jurisdiction-specific law. The component can be offered live or online. Nine of the 25 UBE jurisdictions have decided to require completion of such a component prior to admission, as shown in the chart below. In the pages that follow, each of the seven jurisdictions whose components have been developed describes its unique approach regarding the decision to administer such a component, the development of its component, and the eventual format of the component.

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Missouri adopted the Uniform Bar Examination in 2010; its first UBE administration was in February 2011.

Before adopting the UBE in 2010, the Missouri Supreme Court and the Missouri Board of Law Examiners were sensitive to the position that lawyers should not be licensed in Missouri unless tested on their knowledge of Missouri law. The Court and the Board also appreciated, however, that the professionally developed UBE is psychometrically designed to measure competence to practice, notwithstanding that it tests general principles of law. Because the Court appreciated the value a portable UBE score would afford to applicants and therefore favored proceeding with adoption of the UBE, it addressed the concern about knowledge of Missouri law by directing the Board to develop a tool that would expose applicants to state-specific principles without impeding the essential purpose of the UBE.

The Board considered several options for testing on local law, including the addition of local law essay questions to the bar examination, an attendance-required educational course, and an independent test on local law distinctions. The local law essay question option was rejected for several reasons: the time it would add to the administration of the exam, the increased costs involved, and the fact that it could test only a limited number of topics. The educational course option was also rejected due to the increased costs involved and the limited opportunities for offering such a course.

When the Board then considered the option of videotaping an educational course for either broadcasting at live locations or presenting in a webinar format, it came to the realization that its intention in developing a local law component was primarily to provide applicants with access to critical information about Missouri law distinctions rather than emphasizing applicants’ absorption of those distinctions. Since the UBE already determines minimum competence to practice, a local law component need not duplicate that objective. Rather, a local law component should foster the objective of public protection. As Judge Zel Fischer aptly observed, the intention of a local law component should be to prevent applicants from “backing into a buzz saw” due to lack of awareness of significant distinctions in Missouri law. Once the Board and the Court settled upon this objective, the Missouri Educational Component Test (MECT) was born.

Originally, the MECT was a 30-question multiple-choice test covering local law distinctions in 10 substantive areas: Administrative Law, Business Associations, Missouri Civil Procedure, Missouri Courts, Estates, Evidence, Family Law, Real Property, Torts, and Trusts. Written outlines summarizing the local law distinctions in these areas were created by the Board. The outlines do not comprehensively cover a subject, but instead focus on unique decisional and statutory law that licensed lawyers in Missouri should be expected to know. Board members periodically update the outlines to ensure that they are still relevant.

The MECT and its outlines (referred to as the Missouri Materials) are housed on the Court server and are accessible through a link on the Board’s web page. The outlines are publicly accessible, rendering them a resource for all attorneys, including applicants after they are licensed.

After reviewing the outlines, applicants continue to the MECT to take the test. The test is automatically scored upon submission of the applicants’ answers. In the test’s original 30-question format,
applicants were required to answer 75% of the online multiple-choice questions correctly; the test can be retaken as many times as is necessary to achieve a passing score. A passing score on the MECT is not a component of an applicant’s bar examination score, and simply satisfies one condition of licensure. After achieving a passing score, the applicant is required to sign and submit a written certification verifying that the applicant personally completed the MECT. An applicant has up to one year after achieving a passing UBE score in Missouri (or after transferring a qualifying UBE score from another UBE jurisdiction) to complete the MECT.

The Board and the Court recognize that the MECT is an open-book test that is not psychometrically designed to test command of local law distinctions. That is the strength of the MECT. Once the Board and the Court agreed that a local law component should not duplicate the UBE’s objective of determining competence to practice, the door was opened to developing a tool that could expose applicants to information that would never have been tested on a bar exam. Demonstrative of this point is the inclusion of Missouri Courts as an MECT topic.

An advantage of the MECT thus lies in its fluidity. Topics can be added to the MECT outlines at any time. In fact, the Court recently directed the Board to add an MECT outline addressing Trust Account Management in response to an increase in disciplinary cases and in the number of newly licensed lawyers electing to practice alone or in small firms. The addition of a topic modified the MECT to a 33-question test, with applicants now being required to correctly answer 28 questions (nearly 85% of the questions). Because of the open-book nature of the MECT, and the time afforded applicants to complete the MECT, subject matters and questions can be easily added to the MECT without imposing a material obstacle to admission.

