

PUBLIC NOTICE
MINNESOTA STATE BOARD OF LAW EXAMINERS

In June 2021, the Minnesota Board of Law Examiners (Board) announced plans to commence a comprehensive two-year study of the bar examination for the purpose of providing the Minnesota Supreme Court with a report and recommendations no later than June 1, 2023. The [public notice](#) summarized the National Conference of Bar Examiners' [three-year study](#) of this issue and provided additional information on the anticipated changes.

Based both on preliminary review and input from outside stakeholders, the Board expanded the study to consider non-exam alternatives to assess competency and formed a Competency Committee to oversee the project. In the fall of 2021, the Competency Committee held four public hearings to gather additional information. Additional information and the minutes for those meetings is available on the Board's [website](#).

The Competency Committee worked to identify groups impacted by potential changes and groups historically underrepresented in the practice of law, and invited interested parties to attend a discussion on January 14, 2022 to discuss the Board's competency study, to set priorities for additional work, and to discuss evaluation criteria.

The baseline evaluation criteria developed at the conclusion of the meeting were:

1. Ensure that members of the bar are worthy of public trust with regard to their professional competence.
2. Evaluate applicant's ability to satisfy the Essential Eligibility Requirements under Rule 5A of the Rules for Admission to the Bar, including:
 - an understanding of threshold knowledge in core subjects;
 - an understanding of legal processes and sources of law;
 - an ability to reason, recall complex factual information, and integrate that information with complex legal theories;
 - the ability to determine the importance of the information to the overall client matter;
 - the ability to communicate with a high degree of clarity and organization;
 - the ability to interact effectively with clients; and
 - the ability to conduct legal research;
3. Accounting for diversity in the age, race, ethnicity, gender, geographic location, and practices of applicants and the clients who rely on Minnesota lawyers for their legal needs.
4. Ensuring equal access to the practice of law and working to eliminate inequitable barriers to the practice of law on the basis of socio-economic status, race, gender, disability status, etc.
5. Law student and lawyer well-being.
6. Evaluating feasibility in terms of scalability, flexibility, and costs and resources required for implementation: e.g., to applicants, law schools, administration, the bar, regulators, MBL staff, etc.
7. Ability of law schools to implement, the flexibility of curriculum and any ABA Accreditation concerns
8. Reliability of standards to determine meaningful, objective, and consistent results.
9. Available data regarding prior use of method/particular model
10. Other considerations raised by key stakeholders

Following the meeting, three [working groups](#) were formed. The three working groups were charged with reviewing three models of determining competency:

- Examination at the conclusion of law school.
- Evaluation through clinical or experiential programs during law school.
- Evaluation through supervised practice following law school.

Each of these working groups met multiple times this spring, researched and evaluated the models, talked to experts, and discussed the framework criteria. The three Working Groups have now provided their reports to the Board, and the Board has provided these reports to the Bar Admissions Advisory Council (BAAC) for further input. The full reports are available on the Board's website. The Board will use the information provided by the Working Groups to further the study of this issue for the purpose of making recommendations to the Court in June 2023.

Working Group Recommendations:

- Working Group 1 supports multiple pathways to licensure and, based on what is known so far, recommends the NextGen examination as one pathway. The Working Group noted in its report that while the proposed changes to the examination appear to be positive, it still is a standardized test. Lawyering abilities are difficult to measure in a standardized test. NextGen appears to be an improvement in testing foundational skills, but the prototype of the new exam has not yet been released. A benefit of adopting the NextGen is that will continue to allow portability into other jurisdictions. Additional information from the NCBE on how the examination addresses disparities in examination performance between demographic groups would be helpful. Additional information is included in the [full report](#).
- Working Group 2 recommends developing a curricular pathway that would allow law students to be licensed upon graduation. The recommendation includes the creation of minimum competence standards to certify curricular and experiential pathways at each of the Minnesota law schools. Additional information on the guiding principles and recommendations is included in the [full report](#).
- Working Group 3 recommends the development of the Minnesota Supervised Practice Pathway for licensing. Under this program, graduates would complete lawyering tasks under the supervision of a licensed attorney for a specified number of hours of practice and submit documentation of those tasks through a portfolio of work to the Board to demonstrate minimum competence. Additional information is provided in the [full report](#).

On Friday, June 17, 2022, the Bar Admissions Advisory Council (BAAC) met and discussed the reports. The Bar Admissions Advisory Council is comprised of representatives from each of the Minnesota law schools, members of the Board of Law Examiners, and three representatives appointed by the Minnesota State Bar Association.

The Board invites members of the legal community and the public to participate in two upcoming listening sessions to learn more and to provide comments. Additional information on the listening sessions will be posted to the Board's [website](#) the week of July 5. The listening sessions will take place by Zoom and are scheduled for:

- July 11, 2022: 11:30 A.M. to 1:00 P.M.
- July 20, 2022: 8:00 to 9:30 A.M.

Timeline of Upcoming Events:

- August 2022 – October 2022 – Full Board discusses and frames additional questions for public comment. Seeks input on questions from stakeholder groups.
- November 2022 to December 2022 – Public Written Comment Period and public discussion meeting.
- January 2023 to February 2023 – Board refines recommendations.
- March 2023 – Board publishes Board's initial recommendations.
- April 2023 – Comment Period.
- May 2023 – Board refines and prepares report to the Court.

Written comments may be submitted to the Board of Law Examiners, Attn: John Koneck, Board Chair, 180 E. 5th Street, Suite 950, MN 55101 or emailed to ble@mbcle.state.mn.us.

Dated: June 21, 2022

Emily John Eschweiler
Director
Minnesota State Board of Law Examiners