From: Isadore Huss
Sent: Tuesday, October 07, 2014 10:05 AM
To: Uniform Bar
Subject: Comment regarding proposal to adopt uniform Bar exam format

I would like to briefly voice opposition to the proposal to adopt a uniform Bar exam format (containing a small New York-specific component). Having taken the full exam in three states where I am admitted, I feel that New York's exam is not only a better gauge of fitness to practice in this state, but also that the exams in the other states where I have sat (admittedly a small sampling) were not sufficiently broad yet nuanced in scope to test fitness to practice in general. The basic level of intuitive reasoning needed to provide an adequate analysis of a given fact pattern was not tested or well measured in and by the other exams, particularly the essay questions, to which I have been exposed. Simply including a one-hour New York short answer section in this state's exam as a token nod to those who object to a National-style exam is not a meaningful substitute for the portions of the current New York exam which have given value to the attainment of a passing grade in New York for these many decades.

Further, as a lawyer involved in hiring many newly admitted attorneys in New York over the years, I have always been able to rely on the fact that these job applicants have passed the more nuanced New York exam as assurance that the applicants had fulfilled a base-line capability to perform the job they seek, particularly as regards the ability to become a litigation attorney. That assurance would evaporate if an exam similar to the others I have seen were to be used.

Thank you for your time,

Isadore Huss

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[redacted]

From: James T. Potter <[redacted]
Sent: Tuesday, October 07, 2014 11:22 AM
To: Uniform Bar
Subject: Proposed adoption of the Uniform Bar Examination

Dear Judges of the Court,

I am writing to voice my opposition to the proposed adoption of the Uniform Bar Examination (UBE). I am concerned that the proposed change will significantly alter the course of legal study and bar exam preparation in New York and will reduce the ability of recently admitted attorneys to practice in New York effectively.

The bar examination not only tests the fitness of candidates to practice law, it also guides the course of legal study. Students take courses that will assist them with the passage of the New York bar examination. Law schools offer and emphasize New York practice because of its current importance to this examination. Teachers of the core substantive courses often teach and test the nuances of New York law, in addition to the multistate rules, because of the influence of this examination.

Students navigating their way through New York law schools, and those studying for the New York bar, devote time and attention to mastering things like the impact of section 15-108 of the General Obligations Law on settlement, the details of how to practice under the CPLR, the New York rules of intestate succession and the New York rules governing the dissolution of marriages. All of these particular New York rules are important to the effective practice of law in New York. They are also important to New York students who eventually practice in other states.

Colleagues in other states have explained to me the value of the rigorous legal education they received focusing on New York law. They were schooled in the importance of mastering the procedural and substantive law enacted by state legislatures and the particular variations that may exist in the common law. They understand the need to identify and apply the particular rules of state practice. They attribute much of their success to the legal education they received that was geared toward understanding and mastering New York law.

The proposed UBE will have a significant impact on the educational focus of New York law schools and the exam preparation of all bar applicants. The current bar examination has five essays devoted primarily to New York law. Examinees recognize that the inability to answer one of these essays could significantly impact their ability to pass the exam. The New York component of the proposed UBE will consist of 50 multiple-choice questions, tested in one hour of a 13 hour test. Statistically, it will make little sense for a student or a bar examinee to devote time and attention to particular New York rules. At most, a New York substantive rule will appear on one of 50 multiple choice questions. There will be a 25% chance that a guess will yield the correct answer.

The proposed UBE will reduce significantly the study of New York law in law schools and in bar exam preparation. This likely will reduce the fitness of newly admitted lawyers to practice in New York, to the potential detriment of the public at large. I respectfully urge the Court to reject the proposed change.

Respectfully,

James T. Potter
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121 State Street
Albany, NY 12207
T: (518) 436-0751
F: (518) 436-4751
[redacted]

Attention:
This e-mail is privileged and confidential. If you are not the intended recipient please delete the message and notify the sender. Any views or opinions presented are solely those of the author.

From: salvatore.candela[redacted]
Sent: Tuesday, October 07, 2014 10:15 PM
To: Uniform Bar
Subject: UBE

To Ms Bosse or to whomever it may concern,

In light of this decision by Judge Lippman, i am writing with an emphatic nay on your proposal to administer the UBE in the next july session. As a 4E student, i am working and going to school at night to prepare for the february '15 bar, and continue to do so without respect to the UBE, and hopefully, be employed in a legal capacity a short time after taking the bar.

My main concern is not out of anger or jealousy that subsequent bar takers will have an easier bar than i will, but im concerned with how an institution such as the court of appeals is held with such high regard, and is taking its respect and using it to diminish the high standards in which an attorney is to be held. Perhaps it is not being able to see the forest from the trees and is probably made for some short term economical advantage, but this will wholly destroy the principles that being from new york prides itself on. That we do challenging things because were tough minded and want to make the most out of whats around. And to be a New York lawyer carries a different cache than being one from wyoming, which after this resolution passes will have no difference at all.

Secondly, you are killing enrollment potential for all new york schools. Part of going to a new york school is because its knowledge of ny law, and not focusing on other areas as much. The passing of this proposal would deter potential ny students to choose out of state schools which focus on the same exam that a ny school does, take the exam, and be admitted in ny without the current rigors needed to practice. Schools that arent Columbia would be in even worse shape than they currently are because now they have to ccompete with schools not only within ny, but all other states which use the UBE to enter the bar. So there is little difference going to Buffalo or New Hampshire as far as curriculum, but say NH offers discounted tuitions, then Buffalo, and very likely NYLS and certainly other city schools with high tuition just to pay Real estate taxes will go by the wayside in 10 years.

Whose side is the judge on? This certainly does not represent the best interest of the state's institutions nor the premeses that are inculcated to us about the legal profession that its a profession, not a business, has ethics, high standards. Bollucks to that.

I dont know what happened behind the scenes to make this decision come about, but i would assume the state bar assn needed money or some firms needed employees that werent able to work here without passing the bar, whatever.

I hope that i expressed my anger to you enough because im thoroughly disheartened by the impositions proposed by the court after wanting to believe that this profession is one of nobility and principle, and high standards, and then have the rug pulled out from under me and be shown that its just as fickle and shortsighted as anything else.

Sal
Sent via BlackBerry by AT&T

To: Ms. Diane Bosse, Chair, New York State Board of Law Examiners

From: Dean Vincent Rougeau, Boston College Law School

Dean Maureen O'Rourke, Boston University School of Law

Dean Jeremy Paul, Northeastern University School of Law

Dean Eric Gouvin, Western New England School of Law

Date: October 8, 2014

We write in response to your request for comments regarding the proposed adoption of the Uniform Bar Exam ("UBE") by the State of New York. As the deans of four law schools in Massachusetts that place a significant number of graduates in New York, we support broad adoption of UBE and we would like to register our strong support for the proposal. We would be particularly pleased to see New York take this step and we believe that it would lead to the UBE becoming the standard bar examination in the Northeast.

The National Conference of Bar Examiners has offered strong support to the expansion of the UBE, and as the New York proposal makes clear, adoption of the UBE does not prevent a state from including state-specific law questions on the examination. Early this year, we received a letter from Linda Steward Dalianis, Chief Justice of the Supreme Court of New Hampshire, informing us that New Hampshire would begin to offer the UBE in February, 2014. Justice Dalianis urged us to consider working with our courts and bar examiners in Massachusetts to expand the availability of the UBE in New England. In April, we met with the members of the Massachusetts Supreme Judicial Court to discuss a number of issues, including changes to the Massachusetts bar exam. At that time, we indicated our strong support for the adoption of the UBE in Massachusetts.

Given our increasingly mobile society and global economy, we are troubled by the growing tendency of individual states to make independent changes to their bar exams and requirements for admission to the bar. These changes make it increasingly difficult for lawyers to move among jurisdictions within the United States and place a particularly heavy burden on recent graduates, whose decisions on where to take the bar often lock them into a specific job market for many years. This limits their ability to seek employment in more than one jurisdiction at a time when they are anxious to find good work and are often very willing to move. Many students decide to take two bar exams in the same sitting, making it more difficult for them to pass either test.

Access to justice for all Americans will be much better served in an environment in which lawyers can move much more easily among jurisdictions. Adoption of the UBE in New York will send an important message about the wisdom of a uniform system for access to legal practice in the United States.

From: Howard, Andrew <[redacted]
Sent: Wednesday, October 08, 2014 11:19 AM
To: Uniform Bar
Subject: Concerns on UBE for July 2015

To whom it may concern,

I would like to take this time to share my concerns as a third year student at Albany Law School. I believe that the proposed drastic changes to the bar exam should not be made for July 2015 bar exam.

I am currently in the middle of my fifth semester of study. For four and a half semesters my professors have been making reference to and focusing our study on New York State Law. Since the beginning of my second year I have been selecting classes which would provide me with an appropriate foundation in New York State Law. Additionally, at this point in time the vast majority of my classmates have weighed all the bar prep courses and have given substantial sums of money to the course that they predict will best prepare them.

If the proposed changes are made for July 2015 my peers and I will have been gearing our study for an exam which we will never receive. My professors will only have a semester and a half to make reference to Uniform Bar Exam materials. My classmates and I will only have one semester to select classes that could focus on UBE questions. We would need to immediately re-assess our bar prep selection to postulate whether the company will be able to rapidly create an effective course of instruction before May.

Midway through my penultimate semester of law school is NOT enough notice for these changes.

The addition of Federal Civil Procedure to the bar exam was a gradual process which allowed for professors to target their syllabi, students to make appropriate class selection, and bar exam companies to create successful courses. My professors have made reference to Federal Civil Procedure and my course selection has been informed on this change. Switching over to the UBE is a much more drastic change and I only request that law students are afforded the opportunity to focus their legal education on the bar exam.

Thank you for your consideration,
Andrew Howard

[redacted]

From: Nancy Staudt <[redacted]
Sent: Wednesday, October 08, 2014 7:38 PM
To: Uniform Bar
Cc: Ann Nicholson
Subject: Washington University in St. Louis Comments

Dear Ms. Bosse:

Thank you very much for your email. I support the Uniform Bar Exam for several reasons: 1) it encourages mobility, 2) it decreases the cost of taking numerous bar exams across states, and 3) it does not eliminate local control and oversight over the practice of law. As the dean of a law school located in Missouri—an early adopter of this initiative—I would say that states such as New York should investigate the experience of those who have already moved forward. The results appear to be very positive.

If you have any questions, please do not hesitate to reach out to me.

All the best,
Nancy

Nancy Staudt
Dean
Howard & Caroline Cayne Professor of Law
Washington University School of Law
Anheuser-Busch Hall
One Brookings Drive, Campus Box 1120
St. Louis, Missouri 63130
Phone: 314-935-6420

Washington University in St. Louis
SCHOOL OF LAW

[redacted]

From: Ken <[redacted]>
Sent: Wednesday, October 08, 2014 9:20 PM
To: Uniform Bar
Subject: Recommendation to Replace the current Bar Examination with the Uniform Bar Examination (UBE)

October 8, 2014
Kenneth A. Slott
Attorney-at-Law
183 Lower Sheep Pasture

Road

Setauket, New York

11733-1846

[redacted]

Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, New York 12203-5195

Dear Ms. Bosse:

I have read The New York State Board of Law Examiners (SBLE) recommendation to the New York Court of Appeals favoring replacing the current bar examination with the Uniform Bar Examination (UBE). The New York Law Journal has requested that attorneys in this State comment on their opinion of this proposal.

I took the New York Bar examination in February of 1985 and passed the exam on my first attempt. I credit extensive preparation for the Bar Exam to my success. At that time, the New York State Bar had a reputation for being the second hardest bar exam in the nation. Two years later, again after extensive "long distance" studying, I took the California State Bar Exam - the exam which had the reputation for being the hardest in the nation. The California Bar Exam was brutal. Unlike New York, California places extraordinary emphasis on knowledge of the idiosyncrasies of that State's laws. In fact, the brutal California Bar Exam ran for three consecutive days, with one of those days being devoted strictly to California Law essays. While I did pass the California bar on my first attempt, the overall pass rate for out-of-state attorneys was 11%!

Every state has different law and legal principles, many of which conflict. Nonetheless, as we have become a much greater interstate transactional nation since I took my two bar exams, I feel it would be extremely beneficial to employ the Uniform Bar Examination, as described, in as many States as possible. I would even go so far to suggest that those States which would choose to employ the Uniform Bar Examination allow passage of the UBE to as qualification for admission to all UBE State Bars. Of course, each UBE State in which an attorney who took that Exam chooses to actually practice (I never one practiced in California) would be entitled to all required registration fees and each such State's individual Continuing Legal Education requirements. And through such CLE

requirements, the UBE States can ensure that the admitted attorney maintains familiarity with each such State's laws.

Thank you for your kind attention to my correspondence, and my heartfelt support for replacing the current Bar Examination with the Uniform Bar Examination as proposed.

Sincerely,

Kenneth A. Slott
Kenneth A. Slott

From: KIM, HYUNG-SUB <[redacted]>
Sent: Wednesday, October 08, 2014 10:03 PM
To: Uniform Bar
Subject: Opinion from Indiana (bloomington) Law school student

Dear New York Bar Examiner,

Nice to meet you, I am a Indiana Maurer school of law student.

I really appreciate for New change of Bar exam. But **I think it should not be started on July bar exam of 2015. It should be started on July bar exam of 2016. It should have told to us at least 3month ago for the principle of the protection of reliance.**There are some reasons :

1) JD and LLM students who want to take 2015 July New York bar exam, We already have started our semester 2-3month ago. It means that we have chosen our classes according to Original New York Bar exam contents, Not for New Bar exam(UBE). Furthermore, We already have bought some bar review books & course for Original New york Bar exam. So for the principle of the protection of reliance, this big change should be started on 2016 July.

2) There are many retakers of NY bar exam now, because of sudden change, they only have last one chance. This is too risky. They already have spent much money and time for Original New york bar exam. It should be given to them at least 2chances more. So like above, starting at 2016 july could be better.

Thank you so much.

Margaret Nyland Wood

From: John Robinson Jr. [redacted]
Sent: Thursday, October 09, 2014 10:16 AM
To: Uniform Bar
Subject: UBE comment

Dear Ms. Bosse et al.,

As an almost-licensed attorney (who took the UBE in July), I fully support SBLE's recommendation to move New York to the UBE. While I don't expect that I would transfer my score to New York, I think it's important for the profession to promote incremental moves towards universal skillsets and broad licensure. Hopefully, New York will pave the way for other states, particularly in the Northeast.

Thank you,
John

John Robinson Jr.
O'Hara Honors Fellow
Utah Office of the Attorney General
(801) 538-7269

[redacted]

From: David Slater [redacted]
Sent: Thursday, October 09, 2014 4:56 PM
To: Uniform Bar
Subject: Uniiform Bar Exam

To Whom It May Concern:

I have been admitted to the New York bar since 1988. I, for one, am against a Uniform Bar Exam. It does not prepare New York lawyers on New York law. A one-hour multiple choice exam on New York law is insufficient to test a candidate's knowledge of New York law. A lot of what lawyers learn about their local state law they learn from preparing for their state bar exam. While I am all for portability of law licenses throughout the US, and the freedom of lawyers to practice wherever they want, the solution is not to eviscerate the state portion of the bar exam. A better solution would be to require an individual who already passed the MBE and the state portion of the bar exam to just take the state portion of another state to practice in that state. In other words, the MBE is already a national bar exam which most lawyers have been required to take and pass. For those lawyers to practice in other states, they should just have to take the state portion of that state's bar exam.

Also, how will the new proposed multistate bar exam rules apply to attorneys who have already passed a bar and practiced for many years? Will they have to retake the new bar exam in order to practice in other states? In other words, will it make it more difficult for current lawyers to become licensed in other state? It seems like this may be so, since now admitted attorneys will have to take another entire bar exam again. Many critical questions remain unanswered or unanalyzed in this new unprecedented proposal.

In short, I don't think any real thought or analysis has gone into this change. It seems that it is being pushed through by law schools and employers to benefit their business interests. Most admitted lawyers, however, will probably be against this major change in how bar exams are administered. It is not clear that this change will benefit them, and it may even be contrary to their best interests.

Respectfully submitted,

David M. Slater
Law Offices of David M. Slater
240 West 73rd Street, Suite 701
New York NY 10023
office: (212) 489-6500
fax: (212) 721-0716
[redacted]

[redacted]

From: Katherine Moran <[redacted]
Sent: Thursday, October 09, 2014 11:25 PM
To: Uniform Bar
Subject: Submission For UBE Comment

I wanted to express my support for New York adopting the Uniform Bar Examination. As a law student who will be graduating in 2015, having to pick one specific jurisdiction to take the bar in is severely limiting in terms of job prospects. I'm sure you're aware of the terrible job market law graduates are facing. While I've spent three years here, interning and gaining connections, I am not guaranteed a job in New York. However, if I were able to apply for jobs in 14 other states besides New York, suddenly my odds are much better. I realize many factors go in to making a decision of this size, but I do hope that my comment will be factored in as well. Thank you for taking the time to read this.

[redacted]

From: 김형섭 <litae86[redacted]>
Sent: Friday, October 10, 2014 10:36 AM
To: Uniform Bar
Subject: Opinion from Lawschool student

Dear New york Bar examiner,

I would think It should be started on July bar exam of 2016, not for 2015 July, It is too fast change.

1) Traditionally, The New York State Board of Law Examiners have done some changes for new thing very slowly. Usually, If there is some change to exam subject or requirement to apply, The New York State Board of Law Examiners have
let us 2-3 years ready before changes. But this time is too fast change. Only 9month before big change is too sudden change to
many JD and LLM students. So i am worried about latent side effect.

2) Law school students who want to take 2015 July New York bar exam, We already have chosen our classes according to Original New York Bar exam contents, Not for UBE. Because New semester is begun 2 or 3month ago.There is a huge bad effect to our class curriculum if UBE starts on 2015 July.

3) There is no time to change their LLM or JD classes curriculum effectively to Many Law school administration unless the UBE system starts on 2016 July.

[redacted]

From: limw@[redacted]on behalf of korea <limw@[redacted]
Sent: Friday, October 10, 2014 10:38 AM
To: Uniform Bar
Subject: Opinion from law school student

Dear New york Bar examiner,

I would think It should be started on July bar exam of 2016, not for 2015 July, It is too fast change.

1) Traditionally, The New York State Board of Law Examiners have done some changes for new thing very slowly.
Usually, If there is some change to exam subject or requirement to apply, The New York State Board of Law Examiners have
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2) Law school students who want to take 2015 July New York bar exam, We already have chosen our classes according to Original New York Bar exam contents, Not for UBE. Because New semester is begun 2 or 3month ago.There is a huge bad effect to our class curriculum if UBE starts on 2015 July.

3) There is no time to change their LLM or JD classes curriculum effectively to Many Law school administration unless the UBE system starts on 2016 July.

limw@hanmail.net

[redacted]

From: Reference, Shared <[redacted]>
Sent: Friday, October 10, 2014 2:58 PM
To: Uniform Bar
Subject: UBE adoption comments

Whatever the merits of the UBE, implementing it by July 2015 would be most undesirable. Adoption of a new bar examination at such short notice would adversely affect both NYS law schools, which have in part configured their curricula to cover the subjects now tested in the NYS bar examination, and current law students, who have arranged their studies to prepare for that examination. At very least a full academic year should pass before the new examination is required; a longer period of notice would be preferable.

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October 14, 2014

Jeffrey Hartman
[redacted]

Diane Bosse
New York State Board of Law Examiners, Chair
Corporate Plaza, Building 3
254 Washington Ave. Extension
Albany, NY 12203-5195

RE: Replacement of Current New York Bar Exam with Universal Bar Examination

Ms. Bosse,

I am a third-year law student at SUNY Buffalo Law School, and write to express my support for the replacement of the current New York bar examination with the Universal Bar Examination (UBE), beginning in July 2015. I believe that New York's adoption of the UBE will be beneficial for new attorneys because UBE results: are portable, increase access to legal employment for law students in New York, and provide an opportunity for multi-jurisdiction practice without taking two bar exams or waiting for New York's five-year reciprocity rule – often applied by other jurisdictions, such as Washington, to the disadvantage of attorneys licensed in New York. As a student seeking admission in New York and a UBE jurisdiction, the adoption of the UBE by the Court of Appeals will reduce cost, provide greater value for money for a New York legal education, and eliminate a Hobson's choice about which bar exam to take in July 2015.

In addition to benefiting New York bar examinees, I believe that the UBE will benefit the citizens of New York – especially those presently underserved by the legal community. Although the UBE will change the composition of the bar exam and increase access to the New York legal market, New York's 50 hour pro-bono requirement will continue to attract examinees and attorneys with a demonstrated commitment to public service. Just as the Pro Bono Scholars Program attracts talented students willing to provide free legal services in exchange for early eligibility to sit for the New York bar exam, I believe the UBE, in tandem with the 50 hour pro-bono admission requirement, will attract attorneys and examinees committed to creating a more just society through public service.

In light of the concrete benefits that will be provided by the adoption of the Universal Bar Examination (UBE), I strongly encourage the New York Court of Appeals to replace New York's current bar examination with the UBE, beginning with the July 2015 examination.

Respectfully submitted,

Jeffrey Hartman

[redacted]

From: James Trainor <[redacted]>
Sent: Wednesday, October 15, 2014 11:54 AM
To: Uniform Bar
Subject: Comments on UBE Proposal

I received the SBLE request for public comment on the UBE proposal for Bar Exams beginning in 2015 from the Saratoga County Bar Association. I have been admitted to, and in private practice within, the Third Department since 1991.

1. I think the bar exam should continue to be primarily focused on New York law and would recommend that it be 75% NY law and 25% Uniform exam questions.

2. I also think 50% of the exam questions should be essays and 50% multiple choice. All ethics questions should require an essay response to ensure a thorough understanding of the requirements.

3. I also think that practitioners with less than 5 years actual private practice experience elsewhere should be required to take the NY specific portion of the bar exam before being eligible to practice in NYS.

James P. Trainor, Esq.
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Tel. (518) 899-9200
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"Soli Deo Gloria"
www.ctclawfirm.com

[redacted]

From: James R Voyles <[redacted]
Sent: Wednesday, October 15, 2014 4:17 PM
To: Uniform Bar
Subject: Comment on UBE Proposal

To Whom It May Concern:

I recently sat for the July 2014 NY Bar Exam and I am currently awaiting the results. I am in favor switching to the UBE because it reflects the realities of the modern economy. However, I ask that consideration be made for those who have recently taken the NY Exam. It is my hope that their will be a provision in the adoption of the UBE that allows those of us barred in NY to have the portability and flexibility granted to those who take the UBE.

Thank you for your consideration.

James R. Voyles
[redacted]

[redacted]

From: Zach Ferguson <[redacted]
Sent: Thursday, October 16, 2014 7:47 PM
To: Uniform Bar
Subject: UBE Comment

I would like to add my comment that I think the New York Court of Appeals should adopt the Uniform Bar Exam (UBE). The UBE provides a great benefit to both attorneys, and those who need legal services. The UBE represents a very sensible advance in the way jurisdictions regulate the legal profession. To have such a large state like New York embrace the UBE would be greatly helpful to improve a part of our industry that many outsiders (and insiders) view negatively. I hope you give the UBE your fullest consideration.

Thank you for your time,

Zach Ferguson

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Stephen Gillers
Elihu Root Professor of Law

October 17, 2014

Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Dear Ms. Bosse:

These are my comments in response to the SBLE proposal to substitute the UBE for the current bar examination in New York.

I support the recommendation for the reasons given in the Request for Public Comment, but with one reservation.

I do not believe the examination should include a New York law-specific component of 50 short answers or any New York law-specific component at all. Success on the UBE should be sufficient. However, for the reasons below, I recommend a higher passing score.

Fifty short answer questions cannot test reasoning or analytical skills. The UBE does. The short answer questions will test the ability to recall details of New York law: e.g., the elements of a designated claim, defense, or crime; the allocation and size of burdens of proof; pleading obligations; limitations periods; CPLR, EPTL, DRL, CPL and other statutory provisions, and so on. True, these questions will focus on New York law but at a level of specificity where the only aptitude tested is the ability to remember vast amounts of information. That memory will quickly fade after the examination. New lawyers who later happen to practice in an area of law in which knowledge of New York law is important will not rely on what they remember from preparation for the examination, nor would we wish that they do so. They will look it up.

Inclusion of 50 short answers that test New York law does allow us, in a formal sense, to call the examination a New York examination, while adding nothing to our confidence in the applicant's ability competently to perform as a lawyer. I understand the desire to differentiate our examination as one unique to our state, but I suggest that we should overcome it. The proposed New York component is better seen as an exercise in branding.

Not only will the 50 short answers merely reward memory, they will also add to the time and expense of the applicants, who will then feel the need to take a review course in New York law. And it will require unnecessary work from the SBLE, which will have to compile those questions each time the New York short answer test is administered.

So why do it? A justification offered in the Request for Public Comment is that it "recognizes the importance of state law." I agree that New York law is quite important, nationally and globally, but 50 short answers on a bar examination is not a way to recognize that importance. As a second justification, we are also told that it "is imperative that New York licensure remain internationally recognized as a valuable legal credential." I agree. New York bar admission has great value for lawyers who practice in or outside the state. But getting the passing score on 50 short answer questions does not enhance the New York credential. There is simply no connection between the goals and the proposal.

The way to ensure international recognition of New York bar membership and protect the credential is with a high passing score on the entire examination. A high score will establish New York's demanding standards for admission to its bar. The SBLE is recommending a passing score of 266. Other jurisdictions, we are told, have passing scores of between 260 and 280. The lower New York score would seem to diminish the reputation of the New York credential, contrary to the SBLE's goal.

Further, including the short answers would be inconsistent with our practice on motion admission. A lawyer who has practiced elsewhere for as few as five years may seek admission without examination. The lawyer's practice may have required no knowledge of New York law. Yet the applicant need not take a New York specific examination even if he or she plans, once admitted, to practice only New York law. This is because the lawyer's practice commends him or her as competent to be a New York lawyer. The UBE is also meant to ensure legal competence and, similarly, the addition of New York specific questions is unnecessary.

Sincerely yours,

Stephen Gillers

SG:sg

Margaret Nyland Wood

From: Helenkaye Burke <[redacted]
Sent: Monday, October 20, 2014 12:49 PM
To: Uniform Bar
Subject: Uniform Bar Examination

Good Day,

The Uniform Bar Examination provides benefits for both the state of New York and the students sitting the bar.
Currently the bar examination for prospective lawyers is a useful tool, in that it allows examinees to become more acquainted with varied fields of law. However there are significant draw backs. One such draw back is that it does not actually test whether or not the student will be a resourceful lawyer--skilled in making accurate choices given certain types of information. Rather it tests whether the student can retain large volumes of information for a period of time. The Uniform Bar Examination could easily fix those issues because it requires the students to write six essay questions in 3 hours. This simply highlights whether or not the student actually knows the law. Also by requiring two MPT's instead of one, it provides a new and concise way in testing a students ability to read and interpret the law. Below are few more reasons, the UBE is beneficial to New York.

With regards to Students.

1. Cost Effective --**With the Uniform Bar Examination students who have passed the NY Bar may be admitted in other UBE jurisdictions without examination.**

Currently, the examination is quite costly and only applies to New York. More importantly, many students cannot afford to sit the bar examination, because they are overburdened with student loans and have no support from their families. Thus, spending $3000 for a bar review course, in addition to application fees is rather daunting, particularly when they are unsuccessful.
With the UBE students have a viable option which will enable them to work and develop their resumes without spending as much money and time.

2. Portable--**With the implementation of the UBE, students will have 15 states as opposed to one in which they can seek gainful employment.**

Those students who have passed the NY bar and wish to move into another UBE jurisdiction, will be able to do so freely, quickly and easily

Currently, If a student is successful, they may not find a job in New York and may have to sit another bar exam to begin working. This brings into issue my first point, with the current set up being rather costly.

Currently, an individual with a JD has many problems to get experience, because prospective employers are unwilling to offer jobs to persons, who have not yet been admitted to ***any bar*** in the United States. Additionally, temp agencies are unable to place someone who has not yet been admitted to ***any bar***. Thus unless a student passes the bar for the state in which they sat, they are placed in an untenable position because now their resumes makes them over-qualified for many non legal or administrative positions.

Joining the UBE enables graduates to gain valuable experience, in another jurisdiction. Therefore by becoming a UBE state, New York is increasing the chances of students finding gainful employment.

With regards to New York State

1. Requirements

----With the implementation of the NYLE multiple choice section the board ensures that students transferring into the state of NY are familiarized with NY law.

2. Increased opportunity for nation-wide practice of law

---Prospective New York lawyers will now be able to work in other states without having to wait the minimum 5 years to be admitted on motion.

3. Two MPT's

--The UBE requires two MPTs'. This requirement is beneficial in that it provides skills training, and is a much more acute test of the student's ability to read and interpret the law. Further the UBE tests 6 essay questions in 3 hours, which gives the student no time to waste in writing their responses. Responses will therefore be concise and highlight the students who actually know the law.

4. Employment

---Graduates will have increased opportunity to begin working.

In closing, New York should adopt the UBE examination because, law school graduates are entering a field in which the market is rather saturated. By making this change, New York will enable their graduates to gain access to jobs in 15 states as opposed to one.
The UBE examination tests for two MPT's and this is beneficial because it provides skills training and is a more accurate test of the students ability to read and interpret the law.
Finally, the cost of taking the bar examination is very high and this will enable persons who have passed the bar to move freely into another UBE jurisdiction.

Regards

_____

Helenkaye Burke

The University of Montana

School of Law
The University of Montana
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www.umt.edu/law/

October 20, 2014

New York Court of Appeals
UniformBarExam@nycourts.gov

Re: NYSBLE Recommendation of the UBE

Members of the Court:

I caution the New York Court of Appeals about the NYSBLE recommendation that the Court adopt the UBE in New York State. Our experience with the UBE in its first two years in Montana may be an indication of substantial unreliability in the exam regimen as I will explain here.

The UMSL class of 2013 were the first in Montana to take the UBE and, in July 2013, achieved an 86% pass rate which was good considering that one of the intentions in adopting the exam was to slightly raise the score necessary for passing. In February, 2014, four of the members of the class of 2014 who graduated early took the UBE, and all four passed. Those two results were consistent with our students' historical performance on the bar exams.

However, in July 2014, sixty four first-time-takers from the UM Law School graduating class of 2014 took the bar exam and established an inexplicable 64% bar passage rate, far below the School's traditional rate that has run between 87% and 94%. It appears the problem is unreliability of the new "Uniform Bar Exam" (UBE) regimen the Montana Supreme Court adopted in 2012.

The 64% passage rate of July 2014 is so far out of line with past assessment that it merits investigation. Notable is the fact that the average LSAT scores and average GPA's of the classes of 2013 and 2014 were virtually identical, so performance on the exam should be fairly equivalent.

Fourteen states have adopted the UBE, within the last five years. At this time, twelve of the fourteen states have received and reported their 2014 scores, and all twelve have fallen by varying degrees. North Dakota had a 56% pass rate, which was down from their 73% pass rate of 2013. Every law school in a UBE state in the northwest dropped significantly. For these reasons, we think the problem is in the UBE as an assessment system. Some history is in order:

From the inception of the Montana bar exam, the Montana Committee of Bar Examiners chose experienced Montana lawyers to develop and grade the examinations which were based on Montana law. Under that assessment regimen, UMSL graduates achieved passage rates from 87% to 94%.

In 2012, the Montana Supreme Court adopted the UBE, which tested over general law that theoretically applied in all fifty states but no longer tested on any aspect of Montana law. A concern raised about adoption of the UBE was that designing exam questions so general that

they would fit all fifty states, naturally induces ambiguity which can render an exam unreliable.

One of the arguments used to persuade the Montana Supreme Court to adopt the UBE was that relying on experienced Montana practitioners to prepare the questions and grade the exam injected unreliability into the assessment. Proponents contended that the National Conference of Bar Examiners had the exam expertise and metrics to improve reliability. Ironically, it appears the UBE has produced in one year the greatest swing in scoring in Montana's history.

We are investigating all possible causes and are surveying the class about their individual bar prep methods (commercial, commercial online, self study etc.) to see if there is any correlation between particular methods and success or failure. It has been suggested by proponents of the UBE and by the NCBE that the law schools have simply been taking students of lesser abilities after the recession drove down applications. UMSL definitely did not do that. We intentionally maintained the LSAT and GPA requirements with a determination that we would drop the class size rather than lower scores which we have not had to do, because our applications have remained strong. If, in fact, the law schools in general are taking students of lesser abilities, that should be reflected in the passage rates of the schools in the 36 non-UBE states. We are checking that out now, but are doubtful that is the case.

The bar passage rate is of grave concern to us, because there is lively public interest in law school bar passage rates and placement rates. A low bar passage rate can affect recruiting which is so critical to law school enrollment and keeping predictors high. Right now, it looks like the UBE as an assessment regimen may be lacking in reliability to the great detriment of schools in UBE states. I invite you to check with all schools in UBE states regarding their 2013 UBE scores and check those results against those of the non-UBE states before moving to adopt the UBE. This recommendation may have grave implications for the New York law schools, and I hope you will consult with each in this process.

Thank you for considering my comments.

Sincerely,

Gregory S. Munro
Interim Dean
University of Montana School of Law

[redacted]

From: Brian Gustman <[redacted]
Sent: Monday, October 20, 2014 3:44 PM
To: Uniform Bar
Subject: NYS Bar Changes July 2015

Comment:

As a student taking the July 2015 bar exam I am unsure that we, the student of the graduating class of 2015, have been given enough time and opportunity to research and discover whether this is the right choice for our class.

My feeling is that there is not enough data at this time, provided by the Courts or the bar examinees, for us to make a well informed decision as to the changes that will be implemented.

I think it is wonderful that there will be an opportunity for admission into several other States, but admission is not guaranteed. As a student who went to a New York school, in order to be better prepared for the New York bar exam, I feel there will be numerous problems with the curriculum we have learned in the last two and a half years in connection to the new testing material.

Finally, I think it is mere speculation that other States will follow in New York's footsteps if the UBE is adopted. Again, there has been no data or even circumstantial evidence given to the students in connection to the theory that once New York adopts the UBE this trend will be followed by other States.

In all fairness if the UBE is going to be implemented then my opinion is further research and data must be submitted to the students and faculty. If there is a change, then the year this should be implemented is for the bar exam which will be given in 2017 because students, like myself, have spent hundreds of thousands of dollars on their legal education and like bar examiners in our State will have to confront the unknown this July.

Thank you.

From: Judith Mender [redacted]
Sent: Tuesday, October 21, 2014 1:31 PM
To: Uniform Bar
Subject: proposed changes to bar exam; public comment

I am writing to let you know that I strongly support the proposed changes to the NY Bar Exam. Thank you so much for your hard work on this issue, and for keeping the best interests of the public and of emerging lawyers in the forefront.

Best Wishes,
Judy Mender

Judith J. Mender
Dean of Students
Benjamin N. Cardozo School of Law
55 Fifth Avenue
New York, NY 10003
ph: 212-790-0313
fax: 212-790-0448; ATT: JM
[redacted]

[redacted]

From: Lauren Arnel <[redacted]
Sent: Thursday, October 23, 2014 12:59 PM
To: Uniform Bar
Subject: Uniform Bar Exam

To Whom it May Concern:
I wanted to make a public comment on the Uniform Bar Exam. While it sounds like it may potentially be a good idea, I think it is a bit too rushed to get done for the July exam, when there are students in their third year of law school and are graduating and have been preparing for the current exam. The law schools should be consulted to see what, if anything, they would change in their curriculums to better prepare students for the UBE. If the schools change their curriculums to adapt to the changes in the bar exam, future students will get the benefit of that, but current students who are graduating will not. In addition, I believe that the commercial bar prep courses should be consulted in this matter to see what, if anything, they would change in their courses to better prepare students for the UBE. Those who graduate in December and take the February bar exam and do not pass and have to retake it in July would be taking the exam without the benefit of the revised curriculums that the bar review courses may implement for the July exam, because they would have already taken a bar review course for the February exam, using the old curriculum, and will not want to pay again to retake the courses with a new focus toward the UBE. Therefore, it is possible that those who are taking the July bar exam for the first time will have a leg up over those who are retaking it after failing in February. Those retaking the exam will have already been in law school, already taken a bar review course, and have no other resources to better prepare for this July exam, particularly if the format is different than it was in February. Any resources that these students can obtain would likely be extra money in addition to what they have paid for law school and a commercial bar review course, while those who take the exam later may have the benefit of having revised curriculums included in the prices that they are already paying for these law schools and bar review courses. Thank You.

[redacted]

From: Timothy Webster <[redacted]
Sent: Thursday, October 23, 2014 2:44 PM
To: Uniform Bar
Subject: Adoption of UBE

Ladies/Gentlemen:
I believe the bar exam should be eliminated in its entirety because it violates New York and federal due process requirements. As currently administered, the exam does not test a general level of knowledge, but rather tests an individual's ability to identify deliberate mis-directions, solve clever trick questions and apply, inn many cases, obscure and little practiced legal principles without the benefit of researching them (as any lawyer would do with such issues and in such circumstances). The exam apparently denies approximately 25% to 35% of graduates or more (all from accredited institutions) the ability to work and, among other things, pay back the often substantial student loans required to obtain their legal education.

If the exam must continue, I am in favor of the UBE. I believe it is has the inherent *potential* at least to be fairer due to general uniformity. Of course, it will also allow passing candidates to move among several jurisdictions, which is consistent with the modern mobility of the profession.
Regards,
Tim Webster

Timothy Webster
Of-Counsel

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Web - www.websterszanyi.com

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Please consider the environment before printing this e-mail.

[redacted]

From: KRN me... <[redacted]
Sent: Saturday, October 25, 2014 12:06 PM
To: Uniform Bar
Cc: KRN me...
Subject: Comments on the UBE for July 2015

Dear Board of Law Examiners,

I have practiced law for over 30 years in New York, having studied in the state of Florida. It was not easy passing the NYS Bar, but I managed on the first try. There was lots of planning involved, re: courses to take in law school and which prep course to utilize. For me, I was fortunate. However, I fear the worse for my son.

At present, my son is a third year law student. With Judge Lippman's sudden changes, our son could have graduated in December. Since he decided to focus on preparation for the NY Bar, he decided to remain in school and take additional courses. He also registered for a bar review course (nearly every student does), which was not inexpensive. The choice to remain in school for the spring semester was not an easy one for him or many other students.

Now, in it's wisdom, the Bar exam for July of 2015 is about to change. I submit this is extremely unfair to the entire class of 2015. Most students have planned for 3 years to take the current Bar exam. They structured their classes and committed additional funds to review courses, even knowing the job market is bleak. So, after spending @$150,000 per student, you are going to burden them one more time.

I suggest that if NY is to adopt the UBE, it should commence in July of 2016. This one year delay would afford the students to acclimate themselves with the new test, adjust their third year class schedules, and would afford the Bar Review courses to be prepared for the UBE in NY. Otherwise, you are setting many students of the class of 2015 to fail.

Respectfully,

Karen Needleman

SCHOOL of LAW
WESTERN NEW ENGLAND UNIVERSITY WNE

FACULTY OFFICES

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NYS BOARD OF
LAW EXAMINERS

October 9, 2014

Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Dear Ms. Bosse:

My name is Kandace Kukas and I am the Assistant Dean and Director of Bar Admissions Programs at Western New England University School of Law. I applaud the New York Court of Appeals' willingness to consider adoption of the Uniform bar Examination (UBE) and appreciate the opportunity to offer my comments in this letter.

I strongly support the adoption of the Uniform Bar Exam for New York starting in July 2015. I base my support on the following points: (1) Adopting the UBE will facilitate the job search for recent law graduates, and (2) New York's adoption of the UBE will likely influence other states to adopt the exam as well, increasing the portability of the bar examination results.

1. The UBE will facilitate job searches for recent law school graduates. Finding the first job out of law school can be extremely challenging for those candidates who are not entering a large law firm or special US government programs. Most local government offices and smaller law firms are opting to wait until a candidate has successfully passed the bar exam. Currently, the employment prospects of many law graduates are determined by where they sit for the bar exam.

