



The State Bar of California

Recommendations from the Blue Ribbon Commission: Request for Adoption Following Public Comment and Submission to the Supreme Court for Approval

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Board of Trustees, May 18–19, 2023

Overview

- The Blue Ribbon Commission was formed by the Supreme Court and the State Bar Board of Trustees
- Met 19 times from 2021 to 2023
- Final meeting, April 26, 2023
 - Return from Public Comment
 - Almost 900 commenters making over 1400 comments



BRC Charter

- Whether a bar exam is the correct tool to determine minimum competence for the practice of law.
- If BRC recommends CA bar exam, develop recommendations regarding :
 - whether CA should adopt NCBE's Uniform Bar Exam (UBE); or
 - If UBE is not recommended , need recommendations on:
 - Legal topics
 - Skills to be tested
 - Supplementary testing
- Testing format
- Passing score



Guiding Principles

- Minimum competence
- Minimum competence in professional ethics and professional responsibility
- Public protection
- Evidence-based
- Fairness and equity
- Minimize disparate performance impacts
 - race
 - gender
 - ethnicity
 - other immutable characteristics



Background -- Bar Exam Alternative

- Major considerations for a bar exam alternative
 - How would minimum competence be demonstrated?
 - How could consistency across school types and Law Office Study programs be achieved?
 - How would fairness and equity considerations be implicated as measured by questions of affordability and access?
 - How would an alternative pathway scale in California?
 - Would this pathway be applicable to all candidates seeking licensure?



Three Main Components



Law Schools



Supervised Practice



Assessment



Discussion and Motions

The Blue Ribbon Commission ultimately did not reach a consensus on even exploring a bar exam alternative. Several motions were proposed and did not receive enough votes to move a recommendation forward.



Revised Scope of Bar Exam Pathway Recs

- What specific knowledge (subjects) should be tested?
- Which skills should be tested?
- What percentage of exam should test knowledge versus skills?
- Do attorneys from other jurisdictions need to sit for the full exam?



BRC Recommendations on CA Exam & Topics

- BRC recommended that CA develop its bar exam
- Adopted eight legal topics in CAPA recommendations:
 - Administrative Law and Procedure;
 - Civil Procedure;
 - Constitutional Law;
 - Contracts;
 - Criminal Law and Procedure;
 - Evidence;
 - Real Property; and
 - Torts.
- After Public Comment:
 - Added Professional Responsibility as a topic
 - Add specification that certain legal topics will cover federal law



BRC Recommendations on Skills

- BRC adopted CAPA's recommendations on skills to be incorporated in the new exam:
 - Drafting and Writing;
 - Research and Investigation;
 - Issue-spotting and Fact-gathering;
 - Counsel/Advice;
 - Litigation;
 - Communication and Client Relationship; and
 - Negotiation and Dispute Resolution.



BRC Recommendations on Exam Focus & Transparency

- Increased focus on assessment of skills along with the application of knowledge and performance of associated skills
- Deemphasize the need for memorization of doctrinal law
- The precise weight of content knowledge versus skills should be determined after the development of the exam
- BRC recommends transparency on topics and rules to be tested





BRC Recommendations on Exam Design

- If the Supreme Court adopts the Blue Ribbon Commission's recommendation to develop a California-specific exam, the State Bar of California, in consultation with subject matter experts in exam development and other specialists, shall be tasked to design an exam.
- Design shall be consistent with guiding principles adopted by the Blue Ribbon Commission: exam should be fair, equitable, and minimize disparate performance impacts based on race, gender, ethnicity, disability, and other immutable characteristics



