



**ANNUAL  
REPORT  
2022**

**MINNESOTA  
BOARD OF  
LAW EXAMINERS**

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## TABLE OF CONTENTS

Year in Review.....	1-2
BLE Background.....	3-4
Applicants to the MN Bar .....	5-14
Character & Fitness of Applicants .....	15-16
Pro Hac Vice .....	17
Supervised Practice & OBA .....	18
Comprehensive Competency Study.....	19
Funding.....	20

## YEAR IN REVIEW - 2022

### GENERAL

In 2022, the Minnesota Board of Law Examiners (Board) reviewed the processes implemented during the COVID-19 pandemic and began to return to normal processes where safe to do so. Some processes implemented during COVID-19 were determined to be improvements and will continue. Other processes have been revised. Office staff continued utilizing a hybrid work model with some staff choosing to work in the office every day and others electing to work mostly from home and to be in the office a minimum of two days per week.

The Board administered both the February 2022 and July 2022 bar examinations in person while following additional safety protocols, including increased social distancing. Both examinations took place at St. Paul's RiverCentre. Examinees were required to submit certifications verifying that they were complying with public health protocols. Additional details related to the administration of the examination were communicated to applicants through their portals and information posted on the Board's website. The Board continued to allow applicants to bring clear plastic water bottles to the examination. Following a request from a national advocacy group, the Board implemented a menstrual policy for the bar exam, which included updates to the allowed and prohibited items list to allow examinees to use an opaque bag when bringing menstrual products into the bar exam. The Board also updated the prohibited and allowed items list to provide better clarity on what examinees can bring into the exam room.

The Board office coordinated two admission ceremonies for the Court. The May 2022 Admission Ceremony for successful February 2022 examinees was held in the Minnesota Supreme Court Courtroom with a remote option. The October 2022 Admission Ceremony for successful July 2022 examinees took place in the House Chambers at the Minnesota State Capitol, with a remote option at the end of the day. Board staff updated the Bar Admissions Process Survey to include a QR code in the hopes of receiving more feedback from newly admitted lawyers on the application process.

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## YEAR IN REVIEW – 2022 (CONT'D)

The Board returned to in person meetings in April 2022 while still utilizing a Zoom option. A handful of Board members and staff also attended the National Conference of Bar Examiners (NCBE) Annual Conference in person at the end of April. At its May 20<sup>th</sup> Board meeting, the Board welcomed new Character and Fitness Attorney, Rachel Kowarski.

The Bar Admissions Advisory Council (BAAC) met in person on June 17, 2022. The BAAC is comprised of the Board, members from the three Minnesota Law Schools, and representatives from the MSBA. The BAAC meeting primarily focused on the Comprehensive Competency Study underway. The Competency Report will be discussed later in this report.

The Board office launched the Online Bar Application (OBA) on June 3, 2022, after 18 months of extensive design, development, and testing by Board staff and external stakeholders to ensure the project's success. The new application has worked well and has streamlined various processes for both applicants and staff. As of October 1, 2022, all applicants to the Minnesota Bar are required to apply online. The launch of the OBA means that the Board is also able to accept credit card payments.

The Board continued to monitor the progress of the NextGen Exam being designed by the NCBE, which has a current release date of July 2026. The NCBE advised that there will be some overlap in the current test product and the future test product and that the NCBE will not be requiring all jurisdictions to administer the new exam right away. The NCBE plans to conduct a standard setting review of cut scores for the new exam in mid-2025.

In 2022, the Board office finalized a strategic plan that reflects the following priorities:

- Conduct a comprehensive review of the competency requirements for admission to the practice of law to provide recommendations to the Court.
- Maintaining a positive, collaborative, and inclusive work environment that allows the team to stay engaged and be more productive.
- Promoting the use of technology to streamline processes and improve internal and external user experiences.
- Promoting access, equity, and inclusion in the practice of law.
- Maintaining functions even during catastrophic events or other unforeseen disasters.

The Board office conducted periodic reviews during 2022 to ensure progress was being made on each of these initiatives. The Board also reviewed processes and procedures in 2022, including the financial policies and the mental health questions asked on the application, and made revisions to focus more on conduct.

At the December Board meeting, the Board shared their appreciation for retiring Board member Shawne Monahan and her years of service.

The Board office is making plans to relocate to the Minnesota Judicial Center in Spring 2023.

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## BLE BACKGROUND

### BACKGROUND

The Minnesota Board of Law Examiners (Board) is responsible for ensuring that those who are admitted to the bar in Minnesota have the necessary competence and character to justify the trust and confidence of clients, the public, and the legal profession. The Board accomplishes this task by investigating bar applicants' character and fitness for admission, administering the bar examination, and reviewing the eligibility of applicants who apply on motion to Minnesota.

The Board met nine times in 2022. Each Board meeting consists of a public portion of the meeting, followed by a confidential agenda. Rule 3C and Rule 14 govern which matters are public and which are confidential.

### BOARD MEMBERS

The Board is comprised of nine members, including seven lawyer members and two public members. The Minnesota Supreme Court appoints all members to the Board. Each member is appointed for a three-year term, and each may be reappointed for two additional terms.

John Koneck served as President of the Board in 2022 and Hon. Juan Hoyos served as the Secretary.

The Chief Justice, Lorie Skjerven Gildea, appoints a Minnesota Supreme Court Justice as the liaison between the Court and the Board. Justice G. Barry Anderson has served in this role since 2013.



