

# PRESIDENT'S PAGE

by Erica Moeser

**I**t is almost impossible to grasp that by the time this column appears I will have completed 15 years with the National Conference of Bar Examiners. It's been a lot of fun, and I find that I am still very enthusiastic about the opportunity to be part of this organization. The reason? I have had a chance to work with some talented and amazing people—staff and volunteers, both within the NCBE structure and affiliated with other entities concerned with educating lawyers. And I have been able to work on some very interesting developments in professional licensing.

There are several initiatives that are on the move these days. Some are on the front burner, others are nudged to the back, but they are all bubbling. First and foremost, the Uniform Bar Examination seems poised to move forward. At the moment it appears that between 6 and 10 jurisdictions are interested in moving to the UBE over the next two years, with a number of others indicating a desire to be in the forefront of the second wave. Another jurisdiction has already indicated that it will accept UBE scores whether or not it becomes a UBE jurisdiction. I have been reluctant to identify the early entrants because the processes in many jurisdictions are incomplete; in my view, it would not be fair to characterize a jurisdiction as a UBE jurisdiction until the ink has dried on the last rule change.

The enthusiasm for the UBE is certainly not limited to bar examiners. Members of state supreme



courts and deans of law schools have already voiced support and encouragement to a heartening degree, and some members of the practicing bar who are grappling with the realities of mobility of new law graduates and multijurisdictional practice are climbing aboard as the possibility and promise of the UBE becomes better known.

At least one jurisdiction has committed to developing a continuing legal education model to address the legitimate concern that the UBE will not allow for testing on state-specific subject matter. This approach will standardize what every practitioner should know before representing clients in that jurisdiction. As NCBE has announced previously, we are interested in funding pilot projects in jurisdictions that wish to teach and/or test on state law through educational efforts, such as the one noted above, or through a testing module that will stand as an adjunct to the UBE. The development of either mechanism will require some keen minds to come together to identify and define the aspects of state law that are essential for new lawyers to know, and we are prepared to support those early investigations in order to guide the paths of other jurisdictions that follow with their own CLE or testing alternatives.

One pattern that may be emerging is the spread of the UBE via regional participation. There are little "outbreaks" of support for the UBE involving adjacent states that are creating opportunities for

jurisdictions that have previously searched for ways to work cooperatively in bar admissions to take an important step forward. This may be the way that the UBE grows in acceptance, as regions are created and expanded until they eventually touch one another.

In early November NCBE will host a gathering of the jurisdictions that have signaled the greatest readiness to move ahead. These pioneers will help shape the test in the early stages of its development. I have been asked if it will matter if only a few jurisdictions enlist at first. I view any adoptions of the UBE as significant to the test takers who will avoid additional (and, in my view, often unnecessary) retesting, and to the profession that is responding to the challenges of the changes to law and law practice that are inevitable in the 21st century.

The fact that each jurisdiction will be able to retain all prerogatives as to screening for character and fitness, and will be able to establish the passing score that it will accept, leaves intact the powerful and critical role that bar examiners play in meaningful consumer protection.

We are moving more slowly with regard to establishing a clearinghouse that will collect and disseminate non-name-specific pass/fail information to law schools. This effort, inspired by the need for prospective law school attendees to have the bar passage rates of individual law schools available in an apples-and-apples format, has not been quick to achieve traction, even though many would concede that having a central collection point—as NCBE has offered to be—would streamline the current state-by-state and school-by-school collection process.

As followers of NCBE test development already know, we have been investigating the issue of

whether to incorporate testing for research skills into new or existing examinations, and we have surveyed to determine if Civil Procedure should be considered as an addition to the Multistate Bar Examination. Both ideas have received broad-based positive responses. At this point we are taking an even longer view of our overall testing program as it will be shaped in the future. We are in a better position to do that, having moved all aspects of test development in-house over the last few years. We now have a staff of testing and legal professionals who are up to the task of taking our testing program forward. Rather than overtax our capabilities, we have paused on legal research and Civil Procedure—to which we are otherwise committed—in order to button down the important transition to in-house test development as well as support of our ongoing research and consulting service commitments to the jurisdictions.

As this column is written, we are adjusting to life without a beloved figure at NCBE. As readers of the May issue learned, Mike Kane, our remarkable Director of Research, moved eastward at summer's end to accept the honor of a special position at Educational Testing Service. Mike is so engaging and modest that many who know him through NCBE remain unaware that he is a giant in his own measurement profession. We were lucky to have him grace us for as long as he did, and we wish him all the best as he tackles testing research and policy from a different platform. 📖