

**The Uniform Bar Exam - Law Day 2015**  
**Hon. Jonathan Lippman**  
May 5, 2015

On this Law Day celebration, I am delighted to announce the beginning of a new era in licensing lawyers to meet the challenges of our global world. Beginning with the July 2016 bar examination, New York State will fully adopt the Uniform Bar Exam – or UBE – as its method of testing applicants for admission to practice law. This reform will enormously benefit law school graduates, the legal profession, and the public. New York’s carefully considered decision to adopt the UBE is a huge step towards a national, uniform bar exam for the entire country. A nationally administered UBE is not only desirable but necessary for the mobile, interconnected society in which we live.

Let me explain why we are taking this dramatic step here in New York, the legal center of the United States, if not the world. Once an individual has passed the UBE, the applicant will have a portable score that can be used to gain bar admission in any other UBE state – and particularly now, a portable score for prospective bar applicants is crucial. We live in a world where it is common for lawyers to switch jobs multiple times throughout their careers and relocate to different states. Lawyers with families, particularly those with military spouses or partners, can find themselves needing to relocate unexpectedly. The UBE makes it easier to become licensed and employed in a new jurisdiction. And lawyers who can more easily become licensed in multiple states are a tremendous asset. Many law offices handle cases across state and international borders and operate multiple locations throughout the country. Their clients and their businesses require it. While the legal community has adapted to the reality of multi-jurisdictional and cross-border practice, the licensing process for attorneys in the United States has not.

Unlike other professions, the legal profession lacks a common licensing test that is shared among all 50 states— whereas doctors, accountants, and others have had one uniform testing system to obtain a license nationwide for decades.

In addition to facilitating mobility in modern-day times, the UBE is also enormously beneficial in addressing some of the economic difficulties that new law graduates face today. Employment prospects for recent graduates are still grim, and more people are choosing to avoid the field of law altogether. Law school enrollment for first-year students has declined 30 percent in the past four years and is at the lowest level since 1973. As prospective lawyers become aware of these conditions, fewer people choose to enter the legal profession. Enrollment at New York law schools has fallen 23 percent since 2010. People are reluctant to invest in a legal education – despite the great need for affordable and accessible legal services by the poor and people of limited means – because they sense that it is no longer a reliable source of employment in today’s economy sufficient to justify the cost of law school.

The Uniform Bar Exam addresses so many of these issues for students who take the bar exam in one state, but find a job in another state. In the past, they had to study for, pay for, wait for, and take multiple bar exams with uncertain results. With New York’s adoption of the UBE, New York law graduates will no longer have to duplicate their efforts by taking the bar exam in multiple UBE jurisdictions. Because the candidates are taking the same exam as the applicants in the other UBE states, it doesn’t matter if the test was taken in Missouri, Washington, Arizona, or New Hampshire, and vice versa. All UBE jurisdictions recognize that applicants are tested with the same high-quality examination and rely on their UBE scores to demonstrate that applicants have the fundamental

knowledge and skills necessary for legal practice. Meanwhile, each state still maintains control over setting the requirements for admission to their individual jurisdiction and the method of evaluating knowledge of local law.

Although we lag behind other professions in uniform licensing exams, progress is now being made. In the last five years, almost a third of all states – 15 in number – have adopted the UBE. These states so far have been relatively small in the applicants they test for the bar. With its adoption of the UBE, New York will be by far the largest state with the greatest number of bar applicants in the group. Most recently, in 2014, the Board of Law Examiners administered the New York bar exam to more than 15,200 people from across the state, the nation, and the globe – more than any other state in the nation. And once New York goes to the UBE, momentum will follow. We very much expect that New York's adoption of the UBE will reverberate among the other states and that the UBE will become the standard throughout the country.

As Chief Judge, I, along with my colleagues on the Court of Appeals, began to consider the UBE last year. The New York State Board of Law Examiners, headed by Diane Bosse and strongly supported by former Senior Associate Judge of the Court of Appeals, Victoria Graffeo, who was absolutely instrumental in introducing the UBE to New York, proposed that New York fully adopt the UBE. The proposal called for careful study and input, given its impact on prospective lawyers, our law schools, and the profession. We opened the question to public comment and announced an Advisory Committee, chaired by my colleague on the high court, Judge Jenny Rivera, to study the proposal and make recommendations. The Advisory Committee was comprised of law school administrators, including Syracuse's Dean Hannah Arterian, CUNY School of Law's Dean

Michelle Anderson, and Fordham's Assistant Dean Nitza Escalera; Chief Administrative Judge A. Gail Prudenti; former Presidents of the State, City, and Puerto Rican Bar Associations Seymour James, E. Leo Milonas, and David Hernandez; and the chair of our Board of Law Examiners, Diane Bosse.