New York has an opportunity to lead the change to easier employment mobility for recent graduates and young lawyers. Many bar takers do not know where the best job opportunities will lie in April of their graduating year, when bar applications are due. They rely on factors such as family ties, location of their law school, current network and law school career services connections. Sometimes this works out and sometimes it does not. If opportunities arise in other jurisdictions, the prospect of sitting for another bar presents a huge barrier to the job seeker.

On the other hand, if a candidate can sit for the New York bar with the possibility of transferring his/her UBE score to another of the 14 UBE states, that candidate has a much higher chance of finding employment following graduation. The candidate will not be forced to choose a state based on anecdotes or gut feelings but rather will be able to pursue employment opportunities in a wide range of jurisdictions. A candidate at a New York school would have greater latitude to seek such employment once passing the NY exam and looking for work in other UBE states.

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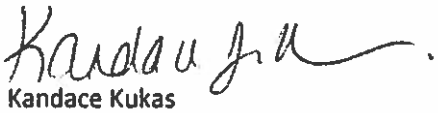
2. New York's adoption of the UBE will spur other states to consider adoption. If the New York State Board of Law Examiners adopts the UBE they will likely pave the way for adoption of the exam by even more states, especially those in the east, further increasing the employment opportunities of all of our law school graduates. With an ever rising debt load, recent graduates need to be given every opportunity to find gainful employment.

As proposed, New York can facilitate this move toward uniformity without sacrificing the important screening device of testing for essential New York topics on the New York Law Exam (NYLE). The continued use of 50 multiple choice questions on the bar exam will allow continued testing on rules that all New York attorneys must know. I do note that the benefits of uniformity will be compromised if the NYLE requires applicants to study just as many New York topics as they do now, with the same intensity, in order to pass it. On the other hand, if the NYLE focuses on key New York variations, it will serve a useful function without also hampering the benefits of the UBE.

In sum, the adoption of the UBE in New York will encourage employment and help recent law graduates and young attorneys find positions while at the same time creating momentum for other states to consider adoption as well. I support this move.

Respectfully submitted,



Kandace Kukas
Assistant Dean and Director of Bar Admissions Programs

[redacted]

From: Jeremy Ficarola <[redacted]
Sent: Saturday, October 25, 2014 2:24 PM
To: Uniform Bar
Subject: Jeremy Ficarola, Esq. Supports NY Adoption of UBE

I fully support NY's proposed switch to the Uniform Bar Exam.

About Me:
-Parents are NY Italians (Brooklyn & Queens)
-I was born and raised in Orange County, California
-Licensed in Missouri (2013) and soon Arizona (both UBE states)
-BA from UC Berkeley and JD from U of Miami School of Law
-Practicing investor/business immigration in Los Angeles

The reason why I support the UBE change in New York is because I have family in NY and I also know NY is a hot bed for immigration, just like California and, to a lesser degree, Arizona. My goal is to build my own law practice with a focus on foreign investors through EB-5, E-2 and L-1 visa's. These visa's are specifically put in place by USCIS to encourage foreign investments into the US market to stimulate job group and the economy. I have extensive experience in this field, especially with Chinese investors.

It would be an absolute dream for me to take my practice to NY and gain NY licensure there so I may assist with corporate formation and E-2/EB-5 investments as a full scale start to finish service. Currently, while immigration law is federal practice (meaning I can practice immigration law in any state) I am restricted when it comes to corporate law advice and assisting with the formation process of business entities. If NY switches to UBE and allows me to transfer my 301 UBE score (and upon character fitness and the NY portion exam), I plan on opening an office in NY with a full service offering for foreign investors. I would not be "stealing jobs" from other New Yorkers, but, in fact, creating jobs in NY and helping others form business in NY. An influx of foreign capitol into NY would also follow.

Also, NY would be the first large state to adopt the UBE, making it quit the pioneer on the legal front. I see nothing but upside to a switch to UBE. I can't imagine myself taking 6 months out of my busy career to study for the current NY Bar exam, however, I can see myself taking the time to transfer my UBE to NY and start a new law practice there.

I hope the New York Court of Appeals considers my story, and many others, when deciding the future of the NY Bar Admission process.

I leave you with selected passages from Walt Whitman's "O' Pioneers! O' Pioneers!" that may provide further guidance on NY's potentially momentous step forward.

"For we cannot tarry here,
We must march my darlings, we must bear the brunt of danger,
We the youthful sinewy races, all the rest on us depend,
Pioneers! O pioneers!"
.....
"Have the elder races halted?
Do they droop and end their lesson, wearied over there beyond the seas?
We take up the task eternal, and the burden and the lesson,

Pioneers! O pioneers!"

"All the past we leave behind,
We debouch upon a newer mightier world, varied world,
Fresh and strong the world we seize, world of labor and the march,
Pioneers! O pioneers!"

--

Jeremy Ficarola, Esq.
www.Ficarolaw.com
[redacted]

[redacted]

From: melissa cohenson <[redacted]
Sent: Monday, October 27, 2014 1:03 PM
To: Uniform Bar
Subject: Comment

Replacing the NY Bar Exam with the UBE would negate a large portion of the prestige a New York Bar License holds. What distinguishes a New York License from an Arizona license, for example, is the plethora of New York focused topics, topics so detail oriented, that passing such an exam is considered to be one of the greatest of life's accomplishments.

I highly do not recommend that the UBE replace the current NYBOLE exam. The UBE is shown to be significantly easier to pass, and with the current job market as it is, having an influx of NY licensed attorneys would deter individual attorneys from gaining employment based on skill, but rather allow for increased employment based solely on "knowing someone". This is not what the state needs. The state needs attorneys who have put their blood, sweat, and tears into passing the rigorous NYBOLE exam, who demonstrate that desire to pass "no matter what".

Thank you for listening.

Melissa Cohenson (sworn in December, 2013).

--

Melissa I. Cohenson, Esq.
New York & New Jersey Licensed
Telephone: 973-303-5270
Facsimile: 973-736-3248

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[redacted]

From: Abburi, Harshavardhan <[redacted]
Sent: Monday, October 27, 2014 2:25 PM
To: Uniform Bar
Subject: UBE for February, 2015, Takers

Dear Sir,

I have seen your request to submit comments on the UBE. While I personally think it is a great idea I have a major concern on this because I intend to take the February, 2015, bar exam.

Although NY, if adopted, would implement UBE in July, 2015, as a february 2015 bar examiner I have a concern. If I do end up taking the Feb NY Bar, I am assuming that I will only be licensed in NY and not the other UBE States. On the other hand, if I end up taking the July Bar and if NY did adopt UBE then I stand at a major advantage among other people.

I really wish to know if there is some solution or comment or guidance you may be able to give me on this.

Thank you so much in advance and I look forward to hearing from you!

Best,
Harsha

[redacted]

From: Craig Pacheco [redacted]
Sent: Monday, October 27, 2014 2:41 PM
To: Uniform Bar
Subject: NYSBLE UBE Comment

To whom it may concern:

As a J.D. Candidate who has accepted an offer to join a national law firm at its St. Louis, Missouri office, I wholeheartedly support the SBLE recommendation to replace the current New York State Bar Examination with the Uniform Bar Examination beginning with the July 2015 Bar Examination. The UBE will facilitate employment mobility across state lines and ensure early-career mobility for this young lawyer from NYU.

Sincerely,

Craig Pacheco
J.D. Candidate, 2015
New York University School of Law

[redacted]

From: Mitch Adams <[redacted]
Sent: Tuesday, October 28, 2014 11:40 AM
To: Uniform Bar
Subject: Comment

If there could be a process to allow attorneys who passed the UBE Bar Examination, July 2012 to apply by July 2015 (3 years) and be admitted, that would be helpful to understand.

[redacted]

From: Kip Cornwell <[redacted]
Sent: Tuesday, October 28, 2014 11:59 AM
To: Uniform Bar
Subject: response to proposed changes to the NY Bar exam

Dear NY Court of Appeals:

I write with deep concern about the speed with which the proposed changes would be implemented.

After the ABA approved for-credit Bar-preparation classes in law school, many law schools created and implemented such courses designed primarily to improve the chance for Bar passage among whose performance in law school indicated a strong risk for Bar failure. Among the many schools for which the New York Bar is the most popular among its students, these classes typically focus specifically on the New York Bar with special attention to the New York essays. Accordingly, instructors emphasize how to write essays for the New York Bar (as opposed, for example, to the NJ Bar, which has a different approach to essay scoring), and they use NY-specific content in relevant subject areas, such as Corporations, Wills & Trusts, and Domestic Relations. Students do not learn/apply "national" standards in these areas, as they have not been important historically for the NY Bar. In addition, at many law schools in the greater NY area, the content of core courses in NY-Bar-tested areas has increasingly focused on NY law (*e.g.*, the NY Probate Code), to better prepare students for the NY Bar, especially those students at-risk for Bar failure. This approach has also led many schools in the area to revise curricular recommendations for students planning to take the NY Bar to include Administrative Law, in light of its addition in February 2015.

If the proposed changes take place as proposed, at-risk students scheduled to graduate in July would effectively have had the rug pulled out from under them, as they have spent their final three to four semesters of law school preparing for the wrong exam. Not only are the NY distinctions on which they have focused unnecessary for the UBE, in many instances application of the NY rule will be incorrect. This has created a panic of sorts among some students who don't understand why the rules have been changed for them at "the end of the game." Moreover, to my knowledge, when other jurisdictions have moved to the UBE, they have done so far less precipitously, providing much greater notice to students, law faculty and law school administration.

In fairness to current students, therefore, the proposed changes should not take effect until the current 2L and 3L classes have taken the current NY Bar. An alternative approach would allow NY Bar takers to apply either NY or national standards on the essays during this "transition" period. (I believe Illinois has done this, at least in past years.)

On a different front, it seems that a 50-question test is grossly inadequate to fairly test all of the NY law included on the NY Law Exam. To make the NYLE more meaningful, I believe the number of questions should be increased to at least 75, to be completed in 90 minutes.

Sincerely,

John Kip Cornwell
Professor of Law (and former Associate Dean)
Seton Hall Law School

[redacted]

From: Nik Mendoza <[redacted]
Sent: Tuesday, October 28, 2014 2:48 PM
To: Uniform Bar
Subject: Support for the New York Court of Appeals to adopt the Uniform Bar Examination (UBE)

Dear New York Court of Appeals,

I am writing this letter in support of the recommendation by the New York State Board of Law Examiners (SBLE) to adopt the Uniform Bar Examination (UBE). I am currently a third-year law student and I plan to practice International Business Law in New York. As a global business hub, many companies and organizations doing business in New York use the state not only as the premier international business hub, but also as a port of entrance to conduct business in the U.S. domestic market. Being part of the UBE would allow New York practitioners to freely support the needs of their international customers beyond the State of New York. As more states join the UBE, opportunities will undoubtedly increase for New York lawyers.

Some of the criticisms center around the ability lawyers in other jurisdiction will have to practice law in New York. However, this increase in legal practitioners should not been seen as a criticism, rather it should be seen as an opportunity to diversify the legal profession in New York. Throughout history, wherever and whenever local markets have opened to more non-locals practitioners and their services, clients benefit and the market competition strengthens the local market in and of itself.

New York should lead the future of American legal practice; can you imagine a world where Accountants, Doctors, Musicians, Nurses, Teachers, Engineers and many other important professions were only allowed to work within a particular state in which they are licensed to practice? The answer is no, it would be foolish to restrict the practice of those professions. The law, even as prestigious of an institution as many isolationist want to make, is no different from these other professions. It's time for New York to change the old inefficient ways of doing business.

I hope you take my comments with the sincerity in which I have presented them.

Respectfully,

Nikols A. Mendoza
J.D. Candidate, 2015
[redacted]

From: Jessica King <[redacted]>
Sent: Tuesday, October 28, 2014 10:28 PM
To: Uniform Bar
Subject: Comment on proposed adoption of the Uniform Bar Examination (UBE)

The benefits, both to recent law graduates and to experienced practitioners, who find themselves unemployed, underemployed, or facing relocation, of having a uniform bar examination with results that are portable to other markets cannot be overstated. With many law graduates and experienced practitioners unemployed, underemployed, or unwillingly employed in non-legal professions, the ability to be admitted in a state with as large of a job market as the State of New York has the potential to reduce outstanding student loan debt loads, multi-state unemployment benefits payout, etc.

The state law-specific aspects of the bar examination could be satisfied with the adoption of an additional testing requirement or pre-admission continuing legal education requirements. That notwithstanding, the state law aspect of non-UBE bar examinations does little to ensure that any particular attorney will be familiar with the administering state's law, as a result of taking the bar examination. Knowledge of state law comes with self-study and experience that simply cannot be acquired through a bar review course and a one- or two-day, written examination.

For the foregoing reasons, I support the adoption of the UBE by the New York State Board of Law Examiners.

Sincerely,

Jessica B. King, Esq.

Los Angeles, CA

[redacted]

From: Stephen Booth <[redacted]
Sent: Tuesday, October 28, 2014 1:39 PM
To: Uniform Bar
Subject: RE: Suggestion for proposed change to UBE

October 28th, 2014

Diane Bosse
Chair, New York State Board of Law Examiners
Corporate Plaza Build 3
254 Washington Ave. Extension
Albany, NY 12203-5195

Dear Ms. Bosse,

I want to first say that I am thrilled to see that New York is considering adopting the Uniform Bar Examination. I sat for the UBE in Washington state earlier this year, and can attest that the exam is exceptionally well-administered, and also saves Washington significant time and money. Additionally, I agree with all of the mentioned arguments in favor of this change, and believe the UBE to be a useful tool to encourage attorneys to practice in your state.

Having read the proposal, I offer only one suggestion:

My long-time girlfriend worked extremely hard to prepare for and pass the New York bar exam earlier this year at the same time as I prepared for the UBE. She now is considering practicing law in Seattle (my hometown), and I would love it if she was rewarded for all of her hard work by having her New York score be scaled into an appropriate UBE score that she could transfer into other jurisdictions. Obviously, if she and the thousands of others like her who have taken the NYLE in the past few cycles would have been aware that this change was being contemplated by New York, they would have strongly considered sitting for the UBE instead.

I recognize the many difficulties with such a proposal - lack of uniformity by which to produce a relatable scale, a rule-change at the National Conference of Bar Examiners, and so forth. Moreover, I was unable to find precedent for this in prior adoptions: I just got off the phone with an administrator from the NCBE who confirmed that this has not happened in the past. For example, those who took the February 2013 version of the Washington State Bar Exam were not able to transition their score into a UBE–eligible score. That being said, I believe this would be a unique opportunity to improve the UBE adoption–process going forward, as it is inevitable that many states and attorneys will be put in this unfortunate predicament going forward, resulting in a significant loss of time and resources.

If the board determines this proposal is one that should be taken up, I would be happy to help plan the appropriate steps that would need to be taken, and also to draft the language. Thank you very much for your time and consideration.

Best regards,

Stephen Booth
Attorney
[redacted] | T: (425) 772-0991 | F: (425) 488-2128

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[redacted]

From: Huber, Kevin <[redacted]
Sent: Wednesday, October 29, 2014 9:09 AM
To: Uniform Bar
Subject: NY Bar Exam Changes

To Whom it May Concern,

I am curious as to why our great state of New York has decided to be a follower instead of a leader. As a New York attorney practicing abroad, I see every day that a qualification in New York is the gold standard when it comes to an American qualification. This is true for JDs working abroad but also for foreign lawyers who receive their LLM in the states. A foreign lawyer may obtain that LLM anywhere from California to Florida but it is likely they will be sitting for the Bar exam in New York. The New York Bar exam is respected because of the strong history and development of New York law, its comprehensive approach to what is necessary to understand to be a New York lawyer and as a result its difficulty. Moving to a uniform system (with the third lowest passing score out of the 15 states that would be using it!) and only allocating 1 hour for New York law testing (instead of a day!) significantly undermines the strength and reputation the NY Bar exam has developed over the years.

In short, as a member of the New York Bar, I am strongly opposed to New York joining a uniform system instead of setting its own high and respect standard. Were New York to join this system, it should at least set the bar higher than its counterparts for a passing grade.

Sincerely,
Kevin J. Huber

Kevin Huber | Wilmer Cutler Pickering Hale and Dorr LLP
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[redacted]

From: Elizabeth Tharakan <[redacted]>
Sent: Wednesday, October 29, 2014 8:14 PM
To: Uniform Bar
Subject: public comment on UBE

Dear Ms. Bosse,

My name is Elizabeth Tharakan. I am a 2012 Cardozo Law School alumna. I am writing in response to your request for public comment on the UBE. I think lawyer mobility would be an excellent thing. I also think it'd be wonderful for people from other states to be able to transfer into NY, as NY has always been welcoming of immigrants. Therefore, I highly recommend adopting the UBE. It would be wonderful if you also accepted past UBE scores rather than just UBE scores from July 2015 onwards, so that my UBE score from Missouri in February 2015 would be transferable into NY.

Thanks!

Best,
Elizabeth Tharakan

[redacted]

From: Joe Nwodo [redacted]
Sent: Thursday, October 30, 2014 3:14 AM
To: Uniform Bar
Subject: UBE

I don't think the NY Bar should be replaced with the UBE. I am happy with the current structure as it stands.

Many thanks,

Joe

[redacted]

From: Timothy King <[redacted]
Sent: Thursday, October 30, 2014 10:12 AM
To: Uniform Bar
Subject: Comment on proposed adoption of the Uniform Bar Examination (UBE)

1. Under the Current Bar Exam (CBE), New York admits attorneys who do not demonstrate significant specialized knowledge of New York law. Any jurisdiction specific concerns should be taken with a grain of salt, as a result.

2. With the CBE, aspiring attorneys who are sitting for NJ/NY simultaneously must travel long hours to Albany in the midst of intense study and a lack of sleep. This is a public safety concern, for obvious reasons.

3. The dehumanizing experience that is the CBE (specifically: the terrible facilities, the administrators) is legendary among attorneys. Any way to avoid interaction with the facilities or the administrators of the CBE would be a benefit and a boon to the aspiring NY attorney.

4. Adoption of the UBE will probably lead to the licensure of a greater number of attorneys in NY. If more attorneys are admitted in NY, more attorneys will be paying dues. Yay dues!

Yours truly,

Tim King Esq.

Admitted NJ, DNJ, NY

[redacted]

From: Miracle Pierre [redacted]
Sent: Thursday, October 30, 2014 12:41 PM
To: Uniform Bar
Subject: UBE

To whom it may concern:

I am fully supportive of the change to the NY Bar Exam. It is becoming increasingly difficult for new attorneys in the job market. The UBE will allow for the movement of attorneys through numerous jurisdictions in regard to employment opportunities. I do have a few questions:

1. What is the likelihood (percentage) that this will take effect for the July Bar Exam of 2015?

2. Can I transfer my current score from the 50 NY MC section?

3. When will we know whether or not the UBE will be adopted?

Regards,
--
Miracle C. Pierre, J.D.
St. John's University School of Law, LL.M. in International and Comparative Sports Law, Expected June 2015
Thomas M. Cooley Law School, Class of 2013
http://www.linkedin.com/pub/miracle-pierre/36/718/b69

[redacted]

From: Lynch, Mary [redacted]
Sent: Thursday, October 30, 2014 4:13 PM
To: Uniform Bar
Subject: Comment

Dear Judge Lippman,

I write to oppose the adoption of the proposed changes to the NYS Bar Exam. I do so for three reasons:

1. The process for adopting the proposed change is too hasty and is unfair to current third year students and to second years students who have already planned three semesters around the exam.

2. The proposed changes have not been studied appropriately. For example, no one knows if the new format, particularly the 50 question NYS multiple choice format, will exacerbate the already disparate impact on graduates of color and/or if it will create a separate barrier for admission to those who will make great lawyers but not particularly good standardized test-takers.

3. The proposed format fails to address the critical need for bar licensure to include evaluation of *actual,* supervised, and limited practice of law while in law school or immediately thereafter. As a gateway to a client-centered, civic profession, evaluation of the limited supervised practice of law could and should replace – at least some part - of the current standardized testing.

I thank you for your attention to my e-mail.
Mary

Mary A. Lynch
Albany Law School
Clinical Professor of Law
Director, Center for Excellence in Law Teaching ***www.teachinglawstudents.com***
Director, Domestic Violence Prosecution Hybrid Clinic ***http://www.albanylaw.edu/cjc/clinics/domestic-violence/Pages/Domestic-Violence.aspx***
Editor, Best Practices for Legal Education Blog http://bestpracticeslegaled.albanylawblogs.org
http://hq.ssrn.com/submissions/MyPapers.cfm?partid=1246115
T: 518.472.5834
mlync@albanylaw.edu
Come, come, my conservative friend, wipe the dew off your spectacles, and see that the world is moving. Elizabeth Cady Stanton

[redacted]

From: Randy Hertz <[redacted]
Sent: Thursday, October 30, 2014 5:57 PM
To: Uniform Bar
Cc: Morrison, Trevor
Subject: NYU Law School's comment on the proposal to adopt the UBE

Dear Ms. Bosse:

We are sending this letter on behalf of NYU School of Law in response to the Court of Appeals' Request for Public Comment on the proposal of the New York State Board of Law Examiners (SBLE) to replace the current New York State bar examination with the Uniform Bar Examination (UBE).

We support the adoption of the UBE in New York State. We are persuaded by the SBLE's conclusion that this change will benefit law students by expanding their options when choosing the jurisdiction in which to take the bar exam; simplifying the bar preparation process; eliminating the duplication of effort involved in taking the bar exam in multiple jurisdictions; reducing delay in gaining admission in other UBE jurisdictions; and thereby ultimately maximizing employment opportunities.

It has been suggested by some that more time is needed for study of the proposal and its possible effects. Although naturally caution is always warranted when changing longstanding practices, it is also the case that the New York bar exam has been the subject of numerous reports and articles, over the course of the past two decades, that have called for improvements of various sorts. We commend the SBLE for the improvements it has made in prior years and for continuing to focus on further ways to reform the bar exam. We believe that this latest reform reflects the best thinking of bar examiners and legal educators in this State and other parts of the country. Although it may turn out that further refinements and improvements are needed in the future, we believe that the right decision is to go forward with the change while naturally watching for and remedying any possible unintended consequences.

We share the concern of some commenters that the proposed timetable of implementing this change for the July 2015 bar exam may result in undue difficulties for third-year law students and LL.M. students who have been selecting their courses based on the current model of the New York bar exam. We encourage the SBLE and the Court of Appeals to take another careful look at whether it might be preferable to delay the implementation of the change until the February 2016 bar exam.

Finally, we encourage the SBLE to continue studying ways to address other issues that have been raised about the New York bar exam. We are concerned, in particular, with a potential problem that has been pointed out in many reports and articles over the past two decades: the risk of disproportionate exclusion of persons of color and those from economically disadvantaged backgrounds from membership in the bar. We are aware that the SBLE has devoted considerable time and attention to this issue in the past and is committed to overcoming any problems that may exist. We support the need for further study of this issue and we are ready to offer any help we can to efforts to address this crucially important issue.

Trevor W. Morrison
Dean
Eric M. and Laurie B. Roth Professor of Law
New York University School of Law

Randy Hertz
Vice Dean

Professor of Clinical Law
New York University School of Law

[redacted]

From: [redacted]
Sent: Friday, October 31, 2014 1:17 AM
To: Uniform Bar
Subject: Re: COMMENT ON NY STATE PLAN TO REPLACE CURRENT BAR EXAM WITH THE UNIFORM BAR EXAMINATION (UBE)

I will begin by commending the courage and foresight of the New York Board of Law Examiners (SBLE) for their recommendation to the New York Court of Appeals to replace the current New York Bar Examination with the Uniform Bar Examination (UBE). I believe it is the right thing to do and for the right reasons; some of which had already be stated in the request for public comments issued by the New York Court of Appeals, i.e."...that New York would be a national leader as the first large state in terms of bar applicants to administer this test....and the test would produce a portable score that can be used to gain admission in other states that accept the UBE, provided the applicant satisfies any other jurisdiction-specific admission requirements.....", etc.

I agree with New York Board of Law Examiners' reasoning that the unique position that the State of New York occupies and the power and influence that New York wield among her peers and coupled with the fact that New York Bar is the largest or one of the largest State Bars in the country, would encourage other States, particularly, the other big States in the nation to give serious consideration to joining the UBE. New York joining the UBE will give it the impetus it needs to be successful.

I also truly believe that a successful implementation of the UBE will not only usher in a new era of a uniform licensing examination for lawyers as one of the criteria for admission and licensing to the bar of any of the 50 States and the District of Columbia, but will bring an end to the unpleasant experience of young lawyers having to write multiple bar examinations in order to be able to practice in one State or the other. In other words, a successful implementation of UBE as stated in the "request for comment notice" itself, will facilitate lawyer mobility and portability just like other professions in the country. As we all know, law is the only major profession in the country that has not developed a uniform licensing examination for its members. New York no doubt has a leadership role to play in the adoption of a uniform Bar examination in the country.

Some, (in good faith), may argue that the adoption of the UBE will mean that New York local laws will be relegated to the background or that the newly admitted Attorneys would not be grounded in New York local laws or even that the adoption of UBE would mean the beginning of the end of the powers of each State Bar to control and to continue to regulate the admission requirements, licensing requirements and discipline of members of the Bar in their respective State.

It is my humble submission that the implementation of UBE in New York, (and hopefully), in the country as a whole, will not in any way denigrate or interfere with the powers of each State Bar and the State Courts to continue to regulate the admission requirements or licensing requirements or discipline of members of the Bar in their respective State. All that NCBE will be responsible for is the UBE examinations just as it has with the MBE and MPT that majority of States have adopted in their respective bar examinations. Each State can still test candidates on State specific law subjects as a component part of the UBE or as a separate examination as it deems fit. Hence the laudable idea proposed by SBLE to continue to administer the New York law-specific component, i.e. 50 multiple-choice questions, tested for one hour on the second day), in recognition of the importance of New York State Laws..

MY HUMBLE SUGGESTION

The Board and the Courts of Appeals may consider increasing the number of questions for proposed New York Law Specific, i.e. the multiple choice questions from 50 to 100 questions. This I believe will not only enable the New York

Board of Law Examiners to cover all of the New York State specific local law subjects far more than what it currently able to do with only 50 questions today, but will also enable the board to be able to draw sufficient number of questions from each of the New York State specific local law subjects. It is my humble submission that this will enable the New York Board of Law Examiners to adequately test the New York local law contents, because like MBE, (in addition to the reasons already stated), it will compel bar takers to study all the New York State specific local law subjects just as hard as they are compelled to study all MBE subjects in preparing for the Bar examinations.

I fervently urge the New York Court of APPEALS to adopt the New York Board of Law Examiners' recommendation to replace the current New York bar exams with the Uniform Bar Examination (UBE).

Respectfully,

Austin Era

[redacted]

From: Edward Thater <[redacted]
Sent: Friday, October 31, 2014 2:26 PM
To: Uniform Bar
Subject: Comment on the Adoption of the UBE

To the Honorable Judges of the Court of Appeals and the Members of the Board of Law Examiners:

Please accept this as a comment to BOLE's recommendation that New York adopt a version of the Uniform Bar Exam. I write to express support for the idea but to also share some concerns I feel the Court should consider before acting on the proposal.

So that you can place my comments into context, please note that I am a May 2014 graduate of a New York law school who took and passed the July bar exam. I am currently employed in a boutique litigation firm in Upstate New York.

I agree with BOLE and the NYS Bar Association in their respective recommendations that New York's adoption of the UBE will provide many advantages to takers of the New York bar. By itself, this seems like a strong idea. However, I have two concerns with the proposal as currently presented by BOLE.

First, I would urge the Court to raise the proposed passing score before adopting the UBE. It appears BOLE arrived at a proposed score by determining that test takers should score the same ratio of total points on the UBE as on the current bar exam, as 266 is 66.5% of the total available points on the UBE, just as the current bar exam has a passing score of 665 out of a possible 1,000 points. I make that assumption only because the math works out perfectly, as BOLE gave no indication how they came to chose 266 as a passing score.

However, speaking as someone who recently prepared for the bar exam and, in preparation, practiced completing essays from the MEE and MPT in addition to New York model essays, I can state from my own experience that the MEE portion of the UBE is significantly easier than New York essays portion of the bar exam. In my own bar preparation, I would routinely score much higher on practice MEE essays than on practice New York essays. Although the MEE largely covers the same material as the New York essays, New York's exams has historically delved much deeper into that material, both. Additionally, the UBE largely tests common rules of law that often come into play in general practice, while the New York exam often tests very obscure provisions of law. As a perfect example of this, the exam this past July had an essay question that tested the doctrine of constructive emancipation. Despite taking family law in school and attending a comprehensive bar review course, I had never heard of this doctrine, nor had any of my fellow test takers whom I polled. None of the UEE essays that I saw ever tested anything this obscure or specific.

I agree with statement in the request for comment that "It is imperative that New York licensure remain internationally recognized as a valuable legal credential." Part of that recognition stems from the fact that New York's bar exam is generally seen as one of the hardest bars in the nation. It is considered a boon to have

passed the New York bar exam, which cannot be said of the bars of many other states. However, if the Court decides to switch to a substantively easier test while maintaining the same ratio of points, then New York's bar exam becomes one of the easiest in the nation to pass. While I suppose it may be an unstated goal of the switch to increase the number of admitted attorneys, I would respectfully suggest there are other avenues of doing that than by adopting a whole new test that is easier to pass, including modifying the existing test or exploring options of becoming a "diploma admission" state similar to Wisconsin.

A quick review of the bar passage rates of other UBE jurisdictions from the statistics provided by the National Conference of Bar Examiners (http://www.ncbex.org/assets/media_files/Bar-Examiner/articles/830114statistics.pdf) indicates to me that the Court should consider adopting a 280 passing score. Alaska, one of the states with a 280 score, had a similar bar passage rate in 2013. Idaho, the other 280 state, had a much higher passage rate. Every other UBE jurisdiction has a much higher passing rate than did New York, which is further evidence that the UBE is a substantively easier exam than New York's. I realize that comparison of passage rates is a crude method of comparison, but I feel it is a better measure than simply allotting a similar ratio of points between two tests of obviously varying difficult.

Therefore, I would urge the Court to consider adopting the UBE only after significantly increasing the passing score.

Second, I am concerned about what materials will be covered under the newly proposed NYLE. I strongly support the proposed NYLE to be administered alongside the UBE as an additional requirement of admission. However, I would urge the Court and BOLE to shift the focus of the material tested on the NYLE from all of New York law, as is done with the current New York multiple choice questions, to New York adjectival law. New York's substantive law is, outside a few notable exceptions, very similar or identical to the black-letter law tested on the UBE. This is in no small part due to the role and influence New York case law has on the jurisprudence of other states, particularly in the realm of commercial law. However, New York's civil and criminal procedure and its evidence law depart substantially and significantly from federal practice and the practice of most other states. While practitioners almost always have sufficient time to research substantive law questions, procedural or evidentiary questions that arise in the courtroom require an attorney to be sufficiently familiar with procedure to make the correct objections or motions, as appropriate, immediately when the situation arises. A New York license indicates to potential clients that the licensed attorney is competent to represent them in any situation, including at court.

Therefore, I would urge BOLE to consider shifting the focus of the proposed NYLE to be primarily on procedural and evidentiary distinctions of New York law in order to ensure newly licensed attorneys are sufficiently competent to represent clients before the courts of this state. While I'm not recommending BOLE exclusively test adjectival law on the NYLE, I am advocating that a majority of the material on the eventual subject outline, as well as the majority of the actual questions on the NYLE itself, come from the areas of civil procedure, criminal procedure, and evidence.

Thank you for kind attention to my comment.

Sincerely,

Edward J. Thater

[redacted]

From: [redacted]
Sent: Friday, October 31, 2014 2:41 PM
To: Uniform Bar
Cc: Robert Scott
Subject: Columbia Law School's comment on the proposal to adopt the UBE

Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, New York 12203-5195.

Dear Ms. Bosse:

We are sending this letter on behalf of Columbia Law School in response to the Court of Appeals' Request for Public Comment on the proposal of the New York State Board of Law Examiners to replace the current New York State bar examination with the Uniform Bar Examination (UBE). We write to express general support for this proposal, but also to raise some questions that we hope the Court will consider before accepting the Board's recommendation.

The proposed adoption of the UBE recognizes and responds to the realities of current legal practice in several, important ways. As this Court knows, recent law graduates face a challenging and uncertain job market. The number of graduates outstrips the number of entry-level, legal positions. The portability of a UBE score helps recent graduates respond to this difficult reality by allowing a graduate to be more flexible in her job search. A student who takes the UBE can more easily begin her legal career in one state and then transfer to another state that accepts the UBE. Similarly, graduates who are unsure of where they will practice can broaden their job searches, applying for positions in any state that accepts a UBE score. Our hope is that other states will follow New York's lead, thereby expanding job opportunities even further.

The proposed UBE also recognizes the importance of practical lawyering skills to a comprehensive legal education. While the current New York bar exam includes only one Multistate Performance Test ("MPT") question, the proposed UBE includes two MPT questions. This increased focus on real-world skills sends a clear message that law students need to develop into problem solvers capable of handling the daily practice of law.

While the proposal to adopt the UBE responds well to certain realities, it also raises a few questions that we believe merit consideration. First, several studies have shown that the current bar exam disparately impacts minority test takers. We are concerned about adopting a new exam that could suffer from the same problem. We therefore encourage the Board to examine how various sub-groups have performed on the UBE. Alternatively, we urge the Board to commit to examining this in the future by analyzing the results of a UBE-based, New York bar exam going forward.

Second, while we agree with the proposal to retain a "New York portion" of the bar exam, we encourage the Board to publish additional details about the content of the New York Law Exam. Our hope is that this guidance will be available well in advance of the July 2015 exam, and that it will be readily available to all test takers, not only those who can afford to take a bar preparation class.

Finally, we are concerned about the timing of the Board's proposal. The July 2015 bar exam is only months away. The issues that we raise above will take some time to consider. Moreover, third-year and LL.M. students have planned their coursework with the current New York bar exam in mind. Changing the New York bar exam for the summer of 2015 could cause unnecessary anxiety for these students.

Thank you for your time and consideration.

Robert E. Scott
Interim Dean and Alfred McCormack Professor of Law
Director, Center for Contract and Economic Organization
Columbia Law School
435 W. 116th St, New York, NY 10027
(212) 854-2675

Avery W. Katz
Vice Dean and Milton Handler Professor of Law
Columbia Law School
435 W 116th Street
New York, NY 10027
(212) 854-0066

[redacted]

From: Marjorie Silver [redacted]
Sent: Monday, November 03, 2014 12:34 PM
To: Uniform Bar
Subject: Opposition to Changes to New York Bar Exam for July 2015 Administration

Dear State Board of Law Examiners,

As a law professor for over thirty years, I wish to strongly oppose any precipitous changes to the Bar Exam. Our current exam may well not be the best gatekeeping instrument to the profession, but it is the one that our students have been preparing for during their several years of law study. At Touro, faculty have been evaluated, in part, on whether they teach the New York rule because of the bar exam. Our students face enough challenges in this economy and with the stagnation in growth of law jobs in New York. Surely it would violate their trust in the New York legal profession and justice system for the Court of Appeals to change the rules of the game at the Eleventh hour.

Please, please reconsider!

Sincerely,
Professor Marjorie Silver

Marjorie A. Silver

Professor of Law

Touro Law Center

225 Eastview Drive

Central Islip, NY 11722

(631) 761-7144

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T. Bryce Jones, Esq.
7130 Central Ave
Queens, NY 11385

10/31/2014

Diane Bosse
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Ave Extension
Albany, NY 12203-5195

Dear Ms. Bosse:

I am writing in support of the proposal for New York to transition to the Uniform Bar Examination in July 2015. I am a 2011 graduate of Columbia Law School and obtained license to practice in Oklahoma in 2012 while working for a non-profit. However, I am not yet licensed in New York. I am also a member of the American Bar Association. I write primarily as a young, non-practicing attorney who experienced little success in obtaining legal employment during the economic meltdown and who has only gotten by through taking non-legal employment in several states.

I strongly believe that state-level regulation of attorney licensing has severely harmed and continues to harm employment prospects of attorneys everywhere. Economists are agreed that in any area of production, significant barriers to workforce mobility can create extreme shortages of workers in some areas and extreme glut in others. At present, the requirement that an attorney be in continuous practice for five years prior to admission on motion puts a particularly difficult burden on young, well-educated attorneys like myself, who are highly mobile and willing to travel to wherever demand for services is highest. Not only do I have to take a different bar exam for each state I might live in, but the lag time between identifying or being offered a job opportunity and becoming licensed in a particular state can be close to one year. In the meantime, those with no strong ties to one state or region struggle with not being able to practicing law in multiple states, including not being able to provide pro bono services. They fail to accumulate practical experience continuously and incur practice breaks that render them ineligible for future admissions on motion.

While the Uniform Bar Examination would not eliminate all state-level regulation or provide uniform admission requirements for all 50 States and the District of Columbia, it would be a positive step towards reducing unnecessary regulation of the nation's attorneys, allowing for greater mobility between states with high attorney unemployment rates and states, such as North Dakota, with very low unemployment rates and significant opportunities for young, enterprising attorneys.

While I appreciate and respect the desire of individual states to protect their own citizens from incompetent practitioners, I seriously question whether the benefits to any state outweigh the costs. The practice of law is not unique in the fact that serious harm can occur from incompetent professional performance. Far more tangible harm could occur from incompetent engineering (e.g. a nuclear reactor meltdown) yet we do not see state by state licensing of engineers. In fact, given close ties of the New York Bar with the international financial industry and world capital markets, shows that many if not most New York attorneys are dealing with issues primarily of national and international scope rather than local issues pertinent only to New York State. Therefore, I would argue that, particularly in the wake of the recent financial collapse, national interstate commerce considerations clearly trump any

benefits which might be attained through state-level licensure, and that uniform federal regulation of the profession is both inevitable and desirable.

The practice of law is notorious among the professions for long hours, poor working conditions, and generally low compensation in comparison to required education. Expensive bar admissions fees and bar preparation course costs as well as high barriers to attorney mobility create unnecessarily worse conditions. At a time when prosecutors, public defenders, and legal aid lawyers are overwhelmed and underpaid, does the profession really want to discourage multi-state licensure for questionable benefits? For myself, I have abandoned the practice of law in favor of software programming, which requires no formal education, offers far better working conditions and pay than most first year associates receive, and requires no fees or professional licensure. Career opportunities in this field, as well as the career opportunities of my partner, could just as easily take us to California, Illinois, New Hampshire, or overseas as to another part of New York. Under the current licensure system, I and those like me have no reason to make the required financial investment in licensure that is only good for one state and is difficult if not impossible to transfer. Ironically, while states maintain their strict control over admissions standards in the US, large US-based firms are outsourcing more and more of the work that used to be done by young attorneys to India and the Phillipines.

I can't promise that I would seek New York licensure under the UBE, but I can say with certainty that I have decided not to take the February 2015 Bar in hopes that New York adopts the UBE in July 2015. I applaud the New York Bar for its leadership in this area, and wholeheartedly support the move to adopt the UBE as well as any subsequent moves to unify, simplify, and decrease the costs of licensure in multiple states.

Sincerely,

T. Bryce Jones, Esq.

MAURICE A. DEANE SCHOOL OF LAW
HOFSTRA LAW

Eric Lane
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November 3, 2014

To whom this may concern,

We have listened carefully to multiple presentations about the Uniform Bar Exam and the proposed changes for the New York Bar exam, from the proponents and from those who have expressed reservations or outright opposition. We have consulted with bar prep providers, academic support colleagues, and individuals in jurisdictions where the Uniform Bar Exam is already in place.

At the end of the day, we are persuaded by those who advocate that New York and our country should move toward more uniformity in admission standards, primarily because the nature of law practice has changed so dramatically in recent years. Lawyers engage in multi-jurisdictional practice on a regular basis, and our graduates need to have as much flexibility as possible in pursuing professional opportunities, as well as opportunities to provide legal services in areas where lawyers are scarce.

While we understand the distinctiveness of several aspects of New York law and practice, we do not think that mastery of such necessarily requires a significantly higher bar to admission or several hours of testing on New York specific rules. We believe (and will advise our students as such) that anyone who is interested in practicing in New York should continue to take New York Civil Practice courses and similar New York law-specific courses. Such courses in law school will provide far more in-depth exposure to the relevant law than what would or can be provided in a bar prep course. In addition, we believe that all individuals benefit from opportunities to engage in supervised law-related work in New York to ensure exposure to our unique rules of practice. Representatives from a few of the bar prep companies have indicated that they are quite comfortable with preparing students to take the Uniform Bar Exam and that they will be able to make the adjustments to the new exam structure for not only those schools that offer such courses for credit in the coming spring semester, but also for their summer bar prep courses.