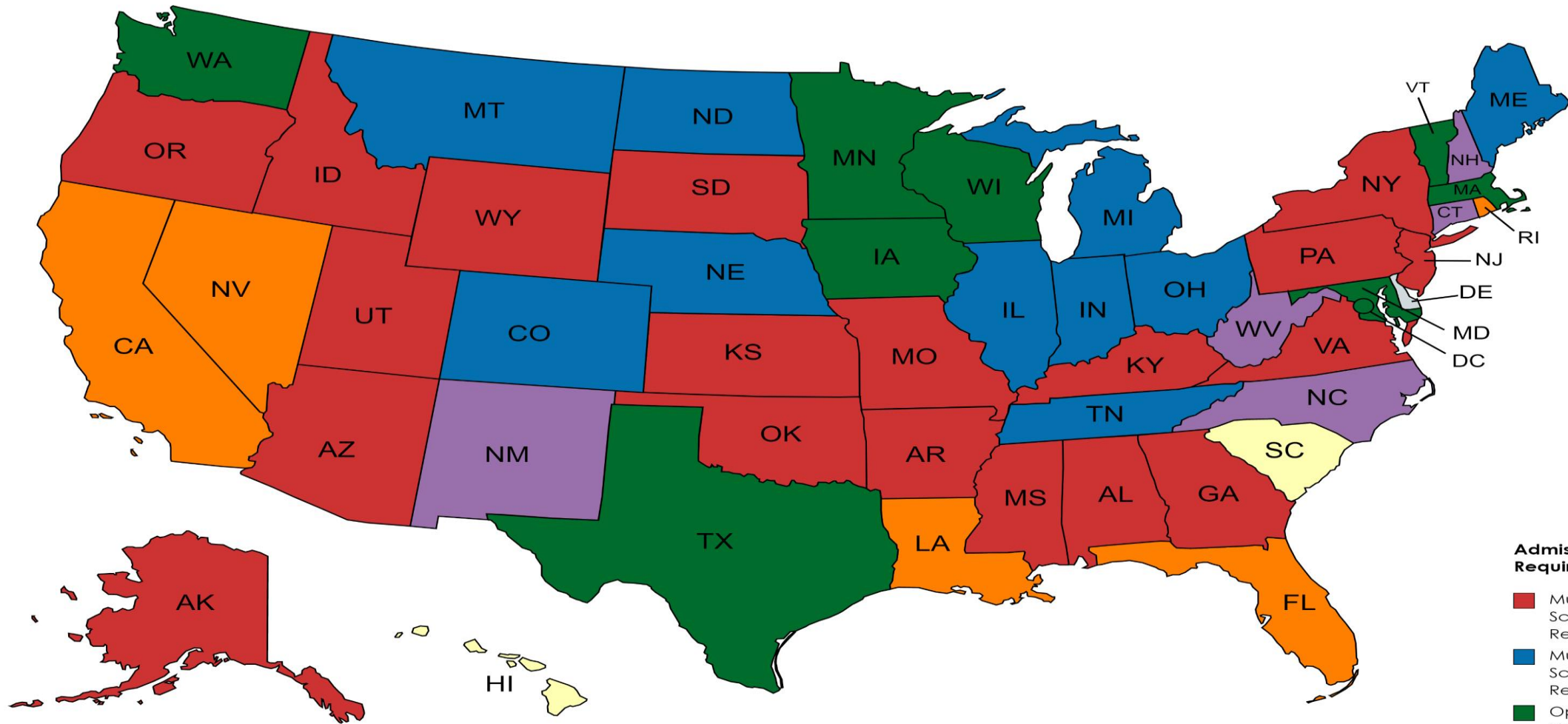
Definitions of Reciprocity versus Comity

 Reciprocity: a jurisdiction allows admission to the State Bar without requiring examination; Jurisdiction X will permit lawyers from Jurisdiction Y to be admitted without examination if Jurisdiction Y extends the same privilege to lawyers from Jurisdiction X.

 Comity: A jurisdiction permits admissions without examination of lawyers from other jurisdictions without regard to whether other jurisdictions extend the same privilege to their lawyers if the lawyers seeking admission satisfy the jurisdiction's moral character, length of practice, and other administrative requirements, including in some cases having achieved a minimum scaled score on the Multistate Bar Examination.



