

2003 Membership:

Lisa Pupo Lenihan, Esq., *Chair*
Gregory E. Dunlap, Esq., *Vice Chair*
Michael W. King, Esq.
Patricia L. McGrail, Esq.
Gregory P. Miller, Esq.
Jane Gowen Penny, Esq.
William R. Sasso, Esq.

Staff:

Mark S. Dows, *Executive Director*
Joseph S. Rengert, Esq., *Counsel and Supervising Law Examiner*
Jill E. Fuchs, *Character & Fitness Director*
Tracy R. Chase, *Director of Testing*

Legal Authorization:

Pa. Constitution Article V, § 10(c)
Pa.B.A.R. 104 (c) (3)

About the Board

The Pennsylvania Board of Law Examiners holds the responsibility for recommending the admission of persons to the bar and thus the practice of law in Pennsylvania. Such responsibility includes reviewing admission applications, both for those wishing to sit for the bar examination and for those practicing attorneys from other states seeking admittance to the bar without sitting for the exam; administering the bar exam itself; and recommending rules pertaining to admission to the bar and the practice of law.

Members are appointed to three-year terms, and each member may serve two consecutive terms. Board office staff includes the executive director, counsel to the board/supervising law examiner, an executive assistant and six administrative support staff. The board also employs seven examiners, who are responsible for writing and grading the Pennsylvania Bar Essay Examination, and 14 readers, who assist the examiners in grading the essay answers. Additionally, many proctors are employed temporarily to assist in the administration of the bar exam.

Board of Law Examiners

5070 Ritter Road,
Suite 300
Mechanicsburg, PA 17055
(717) 795-7270
www.pabarexam.org

Bar Procedures

The Board of Law Examiners administers Pennsylvania's bar exam over two days twice a year, on the last Tuesdays and Wednesdays in February and July. In February the exam is held in King of Prussia and Pittsburgh. In July it is held in King of Prussia, Pittsburgh and Harrisburg.

The exam comprises two parts, an essay section, which is administered the first day, and the multiple choice Multistate Bar Examination (MBE), which is administered the second day.

The essay portion of the exam includes seven questions developed by the examiners and approved by the board, including one performance test (PT) question. The subject matter covers a variety of subjects, and applicants are expected to demonstrate their knowledge of Pennsylvania law where applicable.

The PT question tests an applicant's ability to use fundamental lawyering skills in a realistic situation. Some of the tasks an applicant might be required to complete in responding to a question include writing a memorandum to a supervising attorney, a letter to a client, a persuasive memorandum or brief, a statement of facts, a contract provision, a will, a counseling plan, a proposal for settlement, an agreement, a discovery plan, a witness examination plan or a closing argument. It is weighted at one and a half times an essay question and is combined with the scores for the remaining six questions. Applicants have 90 minutes to complete one PT question.

The MBE is a national exam, prepared by the National Conference of Bar Examiners in conjunction with American College Testing (ACT). Its 200 questions are not Pennsylvania specific and cover contracts, criminal law, constitutional law, real property, evidence and torts.

Successful applicants for admission to the bar must attain a total combined scaled score of at least 272 with the essay portion weighted 55% and the MBE portion weighted

45%. In addition, applicants must also score at least 75 on the Multistate Professional Responsibility Examination (MPRE).

The MPRE is a standardized test used to demonstrate an applicant's knowledge of the professional responsibility and ethical obligations of the legal profession. Applicants may take it at any point during law school or their legal careers prior to taking the bar exam. Indeed, they are encouraged to take it while in law school, shortly after they have completed a course on professional responsibility or ethics. They do, however, have up to six months after sitting for the bar exam to take it.

If an applicant is not successful on the MPRE within six months from the date results are released for the bar exam for which he/she sat, he/she will be required to submit to the board an Application for Supplemental Statement and for Character and Fitness as required under Pa.B.A.R. 231. This supplemental application process requires a character and fitness review and may take up to six months or longer to complete.

If an applicant is not successful on the MPRE within three years of the date his/her successful bar exam results were released, he/she must reapply for permission to sit for the bar exam, successfully retake the exam and meet all of the requirements at that time.

