For the better part of a decade, I had the privilege of serving on the Nevada Board of Bar Examiners (the “Board”). During much of that time, my principal responsibility was the grading of the Multistate Practice Test, drafted by the National Conference of Bar Examiners (“NCBE”), and used by the Board as one part of the Nevada Bar Examination (“NBE”). Thus, I have had lengthy, first-hand experience with both the Nevada essay questions drafted and graded by Board members after multiple reviews by the entire Board, and the work product of the NCBE, the source and principal proponent of its Uniform Bar Examination (“UBE”).

Dean Hamilton’s article criticizes the NBE as “out of step with national best practices” in arguing Nevada should adopt the UBE. Dean Hamilton’s criticisms are unfounded and confuse academic testing of lawyering skills useful in any jurisdiction, with determining whether an applicant possesses the minimal competence necessary to represent and advise persons and entities on Nevada law. The NBE essay questions are drafted and graded by experienced Nevada practitioners after multiple reviews by every other Board member, to ensure they provide the fairest possible test of an applicant’s Nevada competence. Conversely, on more than one occasion, significant problems with the NCBE’s Multistate Practice Test required adjustments to the NCBE’s grading materials, an option not available for the UBE’s “uniform” essay questions.

Dean Hamilton’s article references a “state-specific” option, under which a state can add state-specific questions to the UBE’s essay questions. However, that option controverts the very premise of the

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Legal Community Must Prepare for a Rise in Attorneys With Alzheimer’s

According to an article in *The American Lawyer*, the number of Alzheimer’s sufferers aged 65 and older is estimated to reach 7.1 million by 2025. The Alzheimer’s Association says that one out of 10 people aged 65 and older has Alzheimer’s dementia. Based on that statistic, it seems inevitable that many attorneys will be affected, and that they will still be practicing law during the years when their symptoms materialize and slowly worsen. Most of them will likely keep their condition secret, due to the current stigma attached to Alzheimer’s and dementia.

The article says that the size of the baby-boom generation combined with the decline in mandatory retirement policies will force the legal community to deal with a glut of age-related dementia, including Alzheimer’s, and suggests that members of that community come up with a plan to deal with the issue in an effective yet sensitive way.

You can read the full article, “Out of Focus: Lawyers and Firms Can No Longer Ignore Dementia,” at www.law.com.

Firms and Corporations Aren’t Keeping Up With Cybersecurity Issues

According to a new survey by consulting services group Protiviti and information management systems professional organization ISACA, many law firms and corporations still need to improve their cybersecurity. More than 1,200 IT audit professionals and executives were involved in the study, according to a recent article from www.law.com. It found that even though concern and awareness of cybersecurity is on the rise, only 63 percent of businesses were actually including cybersecurity in their most recent audit plans.

The article also points to a recent study from the firm of Fox Rothschild, which discovered that 27 percent of chief legal officers and in-house counsel aren’t reporting issues of cybersecurity and data protection to their directors. Most of those polled by ISACA and Protiviti said that their boards weren’t very informed or engaged in the issues. The takeaway, according to the authors of the study, is that boards need to educate themselves and become involved themselves, rather than just assuming their IT auditors are handling the problems.

The full survey can be found at Protiviti’s website, www.protiviti.com.

LETTER TO THE EDITOR

APRIL 2018 NEVADA LAWYER

UBE. The Board’s Nevada essay questions do a far more thorough and complete job of substituting Nevada-specific questions for the generalized UBE essay questions that reflect and are graded using general legal principles found in treatises, Restatements and other compilations. The Nevada Supreme Court has adopted some of these general principles and rejected or qualified others. Hence, the “state-specific” option does not remedy the UBE’s deficiencies regarding contracts, torts, and other basic topics addressed in UBE essay questions. For that reason, many states, including Florida, Texas, and California, have rejected the UBE.

Dean Hamilton’s article suggests that Nevadans have been “disadvantaged” because Nevada Bar applicants “face far-higher hurdles” than in neighboring states. However, contrary to the tenor of his article, the NBE and its passing rate are the subject of constant review and scrutiny, both internally and by outside professionals and with respect to other jurisdictions, as well as an ongoing dialogue with the Nevada Supreme Court. The provision of adequate legal services to Nevadans depends not alone on the number of Nevada attorneys but also on the competence of those attorneys. Hence, the NBE, and the preparations required to take and successfully complete the NBE, are the most reliable guarantee of competent legal services for Nevadans.

Can the NBE be improved? Of course. However, to do that, the Board, the Nevada Supreme Court, the State Bar of Nevada and the law schools, including the UNLV Boyd School of Law, should work together collaboratively, as Board Chairman Trachok’s article suggests. Nevada is fortunate to have experienced practitioners willing to devote the hundreds of hours a year necessary for the NBE to ensure that examinees seeking to practice law in Nevada have the minimal competence necessary to do so. Other jurisdictions may not be so fortunate. Nevada should not cast aside such dedicated service by those with practical experience in Nevada law and “follow the herd,” adopting a “uniform” bar examination with essay questions prepared and graded pursuant to “uniform” NCBE materials, without regard to Nevada law.

Sincerely,

David N Frederick