

PRESIDENT'S PAGE

by Erica Moeser

Imagine that lawyers are drawn to news stories about the practice of law (I am!), and so it is likely that bar examiners are aware of the criticisms, some quite harsh, that are being directed these days at legal education, the accreditation of law schools, the job placement performance of law schools, and other such subjects. The troubled economy has been a catalyst for heightened attention to these issues, some of which touch—or will ultimately touch—bar examiners.

The expansion of the number of law schools operating in the United States, coupled with a gloomy hiring picture that has affected several years' worth of graduating classes, has created a frustrated cohort of new lawyers unable to secure work as professionals. Some of those who are not being absorbed into firms, and those who have found work in firms that are unwilling to invest much in training, believe that their law schools failed them when it came to providing practice experiences that would have prepared them to actually work as lawyers. As reported in the press, there has been an outbreak of litigation against certain law schools by students who wish to affix the blame for their predicaments on the law schools.

Student debt is spiraling. A change in the timing of when interest on student debt begins to accrue has heightened what was already a tension between when law graduates are eligible to begin practice as



lawyers and when repayment deferments end. Legal education is an expensive undertaking, and some writers are questioning whether the objectives of particular law schools (attracting eminent scholars or focusing on faculty scholarship, for example) are driving costs in ways that are tangential to the preparation of new practitioners.

Law school deans live and die on law school rankings, and this appears to drive policy decisions at some law schools. This is unhealthy, when even a fine-grained shift in what folks here at NCBE refer to as “decimal dust” puts a law school community into an uproar. (When a school appears to plummet in terms of the numbers—for example, falling in the rankings from 37 to 53—the distinctions in such a shift are essentially meaningless mathematically because it’s decimal dust.)

We know that law school applications are down this year, raising the question of whether law schools will shrink their 2012 entering classes or dip deeper into the applicant pool to fill their seats. Next year’s entering class will graduate in 2015. In that year, if law schools choose the latter scenario, bar exam pass rates will fall, as bar results generally correlate to entering law school credentials.

Finally, the steady—or perhaps accelerating—erosion of ABA accreditation as the entry credential to the bar examination is worthy of a serious longi-

tudinal look by policy makers. The pro-applicant or pro-globalization objectives that are driving this erosion need to be matched against the Courts' enduring objective to screen the unsuspecting consumer from those who are incapable of delivering legal services at the high professional standard that the public expects and deserves.

That brings me to bar examiners. The licensing step for lawyers must remain the bulwark that identifies candidates who demonstrate competence as entry-level lawyers. Licensing in all professions exists to protect those who should be entitled to rely on the members of that profession. The current climate, which is roiling, will undoubtedly create pressure on lawyer licensing, as disgruntled graduates seek entities to blame for bar examination failure.

In other news, NCBE has launched a reconfigured website that should prove to be more user-friendly to applicants, bar examiners, and bar administrators. We have the same URL "home address": www.ncbex.org. It is worth a look for anyone concerned with bar examining.

One highlight worth visiting, for those with responsibilities for giving the bar examination or setting and enforcing policies for test administration, is the new presentation of the Information Booklets for the NCBE tests that are components of many jurisdictions' bar examinations: the MBE, MEE, and MPT. We have departed from the narrow format (3½" x 8") formerly used and created booklets that will print out nicely on standard-sized paper (8½" x 11"). I think every bar examiner should read the Information Booklets that relate to the NCBE tests they are administering.

As an example of information useful to bar examiners as well as applicants, pages 4–5 of the

MBE booklet set forth "What to Bring and What Not to Bring" on test day. Some bar examining boards have been slow to realize the significant harm that can come from permitting the items on the list to come into the examination room. Leading the list of what not to bring are cell phones. Cell phones, and particularly the current crop of smart phones, pose a significant risk. It is essential that they be prohibited, and it is just as essential that firm policies exist for dealing with candidates who, despite warnings, bring them to their seats. I believe that any applicant discovered in possession of a cell phone after fair warning to the group in advance of testing should have his or her test score invalidated. Only a zero tolerance policy will suffice.

As we look back over 2011, one accomplishment that has contributed to the good of the order is the development of model forms by which candidates can request to test under nonstandard conditions. In shorthand, we refer to this packet as the ADA Model Form. Major credit for development of the form goes to Missy Gavagni of the Florida Board of Bar Examiners and Peg Corneille of the Minnesota Board of Law Examiners, both members of the NCBE Board of Trustees, along with Kellie Early and Laurie Elwell of the NCBE staff. The ADA Model Form is now in the hands of all bar admission administrators.

Finally, a word of farewell is in order. Alan Ogden, Executive Director of the Colorado State Board of Law Examiners, retired at the end of November after a career just shy of 30 years with that agency. It is always a little bittersweet to see one of the true veterans go. Best wishes, Alan, as you move on. 🍷