With the benefit of five years of experience, Missouri can confidently proclaim that the MECT successfully balances the promotion of applicant score portability with the desire to expose applicants to important local law distinctions.

Notes
1. [Editor’s Note: For an expanded discussion of Missouri’s evaluation of its options for testing on local law, see a previous Bar Examiner article by Hon. Cindy L. Martin: Local Law Distinctions in the Era of the Uniform Bar Examination: The Missouri Experience (You Can Have Your Cake and Eat It, Too), 80(3) The Bar Examiner 7−16 (September 2011).]

Hon. Cindy L. Martin is a judge on the Missouri Court of Appeals for the Western District. She served on the Missouri Board of Law Examiners from 2001 to 2011, serving as president of the Board from October 2009 through May 2011. Martin is a member of the National Conference of Bar Examiners’ Board of Trustees and serves on its Education Committee and its Multistate Bar Examination Committee.

Hon. Zel M. Fischer was appointed to the Supreme Court of Missouri in October 2008. Prior to becoming a Supreme Court judge, he was a trial judge and trial lawyer in northwest Missouri. He serves on the National Conference of Bar Examiners’ Special Committee on the Uniform Bar Examination.
Washington adopted the Uniform Bar Examination in 2011; its first UBE administration was in July 2013.

When the Washington State Bar Association (WSBA) Board of Governors decided in 2011 to go from an all-essay-question bar exam consisting of 24 questions—most of which incorporated Washington-specific law and 6 of which were on Washington’s version of the Rules of Professional Conduct—to the UBE and the Multistate Professional Responsibility Examination, a big question was how to continue to test on Washington-specific law. We wanted new lawyers in Washington to know what areas of law are unique to Washington or substantially different from the general law tested on the UBE. We also wanted to help new lawyers find this information. Finally, we wanted new lawyers to at least be familiar with these areas of law prior to being admitted to practice.

Several methods were considered, including essay tests, multiple-choice tests, and seminars. We did not want to pollute the UBE score with jurisdiction-specific tests, so we quickly eliminated essay questions. In addition, writing essay questions takes a substantial investment of resources. Although seminars are good learning tools, we did not feel that we would be able to cover all the material we wanted to in a seminar format. Also, attendance at mandatory seminars would have been an ongoing logistical hassle. In the end, the consensus was to develop a research and learning tool that lawyers could turn to during the course of their careers in Washington. In order to make sure that they were familiar with the material, we decided on an open-book, timed, self-administered, online multiple-choice test.

The Washington Law Component (WLC) consists of 15 outlines (referred to as the WLC Research Materials), each on a different subject.1 There are 14 outlines on areas of law, each of which explains the basic concepts of the subject or how it differs in Washington. The 14 areas of law are Administrative Law; Civil Procedure, Statute of Limitations and Washington Courts; Community Property and Domestic Partnerships; Constitutional Law; Consumer Protection Act; Criminal Law and Procedure; Evidence; Foreclosures and Limited Practice Offers; Indian Law; Land Use; Landlord Tenant Law; Professional Responsibility; Public Records Act; and Torts and Product Liability. The outlines provide citations to the relevant laws, regulations, rules, and case law, which act as a good starting point for a new lawyer doing research in one of these areas of law. The 15th outline, which also serves as the introduction to the outlines, is about the WSBA. It introduces new lawyers to the Bar, provides a little history, and lets them know what to expect when it comes to license fees, Mandatory Continuing Legal Education, and other requirements to renew and maintain their licenses in Washington. It also lets them know how they can volunteer and contribute to the self-regulation of the profession.

To draft the WLC, the Washington Board of Bar Examiners assigned an examiner or two to each subject area. Where the Board was lacking expertise, the Board appointed lawyers who were considered to be experts in those particular areas of law to assist the examiners assigned to the WLC. The examiners did the research on the subjects and wrote the outlines. In addition, they drafted the multiple-choice questions for their assigned subjects. WSBA staff drafted the outline about the WSBA and the relevant multiple-choice questions. Our in-house IT staff wrote the software for the test and incorporated it into our online application system.

