

Tennessee Joins the Ranks of Jurisdictions Adopting the Uniform Bar Exam

For first-year law student Peter Amoruso, had it not been for Tennessee's recent adoption of the Uniform Bar Exam, he would have only considered a couple of law schools in his home state of New York. However, because of the UBE – which both Tennessee and New York, along with more than 30 other jurisdictions, have adopted – Mr. Amoruso significantly expanded the number of law schools he was seriously considering.

He's now attending Lincoln Memorial University Duncan School of Law.

"I wanted to go to a school that had adopted the UBE so I would have more options than just staying in New York," said Mr. Amoruso, who previously lived in Smithtown, New York, on the north shore of Long Island. "After learning about the UBE, the number of schools I applied to went from just a couple New York law schools to schools from Tennessee to Washington, D.C."¹

Mr. Amoruso isn't alone.

The Uniform Bar Exam

Tennessee adopted the Uniform Bar Exam in April 2018, becoming the 32nd jurisdiction to adopt to exam. So far, Tennessee has administered the UBE twice, in February 2019 and July 2019.

With more states adopting the UBE – there are now currently 35 jurisdictions that have or will be administering the UBE – students are no longer feeling restricted to considering law schools in the state where they intend to practice to give them the best chances of passing that state's bar exam.

The UBE is a two-day, standardized bar exam prepared and coordinated by the National Conference of Bar Examiners to test knowledge and skills that every lawyer should be able to demonstrate prior to becoming licensed to practice law.² The UBE does not require examinees to know any jurisdiction-specific law. Instead, most questions must be answered according to the generally accepted view, as distinguished from any contrary local principle that may be followed in Tennessee.

The UBE is comprised of three components that can sound like an alphabet soup of exams: the MPT, the MEE, and the MBE.

The MPT, or the Multistate Performance Test, consists of two 90-minute questions which are designed to test an examinee's ability to use fundamental lawyering skills in a realistic situation and complete a task that a beginning lawyer should be able to accomplish. Jurisdictions that administer the UBE weight the MPT component 20%.

The MEE, or the Multistate Essay Examination, consists of six 30-minute questions covering subjects like Business Associations, Family Law, Trusts and Estates, and Secured Transactions – just to name a few. This portion of the UBE is weighted 30%.

The MBE, or the Multistate Bar Exam, is a 200-question, multiple-choice exam that is administered over a six-hour period and covers subjects typically covered during the first two years of law school—for example, Torts, Real Property, Contracts, and Evidence, among other

courses. This portion is weighted 50%.

Prior to its adoption of the UBE, Tennessee was already using two of the three components of the UBE to make up its bar exam: the Multistate Bar Exam and the Multistate Performance Test. The old Tennessee bar exam also included locally drafted essay questions.

The most obvious benefit of the UBE is the portability of scores among participating jurisdictions. The UBE allows Tennessee lawyers passing the UBE to transfer their passing scores to other UBE states. Similarly, the UBE enables lawyers in other UBE states to transfer their exam scores to Tennessee without sitting for another bar exam.

"Tennessee's adoption of the UBE provides graduates of Tennessee law schools with greater opportunities to practice law in other parts of the country without the need to sit for multiple bar exams," said Gary R. Wade, Dean at the Lincoln Memorial University Duncan School of Law.³

According to Dean Wade, this eliminates the time and effort many recent graduates previously spent in having to prepare for and take different bar examinations to be licensed in multiple jurisdictions.⁴

This is particularly helpful for a state like Tennessee, which borders eight other states – Kentucky and Virginia to the north; North Carolina to the east; Mississippi, Alabama, and Georgia in the south; and Arkansas and Missouri along the Mississippi River in the west. Four of those states – North Carolina, Alabama, Arkansas, and Missouri – have already adopted the UBE.⁵ Additionally, nearby states that have adopted the UBE include South Carolina, West Virginia, and Ohio.⁶

Although UBE scores are transferable, each UBE jurisdiction retains authority to set the acceptable UBE passing score and candidates' character and fitness qualifications. In Tennessee, the minimum passing UBE score is 270. Other jurisdictions' minimum passing UBE scores range from 260 (Alabama, Minnesota, Missouri, New Mexico, and North Dakota) to 280 (Alaska).⁷

A passing UBE score means that qualified applicants from other UBE states can be admitted to Tennessee without having to take another bar exam, provided they comply with all other requisites, including character and fitness requirements.