And I can't say enough about the spectacular work that was done by each and every member of the Advisory Committee. Their fearless leader, Judge Rivera dedicated so much energy and enthusiasm to this effort. Given her role as a former legal educator, there could not be a more perfect person to lead the Committee. Judge Rivera's strong and sterling leadership on this issue has been the critical factor in bringing us to where we are today. I and the Court of Appeals are enormously grateful to her, and to the spectacular Diane Bosse, without whom this initiative would never have gotten off the ground or come to a successful conclusion. Thank you both, and all the members of the Committee. You took time from your busy schedules to organize and attend public hearings throughout the state, review correspondence from law students, attorneys, bar association representatives, and law professors from throughout the country, and meticulously consider each and every implication of the proposed change – and we applaud your efforts. After months of intense focus and research, the Advisory Committee has now issued its comprehensive, thoughtful, and in-depth report to me and the Court, which is available today. The Court of Appeals has approved the Committee's recommendations, and I am proud to announce that New York has fully adopted the UBE and all of its components, along with a state-specific licensing requirement, effective for the July 2016 New York bar exam – a timeframe that will give law students, law schools,

the profession, and the Board of Law Examiners sufficient time to prepare for this seminal change in the bar admission process.

But what exactly is the Uniform Bar Exam, and what will this change mean in concrete terms for New York and all those who seek to be admitted and practice law in our state? The Uniform Bar Exam is developed by the National Conference of Bar Examiners. It consists of three parts: the first is the Multistate Bar Examination, a 200-question multiple choice test; the second part contains two Multistate Performance Test tasks designed to measure fundamental lawyering skills; and the third part is the Multistate Essay Examination consisting of six essay questions. The Uniform Bar Exam tests on the laws of general application, such as is learned by all law students in the course of their legal education.

On the other hand, the current New York Bar Exam has five essay questions and 50 multiple choice questions prepared by our own New York State Board of Law Examiners that test applicants' knowledge of New York law, given on day 1 of the bar exam. The first day is rounded out with one of the National Conference of Bar Examiners' Multistate Performance Test tasks – the portion that measures lawyering skills – which New York has used for the past 14 years. New York devotes the second day of its bar exam to the 200-question Multistate Bar Exam. Anyone who has taken New York's Bar Exam since 1979 knows that component well, like applicants in virtually every other state in the country.

In the future, changes to the New York bar exam through the adoption of the UBE and the addition of a separate New York online course and test will ensure the integrity of the state's licensing structure. We will continue to devote the second day to the 200-

question Multistate Bar Exam – as we have for decades. However, on the first day, the exam will consist of the six essays and two lawyering skills task created by the National Conference of Bar Examiners. Unique distinctions in New York law will not be tested on the two-day bar exam.

While the law tested on the UBE in many ways is consistent with New York law, we still want to ensure that our new lawyers are prepared in every way for the practice of law here in New York, where the legal profession is the gold standard in this country. Important and unique principles of New York law will be covered under the new protocols. While many of the UBE states have taken steps to ensure competence in home state law, either through online testing or educational courses, New York will be unique in requiring education in the form of an online course and an online multiple choice exam. The online course will consist of hours of videotaped lectures on New York-specific law, and the online test will be thorough and rigorous. The online test will be offered during the February and July administrations of the bar exam and once in May and December. Applicants may take the online test during their third year of law school, provided that they complete the New York Law Course – giving students increased flexibility with their schedules.

In many ways, the new paradigm will be more comprehensive in testing state-specific knowledge. Under the current bar exam, an applicant does not actually need to show great knowledge of distinctive aspects of New York law at all. A high MBE score can outweigh weaker performance on the New York essays and multiple choice questions and still result in a passing score. In contrast, under the new regime, a test taker must pass the UBE exam, which has some significant overlap with New York law, and complete

the New York component, which will cover areas of New York law not encompassed by the UBE.

As we move to the UBE, our New York experts will be involved and influential with the National Conference of Bar Examiners. A New Yorker currently serves on the National Conference's Board. Law professors and subject-matter experts from New York assist in developing and evaluating questions for the exams and will continue to do so. New York's Board of Law Examiners will continue to grade the written components of the UBE. And we should and will have continued voice and influence on the UBE, with New York coming on board. In addition, the New York component admission requirement will be developed by our State Board of Law Examiners with the assistance of a specifically formed work group consisting of legal academics and scholars well versed in New York law, who will identify unique New York rules that should be tested as part of our licensing structure.

Finally, the impact of this change on our diverse applicant pool is of great interest to us. To some extent, the Committee could answer concerns in this regard based on statistics from New York and from existing UBE states. Analysis of those statistics suggests that there is no reason to suspect a significant decline in passage rates among people of color and women. However, the Committee recommended and the Court adopted its recommendation that data be collected and studied once the UBE is implemented to determine over a three-year period whether in fact there are significant and adverse results and, if so, how to address it.

With the adoption of the UBE, New York will remain the gold standard of the legal profession because rather than being insular, we are embracing a broad vision for the future of our profession. New York is New York because of the diversity of job

opportunities here; because we are the financial capital of the world; and because we are a hub for culture, development, non-profits, entrepreneurs, and public interest advocates and litigation, New York is a global destination. With the adoption of the UBE and our commitment to a global profession, people will more than ever want the credential of a license to practice law in New York. And once again, New York State will be the change-maker, shaping the legal profession nationally, dramatically altering the balance and leading the way to the adoption across the country of a rational, effective system for ensuring that new lawyers are eminently qualified to join our noble legal profession. Thank you.