For the above reasons, we support the proposed changes to the New York Bar Exam.

Eric Lane, Dean and Eric J. Schmertz
Distinguished Professor of Public Law and Public Service

Jennifer A. Gundlach, Senior Associate Dean
for Experiential Education and Clinical Professor of Law

EL/JG/ll

From: richard <[redacted]
Sent: Monday, November 03, 2014 9:38 PM
To: Uniform Bar
Subject: Please delay the implementation

of the UBE. I am a law professor and I have spoken to a number of students who think it is quite unfair to change the format of the Bar Exam for which they have prepared and studied for.
I suggest that more notice is needed; if the change to the UBE has merit, there is nothing to be lost by delaying the implementation so that we could study and assess the pros and cons of the proposal.

Thank you.
Richard Klein
Professor of Law
Touro Law School

[redacted]

From: Matt Caglar <[redacted]
Sent: Tuesday, November 04, 2014 11:47 AM
To: Uniform Bar
Subject: Uniform Bar exam comment

Dear All:

I support the uniform Bar exam as the scores will be portable so that we will be able to pursue better job opportunities. This system will also allow law firms and other prospective employers to draw from larger pools of law students with the increased portability of where they can practice.

Thanks,

Metin Caglar

November 4, 2014

Diane Bosse
Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Re: New York State Board of Law Examiners proposed changes to the New York Court of Appeals on replacing the current bar examination with the Uniform Bar Examination.

Dear Ms. Bosse:

I write this letter as a 2nd year law student at the Syracuse University College of Law. Though I am not writing this letter to express any official American Bar Association policy, I would like to note that I am currently the 2nd Circuit Governor of the American Bar Association's Law Student Division, a role in which I represent the law students in New York and provide ABA programming to those students at the 15 law schools in New York. In this role, I have spoken to many law students and read much about the legal profession, legal education, and the concerns of law students. However, again, I do not write on behalf of the ABA or the ABA's Law Student Division, or in my official role as 2nd Circuit Governor, but simply as a law student at Syracuse University whose experiences in that role and with that organization have helped shape my opinions. I would like to voice my support for the proposed changes to the New York State bar examination, including adoption of the Uniform Bar Exam.

I agree that wider adoption of the UBE will facilitate mobility of recent law school graduates and lawyers alike, concurrently addressing the rising unemployment rate of recent law school graduates and provide services to underserved areas across the United States where legal needs continue to go unmet.

The idea for a uniform bar examination has been in discussion for most of the past decade. In August 2002, the American Bar Association's Commission on Multijurisdictional Practice "recognized that geography no longer dictated the substantive law a lawyer would practice, nor the location in which that practice would take place."[1]

Administering duplicative exams throughout the United States is wasteful and serves only to increase the expense of a test taken mostly by recent law school graduates already saddled with considerable student loan debt (up to $200,000 in some cases).[2] A UBE would test legal proficiency at an equivalent level as most individual state bar exams today, and would continue

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[1] Rebecca S. Thiem, *The Uniform Bar Exam: Change We Can Believe In*, B. Examiner, Feb. 2009, at 12, 13.
[2] Ill. State Bar Ass'n, Final Report, Findings & Recommendations On The Impact Of Law School Debt On The Delivery Of Legal Services (2013), available at http://www.isba.org/sites/default/files/committees/Law%20School%20Debt%20Report%20-%203-8-13.pdf.

to allow each state or territory to ensure that bar admission candidates has an adequate knowledge of law through setting passing scores in the respective state or territory. As it exists in most states and territories, the bar exam already uses many elements of the UBE and tests general issues of law with little to no emphasis on local variation. Formally adopting the UBE with state-specific supplemental exams is the next logical step.

Furthermore, the legal profession is the only major profession that has yet to develop a uniform licensing exam. The adoption of the UBE in New York would set the legal profession on a course towards a uniform licensing structure while remaining responsible for admission decisions, passing standards, and character and fitness qualifications.

As I know the SBLE proposal has received criticism from several prominent groups, including the New York State Bar Association via their November 1st House of Delegates, I want to address some of that criticism as well:

- *It has been suggested that the adoption of the UBE could result in disparate impacts on the diversity of the legal profession.* My counterargument would be that this is merely conjecture, and that removing geographic limitations as to where a recent law graduate may apply for jobs will only create a more diverse (and employed) legal profession. Young lawyers may find it cost prohibitive to sit for a separate New York bar if they've previously sat for another jurisdiction; by offering the New York multiple choice section four times a year, the cost implications can be minimized, and despite the need presumptive cost for transferring a UBE score from another jurisdiction, the overall cost would still be less than sitting for an entirely different bar exam.
- *It has been argued that the bar passage rates in the majority of the fourteen states that currently use the UBE have seen a significant decline.* I would first point out that this argument cited an Above the Law piece which was in fact a paid advertisement by Marino Bar Review. [3] As to the substance of this argument, I would highlight that this decline cannot be attributed primarily to the Uniform Bar Exam. In an October 23, 2014 letter to law school deans from Erica Moeser, President of the National Conference of Bar Examiners, the following is stated:

> In the wake of the release of MBE scores from the July 2014 test administration, I also want to take this opportunity to let you know that the drop in scores that we saw this past July has been a matter of concern to us, as no doubt it has been to many of you. While we always take quality control of MBE scoring very seriously, we redoubled our efforts to satisfy ourselves that no error occurred in scoring the examination or in equating the test with its predecessors. The results are correct.
>
> Beyond checking and rechecking our equating, we have looked at other indicators to challenge the results. All point to the fact that the group that sat in July 2014 was less able than the group that sat in July 2013. In July 2013 we marked the highest number of MBE test-takers. This year the number of MBE test-takers fell by five percent. This was not unanticipated: figures from the American Bar Association indicate that first-year enrollment fell 7% between Fall

[3] Declining Nationwide Bar Exam Pass Rates, Above the Law, October 27, 2014. See http://abovethelaw.com/2014/10/declining-nationwide-bar-exam-pass-rates/

2010 (the 2013 graduating class) and Fall 2011 (the 2014 class). We have been expecting a dip in bar examination numbers as declining law school applications and enrollments worked their way to the law school graduation stage, but the question of performance of the 2014 graduates was of course unknown.

Some have questioned whether adoption of the Uniform Bar Examination has been a factor in slumping pass rates. It has not. In most UBE jurisdictions (there are currently 14), the same test components are being used and the components are being combined as they were before the UBE was adopted. As noted above, it is the MBE, with scores equated across time, that reveals a decline in performance of the cohort that took July 2014 bar examinations.[4]

- *It has been argued that the Uniform Bar Exam is not truly portable, in that states may test state-specific law in supplemental sections and set their own passing rates.*
  - It is true that only 14 states currently use the UBE, but those 14 have adopted the test since 2010 and that number will inevitably increase. Of those 14, five require a state-specific assessment prior to admission; however, this state-specific assessment allows a proficiency check on local law while still allowing lawyers to transfer the base UBE score to other jurisdictions. If New York, the presumptive leader in bar testing, offers the NY-specific component four times a year as they propose, this would allow quicker ability to test into New York, and it is likely other states would adopt this method as well.
  - It is additionally true that all UBE states limit the portability of scores to between 2-5 years with most states restricting it to 2-3 years, but it is during this time period that recent law graduates are most affected, as it is within the first five years of practice that lawyers are most restricted from motioning into additional states. Not having a uniform cut score allows states autonomy to decide the difficulty of their bars, and it is disingenuous to state that New York is proposing a low score threshold (limiting other jurisdictions to transfer to) while also stating that New York shouldn't raise their cut score as that would affect diversity. A student passing the UBE in NY would not be guaranteed admission in the other UBE states, but it is an improvement from the current system, in that if a student achieved a score that met or exceeded a jurisdiction's required score, then that jurisdiction becomes an option, whereas it is currently not.
  - Further, the proposed UBE cut score of 266 out of 400 is the statistical equivalent to the current 665 out of 1000, so it is not a more difficult test, statistically speaking.
- *Law students who would immediately be affected are concerned over the rush to implementation of the UBE for July 2015, given that they have already made curricular decisions and have selected commercial bar review courses based on the New York Bar Exam.* It is my understanding that no additional subjects are tested on the Uniform Bar Exam that are not already a component of the current New York State Bar Exam. Additionally, the major bar review courses are equipped to teach to the UBE, and the procedural hurdles for the commercial bar review courses should not be a higher consideration than whether this move would be beneficial to the legal profession and to law graduates.

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[4] https://www.law.upenn.edu/live/files/3889-multistate-bar-exam-memo-oct-2014pdf

I fully support consideration by SBLE for adoption of the UBE with a state-specific component in New York. Though there remain valid concerns over the speed with which this idea is being considered, as well as concern over procedures and logistics, I urge the SBLE to adopt the UBE, or as a compromise delaying the adoption to February or July 2016. This would provide ample time to work through logistics.

I further urge the SBLE to consider law student opinion in this matter. While the opinions and concerns of the legal profession and the New York legal community are obviously critical to this process, it is my understanding that law students are not represented in the bodies which have opposed this proposal.

I welcome further discussion of this proposal, and invite SBLE to contact me regarding any questions related to these comments or any other topics relevant to the SBLE's work in this area. If you have any questions concerning my comments or require clarification, please contact me at (301) 538-5705 or chris.s.jennison@gmail.com. Thank you for your consideration.

Very respectfully,

Christopher Jennison
Syracuse University College of Law, JD, 2016
University of Pennsylvania, MPA, 2014
2nd Circuit Governor, ABA Law Student Division

cc: Honorable Judge Lippman, Chief Judge, State of New York
Glenn Lau-Kee, President, New York State Bar Association

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November 5, 2014

Diane Bosse, Esq.
Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, New York 12203-5195

Re: Request for Comment – Administration of Uniform Bar Examination

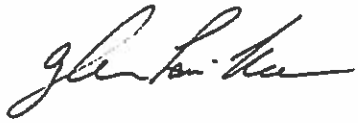
Dear Ms. Bosse:

In response to the Court of Appeals' Request for Comment issued October 6, 2014 with respect to the adoption of the Uniform Bar Examination (UBE) for the administration of the July 2015 bar examination, I attach a report prepared by our Committee on Legal Education and Admission to the Bar and approved by our House of Delegates on November 1, 2014. The report recognizes that the UBE might offer the potential for genuine benefits for test-takers. For example, we believe that the incorporation of a second Multistate Performance Test segment could well enhance the utility of the examination to assess "practice ready" skills. However, we are concerned that the benefits and potential drawbacks have not been tested.

Fundamentally, our Association strongly believes that this proposal requires a fair and reasonable time for study and discussion of the impact associated with such a drastic change to the bar examination, including a New York-specific review, a disparate impact analysis (particularly with respect to the impact upon minority test-takers), and studies of bar pass rates and costs. Accordingly, we urge that the UBE not be administered in July 2015; that the proposal be reviewed to address the concerns that have been expressed; and that if, after the needed studies and review are completed it is determined to implement the UBE, such implementation not take place for a minimum of two years to allow law schools and law students sufficient time to prepare for the bar examination.

We hope that you will give serious consideration to this report and its recommendations and will defer the implementation of the UBE to address the concerns that have been expressed. Please do not hesitate to contact me if our Association can be of assistance or provide additional information.

Sincerely yours,



Glenn Lau-Kee

c: Hon. Jonathan Lippman

COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR

REPORT OF NEW YORK BOARD OF LAW EXAMINERS (BOLE) PROPOSED CHANGE IN NEW YORK TO THE UNIFORM BAR EXAM

NYBOLE Proposed Change to the Uniform Bar Exam

I. Introduction

On October 6, 2014, public notice was given that the New York State Board of Law Examiners (NYBOLE) recommended to the New York Court of Appeals that the current New York bar examination (NY Exam) be replaced with the Uniform Bar Examination (UBE), which is prepared by the National Conference of Bar Examiners (Conference). According to the notice posted on the NYBOLE website, "The Court of Appeals is considering adopting the UBE for the administration of the July 2015 bar exam." The Court of Appeals issued a Request for Public Comment on the proposal and will be accepting submissions until November 7, 2014. A copy of the Request for Public Comment is attached as Appendix A. No particular explanation was given for setting this deadline.

On October 23, 2014 the NYSBA Committee on Legal Education and Admission to the Bar met to discuss the proposal. The Committee invited Diane Bosse, Chair of the NYBOLE, to attend the meeting for purposes of explaining the proposed change. Ms. Bosse went through a detailed PowerPoint presentation with the Committee and answered questions for about ninety minutes.

On October 6, prior to the in-person meeting, Committee co-chairs Eileen Millett and Patricia Salkin circulated the proposal to Committee members; an article appearing the same day in the New York Law Journal (Appendix B); an article written by Ms. Bosse for the State Bar Journal's September 2013 issue on legal education entitled "New York Bar Exam by the Numbers" (Appendix C); on October 13, a list of all of the comments/questions about the proposal posed by Committee members in emails following receipt of the proposal (Appendix D); and links to some articles mentioning the UBE proposal (Appendix E).

This brief report is being made to the New York State Bar Association Executive Committee and House of Delegates because time is of the essence for the Association to provide comments; the 30-day comment period which will close shortly after the November 1, House of Delegates meeting.

II. Background

The current NY Exam is a of a two-day written examination with four components. On Day 1 candidates are required to answer five essay questions, each presenting multiple issues and generally emphasizing New York specific law, answer 50 New York State specific multiple choice questions (NYMC), and complete one Multistate Performance Test (MPT), an exercise that is designed to simulate a case file presented in a realistic setting and calls for candidates to demonstrate fundamental lawyering skills. The time allotted for Day 1 is 6 hours, 15 minutes. On Day 2, candidates take the Multistate Bar Examination (MBE, which is prepared by the Conference and used in most states as part of the bar exam) consisting of 200 multiple-choice questions that test knowledge relating to federal civil procedure, constitutional law, contracts, criminal law and procedure, evidence, real property and torts (these questions do not focus on substantive law or procedure specific to any one state). The time allotted for Day 2 is 6 hours.

The Uniform Bar Exam prepared by the Conference is also a two-day written examination. Day 2 of the UBE is the same 200 question multiple choice MBE test currently administered in New York; however, the content of the first day of these examinations are significantly different. First, the UBE candidates are required to answer six essay questions that test knowledge of general principles of uniform laws, with the potential content of these questions covering essentially the same substantive subject areas as might be covered in the NY Exam, except that the CPLR — which may figure repeatedly in the NY Exam essays — is not a UBE topic. Other differences between the UBE essays and those on the current NY Exam include: (i) that candidates must answer the questions using the uniform laws and acts, not New York specific laws (although "distinctions" can be noted), (ii) each UBE essay typically is focused on a single content area whereas the NY Exam essays each typically raise issues across multiple topics (e.g., contract law, statutes of limitation and procedure), and (iii), thus narrowly focused, a UBE essay question takes less time than a NY Exam question, allowing for six rather than five essay questions to be posed.

In addition, the first day of the UBE presents candidates with two MPT segments (whereas the NY Exam includes one MPT and the NYMC).

A. The Current Proposal from the NY Board of Law Examiners

The proposed change to the New York State Bar Exam will require all candidates to take the Uniform Bar Exam described above, plus take and pass a separate New York Law Exam (NY Law Test) consisting of 50 New York specific multiple choice questions that will be administered on Day 2 of the Bar Exam (the same day as the MBE 200 multiple question exam). The proposed change would thus (i) eliminate the 5 essay questions that test knowledge of New York specific law in favor of the UBE essays, (ii) add an additional MPT segment, and (iii) extend the length of the second day of the examination to allow time for the NY Law Test (the substance of which is discussed further below).

At present lawyers admitted in other jurisdictions who lack the years of practice required for admission to the New York Bar "on motion" can obtain admission to this Bar only by taking the NY Exam in full (and passing same), no matter how well they did on the bar examination of their original jurisdiction of admission. The current proposal uses a "portable" UBE test score and provides that those who take the UBE in other states and achieve a score that meets the New York "passing" standard would be eligible for some period of time to "transfer" that UBE score to New York, sit for the NY Law Test, and with a passing score on that test apply for admission to the New York Bar (assuming other eligibility criteria are met).

B. Other Jurisdictions Which Administer the Uniform Bar Exam

Currently 14 states administer the UBE: Alabama, Alaska, Arizona, Colorado, Idaho, Minnesota, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Utah, Washington, and Wyoming. Appendix F contains a chart detailing the date each state began to use the UBE, the time limit each state has set for accepting a transferred score (a score on the UBE taken in another state which is "transferred" for use in seeking admission to the bar in this state), the minimum passing score set by each state, which states require, in addition to a passing UBE score, the passing or completion of some state-specific test or training component before admission, and the fees set by each state for accepting "transferred" scores.

In her presentation to the Committee, Diane Bosse explained that each state that administers the UBE continues to: decide who may sit for its bar exam and who will be admitted to practice; set its own passing scores; grade the essays and performance tests; set policies regarding how many times candidates may retake the bar exam; decide how to assess knowledge of local law; determine for how long "transferred" UBE scores will be accepted; and make character and fitness decisions.

C. The Proposed New York Law Test

Under the proposal, passing the Bar Exam in New York will require passing two separately graded exams (the UBE and the New York Law Test). A passing score on each exam will be required to apply for admission to the New York bar.

The proposal, the New York Law Test will consist of 50 multiple choice questions and will be a revamped version of the current NYMC, redrafted to focus very heavily on points where New York law or practice differs from other jurisdictions (the "New York distinctions"). It is proposed that candidates will need a passing score of 60% (30 out of 50) to pass the New York Law Exam. As with all current aspects of the NY Exam (and the UBE), candidates will have available from the NYBOLE a detailed "content outline" to assist in preparation for the NY Law Test.

It is also proposed that the NY Law Test will be offered at two additional sessions in addition to being part of the January and July administrations of the UBE. Testing at these sessions would be available for those New York test-takers who did not pass the NY law Test when they took the UBE (assuming they did pass the UBE) and for those taking and obtaining a sufficient score on the UBE in other jurisdictions and now needing to travel to New York to take the New York Law Test. Target dates for these "off cycle" sessions are set for the fall and in the spring. Candidates who have not yet taken and achieved a sufficient score on the UBE would not be eligible to take the NY Law Test at these sessions.

D. Grading of the Bar Exam

The manner in which the New York bar exam is graded will change with the administration of the Uniform Bar Exam.

Current weighting is as follows: MBE – 40%, NYMC – 10%, NY essays – 40%, MPT (one) – 10%.

Proposed UBE weighting: MBE – 50%, MEE (essays) – 30%, MPT (two) – 20% (NY Law Test administered but separately scored)

Diane Bosse, Chair of the NYBOLE explained that educational eligibility rules set forth in Rules 520.3 and 520.6 continue to apply and that the proposed New York passing score for the UBE would be 266 out of 400 (which as a percentage is arithmetically equivalent to the current 665 out of 1,000). As a technical matter the MBE scaled score

would continue to be used to adjust the scaling of the scores on other components of the examination.

In addition, as described above, the New York Law Test will require a score of 30 correct answers out of 50 (60%) to pass, and candidates must pass this multiple choice exam in addition to the UBE to be admitted in NY.

E. Proposed Time Frame for Implementation

The October 2014 notice for comment indicates that the New York Board of Law Examiners is prepared to administer the Uniform Bar Exam and the New York Law Exam for the July 2015 administration of the Bar Exam in New York.

III. Discussion

A. Arguments in favor of the Uniform Bar Exam

Before addressing the proposal as such, we would note that some aspects of the proposed changes may be worth careful consideration even if the UBE proposal is not adopted. In particular, the use of a second MPT segment and revamping the NYMC along the lines proposed for the NY Law Test would seem potentially valuable changes to the NY Exam in all events. And the question of whether there should be a separate passing requirement based on "New York distinctions" (whether posed in the essays and NYMC or in a NY Law Test) can be debated outside the context of deciding whether to adopt the UBE. For present purposes, however, we focus here on the proposal to replace the NY Exam with the proposed combination of the UBE and the NY Law Test.

The arguments that have been advanced by the proponents of replacing the NY Exam with the UBE (plus the NY Law Test) include:

1. The legal profession should move towards a national licensing exam and New York's participation will likely convince other states to follow suit.

2. The Uniform Bar Exam will offer test-takers in New York greater portability in a competitive and tight job market in New York, thereby maximizing employment opportunities.

3. It can enhance mobility for law graduates and their families, at least between UBE jurisdictions, without having to wait for admission on motion to be available based on their years of practice.

4. Law firms in New York will be able to recruit from a more geographically diverse applicant pool (so long as applicants also take and pass the New York Law Exam).

5. It will eliminate some duplication of efforts associated with taking the bar exam in multiple jurisdictions

6. It may reduce the cost, delay, anxiety and uncertainty of having to take multiple bar exams.

7. It offers more options when choosing where to take the bar examination.

8. It will relieve the NYBOLE of the responsibility, and expense, of drafting the essay questions and model answers for the bar exam.

9. The use of a second MPT segment will enhance the utility of the examination insofar as "practice ready" skills are being assessed.

B. Concerns over a Rush to Adopt the UBE Proposal for July 2015

1. A 30-day comment period is too short to enable all of the stakeholders a fair and reasonable time for study and discussion of all of the impacts associated with a dramatic change to the composition of the bar exam in New York. While there is interest in learning more about the potential positive implications for the adoption of the UBE in New York, the Committee (with one dissenting member) believes that more time is needed to further study and discuss this UBE proposal.

2. There have been no New York state-specific studies about the impact of the adoption of both the Uniform Bar Exam and the New York Law Exam on applicants. (See Appendix G for articles describing lower pass rates in Montana and North Dakota when the UBE was initially administered). Further, the NYBOLE has not issued a report discussing all aspects of the UBE as it relates to New York.

3. The New York Board of Law Examiners should first conduct and publish a disparate impact analysis of both the UBE and the New York Law Exam for minority test takers, similar to the study undertaken when New York raised its bar pass rate.

4. There is concern over just what impact the requirement of passage of both the UBE and a New York Law Test will have on test-takers. Moreover, there has been no

analysis of how many candidates who passed prior NY Exams would have failed if a 30 score on the NYMC had been a separate requirement. While the NY Law Exam will to some extent be different than the NYMC (see next comment), the similarities are sufficient to warrant undertaking this analysis of past examinations. It is not clear what the "average" score on the NYMC has been in the past, but if it is less than 30 (which is our informal understanding), then the addition of a NY Law Test requirement may result in disqualifying a very substantial number of candidates who would be admitted in New York under present testing. Whether this is a good or bad result may be debated, but additional information is certainly needed.

5. The 50 multiple choice questions that would appear on the new New York Law Test have not been "pre-tested" on previous exams to see how test takers would do with the new format. It is common for all standardized exams to pretest questions and analyze the results. Such "test" questions could be included on several upcoming administrations of the present New York Bar Exam to develop the data. Further, sample questions are not yet drafted or publically available for review. While BOLE intends to develop a "content outline" for the NY Law Test that is an outgrowth of current materials made available to New York candidates, if the NY Law Test is going to differ from the NYMC, as proposed, then candidates for the July 2015 examination will be disadvantaged by not having the updated materials available well in advance of the examination.

6. Many law students have expressed concern that the rush to implementation this year will disadvantage them as they have already make curricular decisions and selected commercial bar review courses based on a belief that they will be taking the existing New York Bar Exam.

C. Additional Issues/Concerns Requiring Clarification and Further Discussion Prior to a Decision as to Whether the Uniform Bar Exam is Good for New York Law Students and Practitioners

1. The profession should be on the same page as to what exactly a "uniform" bar exam means. The New York proposal would follow 5 of the 14 UBE states at this time by requiring an additional state-specific assessment prior to admission. If other states were to follow New York as suggested they might, and if they would likely also require a state specific law exam like New York, this may not truly advance uniformity and portability, nor will it reduce the need to take exams in more than one state as proponents assert.

2. More transparency is needed with respect to costs. While there would be a saving for the NYBOLE in not having to develop the NY essays and model answers, New York will need to license the Day 1 UBE essay and an

additional MPT question from the National Conference of Bar Examiners. The cost for this, added to discussion of a potential increase in cost to test-takers from the current $250 that could be three or four times as costly, plus the cost of transferring UBE scores to other jurisdictions which range from $400 to $1240 is important information to consider. Likewise, specific information about the cost of separately administering the New York Law Exam at times other than with administration of the UBE should be disclosed.

3. The UBE proposal for comment does not indicate how many times an applicant who passes the UBE may take the New York Law Exam without having to repeat the UBE.

4. Some Committee members expressed concern about the relative value as testing material of the MEE essay questions that would replace the current New York essay questions. The concern here is not merely that the "New York distinctions" would be lost or that the importance of candidates' mastering the CPLR will be somewhat downplayed if the CPLR appears only as a part of the NY Law Test, but also that the "single topic" MEE essays do not test reasoning skills as well as the multi-issue, multi-topic New York essays. This concern is not something that has been quantified, but it should be addressed.

IV. Conclusion and Recommendation

It is simply too soon to reach a reasonable conclusion about the adoption of the Uniform Bar Exam and the New York Law Exam in the 30-day comment period. The notice for comment contains little by way of detail and no state-specific studies or reports have been conducted nor made publically available to more fully understand the cost-benefit analysis or to assess whether adoption of the new exam would produce a disparate impact.

The Committee has not been persuaded that there is any urgency that requires immediate adoption of this proposal. Prudence dictates proceeding with caution with a change of this significance, especially when there not only is active debate about *whether* it is a good idea to use the UBE instead of the NY Exam, but also active concern about the impact of such a change, both procedurally (how will it affect bar passage as a whole and for distinct groups) and in terms of how it might affect those already preparing to take the July 2015 examination.

The Committee urges the New York State Bar Association to request that the New York Courts delay any decision on implementation of the Uniform Bar Exam and the New York Law Exam until studies as to disparate impact, bar pass rates and costs can be completed and discussed.

Further, the Committee requests that the New York State Bar Association respectfully suggest that should there be a future adoption of the UBE or other significant change in the Bar Exam, that the Courts follow the lead of the American Bar Association Council on Legal Education and phase-in significant changes with fair advance and appropriate notice to test-takers.

The Committee accordingly recommends a proposal to request that the New York State Courts delay a decision on the implementation of the Uniform Bar Exam and the New York Bar Exam until further study as to disparate impact, bar pass rates and costs can be completed.

Based on the foregoing, the Committee on Legal Education and Admission to the Bar approves this report and recommends approval of the report by the New York State Bar Association's Executive Committee and/or the House of Delegates.

Eileen D. Millett, Co-Chair
Patricia Salkin, Co-Chair

Members voting in favor of the report: 22
Members dissenting from the report: 3
Abstentions: 4

GLOSSARY OF TERMS

NYBOLE	New York Board of Law Examiners
MBE	Multistate Bar Examination (multiple choice)
MEE	Multistate Essay Examination
MPT	Multistate Performance Test
NYMC	New York Multiple Choice (existing)
NY Law Test	Proposed new multiple choice test on New York law
UBE	Uniform Bar Exam

Appendix A

Request for Public Comment

The New York State Board of Law Examiners (SBLE) has recommended to the New York Court of Appeals that the current bar examination be replaced with the Uniform Bar Examination (UBE). To date, 14 other state jurisdictions have adopted the UBE, but New York would be a national leader as the first large state in terms of bar applicants to administer this test, having examined over 15,200 candidates in 2014.

The UBE is prepared by the National Conference of Bar Examiners (NCBE) and passage of the test would produce a portable score that can be used to gain admission in other states that accept the UBE, provided the applicant satisfies any other jurisdiction-specific admission requirements. As the UBE is accepted by more states, the portable score will facilitate lawyer mobility across state lines, resulting in expanded employment opportunities for lawyers throughout the nation and facilitating multi-state law practices.

Currently, the New York bar exam is administered in July and February of each year, over the course of two days and consists of two sections: (1) the New York law component, taken on the first day, is composed of five essay questions and 50 multiple-choice questions prepared by the SBLE, and one Multistate Performance Test 1 (MPT) question developed by the NCBE; and (2) the Multistate Bar Examination (MBE), consisting of 200 multiple-choice questions prepared by the NCBE, which is given on the second day of the exam.

The UBE is prepared by the NCBE and contains three distinct assessment measures: (1) the Multistate Essay Examination (MEE), which contains six single content essay questions testing law of general application; (2) two MPT tasks; and (3) the 200-question multiple-choice MBE test. The MEE and MPT would be taken on the first day of the UBE, while the MBE would be given on the second day. The increased testing on lawyering skills will address the call by bar associations for legal education to incorporate more practical skills training.

Along with administering the UBE, the BOLE has proposed that New York's bar examination continue to incorporate a New York law-specific component. This recognizes the importance of state law, particularly in light of the thousands of out-of-state and foreign-educated applicants who seek bar admission in New York. It is imperative that New York licensure remain internationally recognized as a valuable legal credential. The proposed New York law exam (NYLE) segment would consist of 50 multiple-choice questions, tested for one hour on the second day. The SBLE has

proposed a passing score of 30 for the NYLE. In addition to being given concurrently to candidates taking the UBE in February and July, the SBLE is suggesting that the NYLE also be administered in December and late spring of each year. This provides a second opportunity to applicants who pass the UBE, but do not pass the NYLE, to retake the NYLE in order to secure earlier admission to practice.

The SBLE recommends that the passing score for the UBE in New York be set at 266. Although scored on a different scale, this grade is comparable to the passing score established for the current bar exam. Other jurisdictions have adopted passing scores for the UBE that range from 260 to 280. Applicants who take the UBE in another jurisdiction and seek admission in New York based on a transferred UBE score would have to pass the NYLE, with this testing available in December or late spring. Similar to current rules regarding the viability of bar exam scores, a UBE score earned in another jurisdiction could be transferred to New York up to three years after the date of the administration of the exam on which the score was earned.

Applicants who take the UBE in New York, and applicants who seek to transfer a UBE score to New York, must continue to meet the eligibility requirements of section 520.3, 520.4, 520.5 or 520.6 of the Rules of the Court of Appeals and undergo a character and fitness review by the Appellate Division of Supreme Court. The proposal does not contemplate any change in the statutory bar exam fees set forth in Judiciary Law § 465.

In light of this recommendation, the Court is considering adopting the UBE for the administration of the July 2015 bar exam. Persons or organizations wishing to comment on this proposal should e-mail their submissions to UniformBarExam@nycourts.gov or write to: Diane Bosse, Chair, New York State Board of Law Examiners, Corporate Plaza, Building 3, 254 Washington Avenue Extension, Albany, NY 12203-5195. Submissions will be accepted until November 7, 2014. All public comments will be treated as available for disclosure under the Freedom of Information Law, and are subject to publication by the Office of Court Administration.

The issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the court system.

APPENDIX B

Court System Seeks Comment on Adopting Uniform Bar Exam

Joel Stashenko, New York Law Journal

October 7, 2014 | 4 Comments

ALBANY - Absent major objections, New York would become the largest and most influential state to use the Uniform Bar Examination.

See Request for Comment.

While the New York bar exam would retain a section specifically about New York law, Chief Judge Jonathan Lippman said the bulk of the two-day test would be the nationally-standardized exam (UBE) prepared by the National Conference of Bar Examiners.

The state court system on Monday circulated proposed rules on adopting use of the national exam.

The test administered in July 2015 would be the first based on the UBE, if the state Court of Appeals adopts the change. The court is responsible for setting standards for legal education in New York state.

Fourteen other states, mostly west of the Mississippi, use UBE as the basis for their bar examinations. New York would be the first of the largest and most influential states to use the test. California, Texas, Florida and Illinois have not yet adopted it.

Lippman said he expected several large states to follow suit if New York adopts the UBE.

"I believe if we choose to go forward, it portends extremely well that you would have a truly uniform bar nationally," he said in an interview. "I think there is a lot of anticipation from my colleagues in other states about whether we would be going to the uniform bar and, if we do, I think it will have a dramatic impact on that uniform bar approach in very short order."

Proponents say a "national" bar exam would allow students to better pursue job opportunities by letting them pass the UBE once and then prepare for the shorter portions of the bar exam specific to each state should they want to practice there. It also would allow law firms and other prospective employers to draw from larger pools of law students by increasing the "portability" of where they can practice.

New York's bar exam already contains two standardized national portions, the Multistate Performance Test and the Multistate Bar Examination. Both are prepared by the Madison, Wisc.-based National Conference of Bar Examiners.

Lippman said the UBE would adequately test the analytical skills of candidates by adding the Multistate Essay Examination, a six-essay test also developed by the National Conference of Bar Examiners that seeks analyses on general legal principles.

The New York State Board of Law Examiners recommends a passing score for the UBE be set at 266, which court administrators said is analogous to the current exam. They said the passing score recognized by other UBE-using states ranges from 260 to 280.

The head of the conference, Erica Moeser, said Monday that UBE's developer has been "awaiting a state that has a lot of candidates, and [Lippman] has now provided that springboard for other larger jurisdictions to come aboard."

Proposed Changes

Under the proposal, test-takers would get a total of 13 hours over two days to take all components of the new bar exam, or 45 minutes more than the 12 hours, 15 minutes they now get, according to Diane Bosse, the chairwoman of the Board of Law Examiners.

The portion of the exam specific to New York law under the new scenario would consist of a 50-question multiple choice section to be answered in one hour. The current exam includes the 50 questions as well as five essays focused on New York law.

Candidates currently get four hours and 15 minutes to answer the "local" phase of the current exam.

The exam would be administered during the same customary times as the current test—the last Tuesdays and Wednesdays in July and February—though Bosse said new days would be introduced in December and in late May or early June for candidates to retake the hour-long multiple-choice portion specific to New York or for test-takers who had passed the UBE in other states who want to pass the New York bar exam.

The Board of Law Examiners, which would continue to be responsible for administering and grading the exam, has recommended New York adopt the UBE.

"Once candidates have demonstrated competence in those general principles of the law and lawyering skills, there is no reason that (UBE) score shouldn't follow them across state lines," said Bosse, who is of counsel at Hurwitz & Fine in Buffalo.

The cost of the state bar exam would not change, she said. Candidates with juris doctor degrees from American Bar Association-accredited law schools pay $250 to take the New York test while foreign candidates pay $750.

Lippman said if no significant objections arise, the Court of Appeals could adopt the change by late November. Besides the concern that New York law-specific questions be maintained, he said court administrators did not want to go to a third day of testing if the UBE is adopted.

Legal Scholars, Leaders React

Lippman said the proposal received a "very good" reception when court administrators presented it to New York's law school deans at a meeting last week.

Several deans reached Monday said they supported the initiative.

"By this proposal, New York has a good opportunity to take the lead among the states in de-emphasizing local issues," said Fordham University School of Law Dean Michael Martin, but cautioned that the July 2015 test could be too soon to educate all students on the issues covered by the UBE-based test.

Brooklyn Law School Dean Nicholas Allard predicted that if New York fell into the UBE line for its bar exam, other states would "rapidly" follow suit.

"This, in turn, will enhance the portability of graduates' legal education, open the job market geographically outside the Empire State for our graduates and retain New York's control of its own standards for admission and the quality of new attorneys entering practice here," he said.

Hannah Arterian, the dean at Syracuse University College of Law, found reasons for New York to go the UBE route to be "persuasive."

"I think this is tremendous," she said. "It's a real 'wow' moment for New York state and a real indication of New York state as a true leader in a variety of ways."

Bar Association leaders, meanwhile, had mixed reactions.

Bret Parker, executive director of the New York City Bar Association, called it an "extremely positive development." But Eileen Millett, co-chair of the New York State Bar Association's committee on legal education and admission to bar, said the issue needed more discussion.

"I think we have to be careful that we protect the uniqueness of what it means to have taken and passed the New York bar exam," said Millett, counsel at Epstein Becker Green.

For law schools, she said, the proposed change may raise questions of altering the competitiveness of New York law schools.

"Does it take away or add to the allure of coming to a New York law school?" Millett said. "It remains to be seen."

According to the National Conference of Bar Examiners, 15,846 people took the New York bar exam in 2013. California had the next-largest total of test-takers in the country with 13,319.

If New York adopts the UBE, law firms could recruit students they may not have otherwise found and may be more willing to cast a wider net in their associate search, said Joseph Torres, a Winston & Strawn partner and chair of the firm's hiring committee.

"All law firms are looking for the best and brightest students," he said. "Law firms seeing more law students and law students seeing more law firms is a good thing."

But Torres said some questions remain unanswered, such as whether large states such as California and Illinois would follow and whether requirements of individual states "may cut against the idea that this is a uniform process."

Court administrators asked that comment on the proposed bar exam rules be emailed to UniformBarExam@nycourts.gov or mailed to Diane Bosse, chair, New York State Board of Law Examiners, Corporate Plaza, Building 3, 254 Washington Ave. Ext., Albany, NY, 12203-5195.

The deadline for comments is Nov. 7.

Joel Stashenko can be reached at jstashenko@alm.com. Twitter: @JoelStashenko.
Christine Simmons and Tania Karas contributed to this story.

Read more: http://www.newyorklawjournal.com/id=1202672451929/Court-System-Seeks-Comment-on-Adopting-Uniform-Bar-Exam#ixzz3HCtDm7wf

Appendix C

DIANE F. BOSSE was appointed by the Court of Appeals to the New York State Board of Law Examiners in 1998, after having served as a legal assistant to the Board for 19 years. She has chaired the Board since 2001. She served on the Board of Trustees of the National Conference of Bar Examiners from 1999 to 2008 (Chair 2006-2007) and currently co-chairs the Conference's Long Range Planning Committee. Ms. Bosse is the Immediate Past Chair of the Accreditation Committee of the American Bar Association Section of Legal Education and Admissions to the Bar. A graduate of SUNY Buffalo Law School, Ms. Bosse is of counsel to the law firm of Hurwitz & Fine, P.C. She has received many awards, most recently the National Conference of Bar Examiners Chair's Award (2012) and the NYSBA's Award for Excellence in Public Service (2010).

The New York Bar Exam by the Numbers

BY DIANE F. BOSSE

Among the ties that bind us as lawyers is the shared experience of having taken the New York bar exam. Whether we viewed it as a hazing or a rite of passage, we all remember that moment in our quest for admission to our chosen profession. But if you haven't been to a bar exam test site recently, you might not recognize the place. The size and composition of the candidate pool, the administrative procedures and the test itself have changed significantly over the years. This article describes some of those changes and reports on current initiatives.

15,745

That is the number of candidates tested on the New York bar exam in 2012 – 4,011 in February and 11,734 in July. Of those, 11,038 were graduates of American Bar Association (ABA)-approved law schools, and 4,675 received their legal education in foreign countries. The remaining 32 candidates qualified to take the exam based on either graduation from a non-ABA-approved law school plus five years of practice[i] or one year of legal education and a prescribed period of law office study.[ii]

The graduates of ABA-approved law schools came from 48 states and the District of Columbia and from 195 (of the then 201) ABA-approved schools. New York law schools accounted for almost exactly half of all candidates taking the exam who graduated from ABA-approved schools (5,514), with out-of-state law schools contributing the balance (5,524).

The foreign-educated candidates sitting for the New York bar exam in 2012 came from every corner of the globe – from Australia to Azerbaijan, Canada to Cameroon, El Salvador to Eritrea, Iran to Ireland and Venezuela to Vietnam – 125 countries in all.

Expansion of the Candidate Pool

Over the last 15 years, the number of candidates sitting for the New York bar exam has increased by over 40%. This tremendous growth has been fueled primarily by the influx of foreign-educated law graduates seeking admission to the New York bar. The number of foreign-educated candidates sitting for our bar exam in 2012 was 2.75 times the size of that group in 1997. Now fully 30% of all our candidates are foreign-educated. In 2012, 79% of all foreign-educated candidates who took a bar exam in the United States took the bar exam in New York.[iii]

More candidates from China now take the New York bar exam than from any other foreign country. From 2000 to 2012, the number of candidates seeking admission in New York based on their education in China increased by 636%. In 2012, 846 Chinese-educated candidates took the New York bar exam, exceeding by far the next largest country contingent – the 538 candidates hailing from the United Kingdom. We are seeing significant increases in the number of candidates from Brazil, India, the Republic of Korea, Ireland and Taiwan. The number of candidates from the U.K. increased slightly from 2000 to 2012; the numbers from Canada, Israel and Germany notably declined.