<b>2022 BOARD MEMBERS</b>
<b>President:</b> John M. Koneck, Fredrikson & Byron, P.A., Minneapolis
<b>Secretary:</b> Hon. Juan Hoyos, 4 <sup>th</sup> District Judge, Minneapolis
Patricia Y. Beety, General Counsel League of MN Cities, St. Paul
Brian A. Bell, Dorsey and Whitney, Minneapolis
Thomas H. Boyd, Winthrop & Weinstine, P.A., Minneapolis
Wilbur H. Fluegel, Fluegel Law Office, Minneapolis
Mark S. Kuppe, public member, St. Paul
Shawne M. Monahan, public member, St. Paul
Cheryl M. Prince, Hanft Fride, A Professional, Duluth

<b>SUPREME COURT LIAISON</b>
Justice G. Barry Anderson, MN Supreme Court
<b>EXECUTIVE DIRECTOR</b>
Emily Eschweiler

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## BLE BACKGROUND (CONT'D)

### BOARD COMMITTEES

In addition to the Board's commitment to its regular meetings, Board members are also asked to serve on committees of the Board, which meet on a regular basis. The standing committees in 2022 included:

2022 Board Committees
Rules & Policy Committee
Budget and Operations Committee
Character and Fitness Policy Committee
Character and Fitness Interview Committee
Conditional Admission Committee
Bar Exam Committee
Long Range Planning Committee
Special Committee - Comprehensive Competency Committee

### BAR ADMISSIONS ADVISORY COMMITTEE (BAAC)

Rule 19 of the Rules for Admission to the Bar establishes an advisory committee comprised of three members appointed by the Minnesota State Bar Association (MSBA), the Deans of the three Minnesota law schools and their additional representatives, and members of the Board, which meets to discuss matters related to bar admissions. The BAAC met in June 2022, where the Board received updates about developments and initiatives at each of the three Minnesota law schools, and from the MSBA. The Board shared an overview of the progress made with the Comprehensive Competency Study.

### BOARD STAFF

The Board employs a staff of 12.1 FTE. The Director, Managing Attorney, Staff Attorney, Finance/IT Administrator, and three Office Assistants also work for the Board of Continuing Legal Education, the Board of Legal Certification, and the Lawyer Registration Office. The Board's staff includes an Attorney for Character and Fitness, a Managing Attorney, a Bar Admissions Administrator, a Staff Attorney, three Application Coordinators, two Paralegals, and three Office Assistants.

In 2022, the Board office continued a more permanent hybrid approach to work location for staff. A rotating office schedule was produced every few months to allow work from home three days a week and two days in the office, for those that wished to work from home. By designating additional back-ups for in-office duties and responsibilities, the office was able to maintain in-office functions and a high level of customer service with less staff in the office, as compared to pre-pandemic.

While the offices remained open to visitors, stakeholders were encouraged to communicate with the Board office through their applicant portals, or by telephone, email, and mail.

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## APPLICANTS TO THE MN BAR

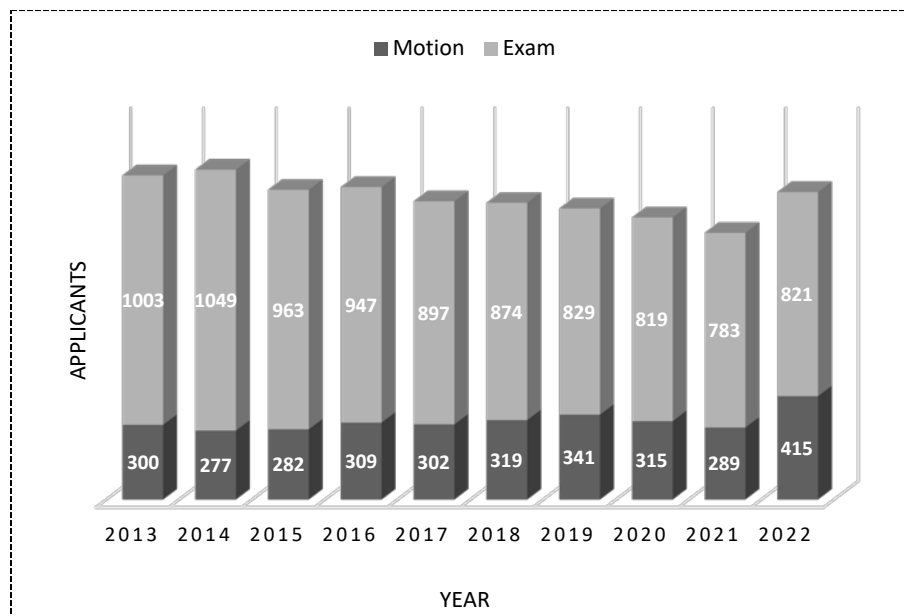
### ALL APPLICANTS

New lawyers are admitted to the Bar in Minnesota by taking and passing the Uniform Bar Examination (UBE) or applying by motion. All applicants to the Minnesota Bar must submit proof that they have received a scaled score of at least 85 or higher on the Multi-State Professional Responsibility Examination (MPRE). The total number of exam applicants increased by 38 in 2022 compared to 2021, or a 4.85% increase. The total number of motion applicants greatly increased in 2022, with 126 more applicants than in 2021, a 43.6% increase. The 415 motion applications is the highest number the Board has received in a single year.

This increase follows a decrease in 2021, which was likely related to the decision in other jurisdictions to administer a Remote Online Examination in October 2020 instead of the UBE, which did not qualify applicants to transfer their score into Minnesota pursuant to Rule 7C. The Board sees a significant number of Rule 7C applications following the release of examination results in jurisdictions with a higher cut score than Minnesota from applicants who do not meet the cut score eligibility requirements for that jurisdiction.

Overall, the total number of applicants increased by 164, or 15.3% more than in 2021. **Graph 1** shows the number of exam and motion applicants for years 2013-2022.