Grading the Bar Exam

At the conclusion of each bar exam, board staff send copies of the essay questions (including the PT question), the examiners' proposed analyses and the grading guidelines to representatives from each of the Commonwealth's law schools. The representatives circulate the questions and analyses to the respective professors who teach the subject material covered by the questions and solicit comments and suggestions from each. These comments and suggestions are then shared with the examiners and the board. The examiners

use this feedback to revise their analyses and grading guidelines in order to grade the applicants' essay answers in the fairest and most equitable manner possible.

The final draft of each question and analysis is forwarded to the board office, which then formats, edits and publishes it. Many unsuccessful applicants obtain copies of the questions and analyses along with copies of their own answers.

Rereads are automatically conducted for all applicants receiving a combined score of six points or less below passing, (i.e., 266-271).

The MBE is graded by ACT.

The most recent results of the bar exam can be found on the Board of Law Examiners home page at www.pabarexam.org.

Application Approval/Denial and Hearing Process

In addition to passing the bar exam, prospective members of Pennsylvania's bar must meet certain requirements relating to character and prior conduct. To aid the board in determining whether applicants have met such requirements, a candidate must file with the board office a written application setting forth those matters the board deems necessary. This includes background information pertaining to character, education and employment. Board office staff then review the applications, occasionally investigating further, to determine an applicant's fitness and qualifications.

If, upon initial review, the board's executive director finds that the applicant does not appear to possess the fitness and general qualifications requisite for a member of the bar, the applicant is notified in writing. Unless the denial was for scholastic reasons, the applicant then has 30 days to request a hearing appealing the denial. Present at the hearing are the applicant; the applicant's counsel, if he/she has

retained counsel; and a board member who serves as the hearing officer. A stenographer is also present to record the hearing.

Only one applicant is considered at a hearing, and only applicants who are denied permission to sit for a bar examination or certification recommending admission may request one.

Approximately 16 hearings were held in 2003.

2003 Statistics

Statistics for 2003, including a comparison with 2002's figures, can be found in Table 3.2.1 on page 32. Chart 3.2.2 on page 33 details the percentage of those passing the bar since 1994 while Chart 3.2.3 on page 34 is a comparison of the number of persons who have sat for the exam versus the number who have passed it over the past ten years. In addition, office staff processed approximately 200 applications for admission on motion and for character and fitness determination.

2003 Activities

The board met nine times in 2003 to review bar admission rules and recommend rule changes, review proposed essay questions and analyses, approve examination results, and set policy. It also held two semi-annual meetings, one following each of the two bar examinations, to review the essay exam questions, analyses and proposed grading guidelines.

Recommendations to the Supreme Court

Recommendation No. 1: Proposed amendment to Pa.B.A.R. 204, regarding **admission on motion**. The amendment permits attorneys to be eligible for admission on motion if they have passed the bar exam in a reciprocal state or if they have been actively practicing law in a reciprocal state for five of the seven years

immediately prior to application. Pending before the Court.

Recommendation No. 2: Proposed Pa.B.A.R. 302, regarding **in-house corporate counsel**. The rule permits attorneys licensed in other jurisdictions, who, as in-house counsel, are solely providing legal services in Pennsylvania to the business organizations which employ them, to obtain limited licenses to engage in such practice without being admitted to the bar on motion or by examination. Pending before the Court.

Recommendation No. 3: Proposed amendment to Pa.B.A.R. 402, regarding **confidentiality**. The amendment permits the board, upon request from a state or county bar association, to provide the bar association with the names and addresses of applicants who successfully complete the bar exam, provided the applicants have no objections. Approved by the Court 12-9-03, effective immediately.

Recommendation No. 4: Proposed amendment to the subject areas tested on the **essay portion of the bar exam**. The board recommended eliminating three subjects (commercial paper, bank deposits and collections, and secured transactions); expanding the scope of three existing subjects (criminal law, corporations and decedents' estates); and adding one new subject (employment discrimination). Pending before the Court.

Computer-Based Testing (CBT)

In February 2003, for the first time, applicants were offered the option of providing answers to the essay and performance test portions of the bar examination using their own laptop computers. The implementation of CBT was a direct result of the board's continuing goal to enhance the bar admission process by

using technological advancements in the field of testing.