Each applicant is required to take an online multiple-choice test based on these 15 outlines. The
applicant can access the test from the applicant’s online admissions account after submitting the application for admission. (This application includes the application for the bar exam; in Washington, there is no separate bar exam application.) There is a bank of about 12 questions per subject area. The software randomly chooses 4 questions from each of the subject areas for a total of 60 questions. The applicant has four hours to complete the test and may refer to the outline materials during the test. The applicant can navigate between questions, skipping a question and returning to it later as desired. The applicant must score 80% correct to pass. We set the score at the relatively high level of 80% because the test is open book. The applicant’s pass/fail results and score appear in the applicant’s online admissions account immediately after the applicant has completed the test. If the applicant fails, the software will identify the subject areas in which the applicant answered incorrectly. The applicant must wait 24 hours before taking the test again and 72 hours after any subsequent fails.

Applicants are able to take the WLC test any time after they have submitted their applications for admission and must pass it prior to admission. Applicants have 40 months after passing the UBE to complete all requirements for admission. We find that most applicants will take the WLC after the bar exam while waiting for their results.

About once a year or so, the Board reviews the WLC to make sure that the content in the outlines is current and adjusts questions as necessary. The online format makes it relatively easy to update content and questions. The initial work to create the WLC was substantial, but the end result is well worth the effort. With Washington’s major transition from its state-specific, all-essay-question bar exam to the UBE, the WLC has proven to be a successful method of ensuring familiarity with unique aspects of Washington law for all new Washington lawyers.

NOTE
1. The WLC Research Materials are available to the public on the WSBA website at www.wsba.org/ube.

Robert W. Henry is the Associate Director for the Regulatory Services Department of the Washington State Bar Association.

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THE COURSE ON ALABAMA LAW

by Daniel F. Johnson

Alabama adopted the Uniform Bar Examination in 2011; its first UBE administration was in July 2011.

In July 2011, the Supreme Court of Alabama began administering the UBE. Since July 2003, Alabama had already administered the three components of the UBE as part of its bar examination, but it had also continued requiring applicants to complete its long-standing Alabama Essay Examination, a six-question exam in the area of Alabama Civil Litigation—a practice it continued for the first three years after UBE adoption. In August 2013, however, the Alabama Supreme Court eliminated the requirement in its rules that the bar exam include essay questions on Alabama law, commencing with the July 2014 bar exam.

One of the common misconceptions in the legal community about the UBE is that it somehow
precludes the evaluation of an examinee’s knowledge of state-specific law. However, NCBE encourages UBE jurisdictions to design their own separate, state-specific testing and learning components if they wish, to administer in addition to the UBE itself.

Accordingly, while the Alabama Supreme Court discontinued its Alabama Essay Examination, the Court reiterated its belief in the importance of educating every newly licensed attorney in Alabama about the nuances of Alabama law. Specifically, the Court promulgated a rule stating “before being admitted to the practice of law in Alabama, all applicants shall complete a course on Alabama law, the content and delivery of which shall be determined by the Board of Bar Examiners.”

Thus, under the leadership of Justice Michael Bolin of the Alabama Supreme Court, the Alabama Board of Bar Examiners appointed the Alabama Curriculum Committee to develop a course on unique aspects of Alabama law, and I agreed to chair the Committee. Under the auspices of the Board, the Committee invited a blue-ribbon group of attorneys from throughout Alabama with significant expertise in legal subjects of special importance to the state to serve on the Committee. The Committee faced two primary challenges: (1) choosing the subjects that should constitute the curriculum for the course and (2) deciding how the course should be presented.

First, the Committee designated the following eight subjects as the curriculum for the course, all of which have facets that are unique to Alabama law: Criminal Law, Alabama Civil Litigation, Alabama Domestic Relations Law, Alternative Dispute Resolution, Real Property, the Alabama State Constitution, Torts, and Wills & Trusts/Probate.

Second, the Committee decided that the course would be best presented online as a series of videotaped lectures by experts for each of the eight subjects. The Committee then developed outlines for the subjects, which also served as the scripts for the lectures to be videotaped, with Committee members volunteering countless hours to draft and edit the outlines.

