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LETTER FROM THE CHAIR

In my final letter as Chair, I would like to thank everyone who, through his or her work in bar examination and admissions, has contributed to the work of the National Conference and to the continual renewal of our profession. If you are a bar administrator or bar examiner; if you attended or spoke at one of the Conference's educational programs or grading sessions; if you drafted, edited, or graded a question; if you served on one of the Conference's committees; or if you read THE BAR EXAMINER regularly, thank you for the gift of your time, talent, and interest to the important work of bar admissions.

Special thanks go to Erica Moeser and the excellent staff of the National Conference. Each of you brings creativity, superb organizational skill, and unflagging energy to every task, and exemplifies the personal warmth of the Conference.

Finally, I thank my fellow members of the Board of Trustees of the National Conference. You are a diverse and talented group with whom I have been privileged to serve and from whom I have learned much.

Serving on the National Conference Board and, before that, on the Colorado Board of Law Examiners has prompted me to think a bit about how bar examinations and admissions have progressed, and where we may be going. From a distance, the bar examination has a reassuring, seasonal cosmic rhythm, like a comet seen in the summer and winter sky twice a year and then swinging out of sight and out of mind. But seen close up, the bar examination is a dynamic institution, subject to continual reevaluation of how new lawyers are licensed, what qualities they should have, and how to measure those qualities. As with any worthwhile effort, the field of bar admissions strives for improvement. For example, the Conference and the jurisdictions have embraced the use of technology to ease the administration of the exam and related admissions services. The number of applicants taking exams on laptops continues to rise; the availability of online practice exams and other materials and services helps to lower the cost of preparation and improve access for applicants.

Another change that is poised to benefit jurisdictions and applicants is the adoption of a Uniform Bar Examination (UBE). It will bring score portability,

will facilitate broader use of consistent measurement tools, and should lower the annual cost of administering examinations. I am optimistic that the UBE will debut in 2010.

Looking beyond a UBE, I wonder whether we will one day discard the traditional essay questions as a time-consuming and inefficient way to measure the analytical skills and knowledge we believe new lawyers should have. It may be hard at first to imagine bar examinations without such questions. Essay questions are used to determine whether applicants can demonstrate knowledge of specific legal subjects by identifying legal issues and analyzing those issues clearly and concisely. However, good essay questions (i.e., questions that distinguish applicants sufficiently) can be a challenge to write consistently; they are time-consuming and expensive to grade; and ideally they are also scaled to the MBE, because the MBE is a valid exercise in distinguishing those who are more knowledgeable from those who are less so. The Multistate Essay Examination has solid essay products, but would bar examining test legal knowledge more efficiently and easily if we had an expanded MBE? If essay questions do not measure different knowledge from the MBE, then why, other than tradition, do we continue to use them? If the answers are not graded for the quality of written expression, then essay questions are not measuring legal writing skill, either. The examinations for lawyers are coming to resemble increasingly the national examinations that physicians must take to secure their licenses. If physicians can be tested adequately on a broad variety of subjects using multiple-choice questions, why not lawyers?

I think it is always a worthwhile exercise to return to the core question of what a new lawyer should know about the law in this country in order to receive a



license to practice law. There will always be a number of legal professional skills that cannot be measured practically in the scope of a bar exam or even a more extensive bar admissions process—for example, the ability to communicate capably, both orally and in writing, and the ability to counsel a client effectively and practically. These elements would likely be time-consuming and expensive to examine and measure. But as the profession changes, we may find that what we are doing currently is not enough.

The MBE measures analytical skills and the grasp of fundamental legal concepts reliably and efficiently. These skills and this knowledge will continue to be the stock-in-trade for every practicing lawyer, regardless of area or type of practice; they are the foundation without which a lawyer cannot demonstrate other skills or competencies. The MPT measures the ability of the applicant to read case materials and distinguish pertinent facts, to understand and apply legal principles and analysis to facts, and to demonstrate advocacy or legal writing skills.

Will we develop other examination tools to measure other relevant skills? I think that bar examining will continue to evolve, even after the UBE is officially launched and becomes accepted widely. Stay tuned.

Thanks for reading my musings this year. 📖

Best regards to all.

Sincerely,

A handwritten signature in black ink that reads "Frederick Y. Yu". The signature is written in a cursive, slightly slanted style.

Frederick Y. Yu