**Graph 1: Motion & Exam Applicants 2013-2022**



#### 2021 to 2022 Stats

4.85% ↑ Exam Applicants

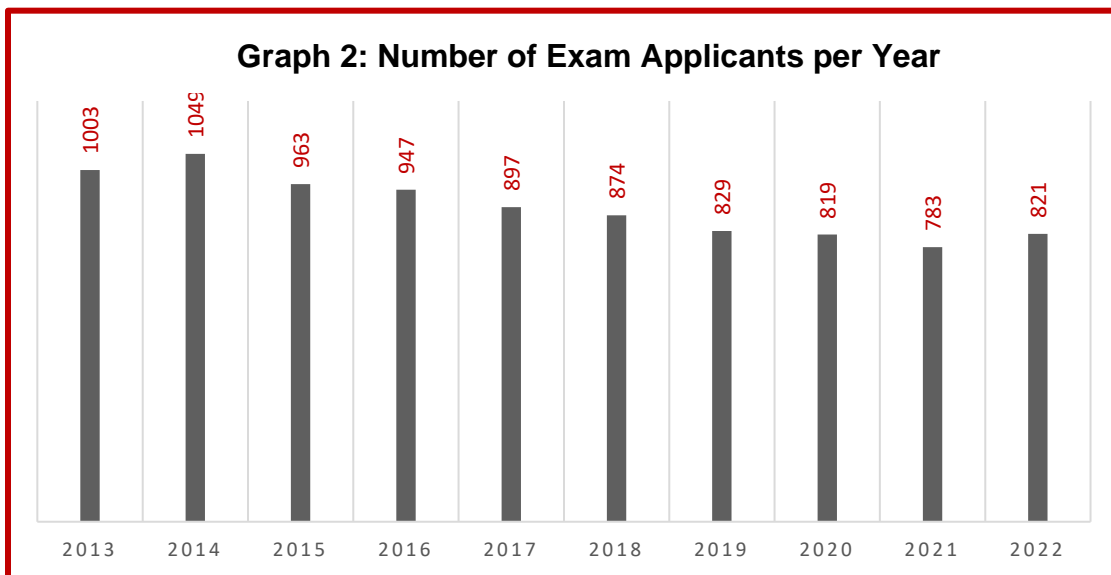
43.6% ↑ Motion Applicants

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## APPLICATION FOR EXAMINATION

### BAR EXAM

Since 2014, Minnesota has administered the Uniform Bar Examination (UBE), comprised of two 90-minute performance tests, six 30-minute essay questions, and 200 multiple choice questions. The test is developed by the National Conference of Bar Examiners and has been adopted by 41 jurisdictions. Scores achieved in other UBE jurisdictions may be used to seek admission in Minnesota or in any of the other UBE jurisdictions. Each jurisdiction sets its own cut score – the score required for admission in that state. In 2022, cut scores ranged from 260 to 280. Minnesota’s cut score is 260, along with four other jurisdictions. The UBE is offered twice per year in February and July. The number of exam applicants in Minnesota has been dropping since 2014, with 2021 seeing the lowest number in 25 years (**Graph 2**). There was a slight increase in 2022, with 821 exam applicants, which is within 1% of the pre-pandemic total from 2019.



The following tables, **Tables 1 and 2**, show the number of examinees who sat for and passed the February and July bar examinations over the past two years, by law school and exam, along with the passage rate for those taking the examination for the first time in Minnesota. **Table 3** contains the same data as combined totals by year.



# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## APPLICATION FOR EXAMINATION (CONT'D)

**Table 1: February Bar Examination Participants, Passage Rate and First-time Exam Takers for 2021 and 2022**

<b>FEBRUARY</b>	<b>2021</b>				<b>2022</b>			
	<b>SAT</b>	<b>OVERALL PASSAGE</b>	<b>FIRST TIME</b>	<b>FIRST TIME</b>	<b>SAT</b>	<b>OVERALL PASSAGE</b>	<b>FIRST TIME</b>	<b>FIRST TIME</b>
University of MN	9	6	66.67%	100.00%	10	7	70.00%	100.00%
St. Thomas	46	24	52.17%	71.43%	33	17	51.52%	75.00%
Mitchell Hamline	90	51	56.67%	58.00%	96	62	64.58%	78.95%
Other Schools	39	23	58.97%	77.27%	31	23	74.19%	72.73%
<b>TOTAL – All Schools</b>	<b>186</b>	<b>106</b>	<b>56.99%</b>	<b>67.03%</b>	<b>174</b>	<b>109</b>	<b>62.64%</b>	<b>77.78%</b>

**Table 2: July Bar Examination Participants, Passage Rate and First-time Exam Takers for 2021 and 2022**

<b>JULY</b>	<b>2021</b>				<b>2022</b>			
	<b>SAT</b>	<b>OVERALL PASSAGE</b>	<b>FIRST TIME</b>	<b>FIRST TIME</b>	<b>SAT</b>	<b>OVERALL PASSAGE</b>	<b>FIRST TIME</b>	<b>FIRST TIME</b>
University of MN	141	133	94.33%	96.32%	152	146	96.05%	96.97%
St. Thomas	137	97	70.80%	77.78%	134	107	79.85%	88.98%
Mitchell Hamline	176	102	57.95%	69.17%	168	129	76.79%	84.98%
Other Schools	112	84	75.00%	83.84%	114	90	78.95%	81.13%
<b>TOTAL – All Schools</b>	<b>566</b>	<b>416</b>	<b>73.50%</b>	<b>81.86%</b>	<b>574</b>	<b>474</b>	<b>82.58%</b>	<b>87.79%</b>

**Table 3: February & July Bar Examination Participants, Passage Rate and First-time Exam Takers Totals for 2021 and 2022**

<b>TOTALS: FEBRUARY &amp; JULY</b>	<b>2021</b>				<b>2022</b>			
	<b>SAT</b>	<b>OVERALL PASSAGE</b>	<b>FIRST TIME</b>	<b>FIRST TIME</b>	<b>SAT</b>	<b>OVERALL PASSAGE</b>	<b>FIRST TIME</b>	<b>FIRST TIME</b>
University of MN	150	139	92.67%	96.43%	162	153	94.44%	96.08%
St. Thomas	183	121	66.12%	77.10%	168	124	73.81%	89.52%
Mitchell Hamline	266	153	57.52%	66.12%	264	191	72.35%	83.62%
Other Schools	151	107	70.86%	82.64%	145	113	77.93%	79.69%
<b>TOTAL – All Schools</b>	<b>752</b>	<b>522</b>	<b>69.41%</b>	<b>79.51%</b>	<b>748</b>	<b>583</b>	<b>77.94%</b>	<b>86.56%</b>



# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

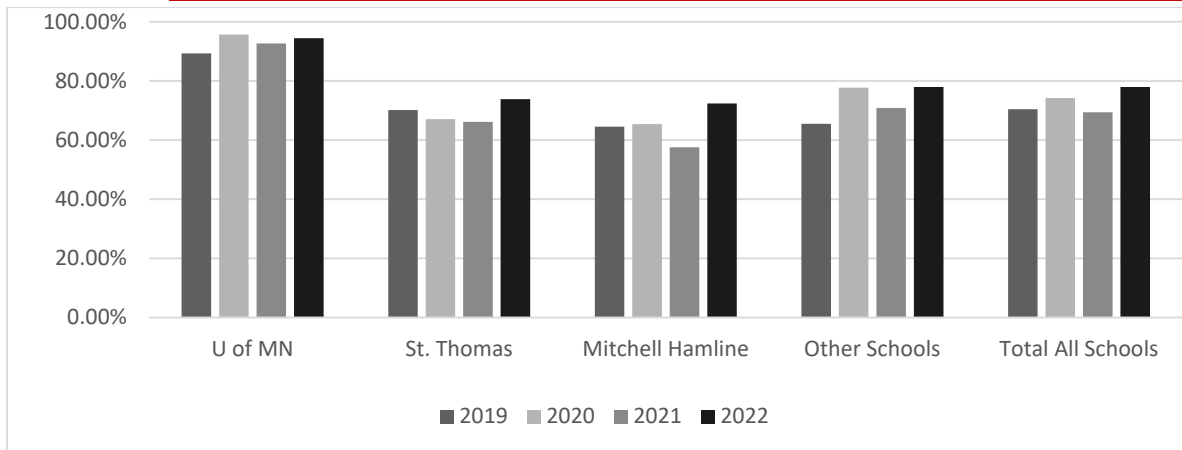
## APPLICATION FOR EXAMINATION (CONT'D)

**Table 4** below contains the overall passage rate for all February and July examinees and first-time examinees, by law school, for the last four years. **Graphs 3A and 3B** provide this same data in a visual format that displays trends over the last four years.

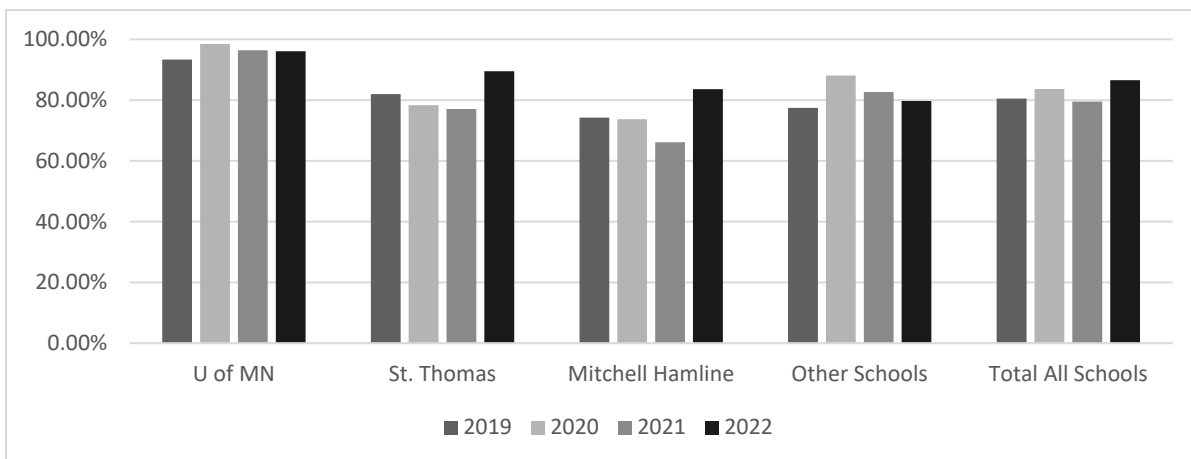
**Table 4: Overall & First-Time Examinee Passage Rate Totals for Law Schools 2019-2022**

Law School	2019		2020		2021		2022	
	Overall	1 <sup>st</sup> -Time	Overall	1 <sup>st</sup> -Time	Overall	1 <sup>st</sup> -Time	Overall	1 <sup>st</sup> -Time
<b>U of MN</b>	89.29%	93.33%	95.68%	98.48%	92.67%	96.43%	94.44%	96.08%
<b>St. Thomas</b>	70.13%	81.98%	67.09%	78.33%	66.12%	77.10%	73.81%	89.52%
<b>Mitchell Hamline</b>	64.52%	74.26%	65.40%	73.68%	57.52%	66.12%	72.35%	83.62%
<b>Other Schools</b>	65.48%	77.46%	77.71%	88.11%	70.86%	82.64%	77.93%	79.69%
<b>Total All Schools</b>	<b>70.39%</b>	<b>80.52%</b>	<b>74.20%</b>	<b>83.64%</b>	<b>69.41%</b>	<b>79.51%</b>	<b>77.94%</b>	<b>86.56%</b>

**Graph 3A: Law School Overall Passage Rates for All Examinees**



**Graph 3B: Law School Passage Rates for First-Time Examinees**



# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## APPLICATION FOR EXAMINATION (CONT'D)

### TEST ACCOMMODATIONS

The Board grants test accommodations in accordance with the Americans with Disabilities Act, as amended, as well as with the Minnesota Human Rights Act. Accommodations are afforded to qualified applicants with disabilities who are otherwise eligible to take the Minnesota bar examination. Reasonable modifications are made in the administration of the examination, as appropriate.

An applicant seeking test accommodations must submit medical documentation of their disability and documentation of any history of accommodations in law school and on standardized tests. Board staff then engages in an interactive process and makes every effort to arrive at a test accommodation that meets the documented needs of the applicant while preserving the integrity of the exam and adhering to reasonable standards of test administration.

Requests for accommodations are considered and determined on a case-by-case basis after Board staff consults with the examinee (if any questions), reviews records submitted by the examinee, reviews past accommodations, and in many cases, after referring the information for review by a medical expert.

When requests for accommodations are referred to one or more of the Board's expert medical evaluators, the evaluator prepares a written report detailing the applicant's diagnosis, the nature and extent of impairment, and the reasonableness of the requested accommodation. The evaluator offers an opinion as to what he or she considers to be the appropriate accommodation. After reviewing the medical evaluator's report and the information submitted by the applicant, the Director issues a written determination to grant, deny, or modify the applicant's request for test accommodations.

An applicant whose request is modified or denied may appeal the decision by requesting an expedited hearing. The Board President or a designated Board member conducts the expedited hearing by telephone. The President considers the evidence in the record as well as the evidence presented at the hearing, and issues a brief written decision, usually within five business days. An applicant who is not satisfied with the expedited hearing decision may request a full hearing before the Board.