Educational Eligibility to Take the New York Bar Exam

Domestically Educated Candidates

The Court of Appeals has established the educational eligibility requirements to sit for the New York bar exam.[iv] For domestically educated candidates, under Rule 520.3, graduation from an ABA-approved law school is required. An ABA-approved law school is one that is accredited by the Council of the ABA Section of Legal Education and Admissions to the Bar in accordance with the ABA Standards and Rules of Procedure for Approval of Law Schools (the Standards).[v] A law school must be in full compliance with all of the Standards to achieve full approval[vi] and is

thereafter subject to annual interim monitoring and a full sabbatical review three years after the granting of full approval and every seven years thereafter.[vii]

While graduation from an ABA-approved law school is necessary under the Court's Rule, it is not sufficient. A law student intending to sit for the New York bar exam must follow a course of study that complies with the programmatic and instructional requirements of the Rule.[viii] Recent amendments have served both to liberalize the Rule and to largely conform it to the Standards. However, some significant differences remain. Responding to requests from the New York law schools to permit more clinical legal education, the Court amended the Rule, now permitting a candidate to count up to 30 credit hours of clinical courses, field placement programs and externships toward the required 83 credit hours.[ix] The number and type of distance education credits that may be counted are limited,[x] and the Rule requires two credits of study in professional responsibility.[xi]

Foreign-Educated Candidates

Rule 520.6 sets forth the educational requirements to sit for the New York bar exam based upon foreign legal education.[xii] There are two primary routes by which foreign-educated candidates may qualify to take our exam, depending upon whether the candidate obtained a first degree in law in a common law or non-common law country.

A candidate who successfully completed a program of legal education in a common law country that was sufficient to qualify the candidate for admission to practice law in the candidate's home country may sit for the bar exam in New York, without further education, provided that the program and course of study was substantively and durationally equivalent to that of an ABA-approved law school.[xiii]

A candidate whose legal education was in a non-common law country may qualify to sit for the New York bar exam if the candidate completed a program and course of study that would qualify the candidate for admission to practice in the candidate's home country, and the education the candidate received was either substantively or durationally equivalent to that of an ABA-approved law school. Typically, that means that the candidate had three years of legal education. The substantive deficiency may then be cured by successfully completing an LL.M. program of study in the United States.[xiv]

The ABA does not accredit LL.M. programs. It acquiesces in the establishment of such programs, provided the proposed program does not detract from the school's ability to maintain a J.D. program that meets the requirements of the Standards.[xv]

New York regulates the content of LL.M. programs that are intended to qualify the student to take the bar exam in New York. Among the requirements are a minimum of 24 credit hours, including specified numbers of credit hours in legal research and writing, professional responsibility, American legal studies and other courses in subjects tested on the New York bar exam.[xvi]

The eligibility rules in New York do not require foreign admission as a prerequisite for sitting for the bar exam. In many countries, legal education (which is often undergraduate education) must be followed by a period of employment under a practice contract and/or requires passing a bar exam with a low passing rate, such that admission to practice in New York is often more readily achieved than admission in the candidate's home country.

Many of the foreign-educated candidates who sit for the New York bar exam do not do so with the intention of practicing law in New York; rather, admission to the New York bar is a valued credential for job seekers in international law firms around the world. New York law is the law of choice in many international contracts, and admission to practice in New York enhances employment opportunities for many foreign-educated law graduates.

Passing Rates

Domestically Educated Candidates

Our most closely watched statistic is the one that tells us how the May graduates of our New York law schools perform in July, when they take the bar exam for the first time. That passing rate has ranged over the past five years from a high of 91% in 2008 to a low of 85% last year – an impressive showing, and a credit to the high quality of legal education offered in New York. The passing rate of graduates of out-of-state ABA law schools taking the July

New York bar exam for the first time has varied over that same time period from a high of 90% in 2008 to a low of 82% last year.[xvii]

Foreign-Educated Candidates

In 2012, among foreign-educated candidates, the first-time taker passing rate was 44% and the overall passing rate was 34%, which rates are both consistent with the year-to-year performance of that group. Eleven countries sent 100 or more candidates to take our bar exam in 2012, with the following results:

Country	Number of Candidates	Passing Rate
Brazil	139	32.4%
Canada	156	58.3%
China	846	40.2%
France	233	46.4%
India	213	26.8%
Ireland	123	35.0%
Nigeria	140	14.3%
Japan	351	42.7%
Rep.of Korea	322	25.2%
Taiwan	181	22.7%
United Kingdom	538	28.3%

Content and Structure of the Bar Exam

The bar exam is a two-day test designed to assess minimum competence. We sample the candidate's knowledge on an array of subjects covered by the license. The inquiry is broad but not very deep.

On the first day, candidates take five essays and 50 multiple-choice questions, generally based on New York law, and the Multistate Performance Test (MPT). The New York questions test these subjects: Contracts; New York and Federal Constitutional Law; Criminal Law; Evidence; Real Property; Torts; Business Relationships; Conflict of Laws; Criminal Procedure; Family Law; Remedies; New York and Federal Civil Jurisdiction and Procedure; Professional Responsibility; Trusts, Wills and Estates; and UCC Articles 2, 3 and 9. The scope of the test is defined by the Content Outline, available on our website.[xviii] We invite comments regarding the Outline[xix] and specifically encourage comments as to what new lawyers need to know for effective practice and where New York law may vary from the common law and/or prevailing views.

The MPT is a test of lawyering skills developed by the National Conference of Bar Examiners (NCBE). The candidate is given a set of file materials and a library to use in completing an assigned task.[xx]

Candidates are able to type their essay answers and their answers to the MPT using laptop computers.[xxi] Over 80% of the candidates avail themselves of that option, to the relief of the 42 attorneys selected from around the state to grade the exam.

On the second day of testing, candidates take the Multistate Bar Examination (MBE), a multiple-choice exam developed by NCBE. It contains 200 questions on Contracts, Constitutional Law, Criminal Law, Evidence, Real Property and Torts. Civil Procedure will be added to the mix in 2015.[xxii]

Current Developments

Two national initiatives deserve brief mention. The Uniform Bar Examination (UBE),[xxiii] adopted in 13 states, consists of the MBE, MPT and the Multistate Essay Examination, a battery of tests designed to measure fundamental legal knowledge and lawyering skills. The score achieved on the bar exam in one jurisdiction can be transported to another, allowing a new lawyer to gain admission in another jurisdiction without taking another bar exam, provided the score satisfies the importing jurisdiction's passing score and the candidate completes local testing and/or CLE and character and fitness requirements. That portability is a worthy goal, especially in the current job market, and the Board of Law Examiners is following the progress of this movement with great interest.

Another current national initiative is a content validity study being undertaken by NCBE. The first step in the process was a job analysis, completed in 2012.[xxiv] Identified through that analysis were the tasks, knowledge domains, skills and abilities that new lawyers rated as significant in their practices. The results of that analysis are now being considered as the bar exam of the future is imagined.

Conclusion

Next July, if you see legions of young people around the Javits Center in New York, the Empire State Plaza in Albany or the Convention Center in Buffalo wearing green wristbands and carrying clear plastic one-gallon bags containing their worldly goods (minus cell phones, iPods, highlighters and other prohibited items[xxv]), remember back to the day you endured the ritual and give them a warm welcome to the profession.

[1] Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.5.
1 Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.4.
1 http://www.ncbex.org/assets/media_files/Bar-Examiner/articles/2013/8201132012statistics.pdf.
1 Rules of Ct. of Appeals, 22 N.Y.C.R.R. §§ 520.3–520.6.
1 The Standards are available at http://www.americanbar.org/groups/legal_education/resources/standards.html.
1 Standard 103(a) of the Standards for Approval of Law Schools, 2012–2013.
1 Rules 3(c) and 12(a) of the Rules of Procedure for Approval of Law Schools, 2012–2013.
1 Rules of Ct. of Appeals 22 N.Y.C.R.R. § 520.3(c), (d).
1 Prior to April 1, 2012, credit for clinical courses was limited to 20 of the then-required 80 credit hours. *See* archived Rule 520.3 *at* http://www.nybarexam.org/Rules/3203-6archive.htm#520.3.
1 Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.3(c)(6).
1 Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.3(c)(1)(iii).
1 Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.6.
1 Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.6(b)(1)(i).
1 Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.6(b)(1)(ii).
1 Standard 308 of the Standards for Approval of Law Schools, 2012–2013.
1 Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.6(b)(3).
1 Passing rates and other statistics are available at http://www.nybarexam.org/ExamStats/Estats.htm.
1 Available at: http://www.nybarexam.org/Content/ContentOutline.htm.
1 Address comments to: Outline.Comments@nybarexam.org.
1 For a complete description of the MPT, *see* http://www.ncbex.org/multistate-tests/mpt/.
1 *See* Laptop Program for the Bar Exam, *at* http://www.nybarexam.org/TheBar/TheBar.htm#laptop.
1 For a complete description of the MBE, *see* http://www.ncbex.org/multistate-tests/mbe/.
1 For a complete description of the UBE, *see* http://www.ncbex.org/multistate-tests/ube/.
1 *See A Study of the Newly Licensed Lawyer*, *at* http://www.ncbex.org/publications/ncbe-job-analysis/.
1 *See* New York Bar Exam Security Policy *at* http://www.nybarexam.org/Docs/secpolicy.pdf.

Appendix D

New York State Bar Association

Committee on Legal Education and Admission to the Bar

Comments Received about the New York Court of Appeals Proposal to Adopt the Uniform Bar Exam (UBE)

Comment 1- I share the concern of others that we do not compromise the NY portion of the exam. Those coming from elsewhere who wish to come to the New York to take the exam need to know that they cannot use the federal rules of practice and they need to know the CPLR. So how the BOLE will handle the specifics of NY law is a legitimate and significant issue.

Comment 2- Concerns/Questions. I may have more to add later.

1 - Fairness of timing with not enough notice to the current graduating students who are already preparing for the current NY Bar Exam.

2 - Fairness of timing with not enough notice to some law faculty who need to revise syllabi to better reflect the difference in the exams.

3 - Fairness of timing for students who have already made non-refundable deposits to commercial bar prep courses, not all of whom are experienced in the UBE.

4 - Unclear as to how truly "portable" the UBE is:

a) if it is true that other states will follow NY's lead on this, then will the "follower" states also add an equivalent of the 50 question New York Law Exam, making it a requirement that you still have to pass a state-specific exam in other states?

b) since each state can set their own pass-rate, will NY's be higher or the highest, so if you pass NY you are guaranteed to be able to practice in other UBE states? If the answer is yes, how does this relate to the current bar pass cut-off in NY?

5 - UBE jurisdictions tend to charge up to 4 times the cost of the bar exam in NY. What is the fee NY will have to pay to administer the UBE and how much more can students expect to pay in the future?

6 - Currently, the NYBOLE posts sample answers to essays on their website. These are written by candidates under test conditions and represent answers/responses with high scores. The UBE essays posted are model answers that appear to be written by

examiners, not test-takers under testing conditions. This kind of assistance is not the same.

7 - It is unclear what exactly "portability" means - according to the NCBE website, each jurisdiction decides for how long the UBE score will be recognized. Does this mean the score is only portable for a period of 1 to 3 years? There may be a perception that once you pass the UBE you can practice anywhere anytime.

8 - Why are the UBE essay questions better than the current NYBE questions? How do they test better competency to practice law in NY?

9 - Why could there not be a choice to take either or both the current NYBE and the UBE. For example, give the UBE on Day three of the NYBE for those who think they would like a more "portable" license? It seems that since NY is tacking on the NYLE, and other states may follow suit, it could be impossible to have something truly easily portable...more hoops may be coming down the road.

10 - If implementation were delayed, wouldn't it give NY a chance to see whether this proposed change gets traction in other states as well? Wouldn't NY be giving up a lot if no one followed or followed in a way that would truly serve the employment goals of students who desire to live/practice in NY and the Northeast?

11- How many NY lawyers are currently also licensed in the 14 UBE states?

12 - How many NY law firms also have offices in the 14 UBE states?

No one has yet asked how the new mix of bar components with new percentages will affect the bar pass rate. There will surely be a difference when you increase the MBE and decrease the essays. Has NY investigated whether there have been changes to the bar pass rates in the jurisdictions adopting the UBE? I happen to know that there have been significant changes in at least one jurisdiction --- North Dakota. It is unclear whether it is directly attributable to adoption of the UBE but the timing would seem to indicate that it is a factor.

Comment 3- Stripped down, this is really about the essays, since NY already uses the multi-state for the majority of the multiple choice questions and uses the MPE as well.

Personally, I feel strongly that the NY essays should be retained, and that use of the multi-state for the multiple choice and the MPE is sufficient overlap. I do not think folks who take an exam elsewhere should be able to "transfer" that score to NY and pursue admission subject only to taking a brief multiple-choice test.

I would endorse portability of the multi-state score, but only in a context where subsequent applicants to NY have to pass not only the NY multiple choice but also the NY essays. I understand that because of the way in which the essay scores are "scaled" this is a methodologically more complicated alternative that it might seem.

I am particularly troubled by the suggestion that foreign-educated candidates might begin to take the "national" examination in other jurisdictions which are not prepared to admit them to practice and then if they get a "passing" score decide to opt into taking a very limited NY multiple choice examination in NY for which a brief cram course might well suffice.

I would also add, on the other hand, that shifting to the National Bar exam for some or almost all of the NY exam might hasten the option of taking the exam (or that portion of the exam) after the second year.

While these are my personal opinions, I have no idea how the Committee as a group may feel, and I write to provoke the circulation of written comments by Committee members and see whether there is a sufficiently common position that the Committee might fruitfully prepare a Committee comment on the proposal, which presents a very important policy issue.

Comment 4- Does anyone know who grades the UBE? Is it done by the National Board, or do the individual state BEs grade it?

I also am troubled about retaining only the multiple-choice portion for one hour. While I am not opposed to use of the UBE and the shortening of a NYLE portion, I would like there to be at least one essay required, preferably on New York practice, which is significantly different from the procedure of all other states, most of which use a variation of the Federal Rules. IMHO, the current multiple choice portion always seemed like a rather insignificant portion of the New York bar exam, and it seems strange to be the portion the bar examiners would want to keep.

Comment 5- Without going through the comments sent to the group, I want to express my support for this initiative, I think it has been well thought through and works for all constituencies. Whatever views might be, and I am not certain what the group meeting on this would be aimed at, I want to let people know that if the thought is to submit some 'committee position' comment, I do not support that.

I am not suggesting there was any pre discussion in the committee. I am suggesting that individuals should absolutely give comments to the court and state board of bar examiners. I am not supporting a 'group' comment staked on the Committee.

I think there is plenty of time to adjust if there is adjustment--the students are not going to be prejudiced by this. Maybe some faculty who have courses that only aim at the NY Bar might not. This is a huge benefit to students in all fronts and the cut score issue is always there. If the Cut score is held where it is, on a statement of the board of bar examiners, it may in fact help on that -- though of course nothing is forever. The scores are portable, as I understand it. Not just the "pass".

This gives tremendous help to students, including the ability to re take just the NY portion of the exam if you have passed the UBE but failed the NY portion. IN addition, it is good to have the NY questions focused.

I don't know what to think about the holistic approach to bar exams. I am not persuaded by New Hampshire, not because it doesn't work there, but because we all have our own ideas of holistic.

In any event, I do hope you put comments to the Board as they want. I think they will be taken seriously.

My comments would support the move. I know change is change and it is never seamless, but students are benefited, and I don't think for one minute that the people of the state are going to be harmed if the bar examiners are able to do what they say will be done in the short questions.

Comment 6- I have spent years preparing bar candidates for the New York essays, and I am also acquainted with the Multistate Essay Exam as well as with the essay exams of other states, and the proposal to use the MBE troubles me. I do not believe the MEE, which is the essay part of the UBE, is a substitute for the New York essays. The New York essays are simply tougher, and they demand more knowledge of law, than the essays on the MEE. And just to take one key New York subject, so long as New York uses the CPLR, no one should be admitted to the bar here who has not studied the CPLR in a serious way, regardless of his or her intended area of practice.

Comment 7- Without knowing in detail the issues considered by the Court and the BOLE, it seems there is much to commend this proposed reform. Having said that, I'm afraid that there is not sufficient time for us to understand the proposal and its implications and reach consensus as a committee before the comments are due.

Given the short time frame for comments, perhaps it is best left to individuals and/or law schools to decide whether they want to submit comments.

Comment 8- A 2011 article in the Bar Examiner states that each jurisdiction grades its own essays according to the NCBE rubric.

http://www.ncbex.org/assets/media_files/Bar-Examiner/articles/2011/800311Early.pdf
The MEE and MPT scores are then scaled to the MBE.

The change would be adding an additional MPT and significantly reducing the number of areas of law tested on the essays (MEE tests the MBE subjects plus business associations, conflicts of law, family law and trusts and estates). Both Family Law and Trusts and Estates are very specialized subjects in New York (although now with "no-fault divorce," perhaps less so). The differences in New York civil procedure, criminal law and criminal procedure would be left to multiple-choice questions. We would also lose administrative law, which was just added. This subject is a substantial practice area (benefits, labor and employment), and is a large part of the work of legal services, which may also effect pro bono work.

Comment 9- Thirty days to comment on this seems unusually short, especially considering the importance of the matter. Does anyone have any insight as to whether there is even a possibility of getting the comment period extended?

I agree somewhat with proponents of the proposal in that it might allow students more flexibility in pursuing job opportunities. And, the reality is, many lawyers already engage in multi-state practice. That said, I think it is important that prospective New York attorneys be forced to study and continue be tested on certain basics of New York law, with particular emphasis on demonstrating familiarity with the CPLR. Moreover, to the extent not already tested, I believe prospective New York attorneys should be tested to demonstrate familiarity with the New York State court system and jurisdiction of the various courts.

My comment was simply expressing the view of a practitioner and what practitioners want are attorneys familiar with the CPLR as well as the structure and a familiarity with the New York State court system.

Accordingly, I don't know if there has been any previous dialogue between our committee and the "powers that be" on this issue/proposal. I know it was not mentioned at the committee meeting last month. If there was no prior dialogue with our committee on this, I would find that quite disappointing as I would hope that those with authority over this issue would want to get input from the NYSBA, as the largest state bar association representing tens of thousands of practitioners.

Comment 10- Here's my two cents:

I certainly agree that there are real and significant benefits to a uniform bar exam. I do, however, have three sets of concerns:

1. I'm appalled at the speed with which this is being implemented. Law schools have geared their curriculum to the current bar exam and it seems quite unfair not to give students at least a full year's notice so that their course selection can reflect this major change.

2. I worry whether a uniform bar exam will ultimately lead to a uniform cut score. I understand that that is not being proposed at this time, but the benefits of portability, etc. are lost if states have different cut scores. And, any push to make the cut score uniform will almost certainly lead to an increase in the passing score, which, as has been demonstrated in NY, will produce a disparate racial impact.

3. I also worry that adopting a uniform bar exam undercuts the effort to rethink licensing in a more holistic manner. While adopting the UBE doesn't necessarily preclude a state from considering a more practice-based, performance-based model of licensing (e.g. N.H.), it does, at least symbolically, detract from that effort.

Comment 11- I will defer to the Committee also. However, I agree in considering the proposal to switch to the UBE and various proposals to alter the bar exam in connection with the Kenney Report.

Comment 12- It would be useful to know what we discussed previously on this subject, if anything—

Comment 13 - I recall that extensive research was done when NY increased the bar pass score from 660 to 665. The following is the link to the NYBOLE's press release that summarizes the extensive research undertaken by the NCBE to assess the impact. http://www.nybarexam.org/press/summary.pdf

I think that NY should request that research be undertaken: (1) with regard to the jurisdictions which have adopted the UBE to see if there has been a change in the bar pass rate and (2) a statistical equating of NY's bar takers over the past three years to see whether the students who passed the NY bar exam would have passed given the proposed UBE revised component percentages, specifically with the increase in the MBE score to 50%, the decrease in the essays to 30%, and the doubling of the MPT to 20%.

How we can be expected to proceed without this information is astonishing and without precedent.

Comment circulated 10/22/2014

Others have already eloquently articulated their views regarding what seems to be an artificial sense of urgency to consider and implement this proposal by next year, and I share those concerns. This is a significant change, with many potential ramifications, and I think it deserves more study and consideration than two months at the end of a busy year will afford. Notwithstanding the Chief Judge's desire to see this implemented in 2015, I would urge the LEAB Committee to consider pressing for an additional year, both from the standpoint of providing more time to study and consider the proposal, but also out of a sense of fairness to current law students, who may have planned their schedules (and, in some cases, already pre-registered for bar review courses) based on the current exam format. My second comment relates to how, assuming that we do move toward a uniform bar exam in the near future, the many New York-specific provisions of law would be tested, in order to ensure that admittees are fully competent to practice in this state. My own memories, having gone to law school in another state, of being astonished at the complexities of the CPLR and terrified at the prospect of having to master them by July, are still fairly vivid after 35 years, and while I don't necessarily wish that experience on current aspirants to the New York bar, I think it is part of what is required to prepare someone to practice law here. I think this second comment supports the need to have a full discussion that includes law schools, law firms, students and practitioners, which deserves more time than would be available if this has to be implemented next year.

Appendix E

October 07, 2014

Faculty Lounge Blog - http://www.thefacultylounge.org/2014/10/new-york-considers-plunging-into-uniform-bar-exam.html

New York Considers Adopting Uniform Bar Exam

The Uniform Bar Exam - UBE - has been adopted in 14 jurisdictions thus far (Alabama, Alaska, Arizona, Colorado, Idaho, Minnesota, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Utah, Washington, and Wyoming) but it hasn't yet gotten its big break.

That day may soon arrive.

The New York State Board of Law Examiners is recommending to the New York Court of Appeals that the state adopt the UBE, adding only a 50 question, multiple choice, one hour test of New York law to be administered on day two. The New York Court of Appeals has now issued a Request for Public Comment.

I wonder about the potential impact of New York adopting the UBE, even under these terms. First, it would surely be a big win for the National Conference of Bar Examiners. Second, if the UBE spreads, it might significantly increase the portability of bar admission. Third, if the UBE becomes the dominant form of bar examination, there will be even less incentive for law schools to teach anything but a national law curriculum.

There are still questions here. First and foremost relates to this 50 question New York bar exam. Will students be forced to study just as many New York topics, with the same intensity, in order to pass New York? Will 100% dependence on a high-speed multiple choice component for state law uniquely disadvantage certain applicants?

This is worth watching. New York is considering adopting the UBE as early as July, 2015. Comments are due by November 7, 2014.

Above the Law – 10/9/2014 - http://abovethelaw.com/2014/10/ask-the-professor-new-york-and-the-uniform-bar-exam/

Ask The Professor: New York And The Uniform Bar Exam

By Joseph Marino

New York has always been the vanguard when it comes to making legal precedent. When Justice Benjamin Cardozo left the New York Court of Appeals to join the U.S. Supreme Court, many viewed it as a step backwards. New York is proposing adopting the Uniform Bar Exam (UBE).

Is this a step backwards or a move forward for New York and the rest of the country?

For those unfamiliar, first adopted in 2011, the UBE is a uniform bar exam that is prepared by the National Conference of Bar Examiners and is administered, graded, and scored by 14 U.S. jurisdictions. The exam, like all other bar exams, tests knowledge and skills that every lawyer should be able to demonstrate prior to becoming licensed to practice law. The UBE exam has three components: (1) the Multistate Essay Examination (MEE), multi-subject essays that test legal reasoning; (2) the Multistate Performance Test (MPT), a closed universe writing assignment that is similar to what they have you do as a 1L in legal writing class; and (3) the Multistate Bar Examination (MBE), a 200 multiple choice question exam testing seven subjects. Much like the Multistate Professional Responsibility Exam (MPRE), each student's score on the UBE exam is portable, meaning that the student may submit the score to any other UBE jurisdiction as part of the attorney admission process. While the UBE is administered uniformly, each individual jurisdiction sets its own passing score and continues to decide who may sit for the bar exam and who will be admitted.

Such a drastic change in the composition of the bar exam in New York is not without precedent. When the New York Board of Law Examiners adopted the MBE, only a handful of states were using it. However, as soon as New York adopted the MBE, the rest of the country quickly joined. As Erica Moeser, President of the National Conference of Bar Examiners said, the UBE's development has been "awaiting a state that has a lot of candidates, to provided that springboard for other larger jurisdictions to come aboard." New York would be that state.

Is this good or bad?

Many see the switch from a state specific exam to the UBE as beneficial in that the scores will be portable and will allow students to better pursue job opportunities.

Further, it would allow law firms and other prospective employers to draw from larger pools of law students with the increased "portability" of where they can practice.

But will there be unintended consequences? Passing the New York bar exam was a special achievement, something unique. That panache will be lost. (But who wants to be snobby anyway?) More importantly, will this make for an even tougher job market in New York? A person can sit for the exam in Arizona and apply for jobs in New York. The job market may be better for the rest of the country, but will it make the New York market impossible to get employed in? Further, what is the incentive to come to a school in New York? Why pay the high cost of tuition at an unranked New York law school when you can study in Colorado? Can these schools in New York survive the UBE?

Only time will tell if this is good for New York and/or the rest of the country.

Professor Joseph Marino has been a fixture in the world of legal education for the past 40 years. Whether you're just starting law school, about to take the bar, or an attorney in need of CLE, he and Marino Legal Academy are here to help. He is the Director of Marino Bar Review and the Marino Institute for Continuing Legal Education. He writes a bimonthly column, Ask the Professor. Visit the Marino CLE page on ATL, connect with him on LinkedIn and Facebook, or email him via info@marinolegal.com.

Above the Law – 10/27/14 http://abovethelaw.com/2014/10/declining-nationwide-bar-exam-pass-rates/

Declining Nationwide Bar Exam Pass Rates

By MARINO BAR REVIEW

The bar pass rates have been dropping nationwide, particularly in states administering the Uniform Bar Exam (UBE). Pass rates have declined (dramatically in some cases) from the July 2013 bar exam to the July 2014 bar exam in the majority of the UBE states. The pass rate for people taking the bar exam dropped a whopping 22% in Montana, 15.2% in Idaho, and 13% in North Dakota. The pass rate is down 7.7% and 7.5% in Arizona and Washington, respectively. Other UBE states reporting a lower pass rate include Alabama, Wyoming, and Utah. While there are a few states that have yet to report their 2014 pass rates, the trend is clear: people are failing the bar exam at higher rates across the country.

This news is troubling, not only for those unsuccessful examinees who will have to retake the bar exam, but it is cause for great concern for law schools across the country. Has something gone wrong to result in such a dramatic decline in the number of people who are passing the bar exam? How are the big bar review courses responding to severe drops in pass rates across the country?

Most bar review courses offer a free repeat of their course to unsuccessful applicants, but is it wise to stick with something that didn't work the first time? Marino Bar Review offers a unique **Retaker Course** for the New York and New Jersey bar exams.

The Retaker Course is specifically designed for people retaking the bar exam. The course, which includes 3 hours of personal tutoring, trains previously unsuccessful examinees to pass bar exam. In the midst of declining pass rates across the country, Marino Bar Review students maintained a 96% bar exam pass rate.

Suffolk County Bar Association E-Alert

What's the Big Hurry to Adopt the UBE?

By John L. Buonora

The Uniform Bar Examination, or UBE, having currently been adopted by 14 states, is a uniform licensing examination consisting of a Multi-State Bar examination (MBE), the Multi-State Essay Examination (MEE) and Multi-State Performance TEST (MPT). Currently New York State does conduct an MBE and the MPT. In addition the New York State Bar Examination also consists of five essays and 50 multiple choice items dealing with New York Law.

Before I get into too many complicated details and esoterica allow me to get to the main point of this article which is...What's the Big Hurry to Adopt the UBE in New York? On October 6th of this year the proposed new rules were circulated. Chief Judge Jonathan Lippman, a strong advocate for the proposed changes, summoned the deans of New York's law schools who basically learned for the first time that the Chief Judge planned to implement the adoption of the new UBE in time for the July 2015 Bar Examination. He asked members of the Bar for comments which are to be submitted by November 9th.The Chief Judge also stated as quoted in the New York Law Journal that the change could be adopted by late November. This writer, like so many fellow members of the

Suffolk County Bar Association first learned of the proposed change on October 7th from a New York Law Journal article and an E-Blast from SCBA President Bill Ferris that same day. Proponents of the change claim that it would make it easier for graduating students to seek employment in states other than from where they took the bar exam and that it would standardize testing nationwide. This seems to be a big selling point for the change.

The reality is, in this writer's opinion, that most students in our region's law schools such as Touro, St. John's, Brooklyn Law, New York Law, CUNY, Pace, Albany Law and Hofstra to name a few will never practice anywhere but in New York State. Even proponents of the change acknowledge that those students would not benefit from the change.

It may well be that the UBE will be adopted in New York State, it certainly appears to be fast tracked. But why the rush? There are many questions that need to be answered. Firstly, it must be understood that adoption of the UBE does not mean that if an examinee passes the test in his/her home state that they will be automatically admitted in another UBE state.

Another thing to understand is that portability, the ability to apply bar passage to another state, is not for a lifetime. Depending on the UBE jurisdiction, an examinee would have to apply for admission in the transferring state within anywhere from eighteen months to five years. States such as New York could still require a portion of the examination to be dedicated to testing the examinee's knowledge of its laws. Yet it would appear to me that adopting the UBE would force New York law schools to teach less about New York substantive law and procedure and more about generic or Federal law principles.

Perhaps the most significant problem created by the proposed change is that students who will be taking the July 2015 bar exam have already completed most of their law school education and are already taking bar review courses preparing them for the current New York bar exam. Students experience enough anxiety and sleepless nights over the upcoming bar exam. This situation will only worsen as they, to use a cliché, have to switch horses in mid-stream. It would seem to make more sense that if the change is adopted, whatever the final form, ideally it should start for current entering 1L students or, at the very least, giving students and educators a minimum of one full year to prepare for implementation.

It's interesting to note that of the fourteen states that have adopted the UBE only two are east of the Mississippi, Alabama and New Hampshire. Even assuming that a New York educated student were to seek employment in another state the pickings are slim. The closest are the aforementioned New Hampshire followed by Alabama. Also interesting is that of the most influential states in the country none have adopted the UBE. In addition to New York, California, Florida, Illinois and Texas have not adopted the UBE. UBE's proponents argue that if New York gets on board others will soon follow. I have to wonder whether this is an argument on the merits or one of civic ego or pride to be the first of the "influencers" to adopt the change. There are many other UBE issues that need to be looked into but the purpose of this article is not to "get into the high grass" debating these many issues. As Ross Perot once famously said "the devil is in the details". (One issue for instance is the question of fees. It seems that proponents claim that test takers will save money by taking a "uniform" test. Not necessarily so. Right now the fee to take the New York state Bar examination is $250.00. I'm told that the fee for the UBE could rise to $750.00 to $1,000.00 in New York and the exam taker may face similar fees in other states).

Proponents of the UBE have amassed quite a bit of literature in support of their argument going back to the year 2010 or so but there doesn't seem to be any history of debate pros and cons readily available. With all due respect, I wonder if these folks only talk to each other. Giving the bar one month to consider an issue that most members have been blissfully ignorant of just doesn't seem right.

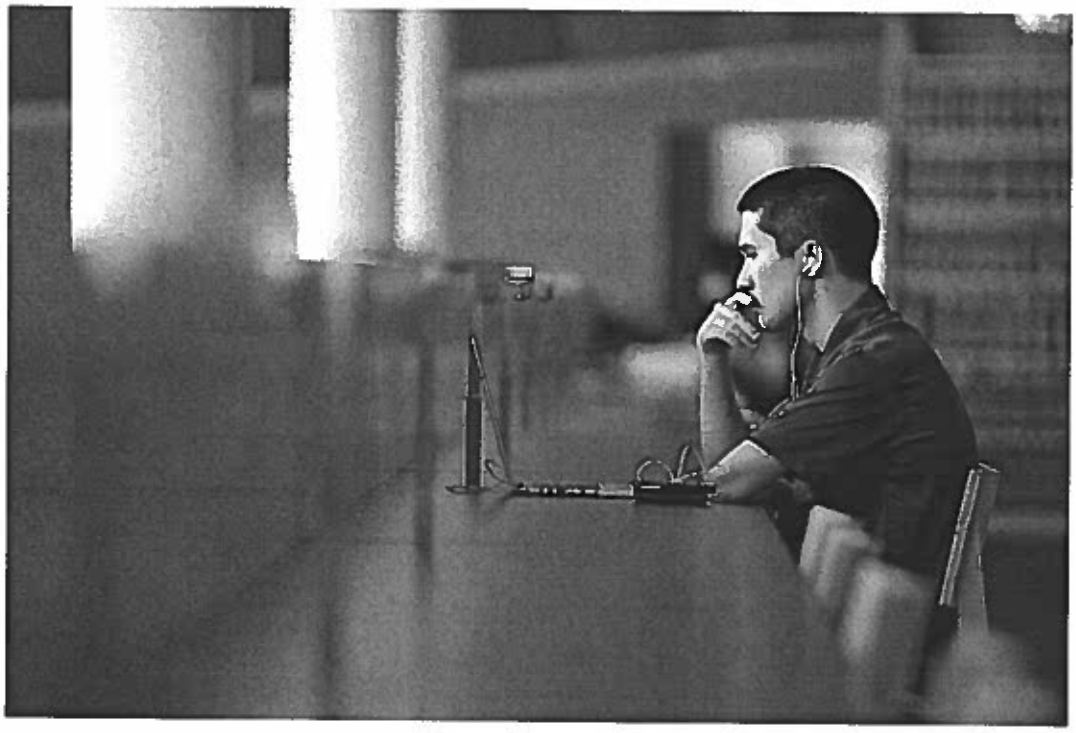
It may be that New York's ad adoption of the UBE may be a good thing. But it could very well be a bad thing, especially for so many of our students who are anticipating taking the July 2015 bar exam. We just don't know. We don't have enough information and so little time to respond to it.

What's the big hurry?

WSJ Blog

New York Weighs Overhaul of Bar Exam

ByJacob Gershman



Associated Press

New York is debating whether to replace its bar exam with a nationally administered and graded standardized test — a switch that could happen as early as next summer — that could make it easier for young lawyers to move in and out of New York without having to take another grueling test.

The judges on New York's highest court are weighing a proposal to adopt what is known as the Uniform Bar Examination, which is now used by 14 states.

Lawyers who've passed the uniform exam in one state can transfer their score to another participating jurisdiction — with some limiting exceptions.

Were New York to adopt the test, it would roughly triple the number of uniform test-takers across the country. The switch could happen quickly. It could be administered to

students now in their final year of law school as early as July 2015. The New York Court of Appeals is expected to vote on the plan after a public comment period ending next month.

"New York would be a national leader as the first large state in terms of bar applicants to administer this test," states the proposal by the New York State Board of Law Examiners, which operates under the auspices of the Court of Appeals. The board says the uniform exam would expand "employment opportunities for lawyers throughout the nation."

The potential impact on New York's bar passage rate isn't clear. The state's cut-off score for its existing two-day test is relatively low. The board suggests a minimum passing score of 266 for the uniform test, lower than the score set by most states that use the exam.

The combined passage rate in 2013 for test-takers in those 14 states was 77.4%, according to data from the National Conference of Bar Examiners, which prepares the uniform exam. New York's passage rate is 64.1%. Bar officials say New York's lower rate reflects the large numbers of foreign-educated candidates sitting for the test there.

The uniform test under consideration in New York isn't entirely portable.

A person who barely passes the New York test might not make the cut in states with a higher threshold, including Arizona, Colorado and Washington. New York would also require bar candidates to pass an hour-long New York law-specific portion, consisting of multiple-choice questions.

Patricia Salkin, dean of Touro College's law school on Long Island, told Law Blog that New York ought to take more time before plunging ahead.

She said she feared that the switch could be jolting for third-year students who are preparing to take the current exam.

Diane Bosse, who heads the state's examiners board, says the impact on those students would be minimal because of the overlap of content between the tests.

Appendix F

Reprinted from:

Comprehensive Guide to Bar Admission Requirements 2014

CHART 10: Admission by Transferred UBE Score/Fees

	Date of fi Uniform Bar Examination (UBE) administration	What is your time limit for accepting a UBE score (i.e., maximum age of the UBE score)?	What is the minimum passing UBE score?	Do you require completion of a jurisdiction-specifi component† before admission?		Do you require passage of the MPRE?‡		Are applicants who are transferring UBE* scores required to apply within your exam fi deadlines?		What is the application fee for admission by transferred UBE score?
				Yes	No	Yes	No	Yes	No	
Alabama	July 2011	25 months	256 (July 2014)	X		X			X	$750
Alaska	July 2014	5 years	280		X	X			X	$800
Arizona	July 2012	5 years	273	X		X			X	$675
Colorado	February 2012	2 years / 5 years	276		X	X			X	$810
Idaho	February 2012	37 months	280		X	X			X	$600 / $800 (eff. 5/1/14)
Minnesota	February 2014	36 months	260		X	X			X	$950
Missouri	February 2011	24 months	260	X		X			X	$1,240
Montana	July 2013	3 years	270	X		X		X		$150**/ $400**
Nebraska	February 2013	5 years	270		X	X			X	$925
New Hampshire	February 2014	3 years / 5 years	270		X	X			X	$700
North Dakota	February 2011	2 years	260		X	X			X	$400**
Utah	February 2013	18 months / 5 years	270		X	X			X	$550 / $850
Washington	July 2013	40 months	270	X		X			X	$585 / $620**
Wyoming	July 2013	3 years	270		X	X		X		$600

*Jurisdictions may accept transferred UBE scores prior to their date of first UBE administration. See Chart 6, pages 20–21, for which jurisdictions currently accept UBE scores from other jurisdictions.

†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.

‡ See supplemental remarks for time parameters within which an MPRE score must be earned or achieved.

** Plus NCBE report fee.

Supplemental Remarks

What is your time limit for accepting a UBE score (i.e., maximum age of the UBE score)?

Alabama The transferred UBE score will be valid for a period of 25 months after taking the UBE in the jurisdiction in which the transferred score was earned.

Alaska 5 years preceding the date of application to the Alaska Bar Association.

Arizona 5 years prior to taking oath in Arizona.

Colorado Applicants with UBE scores older than 2 years may apply for admission based on the UBE score plus a period of full-time law practice in a jurisdiction that allows admission on motion to Colorado attorneys. For UBE scores earned more than 2 years but less than 3 years ago, law practice requirement is at least 1 year; for UBE scores earned more than 2 years but less than 4 years ago, law practice requirement is at least 2 years; for UBE scores earned more than 3 years but less than 5 years ago, law practice requirement is at least 3 years.

Missouri 24 months preceding date of the application.

Nebraska 5 years from UBE score release date.

New Hampshire An applicant who earned a UBE score more than 3 years but less than 5 years prior to the date the motion for admission by transferred UBE score was filed must establish that he or she has been primarily engaged in the active practice of law for at least 2 years in another state, territory, or the District of Columbia, in which the applicant was a member in good standing and authorized to practice law during the entire 2-year period.

North Dakota 2 years from the date of the exam in the jurisdiction where UBE score was earned.

Utah Utah accepts all UBE scores received within 3 prior exams (approximately 18 months). For applicants with UBE scores that are older than 3 prior exams, Utah will accept UBE scores for up to 5 years with proof of the full-time practice of law.

What is the minimum passing UBE score?

Alabama Beginning with the July 2014 bar examination, the minimum passing UBE score will be 256. (The February 2014 examination consisted of the UBE and the Alabama Essay Examination [AEE]; the transferred UBE score was combined with the applicant's scaled written score on the AEE. The UBE score was weighted 80% and the AEE was weighted 20% to determine the combined score. An applicant must have achieved at least a 256 combined score.)

Do you require completion of a jurisdiction-specific component before admission?

Alabama Applicants for the February 2014 examination were required to complete the Alabama Essay Examination (AEE), a 6-question, 3-hour examination administered the day prior to the UBE. Beginning with the July 2014 examination, the AEE will be eliminated and applicants will be required to complete a course on Alabama law.

Arizona Online course on Arizona law is required prior to admission for all applicants.