Utilizing the services of a professional video production company, the Committee ultimately produced 15 videos to constitute the course. (Some of the subjects were split into multiple videos, and an introductory video and a video on the history of the Alabama State Bar were also produced.) Some of the Committee’s members volunteered to present lectures for videotaping, and the Committee asked other experts to videotape presentations, with judges, professors, and attorneys from all over Alabama participating eagerly.

The Committee then contracted with an online educational services vendor to host the videos for viewing. Each video posted on the website includes a lecture and accompanying slides, along with some “hurdle” questions designed not to test but rather to ensure that the applicant is paying attention and can accurately answer queries about the content of the given instruction.

To be eligible to view the course online, an applicant must first sit for the UBE in Alabama or transfer a UBE score earned in another jurisdiction. The applicant then registers for the course online by providing the applicant number assigned by the Alabama State Bar and creating a user name and password. The online platform provides a way to track the applicant’s progress through and eventual completion of the various modules.

The course, in lieu of the Alabama-specific essay questions, was first made available to examinees taking the July 2014 bar exam and UBE transfer applicants thereafter applying. Of course, it is important to remember that not every person eligible to watch the course ultimately passes the Alabama Bar Exam, but every person who passes the bar exam must also complete the course as a prerequisite to obtaining a
law license. (The course must be completed within 25 months of passing the bar exam, and applicants may also carry forward a completed online course for 25 months.)

There are many benefits to the online course approach, one of which is that it is economical (and much less expensive than the development of state-specific essay questions). More importantly, the online content can be continuously refined and amended as the law in Alabama changes, ensuring that applicants are always presented with the most up-to-date information for practicing law in Alabama. Finally, the curriculum helps applicants cross the bridge from student to lawyer in a novel and engaging way.

The Alabama Board of Bar Examiners believes that by adopting the UBE and coupling it with the online Course on Alabama Law, the Alabama State Bar has created a better way to qualify new lawyers to practice law in Alabama. Through the hard work of the Board and its Curriculum Committee’s members and lecture presenters, this course is a reality. The Alabama State Bar has developed a model for exposing new lawyers to needed scholarship that can serve as an example for the bar admissions community nationwide.

Notes

1. Portions of this article are taken from a previous article by this author: Daniel F. Johnson, The Alabama Bar Exam—The Course on Alabama Law, 76(1) The Alabama Lawyer 46 (January 2015).
2. The Supreme Court of Alabama, Rules Governing Admission to the Alabama State Bar, Rule VI (B), Bar Examination.
3. The State Bar of Arizona had already developed a similar series of videos, and with the encouragement of then Chief Justice Rebecca White Berch, its staff granted unfettered access to the Committee to the platform it had used for its videos.
4. The course registration/login is available at http://alabar.scholarlab.com/. (Credentials are required.)

Daniel F. Johnson is a partner with Lewis, Brackin, Flowers, Johnson & Sawyer in Dothan, Alabama. He has served on the Alabama Board of Bar Examiners since 2004 and in 2016 began a four-year term as its chair. He also serves on the National Conference of Bar Examiners’ Special Committee on the Uniform Bar Examination.

THE COURSE ON ARIZONA LAW

by Hon. Rebecca White Berch

Arizona adopted the Uniform Bar Examination in 2011; its first UBE administration was in July 2012.

In 2010, the year before it adopted the UBE, Arizona began allowing attorneys from other states to apply for admission on motion (AOM) without taking the Arizona bar exam if they met certain conditions. In connection with AOM, we developed a course covering important aspects of Arizona law, as the new AOM rule required applicants to complete such a course before being admitted on motion. The course was offered live, and applicants were required to come to Arizona to take it. When the state adopted the UBE in 2011, that AOM course became the Course on Arizona Law that is required for all applicants for admission to the Arizona Bar.

How did we develop the Course on Arizona Law? In 2009, the Supreme Court of Arizona issued
an administrative order appointing a blue-ribbon task force of lawyers, judges, and law professors to recommend and develop the delivery method and content for the course.2 Task force members included subject-matter experts in Arizona Constitutional Law, Professional Responsibility, Family Law, Real Property, Contracts, Civil Procedure, Torts, and Criminal Law and Procedure.