#### Some Accommodations Granted in 2022:

- Additional testing time
- Testing in a private or semi-private room
- Off-the-clock breaks

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## APPLICATION FOR EXAMINATION (CONT'D)

### LAPTOP TESTING

Since February 2003, examinees have been permitted to write the performance test and essay portions of the examination using their own laptop computer. Examinees are required to download blocking software to their computers, which prevents the applicant from accessing any other program or files during the examination. An additional fee of \$100 is charged to examinees to offset the increased costs associated with the use of laptops. **Table 5** shows the number of applicants that chose to handwrite the exam or utilize their laptops to take the exam for the previous five years.



In 2022, 730 or 97.59% of all examinees took the bar examination on a laptop. This was a slight increase from the 718 examinees (95.48%) taking the examination on a laptop in 2021.

**Table 5: Individuals Taking the Essay Examination by Laptop (Past 5 Years)**

	2018	2019	2020	2021	2022
<b>Laptop</b>	758	742	723	718	730
<b>Handwritten</b>	34	28	25	34	18
<b>Total</b>	825	770	748	752	748
<b>Percentage by Laptop</b>	95.90%	96.40%	96.66%	95.48%	97.59%

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## APPLICATION ON MOTION

### APPLICATION ON MOTION

Rules 7, 8, 9, 10, and 11 allow certain applicants to apply for licensure in Minnesota on motion (without sitting for the exam in Minnesota), provided the applicant meets the Rule requirements. Applicants who are admitted on motion are required to meet all of the other requirements to practice law in Minnesota, including a positive character and fitness determination and a determination that they meet all other eligibility criteria. The charts below show the number of admissions under these motion types between 2013 and 2022.

In 2022, 350 individuals were admitted on motion without examination, compared to 275 in 2021, an increase of 27.27% and the most the Board has admitted in a single year. The Board had previously seen a decline in motion applications in 2020 and 2021. As noted previously, Minnesota typically sees a large number of examinees applying under Rule 7C following score release in other UBE jurisdictions, and the prior decrease was likely related to a number of jurisdictions not administering the UBE in July 2020. Two years later, motion application volume has exceeded its pre-pandemic highs.

Graph 4 on the next page shows the number of applicants admitted under Rule 7. The difference between application numbers and admission numbers is partially due to the timing of when the applications were received and recommended for admission after completion of the Board's review, which sometimes takes place in different calendar years. The section below provides additional detail regarding various types of motion applicants.

### RULE 7

Rule 7A permits applicants to be admitted without examination in Minnesota if they are licensed and in good standing in another jurisdiction and have the requisite years of practice. In 2022, 115 applications were submitted under Rule 7A, compared to 116 in 2021. During 2022, 119 Rule 7A applicants were admitted, which is a slight increase from 2021 (107) and similar to 2020 (115).

Rule 7B permits applicants to be admitted without examination in Minnesota if they have received a scaled score of 145 or above on an MBE taken within the past three years as part of another jurisdiction's bar exam, if they passed and were admitted in that jurisdiction. The Board received 22 Rule 7B applications in 2022, compared to 20 applications in 2021. In 2022, 21 applicants were admitted under Rule 7B, compared to 24 in 2021. As more and more states adopted the UBE over the last 10 years, the number of applications under Rule 7B decreased by 87%, but now may be starting to plateau.

#### MOTION TYPES

- Rule 7A** – Practiced law, as principal occupation, for 36 of the last 60 months in another jurisdiction and in good standing in each jurisdiction in which licensed.
- Rule 7B** – Transfer of a scaled Multistate Bar Examination (MBE) score of 145 or higher on an MBE taken within the last 3 years.
- Rule 7C** – Transfer of a Uniform Bar Examination (UBE) score taken in another jurisdiction within the last 3 years.
- Rule 8** – Temporary Legal Services License
- Rule 9** – Temporary House Counsel License
- Rule 10** – Permanent House Counsel License
- Rule 11** – Foreign Legal Consultant

#### Rule 7 Applications - 2021 to 2022

- 7A:** 0.86% ↓ Applications
- 7B:** 10.0% ↑ Applications
- 7C:** 92.14% ↑ Applications

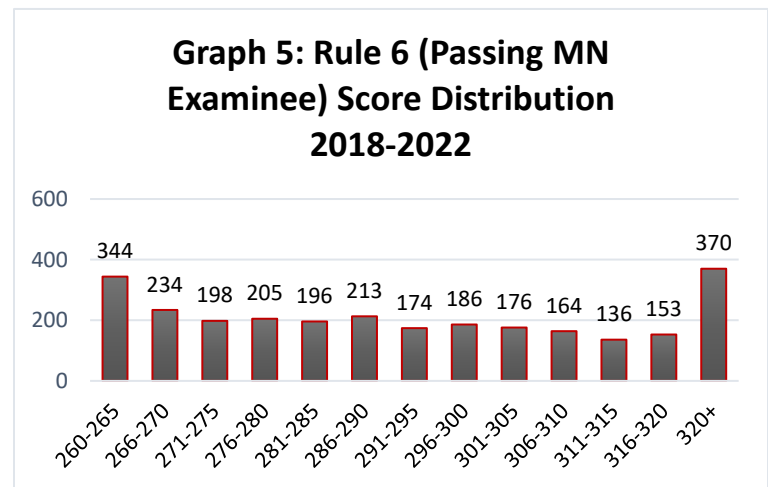
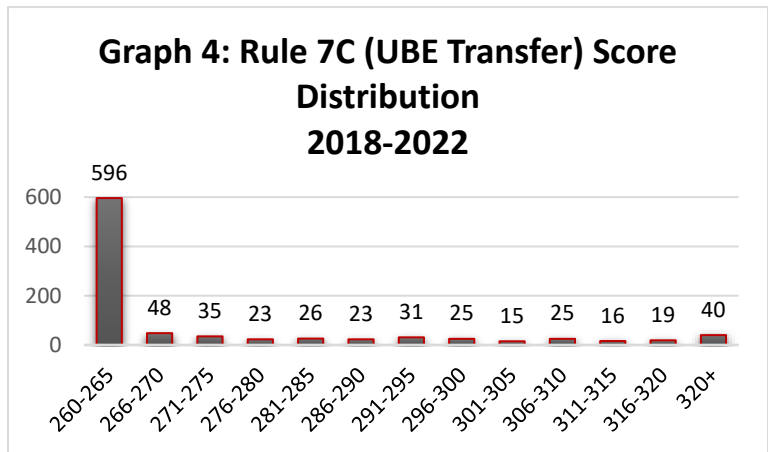
# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## APPLICATION ON MOTION (CONT'D)