Missouri Rules require an open-book online test, the Missouri Educational Component Test (MECT), for applicants to complete as a condition of licensure. Review materials are posted to assist applicants.

Montana Montana Law Seminar attendance is required prior to admission. The course is offered the day after the bar exam.

Washington Washington Law Component (WLC) is an open-book, timed, online multiple-choice test with Washington-specific study materials available online to review prior to and during the test.

Are there any time parameters within which an MPRE score must be earned or achieved?

Alabama Applicants must successfully complete the MPRE no earlier than 12 months before the UBE was taken in the transferring jurisdiction and no later than 25 months from time the first Academic Bar Examination is taken.

Alaska Within 8 years of filing an application.

Arizona Within 2 years before the successful bar examination or within 5 years after a UBE in which the applicant earned the minimum passing score required by Arizona.

Colorado MPRE scores may be earned no more than 2 years prior to filing application. MPRE need not be completed prior to filing an application.

Idaho No time limit.

Missouri No time limit.

Montana MPRE scores of 80 or better are good for 3 years.

Nebraska 5 years after the release of the passing score.

New Hampshire No time limit.

North Dakota Within 5 years of filing an application.

Utah No time limit.

Washington No more than 3 years after or 3 years before successful UBE.

Wyoming 3 years before transfer to Wyoming; 1 month after.

What is the application fee for admission by transferred UBE score?

Idaho $500 if not admitted as attorney in another jurisdiction; $690 if admitted as attorney in another jurisdiction.

Montana $150 for non-attorneys or attorneys with less than 1 year of practice experience; $400 for attorneys with 1 or more years of practice experience.

Utah $550 if not admitted in another jurisdiction; $850 if admitted in another jurisdiction.

Washington $585 if not admitted in another jurisdiction; $620 if admitted in another jurisdiction.

Appendix G

10/18/14 Legal Monitor Worldwide (Jordan) (Pg. Unavail. Online)
2014 WLNR 29095873

Legal Monitor Worldwide (Jordan)
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October 18, 201420141018132214

Standardized bar exam broadens scope to 50 states

The Montana bar's switch to a standardized test takes the focus off Montana law and broadens the scope to all 50 states. The test results from July's bar exam reveal a 20 percent drop in passing scores. Typically 87 to 94 percent of UM law students pass the test. This year only 64 percent did, which means 22 students failed. The dean of UM's law school is blaming the uniform bar exam for the dip in scores. Montana's Supreme Court said the change is a move most western states are making and Montana is just falling in line. School of Law Dean Greg Munro says Montana law is peculiar. More of a concern is when you make a test that's that general to fit all 50 states, then you're probably introducing a lot of ambiguity into the questions, said Munro. That's what's troubling for UM Law School administrators and students taking the bar exam. Munro said students spend three years learning Montana law. We think they need to learn to use code of one state -- the law from the legislature -- and use the decisions to understand the politics involved, and if they can do that, they can move to another state and understand their code, said Munro. Munro says one unusual part is insurance law, specifically the stacking policy. That policy allows people who have more than one vehicle and get into an accident, to stack the coverage of the insurance policies on both vehicles. That policy doesn't apply in Montana's neighboring states, like Wyoming or North Dakota. Munro said those specifics aren't addressed in the uniformed test. Montana Supreme Court Chief Justice Mike McGrath said the court decided to make the switch to the uniformed test for two reasons. We felt the bar exam was a more fair and objective test and the second primary reason is it allows for reciprocity with other states, said McGrath. For now Munro's biggest concern is figuring out the plummeting bar exam passage rate. Munro said the dip in scores is the lowest they have ever seen at the school and other schools who switched to the uniformed test also reported a drop in scores. Montana's Supreme Court isn't certain the test was the reason the scores dropped. They said they'll have to see what happens on future tests before weighing

A TOUGH PASS: UND Law School students struggle to pass bar exam

Grand Forks Herald (*North Dakota*)

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Length: 588 words

Byline: Anna Burleson, Grand Forks Herald

Body

Sept. 16--People are struggling to pass the *North Dakota* *bar exam* and the UND Law School is looking at how to address the problem.

The state offers the exam annually in both February and July, and only 56 percent of UND graduates who took the test for the first time this summer passed.

The overall pass rate for all test takers in the state, which includes those who have practiced law elsewhere but are taking the exam for the first time in *North Dakota* and those who have taken the test before, has fluctuated between 69 and 83 percent, according to National Conference of Bar Examiners Data. Concrete numbers aren't available yet for this year.

"We believe overall pass rates are the lowest they've been in 10 years, but we don't know the reason for that and that's something that the data will help us drill down on," Law School Dean Kathryn Rand said. "We want these numbers to be higher. We want our graduates to be ready to practice in *North Dakota* and launch successful careers here."

'Important milestone'

UND Law School graduates are allowed to take the state *bar exam*, or Multistate Uniform *Bar Exam*, up to five times. Once they pass the exam, they must still pass a moral character and ethics exam to be sworn in as a licensed attorney in *North Dakota*.

Graduates planning on practicing in other states must take that state's *bar exam* to practice there. This also applies to current law practitioners who choose to move their practice into another state.

North Dakota's overall passing and first-time rate is in line with national average, but this last group of 50 first-time test-takers was extremely low.

"This is not a proud moment for any of us," Rand said. "This is an important milestone. It's not the only shot our students have at being a successful attorney... but everyone who takes the *bar exam* hopes to pass it."

The numbers published by the American Bar Association, the NCBE and the ***North Dakota*** Supreme Court all vary slightly because they have slightly different ways of defining "first-time" testers, among other things.

But Patricia Hodny, the Law School's director of career services, said the school works to provide 100 percent of the data they have access to.

Looking for answers

In light of the test results, Rand said the school will work toward providing more support for existing students and looking at what qualities failing students had.

The Law School also recently lobbied the state to get more specific information about the results of the ***bar exam*** and succeeded, so starting in 2013, Rand said the school has started compiling more specific data to find out where students are struggling.

"What we really want to do is reach out to our students and to increase the support we provide while they're in law school and leading up to the ***bar exam***," Rand said. "And for those students who don't do as well as they'd hoped, we'd like to have support for them."

For example, Rand would be able to figure out if students with a low undergraduate GPA did poorly, or whether a specific section of the three-part ***bar exam*** is proving most difficult.

"We're not at this point, but if we knew students with a certain undergrad GPA were more likely to pass the bar than students below it, that might influence our admission standards, but it would certainly influence our academic support efforts if they're admitted to law school" Rand said.

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[i] Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.5.
ii Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.4.
iii http://www.ncbex.org/assets/media_files/Bar-Examiner/articles/2013/8201132012statistics.pdf.
iv Rules of Ct. of Appeals, 22 N.Y.C.R.R. §§ 520.3–520.6.
v The Standards are available at http://www.americanbar.org/groups/legal_education/resources/standards.html.
vi Standard 103(a) of the Standards for Approval of Law Schools, 2012–2013.
vii Rules 3(c) and 12(a) of the Rules of Procedure for Approval of Law Schools, 2012–2013.
viii Rules of Ct. of Appeals 22 N.Y.C.R.R. § 520.3(c), (d).
ix Prior to April 1, 2012, credit for clinical courses was limited to 20 of the then-required 80 credit hours. *See* archived Rule 520.3 *at* http://www.nybarexam.org/Rules/3203-6archive.htm#520.3.
x Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.3(c)(6).
xi Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.3(c)(1)(iii).
xii Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.6.
xiii Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.6(b)(1)(i).
xiv Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.6(b)(1)(ii).
xv Standard 308 of the Standards for Approval of Law Schools, 2012–2013.
xvi Rules of Ct. of Appeals, 22 N.Y.C.R.R. § 520.6(b)(3).
xvii Passing rates and other statistics are available at http://www.nybarexam.org/ExamStats/Estats.htm.

xviii Available at: http://www.nybarexam.org/Content/ContentOutline.htm.
xix Address comments to: Outline.Comments@nybarexam.org.
xx For a complete description of the MPT, *see* http://www.ncbex.org/multistate-tests/mpt/.
xxi *See* Laptop Program for the Bar Exam, *at* http://www.nybarexam.org/TheBar/TheBar.htm#laptop.
xxii For a complete description of the MBE, *see* http://www.ncbex.org/multistate-tests/mbe/.
xxiii For a complete description of the UBE, *see* http://www.ncbex.org/multistate-tests/ube/.
xxiv *See A Study of the Newly Licensed Lawyer*, *at* http://www.ncbex.org/publications/ncbe-job-analysis/.
xxv *See* New York Bar Exam Security Policy *at* http://www.nybarexam.org/Docs/secpolicy.pdf.

Michelle N. Tanney, Esq.
435 E. 79th Street, Apt. 11 M
New York, N.Y. 10075
[redacted]

November 4, 2014

VIA EMAIL
Ms. Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension,
Albany, N.Y. 12203-5195
UniformBarExam@nycourts.gov

Re: Comment on Uniform Bar Examination for the Administration of the July 2015 New York State Bar Examination

Dear Chair Bosse:

I[1] submit the following comments to the New York State Board of Law Examiners ("BOLE") regarding the Uniform Bar Examination ("UBE") for the administration of the July 2015 New York State Bar Examination. I do not support adoption of the UBE in New York.

The Economic Disadvantage of "Portability"

"We may well be on our way to a society overrun by hordes of lawyers, hungry as locusts, and brigades of judges in numbers never before contemplated." - Chief Justice Warren E. Burger

The time Chief Justice Burger spoke of has arrived. According to a study by the American Bar Association, there were 166,317 resident and active attorneys in New York State in 2013.[2] This number represents the highest incidence of practicing attorneys, by state, in the country. Comparatively, Missouri was reported to have 24,423 resident and active attorneys—representing the most of any UBE jurisdiction, and a number equivalent to only 14.68% of New York's legal market. Indeed, UBE states tend to have smaller populations overall, and thus fewer resident practicing attorneys.[3] Knocking down any barriers to entry in a state like New York, which already suffers from an over-saturated legal market, will only exacerbate the

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[1] Graduate of Albany Law School (2012); admitted to practice in the State of New York (2013). The opinions in this letter are solely my own, and do not reflect the points of view of my current or previous employers, or any organizations of which I am affiliated.
[2] American Bar Association, National Lawyer Population by State, http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/2013_natl_lawyer_by_state.authcheckdam.pdf.
[3] For example, Wyoming, the state with the smallest population, was reported as having 1,681 resident and active attorneys.

competition faced by recent law graduates, and particularly those graduates of New York law schools.

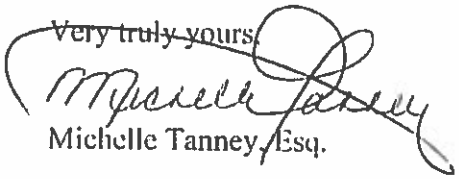
Although I submit that the number of law school applicants has declined[4], thereby creating smaller classes of newly licensed attorneys, the demand side of the legal market is less clear. Since the economic downturn in 2008, the demand for lawyers has become increasingly income sensitive[5], and development of technological substitutes for legal work, such as website, *Legal Zoom*, has decreased the need for attorneys across a variety of practice areas. It will therefore take time before we see economic equilibrium, and adopting the UBE to facilitate faster admission to law practice in New York will do nothing but drive market forces further apart.

The Decision Would be Made in Haste

While the passing rates for graduates of New York law schools dropped five percent[6] from July 2013 to July 2014, it should be noted that states administering the UBE saw even more dramatic and concerning decreases in their pass rates[7]. For example, the pass rate declined 22% in Montana, 15.2% in Idaho, and 13% in North Dakota.[8] These alarming statistics mandate a cautious consideration of the viability of the UBE in New York. Enactment in eight months is insufficient time to fully flesh out the impacts of the proposal, and is wholly antithetical to full and thoughtful preparation of New York law students for the exam. As many others before me have likely articulated, the burdens of the substantial mid-year changes to the law school curriculum (i.e., shifting focus to a more secular study of law) substantially outweigh any benefits the UBE is purported to provide this academic year.

It is my hope that the Court of Appeals takes the time to carefully consider this proposal, and its tangible impact on the legal market economy. For that reason, I do not support adoption of the UBE, at the very least, for the administration of the July 2015 New York State bar examination. Doing so is a hasty attempt at a large-scale change that New York law schools and their graduates cannot afford to accommodate at this time.

Very truly yours,



Michelle Tanney, Esq.

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[4] *See, e.g.*, Martha Neil, *Law school applications down 37 percent since 2010* (July 22, 2014), ABA JOURNAL, *available at* http://www.abajournal.com/news/article/law_school_applications_down_8_percent_new_lsac_survey_shows_theyve_dropped.

[5] *See, e.g.*, Adam Cohen, Is There a 'Lawyer Bubble'? (May 7, 2013), TIME, *available at* http://ideas.time.com/2013/05/07/is-there-a-lawyer-bubble.

[6] New York State Board of Law Examiners, New York Bar Exam Pass Rates 2008 2013, http://www.nybarexam.org/ExamStats/NYBarExamPassRates2008_2013.pdf; *see also* New York State Board of Law Examiners, PRESS RELEASE (October 28, 2014), http://www.nybarexam.org/Press/PressRelease_July2014ExamResults.pdf.

[7] Above the Law, *Declining Nationwide Bar Exam Pass Rates* (October 27, 2014), http://abovethelaw.com/2014/10/declining-nationwide-bar-exam-pass-rates/.

[8] *Id.*

[redacted]

From: April Schwartz <[redacted]
Sent: Tuesday, November 04, 2014 3:42 PM
To: Uniform Bar
Subject: Delay Adoption of the UBE

Dear Ms. Bosse,

There are many problems with adopting the UBE for the July, 2015 test administration. There should be more study on its ramifications. For example, it is unfair to expect that current 3Ls will-be ready to take a test that their professors have had no opportunity to prepare them for. In addition, there should be further investigation to determine whether the UBE will disadvantage minority test takers. Sample exam questions should be prepared and tested before the UBE is adopted. Further, it is problematic that the UBE has resulted in lower test scores in several states.

It would be prudent to take a less hurried approach for something so important to our law students. Delay the decision for two years.

Thank you.

April Schwartz
Law Professor

Sent from my iPhone

[redacted]

From: Nancy Chanin <[redacted]
Sent: Wednesday, November 05, 2014 9:56 AM
To: Uniform Bar
Subject: NY Bar Exam

Hello,

Thank you for opening the UBE proposal up for discussion.

I wanted to weigh in on the proposed change to the UBE. Initially, when I heard about the UBE - at a NCBE conference (I used to work at Touro Law in the academic support department), I thought a uniform exam made a lot of sense in theory, but only for states that are in need of lawyers, not for states such as NY or California with competitive job markets and many bar candidates.

I do not think New York should be leading the UBE trend.

As an attorney admitted in New York, and drawing on my past experience in helping students prepare for the bar exam as well as counseling students who were struggling to find jobs, I have several concerns.

First and foremost, New York is a very competitive job market. By making the bar results portable, it will only make it harder for those of us calling New York home to find jobs.

Further, when working at Touro, students often vocalized their choice to attend a school in New York State because they wanted to learn the nuances of New York law, acknowledging the importance of their choice for the bar exam and for the actual practice of law in New York.

By relegating New York specific law to a multiple choice exam, and utilizing a "multi-state" approach, the NY BOLE essentially undermines these students choices to learn the law in the state they want to practice, and harms them by opening the door for a more competitive job market, plus creates a class of attorneys that are not prepared for basics of New York specific law - imagine, based on the proposal, many attorneys practicing in NY will not have studied the nuances of the BCL, CPL, CPLR, DRL, EPTL, RPL, etc. more than being able to work through a multiple choice exam prior to being admitted.

The proposal could potentially create a situation of grossly underprepared attorneys.

Finally, and from a personal standpoint, passing the New York Bar Exam is a badge of honor - by changing the exam, and adopting the UBE, NY BOLE removes this badge. Many attorneys worked hard for the honor of being admitted in NY - the UBE will mean that everybody that obtains a certain score and passes a multiple choice exam can claim the same honor, without the blood, sweat, and tears that go into conquering the New York Exam.

Please consider the harm the UBE will do to the profession, the quality of the attorneys in NYS, and the pride that comes from passing the NY Bar Exam.

Respectfully,

Nancy Chanin
[redacted]

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October 31, 2014

Chief Judge Jonathan Lippman
New York State Court of Appeals
20 Eagle Street
Albany, NY 12207

Dear Judge Lippman,

I write to support the proposal to move the New York State Bar Examination to the UBE with the proposed New York portion added to the morning of the second day. The presentation given by Diane Bosse at the meeting with deans of the law schools in New York State, prior to the proposal publication, and a different presentation she gave at the Committee on Legal Education and Admission to the Bar meeting last week seemed to validate the Court's proposal as well as the timing for implementation.

With any change, there are risks. And particularly with a bar examination, no change is without risks and those risks cannot be eliminated, or discounted. That is true with the current exam process too. My assumption is that this change, while it may seem sudden to some individuals, is a product of years of work, discussion and planning. It is important to separate the nature of the reactions so that people look at this outside of a personal lens.

The nature of policy decisions by definition produces a variety of reactions. I am certain the Court is not surprised by them. The question is, do they overcome the fundamental analysis undertaken by the Board of Bar Examiners and the Court. The overarching responsibility and the on the ground evidence is most particularly in your purviews.

As a member of the New York Bar, and, therefore a veteran of the New York Bar Exam, any doubts I had were well worked through by your comments and answers and by Ms. Bosse on behalf of the bar examiners. Some of the confusion that may color comments over-states the actual emphasis in the existing bar exam. The presentation and the responses to questions clarified that, at least for me.

Decisions are not made in a world of certainty, and some of the requests presume an ability to analyze beyond what is actually feasible in any reasonable time period within a budget.

I understand that this change will be seen differently by various individuals, and various constituencies. It seems to me that doing something that is engaged at the policy and at the professional level is important at this moment. There are human beings whose ability to preserve their options and prepare well for the profession rest on bar exams. The exams were not, as far as I can tell, meant to make people 'practice ready'. But rather to set a standard for those who can enter the profession—all of us know that there is so much more to being a lawyer than passing a bar exam. It is a necessary but not sufficient qualifying test.

To be able to meet the standards as described in the presentations I saw seems thoughtful, appropriate and important for the future of the profession in the state.

Thank you for considering these comments.

Sincerely,

Hannah R. Arterian
Dean and Professor of Law

HRA/tc

cc: NYS Board of Bar Examiners

[redacted]

From: Rodriguez, Jorge [redacted]
Sent: Wednesday, November 05, 2014 11:32 AM
To: Uniform Bar
Subject: Comments: Proposed Change to Bar Exam Rules

Dear Chairwoman Bosse,

I respectfully submit that although the proposed change, to use the Uniform Bar Exam (UBE), would be a positive step for those seeking admission to practice law in New York State, I do however believe the proposed timeline for implementation of this new exam format of July 2015 is too soon to adequately prepare those who are scheduled to complete their law school education that same summer, just prior to the July 2015 exam.

When the new 50 hour pro-bono requirement for admission was introduced, a phase in period of approximately two years was utilized, to ensure all parties were aware and to ensure programs were in place to assist those individuals seeking to obtain their 50 hours prior to seeking admission to the New York State bar.

This change to the UBE would require changes in the way applicants prepare, which may require a retasking by commercial bar preparation companies to adequately prepare their study materials for this new exam format. A two year period would allow both the law schools as well as the bar prep companies to restructure, as well as improve, their programs in a manner which would adequately prepare their students to sit for this new format exam.

Thank you for your time and consideration.

Respectfully Yours,
Jorge L. Rodriguez

Jorge L. Rodriguez, Esq. | Assistant Director of Admissions and Financial Aid | New York Law School
Office of Admissions and Financial Aid | 185 West Broadway | New York, NY 10013 | P: 212.431.2823

WE ARE NEW YORK'S LAW SCHOOL

[redacted]

From: Waldin, Kimberly [redacted]
Sent: Wednesday, November 05, 2014 12:09 PM
To: Uniform Bar
Cc: Mayer, Connie
Subject: Student comment on the UBE proposal

Dear Ms. Bosse and the New York State Board of Law Examiners,

Please accept my comments as part of the public feedback portion regarding the proposal to amend the New York State Bar exam. I am a third year law student preparing to take the New York bar exam in July 2015. I am opposed to the adoption of the Uniform Bar Examination (UBE) in New York.

To start, I would like to address the proposal that the change become effective for the July 2015 exam.

At bare minimum, if New York should choose to adopt the UBE, it should delay until the July 2018 bar exam.

Throughout my law school career, our law professors have approached our education with the understanding that their law students would be taking a bar examination that included a multi-state portion and a New York State portion. As a result, every course has been taught with emphasis on the differences between New York law and the "law of general application." Many of the practice exam and in-class assignment questions have been modeled after past New York Bar exam questions to prepare students for the flavor and approach of the current New York bar exam. An immediate adoption of an examination that is unique in character and focus would handicap New York law students and not produce accurate results in bar exam scores. This handicap will not be lessened by Bar Review companies altering their New York bar preparation workshops because of the three years of law school preparation that will be lacking.

Law school has always focused on the preparation of competent lawyers, and the largest and most immediate measurement of that achievement has always been the bar examination. That is why so much emphasis is placed by literary reviews of law school success, such as the U.S. News Report, on the bar examination results of a law school's graduates. New York law schools would likely suffer lower rankings for the first several years in news reports due to the handicap of New York law students taking a foreign exam.

In general, I oppose the adoption of the UBE because even with the inclusion of fifty multiple choice questions focused on New York law, the proposed adoption plan will not accurately determine whether the applicant has an adequate knowledge of New York law. The level of variations between New York specific law and the law of general applications varies from discipline to discipline; however, those variations can often times be dramatic. An examination that only includes fifty multiple choice questions cannot possibly begin to touch upon the large number of differences. Furthermore, multiple choice questions will not determine whether the examinee actually knows how to apply the rules because multiple choice questions focus solely on whether the examinee knows of a rule. The better examination method for application comes from the essay portion.

New York law is unique. General law is not applicable in New York courts. That is because the New York legislature has chosen in most areas of the law to decline to adopt uniform codes of law or federal models of the law in order to adopt laws that reflect the policies and character of New York citizens. An admittee to the New York Bar should show a full competence in New York law.

While it may be true that adoption of the UBE would allow New York law students to begin practice in other UBE states without having to take an additional bar exam, the burden to the bar applicant of adding a third day of examination is, while not easy or for everyone, not that great. A student entering a UBE state would still need to make a study of that

state's laws in order to practice at a level of competence clients would expect and deserve of someone admitted to practice in their state and is required by the model rules and New York rules of ethics.

I have heard it said many times by practicing attorneys that law school only reshapes the thought processes of the law student but does not actually educate the law student in the substance of the law. While I may not yet be a practicing attorney, I heartily disagree. My courses were chosen with great care to reflect the areas of the law in which I hope to practice, and the knowledge I have gained from those courses has served me well during my internships and places of employment thus far. I believe it is dismissive of today's law schools' curriculums, community-based practice programs such as clinics and justice centers, and pro bono experiences to say that law school does not include substantive preparation for a legal career. In short, a New York law school education is not directly translatable to other states, and other states' law school curriculums are most assuredly not directly translatable to New York's unique legal system.

I therefore submit to the Board that adoption of the UBE be rejected.

Sincerely,

Kimberly Waldin

Student Editor | New York State Bar Association: Government, Law & Policy Journal Executive Editor | Center for Judicial Process Board Member | Albany Government Law Review Fireplace Blog Senior Editor | Albany Government Law Review
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ANTHONY DIPAOLO
email: tony@dipaolo-law.com

MEMBER OF
THE NEW YORK AND
NEW JERSEY BARS

November 5, 2015

The Honorable Jonathan Lippman
Chief Judge of the State of New York
20 Eagle Street
Albany, New York 12207

Via Email to UniformBarExam@nycourts.gov

Dear Judge Lippman,

I am a solo practitioner, practicing primarily in the downstate Supreme Courts of New York. I respectfully submit this letter in response to the proposal to adopt the Uniform Bar Exam in New York.

In my small practice in Queens County, I handle matters for mostly local individuals and entities, but my New York license enabled me to obtain work as local counsel here in New York for nationwide banks. While I am also licensed in New Jersey, I don't have any desire to move to or work in New Jersey. I continue to refer my New Jersey work to more experienced New Jersey lawyers, and I enjoy the benefits of having New Jersey lawyers refer their New York work to me.

I imagine that newly admitted lawyers from the fourteen UBE jurisdictions face even worse economic conditions than do we, so perhaps they view positively score portability into and multi-jurisdictional prospects with New York. For example, I can appreciate how a newly-admitted attorney from New Hampshire might be interested in adding "admitted in New York" to his or her resume and trying to find work here. I cannot appreciate a reciprocal interest from the newly-admitted New York attorney's perspective.

Both my small and big firm colleagues and I view score "portability" and "multi-jurisdictional practice" as a threat, not a benefit. We have witnessed firsthand the effects of the weak economy on our Bar. I have been fortunate in many respects, but I see daily an increase of inexperienced, underemployed lawyers in New York. For this reason, I do not understand Your Honor's desire, citing portability and multi-jurisdictional practice, to facilitate and encourage more newly-admitted lawyers from the fourteen UBE jurisdictions to practice in New York. More, inexperienced competition compounds the struggles and threatens the quality and integrity of our Bar.

Thank you for your time and consideration.

Respectfully,

Anthony DiPaolo

tel. 718.989.8800 • fax 718.740.2975 • www.dipaolo-law.com

Margaret Nyland Wood

From: Ashley Castro <[redacted]
Sent: Wednesday, November 05, 2014 3:18 PM
To: Uniform Bar
Subject: Response to Request for Public Comment

Good Afternoon:

I write to express my opposition to the New York Bar Examination being replaced with the Uniform Bar Examination (UBE).

I recently sat for, and passed, the July 2014 Bar Examination. Studying for the New York Bar Exam, you face the challenge of learning the intricacies of New York law and how they compare to multi-state law. Not only learning, but mastering, those differences is an integral part of being worthy of becoming a member of the New York Bar. To take away that requirement in the interest of "portability" would dilute the prestige of the New York Bar and having passed the New York Bar Exam. As John Pieper recently pointed out in his article on the topic in the New York Law Journal, "portability" is not a compelling enough argument to change New York's Bar Exam.

New York lawyers take such great pride in having survived bar preparation and passing the New York Bar Examination. Having just found out I passed a week ago, I can say that my pride was only multiplied by being able to say – I passed one of the hardest bar examinations in the country and I am now worthy to join some of the best lawyers in the world. I do not believe that those who would go on to pass the UBE would be worthy of being members of the same Bar. I see no challenge in the UBE and I do not believe that the UBE would breed competent New York attorneys.

I urge the Court of Appeals to reject the New York State Board of Law Examiners' recommendation and preserve the integrity, prestige and tradition of the New York Bar Examination.

Respectfully submitted,

Ashley M. Castro

From: John Buonora <[redacted]>
Sent: Wednesday, November 05, 2014 3:44 PM
To: Uniform Bar
Subject: UBE
Attachments: Why the Hurry to Adopt UBE Modified.docx

Dear Counsellors:

I am an adjunct professor of law at Touro Law Center, past President of the Suffolk County Bar Association and retired as the Chief Assistant District Attorney for Suffolk County. I have practiced law for nearly a half century in both private practice and government service.

I strongly oppose implementation of the UBE in New York. Recently I wrote an article setting forth the concerns and reservations about the proposed UBE. This article which was sent to the approximately 3500 members of the Suffolk County Bar Association is attached to this message. It was to appear in the next issue of the Association's Suffolk Lawyer publication but because of the lack of any meaningful notice, by the time the paper reached our readers the issue would have become academic. We had to resort to an *e mail blast* to reach our members in time.

Also to be noted, at the time of the writing the focus of the article was the lack of notice and debate of the merits. Hence, the title *What's the Big Hurry to Adopt the UBE"*. Since the time of publication I have read articles by respected bar tutor John Gardiner Pieper and Albany Law Professor Mary A. Lynch opposing the rush to judgment or outright opposition to the proposal, among others. I've also read the strong opposition to this proposal from the New York State Bar Association and am aware of the efforts of Dean Patricia Salkin of Touro Law center and Eileen Millett, Co-Chairs of the NYSBA's Legal Education Committee.

I have also heard Diane Bosse, Chair of the New York Board of Law Examiners, give presentations both to the student body and to the faculty of Touro Law Center supporting the proposal. While I know that Ms. Bosse is respected as both a capable attorney and as Chair of the New York State Board of Law Examiners, I found her arguments in support of the proposal totally unpersuasive. I dare say that most members of both audiences felt as I did.

I am now thoroughly convinced that implementation of the UBE in New York is a bad idea and should be scuttled.

Respectfully submitted,

John L. Buonora

What's the Big Hurry to Adopt the UBE?

By John L. Buonora

The Uniform Bar Examination, or UBE, having currently been adopted by 14 states, is a uniform licensing examination consisting of a Multi-State Bar examination (MBE), the Multi-State Essay Examination (MEE) and Multi-State Performance TEST (MPT). Currently New York State does conduct an MBE and the MPT. In addition the New York State Bar Examination also consists of five essays and 50 multiple choice items dealing with New York Law.

Before I get into too many complicated details and esoterica allow me to get to the main point of this article which is...*What's the Big Hurry to Adopt the UBE in New York?* On October 6th of this year the proposed new rules were circulated. Chief Judge Jonathan Lippman, a strong advocate for the proposed changes, summoned the deans of New York's law schools who basically learned for the first time that the Chief Judge planned to implement the adoption of the new UBE in time for the July 2015 Bar Examination. He asked members of the Bar for comments which are to be submitted by November 9th. The Chief Judge also stated as quoted in the New York Law Journal that the change could be adopted by late November. This writer, like so many fellow members of the Suffolk County Bar Association first learned of the proposed change on October 7th from a New York Law Journal article and an E-Blast from SCBA President Bill Ferris that same day.

Proponents of the change claim that it would make it easier for graduating students to seek employment in states other than from where they took the bar exam and that it would standardize testing nationwide. This seems to be a big selling point for the change. The reality is, in this writer's opinion, that most students in our region's law schools such as Touro, St. John's, Brooklyn Law, New York Law, CUNY, Pace, Albany Law and Hofstra to name a few will never practice anywhere but in New York State. Even proponents of the change acknowledge that those students would not benefit from the change.

It may well be that the UBE will be adopted in New York State, it certainly appears to be fast tracked. But why the rush? There are many questions that need to be answered. Firstly, it must be understood that adoption of the UBE does not mean that if an examinee passes the test in his/her home state that they will be automatically admitted in another UBE state.

Another thing to understand is that *portability,* the ability to apply bar passage to another state, is not for a lifetime. Depending on the UBE jurisdiction, an examinee would have to apply for admission in the *transferring state* within anywhere from eighteen months to five years. States such as New York could still require a portion of the examination to be dedicated to testing the examinee's knowledge of its laws. Yet it would

appear to me that adopting the UBE would force New York law schools to teach less about New York substantive law and procedure and more about generic or Federal law principles.

Perhaps the most significant problem created by the proposed change is that students who will be taking the July 2015 bar exam have already completed most of their law school education and are already taking bar review courses preparing them for the current New York bar exam. Students experience enough anxiety and sleepless nights over the upcoming bar exam. This situation will only worsen as they, to use a cliché, have to *switch horses in mid-stream.* It would seem to make more sense that if the change is adopted, whatever the final form, ideally it should start for current entering 1L students or, at the very least, giving students and educators a minimum of one full year to prepare for implementation.

It's interesting to note that of the fourteen states that have adopted the UBE only two are east of the Mississippi, Alabama and New Hampshire. Even assuming that a New York educated student were to seek employment in another state the pickings are slim. The closest are the aforementioned New Hampshire followed by Alabama. Also interesting is that of the most influential states in the country none have adopted the UBE. In addition to New York, California, Florida, Illinois and Texas have not adopted the UBE. UBE's proponents argue that if New York gets on board others will soon follow. I have to wonder whether this is an argument on the merits or one of civic ego or pride to be the first of the "influencers" to adopt the change.

There are many other UBE issues that need to be looked into but the purpose of this article is not to "get into the high grass" debating these many issues. As Ross Perot once famously said "the devil is in the details". (One issue for instance is the question of fees. It seems that proponents claim that test takers will save money by taking a "uniform" test. Not necessarily so. Right now the fee to take the New York state Bar examination is $250.00. I'm told that the fee for the UBE could rise to $750.00 to $1,000.00 in New York and the exam taker may face similar fees in other states).

Proponents of the UBE have amassed quite a bit of literature in support of their argument going back to the year 2010 or so but there doesn't seem to be any history of debate pros and cons readily available. With all due respect, I wonder if these folks only talk to each other. Giving the bar one month to consider an issue that most members have been blissfully ignorant of just doesn't seem right.

It may be that New York's adoption of the UBE may be a good thing. But it could very well be a bad thing, especially for so many of our students who are anticipating taking the July 2015 bar exam. We just don't know. We don't have enough information and so little time to respond to it.

What's the big hurry?

John L. Buonora
Past President Suffolk County Bar Association
Adjunct Professor, Touro Law center

[redacted]

From: Nicole Jones <[redacted]
Sent: Wednesday, November 05, 2014 4:11 PM
To: Uniform Bar
Subject: Comment on the UBE

Good Evening,
Thank you for taking the time to consider my comments in reference to the Uniform Bar Exam up for consideration for New York State.

My dream was to attend the University of Buffalo Law School and when that did not come to fruition I was able to move to North Carolina to attend law school in Durham. This was an amazing experience for me as it allowed me to meet my husband who happens to be a United States Marine. Through the course of the last 8 years he has deployed 7 times and has seen combat in countries that many can not pronounce. However, at this time his tour of duty will be coming to an end. After 12 years in service we will finally get the chance to come home to Buffalo where we were both born and raised.

I say all of these things because the Uniform Bar Exam presents an amazing opportunity to me as I was educated at a law school, which placed a heavy emphasis on clinical training. By allowing the UBE to be administered in New York you are not only providing a new and more modern approach to bar passage but you are allowing military spouses like myself to be placed in a better position to succeed in their chosen field.

Moving every 2 to 3 years due to military orders has meant that I would have to sit for a new bar exam in every state that we have moved to and again when my family tries to come back to Buffalo. I fully believe that our profession should be regulated and that admission to the Bar should be considered with the up most seriousness and deference to the obligations of the field. I also know that for me personally I will be carrying my family, my student loan debt, and a wounded warrior on my shoulders. Sitting for a Uniform Bar Exam that gives me credit for the knowledge I have acquired throughout my travels is truly a much needed hand up to assist my family as we transition home.

Thank you for your kind consideration in this matter.

Regards,

Nicole D. Jones, J.D.
[redacted]

[redacted]

From: Eileen Kaufman <[redacted]
Sent: Wednesday, November 05, 2014 6:26 PM
To: Uniform Bar
Subject: Proposal to Adopt the Uniform Bar Exam

Dear Judge Lippman:
I write to ask that you defer adoption of the Uniform Bar Exam. I have three major concerns with implementing the exam effective in July 2015. First, upper level students have made their curricular choices based upon the current bar exam. And, teachers of bar-tested subjects have geared their coverage to New York's rather unique set of laws, not to uniform laws (e.g. Trusts & Estates and Business Organizations). Also, many students have already selected and paid for their bar preparation course and might well have made a different decision had they known they were preparing for the UBE and not the NY state specific exam. It is unfair to make such a profound change to this high-stakes licensing exam with so little notice to students and to law schools.
My second major objection to the decision to adopt the UBE is that it has not been preceded by rigorous analysis of whether this shift would produce a disparate impact on minority students. Given NY's longstanding commitment to increasing the diversity of the profession, a change of this magnitude should not be made without prior study of disparate impact. Indeed, we know from experience that studying disparate impact can and should be done before major changes in licensing. The proposal several years ago to raise the passing score on the NY bar exam generated research that showed that the proposal would indeed disproportionately harm racial and ethnic minorities. That research led to a change in the proposal.
Third, adoption of the UBE should be preceded by an analysis of its likely impact on pass rates in general and on cost. Information from other states that have adopted the UBE suggests that pass rates have fallen while costs have increased. These are issues NY should study and evaluate before proceeding.
I have carefully reviewed the proposal and listened to the Board of Law Examiners' explanation of the reasons for the proposed change. Nothing that I have heard suggests an urgency that requires implementation this July.
I urge you to postpone implementation until such time as studies can assess the impact of this exam on all students, and particularly on whether or not its adoption would disproportionately harm racial and ethnic minorities.
Thank you for your consideration.
Sincerely,
Eileen Kaufman

Professor of Law
Director of Study Abroad Programs
Touro Law Center
225 Eastview Drive
Central Islip, NY 11722
631-761-7125
[redacted]

Proud past Co-President of **SALT (Society of American Law Teachers).** SALT is a community of progressive law teachers working for justice, diversity, and academic excellence. To become a member, join at saltlaw.org.

[redacted]

From: Irene Villacci <[redacted]
Sent: Wednesday, November 05, 2014 6:32 PM
To: Uniform Bar
Cc: Andrea Composto; Amy Baldwin Littman; Maureen Crush; Amy Saltzman; Deirdre Hay; Greta Kolcon; dfrosco@froscolaw.com; Jacqueline Flug; WBASNY
Subject: Uniform Bar Exam - Request for Public Comment

Importance: High

Dear Ms. Bosse:

I am the President of the Women's Bar Association of the State of New York (WBASNY). Our organization is the second largest State Bar in New York State, consisting of 4072 members in 18 statewide chapters. Our members are private practitioners, state and federal judges, state and federal government and court counsel, public interest attorneys, and law school professors.

We appreciate the opportunity to provide comments on this very important issue. All 18 chapters of WBASNY were asked to review and respond to the officers regarding your request. As you will see from our feedback below, WBASNY has many concerns about the implementation of a Uniform Bar Exam in New York:

1. The UBE proposal does not have any provisions for attorneys who have taken the New York State Bar prior to 2015. Specifically, what happens to attorneys who have been practicing 20 years or 25 years or more? Shouldn't they be allowed to practice in other states without taking the UBE?

2. The UBE passing grade should be the same in all states.

3. The grades should be good for five (5) years or more; not three (3) years as most states that allow reciprocity required five (5) years of good standing in a state bar.

4. The UBE proposal includes a New York State law component. The concern is that this component be intensive and sufficient so that the New York State component is not "watered down".

5. A more standard exam will make lawyers more "portable" in to the New York legal system. If the exam becomes easier, then it might make it harder to get a job here as more lawyers flock to New York because it will be easier for attorneys who are not familiar with New York law to practice here.

6. The UBE could negatively impact New York law schools, particularly those whose programs focus on New York practice and training for the NY bar exam.

7. The UBE will reduce the prestige of having passed the New York State Bar Exam and being a licensed New York State attorney.

8.The UBE appears to make it much easier to pass the New York Bar Exam. However, the NY Bar Exam is one of the toughest exams for a reason: it is a large state, with large cities, and a complex, unique CPLR. Lawyers who practice here should KNOW New York practice, not just to be able to pass only 30 out of 50 state-specific questions.

9. There could be significant implementation problems. The current proposal suggest and implementation date of July 2015. The proposal could significantly impact New York law school curriculum without providing those schools time to implement curriculum changes. Further, current law students have chosen their schools and their courses based upon an expectation of having to take the current NY bar exam.

10. Which states participate in the UBE? What is the passage rate in those states? What is the incentive for New York to follow them (other than portability and standardization)? Why is New York interested in standardizing?

11. Overall, the proposal appears: to dilute the importance of learning New York State law (30 questions is hardly enough); to promote a one-size-fits-all Bar Exam (which could diminish their profession generally); and to reduce the significance of passing the NYS Bar, one of the most rigorous in the United States, and internationally known as such. Further, New York already has reciprocity with other states where an attorney may waive in following the satisfaction of certain criteria.

On behalf of WBASNY, I thank you for the opportunity to comment on this very significant proposal. As you can see, our members are very concerned about how such a change would be implemented, and whether it is necessary at all. As always, we welcome the opportunity to discuss this further with Chief Judge Lippman and the Office of Court Administration.

