

BACKGROUND

In December of 2009, the Bar's Admissions Committee ("Committee") held one of its regularly scheduled meetings to discuss admission policies, new developments and issues in the area of admissions. Joni Dickson Seko, the Deputy General Counsel in Charge of Admissions, along with then-Commissioner liaison to the Committee and now Bar President, Rodney G. Snow, as well as Steven T. Waterman, longtime co-chair of the Committee,² reported on a UBE conference that they had recently attended presented by the National Conference of Bar Examiners.³ Although there had been previous discussions in the Committee about the UBE, these attendees left the conference convinced that Utah should move to the UBE. They also concluded that the very few drawbacks of this new examination format were virtually non-existent. At the 2009 Committee meeting, vigorous discussion ensued over whether the Committee should recommend that the Board of Bar Commissioners ("Commission") approve replacing Utah's current Bar Examination ("Bar Exam") with the UBE. Significantly, both the Dean of the University of Utah S.J. Quinney College of Law and the Dean of the Brigham Young University J. Reuben Clark Law School were in favor of the UBE. Dean

² The Admissions Committee currently consists of: Judge James Z. Davis and Steven T. Waterman (co-chairs) as well as Michele Ballantyne, Bryon J. Benevento, David Broadbent, Tiffany Brown, J. Francis Carney, Dean Hiram Chodosh, Dean James Rasband, Felshaw King, Rodney G. Snow, and Robert T. Wilde.

³ The National Conference of Bar Examiners is a not-for-profit corporation founded in 1931. The mission of the Conference is to work with other institutions to develop, maintain, and apply reasonable and uniform standards of education and character for eligibility for admission to the practice of law. It also assists bar admission authorities by providing standardized examinations of uniform and high quality for the testing of applicants for admission to the practice of law, disseminates relevant information concerning admission standards and practices, conducts educational programs for the members and staffs of such authorities, and provides other services such as character and fitness investigations and research.

James Rasband opined in part that law schools generally would prefer a more uniform exam and that particularly from a curriculum standpoint, the UBE would facilitate teaching. After several hours of carefully evaluating the details, the Committee voted to recommend that the Commission approve the UBE.

The Committee's recommendation was later presented at two different Commission Board meetings. At the first Board meeting on October 29, 2010, the Commission discussed the growing recognition that the practice of law continues to move towards a national rather than local nature. Commissioners also observed that a national examination would help create a more fluid job market, there are no extra costs involved with Utah's implementation of the UBE, and Utah would continue to conduct its own character and fitness assessments and grading of the UBE. Moreover, Utah will continue to establish its own cut scores to determine exam success. Finally, the Committee has had some difficulty in the past drafting well-crafted essay questions and this problem would be eliminated by adoption of the UBE.

The Commission unanimously approved the Committee's recommendation to adopt the new UBE format. Thereafter, Committee members began the arduous task of editing the current rules to gain the approval of the National Conference of Bar Examiners and implement the UBE, including correlation with the other methods of admission in Utah. The Committee submitted a copy of the final redlined Admission Rules to the Commission on February 13, 2012. At that regularly scheduled meeting, the Commission issued its final approval and authorized the Bar's General Counsel to file a Petition.

UNDERSTANDING THE UBE

A. What is the UBE?

The UBE is prepared by the National Conference of Bar Examiners (“NCBE”) to test the knowledge and skills that every lawyer should be able to demonstrate prior to becoming licensed to practice law and is transportable across multiple jurisdictions. It is comprised of: (1) the Multistate Essay Examination (“MEE”) which includes six essay questions; (2) two Multistate Performance Test (“MPT”) questions; and (3) the Multistate Bar Examination (“MBE”) which is the one-day multiple choice question test.⁴ It is uniformly administered, graded, and scored by each jurisdiction that uses it. The UBE is administered over the same two days in late February and July (identical to Utah’s current schedule for the Bar Exam) and UBE states will use the same test questions to ensure reliable results. The UBE is designed to be consistent in content as well as administration across the United States. Jurisdictions may opt in or out at any time. One of the most significant advantages of the UBE is that it will enhance cross-jurisdictional admission in a way that protects states’ interests in the competency of those admitted to practice law. Finally, it results in a portable score that can be used to seek admission in other states that accept UBE scores.

