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LETTER FROM THE CHAIR

It is an honor to serve as Chair of the Board of Trustees of the National Conference of Bar Examiners. Over nearly a decade, I have attended many functions and meetings with the volunteers and staff of the Conference, as well as with other administrators, judges, and board members from the jurisdictions. The bar admissions community is like an extended family—far-flung, but with a common bond. Thanks to all of you for your dedication to bar admissions.

One of the exciting projects on the Conference drawing board is the prospect of a Uniform Bar Examination for all U.S. jurisdictions. The UBE has been proposed as an examination composed of three or more tests, possibly including the Multistate Bar Examination, the Multistate Essay Examination, and the Multistate Performance Test, and is being studied by a special 11-member NCBE committee whose members reflect the breadth of views of jurisdictions, the law schools, and the bench. The UBE promises to be a testing tool that addresses minimum core competence and offers high psychometric quality, while leaving to each jurisdiction the setting of cut scores. Decisions on character and fitness, of course, would not be affected, and would also remain with the jurisdictions along with decisions on other criteria for admission. Thinking about the benefits of quality in high-stakes test development reminded me of my first bar examination experience.

I took my first, and only, bar examination in Colorado in July 1973. It consisted of the Multistate Bar Examination and a series of essay questions. I remember an essay question that asked about rights to coal, or was it a mineral? Whatever the subject, it was one for which three years at Columbia Law School and six weeks at the BAR/BRI course had not prepared me adequately. Or even slightly. I had no clue what the examiner might have been seeking in terms of an answer to that question. After the exam, I compared notes on the test experience with several friends, including one who had been a law review editor at a highly ranked law school. No one had known what

to write. One candidate offered some blather about equity not countenancing whatever miscarriage of justice was posed in the question.

When the results were announced, I had passed, despite a swing and a total whiff on that one question. Relieved, I did not think again about the bar exam until years later when I was appointed to the Colorado Supreme Court's Board of Law Examiners, the committee responsible for administering the bar examination and preparing the essay questions for the examination.

The July 1973 administration of the bar examination in Colorado had a 92 percent pass rate. At the time, there was a rumor that this unusually high rate occurred after one of the essay questions had been discarded in the grading because so few examinees had been able to answer it satisfactorily. After I became a member of the Colorado Supreme Court's Board of Law Examiners, I regularly reviewed the passage rates for the Colorado bar exam, and compared the historical results. July 1973 remains the high-water mark for bar passage in Colorado in the available statistics.

The examinees of the summer of 1973 were not a bumper crop of geniuses; if the rumor had any truth, they had been the beneficiaries of flawed examination development. Colorado's essay questions at the time were usually written and almost always edited by members of the BLE. It was a cottage industry production system similar to those in place in a number of jurisdictions today. This kind of system can often produce satisfactory examinations; occasionally, it produces a clinker.



Today, after 10 years on the Colorado Board and 9 years on the Board of Trustees of the National Conference, watching the careful process of developing, editing, and pre-testing of examination questions, I know that an essay question about an obscure topic that tested so poorly could not survive this process and would never appear on a Conference examination.

Colorado has continued the same system of writing and editing essays for the Colorado bar for 35 years with reassuringly consistent passing scores in each administration. This year, the Colorado Board has recommended to the Colorado Supreme Court that it adopt the Multistate Essay Examination as a part of the Colorado Bar Examination, along with the Multistate Bar Examination and the Multistate Performance Test. I hope that our supreme court will act favorably on that recommendation. Adopting the MEE should free the Colorado Board from the burden of producing, on a home-grown basis, psychometrically valid essay questions that test well, and should better serve the ultimate purpose of fairly testing minimum competence. And the next time Colorado sees a 92 percent pass rate, it will be because it tested a truly exceptional group of new lawyers. 🍷

Best regards to all.

Sincerely,

A handwritten signature in dark ink that reads "Frederick Y. Yu". The signature is written in a cursive style with a large, stylized "Y" and "U".

Frederick Y. Yu