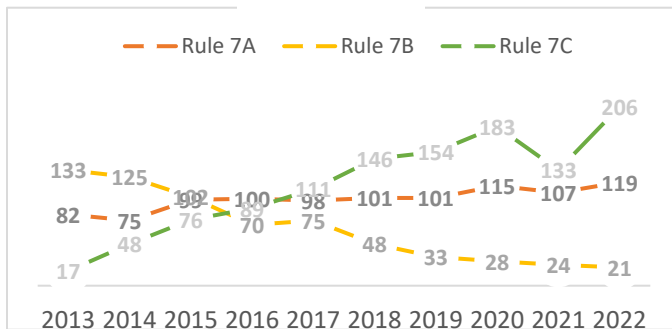
In 2013, Minnesota began to accept transferred UBE scores under Rule 7C. This provision permits applicants to be admitted without examination in Minnesota if they have achieved a scaled score of 260 or above on a certified UBE taken in another jurisdiction. Applicants do not need to be admitted or have received what is considered a passing score in the jurisdiction where they achieved the UBE score. Over the past five years, 67% of Rule 7C applicants transferred a UBE score to Minnesota that was not considered a passing score by the jurisdiction where they took the exam.<sup>1</sup>

The Board receives a large number of Rule 7C applications from individuals who achieved scores of 260-265 in another UBE jurisdiction.<sup>2</sup>

**Graphs 4 and 5** show the distribution of UBE scores transferred as part of Rule 7C applications during the past five years, along with Rule 6 (Minnesota examinee) data for reference.



**Graph 6**



In 2022, 269 applications were filed under Rule 7C, compared to 140 in 2021, an increase of 92.14%. In 2022, 206 Rule 7C applicants were admitted, compared to 133 in 2021, an increase of 54.89%. **Graph 6** represents the number of Rule 7 admissions from 2013-2022.

<sup>1</sup> The Board received 125 applications from North Dakota examinees, all of whom passed that exam because North Dakota also has a UBE cut score of 260. Of the remaining 797 Rule 7C applicants, 77% did not achieve a passing score in the jurisdiction where they took the exam. The North Dakota applicants have a median UBE score of 290, compared to a median score of 263 for the remaining Rule 7C applicants.

<sup>2</sup> Of the 41 UBE jurisdictions, 30 have a cut score between 266 and 270.

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## APPLICATION ON MOTION (CONT'D)

Graph 7: Rule 8, 9, 10, and 11 Admissions



### RULES 8, 9 AND 10

Rule 8 permits a lawyer licensed in another jurisdiction who has accepted legal employment with a Minnesota legal services program to obtain a temporary license (valid for 15 months) to practice law in Minnesota for the legal services program. Two lawyers were admitted under Rule 8 in 2022, which is the same as 2021.

Rule 9 and Rule 10 licenses permit the admission of lawyers who are employed in Minnesota solely for a corporation or other non-law firm entity and who limit their practice to representation of the corporation or other entity. Under Rule 9 and Rule 10, applicants must have at least three years of active and lawful practice in another jurisdiction during the past five years. If a lawyer licensed under Rule 9 or 10 leaves employment with the corporation which sponsored the application, the license is no longer valid.

Rule 9 permits house counsel applicants to be licensed on a temporary basis. The application process under Rule 9 is expedited in order to permit the house counsel lawyer to be licensed as quickly as possible. There were no Rule 9 admissions in 2022; the Board averages about one per year. There was one Rule 10 admission in 2022, which is a large decrease from the seven reported in 2021. **Graph 7** (above) displays the number of admissions pursuant to Rules 8, 9, 10, and 11 from 2013 to 2022. The chart below shows the number of applications in 2022.

Rule Type	Number of 2022 Applications
Rule 8	3
Rule 9	0
Rule 10	3
Rule 11	2

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## APPLICATION ON MOTION (CONT'D)

### RULE 11

Rule 11 allows a lawyer admitted and practicing law in a country other than the United States to apply for a Foreign Legal Consultant License. This license permits the individual to advise clients on the law of the country in which the foreign legal consultant is admitted as a lawyer, counselor at law, or equivalent. A foreign legal consultant cannot represent individuals in matters outside of the limited scope of the Foreign Legal Consultant License, unless the lawyer is licensed as a house counsel foreign legal consultant. Foreign legal consultants who are admitted as house counsel may practice law for the corporate entity without the restrictions that apply to private foreign legal consultants. There was one new foreign legal consultant admission in 2022, the same as the last two years.

### APPLICATION ON MOTION TOTALS

As is shown by **Table 6** below, there was a large increase in the total number of lawyers admitted on motion in 2022. This is attributable to the large increase in Rule 7C admissions, as the overall total for other motion application types increased by only 1.4%. While the 2022 totals show a remarkable one-year increase, they do not appear out-of-line with longer term trends, and the 2021 figures may prove to be the true aberration.

**Table 6: Lawyers Admitted on Motion (Without Examination)**

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
<b>Rule 7A (years of practice)</b>	82	75	99	100	98	101	101	115	107	119
<b>Rule 7B (MBE score)</b>	133	125	102	70	75	48	33	28	24	21
<b>Rule 7C (UBE score)<sup>3</sup></b>	17	48	76	89	111	146	154	183	133	206
<b>Rule 8 (Temp Legal Services)</b>	2	1	3	2	6	3	3	0	2	2
<b>Rule 9 (Temp House Counsel)</b>	1	1	0	1	1	1	2	0	1	0
<b>Rule 10 (House Counsel License)</b>	2	7	5	3	6	3	2	1	7	1
<b>Rule 11 (Foreign Legal Consultant)</b>	0	2	1	0	2	3	0	1	1	1
<b>TOTAL</b>	<b>237</b>	<b>259</b>	<b>286</b>	<b>265</b>	<b>299</b>	<b>305</b>	<b>295</b>	<b>328</b>	<b>275</b>	<b>350</b>

<sup>3</sup> 2013 was the first year applicants could apply under Rule 7C.



# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## APPLICANT CHARACTER & FITNESS

### INVESTIGATION PROCESS

The Board of Law Examiners conducts an investigation of the background of each applicant to the bar. The focus of the investigation is to determine whether an applicant demonstrates the ability to meet the essential eligibility requirements to practice law.

Board staff relies on policies and written procedures to ensure that character and fitness investigations are conducted in a thorough, fair, efficient, and consistent manner. Full and complete disclosure is important. Applications that raise serious character and fitness concerns are brought to the Board for review. The more serious the misconduct in the applicant's past, the more evidence of rehabilitation the applicant will be required to provide. Dishonesty is the most frequent reason for denial of a bar application. Failure to provide thorough responses is the most frequent reason for delay.

#### RULE 5A - ESSENTIAL ELIGIBILITY REQUIREMENTS

The ability to be honest and candid with clients, lawyers, courts, the Board, and others;

The ability to reason, recall complex factual information, and integrate that information with complex legal theories;

The ability to communicate with clients, lawyers, courts, and others with a high degree of organization and clarity;

The ability to use good judgment on behalf of clients and in conducting one's professional business;

The ability to conduct oneself with respect for and in accordance with the law;

The ability to avoid acts which exhibit disregard for the rights or welfare of others;

The ability to comply with the requirements of the Rules of Professional Conduct, applicable state, local, and federal laws, regulations, statutes, and any applicable order of a court or tribunal;

The ability to act diligently and reliably in fulfilling one's obligations to clients, lawyers, courts, and others;

The ability to use honesty and good judgment in financial dealings on behalf of oneself, clients, and others; and

The ability to comply with deadlines and time constraints.

For most applicants taking the bar examination, the Board completes its investigation by the time the bar examination results are published. There are some applicants each examination cycle who wait until the results are released before providing responses to inquiries that Board staff previously posted. This may result in applicants who are unable to attend the admission ceremony. In 2022, 88.1% of successful February applicants and 92.8% of successful July applicants were cleared in time to participate in the admission ceremony. Applicants who did not clear character and fitness prior to the admission ceremony either failed to respond to Board requests in a timely manner or had more serious issues in their file that warranted further investigation or consideration. In addition, some applicants did not qualify to attend the ceremony because they had not yet submitted a qualifying MPRE score.

**During the Character & Fitness process, the Board views favorably any measures taken by applicant to proactively address concerns.**

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## APPLICANT CHARACTER & FITNESS (CONT'D)

### CHEMICAL DEPENDENCY AND EMOTIONAL CONDITIONS

Board inquiries into mental health and chemical dependency issues are narrowly focused to meet the Board's responsibility to protect the public and to determine whether an applicant meets the essential eligibility requirements. The Board recognizes the stresses that law school and other factors may place on applicants and encourages applicants to seek psychological counseling or treatment whenever the applicant believes it beneficial to do so. The Board views the decision to seek treatment as a positive factor in evaluating applications and regularly recommends admission of applicants who have addressed their issues and who have the current ability to meet the essential eligibility requirements to practice law.

### MENTAL HEALTH EVALUATIONS

The Minnesota Bar Application includes several paragraphs explaining that written policies and procedures are not intended to discourage mental health treatment. When an applicant discloses, or the Board's investigation identifies conduct that suggests a mental or neurological condition that appears likely to prevent the applicant from fulfilling the essential eligibility requirements for the practice of law as set forth in Rule 5A, the Board may refer the applicant for a comprehensive psychological evaluation. Such referrals are rare and when requested, are conducted at the Board's expense.

### CONDITIONAL ADMISSIONS

Rule 16 permits the Board to conditionally admit applicants whose past conduct raises concerns under Rule 5, but whose current record of conduct evidences a commitment to rehabilitation and an ability to meet the essential eligibility requirements for the practice of law. An applicant may be placed on conditional admission for issues such as substance abuse, chemical dependency, mental health-related misconduct, criminal probation, or financial irresponsibility.

Conditional admission occurs with the consent of the applicant and permits the applicant to begin practicing law while continuing in his or her program of rehabilitation. Typical conditional admission terms for an applicant with chemical dependency or substance abuse concerns would include requiring the applicant to report regular attendance at a sober support group, remain law abiding, and submit to random urinalysis. The period of conditional admission ranges from six to 60 months. The conditional license status is confidential and is not disclosed to the public.

### ADVERSE DETERMINATION

When the Board concludes that an applicant has failed to meet their burden to prove their good character and fitness to practice law, the Board issues an adverse determination providing the grounds for its decision. Applicants may request a hearing before the full Board and present additional evidence. If the applicant does not do so, the adverse determination becomes final and the application is denied.

**Conditional Admission  
2009-2022:**

**175** Total  
Lawyers

**145** Total  
Lawyers  
Successfully  
Completed

**25** Lawyers on  
Conditional  
Admission as of  
Dec. 31, 2022

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## PRO HAC VICE

On November 24, 2020, the Minnesota Supreme Court adopted a petition filed by the Legal Services Advisory Committee (LSAC) to amend Rule 5 of the General Rules of Practice to establish a registration process and impose a fee on lawyers seeking *pro hac vice* admission in Minnesota state court.

Out-of-state lawyers admitted to practice in the trial courts of any other jurisdiction and who have been retained to appear in a particular case pending in a district court in Minnesota may appear in the matter at the discretion of the district court upon a written application to appear as counsel *pro hac vice*. Before applying, the out-of-state lawyer should carefully review Rule 5 of the General Rules of Practice.

Effective June 1, 2021, the Minnesota Supreme Court has implemented a new process for out-of-state lawyers seeking *pro hac vice* admission in Minnesota. The revised Rules set out a two-step process. The Minnesota Board of Law Examiners handles Step 1 on behalf of the Minnesota Supreme Court. Applicants must file an electronic application, submit a certificate of good standing from the jurisdiction in which the lawyer primarily practices, and submit electronic payment in the amount of \$450, unless the matter qualifies for waiver under Rule 5.02(b) of the General Rules of Practice. All fees received are allocated to the Lawyer Services Advisory Council. LSAC received \$225,900 in 2022.

In 2022, a total of 591 applications were processed. The application totals by month through the end of 2022 are listed below.