The UBE is really more than just a shared set of test components. It is more akin to an agreement to give full faith and credit to bar exam scores in participating states that uniformly administer, grade, and score the same examination. Certain policies

⁴ MEE scores and MPT scores will be scaled to the MBE with the MBE weighted at 50%, the MEE 30%, and the MPT 20%.

followed by UBE jurisdictions help ensure comparable scores, score portability, and the reliable transfer of scores. States agree to adhere to these policies in order to be recognized as UBE jurisdictions and generate scores that qualify to be certified by the NCBE. The UBE is not the same as reciprocal admission because it is only the score that is portable; passing the exam and being admitted to practice in another jurisdiction to practice does not, alone, qualify the applicant for admission in other UBE jurisdictions.

As noted above, it remains the responsibility of each state to set the passing score and to determine all other admission requirements. So, for instance, if a jurisdiction like Utah requires student applicants to have graduated from an ABA-accredited law school with a J. D. degree to be eligible, then Utah will continue to require the same of applicants who transfer UBE scores from jurisdictions that do not impose that requirement. Notably, in addition to the UBE, Utah will continue to require applicants to pass the Multistate Professional Responsibility Examination ("MPRE"), the national professional ethics test, even if the out-of-state applicant's UBE jurisdiction does not. The NCBE serves as the central repository of UBE scores and performs the score transfer services for all UBE jurisdictions with an official transcript in which scores and other related data are certified. The NCBE also reviews the policies and rules of states that wish to adopt the UBE so that the necessary components and policies are in place.

B. How Does Utah's Current Bar Examination Format Differ From the UBE?

The Utah Student Bar Exam⁵ is a two-day test consisting of a one-day written essay component and a one-day multiple choice question component. In addition, applicants are required to pass the MPRE which is administered at other times. The total time for the written component is seven hours and the total time for the multiple choice component is six hours. Utah uses the MBE exclusively for the multiple choice component and uses two MPT essay tasks and six MEE questions for a portion of the written component.

The written component is administered on the first day and consists of eight essay questions and two MPT essay tasks: four essays and one MPT essay task in each of the morning and afternoon sessions. Applicants have thirty minutes to answer each essay question. The essay questions may be taken from the MEE which is prepared by the NCBE, or they may be state prepared.⁶ One state-prepared essay question on ethics is required. In recent years, six MEE questions have been used due to better crafted questions. The MEE questions are taken from the following twelve subject areas:

⁵ The Student Bar Exam is the "regular" or "standard" examination. It contrasts with the current Attorney Bar Examination which consists only of the one-day written essay component. Attorneys who have been licensed to practice law for five years in another jurisdiction and have been substantially and lawfully engaged in the practice of law in that jurisdiction for four of the preceding five years are only required to take the written essay portion of the examination, although they may opt to take the Student Bar Exam. A third current option is for attorney applicants who cannot meet the practice provisions of the Attorney Exam application requirements who also take the Student Bar Exam.

⁶ For more information regarding the composition of the MEE, see the NCBE website at: www.ncbex.org/multistate-tests/mee/

- business associations (agency and partnerships; corporations and limited liability companies)
- conflict of laws
- constitutional law
- contracts and sales (UCC Article 2)
- criminal law and procedure
- evidence
- family law
- federal civil procedure
- real property
- torts
- trusts and estates (decedents' Estates; trusts and future interests)
- uniform commercial code (negotiable instruments – UCC articles 3 and 4, secured transactions – UCC Article 9)

Utah-prepared essays may be taken from the following subject areas:

- administrative law
- business associations
- civil procedure
- constitutional law
- contracts
- creditor/debtor
- criminal law and procedure
- ethics
- evidence
- family law
- real property
- torts
- uniform commercial code (articles 2, 3, 4, & 9)
- wills/estate planning/trusts (including tax aspects)

One and one-half hours is allocated to complete each MPT essay task.

Prepared by the NCBE, each MPT is given the same weight as two essay questions.

The MPT examines six fundamental skills that are required for the performance of many lawyer tasks. These skills are problem-solving, factual analysis, legal analysis, reasoning, written communication, organization and management of a legal task, and recognizing and resolving ethical dilemmas.

