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Contact: Kelsey Montague

Associate Director of Marketing and Public Relations

(303) 871-6602

kelsey.montague@du.edu

New Effort Underway to Improve the Bar Exam and Lawyer Licensing

As thousands sit for the bar exam next week, IAALS is spearheading an empirical effort to define the minimum competence they need to practice law

(Denver, July 26, 2019) – Most law school graduates sit for the bar exam at the end of each July—an exhausting ordeal of multiple-choice questions and essays that test legal knowledge and reasoning. But does the current bar exam actually test whether the next generation of lawyers has what it takes to practice law? Does the exam actually protect the public?

The answer is “we don’t know” because state regulators have not defined the “minimum competence” lawyers need to practice law—the very thing that the bar exam is supposed to measure.

IAALS, the Institute for the Advancement of the American Legal System, in partnership with Professor Deborah Merritt at The Ohio State University (OSU) Moritz College of Law, has launched a national research project to develop that critical, missing information. The project is being funded by grants from OSU and AccessLex Institute, the largest nonprofit organization dedicated to legal education.

“Understanding minimum competence will be a watershed moment for the legal profession and those responsible for assessing and admitting lawyers to practice law,” said Rebecca Love Kourlis, Executive Director of IAALS. “Only through a clear understanding of what minimum competence is can we treat test takers fairly, serve clients effectively, promote diversity, and improve access to justice.”

The *Building a Better Bar: Capturing Minimum Competence* project will contribute to an evidence-based definition of minimum competence that will ensure the fairness, efficacy, and validity of the bar exam. Through 60 focus groups conducted by distinguished teams in 12 states, the project will stitch together diverse viewpoints to provide a rich picture of minimum competence. Insights into the knowledge, skills, and judgment that new lawyers need to serve clients will help shape the future of lawyer licensing in the United States, as well as inform efforts in legal education to align admissions, curriculums, and licensure.

“Our grantmaking approach focuses on measurement and evaluation, effectiveness and scalability, and a project that aims to be sure the bar exam is focusing on these same things aligns seamlessly,” said Christopher P. Chapman, President and Chief Executive Officer at AccessLex Institute. “And as we continue with development of our new bar prep program, research like this will allow us to speak more meaningfully to the hows and whys of the exam, which benefits all aspects of the enterprise.”

Building a Better Bar focus groups will primarily tap into the perspectives of new lawyers in order to understand the toolbox of knowledge and skills they need to effectively serve clients. The project will also hold focus groups with lawyers who supervise new attorneys. Other specialized groups will focus on women, people of color, solo practitioners, and those in rural areas.

“Traditional job analyses can mask the views of these groups,” Merritt explains, “yet their perspectives are essential to establishing a valid measure of minimum competence. In the end, we will provide concrete data that state regulators can use to improve licensing, protect the public, and advance justice for all.”

IAALS, the Institute for the Advancement of the American Legal System at the University of Denver, is a national, independent research center dedicated to facilitating continuous improvement and advancing excellence in the American legal system. Our mission is to forge innovative and practical solutions to problems within the American legal system.

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