Very truly yours,

Irene V. Villacci
President, WBASNY

Chair Diane Bosse
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195
UniformBarExam@nycourts.gov

Dear Chair Bosse,

As merely an individual, my comment may not carry with it the weight of an organization or gravitas of a high profile commenter. Nevertheless, I feel compelled to write-in on my own behalf, since I spent the bulk of this past year working with law students from across the country. My name is Mathew Kerbis, and I am the Immediate Past Chair of the American Bar Association Law Student Division. I cannot speak on behalf of the ABA, and I no longer have the authority to speak on behalf of law students at ABA accredited law schools. My final act as Chair of the Law Student Division was sitting on a panel with Justice Rebecca Berch of the Arizona Supreme Court, and New York's own Chief Judge Jonathan Lippman. The subject matter of the panel was what States can do for legal education. The Uniform Bar Exam was discussed during the panel presentation, and I will repeat in this comment letter what I uttered to the ABA House of Delegates. In my experience, law students overwhelming support implementation of the Uniform Bar Exam.

I understand that there has been a lot of pushback, notably from the New York State Bar Association House of Delegates. One of their concerns is that current law students will be disadvantaged since some students have made decisions with the expectation of taking the existing New York Bar Exam. Given my experience working with law students, I can comfortably refute that concern. Ultimately, any weight that is assigned to such a refutation is up to those who rely on my statement. To better keep the naysayers of a uniform bar exam at bay, I will present you with a story that I am reminded of by this situation – of those who would stifle innovation.

The first answering machine was invented in the 1920s, and the technology that would allow for such an invention was available since the last decade or two of the 19th century. Oddly enough, answering machines did not become a household item until the 1960s. For over 40 years a tool that could transform the way people communicate was kept off the market! The reason? AT&T genuinely believed the answering machine to be a threat. After all, if people could just

make recordings, then why would anyone want to use the telephone? History has shown us that AT&T was wrong; yet AT&T's influence and monopoly power at the time was able to keep innovative technology off of the market for decades.

The analogy is not without its faults, since answering machines and bar exams are not remotely related subject matters. The key point, however, is the concept of innovation and the repercussions of stifling it. Do not let those who fear the Uniform Bar Exam as a threat keep the benefits that it would bring society off the market for years. With more and more jurisdictions adopting the Uniform Bar Exam, the eventual outcome is inevitable. New York is primed to be a leader in this inevitable outcome, and can help shape what that future will look like starting next year, and then for generations to come.

People fear change when they reason that it stands to interrupt what they hold dear. AT&T was concerned that it would lose money if the answering machine came to the market. After the answering machine was introduced, AT&T made *more* money. The legal profession also stands to gain from the widespread implementation of the Uniform Bar Exam, and New York is poised to be the catalyst to achieve that result.

For the aforementioned reasons, and the reasons as set forth by proponents of the Uniform Bar Exam, I support the recommendation that the New York Court of Appeals adopt the Uniform Bar Exam.

Sincerely,

Mathew Kerbis

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Thomas T. Keating Esq.

[redacted]

Oct 30, 2014

Diane Bosse, Chair
NYS Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Dear Ms. Bosse:

I am writing to express my appreciation for the opportunity to sit for the New York Bar Exam in the summer of 1988. I was able to search my legal education for an appropriate response to each question.

I had the great fortune to study at ~~the~~ St. John's University School of Law. My professors included many practitioners and commentators in New York Law.

These professors included for example — Professor Siegel (NY Practice), Professor Kniffen (contracts), Professor Alexander (Evidence), Professor Polestino (criminal law) and Professor Gregory (constitutional law).

Everyone of these professors would review the law from a New York perspective quoting from Justice Cardozo ~~of~~ Judge Hand among others. Professor Polestino would always say — the three top courts are: The United States Supreme Court followed by — The New York Court of Appeals, The Second Circuit Court of Appeals, and the California Supreme Court (changing positions at times).

My concern is that the vigor of analysis through a New York perspective will be lost. It will be lost to a trend toward national standardized testing or a lack of appreciation for New York Jurisprudence.

Please use caution, disregard the cloaked offer of uniformity and uphold the values of our New York Jurisprudence.

Sincerely

Thomas T. Kulz

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FACULTY OFFICES

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October 9, 2014

Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Dear Ms. Bosse:

My name is Kandace Kukas and I am the Assistant Dean and Director of Bar Admissions Programs at Western New England University School of Law. I applaud the New York Court of Appeals' willingness to consider adoption of the Uniform bar Examination (UBE) and appreciate the opportunity to offer my comments in this letter.

I strongly support the adoption of the Uniform Bar Exam for New York starting in July 2015. I base my support on the following points: (1) Adopting the UBE will facilitate the job search for recent law graduates, and (2) New York's adoption of the UBE will likely influence other states to adopt the exam as well, increasing the portability of the bar examination results.

1. The UBE will facilitate job searches for recent law school graduates. Finding the first job out of law school can be extremely challenging for those candidates who are not entering a large law firm or special US government programs. Most local government offices and smaller law firms are opting to wait until a candidate has successfully passed the bar exam. Currently, the employment prospects of many law graduates are determined by where they sit for the bar exam.

New York has an opportunity to lead the change to easier employment mobility for recent graduates and young lawyers. Many bar takers do not know where the best job opportunities will lie in April of their graduating year, when bar applications are due. They rely on factors such as family ties, location of their law school, current network and law school career services connections. Sometimes this works out and sometimes it does not. If opportunities arise in other jurisdictions, the prospect of sitting for another bar presents a huge barrier to the job seeker.

On the other hand, if a candidate can sit for the New York bar with the possibility of transferring his/her UBE score to another of the 14 UBE states, that candidate has a much higher chance of finding employment following graduation. The candidate will not be forced to choose a state based on anecdotes or gut feelings but rather will be able to pursue employment opportunities in a wide range of jurisdictions. A candidate at a New York school would have greater latitude to seek such employment once passing the NY exam and looking for work in other UBE states.

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Springfield, MA 01119-2684

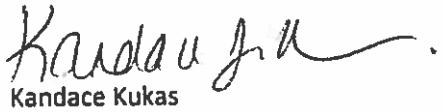
www.law.wne.edu

2. New York's adoption of the UBE will spur other states to consider adoption. If the New York State Board of Law Examiners adopts the UBE they will likely pave the way for adoption of the exam by even more states, especially those in the east, further increasing the employment opportunities of all of our law school graduates. With an ever rising debt load, recent graduates need to be given every opportunity to find gainful employment.

As proposed, New York can facilitate this move toward uniformity without sacrificing the important screening device of testing for essential New York topics on the New York Law Exam (NYLE). The continued use of 50 multiple choice questions on the bar exam will allow continued testing on rules that all New York attorneys must know. I do note that the benefits of uniformity will be compromised if the NYLE requires applicants to study just as many New York topics as they do now, with the same intensity, in order to pass it. On the other hand, if the NYLE focuses on key New York variations, it will serve a useful function without also hampering the benefits of the UBE.

In sum, the adoption of the UBE in New York will encourage employment and help recent law graduates and young attorneys find positions while at the same time creating momentum for other states to consider adoption as well. I support this move.

Respectfully submitted,



Kandace Kukas
Assistant Dean and Director of Bar Admissions Programs

Zoe Jones
[redacted]

November 5, 2014

To whom it may concern,

My name is Zoe Jones and I am a third-year student at Cornell Law School. I am also the President of the law school's student body association, the Cornell Law Students Association. I am writing on behalf of the Cornell Law Students Association to voice my support for adoption of the Uniform Bar Examination (UBE) in New York.

I am in support of the UBE because of the flexibility it will offer to those entering the legal profession. Many students are unsure of where they will practice, and any exam that makes it easier to be admitted in multiple states would be of a benefit to those students. Currently, students may be deterred from accepting positions in certain states because of the state's bar rules and the fact that the state offers limited reciprocity, or in some cases, no reciprocity at all. Many students may choose not to accept a desirable position in one state based solely on the thought that should they choose to later practice in another state, they must complete another full bar exam, a task that is daunting, especially for those who cannot take time off from working to study. As more and more states adopt the UBE, moving from one state to another for personal or professional reasons becomes a more feasible option.

Furthermore, it is my belief and understanding that once a state as large as New York adopts the UBE, many other states would follow in this decision. Therefore, New York's adoption of the UBE would lead to even further flexibility in the ability to practice in multiple jurisdictions.

Thank you for your consideration in this matter, and I look forward to learning the result of your decision.

Sincerely,

Zoe Jones
President, Cornell Law Students Association
J.D. Candidate, 2015

Co-signed by:

Cornell Business Law Society
Cornell Chapter of the National Asian Pacific American Law Student Association
Cornell International Law Journal
Cornell Italian American Law Students Association
Cornell LL.M. Association
Cornell Public Interest Law Union
Cornell Student Leadership Council
Cornell Sports and Entertainment Law Society
Cornell Women's Law Coalition
Muslim Law Students Association, Cornell Student Group
South Asian Law Students Association, Cornell Chapter

Patrick Arthur Woods

[redacted] Rutland, VT 05701 • [redacted]

November 6, 2014

Via E-Mail: UniformBarExam@nycourts.gov
Diane Bosse, Esq.
Chair
New York State Board of Law Examiners
Corporate Plaza
Building 3
254 Washington Avenue Extension
Albany, New York 12203-5195

Response to Request for Public Comment[1]

Dear Chair Bosse:

I write in response to the request for public comment posted on the New York State Board of Law Examiners Website proposing adoption of the Uniform Bar Exam ("UBE") in New York. I am a recent graduate of Albany Law School and passed the New York State Bar Exam in July of 2012.

I am aware of several prominent legal scholars in New York who have submitted comments suggesting, among other things, that the removal of the New York law essays would be harmful to the practice and development of the law in this state, and that July 2015 implementation of the UBE and proposed multiple-choice New York Law Test should be delayed for additional study and out of fairness to current third-year law students. I join those concerns and will not repeat them in detail here. I write separately, however, to emphasize that adoption of this proposal would not result in two of the benefits suggested.

The Proposal Will Not Improve the Employment Prospects of New York Law Students

Each year, New York law schools already graduate more capable attorneys than can find full time employment in the practice of law. Based on their 2013 ABA disclosures, New York's fifteen law schools graduated 5,009 students that year. Of those, only 3,163 had found full-time attorney jobs potentially lasting more than a year by the reporting deadline.[2] In other words, nearly 37% of the talented, eager graduates of law schools in this state are not finding meaningful employment as attorneys. By contrast, in the same year, only 12% of graduates of New York law schools failed the New York State Bar Exam.

Adopting the UBE to facilitate the portability of New York Bar admission will not aid these graduates. All of the UBE states, with the exception of Alabama and Montana, already have reciprocity with New York. Faster (or initial) potential admission to the bar in these states will not increase job prospects for new graduates. Each of the UBE states either has an extremely small legal market or the graduates of those state's regional law schools are having similar problems to New York graduates with finding legal employment after graduation. It is difficult to see how faster access to smaller, saturated legal markets that comes at the expense of increased competition in their home market would benefit New York law students.

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[1] My comments are solely my own as a private citizen and do not reflect the opinions of my current or former employers.

[2] The reporting deadline is nine months from the date of graduation. The number of employed attorneys indicated includes those employed by their law schools and self-employed as solo practitioners.

Put simply, we have more than enough talented, newly barred attorneys joining the ranks of the profession in this state as it is. There is no need to diminish the job prospects of those students further by making it easier for those who do not take our state's current, New York-law-focused, exam to gain bar admission.

The Proposal Will Not Make the Bar Exam More Practice-Oriented

While adding an additional MPT is one step toward a more practice-oriented bar exam, the rest of the proposed changes are steps away from that goal. To start, the proposal would increase the scored value of the portion of the exam *least* connected to actual legal practice, the MBE, by ten percent. Whatever skills we believe new attorneys in this state require to be successful in practice, performing well on timed, closed-book, multiple-choice exams that do not test the law of this jurisdiction is surely not among them.

The newly proposed test otherwise essentially swaps the New York law essay section, covering multiple areas of procedural and substantive law per essay with a focus on the unique law of this state, with the UBE essay section, covering only one area of law per essay and ignoring our state's law entirely. That change, too, makes the essay less reflective of whether an attorney who passes our bar exam is ready to practice in this state. Legal problems rarely involve only one area of law and the overwhelming majority of legal activity in this state involves New York law, rather than federal law or the "uniform" rule. Any change that makes the issues involved less intertwined and divorces the substantive law tested from the law actually in place, is one that moves us away from, rather than toward, a bar exam that identifies practice-ready graduates.

If the Board of Law Examiners truly seeks to adjust our state's bar exam in the direction of what attorneys actually do, it would be wiser to replace the MBE with the UBE essays, rather than jettisoning the New York law essays.

Sincerely,

Patrick Arthur Woods

[redacted]

From: John W. Caffry [redacted]
Sent: Thursday, November 06, 2014 9:02 AM
To: Uniform Bar
Subject: UBE

In response to your Request for Comments on the proposed adoption of the Uniform Bar Examination, I urge you to reject the proposal to adopt this test for the state of New York. For better or worse, New York law is often very different from the law in many other states, i.e. the CPLR. It is essential that lawyers admitted to practice here have a broad exposure in this state's law. Using a national test, instead of one that focuses on New York law, will negatively affect the quality of the legal
representation provided to New York's citizens.

If the UBE is adopted, the passing scores should be much higher than the scores currently proposed. 60% on the "NYLE" would be an F under any normal grading system. The passing score should be at least 75%, the equivalent of a C. Likewise, If other states have adopted as a passing score on the "UBE" scores in a range of 260 to 280, why would New York want to be at the bottom of that range, at 266? The highest possible score, 280, should be adopted. Again, the quality of legal services will decline if substandard passing scores are adopted.

Sincerely,

John W. Caffry

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John W. Caffry
Attorney at Law
Caffry & Flower
100 Bay Street
Glens Falls, NY 12801
518-792-1582
Fax: 518-793-0541

[redacted]

To ensure compliance with requirements imposed by the IRS, we inform you, that unless otherwise indicated, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code, or (ii) promoting, marketing, or recommending to another party any tax -related matter addressed herein.

[redacted]

From: William Bennett (wsb) <[redacted]
Sent: Thursday, November 06, 2014 10:57 AM
To: Uniform Bar
Subject: Thoughts on the UBE

Good morning,

Please find some thoughts on UBE adoption below. For background, I will be a July 2015 candidate for the NY bar exam.

These comments were composed as a response to Mr. Pieper's opposition article in the NYLJ. I assume whoever is reading this is aware of the article. If not, the link is as follows: http://www.newyorklawjournal.com/home/id=1202675467003/Why-UBE-Needs-Careful-Consideration?mcode=1202615068769&curindex=0.

Taking heed of his points, there are a couple of counterpoints that I believe yield true merit.

First, the argument regarding multi-jurisdictional practice may be true to an extent, however it does not account for mid-size firms with national clientele. What portion of firms this may account for, I'm not sure. As a member of such a firm, however, let me explain the benefits that the UBE would have for us. Presently, the model is to have new attorneys at our firm take New York, followed by our own presently non-UBE state bar (the order is based on it being easier to go from NY into our own state than vice-versa). Then we wait X years until attorneys meet the reciprocity requirements of other states where we practice so that we can practice there when the firm needs it. This means that only the more senior associates and partners are able to practice in those jurisdictions, creating an inefficiency for the firm. Assuming the trend of UBE adoption continues, especially with the addition of an influential jurisdiction like NY, the UBE would be a tremendous remedy for this.

Second, the comment about the bcl, cpl, etc. simply doesn't apply to many attorneys. It is true that attorneys coming to practice in NY presently encounter those laws for the first time during NY bar review. I have a tremendous difficulty, however, believing that NY's statutes address legal issues that are elsewhere untouched. Anyone who believed that the fundamental principles of law that they learned for the UBE automatically applied when they came to NY would be a fool. If anything, what the bar exam tests is our ability to recognize when there is an issue that needs to be looked up. Any semi-intelligent attorney can go to NY's statutes or any of the countless existing treatises and look for the relevant law in a subject area when they encounter such an issue. The point of the bar exam should be to make sure you recognize that issues exist and that you know what to look for and when to look, not to make you a master of all of the laws of a particular jurisdiction. This purpose is served by the UBE.

Regards,

William S. Bennett
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1952 Whitney Avenue
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[redacted]
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[redacted]

From: Michael M. Martin (Staff/Faculty (LAW)) [redacted]
Sent: Thursday, November 06, 2014 11:42 AM
To: Uniform Bar
Subject: Uniform Bar Exam

I believe that adoption of the Uniform Bar Exam in New York will work to the advantage of our students and graduates by reducing the difficulties they might face in taking advantage of employment opportunities in other states. I applaud the effort to make New York a leader in this area. I think that the BOLE proposal adequately tests New York law – I believe that emphasis on state peculiarities serves more as a barrier to entry than a protection of the citizenry. Given that each state sets its own passing score on the UBE, I have no reason to believe that this change will adversely affect minority and disadvantaged applicants – in fact, by focusing on generally applicable law and increasing the performance-based sections, the format of the MBEI may well help such applicants. I see no difficulty for our current students if the change is implemented with the July 2014 bar exam. I strongly support this initiative of the Court of Appeals and the Board of Law Examiners.

Michael M. Martin
Dean & Distinguished Professor
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CHRISTOPHER A. CARRION
[redacted] BRONX, NEW YORK 10472 [redacted]

Diane Bosse, Chair,
New York State Board of Law Examiners,
Corporate Plaza, Building 3,
254 Washington Avenue Extension,
Albany, NY 12203-5195

November 6, 2014

Dear Ms. Bosse,

I am writing today in response to the request for public comment on the subject of the New York Board of Law Examiners transitioning to the Uniform Bar Exam and to express my opinion of the proposed changes to the New York State bar exam.

In my opinion, the Board of Law Examiners should not change the format of the bar exam from its current state. Switching to the Uniform Bar Exam (UBE) would harm the state of the legal profession in New York. When I took the bar exam in July 2013, the New York bar exam was reported by Professor Robert Anderson of Pepperdine University School of Law, as the 13th most difficult bar exam in the United States[1]. The exclusivity of the NY bar exam and its difficulty creates a better breed of attorneys who are more apt to practice law successfully in this state. New York should be proud of this status and in being a state that requires a higher level of legal acumen before attorneys are admitted to practice law here.

New York has always been unique with respect to the manner in which our laws are drafted, the structure of our judicial system and even the names we give our courts. Adopting a Uniform Bar Exam that limits New York specific law to 50 multiple-choice questions would allow the admission of attorneys who are unfamiliar with our nuances and intricacies. Attorneys would need to learn these lessons in practice with their clients being the unintended victims of their attorney's unfamiliarity with New York specific law. The proposed New York law exam (NYLE) is simply not enough to adequately test

[1] http://witnesseth.typepad.com/blog/2013/04/the-most-difficult-bar-exams.html accessed on November 6, 2014. These numbers are reflective of first time bar takers.

an applicant's knowledge of New York specific law, even under a minimum competency standard.

In 2013 the Board of Law Examiners tested 15,846 candidates with 10,163 of those test takers passing the exam, resulting in a 64% overall pass rate. According to a 2011 article in the New York Times, New York led the nation in the surplusage of new lawyers. Researchers concluded that there were many more lawyers each year than the number of jobs available to them. If the trend continued, according to the 2009 statistics available to researchers, New York would have a surplus of over 7,000 lawyers each year[2]. These lawyers would be either unemployed or underemployed in jobs that do not require Juris Doctor degrees or a law license. These figures are based on applicants taking and passing the New York bar exam as it stands today, being one of the most difficult in the nation and heavily testing New York Specific Law. Considering that the UBE would not test New York law as heavily and rely almost primarily on national legal principles, it follows that New York would be more heavily saturated with attorneys who passed the UBE and the accompanying NYLE but are not adequately competent in New York specific law.

The current job market for new graduates and newly admitted attorneys is even more bleak than in 2009 when the NY Times article was published. Many more applicants passed the recent bar exam than in 2009, thus resulting in more lawyers looking for work than there are jobs to suit them. Adoption of the UBE with a limited New York law section would invariably make it easier for attorneys to be admitted in this state with sub-par knowledge of New York law and thereby increase the already staggering number of lawyers seeking work in New York State. The job market would become increasingly volatile and dismal for new attorneys who cannot find work. This over-saturation of new attorneys would render a law degree in New York less valuable than it currently is. While the UBE may allow more applicants to transfer their scores across state lines thereby earning licenses in various jurisdictions, there is no mention of

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[2] http://economix.blogs.nytimes.com/2011/06/27/the-lawyer-surplus-state-by-state/?_r=0 accessed on November 6, 2014.

how this would affect the quality of legal representation in New York or the employment atmosphere.

Moreover, the proposed transition to the UBE is set to take effect with the July 2015 bar exam. This is far too soon to allow students to adequately prepare for the exam. Many schools around New York have implemented programs geared at training students to pass the New York bar exam as it currently stands well before graduation and formal commercial bar review courses begin. Notably, New York Law School from where I graduated has several programs aimed at giving students an edge in preparing for the New York bar exam. The school now requires a course called New York Law in National Perspective, which prepares students during their final year to successfully prepare for the New York bar exam by highlighting the nuance and distinctions between New York law and multi-state law that is also tested on the MBE. The school also offers an optional Bar Jump Start program which consists of 5 sessions held on weekends during the spring semester where students are introduced to lectures provided by the leading commercial bar review providers. These lectures also cover the distinctions of New York law and give the students the advantage of being exposed to these distinctions early on so students can navigate the initial bar review learning curve more quickly.

By adopting the UBE so soon, New York area law schools would not have a suitable amount of time to rearrange their curriculums to adapt to the new UBE testing models. Likewise, students who have already begun preparing for the current version of the New York bar exam through advanced study options, as some major bar review providers offer, would be disadvantaged by having to suddenly adapt to the new testing requirements[3]. Law Schools need to be given enough time to coordinate curriculums which meet the new realities of the bar exam, if adopted, and train students for these skills so they are sufficiently prepared. The students in New York's 13 metropolitan area law schools as well as those from upstate law schools who will be taking the July 2014 bar exam have been preparing for three or four years for a bar exam that they have been

[3] Numerous commercial bar review providers offer advanced training options such as BARBRI's B.E.A.T (Bar Exam Accelerated Training) program.

told will test heavily on New York specific law. Some have structured their course selections to fit areas that the current bar exam tests heavily with a specific concentration on New York law courses such as NY Practice, NY corporate law, and NY criminal law which differs greatly from the Model Penal Code tested in the MBE and UBE. To suddenly change the format of the exam in the very academic year in which they are set to graduate and take the bar exam is completely unfair to them and the preparations they have already made. If the UBE is to be adopted, it needs to be done in a manner that is fair and consistent to law students and New York area law schools.

In sum, it is my opinion that adopting the Uniform Bar Exam for use in New York would be harmful overall to the health and status of the New York legal community and negatively affect New York's status as a national leader in high quality legal representation. For these reasons I respectfully object to the Board of Law Examiners transitioning to the Uniform Bar Exam.

Best,

Christopher A. Carrion, JD

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November 3, 2014

Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Dear Ms. Bosse:

This letter is submitted on behalf of the Society of American Law Teachers (SALT) in response to the proposal to adopt the Uniform Bar Exam in New York, effective with the July 2015 administration of the exam. SALT is a national organization of law professors and law school administrators committed to advancing teaching excellence, social justice, and diversity. Among SALT's highest priorities is working to create more diversity within the legal profession. It is that mission that prompts this letter asking the New York Court of Appeals to delay implementation of the Uniform Bar Exam until more information is available to assess whether the UBE is likely to increase the current test score disparity and thus produce an even greater disparate impact on racial and ethnic minorities than does the current bar exam. The idea of a national licensing exam has great appeal, but carries risks that should be addressed before adoption of the exam for the state.

New York has long been concerned about disparate bar pass rates and their impact on the profession's diversity[1] and we hope that such concern will translate into caution about a precipitous adoption of the UBE that may result in further disparate impacts. Several years ago, after SALT and others urged further study about disparate impact before New York raised its passing score on the bar exam, the resulting study revealed a disproportionate racial impact and the increase was not implemented. Given what we know about disparate test results from the LSAC National Longitudinal Study[2] and the New York study.[3] New York should study the proposed change more fully to understand the implications of the change before acting on it.

New York is in the fortunate position of being able to study what has happened in other jurisdictions before deciding whether to adopt the UBE. Initial data indicates such a

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[1] *See e.g.* ASS'N OF THE BAR OF THE CITY OF N.Y., REPORT ON ADMISSION TO THE BAR IN NEW YORK IN THE TWENTY FIRST CENTURY: A BLUEPRINT FOR REFORM 467 (1992); COMMS. ON LEGAL EDUC. & ADMISSION TO THE BAR OF THE ASS'N OF THE BAR OF THE CITY OF N.Y. & THE N.Y. STATE BAR ASS'N, PUBLIC SERVICE ALTERNATIVE BAR EXAM 4 (June 14, 2002), *available at* http://www.nysba.org/WorkArea/DownloadAsset.aspx?id=26667.

[2] *Wightman*, LSAC National Longitudinal Bar Passage Study (1998).

[3] The study reported "the Caucasian/White group having the highest pass rates (about 88% for a passing score of 660 and about 85% for a passing score of 675), and the Black/African American group having the lowest passing rates (about 58% for a passing score of 660 and about 50% for a passing score of 675). *Impact of the Increase in the Passing Score on the New York Bar Examination*, Report Prepared for the New York Board of Law Examiners, October 4, 2006.

study is necessary. Fourteen states currently use the UBE and the majority of those states has experienced a significant decline in passing rates.[4] Before adopting the exam, New York should seek to determine why the UBE has resulted in lower pass rates and whether there is a disparate impact in who has been impacted by those lower rates. New York should endeavor to determine whether the UBE exacerbates test score disparities before deciding to adopt the exam.[5]

The proposal under consideration raises other concerns as well. It calls for a new *New York Law Exam* that would consist of 50 multiple-choice questions. This exam would be graded separately from the UBE and bar applicants would not be eligible for licensing in New York if they scored less than 30 out of the 50 questions on the *New York Law Exam*. Ordinarily, multiple-choice questions are not used on high stakes testing unless they have been pre-tested. The questions that would appear on the NY exam, which we understand will utilize a completely different format from the multiple choice questions used on the current NY bar exam, have not yet been written or reviewed, much less pre-tested. No study has been conducted to assess the impact that the requirement of passing both the UBE and the *New York Law Exam* will have on overall pass rates and whether it will increase test score disparities. It has been reported that the average score on the current New York multiple-choice section is roughly 50% (25 out of 50 questions correct), not the 60% (30 out of 50 questions correct) that will now be required as a stand-alone measure. If that is accurate and if it persists with the administration of the new exam, the result will disqualify candidates who previously would have been admitted. This too requires further study.

Finally, we should note that a uniform bar exam cannot really be uniform without a uniform passing score. New York's passing score is lower than ten of the fourteen states currently using the UBE. There is reason to be concerned that a move toward adoption of the UBE would inevitably result in an effort to standardize the passing score, which would almost surely mean a higher passing score in NY. On that issue, we *do* have hard data and that data tells us that an increase in the passing score will fall disproportionately harshly on racial and ethnic minorities. That is simply an unacceptable outcome, given New York's longstanding commitment to increasing the diversity of the Bar.

For all of these reasons (plus a concern about the cost of the UBE[6] and its limited portability[7] and the unfairness to students who have prepared for a different bar exam),

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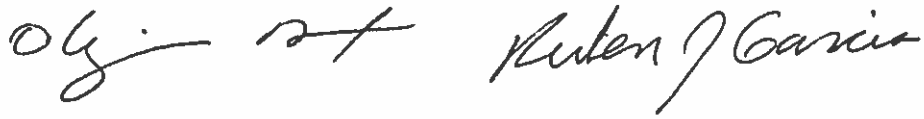
[4] The decline was 22% in Montana, 15.2% in Idaho, 13% in North Dakota, 7.7% in Arizona and 7.5% in Washington. Alabama, Wyoming and Utah also reported a lower pass rate. *Declining Nationwide Bar Exam Pass Rates,* Above the Law, October 27, 2014.

[5] To the extent New York is concerned about overall passing rates, the UBE raises an additional concern. The July 2014 bar exam saw a significant drop in scores on the MBE nationwide. (Letter from Erica Moeser, President of the National Conference of Bar Examiners to Law School Deans dated October 23, 2014.) Since the entire bar exam is scaled to the MBE, it is not surprising that many states, including New York, saw a decline in passing scores. Adopting the UBE would only exacerbate this problem since the MBE would count for 50% of the exam instead of the present 40%.

[6] New York currently charges $250 but UBE jurisdictions typically charge three or four times that amount. We understand that any increased cost would not be passed on to students in 2015, but there is no guarantee that the higher cost would not eventually be borne by NY test-takers. Plus, there is a significant cost of transferring UBE scores to other jurisdictions ($400 - $1240). And, we do not know what the charge will be to re-take the *New York Law Exam*.

we urge the Court of Appeals to delay implementation until there has been an opportunity to seriously assess the impact of this exam on all students and, more particularly, to assess whether or not its adoption would exacerbate the persistent disparate impact of the bar exam on racial and ethnic minorities. We can see no urgency in proceeding without first conducting this essential research.

Sincerely,



Olympia Duhart & Ruben Garcia
SALT Co-Presidents

cc Honorable Jonathan Lippman, Chief Judge, State of New York

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[7] Only 14 states currently use the UBE. Of those 14, five require a state-specific assessment prior to admission. All UBE states limit the portability of scores to between 2-5 years with most states restricting it to 2-3 years. Finally, since there is no uniform cut score and only 4 of the 14 states have a cut score lower than NY, a student passing the UBE in NY would not be guaranteed admission in the other 10 states unless that student achieved a score that met or exceeded the required score in that jurisdiction.

Ryan Nasim

[redacted]

Phone: [redacted] Email: [redacted]

November 7, 2014

Diane Bosse
Chair, New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Dear Ms. Bosse:

I am a second year law student at Touro College Jacob D. Fuchsberg Law Center and I am writing to respectfully oppose New York's adoption of the Uniform Bar Exam (UBE) for July 2015, July 2016, and July2017. My concerns and objections are as follows:

1. The New York State Board of Law Examiners (BOLE) have not provided any studies that explain why the current bar exam needs replacing, nor has the BOLE provided any reasons as to what is wrong with the current bar exam.
2. The adoption of the UBE will place a great burden on all current NYS law students, from the first year students to the third year students.
3. First, law students have already placed deposits on bar prep courses based on their current statistics on passage rates in NY.
4. Second, law students have taken courses that are specific to NY law as preparation for the NY bar exam. Specifically, my first year criminal law class focused on substantive NY Penal Law. My trust and estates class focused on the EPTL. My business organizations class focused on the New York Partnership Law and the New York Business Corporations Law. I have taken NY Criminal Procedure Class that focused on NY Penal Law, NY Constitutional Law, and NY Criminal Procedure Law. My civil procedure class also taught partially NY Civil Procedure Law. Students that are in their third year of law school at Touro Law, are required to take New York Practice with John Pieper. This class will no longer be necessary with the adoption of the UBE. Although NY law will still be relevant in the New York Law Exam, it is substantially diminished as compared to the current bar exam. If that assertion is wrong, then the proposal lacks in substance and information to the public of specifically what will the New York Law Exam focus on.
5. Third, I choose to attend law school in NY to be better prepared for the NY bar exam because I want to practice in NY. I was accepted to out of state schools with a scholarship. This adoption of the UBE is without fair notice, that leaves future students without notice to attend a NY law school, when prospective students could attend any other law school and take the bar exam in such state and be admitted to practice in NY, subject to exceptions, of course.

6. The proposal is misleading as to the "portability" of the license. The UBE is not as "portable" as the proposal makes it out to be. Firstly, only 14 states currently administer the UBE, with only one in the northeast region. Most NY students will want to remain the northeast region, so there is no incentive to practice in Alaska or Montana or Alabama, but maybe, New Hampshire, maybe. Secondly, each state sets their own pass score and state specific exam, therefore the portability aspect of the license is out the window, because a candidate would always be subject to another exam before even being admitted in a particular jurisdiction. Thirdly, each jurisdiction sets time restrictions, and fees in order to transfer a UBE score. Such limitations on the "portability" of a UBE score make the option less desirable.
7. This concern is mainly a question, why would NY even adopt an exam that tests on Uniform Law when the New York State legislature has a hard time adopting Uniform Law? Please let me know what this will do for our clients when every time we need to answer questions we will have to look up the New York law.
8. As a student of color, I find it appalling that minority bar associations were not notified of the UBE proposal. Considering that minority students have difficulty passing the bar, such a decision would be greatly detrimental to diversity within the legal profession and a contradiction to the people of New York State.

The New York Court of Appeals should not adopt the Uniform Bar Exam for July 2015, July 2016, or July 2017. There are current NYS law students who made decisions based on current practices within the BOLE, and such a drastic decision would be greatly unfair to the future leaders of the country. I hope that New York Court of Appeals and NY BOLE take careful consideration before making a decision that will affect many students.

Thank You,

Ryan Nasim

[redacted]

From: Munib Khan [redacted]
Sent: Thursday, November 06, 2014 6:36 PM
To: Uniform Bar
Subject: Not in favor of UBE

Dear Madam or Sir,

As a member of the New York State Bar and a foreign trained lawyer (having undertaken an LL.M in the US), I am not in favor of adopting the Uniform Bar Exam (UBE) for the following reasons:

1. Several foreign qualified attorneys are able to obtain a basic understanding of NY law by studying for the NY bar exam and with the UBE, the NY law content will be minimal and will not adequately test newly admitted attorneys on NY law and procedure.
2. I do not agree that "portability" is a significant advantage for NY lawyers as NY remains the most attractive jurisdiction on the list of states that use the UBE.

Therefore, in my opinion I would suggest that New York State continues with the current bar exam format.

Yours sincerely,

Munib M. Khan, Esq.

From: Rodger Citron <[redacted]
Sent: Friday, November 07, 2014 7:23 AM
To: Uniform Bar
Cc: Rodger Citron
Subject: Comment re: UBE Proposal

November 7, 2014

Diane Bosse
Chair, New York State Board of Law Examiners Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Dear Ms. Bosse,

I write in response to the Request for Public Comment posted last month about the New York State Board of Law Examiners (SBLE) recommendation that the New York Court of Appeals replace the current bar examination with Uniform Bar Examination (UBE).

I am the Associate Dean for Academic Affairs and a Professor of Law at Touro Law Center. I very much appreciate the fact that you came to Touro last month to discuss the UBE proposal. During the question and answer session, I asked, "What's the rush?" At the time, it seemed to me that the Court of Appeals was hastily acting to replace the current bar exam without fully thinking through the consequences of adopting the UBE and giving that exam in July 2015.

Several weeks letter, having had an opportunity to learn more about the UBE, I am convinced more than ever that the Court of Appeals is acting abruptly and rashly. Accordingly, I request that if the Court decides to adopt the UBE, it delay adoption of the new exam for at least two years.

I will confine my comments to just one point about the law school curriculum. Many, if not most, of the students enrolled at Touro are from New York. And nearly all of them wish to remain in New York as practicing attorneys after they graduate. Accordingly, where the courses in our curriculum focus on state law – such as in the Trusts and Estates class – we teach New York law rather than the model acts tested on the UBE.

Touro (and other law schools) did not learn of the Court's proposal until well after the 2014-15 academic year had started. It would be very disruptive for Touro – for any law school – to have to rework the material to be taught in a number of classes. Faculty will need time to develop new course materials. Furthermore to the extent that faculty in those classes use bar exam materials (such as prior tests), they will need time to study and work through examples of the new types of questions. All of these adjustments can be made, but there is no reason why they need to be rushed.

Indeed, because a number of courses in which we teach New York law are classes that we require our second-year students to take, the most reasonable measure would be to delay implementation of the UBE until after the current second-year class graduates. This would mean offering the UBE, if adopted, no earlier than 2017.

Thank you for time and consideration.

Sincerely,

Rodger D. Citron

[redacted]

From: [redacted]
Sent: Friday, November 07, 2014 9:17 AM
To: Uniform Bar
Subject: comments in opposition

I am a professor at Touro Law Center and a past chair and current member of the Academic Support Committee. In addition to attending a presentation by the chair of the New York State Bar Examiners, I have studied many of the comments written about the proposal and have conferred with experts on the bar examination. I am opposed to the adoption of the UBE and urge you to study the ramifications of its adoption in New York State for the following reasons:

1. The proposal represents a radical change and has been presented without any studies to evaluate its possible disparate impact on minority groups. As a co-author of the amicus brief for the ABA in the Bakke case and a past member of the ABA's Committee on Affirmative Action for many years, I am particularly concerned about unfair disadvantage to minorities by this exam. This aspect requires careful study.

2. Currently, the New York bar exam tests the knowledge of New York law in areas such as Trusts and Estates, Business Organizations and Family Law. As a professor of Trusts and Estates, I am concerned about the impact of teaching purportedly general legal principles to students who plan to practice in New York. New York estates and trusts laws (EPTL and SCPA) differ radically from the Uniform Probate Code which the UBE would test. Although a comparison of the UPC and the EPTL and SCPA is instructive, the focus of the course should be on New York law. Due to the volume and intricacy of the material, I and my colleagues throughout the state would no longer be able to retain this concentration and prepare students for practice under New York's generally more stringent and formalistic rules. The UBE does not promote the profession's goal of ensuring that our students are practice ready. In my Honors Trust and Estates course which combines doctrinal material with skills, I would have to sacrifice teaching skills necessary to practice in New York for doctrinal coverage of law which is dramatically different from that in effect here.

3. In light of the decrease in the July 2014 bar passage rate in those states which have adopted the UBE, a careful study of the impact on bar passage rate in New York is essential. In addition, the evaluation of the stated justifications including portability requires a study upon which law schools, bar associations and other interested parties may comment.

4. Current law students whose curriculum is geared towards the current bar examination will be disadvantaged by a precipitate adoption of the UBE. Law schools must have the opportunity to reflect on curricular changes and modify the curriculum for incoming students.

I urge you to reconsider your proposal or, at a minimum, to delay the adoption of the UBE for at least two years.

Sincerely yours,

Rena C. Seplowitz
Professor of Law
Touro Law Center
225 Eastview Drive
Central Islip, NY 11722
(631) 761-7143
[redacted]

CAPITAL DISTRICT BLACK AND HISPANIC BAR ASSOCIATION
P.O. BOX 5252
ALBANY, NEW YORK 12205

November 7, 2014

UniformBarExam@nycourts.gov
Ms. Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, New York 12203-5195

RE: Proposal to replace the current bar examination with the Uniform Bar Examination

Dear Ms. Bosse:

On behalf of the Capital District Black & Hispanic Bar Association (CDBHBA), we submit the following comments regarding the proposal to replace the current New York State bar examination with the Uniform Bar Examination.

The CDBHBA appreciates your willingness to undertake this review and we would welcome the opportunity to fully explore whether the Uniform Bar Examination should replace the current examination. However, we are concerned that the current timeframe in which you seek to review and implement the change is not adequate enough to conduct a thorough review.

The request for public comment was published on October 6 with submission of such comments due by November 7. A comprehensive review of all of the implications associated with a significant change in the bar examination such as the one proposed here cannot be completed within such a brief window of time.

The New York State Bar Association (NYSBA) Committee on Legal Education and Admission to the Bar conducted a "peripheral" review of the proposal. The Committee members had numerous concerns with the proposal including the speed at which this proposal, if approved, would be implemented. The Committee recommended to the NYSBA House of Delegates at its most recent meeting on November 1 to support a resolution to delay implementation of this proposal pending additional substantive review. The House of Delegates approved this resolution.

The CDBHBA agrees with the New York State Bar Association and respectfully requests that the Uniform Bar Examination not be administered in July 2015. In addition, we request that the proposal be further reviewed and, if upon such a review, it is determined that New York should adopt the Uniform Bar Examination, then adequate notice should be provided to allow for those who will be preparing to take the examination enough time in which to prepare. As an organization of minority attorneys, we are also concerned about the potential impact on current minority law students.

As you consider whether to adopt the proposal, please know that the Capital District Black & Hispanic Bar Association stands ready to participate in this discussion.

Thank you for considering our comments. Please feel free to contact us with any questions.

Sincerely,

Patricia L. R. Rodriguez/s
Patricia L. R. Rodriguez, Esq.
First Vice President

Frank Munoz/s
Frank Munoz, Esq.
Second Vice President

cc: VIA ELECTRONIC MAIL
William Little, CDBHBA president
CDBHBA board members
Glenn Lau-Kee, Esq.