The MBE is prepared by the NCBE and is given on the second day. The test consists of 200 multiple-choice questions. The MBE is divided into two three-hour sessions. The following subjects are tested: contracts, criminal law, evidence, real property, torts, and constitutional law. Accordingly, the only format difference between the current exam and the UBE is the elimination of two state-prepared essay questions, including one in ethics, and three subject matter areas: administrative law, credit/debtor and ethics.

C. Why Replace the Current Exam Format with the UBE?

The advantages to the UBE are far reaching and numerous and the drawbacks are few. The UBE benefits to law schools are that all of their students will be able to take exactly the same exam and receive scores that will have the same meaning across the jurisdictions that adopt the UBE. The UBE will include essay questions and performance tasks that are developed centrally, researched thoroughly, and subjected to considerable quality control and review. These questions and performance tasks are packaged with grading materials, and local graders have access to grading workshops to enhance the consistency of grading. Different portions of the UBE will be weighted equally, ensuring reliable scores that do not give advantage to those who perform better on multiple-choice questions or those who perform better on written essay exams, as is the current standard in Utah. Currently, the weights applied to each exam component vary in other jurisdictions, making it more challenging for law schools to prepare their students who may be taking different bar exams. Finally, the transferability of the UBE score is also a significant advantage to an examinee who fails to obtain a job in the

desired jurisdiction of choice and is forced to move to another state to find work. Along the same lines, the UBE will help those lawyers who end up working for a firm that has clients in multiple jurisdictions.

Another one of the numerous benefits of the UBE is that the Bar will no longer be burdened with developing high-quality written essay questions and grading materials within stressful time constraints. The UBE questions and grading materials will be developed by committees of content experts under the direction of the NCBE with the participation of UBE participating jurisdictions. The application of uniform grading materials will also help ensure grading consistency across UBE jurisdictions. Moreover, UBE jurisdictions will be invited to participate in the development of "best practices materials." While NCBE already works with states on an individual basis, the process would become more efficient if the practices were applicable to a larger number of jurisdictions. These materials would address issues such as the best way to calibrate grades, the best structure for score reports and feedback to examiners and the best means of providing feedback to law schools. These new features will aid law schools in putting together their curriculums to help their students achieve better success.

The Conference of Chief Justices ("CCJ") has recognized the overwhelming advantages of a national bar examination. The CCJ adopted a resolution endorsing the UBE at its 2010 annual meeting on July 28, 2010, after having been proposed by the CCJ Professionalism and Competence Bar Committee. A copy of Resolution 4 (Endorsing Consideration of a Uniform Bar Examination) in its entirety is attached at Exhibit "C" but in summary, it states that law is the only major profession that has not

developed a uniform licensing examination and one that would “facilitate lawyer mobility and enhance protection of the public.” The Resolution “urges the bar admission authorities in each state...to consider participating in the development and implementation of a uniform bar examination.” Finally, the CCJ recognizes that “the states’ highest courts regard an effective system of admission and regulation of the legal profession as an important responsibility for the protection of the public”

Attached at Exhibit “D” are a number of different articles discussing various aspects of the UBE in more depth. This material was taken from recent editions of “The Bar Examiner,” a NCBE professional journal for those in the bar admission testing field.

D. What Will Remain the Same in Utah if We Adopt the UBE?

The short answer to this question is “almost everything.” Jurisdictions that use the UBE can continue to decide who may sit for the examination and who will be admitted to practice. States determine their own character and fitness assessments as well as determine underlying education requirements to qualify to take the exam. As is currently the case: Utah will make its own disability assessments and will determine, if any, which test accommodations will be granted; Utah will continue to grade the MEE and MPT; Utah will continue to determine policies for exam reappraisals; Utah will continue to establish their own cut scores required to pass the exam; Utah will determine the time period for transferability of UBE scores from other jurisdictions; Utah will continue their policy regarding the limitation on the number of times a candidate may

retake the examination;⁷ Utah grader training and answer calibration applying uniform standards will not change; and Utah also will maintain the same security of test content and provide the same appropriate testing conditions (e.g., guidelines for room set-up, seating charts, proctor selection and training, etc.) as is the current practice. Utah has always submitted raw scores to the NCBE to perform the scaling of the written component and MPT scores to the MBE and that will remain the same. Finally, we will continue to report test administrations and permit occasional audits by the NCBE to verify that we are following best practices in the administration of the examination.

