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### [Next](#) [us](#) State Bar Worries UBE Could Devalue 'Gold Standard'

[Joel Stashenko](#), New York Law Journal

February 4, 2015 | [4 Comments](#)

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Law school graduates line up to take the New York bar exam at the Jacob K. Javits Convention Center in July 2013.  
NYLJ/Monika Kozak

**ALBANY** - Attorneys who have achieved the "gold standard" of a New York law license are concerned that introducing a more nationally oriented bar exam would devalue their accomplishments and cheapen their profession, the president-elect of the state bar association said at a hearing Tuesday.

David Miranda said the 75,000 lawyers represented by his group have "very strong concerns" about the direction that Chief Judge Jonathan Lippman's proposed adoption of the Uniform Bar Examination (UBE) would take legal education and the profession.

Miranda said the high regard in which a New York law license is held is being tinkered with" by making the substantial changes in the exam without adequate consideration first.

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[See the state bar's report on the UBE proposal.](#)

Miranda, of Heslin Rothenberg Farley & Mesiti in Albany, was among those testifying before the committee in the Court of Appeals' chambers in Albany, the second of three hearings about the UBE held around the state.

"There is no outcry about barriers to entry in other states from our members, New York state's practicing attorneys," Miranda said. "There is no outcry for this from our clients or from the public. There is no outcry from the courts, that they wish more out-of-state attorneys could practice here."

Miranda said those who stand to gain most from the change are attorneys trained in other states whose passage of UBE-based bar exams will be recognized by New York as entitling them to practice here if New York adopts the UBE.

"It is the attorneys in other states that will now be able to more easily flood the New York state legal community and dilute the significance of a license to practice in New York state," said Miranda, who will take over from Glenn Lau-Kee of Manhattan for a one-year stint as state bar president on June 1.

The state bar's executive committee approved a preliminary report prepared by the group's committee on legal education and admission to the bar that expresses serious concerns about adopting the UBE and urges Lippman and the Board of Law Examiners to delay changing the test for at least two years ([NYLJ, Feb. 2](#)).

The chairwoman of that bar panel, Eileen Millett of Epstein Becker & Green, told the Lippman-appointed committee Tuesday that before the UBE is adopted, the state bar wants to know whether students' knowledge of New York-specific law would be adequately tested in a new exam, whether students' readiness to begin practicing law would be fairly evaluated and how a new test would affect the test scores of minorities.

## Minority Candidates

Millettt suggested to the committee Tuesday that the state could begin introducing sample questions in the current exam that would form the basis of the UBE-dominated test. Such questions could better indicate how students, including minority candidates, would perform, she said.

The chairwoman of the committee, Court of Appeals Judge Jenny Rivera, agreed with Millett that the effects of a new UBE-based test on minority candidates is unknown—as is why blacks and Hispanics continue to do worse than whites on the current state bar exam.

"These disparities, from the committee's perspective, is a very complex and nuanced issue and does not turn solely on walking in on the morning of the bar exam to take the bar exam," Rivera said. "We're not just talking about changing who writes the essay. But we are recognizing that there challenges that have nothing to do with the bar exam itself that perhaps different populations face."

Millettt concurred, calling the racial disparity documented on bar exams a "very complex, very layered, very nuanced issue."

Rivera responded that Millett was advocating on behalf of minority candidates and how the UBE would affect it if adopted.

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"And your point is, 'Do not make it worse,'" Rivera said.

"Precisely," Millett responded.

Among the speakers Tuesday were Mary Lynch, an Albany Law School professor who is co-president of the national Clinical Legal Education Association. She said her group is worried that adopting the UBE would force New York law schools to divert resources from clinics where students receive practical, hands-on lawyering skills to courses that would better prepare students for the test.

Lynch said she feared that law schools would weigh admissions more heavily toward students who do well on the LSAT exam because they have shown proficiency at answering multiple-choice questions, which are found more frequently on the UBE.

"There are too many unanswered questions," she said.

Hofstra University School of Law Dean Eric Lane said he generally supported Lippman's proposal. He said the biggest predictor for law students' performance on the bar exam is not LSAT or proficiency at multiple-choice-dependent tests, but their class ranks. Students who are at the top of their law classes tend to pass the bar exam while those closer to the bottom often do not, he said.

Lane said that for bar candidates who are bound for the largest firms and who do best in law school, passing the state bar is not much of a concern.

"The New York bar makes absolutely zero difference to most of the lawyers that get hired in the big practices," Lane said. "They will pass any bar. They pass this bar. It is not a relevance. It's not. It doesn't matter to them."

Irene Villacci, president of the Women's Bar Association of New York State, said the effect of the UBE on women candidates is unclear from the experiences in the 14 other states that use the UBE.

The Rivera committee will hold a final hearing on Feb. 26 at the Appellate Division, Fourth Department, in Rochester ([See Notice of Public Hearings](#)). The initial hearing was at CUNY Law School in Manhattan ([NYLJ, Jan. 22](#)).

The committee is expected to complete its recommendations in late March or April.

@Joel Stashenko can be reached [via email](#) or on Twitter [@JoelStashenko](#).

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Feb 04, 2015

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Multiple-choice question tests are useless in measuring one's ability to practice as a lawyer. In my over-15 years of being an admitted lawyer, I have never faced a multiple-choice solution to my client's problems or litigation.

Unfortunately, multiple-choice tests are perpetuated by law professors who, themselves, thrived on such tests when they were students and bar takers. I found those such professors to be the worst teachers; they provided me with the least preparation to practice real law. Because of their narcissism, they believe multiple-choice tests are a measure of one's intellect because they did well on multiple-choice tests when they were students and bar takers.

At any rate, teaching law students to pass more multiple-choice tests -- at the expense of teaching the actual practice of law and "thinking like a lawyer" -- will hurt the quality of young lawyers coming into our profession.

Accordingly, our profession should not accept uniform bar exam and eliminate any other multiple-choice tests that are necessary to practice as a lawyer.

- [Lotte Lenya](#)

Feb 04, 2015

Aren't there already too many attorneys in this state? I know far too many unemployed and underemployed lawyers. Keep the bar high, I say.

- [Get Rid of the Bar Exam](#)

Feb 04, 2015

How about addressing the idea that the bar exam -- any bar exam -- is a farce to begin with? That three years of law school doesn't prepare you for the bar exam, but that students with no income then need to shell out thousands for a bar "review" course to actually teach them how to take, pass, and study for the test? How about reintroducing/accenting the idea of learning the profession by actually apprenticing, and doing the work?

- [Anonymous again - of course.](#)

Feb 04, 2015

There's no "gold standard." It's lead. New York courts require piles of useless, repetitive papers and unnecessary fees to rape the attorneys and their clients that none of the more modern state practices in the West would even consider. My favorite examples are the packets of papers to calendar a negligence case or the famous RJI, that have other states' attorneys and judges in stitches. When attorneys hear of motion "fees" and "fees" to dismiss a case, they're happy to stay away from New York. I won't even get into the affidavits required in matrimonial actions.

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