

PRESIDENT'S MESSAGE

Restructuring the Nevada Bar Examination: Making Our Process Fit Our Practice

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Regardless of the type of lawyers we are (experienced vs. recently barred? public lawyer vs. private firm? urban center vs. rural practice?), we can all agree on one thing: the bar examination can be an ordeal – intellectually, emotionally, and often financially, as well.

As new licensees, we tend to think: “I wouldn’t wish that on my worst enemy ...” Then, as the years pass, the sentiment evolves into: “Well, I went through it, so the applicants coming up today can too!” It’s funny that when you’ve practiced for a while, the bar exam starts to seem more like a fraternity or sorority hazing event than it does the professional competency exam it was always intended to be.

Perception issues aside, the concept is simple.

As a self-regulating profession, lawyers owe it to the public (as consumers of legal services) and ourselves (as attorneys who care about standards of practice) to ensure that everyone who calls

themselves a licensed Nevada attorney demonstrates certain levels of knowledge, proficiency, and intellectual rigor. Carrying this concept into practice, however, is much more complex than it sounds.

Over the decades and throughout the nation, the concept of a bar examination has evolved into a patchwork quilt of approaches and ideas, which include multiple-choice items, essays, practical performance tests, or in the case of Nevada, a combination of all three. Add to that, certain states have their own state-specific material that they test in a variety of ways. Here in Nevada, we are fortunate to have had the wisdom and diligence of our Board of Bar Examiners (in tandem with the state bar’s Admissions Department) to coordinate, organize, draft, and grade our state’s exam, and do so fairly and consistently.

During the past few years, a national discussion has begun to explore the reasoning behind how and why bar examinations are constructed as they are. Participants ask: are they appropriate predictors of success, once passed? Specifically, themes and questions are emerging from this discussion, including:

1. Bar examinations have historically centered on the “closed book” memory of

test takers. Yet, given the information age in which we find ourselves, must we all remember every rule, statute, and precedent we need to represent our clients successfully? Or, should test takers merely need to analyze issues, formulate appropriate questions, and know where to find the answers?

2. In addition, past bar examinations focused on the academic concepts of legal education with little to no emphasis on practical skills (though testing instruments such as the Nevada Performance Test (NPT) represent a significant effort to reverse that trend.) But if we want to be certain that a new admittee is truly ready for the demands of practice and able to represent clients appropriately on day one, shouldn’t we give some thought to the practical application of legal knowledge, in addition to the knowledge itself?
3. Typically, bar examinations are administered at the conclusion of one’s law school education and exist separately from what students are required to know in order to obtain their law degree. After graduation, test takers inevitably scramble to re-learn (or often learn for the first time) the subjects to be tested on the bar exam. As an example, I never took the secured transactions class in law school, yet found myself learning it for the very first time on my own, in preparation for our bar exam. However, would it not make more sense to integrate assessments and testing of attorneys into the three-year

law school experience, so that law students' learning periods are synchronized with bar exam testing for later licensure?

These thoughts and others have led to an ongoing effort to restructure Nevada's bar examination. As some may know, the National Conference of Bar Examiners (NCBE) is eliminating the Multistate Bar Examination in 2028 and intends to replace it with their newest testing product, the NextGen Bar Examination. However, in order to enable a new testing process that addresses some of the issues raised above and more closely suits Nevada's needs, the Board of Bar Examiners supports an approach known as the "Nevada Comprehensive Licensing Examination" (also known as the "Nevada Plan").

On December 19, 2024, the Nevada Supreme Court issued its "Interim Order Regarding Joint Report Dated April 1, 2024 to the Nevada Supreme Court From the Foundational Subject Requirement and Performance Test Implementation Task Force and the Supervised Practice Task Force" in ADKT 0594. Within the order, the Nevada Supreme Court expressed support for the Nevada Plan in unanimous fashion and charged the various stakeholders on this issue to confer with the State Bar of Nevada to provide a roadmap for implementation of the Nevada Plan on or before April 1, 2025.

Simply put, Nevada's judiciary and other bar leaders are committed to a successful rollout of the Nevada Plan and to its commencement at an appropriate moment in the near future. Thus, when it comes to changes to the Nevada Bar Examination, the future is now.

So, what does the Nevada Plan consist of, and what advantages does it offer?

- **An emphasis on practical skills:** The Nevada Plan will include performance-based assessments and supervised practice experience to ensure that candidates are not only knowledgeable but can apply this knowledge in practical settings.
- **A series of well-placed assessments:** The Nevada Plan will include a multi-stepped approach offering benefits for applicants and a more flexible and manageable path to licensure. This change is intended to accommodate various learning styles, life circumstances, and diverse applicants. For example, any law student at an ABA-accredited law school wishing to practice in Nevada would be able to complete two-thirds of their licensing requirements before graduating, making Nevada attractive for top law students across the country.
- **More thoughtful timing for applicants and graduates:** Because the Nevada Performance Test, administered shortly after law school

graduation (in January and June), will test legal skills and not memorization, it removes the need for two intensive months of study and the expense of a commercial bar review course. This timing will also allow law graduates to start working a few months sooner than the current bar exam or even the NextGen Bar exam.

- **A focus on Nevada's unique needs:** By adopting the Nevada Plan, Nevada will continue to forge its own path in determining the competencies required for legal practice in our state. As has always been the case, this will allow Nevada to tailor its bar exam to the specific needs of its legal community and to evolve its licensure process accordingly.

My point in discussing these potential changes is to let each of you know that the process of revamping the Nevada Bar Examination is underway and also provide you with the background and broad strokes of the Nevada Plan. A new future for our profession is close at hand, and it is exciting to see where things are headed!