E. What Will be Different in Utah if We Adopt the UBE?

Because the UBE is designed to be portable and carry over to other states, Utah no longer will test knowledge of jurisdiction-specific content such as Utah water law or administrative law. Practically speaking, for the last decade Utah has been moving away from Utah specific law questions for a variety of reasons, so that any question could be properly answered utilizing general legal principles. The Bar Exam is designed to test an applicant's general legal competency. Utah-specific law is currently addressed for student applicants through the Bar's mentorship program and for most attorney applicants, through Rule 14-705 continuing legal education requirement. Rule 14-712, the proposed rule governing admission based on the UBE will continue this approach.

⁷ An examinee may retake the Bar Exam six times.

F. What is the Current Status of the UBE Among the States?

So far, eight jurisdictions have adopted the UBE: Alabama, Arizona, Colorado, Idaho, Missouri, Nebraska, North Dakota, and Washington.⁸ Montana's Supreme Court has conditionally approved the UBE and it is developing its implementation process. The District of Columbia also has petitioned for UBE adoption and three other jurisdictions intend to adopt the UBE but have asked not to be publically identified at this point until they have their rules completely redlined and their petitions drafted and filed. Oregon has created a UBE Board that is working through the necessary issues and both Wyoming and South Dakota have indicated serious interest. A significant number of other states are in the evaluation process to replace their current exam formats with the UBE. It should be noted that the western states have moved to adoption of the UBE more quickly at this point and it appears that most of Utah's neighboring jurisdictions will be using the UBE within the next few years.

PROPOSED REVISED RULES

Attached at Exhibit "B" is a redlined copy of the proposed changes to our current admission rules. A "clean" copy with the revisions incorporated is also attached as Exhibit "E." Most all of the proposed changes are necessary to move to the new examination format and to create a coherent overall admission system including the elimination of the Attorney Exam, but a few revisions are in the "clean-up" category consisting of grammar changes, relocation, and other editing-type revisions. Below are

⁸ Missouri and North Dakota administered the first UBE in February 2011, Alabama began in July 2011, and Idaho administered the UBE in February 2012. Arizona will administer the UBE in July 2012, and Washington, Colorado and Nebraska will administer the UBE in February 2013.

brief comments pinpointing which changes are necessary and directly related to the new UBE format or substantive, and which changes are merely small editing corrections or “clean-up.” In some cases, explanations have not been provided when the reason for the change is plain on its face or truly negligible.

Rule 14-701. Definitions.

(b) “*Active Practice.*” The term “Active Practice” has been substantially revised to amplify what is and what is not the practice of law. One of the requirements for admission on motion (reciprocity) under Rule 14-705 is that an applicant actually must have *practiced law* for a period of prescribed time in the reciprocal state where licensed. Often, applicants want to dispute that the “legal activity” they have been engaged in qualifies as Active Practice. The proposed changes are intended to provide more guidance and clarification. For instance, the proposed revisions expressly state that the practice of law does not consist of attending continuing legal courses or legal work done before an individual becomes licensed. Also specified is that work undertaken which constitutes the unauthorized practice of law in the jurisdiction in which the work was performed or the jurisdiction where the clients reside will not count. A “laundry list” of examples in sections (b) (1) through (b) (8) of what constitutes the “Active Practice” of law such as service in the armed forces as a lawyer or judge or teaching full-time at an Approved Law School have not changed.

(c) “*Admissions Committee.*” The changes here are administrative in nature, i.e., re-naming the current “Special Accommodations Committee” which assesses disability requests for Bar Exam accommodations as the “Test Accommodations Committee.”

(d) "*Applicant.*" The changes to the definition of Applicant have been made to accommodate all the different types of admission such as House Counsel, Reciprocal Admission, Foreign Legal Consultant, etc.

(h) "*Bar Examination.*" The changes to the definition to Bar Examination have been made to encompass the adoption of the UBE.

(i) "*Bar Examiner Committee.*" With implementation of the UBE, graders will no longer be drafting and reviewing questions and model answers on the Bar Examination. This definition has been revised accordingly.