From: Lillian Spiess <
Sent: Friday, November 07, 2014 11:44 AM
To: Uniform Bar
Subject: Current Proposal to Change the NYS Bar Exam

As a practitioner and law professor, I respectfully submit that the proposal for New York to discard its present bar examination and adopt the UBE effective July 2015 should be indefinitely postponed until its potential impact on the New York legal job market, minority test-takers, and law school curricula can be carefully assessed.
Further, the proposed testing structure, which includes a New York component compromised of merely 50 multiple-choice questions, gives little assurance that competence in New York law will be adequately measured. Therefore, please know that I fully support the recent resolution adopted by the New York State Bar Association's House of Delegates and the position advanced by the Society of American Law Teachers.
I am proud to be part of a rigorous tradition that has honed the world's most respected lawyers who have earned the privilege to practice in the world's legal capital.
Thank you.
Lillian M. Spiess, Esq.

From: Deseriee Kennedy
Sent: Friday, November 07, 2014 10:59 AM
To: Uniform Bar
Subject: Uniform Bar Examination - Request for Public Comment

Dear Ms. Bosse,
I am writing to express concern about the planned adoption of the Uniform Bar Examination in New York. I have read the letter regarding the UBE submitted on behalf of the Society of American Law Teachers (SALT) and the objections raised by the New York Bar Association and agree that additional study of the UBE is necessary. In my experience as a law professor, scholar, and prior practitioner, I am deeply concerned about issues of fairness to current students and how this proposed change might affect diversity in the bar and, therefore, respectfully request that the UBE be studied prior to deciding whether it should be adopted.

Sincerely,

Deseriee Kennedy
Kermit Gitenstein Distinguished Professor of Health Law & Policy Touro Law Center dkennedy@tourolaw.edu
631-761-7093
Book: Breger, Kennedy, Zuccardy & Elkins, NEW YORK LAW OF DOMESTIC VIOLENCE (3d ed.) (published by Thomson-West-Reuters)
http://legalsolutions.thomsonreuters.com/law-products/Treatises/New-York-Law-of-Domestic-Violence-3d/p/100228708

CUA

THE CATHOLIC UNIVERSITY OF AMERICA

Columbus School of Law
Office of the Faculty
Washington, D.C. 20064
202-319-5140

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NYS BOARD OF
LAW EXAMINERS

November 3, 2014

Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Re: Support for Adoption of the Uniform Bar Exam (UBE)

Dear Ms. Bosse:

As Dean of the Columbus School of Law at The Catholic University of America (CUA Law), I appreciate having the opportunity to comment on the proposed adoption of the Uniform Bar Examination (UBE) by the New York Court of Appeals. I write to offer our strong support for the adoption of the UBE in New York.

Our Law School, particularly through my predecessor, former Dean Veryl Miles, has been a strong supporter of the adoption of the UBE since it was introduced by the National Conference of Bar Examiners. We believe that the UBE significantly enhances the mobility of our graduates and improves their employment options, both at graduation and throughout their careers.

We routinely see the graduates of any given CUA Law class taking examinations in 25 to 30 different jurisdictions immediately following graduation and individual graduates taking multiple examinations during their professional lives. The impact of these multiple examinations is substantial (1) in the ability of our students to make logical decisions regarding which bar exam to take in this complex hiring environment, particularly where offers of employment now routinely come at or after graduation, (2) in the ability of students and graduates to plan for career progression that will necessitate admission in more than one jurisdiction, including the possibility that the need for relocation may be sudden, and (3) in our ability as a school to develop an adequate knowledge base to provide information on the wide variety of steps necessary for admission in so many different jurisdictions.

We want to assist our students in selecting the best jurisdiction for their employment goals. The current system of individual examinations in many different jurisdictions creates uncertainty, confusion, and may lead to poor choices. Many students are actively considering

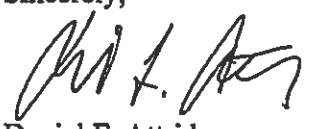
employment options in multiple jurisdictions. They try to weigh the potential employment options in individual jurisdictions, plus the possibility that they will need to pass more than one examination if their first examination and their first place of employment do not coincide. The UBE will decrease the number of options that students must consider while maximizing the opportunities available by making it possible to take an examination that enables admission in multiple jurisdictions.

Many of our graduates find that they (or their spouses) need to relocate at some point before consideration of reciprocal admission is even possible. Again, under the current system, they must sit for another exam and await the results before they are able to practice in the new jurisdiction. The UBE will eliminate that step by allowing for more rapid admission in jurisdictions that have adopted the common exam. This enhances professional opportunities in our more mobile society.

Finally, the UBE presents a common testing method that is beneficial to schools and test takers alike. Schools are better able to provide information about these standard testing elements and therefore enhance our graduates' overall preparation. Students are able to focus more directly on demonstrating their competency and less on individual differences in examinations. This improves decision making and preparation.

We strongly encourage the New York Court of Appeals to adopt the UBE in New York.

Sincerely,



Daniel F. Attridge
Dean and Knights of Columbus Professor of Law

November 4, 2014

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NYS BOARD OF
LAW EXAMINERS

Diane Bosse
Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Re: New York State Board of Law Examiners proposed changes to the New York Court of Appeals on replacing the current bar examination with the Uniform Bar Examination.

Dear Ms. Bosse:

I would like to voice my full support for proposed changes to the New York State bar examination. I agree that wider adoption of the UBE will facilitate law-student and lawyer mobility, concurrently addressing the rising unemployment rate of recent law school graduates and provide services to underserved areas across the United States where legal needs continue to go unmet. I write this letter as a third-year law student. Though I am not writing this letter to express any official American Bar Association policy, I would like to note that I am currently one of three Law Student Division Delegates to the American Bar Association. In this role, I represent the interests of law students throughout the country to the ABA at-large.

I endorse SBLE's proposal that a New York law-specific component remains before being barred in the State. Incorporating a state-specific section alongside the UBE will facilitate an easier transition for states which currently do not administer the UBE; thereby certifying bar examinees are well-versed in state law. Expanding the opportunity to take the state-specific portion at two other times throughout the year will increase interest in the New York bar exam and provide students and legal professionals with more flexibility. The proposed changes recommended by SBLE are strongly encouraged.

Administering duplicative exams throughout the United States is wasteful and serves only to increase the expense of a test taken mostly by recent law school graduates already saddled with considerable student loan debt. A UBE would test legal proficiency at an equivalent level as most individual state bar exams today, and would continue to allow each state or territory to ensure that bar admission candidates has an adequate knowledge of law through setting passing scores in the respective state or territory. As it exists in most states and territories, the bar exam is essentially a UBE, given that it tests the same general issues of law with little to no emphasis on local variation. Formally adopting the UBE is the next logical step.

Furthermore, the legal profession is the only major profession that has yet to develop a uniform licensing exam. The adoption of the UBE in New York would set the legal profession on a course towards a uniform licensing structure while remaining responsible for admission decisions, passing standards, and character and fitness qualifications.

I fully support consideration by SBLE for a UBE in New York State. I welcome further discussion of this proposal, and invite SBLE to contact me regarding any questions related to these comments or any other topics relevant to the SBLE's work in this area. If you have any questions concerning my comments or require clarification, please contact me at (516) 695-4421 or bennettresnik@vermontlaw.edu. Thank you for your consideration.

Sincerely yours,

Bennett E. Resnik

OCT 30 2014
BOARD OF
LAW EXAMINERS

Steven Z. Feuer
ATTORNEY AT LAW

23 FORD AVENUE
ONEONTA, NEW YORK 13820
TELEPHONE
(607) 432-0108

October 27, 2014

NYS Board of Law Examiners
Attn: Diane Bosse
Corporate Plaza, Bldg. 3
254 Washington Avenue Ext.
Albany, NY 12203-5195

Re: Request for Public Comment Regarding Recommendation that Current Bar Examination be Replaced with Uniform Bar Examination

Dear Ms. Bosse:

I have had an opportunity to review the Request for Public Comment regarding the above. I have only two comments.

1. I do not support the bar examination being anymore difficult or more stress provoking than it has been in the past.

2. I am in favor of a bar examination that will allow attorney's to be admitted to other states bars and permit attorneys from other states to practice in New York State. The inability and difficulty being admitted into another state makes it difficult for attorneys in the State of New York to relocate or retire outside of the State of New York.

Very truly yours,

Steven Z. Feuer

SZF/mra

Letters/Marsha/Feuer.NYSLaw.102714

[redacted]

From: Thomas Schweitzer <[redacted]
Sent: Friday, November 07, 2014 12:17 PM
To: Uniform Bar
Subject: Comments on Uniform Bar Exam

New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Dear Law Examiners:

As a law professor who have taught at the Jacob D. Fuchsberg Law Center of Touro College for more than thirty years, I urge you to reject the proposed adoption of the Uniform Bar Exam or at the very least to postpone its adoption for two years so that such a monumental change can first receive the reasoned consideration that it deserves.

Many factors counsel caution and restraint before taking such a radical step. I will mention only some major ones.

1. If implemented in July 2015, this change would severely disrupt the plans of students currently in their last year of law school, whose entire legal education has been premised on preparing for the New York Bar Exam. This would be unfair and would cause them significant harm. Like major departures from stare decisis by a state's highest court, equity requires that such a change be adopted, if at all, only prospectively because of the havoc it would otherwise wreak.

2. The one-month period for comment on the proposed change is insufficient because of the importance of the change.

3. The change is touted for making it easy for new lawyers from one state to move to another to practice. It is respectfully suggested that lawyers from Alabama and Idaho might find it more attractive to move to New York to practice than for New Yorkers to move in the opposite direction. New York courts and institutions should give more weight to the interests of its citizens and taxpayers than to those of other states, and this factor militates against the proposed change.

4. New York would be the first large state to adopt the uniform bar exam. While it might be exciting to lead such a change, there is no guarantee that any of the other large states (California, Texas, Florida, Illinois etc.), where practicing might be more attractive to New York law graduates than in the small states which have already adopted the uniform bar exam, would follow New York's lead. It would be more prudent, and more in the interests of New York's citizens, to wait for other large states to go first.

5. Reducing the New York law component of the new bar exam to a 60-minute multiple choice test provides a mere "fig leaf", reducing coverage of New York law nearly to the vanishing point.

6. Under the uniform bar exam, states could still set higher test score requirements for admission to the bar than New York, so that the result might not be a "level playing field." This would lessen both the reality and the appeal of the national standards the proposed change would ostensibly engender.

7. Since the dawn of the Republic, New York and its courts have proudly provided leadership to other states' courts, and this is consonant with federalism, a central principle of our national government. New York has not adopted many proposed uniform statutes which may appeal to smaller, less important states, preferring to rely on its own substantial

and long-lived body of precedent. For example, New York has not joined the trend to water down or abolish the Rule against Perpetuities, and its Estates Powers and Trusts Law is unique in many respects. New York has the Civil Practice Law and Rules, while numerous small states have adopted the Federal Rules of Civil Procedure for their state courts. In conformity with federalism, New York should not feel the pressure to adhere to national norms but should instead continue to play its historic role as a leader in American jurisprudence and legal institutions, deliberating carefully to reach its own conclusions.

Please reject or at least defer the proposed adoption of the Uniform Bar Exam.

Respectfully submitted,

Thomas A. Schweitzer
Professor of Law
Jacob D. Fuchsberg Law Center of Touro College

LAW OFFICES OF
NORLEY CASTAÑEDA P.C.

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215 Uniondale Avenue
Uniondale, NY 11553

November 7, 2015

The Honorable Jonathan Lippman
Chief Judge of the State of New York
20 Eagle Street
Albany, New York 12207

Via Email: UniformBarExam@nycourts.gov

Dear Judge Lippman,

I am a solo practitioner, practicing primarily in the criminal and family courts of Nassau and Suffolk. I respectfully submit this letter in response to the proposal to adopt the Uniform Bar Exam in New York.

Prior to coming to this country, I was an attorney in Colombia, South America. In 2000, I came to the United States, obtained an LL.M. at Hofstra Law School, and studied for and passed the New York State Bar Exam. As a foreign attorney, especially with English as my distant second language, preparing for the exam was a huge endeavor. At the time, I could not appreciate why a foreign criminal lawyer wishing only to practice criminal law had to learn about the CPLR and DRL. I just wanted to practice, and so much of what was on the exam was foreign and not relevant to me.

I was fortunate upon graduation to get a job with the Suffolk County Legal Aid Society. I learned a great deal, and, when it was time to start my own practice, I knew I had the experience, knowledge, and confidence required to represent my criminal clients.

What I didn't realize then was that my private clients would have non-criminal issues. Suddenly, I had immigration, family law, personal injury, civil rights, real estate, and contract matters. Naturally, Legal Aid did not prepare me for those. I didn't have a network of Spanish-speaking colleagues to assist my predominantly Spanish-Speaking clients with these matters, and, for almost all of my clients, I was the only lawyer they knew and trusted. If they were going to be represented, it was going to have to be by me.

This is where my preparation for the New York bar exam saved me – and some of my clients. The CPLR and DRL came back to me. I didn't remember it all, but I remembered enough to know when I had a potential problem and I had a good idea where to look to address it. For my clients, I could not be one-dimensional and because of all those hours of hard work preparing for the bar exam, I didn't have to be. I got up to speed on these other areas of law in a way that I could not have, while also starting a law practice, without the foundation I obtained studying for the bar exam.

I understand that the pass rate for foreign candidates is very low, but I also understand that there is a reason. My one-year LL.M. did not prepare me for the bar exam, let alone for practice law in the New York courts. My fellow foreign attorneys don't know enough United States and, more important for those who wish to practice here, New York law. For us, studying for the bar exam is our first and perhaps only opportunity to learn what our United States-trained (and mostly New York law school-taught) colleagues take for granted.

I cannot say whether a switch to the UBE would help or hinder foreign-trained lawyers' chances of passing the bar exam and being admitted in New York, but it is clear to me that stripping the licensure exam of its emphasis on local law and procedure would not improve their readiness to practice here.

Thank you for your consideration.

Respectfully,

Norley Castañeda

Norley Castañeda

QUEENS COUNTY BAR ASSOCIATION
90-35 148th Street, Jamaica, New York 11435 • (718) 291-4500 • Fax: (718) 657-1789

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NYS BOARD OF
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November 5, 2014

Diane F. Bosse, Esq., Chair
NYS Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Re: Uniform Bar Examination

Dear Ms. Bosse:

It has come to our attention that the New York State Bar Association will be requesting additional time to comment on the above captioned proposal.

Please be advised that the Queens County Bar Association joins in that request.

Yours truly,

ARTHUR N. TERRANOVA
Executive Director

ANT:jr

[redacted]

From: Shanna Cushnie <[redacted]
Sent: Friday, November 07, 2014 4:51 PM
To: Uniform Bar
Subject: In favor of UBE

To whom it may concern:
I write in favor of New York adopting the uniform Bar Examination. I am currently a third/years law student at New England Law | Boston. It is my intention to take the the New York bar exam in July 2015.

I strongly believe a Uniform Bar exam is essential as it encourages portability amongst attorneys disadvantaged when they are laid off and only eligible to practice in one state. Additionally, if they are not eligible for waiver, but considering relocation - they have to worry about studying and incurring exorbitant bar prep and registration fees to sit another bar exam.

Please consider the Uniform Bar Exam.

Sincerely,
Shanna Cushnie

NATIONAL BAR ASSOCIATION

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St. Louis, MO

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Alfreda V. Davis
Washington, DC

November 7, 2014

Diane Bosse
Chair, New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension,
Albany, NY 12203-5195

Dear New York Board of Law Examiners,

My name is Pamela J. Meanes, President of the National Bar Association. Founded in 1925, the National Bar Association is the nation's oldest and largest national network of predominantly African-American attorneys and judges. It represents the interests of approximately 60,000 lawyers, judges, law professors and law students. The National Bar Association is organized around twenty (23) substantive law Sections, nine (9) Divisions, twelve (12) regions and over eighty (80) affiliate chapters throughout the United States and around the world.

The National Bar Association urges the New York State Board of Law Examiners to delay the implementation of the Uniform Bar Exam for two years to provide an opportunity to study the potential disparate impact of the proposed changes and to receive robust comments from law schools and law students. More importantly, as you are aware, most graduating students should have already submitted their bar applications, and enrolled in the law school courses that cover the subjects that the students believed would be on the New York Bar Exam. Accordingly, a change in the coverage does not seem fair or provide sufficient notice to those constituents who will take the bar exam.

Given the significant number of members of the National Bar Association in New York, including lawyers, professors and students, who may be affected by your proposal, the National Bar Association would like an opportunity to provide a substantive response to your proposal. We again urge you to delay implementation of the proposal and to study the potential disparate impact of the Uniform Bar Exam before making any judgments.

Cordially,

/s/Pamela J. Meanes

Pamela J. Meanes
President
National Bar Association

Job Noemie
Tucson, Arizona 85719
[redacted]
11/7/14

Diane Bosse
Chair, New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195
UniformBarExam@nycourts.gov

Dear Ms. Bosse and Members of the New York State Board of Law Examiners,

I am writing to urge that the State of New York adopt the UBE.

I am a French citizen currently completing an LLM at the University of Arizona James E. Rogers College of Law in Tucson, Arizona. I am planning on taking the New York Bar in July 2015. I strongly believe that it would be extremely beneficial for attorneys admitted to the New York Bar to have the option to practice in the other UBE states, by expanding the employment possibilities. It would certainly decongest the law practice in New York in the sense that many LLM students would then have the chance to practice somewhere else than New York or California. I also believe that this reform would be advantageous to clients by enhancing their lawyer's ability to defend their clients interests in several states.

Because of this, I respectfully urge you to adopt the UBE.

Yours Sincerely,

Noemie Job LL.M. Candidate, University of Arizona

[redacted]

From: Jose Perez [redacted]
Sent: Friday, November 07, 2014 4:27 PM
To: Uniform Bar
Subject: LatinoJustice PRLDEF Comments in Opposition to NYSBLE Proposal to Implement Uniform Bar Exam in NY for July 2015 Bar Exam

Dear Ms. Bosse:

Attached please find comments submitted by LatinoJustice PRLDEF in response to the NYS Board of Law Examiners proposal to the NY Court of Appeals to adapt the Uniform Bar Examination for the July 2015 bar exam in NY. As set forth in the letter, LatinoJustice has grave concerns about the rush to implement the UBE for next summer's bar exam, without first reviewing and assessing the UBE's impact upon Latino and other minority law graduates of color.

Please do not hesitate to contact me if you have any questions or need any further on LatinoJustice's position in this matter.

Sincerely yours,

Jose L. Perez
Deputy General Counsel
LatinoJustice PRLDEF
Committed to Justice and Leadership since 1972
99 Hudson Street 14th Floor | New York, NY 10013
T: 212.219-3360, x7575 T: 800.328.2322
jperez@latinojustice.org | [redacted]

This transmittal is intended for a particular addressee(s). It may constitute a PRIVATE and CONFIDENTIAL attorney-client communication. If it is not clear that you are the intended recipient, you are hereby notified that you have received this transmittal in error; any review, copying or distribution or dissemination is strictly prohibited. If you suspect that you have received this transmittal in error, please notify LatinoJustice PRLDEF immediately by email replying to the sender and delete the transmittal and any attachments.

LATINOJUSTICE

COMMITTED TO JUSTICE AND LEADERSHIP SINCE 1972 ■ PRLDEF

By email to: *UniformBarExam@nycourts.gov*

Diane Bosse, Chair
NYS Board of Law Examiners
Corporate Plaza, Bldg 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Re: LatinoJustice PRLDEF comments on NYBLE proposal to adapt Uniform Bar Examination

Dear Ms. Bosse:

We write on behalf of LatinoJustice PRLDEF, a national civil rights legal defense fund which protects the civil and constitutional rights of Latino residents in the United States; seeks to improve the way Latinos are treated in U.S. society; and increases their entry into the legal profession. Specifically we write concerning the NYS Board of Law Examiners recent recommendation to the NY Court of Appeals that NY adapt the Uniform Bar Exam (UBE) for the July 2015 bar exam. This proposal to immediately substitute the UBE for 2015 without any real review or assessment of the UBE's impact upon Latino and other minority law graduates of color, or providing a sufficient period of time for public review, analysis and discussion by the bar, particularly minority bar groups and civil rights organizations like LatinoJustice, raises grave concerns.

Long before others talked about the need for diversity in the legal profession, LatinoJustice PRLDEF after its founding in 1972 had established a unique legal education program to encourage Puerto Ricans and other Latinos to become attorneys. Since our inception, thousands of aspiring attorneys have come to us for assistance and support in entering the legal profession. Our Legal Education Division provides a full menu of free or affordable services for aspiring and current law students, including LSAT prep courses, our Annual Law Day featuring over 90 law schools from across the country, workshops on law school admissions, personal statements, and financing a legal education, how to succeed in law school, different legal careers, plus civil rights and corporate legal internships. The list of alumni who have benefitted from LatinoJustice's unique Education Division programming includes prominent Latino judges, members of the bar practicing in all sectors including government service, public interest, and private practice, business and union leaders and elected officials.

LatinoJustice PRLDEF
99 Hudson Street, 14th floor
New York, NY 10013-2815
Tel: 212.219.3360
Fax: 212.431.4276
800.328.2322

With the interests of these aspiring Latino lawyers in mind, we strongly urge the New York Court of Appeals to take adequate steps to thoroughly investigate and study the possible adverse consequences the UBE may have on Latino and other minority law graduates seeking admission to the New York Bar prior to implementing the use of the UBE in New York. We are very concerned that the UBE may have adverse effects on Latino law graduate seeking admission to the New York Bar, and without any study indicating otherwise, it would be very imprudent to institute the UBE this coming July. Likewise, there does not appear to be any study or evidence documenting that the UBE would provide a more fair assessment of legal abilities than the current NY bar exam.

We thus request a moratorium for study of this critical issue before any rush to adapt the UBE for July 2015.

Former NY State Bar Association President Seymour James, the third black president of the State Bar, in his May 2013 president's message stated:

> "Achieving diversity and inclusion is an ongoing and multi-faceted goal for the State Bar and our profession. In our increasingly diverse society, a legal profession representative of our society at large is necessary to maintain the legitimacy of our legal system and respect for the rule of law. A diverse legal profession allows us to better represent our clients and helps to ensure the fair administration of justice."[1]

According to the Law School Admissions Council (LSAC), only 8.3 % of the Juris Doctor degrees conferred in 2012 were awarded to Hispanics based on self-identification data. The overall number of Latino attorneys in the U.S. in 2012 remains stagnant at still only 4 %, despite the continuing significant Latino population increase across the country as reported by the U.S. Census 2012 Current Population Survey.

Up until the 1999 ground-breaking report of the NYS Judicial Commission on Minorities, there had been no empirical study of statewide pass rates for the NY bar exam. The Court of Appeals in establishing the Commission in 1989, charged it inter alia, to look at the bar exam as a barrier to admission to practice by minorities. In that 2,000 page report on the representation, status and treatment of minorities within the courts and legal profession, the Commission published one of, if not the first, empirical statewide study on minority pass-rates on the NY bar exam. The Commission using law school data established minority bar passage rates for graduates of NY law schools for the July bar exams administered between 1985 and 1988, and found the following pass rates:

Whites	73.1%
Asian Americans	62.95
Hispanics	40.9%
Native Americans	33.3%
Blacks	31%

The Commission recommended a review of the bar exam for cultural & economic bias, and that the NYS Board of Law Examiners should begin maintaining race data to determine minority pass rates, especially since it was then participating in a national study on bar passage being conducted by the LSAC. Unfortunately, there is no public record of whether NY participated in the LSAC study since all data etc. was destroyed by the researchers as a condition of participation. The LSAC's National Longitudinal Bar Passage Study became the first empirical study on national pass rates. The LSAC's pass rate findings for students over a five-year period, starting in 1991 similarly shows a disparity in bar passage rates by whites versus Latinos and blacks. [2]

The next expansive report analyzing the bar pass rate in New York was performed nearly a decade ago to assess whether an increase in pass score would have a detrimental effect on graduate. The report which gave the NY legal community its first official statistics on minority performance on the bar exam highlights the disparate pass rates

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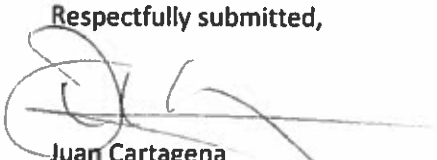
[1] President's Message, N.Y. St. B.J.(May 2013), p. 5.

[2] LSAC Nat'l Longitudinal Bar Passage Study, Linda F. Wightman, LSAC (1998).

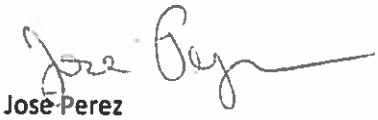
for graduate of color when compared to their white counterparts.[3] This report concludes that "the Black/African American group and other minority groups tend to suffer sharper declines in pass rates than the Caucasian/White group as the passing score goes up."[4] This report not only points to the disparate impact the current NY bar exam apparently has on law graduate of color, but examined a gradual change that took place over three years and six exams. While the gaps in the bar exam passage rates between whites and other ethnic groups appear to be improving from the 1991 to 2007 reports, they still clearly persist to this date.

LatinoJustice strongly urges the Court to consider delaying implementation of the UBE until such time as the NY Board of Law Examiners and/or a new Judicial Commission is appointed to study the UBE's impact upon minority law graduates in order to better assess how the UBE would impact law graduates of color in New York. Under the current examination, Latino law graduate are taking the bar exam more than once, a rate double that of their white counterparts.[5] Before rushing to change the format of the bar exam in New York, more needs to be done to ensure that the UBE will not produce similar or even worse adverse impacts on law graduate of color. Should you have any questions about our position in this matter please feel free to contact Jose Perez, Deputy General Counsel at 212.219.3360, x7575 or at jperez@latinojustice.org

Respectfully submitted,



Juan Cartagena
President & General Counsel
LatinoJustice PRLDEF



Jose Perez
Deputy General Counsel
LatinoJustice PRLDEF

[3] Andrew Mroch et al., Impact of the Increase in the Passing Score on the New York Bar ExaminationL February 2006 Bar Administration at 81 (2006), *available at* www.nybarexam.org/press/press/htm.
[4] Id.

Moshe Y. Admon
[redacted]
admon@email.arizona.edu
(520) 247-9669
11/7/14

Diane Bosse
Chair, New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195
UniformBarExam@nycourts.gov

Dear Ms. Bosse and Members of the New York State Board of Law Examiners,

I am writing to urge that the great State of New York adopt the UBE.

I am a native New Yorker born in Manhattan. I worked as a commodity broker in the New York Mercantile Exchange at 4 World Trade Center prior to attending Rutgers University in New Jersey, graduating with a B.Eng. and a B.A. I ultimately decided to pursue law, graduating in the top 5% of my class with an LL.B. from the University of London, and am now in my final year of a joint JD / LL.M. at the University of Arizona James E. Rogers College of Law in Tucson, Arizona.

Upon completion of my LL.B. I made a decision to forsake the traditional "international" route of pursuing an LL.M. and sitting for the New York Bar, and instead chose to undertake a JD. I initially looked at Tier 1 law schools in New York but the cost was prohibitive, particularly when aggregating living expenses with tuition. I enrolled in the University of Arizona College of Law and am immensely happy with my choice. My classmates and professors are exceptional, the course and clinic offerings are extraordinary, the learning environment is outstanding, and the cost is very manageable. There is no doubt in my mind, nor in the mind of multiple law school ranking committees, that the legal education I am receiving in Arizona is on par with the that offered by any top tier law school in New York.

Subsequent to graduating I have a keen desire to return to my home town of NYC to start my legal career but am concerned about locking myself into the current New York Bar, which has no lateral flexibility for new practitioners. As you are fully aware, the legal landscape in the US has changed drastically in the past several years, with a pronounced amount of graduates from the entire spectrum of law schools struggling to find meaningful and financially rewarding employment. Astutely, in response to this economic reality fourteen states, including Arizona, have adopted the UBE. The flexibility of the UBE offers new graduates the pragmatic freedom of movement so indispensable in today's employment climate.

Presently, if quality students contemplate sitting for the New York Bar, they have to think long and hard before making their decision. If they fail to secure a job or have the misfortune of being laid off they must repeat the hardship and expense of sitting for a different state bar exam. By adopting the UBE, New York will maximize its potential to attract the best out-of-state talent, and additionally will provide in-state students maximum value and versatility.

I have read several legal pundits stating that the New York Bar is a "rite of passage," and by adopting the UBE New York will lose its "special" standing. This argument is without any merit. As the entire world is aware, New York is a beacon of freedom and opportunity, and will forever have "special" standing on its own virtues with or without the UBE. New York's only concern should be making itself more accessible for the world's best talent to practice there. Additionally, if these pundits are correct that the New York Bar Exam is the only worthy standard, the present rules allowing New York to grant Admission on Motion/Reciprocity, or Admissions on Pro Hac Vice basis seem out-of-place.

Factually, graduating law school is our rite of passage into the legal profession. Sitting for multiple bar exams merely increases the already enormous pressures we face as law students, and in many ways only benefits bar-exam-preparation companies. The ultimate goal of passing the bar is not for the sake of hanging a New York Bar certificate on our wall to gain respect and recognition, it is to grant us the means to successfully and skillfully practice our trade, benefiting our clients, the greater public, and our esteemed profession as a whole. Ultimately rules of ethics and, a fortiori, the highly competitive New York market will separate the wheat from the chaff, and not the bar exam.

Because of this, I respectfully urge you to adopt the UBE.

Yours Sincerely,

Moshe Admon, B.Eng., B.A., LL.B.
2015 JD / LL.M. Candidate, University of Arizona
President, National Jewish Law Students Association

THE SUFFOLK COUNTY BAR ASSOCIATION

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Counsel
John H. Gross

November 7, 2014

SENT VIA EMAIL

Ms. Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, New York 12203-5195

Reference: **Uniform Bar Examination (UBE) Comments**

Dear Ms. Bosse:

This letter is submitted in response to the request for comments to the proposal to adopt the Uniform Bar Examination (UBE) and replace the current New York State Bar Examination. For the following reasons, the Suffolk County Bar Association opposes the adoption of the UBE.

New York State's National Leadership and High Standards

New York is currently considered a "national leader" in producing attorneys with excellent skills and credentials, in part due to the challenge of the New York State Bar Exam with its focus on New York Law. Adoption of the UBE would effectively lower the bar for admission to the practice of law in New York State, reduce the prestige of a New York Law license, and result in less qualified lawyers being admitted to practice in New York State. Implementation of the UBE directly contravenes the stated goal "that New York licensure remains internationally recognized as a valuable legal credential."

Replacing the current exam with the UBE eliminates the New York focused essays on the bar exam, leaving only one hour of the exam-50 multiple choice questions- to test the applicants on the nuances of the law as it applies in New York. In addition, the elimination of the New York focused essay questions will likely result in a reduced emphasis on New York law, both substantive and procedural, in New York law schools. Consequently, more lawyers will be admitted to practice without the knowledge of New York law that the day-to-day practice in this State requires. This negatively impacts clients who deserve competent representation from their counsel who are educated and knowledgeable in New York law and procedure.

Each state has designed its own laws, procedures, and substantive case law. It is hardly surprising that "law is the only major profession that has not adopted a uniform licensing examination; the scores on which are transferable among jurisdictions," (See Section of Legal Education and Admissions to the Bar Council Resolution Endorsing Consideration of uniform Bar Examination, adopted August 6, 2010). Our federalist system allows different jurisdictions to adopt different laws to achieve superior results through the development of common law and the practical application of the common law. Since each state has developed its own laws and procedures, the bar exam in each state should be directed to their respective state's standards in deciding how to test a candidate's knowledge of the laws and procedures in that state.

The current New York Bar Examination is written by New York practitioners, familiar with New York law. The UBE is written by the National Conference of Bar Examiners (NCBE), based in Wisconsin. We challenge the argument that a new and different examination written by persons in Wisconsin can effectively test fitness for practice in the State of New York. The 14 states that have adopted the UBE to date are vastly different than New York and have a much smaller number of applicants to the Bar.

The New York State Board of Law Examiners recommends the passing score for the UBE in New York be set at 266. That score is lower than other jurisdictions who have adopted passing scores for the UBE that range from 260 to 280. This proposed passing score certainly does not seem to promote New York licensure as a "valuable legal credential."

The "nationalization" of the New York Bar Exam by de-emphasizing New York skills and law through the UBE undermines the credentials of a practicing attorney in New York State.

The Negative Impact upon Solo Practitioners and Small Law Firms

Attorneys in private practice in Suffolk County are primarily solo practitioners or are affiliated with small firms, which is similar to practitioners in the counties outside of New York City. Changing the bar exam to the UBE places small law firms and solo practitioners at a disadvantage. (They may be solo practitioners by choice or due to the current difficulties in obtaining legal positions with law firms, corporations or public service.) Attorneys who wish to practice in New York will be required to provide or obtain additional training and education in order to obtain the information necessary to practice law effectively in this State. Small law firms and solo practitioners with limited time, funding and other resources are disadvantaged compared to larger firms with more available resources.

Most of Suffolk County's client base consists of individuals, families, and businesses whose needs for legal representation are grounded in New York law. Licensing professionals who lack the initial foundation in New York law leaves clients at risk. A bar exam that does not test a prospective lawyer's knowledge of New York law does not support the legal profession's obligation to ensure that newly admitted attorneys satisfy minimum standards of knowledge to practice law in New York State.

The "Myth" of Portability

No other large states have adopted the UBE. Proponents of the UBE claim that "[A]s the UBE is accepted by more states, the portable score will facilitate lawyer mobility across state lines, resulting in expanded employment opportunities for lawyers throughout the nation and facilitating multi-state law practices." However, the portability of these scores would be limited by time and by each individual state's admission requirements. Further, there is no benefit to those students in New York law schools who wish to remain and practice in New York. The only apparent benefit inures to those who wish to take their New York law degree and UBE to another jurisdiction. Most law students in our region remain and practice in this State. Thus, only a minority of New York law students may benefit from portability.

Currently, only 14 other states accept the UBE. New York law students who wish to take the license elsewhere will have limited opportunities, reducing the effectiveness of the "portability" argument. None of the other large jurisdictions have adopted the UBE, including California, Washington, D.C., Texas, Illinois and Florida.

Perhaps the benefit of the UBE would inure to lawyers seeking to port their license into New York, thereby allowing more lawyers to cross state lines into New York. Many of these lawyers would be otherwise unable to practice in New York State due to their lack of knowledge of New York law. Lawyers already admitted in New York will therefore compete with lawyers whose knowledge of New York law falls below the minimum standards required of attorneys who took and passed the present New York bar exam.

Mobility in the legal profession may be a benefit in certain instances. Currently, many states allow lawyers licensed in a foreign jurisdiction to "waive in" only after a certain number of years in practice. Once a lawyer has gained experience in his/her jurisdiction, he/she can quickly and easily get up to speed on the nuances of the law or procedural differences in the jurisdiction to which he/she seeks to gain admission. Less seasoned practitioners are required to learn the basics prior to admission to another jurisdiction. Accordingly, most states do not allow portability of a license, but instead require an applicant to take a state-specific exam to ensure they are qualified to practice in that jurisdiction and can

effectively represent clients. Eliminating this requirement for admission is detrimental to both lawyers and clients.

Law Students and the Rush to Adopt the UBE

The Suffolk County Bar Association is fortunate that law students from Touro and other law schools are members of the bar association. They would be severely and negatively impacted if they were required to take the UBE in the summer of 2015. Current third year law students, who have already been preparing for the New York State Bar Exam in its current or previous format, may be required to expend additional time and expense to effectuate the change and prepare for the UBE, with its focus on general or federal legal principles and lack of emphasis on New York Law.

Our student members are legitimately concerned whether the course selections they have made were, in light of the surprise announcement, wise. They have increased anxiety over their ability to succeed on the bar examination if the UBE is so unnecessarily rapidly implemented.

What is the Purpose of the New York State Bar Exam?

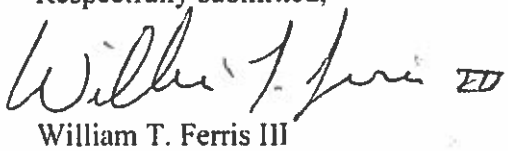
Lying at the heart of the issues is a fundamental question: What does the State of New York expect its bar exam to test in candidates for admission to practice? Is it a minimum standard of knowledge of New York Law? Is it the ability for a candidate to apply legal reason? Is it the ability for a candidate to understand legal principles? The content of the examination should reflect the purpose of the examination. Merely adopting another state's bar examination fails to satisfy a necessary analysis of the purpose for the New York State bar exam.

Conclusion

We agree with the New York State Bar Association that the adoption of the UBE should be delayed pending further study. That study should review the purpose for New York State to require a bar examination and the goals for which such an examination should strive.

For the above reasons, the Suffolk County Bar Association opposes adoption of the UBE.

Respectfully submitted,



William T. Ferris III
President

PUERTO RICAN BAR ASSOCIATION

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November 6, 2014

BY CERTIFIED MAIL DELIVERY

Honorable Chief Judge Lippman
New York State Office of Court Administration
25 Beaver Street
)New York, NY 10004

Re: Objection to Proposed Uniform Bar Exam

Dear Chief Judge Lippman:

On behalf of the Puerto Rican Bar Association of New York ("PRBA"), we respectfully request that implementation of the proposed Uniform Bar Exam be postponed for the following reasons:

1. No notice given to the PRBA and other minority bar associations in New York;
2. No adequate notice given to the profession, bar associations, and academia;
3. No due process;
4. No testing on the reliability and validity of the test;
5. Lack of information; and
6. Potential disparate effect on diverse members of affected population.

In the spirit of resolving our concerns, we ask that you schedule a meeting with the PRBA and the Unified Latino Bar Associations within the next two weeks. In the interim, should have any questions or comments, kindly contact the undersigned.

Respectfully submitted,

Carlos Perez Hall
President
[redacted]

Respectfully submitted,

Betty Lugo
President-Elect
[redacted]

RESOLUTION BY THE PUERTO RICAN BAR ASSOCIATION REGARDING THE UNIFORM BAR EXAMINATION

WHEREAS, on October 6, 2014, the New York State Court of Appeals (hereinafter referred to as the "Court of Appeals") issued a "Request for Comment" concerning a proposal to replace the current New York State bar examination (hereinafter referred to as NYSBE") with a "Uniform Bar Examination" (hereinafter referred to as "UBE");

WHEREAS, the change of the current NYSBE was introduced by the New York State Board of Law Examiners ("Board of Law Examiners");

WHEREAS, the Board of Law Examiners proposed to administer the UBE for the July 2015 NYSBE less than ten months from the date the Court of Appeals issued a Request for Comment;

WHEREAS, the deadline for request for comment set by the Court of Appeals is November 7, 2014;

WHEREAS, the Puerto Rican Bar Association reviewed the New York State Bar Association written peripheral review of the proposal, the use of the Uniform Bar Examination in other states, and the possible benefits of the Uniform Bar Examination; and

WHEREAS, the Puerto Rican Bar Association joins the New York State Bar Association and its Committee on Legal Education and Admission to the Bar in concluding that the Board of Law Examiners proposal should provide fair and reasonable time to study and discuss the effect associated with an unprecedented transformation of the NYSBE;

WHEREAS, the Puerto Rican Bar Association approves and recommends a postponement on the UBE proposed implementation in New York until July 2017 or until an extensive review and study is provided in the form of a report is provided to those individuals and groups to be affected by the change with statistical data as to disparate effect on bar pass rates, expenses, and costs can be determined and concluded;

WHEREAS, NOW THEREFORE, IT IS

RESOLVED, that the Puerto Rican Bar Association join and adopt the report and recommendations by the New York State Bar Association and its Committee on Legal Education and Admission to the Bar; and it is further

RESOLVED, that the Puerto Rican Bar Association may act to collect data and hold a hearing toward generating a report in order to submit accurate substantive recommendations and comments to the Court of Appeals as that of the Puerto Rican Bar Association comments in accordance with the Request for Comment issued by the Court of Appeals.

RESOLVED, that the Puerto Rican Bar Association will collaborate with the other Minority and Diverse

[redacted]

From: Ozelle Martin <[redacted]
Sent: Friday, November 07, 2014 3:01 PM
To: Uniform Bar
Subject: Comment Regarding UBE

Dear Ms. Bosse,

I write in favor of New York adopting the Uniform Bar Examination. I am currently a third year law student at the University of Maryland School of Law and I fully intend to sit the New York State Bar Exam in July 2015. However, I always held the belief that there should be a widely adopted national bar exam that would promote mobility in the legal profession.

