

# Nevada Bar Exam, the Way Forward

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**On March 9, 2022, the Nevada Supreme Court issued an order establishing a “Commission To Study the Administration of the Bar Examination and Licensing of Attorneys.”**

The commission is comprised of luminaries such as Justice Lidia Stiglich; Ann Morgan, president, State Bar of Nevada and Fennemore partner; Ryan Works, former member of the State Bar of Nevada’s Board of Governors and McDonald Carano partner; Dean Erwin Chemerinsky, Berkeley Law; Dean David Faigman, Hastings Law; Professor John White, former dean of the William S. Boyd School of Law; Professor Joan Howarth, Boyd School of Law and former dean of the Michigan State University College of Law; and I have been asked to serve as the commission’s chair.

This is a unique opportunity to study attorney licensing in Nevada and to make recommendations to the Nevada Supreme Court. During the pandemic, Nevada was a leader in quickly adopting a remote, open-book exam for three of the last four bar exams.<sup>1</sup> We were able to do this because of a forward-looking court, state bar Board of Governors, and Board of Bar Examiners. As a state that does not rely on the National Conference of Bar Examiners for our essay exams or our performance tests, this change was a relatively easy adjustment, although it required a significant amount of time and effort from the Board of Bar Examiners.

Due to the national conference’s limitations on remote testing due to security concerns for using their MBE, Nevada decided to abandon this portion of the exam and was able to offer the bar exam with minimum delay. The Board of Bar Examiners created its own Nevada Practice Tests (instead of using the MPTs) and strengthened its testing and grading protocols to adapt to a remote, open-book environment. The data we gathered from these three remote exams caused us to reexamine the attorney licensing process. This information, together with the initial results from the Nevada Bar Exam Study<sup>2</sup> on the correlation of the MBE to the Schultz-Zedeck factors for lawyer competency, led the court to establish the commission.

A few states and the national conference are studying attorney licensing and the bar exam process. These states include California, Oregon, Utah, and New York, to mention a few. We are uniquely situated in Nevada to study and implement changes to the bar exam since we are one of nine states writing and grading our own bar exams. Our initiation of the Bar Exam Study was likewise forward-looking. The Nevada Board of Bar Examiners has long studied ways to improve testing of minimum competence for applicants to practice in our state. The data we have generated from the last four bar exams, three of which were remote essay-only exams, together with the initial results from the Bar Exam Study caused us to reexamine the relationship between the test and minimal competence to practice law, which protects Nevada consumers.

The purpose of any attorney licensing exam is and must be to test an applicant’s knowledge, analytical abilities, and writing skills. The Board of Bar Examiners is of the opinion that this is best done through written responses, not multiple-choice questions. The MBE certainly tests legal knowledge, but does so artificially, without testing key competencies such as writing skills, something every attorney agrees is necessary to the practice.

We ask all members of the Nevada bar to share your thoughts, whatever they may be, on the best way to test minimum competence, be it through exams, supervised practice requirements, diploma privilege, successful completion of certain law school subjects, or anything else. We have this opportunity to improve the licensing process, and our court has given us the mechanism to do this. Your input is important. Please send any thoughts to [barcommission@nvbar.org](mailto:barcommission@nvbar.org).

## ENDNOTES:

1. [https://www.nvbar.org/wp-content/uploads/NevadaLawyer\\_Nevada-Bar-Exam-Study.pdf](https://www.nvbar.org/wp-content/uploads/NevadaLawyer_Nevada-Bar-Exam-Study.pdf) and [https://www.nvbar.org/wp-content/uploads/NevadaLawyer\\_Aug2021\\_Nevada-Bar-Study\\_Participants.pdf](https://www.nvbar.org/wp-content/uploads/NevadaLawyer_Aug2021_Nevada-Bar-Study_Participants.pdf)
2. [https://www.nvbar.org/wp-content/uploads/NevadaLawyer\\_Aug2021\\_Nevada-Bar-Study\\_Participants.pdf](https://www.nvbar.org/wp-content/uploads/NevadaLawyer_Aug2021_Nevada-Bar-Study_Participants.pdf)

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