### Pro Hac Vice Applications by Month

	2021		2022	
	Total Applications	Fee Exempt	Total Applications	Fee Exempt
January	--	--	36	7
February	--	--	36	1
March	--	--	41	4
April	--	--	34	3
May	--	--	41	6
June	29	3	50	3
July	32	6	58	0
August	45	25	37	0
September	66	36	67	7
October	51	5	108	51
November	62	12	60	7
December	30	13	23	0
<b>Totals</b>	<b>315</b>	<b>100</b>	<b>591</b>	<b>89</b>

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## SUPERVISED PRACTICE

The revised Supervised Practice Rules were adopted by the Minnesota Supreme Court on July 1, 2020. These Rules broadened the scope of and superseded the former Student Practice Rules.

The Board office processes requests that are received from Minnesota and out-of-state law schools daily. There are three types of certification requests. One is for certification as a Law Student Practitioner, for a student currently enrolled in law school who will be supervised by a lawyer to perform work in a practice placement, such as an externship, or as part of a clinical law course. Another is for a Student Observer, for a law student to observe the work of a licensed attorney, which may include confidential matters. Lastly, the law school may request a graduate to be certified as a Supervised Practitioner so they can work with a supervising lawyer after graduation and before receiving bar exam results. In 2022, there were 422 law students who submitted their initial request for certification, which does not include students who recertified in 2022. The large number is most likely due to clinical courses. There were 66 Supervised Practitioners certified in 2022.

## ONLINE BAR APPLICATION

The online bar application was launched on June 3, 2022. After its debut, the office required all Rule 6 applications to be submitted through the online application (for the bar exam in February 2023 or later), but still allowed motion applications to be submitted in paper until October 3, 2022.

From June 3, 2022 through the end of the year, the Board received 405 online applications. The Board received 831 paper applications in 2022. The majority of online bar application submissions were from February 2023 examinees and Rule 7C applicants who applied in the fall; the Board received 324 of the 405 online applications during the final quarter of the year. For that reason, only 79 of the 914 applicants admitted in 2022 were online applicants.

The online bar application pulls in fields from the application into the computer system, creates efficiencies in the process, and has reduced the amount of staff time processing applications. The online application will also allow the Board to track the types of issues that applicants disclose and allows for applicants to disclose, on a voluntary basis, additional demographic information.

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## COMPREHENSIVE COMPETENCY STUDY

In June 2021, the Board published a Public Notice announcing plans to commence a comprehensive two-year study on the bar examination, for the purpose of providing the Minnesota Supreme Court with a report and recommendations no later than June 1, 2023. The Board formed a Committee to review this issue. The Committee held four public meetings during the fall of 2021 and provided additional information related to these meetings on the Board's website.

The purpose of the study is to review the recommendations published by the National Conference of Bar Examiners (NCBE) in January 2021 detailing future changes to the bar examination, following its comprehensive three-year study on the competencies required by entry-level lawyers. The Committee examined the NextGen Exam compared to other exam options, the efficacy of the exam, different models that might take place during the law school experience—such as creating a portfolio, taking certain required courses, or meeting experience requirements—and a possible supervised practice component for applicants who have already graduated.

During the second phase of the study, three working groups were formed in spring 2022 to review both the bar exam and alternative pathways to licensure, and each group produced its own report and recommendations, drafts of which were circulated to the other groups and a third-party consultant for additional feedback. Following its receipt of the final reports, the Board published all three reports on the Board's website in June 2022, in order to solicit public comment. After publishing the three working group reports, the Board hosted two listening sessions on July 11 and July 20, 2022, where the third-party consultant funded by the Minnesota State Bar Association (MSBA) acted as a moderator and the Board heard discussion and received additional feedback regarding the three reports.

At its annual retreat, the Board reviewed the recommendations of the three working groups. On November 14, 2022, the Board posted a Public Notice to its website advising interested parties and the public of its preliminary recommendations, and seeking additional feedback in response to those. The Board's notice stated that it believes Minnesota should continue to offer an examination and that the NextGen Exam appears to be the best option based on the information currently known, but that the Board also supports exploring an experiential option during law school as an alternative pathway to licensure. The Board reiterated that access to justice, equity, and the financial burden to applicants remain at the forefront of any decisions or recommendations being made. The Board hosted two additional listening sessions, on December 5 and 15, 2022, for attendees to share their comments and/or testimony regarding the Board preliminary recommendations. In 2023, the Board plans to review those recommendations, consider and incorporate feedback from the December listening sessions, and submit a comprehensive report to the Court in June 2023.

# BOARD OF LAW EXAMINERS 2022 ANNUAL REPORT

## FUNDING

Board revenues are generated from bar application fees and from a \$29 per lawyer allocation from the Lawyer Registration fee. **Table 7** shows the 2022 fees received by category, compared to the fees received in the previous four calendar years. Total revenue in 2022 increased by \$165,204, or 9.22%, compared to 2021.

**Table 7: BLE Receipts for Calendar Years 2018-2022**

	2018	2019	2020	2021	2022
<b>Lawyer Registration fees</b>	\$865,175	\$872,934	\$872,571	\$885,991	\$876,402
<b>Bar Exam Application fees</b>	\$472,700	\$469,300	\$531,050	\$495,000	\$521,800
<b>Motion Application fees</b>	\$287,450	\$335,570	\$349,100	\$318,700	\$463,375
<b>Misc. Fees (including laptop and Rule 8-11 fees)</b>	\$97,777	\$91,938	\$95,120	\$92,700	\$96,018
<b>Total</b>	\$1,723,102	\$1,769,742	\$1,847,841	\$1,792,391	\$1,957,595

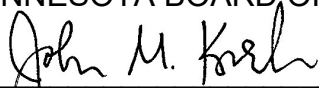
## CONCLUSION

The Board continued to safely administer the bar examination and to conduct the entire admission process in a fair and conscientious manner by processing each application as expeditiously as possible and treating each applicant with consideration and respect.

The Board continues to educate lawyers on the bar application process and provide transparency on the types of circumstances that will lead to delay. The Board looks forward to continuing the work it has begun on studying the bar examination and alternative methods of licensure to ensure that those who are licensed maintain the high standards set by the Court.

Respectfully submitted,

MINNESOTA BOARD OF LAW EXAMINERS

  
\_\_\_\_\_  
John Koneck, President

  
\_\_\_\_\_  
Emily J. Eschweiler, Director