The task force first considered the subjects on which new Arizona lawyers should be tested and then divided members into subcommittees by subject-matter expertise. Each subcommittee developed an outline of the essential content for its subject area. Those outlines were presented to the Supreme Court for review and approval. This abbreviated account of the process makes it sound simple. It wasn’t. It took the leadership of Arizona Supreme Court Judicial Education Officer Paul Julien to call meetings and keep the members on task—and to forge consensus. The meetings were many and long, but the task force members worked well together and gave generously of their time.

Because Arizona’s course was created for AOM applicants, it was initially presented live only a few times a year, with each speaker addressing specified subjects. The reviews for the program were outstanding. But the effort to find locations, ensure speakers, and keep things on track—along with pressure to offer the course more frequently—caused us to develop an online delivery process.

For the online course, we recorded presentations in a recording studio. We added an introduction from the Chief Justice welcoming participants to the program and providing a little background, which we update as our Chief changes, and a closing “Welcome to the Arizona State Bar” message by the CEO of the State Bar of Arizona. We also update the substantive sessions as developments in the law occur or as we discover new areas that should be covered.

The course consists of modules corresponding to each of the subjects, totaling approximately six hours of video instruction with supplemental materials and knowledge checks; it also includes a printable participant guide. There are multiple modules for each subject; for instance, Family Law has a required video module, a required interactive quiz module, and a resource document (slides). Applicants register online by creating a user name and password and entering a registration access code.3 Applicants need not take the entire course at once, and most applicants complete the course within three to seven days. The computer tracks when users end their sessions and when they complete each substantive section. We have embedded questions in the materials, which applicants must answer correctly in order to proceed, but the focus is on learning, and the answers to the questions are not used for any type of pass/fail scoring approach. When they have finished the course, applicants receive a verification e-mail, which is also sent to the admissions office as proof of completion. (This proof of completion must be submitted with the application for admission.)

We require all applicants for admission to practice in Arizona to take the course, even those who attended law school in Arizona. It has been our experience that law schools, in Arizona and elsewhere, teach national curricula, from law texts published by national publishers. With few exceptions, schools do not test or teach state-specific law. This Course on Arizona Law helps protect the public by ensuring that those who practice in Arizona have been exposed to aspects of Arizona law that may differ from practice in other states. It also helps prepare lawyers new to Arizona for practice in the state. The course enables us to educate potential admittees on many more aspects of Arizona law than we could cover on the bar examination. So the course, coupled with the UBE, works well to ensure lawyer competence and protect the public.

Key to our success has been the selection of knowledgeable, engaging professionals to determine
and write the content and to do the presentations. We have been gratified that these exceptional lawyers, professors, and judges have been willing to volunteer their time. As a result, many who have taken the course have complimented the course’s usefulness, practical information, and clear presentation. They have also commended the ease of use and convenience of the online presentation format.

In our view, the Course on Arizona Law has been a success. It serves our goals of ensuring that new lawyers—or lawyers new to Arizona—know about the practice here. It protects both the law profession and the public.

NOTES

1. The author would like to thank Carol Mitchell, Attorney Admissions Manager for the Arizona Supreme Court, and Paul Julien, Arizona Supreme Court Judicial Education Officer, for their contributions to this article.


3. The course registration is available at http://www.azcourts.gov/educationservices/Committees/JCA/Online-Registration.

THE MONTANA LAW SEMINAR

by Randy J. Cox

Montana adopted the Uniform Bar Examination in 2012; its first UBE administration was in July 2013.

When the Montana Supreme Court ordered adoption of the UBE in 2012, it ordered the Board of Bar Examiners to develop and administer a seminar focused on the unique aspects of Montana law. The intent of such a seminar was to replace the four essay questions on Montana law that had been administered until that time and that would be eliminated with the first UBE administration. The Court ordered that attendance at the seminar be mandatory whether one was admitted by way of the UBE or on motion. The result, the Montana Law Seminar (MLS), has now been administered seven times since Montana’s first administration of the UBE.