(q) "*First Professional Degree.*" Currently, a First Professional Degree is not defined but is addressed in Rule 14-703(a) (3) as "having graduated with a first professional degree in law (Juris Doctorate or Bachelor of Laws) from an approved law school." The proposed definition amplifies what is required to be a First Professional Degree of Law and to state what is not.

(t) "*Full-time Practice.*" This new definition states that time spent on administrative or managerial duties, continuing legal education or client development and marketing does not qualify as part of the required 1000 hours of legal work. The 1000 hours of legal work for "Full-time Practice" is currently a requirement for those asserting that they have been in Active Practice for the required period of time to qualify for admission by motion reciprocity and other categories for admittance.

(ee) "*Practice of Law.*" This definition is new. Although both the current and new rules provide examples of what *types of positions* might qualify as "practicing law" (such as shareholders in a law firm, law clerks or teaching law full-time in a law school), we

would like to provide more guidance as to the *type* of activity that constitutes the practice of law. Whether someone has actually engaged in the practice of law becomes important when determining if they qualify for admission by motion reciprocity or other status.

(ff) "*Privileged Information.*" While not new, this definition adds "correspondence" of the Board, Admissions Committee and other committees to the categories of already privileged information such as test materials, applications, decisions and similar items.

(gg) "*Reapplication for Admission.*" This definition is new and provides the same information that already appears in filing instructions and other places provided to Bar applicants. It consolidates information in one place and distinguishes a Reapplication for Admission from merely updating an application which has been given its own definition. A Reapplication for Admission means that for two years after filing of the original, an applicant may update information and submit a new criminal background check.

(ee) "*Student Attorney Applicant.*" This definition has been deleted in its entirety for reasons explained below in Rule 14-703.

(jj) "*Test Accommodations Committee.*" While this definition appears to be new, it merely replaces the current provision with an updated definition of what the former "Special Accommodations Committee" is charged with performing.

(kk) "*Unapproved Law School.*" This is a new definition that distinguishes between an ABA Approved Law School and others. It also incorporates information to accommodate those attorney applicants who graduated from an Unapproved Law

School but practiced in another jurisdiction for 10 or more years and who pursuant to the opinion in *In re Anthony*⁹ can be eligible for admission if other requirements are satisfied.

(mm) "*Updated Application.*" This is a new definition although the information appears elsewhere in the current Admission Rules. It distinguishes an Updated Application from a Reapplication for Admission. The former requires an applicant to update his or her application on an ongoing basis and correct any information that has changed since the application was filed. The Updated Application applies only to the current examination for which the application was filed.

Rule 14-702. Board – general powers.

There are no substantive changes made in this rule.

Rule 14-703. Qualifications for admission of Student and Foreign Law School

Applicants.

The most substantive change in this rule is that we have eliminated the category of "Student Attorney Applicant" which is reflected both in the corresponding redlined definition and in the rule. As part of adopting the UBE, we are eliminating the one-day attorney exam which is the reason for having the two applicant categories and definitions in the current rules. It used to be that to qualify for the attorney exam, one had to be licensed for five years. Those attorneys with fewer than five years of practice (designated as student attorneys) had to pass the regular Bar Exam. With the

⁹ In the case of *In the Matter of the Petition of Thomas E. Anthony*, 225 P.3d 198 (2010), this Court decided that applicants who had graduated from an ABA Unapproved Law School and who had practiced a minimum of 10 years elsewhere, could be eligible to sit for the Bar Exam.

expansion of admission by motion (currently, 37 jurisdictions participate in reciprocity) and the acceptance of the UBE transferability (for up to five years), the need for an attorney exam option is *de minimus*. In the future, for up to five years, practicing attorneys will now be able to gain admission by transferring a UBE score. After five years, practicing attorneys will be able to gain admission by motion. Everyone not eligible for admission by transferred UBE score or motion admission will be required to pass the Bar Exam. This simplifies administration of the exam immeasurably and makes Utah similar to other states.

The other substantive change is adding section (a)(6) in which an applicant is required to demonstrate a “proven record of ethical, civil and professional behavior.” Although this aspect is related to the character and fitness aspect of the admission process, it establishes a requirement of a more general nature and reinforces emphasis on ethics and civility. The remaining proposed changes consist of “clean-up” and small editing corrections for consistency.

Rule 14-704. Qualifications for admission of Attorney Applicants.

