

MULTISTATE BAR (MBE) OPE 1 PRACTICE EXAM (SAMPLE)

STUDY GUIDE



SAMPLE STUDY GUIDE WITH LIMITED QUESTIONS

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Introduction

Preparing for a certification exam can feel overwhelming, but with the right tools, it becomes an opportunity to build confidence, sharpen your skills, and move one step closer to your goals. At Examzify, we believe that effective exam preparation isn't just about memorization, it's about understanding the material, identifying knowledge gaps, and building the test-taking strategies that lead to success.

This guide was designed to help you do exactly that.

Whether you're preparing for a licensing exam, professional certification, or entry-level qualification, this book offers structured practice to reinforce key concepts. You'll find a wide range of multiple-choice questions, each followed by clear explanations to help you understand not just the right answer, but why it's correct.

The content in this guide is based on real-world exam objectives and aligned with the types of questions and topics commonly found on official tests. It's ideal for learners who want to:

- Practice answering questions under realistic conditions,
- Improve accuracy and speed,
- Review explanations to strengthen weak areas, and
- Approach the exam with greater confidence.

We recommend using this book not as a stand-alone study tool, but alongside other resources like flashcards, textbooks, or hands-on training. For best results, we recommend working through each question, reflecting on the explanation provided, and revisiting the topics that challenge you most.

Remember: successful test preparation isn't about getting every question right the first time, it's about learning from your mistakes and improving over time. Stay focused, trust the process, and know that every page you turn brings you closer to success.

Let's begin.

How to Use This Guide

This guide is designed to help you study more effectively and approach your exam with confidence. Whether you're reviewing for the first time or doing a final refresh, here's how to get the most out of your Examzify study guide:

1. Start with a Diagnostic Review

Skim through the questions to get a sense of what you know and what you need to focus on. Your goal is to identify knowledge gaps early.

2. Study in Short, Focused Sessions

Break your study time into manageable blocks (e.g. 30 – 45 minutes). Review a handful of questions, reflect on the explanations.

3. Learn from the Explanations

After answering a question, always read the explanation, even if you got it right. It reinforces key points, corrects misunderstandings, and teaches subtle distinctions between similar answers.

4. Track Your Progress

Use bookmarks or notes (if reading digitally) to mark difficult questions. Revisit these regularly and track improvements over time.

5. Simulate the Real Exam

Once you're comfortable, try taking a full set of questions without pausing. Set a timer and simulate test-day conditions to build confidence and time management skills.

6. Repeat and Review

Don't just study once, repetition builds retention. Re-attempt questions after a few days and revisit explanations to reinforce learning. Pair this guide with other Examzify tools like flashcards, and digital practice tests to strengthen your preparation across formats.

There's no single right way to study, but consistent, thoughtful effort always wins. Use this guide flexibly, adapt the tips above to fit your pace and learning style. You've got this!

Questions

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- 1. Which claim provides the least support for a plaintiff seeking reinstatement after whistleblower disclosures under the Privileges and Immunities Clause?**
 - A. Privileges and Immunities Clause claim.
 - B. Citizenship-based claim.
 - C. Due process claim.
 - D. Federal whistleblower protections claim.

- 2. Under FRE Rule 703, may an expert rely on hearsay when forming an opinion, with the hearsay not admissible as evidence at trial?**
 - A. Yes
 - B. No
 - C. Yes, but only if the hearsay is a business record
 - D. No, unless the expert also testifies regarding the hearsay

- 3. A businessman owns a hotel subject to a mortgage securing a debt he owes to a bank and also owns a nearby garage financed by a loan secured by a mortgage on the garage. A statute provides that any properly filed judgment is a lien on real property owned by the judgment debtor for 10 years. A foreclosure sale of the hotel mortgage occurs, and later a foreclosure sale on the garage mortgage occurs. Which statement about the distribution of proceeds from the garage foreclosure is correct?**
 - A. The proceeds first go to the garage lender, then to the hotel lender.
 - B. The proceeds go to the hotel bank to satisfy its judgment.
 - C. The proceeds are shared equally between lenders.
 - D. The proceeds are used to pay the garage lender only if there is a deficiency.

- 4. A customer slips on a banana peel at a grocery store. The peel was fresh and unblemished except for a mark from the customer's heel. In an action against the store, these are the only facts. Should the trial judge permit the case to go to the jury?**
 - A. Yes, because the condition could support res ipsa loquitur.
 - B. No, because there is not a reasonable basis for inferring that the grocer knew or should have known of the banana peel.
 - C. Yes, because a grocery store has a duty to inspect regularly.
 - D. No, because the evidence fails to show a duty.

- 5. If a conspirator is in jail on unrelated charges during the last six robberies within the period of a charged conspiracy, can the remaining conspirators still be convicted of conspiracy?**
- A. Yes, the conspiracy can continue, and other conspirators may be convicted.
 - B. No, the jailed conspirator's absence defeats the conspiracy.
 - C. Yes, but only if the jailed conspirator participated in those robberies.
 - D. No, because all conspirators must be free during all offenses.
- 6. A county regulation prohibits all construction in a foothill area to conserve wildlife and plant habitats. The purchaser claims this is a taking of property rights. On what basis is the court likely to rule for the purchaser?**
- A. Yes, because the regulation eliminates the investor's investment-backed expectations and essentially all economically beneficial use
 - B. No, because the regulation is a legitimate exercise of the police power with no compensation
 - C. Yes, but only if the property is physically occupied
 - D. No, because compensation is never required for land-use regulations
- 7. In a personal injury case, the plaintiff sues a store for injuries from a slip at the store's entry. Before suit, the store offers to pay medical bills and the plaintiff releases claims. At trial, the plaintiff seeks to admit the store manager's statement that there was slush on the entryway. Is the statement admissible?**
- A. Yes, under Rule 408.
 - B. No, because it is excluded by Rule 408.
 - C. Yes, but only to prove liability.
 - D. No, unless admitted for bias.
- 8. A dentist is performing anesthesia and a hypodermic needle breaks in the patient's gum due to a manufacturing defect. Is the patient likely to recover damages in an action against the dentist on strict products liability and malpractice?**
- A. Yes, on strict products liability only.
 - B. Yes, on malpractice only.
 - C. No, on both.
 - D. Yes, on both.