The seminar was developed by seeking the opinions of knowledgeable practitioners as to what each of them thought was necessary to know in their field of practice and expertise. From that survey, the following 10 topics were chosen: Indian Law and Jurisdiction, Water Law, Ethics and Mores of Montana Law Practice, Criminal Law, Contracts, Torts and Insurance, the Montana Constitution and Human Rights, Montana and Federal Rules of Evidence and Civil Procedure, Family Law, and Montana Labor Law and Employment. (One topic insisted upon by the Montana Supreme Court is Ethics and Mores of Montana Law Practice, which
focuses on important aspects of the law practice—
civility, professionalism, and the need to treat the
law as a profession and not a business. Montana is
often referred to as a small town with one very long
main street. How to walk that street throughout a
career is a valuable lesson.)

For each topic, content experts were recruited
to develop outlines for use by the speakers. (The
content experts were predominantly lawyers, with a
few outlines having been developed by law profes­sors; the speakers were prominent lawyers and law
professors.) Keeping the outlines current with recent
legislative action or case law is the obligation of the
persons responsible for presentation of the MLS. The
outlines are also posted online through the Montana
Law Library, so they are accessible to all, including
applicants after they are licensed.¹

The MLS is presented live, but to control expense,
Montana uses a limited number of presenters—cur­rently four. We have experimented successfully
with video, both recorded and videoconference. We
expect to use more video presentations but want to
make sure that we do not make applicants just sit in
a room and watch videos for seven hours. We have
thus far rejected allowing applicants to watch prere­corded presentations until we can determine a way
to successfully incorporate video presentations into
the seminar in an interactive way.

The timing of the seminar—the day after com­pletion of the bar exam—was a difficult choice. This
is a matter of convenience for the largest number of
applicants, who are already gathered in one place
to take the exam. The downside is apparent—some
applicants simply are not at their best the morning
after the bar exam.

The plan for the next evolution of the MLS is to
provide a core curriculum in the morning and then,
in the afternoon, allow applicants to choose a set of
classes directed to either a litigation or a transac­tional practice. This should, in particular, help those
being admitted to the Montana bar who are already
experienced practitioners with established practices
elsewhere.

The Board of Bar Examiners is actively pursuing
the development of an online test of unique aspects
of Montana law, which would eventually replace the
seminar approach currently being used. This idea,
once rejected by the Court, appears to be gaining traction in other states. Since the main purpose of
the MLS is to make certain that new members of
the Montana Bar have at least a nodding familiarity
with what is unique to Montana law, administ­ering a “must-pass” online exam (with an unlimited
number of opportunities to pass) seems to be a more
efficient way of ensuring knowledge of those unique
areas of law.

With the adoption of the UBE, the Montana
Supreme Court was concerned about losing the
connection between the bar exam and the unique
aspects of Montana law. The MLS has proven to be a
way to maintain that connection.

**Note**


Randy J. Cox is a shareholder with the firm Boone Karlberg. He
served on the Montana Board of Bar Examiners for 25 years,
serving as chair from 2002 until his retirement from the Board in
April 2014.
New York adopted the Uniform Bar Examination in 2015; its first UBE administration was in July 2016.

In November 2014, Jonathan Lippman, then Chief Judge of the New York State Court of Appeals, appointed the Advisory Committee on the Uniform Bar Examination to study a proposal by the New York State Board of Law Examiners (SBLE) for New York to adopt the UBE and to administer a separate examination on New York–specific law. The Advisory Committee conducted an extensive study, during which it received hundreds of written comments and heard from members of the legal community at public hearings, stakeholder meetings, and focus groups.

In April 2015, the Committee presented its final report, which recommended that the Court of Appeals adopt the UBE and two state-specific licensing components: an online New York Law Course (NYLC) to highlight areas of practice and procedure that are important for every new attorney in New York to know, and a separate, online, open-book, 50-question multiple-choice test, the New York Law Exam (NYLE), to ensure that applicants have processed what they learned in the NYLC and can demonstrate a basic understanding of unique aspects of New York law. The NYLC and NYLE were to fulfill the requirement, unanimously agreed upon by Committee members, that applicants for admission to the New York Bar continue to demonstrate their competence in unique New York legal principles and distinctions—a requirement that had until then been fulfilled by the administration of 5 essay questions and 50 multiple-choice questions on New York–specific law as part of the bar exam. The Committee also made some specific recommendations regarding the NYLC and the NYLE.

