



The State Bar *of California*

Update on BRC

Council on Access & Fairness, August 26, 2022

Exam Pathway

- Commission has recommended that:
 - The following eight legal topics be adopted for a new bar exam content outline
 - Administrative Law and Procedure,
 - Civil Procedure,
 - Constitutional Law,
 - Contracts,
 - Criminal Law and Procedure,
 - Evidence,
 - Real Property, and
 - Torts

The following skills are incorporated in the new exam:

- Drafting and Writing;
- Research and Investigation;
- Issue-spotting and Fact-gathering;
- Counsel/Advice;
- Litigation;
- Communication and Client Relationship;
- Negotiation and Dispute Resolution.



Exam Pathway

- Do attorneys from other jurisdictions need to sit for the full exam?



NonExam Pathway

1. Where are the skills/knowledge derived from?
2. What (if any) are the post-law school requirements?
4. Is the pathway open to all law school students and law office study students, or only those who meet certain criteria? Would all law schools have to have a curriculum that supports this pathway? Who selects which path CA law students follow?
4. Is there a non-exam pathway for out-of-state attorneys or graduates from non-CA law schools?
5. How to address the perception of this as a 2nd tier pathway and these lawyers as less qualified?





Background

- The Blue Ribbon Commission has heard presentations from:
 - Deborah Merritt and Joan Howarth
 - The Daniel Webster Scholars Honors program
 - Wisconsin (diploma privilege)
 - The Oregon Task Force
 - Canadian provinces – Alberta, British Columbia, Ontario and the PREP program used by four provinces



Three main components



Law Schools



Supervised Practice



Assessment



Law Schools

Choice A	Choice B
No change to the program of legal education (no additional unit or course requirements), but the six experiential education units already required will be modified to meet the CAPA requirements for skills and abilities	A non-exam pathway, introduced during law school, with expanded doctrinal and experiential education requirements modified to reflect CAPA (skills and abilities)



Supervised Practice

A post-graduation, supervised practice period between 750-1,500 hours

- How many hours will be required?
- Will all the hours be post graduation?
- How will the issues raised by Canadian provinces (disparities, equity issues, compensation) be addressed?



Assessment

Choice A	Choice B	Other models
A summative capstone/portfolio at the conclusion of the supervised practice period to be reviewed and scored by the regulator.	A California preparation program with online modules, in-person workshops, a simulated law firm, and an in-person capstone to be completed concurrently with the supervised practice period	Additional open book assessment(s)





Proposed Motion A

The Blue Ribbon Commission recommends to the State Bar Board of Trustees and the California Supreme Court that California explore a bar exam alternative for licensure to practice law. It is recommended that this exploration of an alternative pathway have a significantly increased focus on assessment of knowledge, skills and abilities for entry-level practice, deemphasizing the need for memorization of doctrinal law. The precise elements of a bar exam alternative (including eligibility and timeframe to completion) should be determined in consultation with experts, including psychometricians, to ensure the pathway is valid and reliable with a standard equivalent to the bar examination.

- It is further recommended that the alternative pathway shall include the following elements:
- Law School
 - Any applicant interested in availing themselves of the alternative pathway would need to complete at least six units of experiential coursework in law school that covers CAPA's skills and abilities. However serious consideration should be given to increasing this experiential education requirement.
- Supervised Practice
 - There shall be a post-law school supervised practice requirement. The exact number of hours required remains to be determined, with the goal of consistency with the exam timeline to licensure;
 - Mandatory and structured supervisor training and oversight to be developed by the regulator shall be required in order to provide consistency in the supervised practice component and ensure that the supervision continues to emphasize the skills and abilities necessary for minimum competence;
 - A to be determined percentage of supervised practice hours may occur during law school; and
 - Equity, disparity and cost issues must be taken into account
- Assessment
 - Summative assessment may include a capstone/portfolio, simulated in-person assignments and/or a written exam component
 - Scoring and grading must be valid, reliable and conducted by the regulator



A background image of a pair of scales of justice, rendered in a dark blue, semi-transparent style. The scales are centered vertically and horizontally, with the pans hanging from a central beam. The text "Proposed Motion B" is overlaid in white, bold, sans-serif font.

Proposed Motion B

The Blue Ribbon Commission recommends to the State Bar Board of Trustees and the California Supreme Court that California does not adopt a non-exam pathway for licensure to practice law.

- It is further recommended that a bar exam alternative be considered after the implementation of a revised California bar exam.



Outstanding questions?

