



# The State Bar of California

## Attorney Practice Analysis for the California Bar Exam

*The first California-specific analysis of the knowledge, skills, and abilities needed by entry-level attorneys*

### Why Analysis is Needed

#### Declining Pass Rates—a National Trend—Prompt Studies

- Among the State Bar’s strategic goals is ensuring a timely, fair, and appropriately resourced admissions system for California lawyers.
- Passage rates for the California Bar Exam have generally been declining for years.
- The decline mirrors a national trend. In 2018 for example, the National Conference of Bar Examiners reported that the Multistate Bar Examination pass rate fell to a 34-year low.
- In California, after historically low pass rates in 2016, the State Bar commissioned a groundbreaking series of studies of the bar exam.

#### Debate Over Pass Line

- California’s current pass line, or cut score, was established over three decades ago.
- Critics point out that California’s pass line is higher than every state except Delaware and argue that the high pass line creates an unrealistic barrier to entry.
- Others argue that the low pass rates result from many factors, including economic pressures on law schools to make admissions less selective.

#### California Supreme Court Role

The California Supreme Court has ultimate authority over the pass line. The Court directed the State Bar to ensure that its studies:

- Identify and explore all issues affecting California Bar Exam pass rates;
- Analyze whether protection of potential clients and the public is served by maintaining the current pass line; and
- Include broad participation of subject matter experts, stakeholders, law schools, and technical experts.

#### Initial Studies

- The State Bar’s initial studies, conducted in 2017 and 2018, included a review of the pass score and whether the content of the bar exam appropriately tests the knowledge and skills needed by entry-level attorneys.
- Content alignment was reviewed based on a 2012 national job analysis.

- One of the key lessons learned is that a comprehensive and up-to-date attorney practice analysis is needed for a thorough re-look at the bar exam.

### **Practice Analysis Purpose and Components**

Funded by a grant from the AccessLex Institute, the California Attorney Practice Analysis will collect detailed, empirical data about how attorneys use their knowledge and skills to perform routine tasks. Study results will set the foundation for revisiting the bar exam pass line and content, as well as exam format and other aspects of the test.

The project includes three components:

1. **Focus groups** of practicing attorneys will assist in defining the classification of knowledge domains and skills as the basis for creating a practice analysis survey.
2. **A survey** disseminated to California licensed attorneys within their first five years of practice, and their supervisors, will collect data on attorney practices in terms of knowledge, skills, and abilities required to perform daily tasks.
3. **Detailed data** will be gathered through: (1) one-time survey responses; and (2) a relatively new approach, called Experience Sampling Method (ESM), in which participants provide multiple responses—for example 2 to 3 times per day—at randomly selected moments, answering questions about the task being performed and its associated attributes. ESM's immediacy provides a rich dataset with more detailed and accurate information than one-time questionnaires.

### **Project Oversight and Timeline**

- To provide oversight of the study, a working group has been created with membership from stakeholders at the state and national levels. Working group members were appointed by the California Supreme Court in October 2018.
- Castle Worldwide was selected as the vendor to conduct the study.
- The project is scheduled to commence in December 2018.
- The final report is scheduled to be completed by the end of 2019.