The Committee recommended that the NYLC should consist of several hours of videotaped lectures with embedded questions; that applicants should be required to correctly answer those questions to ensure that they were being attentive and engaged with the course materials; and that applicants should be required to complete the NYLC before taking the NYLE and within one year before or three years after taking the UBE.

Regarding the NYLE, the Committee recommended that the passing score should be set at 30 out of 50, a score that would demonstrate suitable knowledge of unique aspects of New York law without imposing a significant burden to admission; that the NYLE should be offered no fewer than four times a year on dates other than those on which the UBE is administered; that the SBLE should employ appropriate technological methods to deter cheating, such as scrambling questions and answers; and that applicants should be required to complete an affirmation swearing that they completed the NYLC and NYLE without assistance from anyone else and did not provide assistance to any other applicant.

The Committee also recommended that the SBLE produce suitable study materials that applicants could reference while viewing the NYLC and taking the NYLE.

Upon receipt of the Committee’s final report, the Court of Appeals adopted the Committee’s recommendations, and both the Court and the SBLE in due course adopted amendments to their respective rules that incorporated substantially all of the Committee’s recommendations.

The next step for the SBLE was to prepare suitable study materials. Fortunately, this was already a work in progress, in part because the SBLE was anticipating the adoption of the UBE, but also
because the SBLE believed that such materials would be helpful to applicants taking the New York Bar Examination even if the UBE were not adopted. The original subject-matter outline prepared several years earlier had already had statutory authorities and case citations added to it, and the addition of textual matter was well along. The result is a 134-page document of course materials, which is available on the SBLE website.

Meanwhile, the SBLE began making the necessary arrangements for the NYLC. With the assistance of the New York law schools and the New York State and other bar associations that regularly conduct Continuing Legal Education programs, the SBLE selected 19 law professors, practitioners, and judges to record 19 videotaped presentations, including an introduction by Court of Appeals Associate Judge Jenny Rivera, who had chaired the Advisory Committee. The other 18 presentations cover the 12 subjects included on the NYLE (with some of the subjects having more than one presentation). Those subjects are Administrative Law; Business Relationships; New York Civil Practice and Procedure; Conflict of Laws; Contracts; Criminal Law and Procedure; Evidence; Matrimonial and Family Law; Professional Responsibility; Real Property; Torts and Tort Damages; and Trusts, Wills, and Estates.

The presentations total about 15 hours. Each presentation includes a number of embedded questions based on the presentation, which the applicant must answer correctly. If the applicant answers incorrectly, the video returns to the point in the presentation that contains the answer, and the applicant must listen once again to the presentation from that point forward. Each presentation also includes a final question that must be answered correctly in order to receive credit for watching that section.

Applicants register for the NYLC through their SBLE accounts. After completing the course, the applicant has unlimited access to the NYLC videos, without the embedded questions, through his or her SBLE account.

To prepare the NYLE, the SBLE and its staff first prepared a bank of about 300 multiple-choice questions. From those questions that survived the subsequent rigorous review and editing process, the SBLE selected 50 questions to include on the first NYLE, which was administered in May 2016. The questions are not designed to involve or test any legal analysis, which is sufficiently tested by the Multistate Bar Examination and the Multistate Essay Examination. The sole purpose of the NYLE is to ensure that applicants have familiarized themselves with New York law as presented in the NYLC and the course materials. As an online, open-book test with a passing score of 30 out of 50, it is not intended to be, and should not be, a significant obstacle to admission to the practice of law. Sample NYLE questions are available for applicants on the SBLE website.

The NYLE is being administered by ExamSoft, utilizing its SofTest software, which almost all applicants are quite familiar with from their law school experiences. Two hours are allowed for the 50 multiple-choice questions, with ADA applicants being given appropriate accommodations. The order of the questions is randomly scrambled, so that no two applicants are likely to receive the questions in the same order. Answer choices may also be scrambled. And backward navigation of the questions is not permitted; once an applicant has answered a question and proceeded to the next question, the applicant cannot return to any previous question.