Exam questions were provided in book-let format. Test-takers downloaded onto their computers a software program called SofTest®,

Admission applications	approx. 2,800	
Sitting for February exam	666	
Change from 2002	(24)	(3.48%)
Persons passing February exam	342	
Persons failing February exam	324	
Passing Percentage	51%	
2002 Passing Percentage	47%	
Sitting for July exam	2,009	
Change from 2002	52	2.66%
Persons passing July exam	1,438	
Persons failing July exam	571	
Passing percentage	72%	
2002 Passing Percentage	71%	

Table 3.2.1

developed by ExamSoft Worldwide, Inc., which provides a word processing function and prevents test-takers from accessing anything but the word processing function.

Over 200 applicants utilized CBT during the administration of the February and July bar examinations.

Filing Fees

The filing fees charged for processing applications in 2003 are as follows:

- \$500 first-time filing fee
- \$650 late first filing fee
- \$950 second late filing fee
- \$1,350 final filing fee
- \$1,000 for admission on motion. AOPC

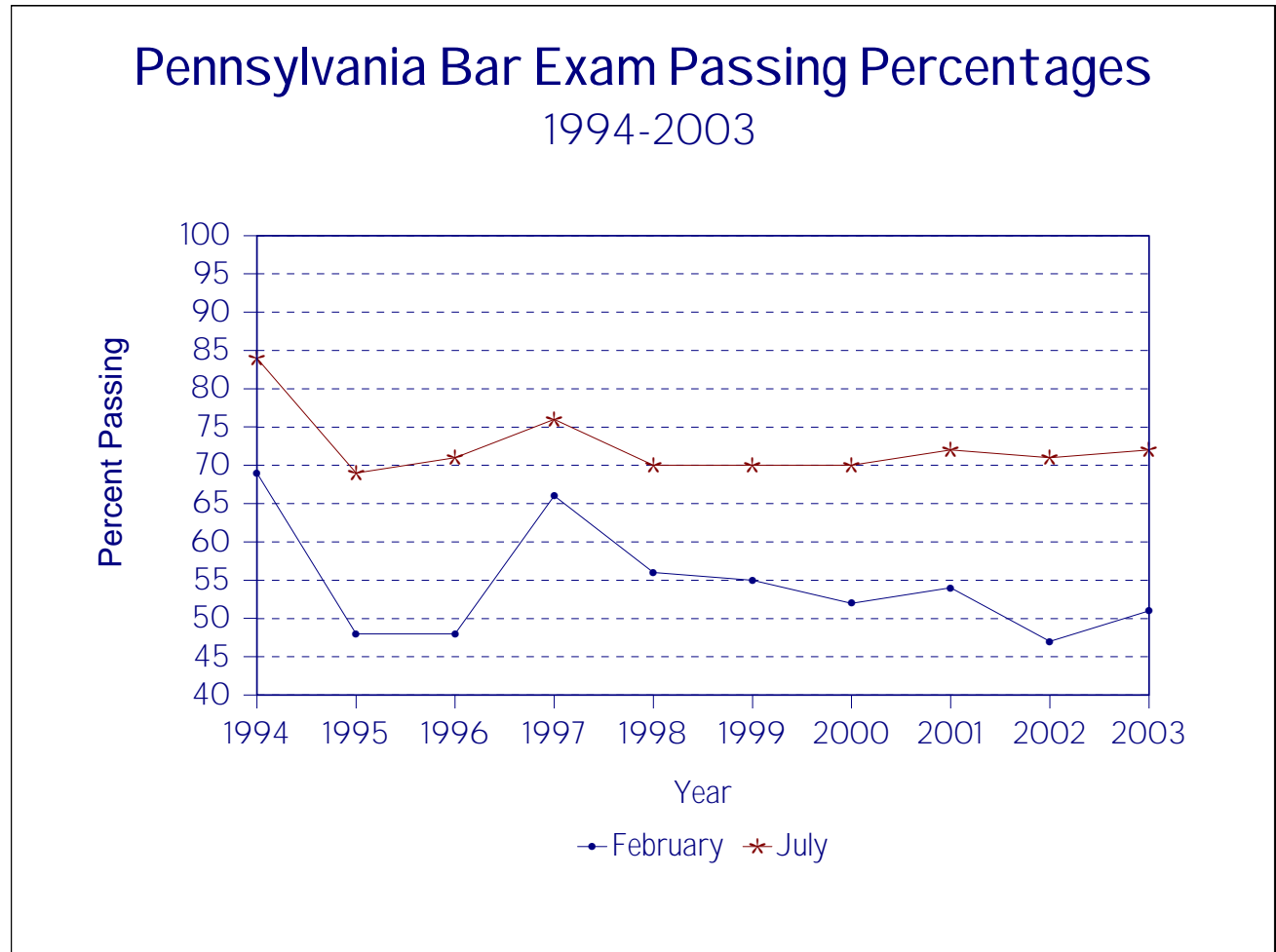


Table 3.2.2

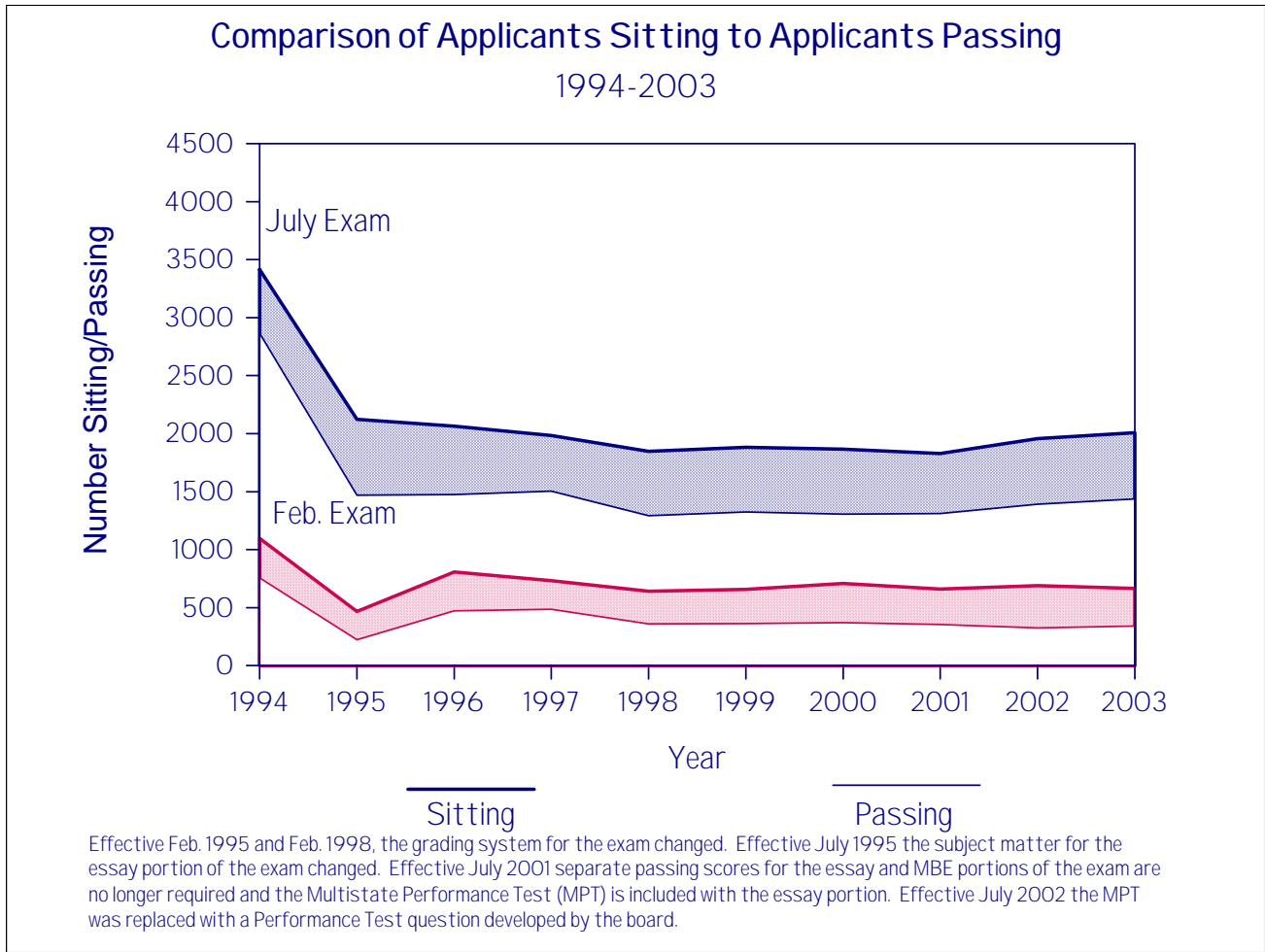


Table 3.2.3