What Exists Today & Future Implications

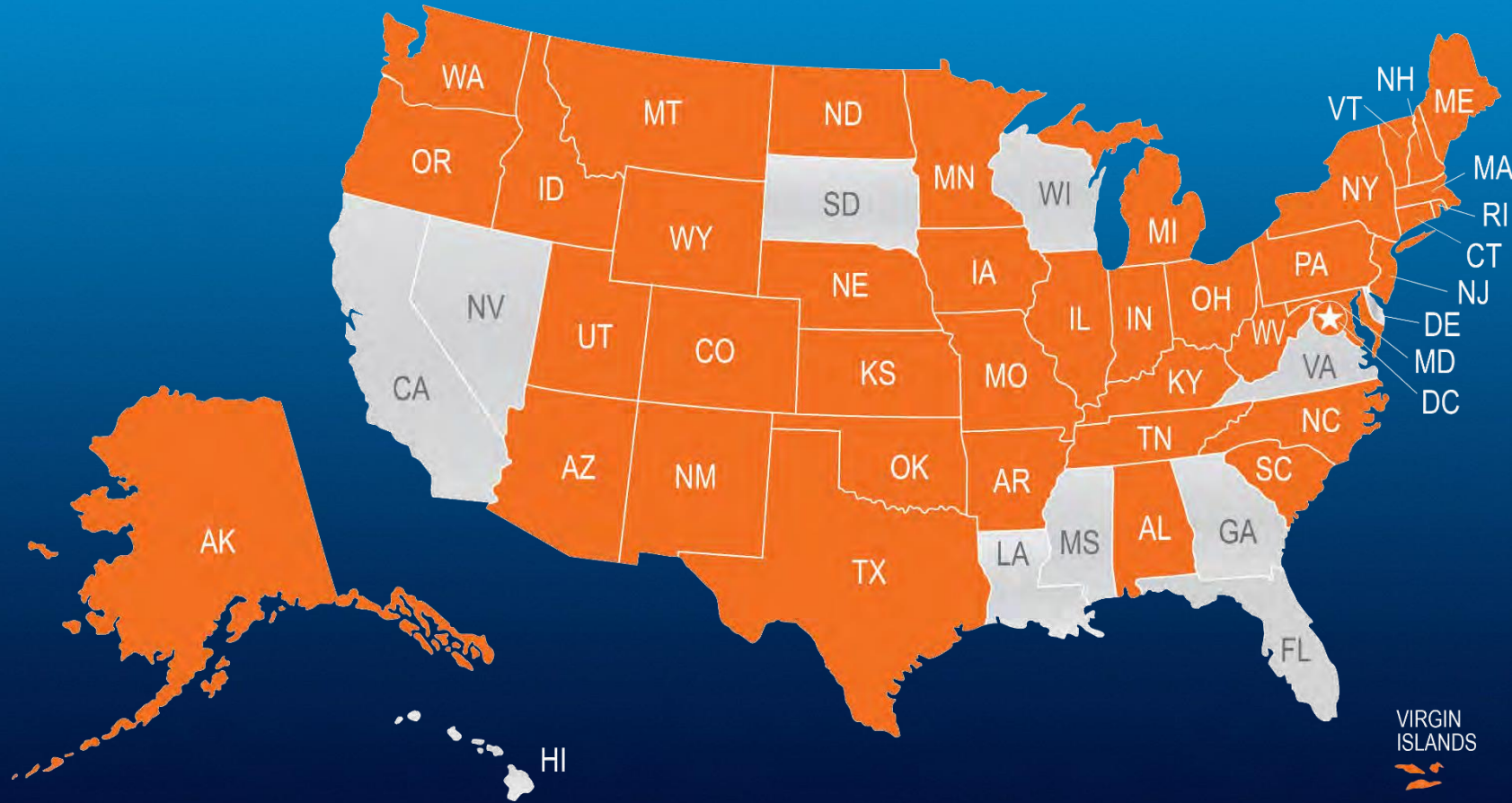


Admission on Motion Requirements

-  Must be an ABA-Approved Law School & Reciprocity Required
-  Must be an ABA-Approved Law School & No Reciprocity Required
-  Open to Non-ABA Law School & No Reciprocity Required
-  Open to Non-ABA Law School & Reciprocity Required
-  Must be an ABA-Approved Law School & No Position on Reciprocity
-  All Applicants Must Take An Exam for Admission

Jurisdictions that Have Adopted the UBE

(as of January 6, 2022)*



*The following jurisdictions will begin administering the UBE for the first time as noted:
Michigan (February 2023) and Pennsylvania (July 2022)

BRC Recommendation on Licensing Attorneys

- That the Supreme Court revise the requirements for licensed, out-of-state attorneys in good standing to be admitted to California without sitting for the California Bar Exam
 - that the licensing state provides the same privileges to California-licensed attorneys
 - regardless of educational background, and upon which a certain number of years of recent practice be required
 - the minimum number of years of recent practice in another state to establish minimum competence along with a demonstration of ethical and competent practice
- That the Supreme Court defer the decision to modify the admissions requirements for foreign attorneys and foreign-educated applicants until the new California bar exam has been implemented





**Special word
of thanks to
the
members of
the Blue
Ribbon
Commission**

Thank you!





Board Action

- California-developed exam (covering federal law and California law)
- CAPA recommended topics plus Professional Responsibility
- CAPA recommended skills
- Focus on skills and application versus memorization
- State Bar and SMEs tasked with exam development
- Reciprocity for attorneys from other states, regardless of educational background





Board Action

RESOLVED, that the Board of Trustees approve the Final Report and Recommendations of the Blue Ribbon Commission, and it is

FURTHER RESOLVED,
that the Board direct staff to transmit the Final Report and Recommendations of the Blue Ribbon Commission to the Supreme Court with a recommendation to adopt the report and its recommendations.



Questions?