Applicants are able to register for the NYLE through their SBLE accounts only after they have successfully completed the NYLC. NYLE results, generally available two weeks from the date of the exam, are posted to the applicant’s SBLE account. If an applicant does not achieve a passing score on the NYLE, the applicant must retake both the NYLC and the NYLE.
The SBLE is quite confident that the combination of the course materials, the NYLC, and the NYLE will result in applicants who are focused on important and unique aspects of New York law and who will thus be well prepared to competently represent their clients.

Notes


3. Detailed instructions for applicants regarding the NYLC are available on the SBLE website at https://www.newyorklawcourse.org/.

Robert S. McMillen is a principal at the firm Bartlett, Pontiff, Stewart & Rhodes, P.C. He has been a member of the New York State Board of Law Examiners since 2001 and serves on the National Conference of Bar Examiners’ Multistate Bar Examination Committee.

THE CLASS IN NEW MEXICO LAW

by Howard R. Thomas and Sophie S. Martin

New Mexico adopted the Uniform Bar Examination in 2015; its first UBE administration was in February 2016.

Since November 2015, all applicants for admission to the New Mexico Bar must attend a live, one-day class on New Mexico law. And while they come to the class because it is required under the Rules Governing Admission to the Bar, they leave with an appreciation of what makes the practice of law in New Mexico different from that in other states. The class covers substantive legal topics—including Indian law, community property, local rules, standards of professionalism, and trust accounting—and is designed to give newly licensed New Mexico attorneys essential information and resources as they begin practice in New Mexico.

The New Mexico Supreme Court first mandated the class for applicants under its rules for reciprocal admission on motion, effective in 2015. When it adopted the UBE in 2015, the Court extended the course requirement to include all applicants, whether by reciprocity, UBE score transfer, or examination. Attendance at this live course is important for all lawyers new to New Mexico law, regardless of years of practice experience elsewhere.

Held three times per year, the class features speakers that include New Mexico Supreme Court Justice Edward L. Chávez, Chief Disciplinary Counsel William Slease, and a group of subject-matter experts drawn from the New Mexico Bar and...
the University of New Mexico School of Law faculty. The class is held in collaboration with the State Bar of New Mexico’s Continuing Legal Education (CLE) division, and attorneys who are already licensed in other states may receive CLE credit for attending. Attendance at a live course, as opposed to a videotaped or on-demand course, promotes the value of interaction between and among members of the Court, instructors, and attendees and emphasizes the importance of the topics covered.

Prior to adoption of the UBE, New Mexico—which can be described as a checkerboard of state, federal, tribal, and private lands, with the state’s Native American population comprising nearly 10.5% of its entire population—tested applicants on a range of local topics by administering three locally written essay questions on such topics as Indian law, community property, equitable remedies, and administrative law. During the comment period preceding the Court’s adoption of the UBE, members of the bar and legal educators expressed concerns that exposure to two of those topics, Indian law and community property, not be lost when the state switched to the UBE. The seminar on Indian law covers topics ranging from federal Indian law, to tribal governance and sovereignty, to jurisdictional issues, to practice in tribal courts. Further, New Mexico is one of only nine community-property states. The community-property segment of the class acclimates new attorneys to the impact of New Mexico’s community-property laws on divorce, civil liability, taxation, and consumer debts.

Applicants register for the class on the New Mexico Board of Bar Examiners’ website. The class is held on the day after the February and July bar exams, in order to best accommodate out-of-state examinees. Students and alumni of the University of New Mexico School of Law may opt to take the class on a third date in late fall. The Court conducts a swearing-in ceremony at the end of each class for all applicants who have been pre-approved for admission pending completion of the class.

The success of the Class in New Mexico Law is conveyed well by the words of Justice Chávez: “This course is intended to help lawyers avoid potential ‘traps’ when they are unfamiliar with unique laws or procedures in New Mexico. I have been pleased with the active participation of our new colleagues in this course, as well as the many expressions of gratitude we have received about the ability of the course to set the tone for civility in the practice of law in New Mexico.”

Howard R. Thomas has practiced law since 1980. He is chair of the New Mexico Board of Bar Examiners and serves on the National Conference of Bar Examiners’ Special Committee on the Uniform Bar Examination.

Sophie S. Martin is the Executive Director of the New Mexico Board of Bar Examiners.