This rule has been substantially revised in several important areas. Attorney Applicants are those who have been admitted in other states and have practiced there for up to five years (along with meeting other requirements). Typically, they do not meet the requirements to be admitted on motion, usually because they are not licensed in a reciprocal jurisdiction. Currently, Attorney Applicants are required to only take the one-day written exam consisting of the essay portion rather than the entire exam with the

multiple choice questions.¹⁰ With the adoption of admission by motion reciprocity and now pending adoption of the UBE, the practice time requirement of five years has been eliminated but the Attorney Applicant is now required to take the two-day Bar Exam. If the Attorney Applicant took the UBE in another state, those scores can be transferred within five years if the attorney was practicing law. If longer than five years ago, *and* the Attorney Applicant is from a reciprocal jurisdiction, he or she can apply under admission by motion.

Another change is the requirement that an Attorney Applicant be a member in good standing in all jurisdictions where currently licensed, and in subsection (a)(8), to have a proven record of ethics, civil and professional behavior. The remaining revisions are for consistency and/or “clean-up” purposes.

Rule 14-705. Admission by Motion.

This is the reciprocity rule and there are a few substantive changes. The most significant revision is that Utah would like to join a majority of other reciprocal jurisdictions by requiring that the applicant have practiced law at least five of the previous seven years immediately preceding the date of the application. Utah now has a very cumbersome “mirror practice rule” under which motion applicants must meet the practice conditions of their state of licensure under current subsections (a)(3) and (4) so long as that practice requirement was at least three out of the preceding four years. The current rule is uneven and difficult to apply because it is unclear; it results in many

¹⁰ Again, the opinion in *In re Anthony* allows an attorney who graduated from an Unapproved Law School and who has practiced law for 10 or more years elsewhere, to apply for admission in Utah under certain conditions.

questions from confused applicants. Moreover, very few states have adopted a mirror rule. It also can be argued that it is unfair in that motion Applicants are admitted based on different standards.

Again, we are stating in section (a)(9) that the Applicant should have a proven record of ethical, civil and professional behavior. The requirement that the motion Applicant not have been disbarred or have resigned with discipline pending or apply for admission with a pending disciplinary case is not new and has only been relocated. Other revisions merely have been moved around and essentially are the same, along with small editing changes.

Rule 14-706. Test accommodations.

Most revisions in this rule are clean-up and small corrections in style and grammar.

Rule 14-707. Application; deadlines; withdrawals; postponements and fees.

Several things appear to be new in this rule. First, in section (c) we state that computer fees and application fees of Applicants not taking the Bar Exam are nonrefundable. While we have never refunded these fees by policy, this policy has been incorporated in the rule. Although the remainder of the refund language in this rule appears to be new, it is not and has been merely relocated. The other provision is that “qualified Applicants who have already failed six or more examinations by September 1, 2003, may be approved to take two additional examinations” in section (f)(2) is deleted. This is clean-up since the likelihood that someone who has failed six

times would re-apply for approval to take the exam again at this point is small in light of the 2003 deadline.

Rule 14-708. Character and fitness.

There are no substantive changes made in this rule.

Rule 14-709. Application denial.

There are no substantive changes made in this rule.

Rule 14-710. Administration of the Bar Examination.

Because the Bar is proposing that the UBE be adopted and is deleting the option of the one-day Attorney Exam, we want to eliminate the term Student Bar Exam (which is two days). There will only be one Bar Exam – consisting of two days - and that is the UBE. The exam schedule in section (b) remains the same and has merely been moved from another section of the Admission Rules. Section (c) governing the MBE (the multiple choice question test) is also substantially the same and merely references the NCBE.

Rule 14-711. Grading and passing of the Bar Examination.

Virtually every change in the rule is necessary to comport with the make-up of the UBE which has been previously discussed. There are no other substantive changes such as changing the passing score.

Rule 14-712. Qualifications for admission based on UBE.