Also, some states, including Tennessee, have a separate jurisdiction-specific component that examinees must complete prior to admission. This component—which can be a test, course, or some combination of the two—is designed to assess an examinee's knowledge of jurisdiction-specific law.

The Tennessee Law Course

The NCBE provides information regarding jurisdiction-specific law components for states adopting the UBE.⁸ Some states have no jurisdiction-specific law requirements,⁹ others have pre-admission requirements,¹⁰ and others have post-admission requirements.¹¹ Tennessee has a pre-admission component mandated by Rule 7 of the Tennessee Supreme Court Rules, called the "Tennessee Law Course."¹²

Pursuant to Rule 7, the Tennessee Law Course provides

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instruction in specific areas of Tennessee law not addressed by the UBE.¹³ In addition to those taking the Tennessee bar examination, others seeking a license to practice law in Tennessee must complete the Tennessee Law Course. Specifically, in addition to those seeking admission to the bar through examination, the Tennessee Law Course must be completed by applicants seeking admission by transferred UBE, applicants seeking admission without examination, and applicants seeking temporary licensure as a spouse of a military service member.¹⁴ No person, however, holding a valid Tennessee law license as of the effective date of the rule, January 1, 2019, is required to take the Tennessee Law Course.¹⁵

The Tennessee Law Course takes about 7.5 hours to complete.¹⁶ It consists of lectures with PowerPoint slides and interactive multiple-choice and true-false questions for Tennessee law in the following subjects:

- Administrative Law focusing on the Tennessee Claims Commission, Employment Law, and Workers' Compensation
- Business Associations
- Constitutional Law
- Criminal Law & Procedure
- Family Law focusing on Divorce, Property, Alimony and Custody, and Juvenile Matters.
- Professional Responsibility
- Property Law
- Tennessee Rules focusing on Civil Procedure, Evidence, and Appellate Procedure
- Torts
- Wills, Estates, Trusts and Probate¹⁷

Applicants are also provided with outlines for all subjects on the Board's website.¹⁸

Course material was drafted by law professors from law schools across Tennessee, the Tennessee Board of Law Examiners, exam assistants to the Board, and members of the Tennessee Law Course Committee. Outlines and scripts were reviewed by these same groups as well as by Supreme Court staff attorneys, staff of the Administrative Office of the Courts, and topic presenters.¹⁹

The Board of Law Examiners provides information to applicants regarding payment and registration.²⁰ The Board, with the approval of the Supreme Court, also sets the fee for the course.²¹ Presently, there is a \$15.00 charge.²²

The Tennessee Law Course must be successfully completed within one year of the date of completion of all other requirements to be eligible for a Tennessee law license. In the event an applicant completes the Tennessee Law Course but does not then complete all other requirements for eligibility to obtain a law license within one year, the applicant must repeat the Tennessee Law Course.²³

According to Lisa Perlen, Executive Director for the Tennessee Board of Law Examiners, reaction to the course from recent examinees has been very positive:

Since the Tennessee Law Course went live on April 18, 2019, a total of 273 applicants have completed the seven and one-half hour course. Completion of the Tennessee Law Course is a requirement for anyone seeking to be licensed to practice in Tennessee. Feedback from recent law school graduates as well as attorneys who have been practicing in another jurisdiction for at least five years has been overwhelmingly positive. Those

who have completed the course have remarked on the useful content included in the course, the online delivery of the course and the subject-matter outlines that are posted on the Board of Law Examiners website.²⁴

For Mr. Amoruso, the UBE provides him the best of both words – being able to attend law school in Tennessee and being prepared to take the bar exam in New York, where he hopes to work for the law firm his father uses for his business.

