

PRESIDENT'S PAGE

by Erica Moeser

For some time I have tried to think of a way to modify the lawyer licensing process to accelerate new graduates into practice more quickly and efficiently than we presently do. At the moment there are some convergences that may point the way to a solution that key constituencies—the courts and their bar admission agencies, as well as legal educators—can embrace with some enthusiasm.



My proposal? Let's revisit the matter of allowing students to sit for the bar examination during their final semester of law school. For most law students, this would mean taking the test during the February of their third year. This is not a new idea; in fact, one state abandoned such an arrangement as recently as a decade ago. Times change, though, and now there may be cause for courts and bar examining boards to view earlier administration of licensing examinations more favorably.

Consider the following:

The current timing of the bar examination and the release of exam results delays entry into the profession.

The bar examination as a rite of passage encountered by law school graduates at the end of July had merit when graduations occurred in mid-June. Over time, graduation dates have migrated earlier—in some cases, much earlier—and the delay between graduation and the bar exam stretches beyond what is necessary to prepare for a licensing test. In addition,

rising applicant numbers now lengthen the period between the bar exam and the release of pass/fail results to many months in some jurisdictions.

Student debt and career searches during tough economic times support a change.

A change to the timing of the bar examination would place students in the position of becoming productive as lawyers much more quickly. Presumably most students would be ready for licensure close on the heels of their law school graduations. (The matter of dealing with the student who fails to graduate could be handled in a number of ways in accordance with the jurisdiction's choice. For the candidate who does not earn a J.D. on schedule, the admissions agency could embargo the examination results for a time or could invalidate them.) A student's career path would be smoother if prospective employers could anticipate immediate availability following law school graduation without the delay occasioned by preparing for the bar examination and awaiting results before new hires are qualified to practice. This would be especially helpful in periods of economic uncertainty such as the current malaise.

The student who is unsuccessful on his or her first bar examination would be able to retest in July.

Given the data that suggest that chances of success on subsequent bar examinations are greatest with the first retaking, the opportunity to sit for the examination a second time so soon after graduation would place the test-taker closer in time to his or her academic

experience. Further, for those law students who take the bar examination in a jurisdiction with low enough numbers to release results quickly, the possibility would exist for the law school to be of some assistance in preparing the unsuccessful first-time taker for a second attempt while still enrolled.

Law schools could benefit by refashioning the third year to accommodate a last-semester bar examination.

Given the rising cost of law school tuition, concern about hiring and loan-default rates, and the oft-expressed reservations about the value of the third year of law school, law schools could formulate a terminal year that would be more meaningful to students in terms of preparing them to enter the legal profession. Changes to the curriculum of law schools that reimagine their third year would create an advantage for graduates of those law schools by sending them into the profession better prepared as lawyers and arriving on a better timetable.

A changing law school curriculum could support the idea of administering the bar exam earlier.

The Carnegie Report and other educational influences, such as the various initiatives to prepare law graduates to be more practice-ready, are already affecting law school content in the third year. In addition, the American Bar Association's *Standards for Approval of Law Schools* now permit accredited law schools to offer bar preparation courses as part of the curriculum and to require those courses for graduation.

If the third year of law school actually moves toward more emphasis on providing a law practicum, and if law schools also incorporate synthesizing courses designed to reinforce earlier learning in preparation for the bar examination, it seems reasonable that administering the bar examination during a

student's last semester could be workable. Conceivably students would undertake their bar preparation work during the fall semester of their third year and then use what would amount to an intersession to complete their examination preparation. They would then sit for the February examination and conclude their studies between the bar exam and graduation with skills courses, externships, intensive writing courses, law office management and professionalism instruction, or specialty subject content. This configuration would contribute something valuable to the third—often maligned—year of law school.

The concept of a uniform bar examination (UBE) is compatible with bar exam administration during the final semester of law school.

The UBE, once adopted, will move law graduates more quickly to licensure in jurisdictions that accept UBE scores. A student who achieves an acceptable score on the UBE administered in February will emerge from law school with considerably more options for selecting the jurisdiction in which he or she wishes to find employment than under the current system.

Of course, all decisions about when candidates are eligible to test lie within each jurisdiction, so a lot will depend on the evaluation of the pluses and minuses of accelerating the bar examination by bar examining boards and their courts. It will also be important to gauge the enthusiasm of legal educators for moving their graduates into the profession on a faster track, as the content and scheduling of the current third year at some law schools may not accommodate an earlier bar examination.

At the very least, I hope that this proposal provides grist for a conversation among deans, justices, and boards. Perhaps something beneficial and innovative will emerge from those discussions. 🍷