

PRESIDENT'S PAGE

by Erica Moeser

Well, the chaps and spurs have been put away now that our Annual Conference in Austin has come and gone. Our visit to Texas was a rewarding one. Almost every state in the nation sent representatives, and the almost 300 attendees—including 27 Supreme Court justices from as many jurisdictions—faithfully took part in the many sessions from which to choose.

This year sessions were designated to fall into one of six categories—Testing, Technology, Legal Education, Globalization, ADA, and Character and Fitness—and that variety bespeaks the breadth of knowledge for which today's bar examiners are responsible in staying on top of the issues. The program offered a mix of the traditional, nuts-and-bolts content that is essential for anyone carrying out the craft of bar examining, but it stretched well beyond the confines of the tried and true.

It was striking to me that as our attendees chose one of four breakout sessions in each of three time slots, attendance was fairly evenly distributed among the programming choices.

Today's bar examiners realize to the greatest degree I have ever observed that there are connections to outside influences that are pulling and tugging at the legal profession. Several years ago I do not believe we would have had large crowds in attendance to learn how law schools are trying to change the way in which they prepare students for entry into the profession. Nor would I have



expected the same amount of recognition that globalization of the practice of law is testing the structures under which we qualify lawyers for admission to American courts.

A capacity crowd attended a session on the impending changes to the approach that the American Bar Association is expected to take with regard to accrediting law schools, and members of the audience seemed to recognize that they are stakeholders in shaping the expectations of what law schools should accomplish over the course of three expensive years of postgraduate professional preparation.

This year the appetite for information about the content of the Americans with Disabilities Act, as amended in 2008, and the approaches that should be taken in determining appropriate accommodations, was undiminished. The wait for completion of the rule-making process from both the EEOC and the Department of Justice has heightened speculation about how the regulations that emerge will affect the work that is undertaken in the testing community.

One of the more intriguing sessions posed questions about the extent to which post-admission conduct by lawyers (of the sort that would generate lawyer discipline) relates back to signs of trouble at the pre-admission character and fitness screening stage. Surprisingly little research has been done in the area. There are, of course, several filters that operate between the two processes. Lawyer discipline requires that someone recognize a problem and

generate a complaint. It was therefore illuminating to hear from one speaker whose experience lies in professional liability claims, as this provided yet another window from which to consider the relationship of pre-admission conduct to the types of things that land lawyers in hot water later.

Several years ago many eyes in the audience would have glazed over when the “T” word—that being Technology—was uttered at a bar admission conference. This is no longer the case. Tools of increasing sophistication are being developed to help track applications and to communicate with applicants. Technology is expensive, voraciously so, and exchanging ideas about how to harness it effectively allows those later arrivals to the party to learn from the mistakes of the earlier experimenters.

Test security dominated several sessions. There was a time when talk of technological cheating methodologies roused suspicions that the speakers also thought that aliens could speak to them through the aluminum foil in their kitchens. Those days are long gone. Cell phone and PDA access significantly threatens test integrity, and bar examiners are grasping the need to deal harshly and decisively with offenders.

Some of the cheating discussed in Austin was of the garden-variety copying type. A prevailing view seemed to be that the graduates of this generation are emerging with more tolerance for cheating and plagiarizing than those from earlier generations. Whether this more casual approach to honesty in writing and testing is a function of reality or perception is a question that went unanswered.

Elsewhere in this issue Susan Case, NCBE’s Director of Testing, has summarized her comments concerning best practices in testing. This initial plenary session in Austin featuring Susan’s top-10 list placed emphasis squarely on devising sound pro-

cesses whereby bar examiners separate the passers from the failers. That is—and remains—at the heart of what bar examiners try to do well.

What struck me about the totality of the Austin program were two things: the acknowledged need for finesse and capability in carrying out the tasks of licensing lawyers, and the need to see change coming and to prepare for it, understanding that some change is good, some bad, some avoidable, and some inevitable.

For those who look to this column for news about the Uniform Bar Examination, there are two items to report. First, the Missouri Supreme Court has made that state the first official UBE jurisdiction with the authorization of rule changes that will permit Missouri to participate. Congratulations, Missouri, for leading the way.

In June NCBE will convene a meeting of representatives from seven states in the Northeast to describe and discuss the UBE. A number of those states have already engaged in cross-border conversations over the past two decades, and the UBE may represent a logical step on a path already trodden there.

Finally, I wish to offer warm congratulations to Bedford Bentley, Jr., the recently retired Secretary of the Maryland State Board of Bar Examiners. Bedford, a soft-spoken person of impeccable integrity, has been a valuable participant at the national level for many years. He deserves to be a proud grandfather—at least that is what I believe his newest career to involve!

And I cannot complete this column without saying a parting word about Mark Dows, the Executive Director of the Pennsylvania Board of Law Examiners, whose untimely death earlier this year extinguished the promising career of a creative force in bar admissions. We mourn his loss. 📖