These proposed revisions accomplish several things. First, the rule picks up current requirements now in place such as requiring certain new Utah lawyers (who have fewer than two years of legal practice) to complete the New Lawyer Training

Program (mentoring) in section (c). Another example in section (c)(1) is that those new Utah lawyers who have been licensed elsewhere and practiced for two or more years certify that they have attended at least fifteen hours of CLE on Utah practice and procedure, and ethics and civility requirements. This is the same thing that is required of those admitted on motion under Rule 14-705. Where provisions are new, they are directly related to the UBE requirements governing transferability of the score and time limitations. For example, the UBE score is transferable for all Applicants only if the UBE was administered within three prior examinations of the date the application is filed in section (b)(1). These limitations are imposed to keep the new format manageable and administratively feasible. They also are commensurate with other UBE jurisdictions' rules and have been reviewed and approved by the NCBE.

Rule 14-713. MPRE.

There are no substantive revisions in this rule.

Rule 14-714. Unsuccessful Applicants: disclosure and right of inspection.

The changes in this rule are necessary and compatible with instituting the UBE. For example, certain materials such as the MEE and MPT questions and model answers are now only available from the NCBE because Utah no longer retains control over these materials.

Rule 14-715. Bar Examination appeals.

Only a few small editorial type changes are made to this rule.

Rule 14-716. License fees; enrollment fees; oath and admission.

Most of what we have done here is relocate currently existing provisions or more accurately state the provisions. For instance, we have re-named the “admission ceremony” where the majority of Applicants are admitted, the “licensing ceremony.” There is one substantive change, however, in section (e) where we have shortened the time for the Applicant to take the necessary oath from two years to eighteen months for administrative ease.

Rule 14-717. Readmission after resignation or disbarment of Utah attorneys.

There are no substantive changes in this rule.

Rule 14-718. Licensing of Foreign Legal Consultants.

We have moved this “stand alone” rule (Rule 14-805) to the Admission Rules because we believe that it more properly belongs here as a limited admission status similar to House Counsel. The proposed revisions are primarily for editing and consistency purposes with other rules. As a practical matter, we receive very few applications for Foreign Legal Consultants. The only substantive change has been to delete section (k) which provided for the Court's waiver of requirements. This does not mean that an Applicant is prohibited from filing a petition for a waiver, only that we do not include that option explicitly in the rules. That is the case in the remainder of the Admission Rules and in order to keep things consistent, we are deleting it here.

Rule 14-719. Qualifications for admission of House Counsel Applicants.

We have merely made the same types of changes here as we have with the other categories of Applicants. Thus, we talk about the requirement of a First

Professional Degree as a defined term in section (b)(3) and insert the same language requiring a proven record of ethical, civil and professional behavior with no previous disbarment in section (b)(10). There are no other substantive changes and the remainder of revisions consist of re-wording and clean-up or relocation of current requirements or information.

Rule 14-720. Confidentiality.

There are no substantive changes made in this rule.

CONCLUSION

As explained above, there are numerous sound reasons to adopt the UBE and few, if any, negative aspects. Moreover, in the extremely unlikely event the UBE is not “successful” in Utah, we can always reinstate the current exam format with the Court’s permission. The Bar, however, has carefully evaluated the UBE over the past few years and has benefitted from other states’ experiences; we have every reason to believe that UBE implementation will be successful. If approved by the Court, the Bar would launch the UBE at the February 2013 Bar Exam. This delayed implementation date is designed to facilitate a smooth transition to the new examination and to allow our two law schools, Applicants, and bar exam preparation entities sufficient time to adapt to the new examination format. It also recognizes the regular November 1st effective date in non-emergency rulemaking provisions.

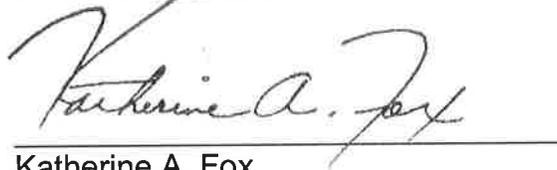
In addition, the rule changes will now recognize the UBE as the Bar Exam for admission, with portability for up to five years if practicing in another jurisdiction, followed by admission by motion for those practicing for more than five years. Other

than admission by the UBE or by motion would be Applicants from jurisdictions without reciprocity or those from unapproved law schools who will take the Bar Exam.

The Bar respectfully asks the Court to approve Utah's adoption of the UBE and the revised admission rules as set forth.

Dated this 20th day of March, 2012.

UTAH STATE BAR:

A handwritten signature in cursive script, appearing to read "Katherine A. Fox", is written over a horizontal line.

Katherine A. Fox
General Counsel