New York's adoption of the UBE will be monumental and I firmly believe that it will encourage other states to look closely at the UBE as an appropriate test. Personally, I am also interested in being eligible to practice law in California and Florida and while, neither of these jurisdictions have adopted the UBE, I think that New York's adoption would ignite change.

I look forward to seeing New York make this game-changing move which will greatly advance the legal field.

Sincerely,

Ozelle Martin, M.Sc
Juris Doctor Candidate, 2015
Director of Communications, Student Law & Media Association
University of Maryland, Francis King Carey School of Law

John Gardiner Pieper
[redacted]

November 7, 2014

The Honorable Jonathan Lippman
Chief Judge of the State of New York
20 Eagle Street
Albany, New York 12207

Via Email to UniformBarExam@nycourts.gov

Dear Judge Lippman,

As countless members of the New York State Bar will attest, taking the bar exam in New York is an experience one never forgets. We take great pride in the fact that we prepared for, survived, and ultimately conquered the most comprehensive and difficult bar exam in the country. The exam challenged us to pull together everything learned in law school and reconcile it with some of New York's peculiarities, and it served as an inevitable and essential part of our transition from student to practitioner. Receiving the passing notice and seeing our names listed in the New York Law Journal was a rite of passage culminating in our inclusion in the roll of New York attorneys and admission into the most recognized and respected Bar in the world.

If New York were to adopt the UBE, 100% of the New York State Bar Exam would be based on "generally accepted fundamental legal principles." New York law and procedure no longer would be tested. The New York Board of Law Examiners (BOLE) would no longer draft any portion of the exam, and, instead, New York would cede control to the National Conference of Bar Examiners and share a standardized exam with fourteen other states, namely Alabama, Alaska, Arizona, Colorado, Idaho, Minnesota, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Utah, Washington, and Wyoming. A candidate sitting for the UBE, whether in New York or one of the fourteen UBE states, would not need to have even heard of the BCL, CPL, CPLR, DRL, EPTL, or GOL to earn a passing score toward admission in New York.

Stripping the New York State Bar Exam of its local component would do a disservice to newly admitted attorneys, including the foreign-trained attorneys who now account for nearly one-third of bar exam applications in New York and for whom bar exam preparation often is their first opportunity to learn New York law. These new lawyers have more than enough to learn and navigate in the first years of practice in New York without the specter of entering the profession

without the benefit of having just studied the New York law and procedure that we as a Bar were not just encouraged, but required to know for admission. No matter how concentrated, experienced, and specialized an attorney eventually may become, he or she should have a base knowledge of certain core subjects available and at the ready along the way. The New York BOLE has labeled this "minimum competency."

The proposed New York Law Exam (NYLE) is hardly a substitute for a true local bar exam component. The one-hour NYLE, like the MPRE (though half as long as), can be taken again and again within three years of a passing UBE score until one finally achieves a score of 30 correct out of 50 basic multiple choice questions like "what is the statute of limitations for a negligence claim in New York: (A) 1 year, (B) 2 years, (C) 3 years, or (D) 6 years?" With neither fact patterns to decipher nor analyses to be applied, it is more akin to a barebones quiz of memorized rules similar in style to those on the written portion of the New York State driver's license test. New York has never tested New York law and procedure separately, let alone as a one-hour add on. Even when a candidate has as recently as six months earlier sat for and successfully taken the MBE in another jurisdiction, New York has required that bar exam candidates to sit for the six hour MBE again in conjunction with the six hour and fifteen minute New York day.

It is not clear how New York would benefit from abandoning the current New York State Bar Exam. The stated goal of "portability" is elusive, in that "portability" in the context of the UBE is not pure. What is clear is that "portability" does not mean that passing in one jurisdiction automatically qualifies one to forever gain admission to or practice in other member jurisdictions. For example, cut scores, determined by the jurisdiction, range from 260-280 out of a potential 400. In addition, the ability to transport a UBE score to another participating state expires depending on the rules of each jurisdiction. Moreover, the UBE states often, as Your Honor proposes with the NYLE, impose additional testing, continuing legal education courses, and other impediments to portability. All impose UBE transfer fees ranging from $400-$1,240. Finally, no current UBE jurisdiction is nearly as attractive from a legal standpoint as New York, and, geographically, only two UBE jurisdictions, New Hampshire and Alabama, are east of the Mississippi River.

As for who would benefit from this "portability," it does not appear to be members or aspiring members of the New York State Bar. Even if closer and larger states follow New York's lead, there cannot be a significant number of candidates taking the New York State Bar Exam with the hope and desire to practice in another state. Didn't we and won't future candidates take the New York State Bar Exam because we and they want to practice in the legal capital of the world? As stated by Susan M. Case, Ph.D., as Director of Testing for the National Conference of Bar Examiners, in the February 2010 issue of The Bar Examiner, "The Uniform Bar Examination: What's in It for Me?":

"An examinee who takes the bar exam in a jurisdiction, works exclusively in that jurisdiction, and never moves from that jurisdiction probably will not realize a particular benefit from the UBE." So who benefits? "[T]he transportability of the UBE score is a significant advantage to an examinee who fails to get the job he or she intends and has to move to another jurisdiction to find work, or one who ends up working for a firm that has clients in multiple jurisdictions." *Id.* What is the "significant advantage" to newly admitted New York attorneys in their being able to leave New York, where they wish to practice and more legal positions exist than in any other city in the country, in their first few years in search of legal employment elsewhere?

Also, how many New York attorneys actively practice in multiple jurisdictions, even when they are admitted in more than one? For those truly interested in multi-jurisdictional practice, other avenues currently exist. For example, one could simply take the bar exam of another jurisdiction to be admitted in that jurisdiction, which, regardless of whether the UBE is adopted, is precisely what will continue to be required of a current member of the New York Bar. Alternatively, one could simultaneously sit for the bar exam in New Jersey or Massachusetts while taking the New York State Bar Exam. Reciprocity also exists between New York and many states by which seasoned lawyers may waive into New York from those states, and vice versa, and avoid altogether taking another bar exam. If the need for multi-jurisdictional practice is greater than I perceive, perhaps these avenues could be widened without change to the more traditional and worn path to licensure.

Finally, what is the rush to replace our tried and true exam with the new UBE? The proposal was announced on October 7, 2014, with few details and a single month window for comment. Even the minor change of removing UCC-3 Negotiable Instruments for the July 2014 Exam and replacing it with Administrative Law for the February 2015 exam came with one year and eighteen month warnings, respectively, from the New York BOLE; the National Conference of Bar Examiners provided two years' notice prior to its introduction of a single new subject, Federal Rules of Civil Procedure, into the MBE for the February 2015 exam. New York took years to analyze the disparate impact of a change of a few points in the cut score, but now appears ready to jump, in nine months, into the fledgling UBE without any study. *See Impact of the Increase in the Passing Score of the New York Bar Examination, Report Prepared for the New York Board of Law Examiners, October 4, 2006.*

The current New York State Bar Exam has served us well. It and I are old friends, and I think it would be a mistake to let it go. My strong belief is that if my fellow members of the New York Bar knew more about and had time to reflect upon the UBE proposal, they would feel the same way.

Respectfully,

John Gardiner Pieper

NEW YORK
CITY BAR

Comments on NYS Board of Law Examiners Proposal Regarding Uniform Bar Examination

November 6, 2014

The New York City Bar Association appreciates the opportunity to submit comments on the recommendation of the New York State Board of Law Examiners that the current New York bar examination be replaced with the Uniform Bar Examination (UBE). State-by-state bar examinations significantly limit lawyer mobility at a time when the practice of law is increasingly national and global. The Association hopes that adoption of the UBE by New York will spur the use of this examination nationwide.

Another positive benefit of the UBE is that it will test more practical skills than the current bar exam. This bar association has long urged that the bar examination better test the skills lawyers actually use in their practice, and shift away from the current focus on memory-based testing. Additional skills testing also will better align the bar examination with its basic purpose, which is to protect consumers by seeking to ensure the quality of lawyers admitted to practice in the state.

We agree with the Board of Law Examiners that the bar examination should continue to have a New York component. We should expect lawyers admitted in New York to have a grounding in New York law. Establishing additional testing dates for the New York examination, as proposed by the Board, will reduce the burden on bar applicants and provide more flexibility.

One issue about which this bar association continues to be concerned is how the bar examination may disparately impact racial and ethnic minorities. We have raised this concern many times over the years with regard to the New York State bar exam. We do not now know whether the proposed new regime of the UBE with a New York law component will lessen or enhance such an impact. We are concerned, however, that a continued focus on standardized testing, to the exclusion of other mechanisms for demonstrating a high level of competency, may continue to disparately impact candidates of color without enhancing the quality of those who are licensed to practice law in the jurisdiction. If others have undertaken studies that examine the bar results of other UBE states for disparate impact, we ask that the Board of Law Examiners make these studies available. If not, we encourage the Board to undertake such a study to determine whether such a disparity exists and to publish the results of that analysis. At a minimum, we urge the Board to monitor the New York results under the proposed regime in the future to determine whether a disparity occurs. In an increasingly pluralistic society, especially where the practicing bar remains disproportionately white, we should seek to have a licensing process that, while setting a reasonably high standard for admittance, does nothing to impede the diversity of the legal profession.

Finally, some have suggested that implementation of the UBE in New York should be delayed pending further study. Our view on the timing of implementation of the UBE in New York is nuanced. This bar association firmly believes that adoption of the UBE is an important reform that should not be unnecessarily delayed. At the same time, we recognize that

implementation in July 2015 may upset the settled expectations of current third-year law students, especially those for whom the bar examination is an especially high barrier, and for whom the Association has particular concern. Accordingly, we respectfully request that the Board of Law Examiners and the Court consider delaying implementation until 2016. This delay also will allow time to resolve other issues that may arise.

[redacted]

From: Robert Merrihew [redacted]
Sent: Friday, November 07, 2014 12:47 PM
To: Uniform Bar
Subject: No to the UBE

I wish to strenuously voice my opposition to New York adopting the UBE. New York, and particularly its legal practitioners, have a long history of "going their own way" and making law that is often contrary to our sister states. Many of these laws become models for other jurisdictions. These legal distinctions are part of what makes New York, and the practice of the law, unique. To dilute the rigor of the test that is actually a preparatory tool for future practice in our great state is a myoptic treatment for a non-existent ailment.

No more than a cursory glance at the neighborhood inhabitants of UBE land should give New York's Court of Appeals great pause before deciding to advance down this path.

Thank you,
Robert Merrihew,

This email, any links contained therein, and any files transmitted therewith are intended solely for the use of the individual or entity to which they are originally addressed. If you have received this email in error please notify the Southampton Town Department of Information Technology at 631-702-1980. Please note that any views or opinions presented in this email are solely those of the author and do not necessarily represent those of the Town of Southampton. Any recipient should check this email, any links contained therein and any files transmitted herewith for the presence of viruses, malware or any other code that may compromise your computer system integrity. The Town of Southampton, its employees, agents and assigns accept no liability for any damage caused as a result of the transmittal of this e-mail.

[redacted]

From: Natalie-Raphael [redacted]
Sent: Friday, November 07, 2014 1:39 PM
To: Uniform Bar
Subject: UBE Implementation

I am an part time evening student who will be taking the Bar exam in July 2014; I am sending this email asking that if the UBE has to be implemented in NY that it be phased in a few years. It's not fair that such a radical change would be implemented with such lightning speed; also I hope the Bar Examiners really consider the impact that this will have on the NY job market. Also if it's a uniform exam why does each state have a different passage requirement? I really hope all the comments being posted are taken into consideration before a final decision is made.

CARDOZO LAW

BENJAMIN N. CARDOZO SCHOOL OF LAW • YESHIVA UNIVERSITY

MATTHEW DILLER
Dean
Professor of Law

212 790.0310
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November 7, 2014

Ms. Diane Bosse
Chair
New York State Board of Law Examiners
Corporate Plaza Building 3
254 Washington Avenue Extension
Albany, New York 12203-5195

Dear Ms. Bosse,

I write to express my support for the proposal to adopt the Uniform Bar Exam in New York along with a one-hour examination in New York Law. The proposal places New York in the vanguard of states adopting more practical licensing standards that reflect changes in the profession and the practice of law that have taken place over the past twenty years.

The proposal would vastly expand the portability of bar examination results enabling new lawyers to obtain licenses in a number of jurisdictions and providing greatly enhanced flexibility in selecting jurisdictions in which to obtain licenses. In our society, new lawyers are much more mobile. This mobility often stems from the demands of employers and the need to accommodate the careers of spouses and partners. It also reflects the fact that the job market is tight and new lawyers often need to follow the jobs in order to launch their careers. New lawyers would benefit greatly from being able to choose where to live and establish careers without the added burden of having to repeat the full bar examination with each move.

Of course, there is specific knowledge that is important to the practice of law in New York. The proposal addresses this concern by creating a one-hour, 50-question New York Law Exam. I believe this approach can address the need to test knowledge of New York law, especially if it has a heavy emphasis on structural issues that are distinctive to law practice in New York, such as understanding the New York court system and the rules of practice in New York courts.

The approach set forth in the proposal reflects the way that most law schools have chosen to educate lawyers. We teach law with a strong emphasis on understanding core subject areas that are essential to training well rounded lawyers. We do not emphasis doctrinal specifics of the law of any particular state. Thus, in studying tort law, our students learn the basic structure of tort law, the principles that underpin it, how the law has evolved over time and the basic values and policy concerns that animate debates over tort law and shape doctrine. We prepare students with an understanding that the specifics of tort law will change over time and will vary from state to state. We seek to give them a foundation that will enable them to adapt to change over time and to learn and grow throughout their years in practice. The proposal would better match the bar exam to the education that students have received, by testing general principles and doctrinal approaches to the major subjects rather than memorization of specific points of New York law that will inevitably change over time. Further, the proposal would expand the time allotted to testing practice skills which would also bring the exam more closely in line with the goals of legal education.

The proposal also would permit graduates who fail the New York law test to retake that portion of the exam without retaking the entire UBE. This is a huge step forward for our students, as it preserves the goals of a rigorous bar exam without putting students through the hardship of retaking portions of the exam that they have already mastered.

I am aware that some have urged further study prior to adoption of the UBE. Further study is always helpful, but the UBE has been around for a number of years. The New York Law Exam would be new and therefore less predictable, but under the new system, it could be retaken without delaying admission to the bar. To be on the safe side, I would urge that the Board of Law Examiners give itself some leeway to adjust the passing score on both the UBE and the New York Law Exam if, after the first administration, it determines that the new system has led to a notable decrease in the pass rate for unforeseen reasons.

Finally, I note that I have discussed the proposal with leaders of student groups at Cardozo. Indeed, you met with a number of our students when you made a presentation on the proposal at our school in October. The students were generally supportive of the proposal, both because of the portability of the exam result and the opportunity to retake the New York Law Exam without taking the multistate portions again. I did not hear concerns about implementation of the proposal this coming summer, as students do not believe that the transition substantially affects their decisions about which courses to take. I realize that not all schools may be alike in this respect, but wanted to pass on to you the sense I have received from students at Cardozo.

Thank you for the opportunity to comment on this thoughtful and potentially ground breaking proposal.

With warm regards,

Matthew Diller

The City University of New York

CUNY SCHOOL OF LAW

Law in the Service of Human Needs

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November 7, 2014

Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Re: Comment on Proposed Change to Uniform Bar Exam

Dear Ms. Bosse:

This letter is submitted on behalf of the undersigned law professors of the City University of New York (CUNY) School of Law in response to the proposal to adopt the Uniform Bar Exam (UBE) effective with the July 2015 administration of the exam. The faculty listed below include members of the law school's Race & Privilege Committee, the Directors of the CUNY Law Center for Latino/a Rights and Equality and Center for Diversity in the Legal Profession.

First, as a matter of fair notice, we strongly urge the New York State Board of Law Examiners to extend the comment period regarding the UBE proposal and the Court of Appeals to delay the implementation of the UBE should the proposal move forward. The short, thirty-day comment period is insufficient to permit thoughtful stakeholder input about this significant change in the bar exam. Moreover, the proposal to implement the UBE with the July 2015 administration of the exam raises significant issues of notice and fairness, particularly with regard to current law students. We have full confidence in the ability of our students to be excellent lawyers and we want to be sure that they have adequate notice of the form and content of the New York bar exam.

The New York State Court of Appeals and the New York State Board of Law Examiners should delay implementation of the UBE until a thorough assessment is completed addressing (1) whether the UBE will exacerbate existing score disparities, worsening the disparate negative impact of the bar exam on racial and ethnic minorities and lower income people; and (2) whether the hoped for portability gains of the UBE outweigh interests in ensuring that lawyers licensed in New York have a solid foundation in New York law, particularly as it relates to greater legal protections for vulnerable persons, and that the test is effective.

NGV/ngv

New York State has long struggled with disparate bar pass rates and their impact on the diversity, inclusiveness, and fairness of the legal profession. For example, a 2006 study[1] conducted in connection with New York's proposal to raise the bar exam cut score revealed a disproportionate racial impact significant enough to advise against implementing an increased cut score. A 2002 joint New York City and New York State Bar Report[2] and an earlier LSAC longitudinal study contained similar findings of disparate impact.[3] Before implementing the UBE, New York has a responsibility to study its impact on people of color and those underrepresented in the legal profession. We have been told that the introduction of the UBE has resulted in declines in pass rates. Indeed, it is our understanding that the adoption of the UBE coincided with a significant decline in pass rates in a majority of the states currently using the UBE. New York must study closely the impacts in those jurisdictions before deciding whether to adopt the UBE.

We appreciate the interest in increased portability of bar exam results that is driving the implementation of the UBE. However, significant questions exist about the actual portability of the exam, given limits that apply. In addition, an assessment is needed of how the perceived portability benefits of UBE compare with its costs in terms of coverage of New York law and the requirement of multiple, more costly and problematic test components. Notwithstanding the benefits of portability, there seems a likelihood that a significant proportion (if not the majority) of New York bar test takers will remain in New York. If that is the case, it is important that aspects of New York state law that differ from federal law and the laws of other states remain an important focus of law study and preparation for law practice. This is particularly true for aspects of New York law and practice that provide greater protection for vulnerable individuals and groups. The change from five New York law based essay questions to six single content essay questions testing law of general applicability along with 50 New York based multiple choice questions raises significant questions about the coverage of New York law.[4] Moreover, under the proposed change, a law graduate could gain admission to the New York only after passing an hour-long fifty question multiple choice test with a score of 30 or more. If the bar exam is a high-stakes test, this hour-long exam appears to raise the stakes even higher. A student might pass the UBE and MBE and yet admission to the New York bar would turn on the ability to find time and resources to study for yet another exam and to answer multiple choice questions at the rate of 50 per hour (over two times faster than required under the MBE). Thus, in addition

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[1] Michael Kane, Andrew Mroch, Douglas Ripkey & Susan Case, Nat'l Conference of Bar Exam'rs, Impact of the Increase in the Passing Score on the New York Bar Examination at 5-6 (2006) *available at* http://www.nybarexam.org/ncberep.pdf (report prepared for the New York Board of Law Examiners)

[2] Committees on Legal Educ. & Admission to the Bar of the Ass'n of the Bar of the City of N.Y. & The N.Y. State Bar Ass'n, Public Service Alternative Bar Exam at 4 (June 14, 2002) *available at* http://www.nysba.org/WorkArea/DownloadAsset.aspx?id=26667

[3] Linda F. Wightman, LSAC National Longitudinal Bar Passage Study at viii (1998) *available at* http://www.unc.edu/edp/pdf/NLBPS.pdf

[4] The rapid introduction of the New York multiple choice section also raises questions about its efficacy. As noted by the New York State Bar Association's Committee on Legal Education and Admission to the Bar, the multiple choice questions that would appear on the New York Law Test proposed for July 2015 administration have not been pre-tested and there are no sample questions or information about the new questions, which will disadvantage law students taking the exam. *See* New York State Bar Ass'n, Committee on Legal Education and Admission to the Bar, Report of New York Board of Law Examiners (BOLE) Change in New York to the Uniform Bar Exam at 7, *available at* http://taxprof.typepad.com/files/leab-report-10-29-2014-2.pdf

to studying the disparate impact of the UBE on bar pass rates, it is necessary to study the potential impact of the separate New York component on bar pass rates.

Again, we urge the Board and the Court of Appeals to delay implementation of the UBE until a thorough study of its impacts on diversity and access to the profession, on bar pass rates, and on preparedness to practice New York law is conducted and assessed.

Respectfully submitted,

Professor Natalie Gomez-Velez

Professor Pamela Edwards

Professor Donna H. Lee

Professor Sofia Yakren

Professor K. Babe Howell

Professor Andrea McArdle

Professor Julie Lim

Professor Beryl Blaustone

Professor Sarah Lamdan

Professor Degna P. Levister

Professor Shirley Lung

Professor Alex Berrio Matamoros

Professor Deborah Zalesne

Professor Joseph Rosenberg

From: Dzheyn-Yakubova <[redacted]
Sent: Friday, November 07, 2014 5:07 PM
To: Uniform Bar
Subject: Re: My opinion about the UBE

Hello,

I'm currently a JD candidate, studying law in Touro Law School. When I first heard about a Uniform Bar Exam being implemented in New York State, I felt a very high level of devastation. Why am I describing my feeling as devastation? Well because applying for law school, my interests to practice law was only in New York State. I did not even consider the other states because I've lived in NYC for my entire life. I would want to be able to pass the bar in NY because my future plans are expected in NY, but with the new changes for the bar exam, I am terrified that those dreams will be destroyed. It should not be considered fair that new JD candidates have to face a foreign and different set of difficulties that the old JD candidates did not face. My strongest fear is that I would not know how to PREPARE for this UBE, since there isn't a precedent to refer to. I want to feel equal amongst the lawyers already practicing in New York. There is a HIGH chance that if JD candidates take a UBE, they would not have the strongest knowledge about the law for a SPECIFIC state. I understand that New York would give a test of its own, but that does not provide the strongest background in New York State's law, as does the original New York bar exam. New York has it's own principles, and knowing the specifics of the law in my own state is what intrigued me to pursue law in New York State in the first place. There is a huge sense of honor that arises for the JD candidate when he/she passes the difficult New York State Bar Exam. Please consider my opinion as a JD candidate.

Thank you,
Dzheyn Yakubova

[redacted]

From: Marianne Artusio [redacted]
Sent: Friday, November 07, 2014 5:30 PM
To: Uniform Bar
Subject: Proposal to adopt the UBE for the July 2015 examination

Dear New York State Board of Law Examiners and the NY Courts:
I am writing to express my concern that New York may precipitously adopt the Uniform Bar Exam without adequate study and preparation. Adopting the UBE for the July 2015 administration of the exam could cause unintended problems and I believe that any change should be delayed until there is sufficient opportunity for further study. Law students planning on taking the New York Bar exam next July have already planned a course of study and made preparations expecting the exam to be in the same format as previous tests. It seems unwise to change the structure and method of testing on such short notice. Even if the exam tests the same subjects, law graduates need adequate time to become familiar with the test format. As proposed, the essay questions and the New York multiple choice questions will be quite different from previous New York tests. Moreover, further study is needed to ensure that the UBE does not have an adverse effect on minority applicants. We must be certain that the testing procedures do not have adverse consequences for needed diversity in our profession. As I understand the current proposal, the New York short answers have not yet been written, much less evaluated or validated or assessed for an effect on diversity. Since this new format has not been evaluated for these adverse impacts, a delay is required until these has been a careful assessment. While I understand that there is great appeal in a "portable" exam score , the UBE score does not seem particularly portable, given the range of passing scores, the varying time limits adopted by different states and the inclusion of a state-specific exam. As the UBE does not promise much benefit for portability and has no other significant benefit that I can discern, I urge you to reconsider adopting the UBE for next July. Thank you for your attention to these comments.

Marianne Artusio

Marianne Artusio
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November 7, 2014

Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Re: Comment on Proposed Change to Uniform Bar Exam

Dear Ms. Bosse:

Thank you for the opportunity to comment on the proposal to replace the New York bar exam with the Uniform Bar Exam ("UBE").

The main benefits of replacing the NY Bar Exam with the UBE appear to be portability and the testing of a smaller number of subject matter topics.

The problems with adopting the UBE in NY for July 2015 include requiring 2015 graduates to take a test for which they have not prepared in law school, limited time to study or assess the impact of the UBE on racial and ethnic minorities, and the increase in the passing percentage required for the NY multiple choice questions.

My comment will focus on the impact of the bar exam on the law school curriculum, the limits of the bar exam in assessing the core skills a lawyer needs, and the impact of the UBE on the BOLE's effort to integrate access to justice topics on the NY part of the bar exam.

I recommend that the BOLE explore alternatives to either the current NY bar or the UBE, including bar exam "credit" for students who complete clinics or supervised externships that are part of the law school curriculum, allowing students to take parts of the bar exam throughout law school (rather than a single high stakes exam), and developing a pilot project to develop a public interest practice path to bar admission, similar to the Daniel Webster Scholars program at the University of New Hampshire Law School.

<u>Forces of Change in Law Schools</u>

We are familiar with the forces of change that are challenging law schools to examine their curriculum:

•The need to prepare students for practice in a rapidly changing profession and economy. Law schools have many excellent courses, clinics, externships, and hybrids that help students develop the knowledge, skills, and professional values that lawyers need, regardless of the setting in which they ultimately practice.

•The Great Recession and the collapse of the job market for lawyers, which although improving, remains difficult at best.

•The severe Access to Justice gap: Chief Judge Jonathan Lippman has been singularly effective in bringing attention to, and raising awareness of, the need for lawyers to represent the poor and middle class in matters relating to the essentials of life. Jim Silkenat, the President of the ABA, speaks eloquently about the "great disconnect"—a surplus of law graduates and lawyers relative to the job market, and the escalating unmet legal needs of people who are poor or middle class, a large percentage of whom do not have access to lawyers or the courts.

•Plummeting student enrollment in many, if not most, law schools and escalating student debt. It is not unusual to hear about substantial drops in enrollment over the past few years with accompanying budget cuts and layoffs of personnel. The amount of student debt has skyrocketed, with most law schools remaining very expensive.

<u>The Bar Exam: A Missing Link in Legal Education Reform</u>

Many have worked diligently and thoughtfully, but largely unsuccessfully, on reforming the bar exam—in NY, there has been no shortage of committees, task forces, commissions, reports, studies, and proposals over the past 20 plus years, some of which have called for bar exam reform, including some sort of alternative public interest practice path to admission within the law school curriculum. This was one of the recommendations of the NYSBA Committee on Legal Education and Admission to the Bar in 2010, a proposal endorsed in other state and city bar reports. This alternative path to admission would help bridge the access to justice gap by allowing students to qualify for admission while preparing to practice and representing clients in need of legal services under supervision of law school faculty and practitioners, with some level of independent assessment under the auspices of the BOLE. This process would assure that law graduates will be admitted to practice only if they demonstrate a similar level of competence that is currently required for the bar exam.

During the past year, we have seen the following developments in NY:

•The Pro Bono Scholars Program, which allows participating students to take the bar exam in February, followed by a full time practice immersion during their last semester.

•An effort by the BOLE to include Access to Justice topics on the NY portion of the bar exam.

•The proposal to replace the NY bar exam with the UBE, except for 50 NY multiple choice questions.

Yet these developments do little to address the problematic impact of the bar exam on the law school curriculum and law students, which include:

•An emphasis on speededness.

•A focus on a broad number of subject matters rather than the practical knowledge and skills needed to be a lawyer;

•The use of multiple choice questions for more than one-half of the exam;

•The negative impact the standardized bar exam appears to have on diversity in our profession.

•The absence of Access to Justice issues and fact patterns.

•The financial toll of the bar exam on students who spend thousands of dollars on bar preparation courses and about 500 hours over 10 weeks after law school studying for the bar exam.

Despite these problems, I am not advocating eliminating the standardized bar exam as a licensing test to determine who is qualified to be admitted to the bar—that is not realistic or practical.

I am advocating that we acknowledge the impact of the bar exam on the law school curriculum, undertake efforts to reform the nature of the test, and explore alternatives that can be developed as an alternative to the standardized bar exam, including a practice path to bar admission within the law school curriculum in partnership with the practicing bar, BOLE, and the judiciary.

The bar exam looms large at most law schools and has a substantial impact on the law school curriculum in ways that diminish the role of practical training and minimize the development of a professional responsibility ethic to serve the public interest. The bar exam is a major assessment tool that drives curricular design and choices toward subject matter knowledge and away from experiential learning, practical skills, and the development of professional identity and values.

At the University of New Hampshire Law School, the Daniel Webster Scholars Program provides an alternative practice path to bar admission. It is a successful model that connects assessment to curriculum with the goal of preparing students for practice. Students take a two year developmental sequence of courses, participate in multiple practice activities, including simulations, externships, and clinics, and create a portfolio that demonstrates their competence to practice and be admitted to the bar. Their portfolio is assessed periodically by bar examiners.

The Daniel Webster Scholars program is a model of how a law school can collaborate with the practicing bar, the judiciary, and state bar examiners to create an alternative path to bar admission that gives students the opportunity to demonstrate basic competency in the knowledge, skills, and professional values necessary to be a lawyer. Although New Hampshire is very different than New York, this model can be adapted and developed by New York law schools in ways that are tailored to each law school's particular identity and needs.

Access to Justice: an Impetus for Reform

The Access to Justice gap is also a powerful impetus for reform.

In New York, in the wake of the Great Recession, literally millions of people cannot afford or gain access to lawyers or the courts. The problem is equally dire throughout the country.

The BOLE effort to integrate access to justice topics on the NY bar exam now appears that it may be limited to the 50 NY multiple choice questions if the Uniform Bar Exam is adopted.

The goal of BOLE's Access to Justice initiative was to raise awareness of the justice gap and the vast unmet legal needs of the poor and middle class. The hope was that including these issues on the bar exam will encourage law schools to address them more systematically and spark in students a heightened sense of public service as a core value of our profession.

A New York Social Justice Practice Alternative to the Bar Exam

All of these forces—the Access to Justice gap, the need to prepare students for practice, the mandate to increase the value of law school, and the impact of the bar exam on the curriculum—create what Martin Luther King called, in a much more important context at the 1963 March on Washington, the "fierce urgency of now."

The time is right to develop and implement innovative curricular pathways to bar admission, perhaps modeled on the Daniel Webster Scholars program at the University of New Hampshire Law School.

New York law schools could offer a sequence of courses, practicums, externships, and clinics unified around one or more themes or principles: for example, a focus on public interest and social justice, particular areas of practice, the realities of sustaining a solo or small firm practice, or hybrid combinations.

Students would have an opportunity to develop the level of knowledge, skills, and values required of new attorneys admitted to the bar. Law schools would be given a powerful incentive to shape their curriculum in ways that are designed to prepare students for practice and promote access and justice, with measurable outcomes and benchmarks. Students could create a portfolio of their work that, together with a minimum grade point average in all law school courses, demonstrates their progress in achieving benchmarks that would constitute the competence in skills, knowledge, and professional values that are equivalent to passing a standardized bar exam.

Thank you for considering these comments.

Respectfully,

Joseph Rosenberg

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Bar Admissions: New York & New Jersey

November 7, 2014

UniformBarExam@nycourts.gov
Ms. Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, New York 12203-5195

RE: Proposal to replace the current bar examination with the Uniform Bar Examination

Dear Ms. Bosse:

Thank you for this opportunity to comment on the above proposal. I write to request that (a) the time to comment be extended; and (b) the implementation of the proposed replacement be delayed pending substantive review and with sufficient time to introduce the new exam so as to avoid prejudice to current law students for the following reasons:

1. Lack of notice. Too few members of bench and bar were apprised of this proposal. Such an important decision should only be made after due consideration and analysis by the legal profession and academe. This concern is heightened by the fact that the State Bar Association committee on Legal Education and Admission to the Bar was not given direct notice, hampering its ability to consider the proposal and that minority bar associations were not given any notice.
2. Lack of time to respond. The importance of this decision for future generations of lawyers is far too important for commenters to be rushed. Sufficient time to investigate the UBE and New York's proposal must be provided as the consequences of such a decision demand our utmost thoughtfulness and clarity of data. A brief 30 day comment period does this important proposal a disservice.
3. Disparate Impact. The pass rate for minorities, particularly Latinos, is far below that of others. The impact of a change to the UBE must be investigated and addressed in light of this.
4. Discriminatory Impact on examinees with disabilities. As you know, equal access to the New York State Bar Exam for examinees with disabilities has been a long standing concern. Examinees with disabilities must be given access to the bar exam that best ensures that such examinees will be tested on their knowledge of the law and not on the impacts of their disabilities. Pursuant to 28 C.F.R. § 36.309(b)(1)(i), a testing entity is obligated to administer its test so as to best ensure that, when such exam is administered to an individual with a disability the results accurately reflect the individual's aptitude or achievement level or whatever other factor the examination purports to measure, rather than reflecting the individual's impaired sensory, manual, or speaking skills (except where those skills are the factors that the LSAT purports to measure). See also, Bartlett v New York State Board of Law Examiners. The best

way to ensure that New York administers a bar exam that is accessible to all examinees is to develop the exam according to principles of universal design.

5. Lack of information as to the validity of the UBE. It is important that bench, bar and academe understand that validity and reliability are different constructs and that the UBE has not been validated. In other words, does the UBE test what it purports to test? No such data exist. If this data does exist, it should be made readily available to the public.
6. It is not clear that the UBE is a better product than the current exam. To illustrate, over two decades ago, the BOLE commissioned an in-depth study of the NY Bar exam by Jason Millman, Ph.D., the report of which study was issued in 1993. Millman found that the New York Multiple Choice section of the bar exam was invalid, having sought to achieve rigor by overemphasizing minutiae presented in arcane language, so that most examinees answered approximately 55% of the items incorrectly. Millman recommended that the BOLE do away with that section entirely. The BOLE did not follow that recommendation and retained the section. The BOLE now seeks to replace that section with a new multiple choice section, but has not indicated that any test items have yet been developed, or validated or standardized.
7. Inadequate rationale for the proposal. It appears that portability is the overarching goal of the BOLE in its proposal to replace the current bar exam with the UBE. Among the concerns with the proposal is that portability will be restricted by time and jurisdiction and it is unclear how that would practically differ from improving reciprocity between New York and other states.
8. Impact on current law students who have conformed their course of study and their bar preparation to the current test.

I therefore agree with the recommendations made by the New York State Bar Association to extend the comment period and delay implementation of this proposal pending additional substantive review.

Very truly yours,

Jo Anne Simon
Jo Anne Simon

[redacted]

From: Neysa Alsina <[redacted]
Sent: Friday, November 07, 2014 5:08 PM
To: Uniform Bar
Subject: Comments Concerning the Uniform Bar Exam

Ms. Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203

Dear Ms. Bosse:

We have been approached to provide our perspectives on Chief Judge Lippman's proposed adoption of the Uniform Bar Exam ("UBE") in New York. There simply is a lack of information concerning the negative impact this may have on our existing 3Ls who have been educated to take a different bar exam than the one being proposed. In addition, we believe that a study to determine whether moving to the UBE will affect certain discrete populations taking the bar exam should also be considered prior to its implementation.

Moreover, the mobility that the UBE encourages may or may not be detrimental to those educated in New York searching for job placement here in this State. Will the adoption be better for graduates here in New York? We do not know whether this has been examined. Therefore, we join those who call for Chief Judge Lippman to delay making this decision until the impact of adopting the UBE is fully vetted. We do this because there appears to be enough of a concern by our constituents to warrant further examination.

Thank you,

Neysa Alsina, Regional President
Hispanic National Bar Association

Long Island Hispanic Bar Association

Dominican Bar Association

[redacted]

From: [redacted]
Sent: Friday, November 07, 2014 7:26 PM
To: Uniform Bar
Cc: damian@pieperbar.com
Subject: Please do not adopt the UBE in NY

Ladies and Gentlemen:
I am writing to echo Mr. Pieper's opinion stated in his New York Law Journal article of November 5th, 2014.
I strongly oppose the adoption of the UBE in New York.
Yours sincerely,
Jill F. Sohmer, Esq.

This message is for information purposes only, it is not a recommendation, advice, offer or solicitation to buy or sell a product or service nor an official confirmation of any transaction. It is directed at persons who are professionals and is not intended for retail customer use. Intended for recipient only. This message is subject to the terms at: www.barclays.com/emaildisclaimer.

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November 7, 2014

Diane Bosse, Chair
New York State Board of Law Examiners
Corporate Plaza, Building 3
254 Washington Avenue Extension
Albany, NY 12203-5195

Dear Ms. Bosse:

Thank you for the invitation to comment on the proposal to adopt the Uniform Bar Examination in New York. ***We are writing to let you know that NALP is in favor of the adoption of the Uniform Bar Examination in New York.***

NALP is an association of over 2,500 legal career professionals who advise law students, lawyers, law offices, and law schools in North America and beyond. Our members include the law school career services professionals at all of the ABA-accredited law schools in the US, and legal recruiters and lawyer professional development professionals from major legal employers throughout North America.

Our members have a strong interest in increasing the mobility of our law students and lawyers in pursuing job opportunities and reducing the costs (in terms of resources and time) often associated with their relocating to another state. The requirement in many states that law students register to take bar examinations well in advance of their graduation means that most law students have to choose the jurisdiction(s) in which they will practice well before they know where they will be employed. Often when law students graduate in May they do not have employment lined up, and by the time that bar exam rolls around in July, that applicant may have secured employment, but not in the state in which they are testing. Without the option of the UBE, they must wait until the following February to take another exam. Typically nearly half of all graduates who are employed nine months after graduation do not find jobs until after graduation, well after they had

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registered for the bar exam, and, as the data below describe, a quarter or more of the class do not find jobs until after they take the bar exam itself.

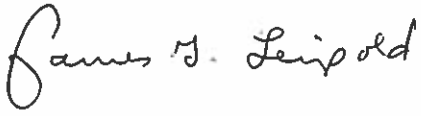
Class	Job offer obtained after graduation	Job offer obtained after bar examination
2011	47.0%	25.9%
2012	47.6%	26.3%
2013	46.3%	25.5%

The need to register for a particular jurisdiction's bar exam, and even in some cases sit for the bar exam, before employment has been obtained has always added a layer of complexity and uncertainty to the career search process for law school graduates. With the reversals in the legal employment market faced by law graduates since the economic downturn in the third quarter of 2008, those uncertainties have become even more pronounced. We believe the adoption of the Uniform Bar Examination in New York and other jurisdictions will allow law graduates to more readily pursue opportunities in a variety of jurisdictions and it would reduce the opportunity costs involved in sitting for multiple bar examinations over time.

For these reasons we are hopeful that the New York Court of Appeals will follow the recommendation made by the New York State Board of Law Examiners to adopt the Uniform Bar Examination. If NALP can provide any additional information about the entry-level employment market for new law school graduates, please do not hesitate to contact us directly.

Yours very sincerely,

Terry J. Galligan
President



James G. Leipold
Executive Director

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Karina E. Alomar, Esq.

November 7, 2014

By Certified Mail Delivery
Return Receipt Requested

Honorable Chief Judge Lippman
New York State Office of Court Administration
25 Beaver Street
New York, NY 10004

Re: Objection to Proposed Uniform Bar Exam

Dear Chief Judge Lippman

On behalf of the Latino Lawyers Association of Queens County (LLAQC), we respectfully request that he implementation of the proposed Uniform Bar Exam be postponed for the following reasons:

1. No adequate notice was given to the profession, bar associations, and academia.

2. There was no disparate impact analysis of both the UBE and the New York Law Exam for minority test takers, similar to the study undertaken when New York raised its bar pass rate.

3. There have been no New York state-specific studies about the impact of the adoption of both the Uniform Bar Exam and the New York Law Exam on applicants.

4. The New York Board of Law Examiners has not issued a report discussing all aspects of the Uniform Bar Exam as it relates to New York.

In the spirit of resolving our concerns, we ask that you schedule a meeting with the LLAQC , the PRBA and the Coalition of Latino Bar Associations within the next two weeks. In the interim, should you have any questions or comments, kindly contact the undersigned.

Respectfully submitted,

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