Evaluation of the State Bar of California's Analysis of Impact on Early Release of Topics

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Submitted by:
Chad W. Buckendahl, Ph.D.
(M) 402-770-0085
cbuckendahl@acsventures.com

Dr. Chad W. Buckendahl, Ph.D.
402-770-0085

11035 Lavender Hill Drive, Suite 160-433 · Las Vegas, NV 89135 |
cbuckendahl@acsventures.com |
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Overview

On July 25, 2019, five days prior to the start of the California Bar Exam (CBX), the topics for the essay questions and performance test were sent to representatives from 16 law schools in California. Upon discovering that the topics were released, the State Bar of California (State Bar) provided these same topics to all applicants for the July 2019 examination. Following the exam administration, the State Bar sought to conduct an independent review to evaluate the potential impact of the early release. ACS Ventures, LLC (ACS) was contracted to review the scoring and scaling processes along with analyses that were conducted to evaluate the potential impact. This report summarizes our evaluation of the work completed and the potential impact on the interpretation and use of scores relative to the *Standards for Educational and Psychological Testing* (American Educational Research Association, American Psychological Association, & National Council on Measurement in Education, 2014).

Psychometric Factors

The *Standards* characterize validity as a collection of evidence that supports intended interpretations and uses of scores for a defined purpose. The interpretation and use of scores from the CBX are intended to provide support for claims about whether applicants have the necessary knowledge, skills, and abilities to be classified as being at least minimally competent to enter practice. Consistent with the *Standards*, evidence to support these claims comes from sources including content, response processes, relationship to other variables, and fairness. In evaluating the potential impact on the scores and applicants, we first identified questions about the sources of evidence that would be explored:

- **Content**: What changes, if any, would be expected to the content for the applicants based on the release of the topics?
- **Response processes**: What changes, if any, would be expected to the response processes for applicants based on the release of the topics?
- **Relationship to other variables**: What differential relationships, if any, would be expected for applicants who received the topics earlier than others?
- **Fairness**: What processes, if any, were implemented to ensure fairness for applicants from this administration as compared with previous or subsequent administrations?

We briefly discuss our evaluation of the psychometric evidence of each of these in the next section.

Review of methods and procedures

- **Content**: From our evaluation of the impact on the content, in this instance we would not have expected a release of the topics to have had a significant influence on performance. First, applicants were aware of the range of topics that could be sampled prior to the release. Although receiving the topics prior to the exam would reduce the number of topics for which to prepare, the information was not made available until late on July 27, just more than two days prior to the July 30 start of the examination.[1] As a result, applicants would likely have already been preparing for the possibility that any topic would be included on the exam. Second, because the topics, and not the prompts, were

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[1] Although the topics were released two days earlier to the deans of 16 law schools in California, the State Bar reports that it has no evidence that any dean shared the information with any of the exam applicants prior to the release on July 27 to all applicants.

released, it would not provide additional advantage in terms of narrowing preparation expectations for candidates.

- **Response processes**: Because the prompts were not released, the expected response processes that applicants were required to demonstrate for the essay questions were unchanged. This means that applicants were still required to demonstrate their ability to spot issues, apply their knowledge of the appropriate legal principles, reason, provide supporting evidence, and draw appropriate conclusions. This suggests that the intended construct of measurement did not change as a result of the release.

- **Relationship to other variables**: To evaluate whether expected relationships with other variables were consistent, the State Bar contracted with a psychometrician, Dr. Roger Bolus to conduct a series of analyses between scores on the Multistate Bar Exam (MBE) and the written component for applicants who may have received the topics earlier than everyone receiving it (An Assessment of the Impact of the Premature Release of Subject-Matter Content on the July 2019 California Bar Examination, November 2019). We discuss each of these analyses and the interpretation of the results.

  As a first phase of analyses, fifteen years of historical data were analyzed to establish a point of reference to which the July 2019 results could be compared. These analyses first involved calculating the correlations between California performance and adjusted U.S. performance on the MBE for each year. Following an observation of a very strong relationship (0.97) between these average MBE scores, a regression equation was developed to predict California scores based on the U.S. results. This equation was then applied to the data from the July 2019 administration. This predicted value was then compared with the observed value to evaluate the potential difference. Because the observed performance was within the 95% confidence interval of the predicted performance, the results suggested that the relationship between the July 2019 scores were consistent with those observed historically. The hypothesis being tested with these analyses was whether the same relationships between the components of the CBX were observed across years; and that if these same relationships were observed for the July 2019 administration, it would serve as one source of evidence that there was no effect due to the early release.

  Dr. Bolus also completed a second phase of analyses to help evaluate whether any shifts in performance as represented by passage rates could be observed. Similar to the first phase, the analyses began with examining 15 years of historical correlations between the CBX MBE performance and eventual bar passage rates with results yielding a relationship of 0.98 (with 1.00 being a perfect correlation). Regression models were then again developed to be able to predict the performance for the July 2019 examination. As with the first phase, the observed results for the second phase were within the 95% confidence interval for the pass rate predicted by the regression equation based on the historical data. These results suggest that no significant shifts or changes in performance were observed when looking at overall performance or overall pass rates. Additional analyses were then conducted for specific subgroups.

These additional analyses applied similar methodologies that were applied to the overall population of examinees that took the July 2019 CBX. Specifically, historical data were used to establish a reference point for then comparing the more recent results. In these subgroup analyses, applicants who attended one of the sixteen schools in which the deans received the topics early were compared with applicants who were not affiliated with one of these schools. The purpose of this analysis was to determine if there were any differences within these subgroups that were not detectable within the full population of applicants.

Two sets of subgroup analyses were conducted to respond to this evaluation question. One of these set of analyses evaluated examination performance, repeater status, and law school attended with comparisons of historical and July 2019 results and evaluated the differences relative to historic trends. Because looking at mean differences may not be sensitive enough to detect potential impact, a second set of analyses of subgroups used regression to compare predicted with actual scores. The results of these analyses indicated that no statistically significant differences between these predicted and observed scores were detected providing further evidence on the lack of impact related to the early release of topics.

Across these analyses the results for July 2019 CBX did not suggest a difference in the expected relationships between components of the CBX or the resultant pass rates. Collectively, these results contribute to the evidence that the early release of the topics did not have an observable influence on the performance or the interpretation or use of scores.

- **Fairness**: Multiple additional indicators of fairness were examined to determine if any additional threats to the validity of the scores could be detected. First, the procedural decision to release the topics to all applicants as soon as the early release was detected and confirmed helped to mitigate any potential impact. Second, the scoring procedures were implemented as expected with the essay questions. This means that scoring guides were developed and implemented as they have been for previous examinations. Finally, the equating procedures that use MBE performance to scale the written component was implemented as expected. Equating is a statistical process that systematically adjusts passing score expectations to be consistent with the intended passing score using a common metric on which to be able to anchor performance. In this instance, because the MBE served as a common metric, the potential impact on performance was mitigated through the application of industry standard procedures that are designed to support fairness.

Conclusions
Based on our review of key sources of evidence of validity and fairness noted in this report, the procedural and empirical evidence suggests that there was not an impact on the interpretation and use of the scores. The State Bar of California followed methods and procedures for scoring, scaling, and equating that were consistent with industry expectations and historical practice. Further, the empirical evidence suggests that the early release of topics did not have a material impact on performance on the July 2019 California Bar Exam.

References

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