"I am truly glad Tennessee did adopt the UBE because the community and atmosphere at LMU is amazing," Mr. Amoruso said. "After taking the bar in Tennessee, my plan right now is to go back to New York. The goal is to get at least a 270 on the bar here, which is a passing score in New York. The portability of the score makes it so much easier to practice where I want to and go to school where I wanted."

- ¹ E-mail from Peter Amoruso, First-Year Law Student, Lincoln Memorial University Duncan School of Law, to author (Sept. 8, 2019, 19:53 EST) (on file with author).
- ² National Conference of Bar Examiners, *Understanding the Uniform Bar Examination*, THE BAR EXAMINER, Sept. 2016, at 67.
- ³ E-mail from Gary R. Wade, Dean, Lincoln Memorial University Duncan School of Law, to author (Sept. 9, 2019, 10:06 EST) (on file with author).
- ⁴ *Id.*
- ⁵ NAT'L CONF. OF BAR EXAMINERS, *Jurisdictions That Have Adopted the UBE*, <http://www.ncbex.org/exams/ube/> (last visited September 9, 2019).
- ⁶ *Id.*
- ⁷ NAT'L CONF. OF BAR EXAMINERS, *Minimum Passing UBE Score by Jurisdiction*, <http://www.ncbex.org/exams/ube/score-portability/minimum-scores/> (last visited September 9, 2019).
- ⁸ NAT'L CONF. OF BAR EXAMINERS, *Local Components*, <http://www.ncbex.org/exams/ube/score-portability/local-components/> (last visited Aug. 23, 2019).
- ⁹ Jurisdictions with no required state-law component to bar licensure are Alaska, Arkansas, Colorado, Connecticut, Illinois, Iowa, Kansas, Maine, Minnesota, Nebraska, North Dakota, Rhode Island, and Wyoming. *Id.*
- ¹⁰ Jurisdictions with a state-specific pre-admission component to bar licensure are Alabama, Arizona, Maryland, Massachusetts, Missouri, Montana, New Mexico, New York, North Carolina, South Carolina, Tennessee, Virgin Islands, and Washington. *Id.*
- ¹¹ Jurisdictions with a state-specific post-admission component to bar licensure are the District of Columbia, Idaho, New Hampshire, New Jersey, Oregon, Utah, Vermont, and West Virginia. *Id.*
- ¹² TENN. SUP. CT. R. 7(1.07).
- ¹³ *Id.*
- ¹⁴ TENN. SUP. CT. R. 7(1.07)(a)(2-4).
- ¹⁵ TENN. SUP. CT. R. 7(1.07)(i).
- ¹⁶ TENNESSEE BOARD OF LAW EXAMINERS, *TLC Registration Application Available for July 2019 UBE Applicants*, <http://www.tnble.org/news/tlc-registration-application-available-july-2019-ube-applicants> (last visited Aug. 23, 2019).
- ¹⁷ See TENNESSEE BOARD OF LAW EXAMINERS, *Tennessee Law Course*, <http://www.tnble.org/tnlaw/first-time/tennessee-law-course> (last visited Aug. 26, 2019).
- ¹⁸ *Id.*
- ¹⁹ E-mail from Lisa Perlen, Executive Director, Tennessee Board of Law Examiners, to author (Aug. 26, 2019) (on file with author).
- ²⁰ TENNESSEE BOARD OF LAW EXAMINERS, *Tennessee Law Course*, supra note 13.
- ²¹ TENN. SUP. CT. R. 7(1.07)(d).
- ²² TENNESSEE BOARD OF LAW EXAMINERS, *Fees*, <http://www.tnble.org/tnlaw/first-time/fees> (last visited Aug. 28, 2019).
- ²³ TENN. SUP. CT. R. 7(1.07)(g).
- ²⁴ E-mail from Lisa Perlen, Executive Director, Tennessee Board of Law Examiners, to author (Aug. 20, 2019) (on file with author).