9. At a civil trial for slander, the plaintiff shows that the defendant called the plaintiff a thief. The defendant introduces a witness who says, "I have been the plaintiff's neighbor for many years, and people in our community generally have said that he is a thief." Is the testimony concerning the plaintiff's reputation admissible?
- A. Yes, to prove the plaintiff's actual character and truth.
 - B. No, because reputation evidence is never admissible in slander.
 - C. Yes, because reputation evidence is admissible when the plaintiff's character is in issue under Rule 405.
 - D. No, because reputation evidence is prejudicial.
10. In the land transfer scenario where the owner devises to his wife for life or until remarriage, then to their daughter, and the daughter later conveys to a friend, who holds the land after subsequent events?
- A. The Wife
 - B. The Daughter
 - C. The Wife's new husband
 - D. The Daughter's friend

Answers

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1. A
2. B
3. B
4. B
5. A
6. A
7. B
8. C
9. C
10. D

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Explanations

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1. Which claim provides the least support for a plaintiff seeking reinstatement after whistleblower disclosures under the Privileges and Immunities Clause?

A. Privileges and Immunities Clause claim.

B. Citizenship-based claim.

C. Due process claim.

D. Federal whistleblower protections claim.

The key idea is that the Privileges and Immunities Clause is about preventing states from discriminating against citizens of other states in fundamental rights or essential economic activities. It isn't a vehicle for enforcing reinstatement after whistleblower disclosures, and it doesn't provide the sort of direct remedy (like reinstatement or back pay) that whistleblower retaliation cases usually require. In these scenarios, the strongest theories come from federal whistleblower protections that bar retaliation and mandate remedies, or from due process claims that challenge the fairness of the process leading to the adverse action. A citizenship-based claim would be narrow and typically less directly supportive, making the Privileges and Immunities Clause the weakest fit for obtaining reinstatement.

2. Under FRE Rule 703, may an expert rely on hearsay when forming an opinion, with the hearsay not admissible as evidence at trial?

A. Yes

B. No

C. Yes, but only if the hearsay is a business record

D. No, unless the expert also testifies regarding the hearsay

Under FRE 703, an expert may base an opinion on facts or data presented to the expert, even if those facts or data would be inadmissible as evidence at trial. The key is that the data must be of the type reasonably relied upon by experts in the field in forming opinions. So hearsay can be used as the basis for an expert's opinion, even though the hearsay itself isn't admissible to prove the truth at trial. The court ensures the data is something experts in the field typically rely on, and the underlying information may be kept out of the jury room unless it's admitted for another reason. This allows experts to bring in practical, real-world information they consider credible, without forcing the jury to review every underlying source.

3. A businessman owns a hotel subject to a mortgage securing a debt he owes to a bank and also owns a nearby garage financed by a loan secured by a mortgage on the garage. A statute provides that any properly filed judgment is a lien on real property owned by the judgment debtor for 10 years. A foreclosure sale of the hotel mortgage occurs, and later a foreclosure sale on the garage mortgage occurs. Which statement about the distribution of proceeds from the garage foreclosure is correct?

- A. The proceeds first go to the garage lender, then to the hotel lender.
- B. The proceeds go to the hotel bank to satisfy its judgment.**
- C. The proceeds are shared equally between lenders.
- D. The proceeds are used to pay the garage lender only if there is a deficiency.

The main idea is how liens on real property are prioritized when foreclosure proceeds are distributed. A properly filed judgment creates a lien on all real property owned by the judgment debtor, so it attaches to any property, including the garage, not just the hotel. When the garage mortgage is foreclosed, the sale proceeds are applied first to liens on the garage property in order of priority determined by their filing/recording dates. If the judgment lien was filed before the garage mortgage, it has priority over that mortgage on the garage property, so the funds from the garage foreclosure would be applied to satisfy the hotel bank's judgment first. Only after that would any remaining proceeds go to the garage lender. Hence, the proceeds go to the hotel bank to satisfy its judgment.

4. A customer slips on a banana peel at a grocery store. The peel was fresh and unblemished except for a mark from the customer's heel. In an action against the store, these are the only facts. Should the trial judge permit the case to go to the jury?

- A. Yes, because the condition could support res ipsa loquitur.
- B. No, because there is not a reasonable basis for inferring that the grocer knew or should have known of the banana peel.**
- C. Yes, because a grocery store has a duty to inspect regularly.
- D. No, because the evidence fails to show a duty.

This question tests the use of res ipsa loquitur and whether the plaintiff can get the case to a jury based on the facts given. For res ipsa to work, three things must be shown: the injury-causing condition is of a type that ordinarily wouldn't occur without negligence, the instrumentality causing the injury is under the defendant's exclusive control, and the plaintiff's evidence permits an inference that the defendant knew or should have known about the danger (i.e., there's no other reasonable explanation). In this scenario, the banana peel on the floor is the dangerous condition, but the facts don't establish exclusive control by the grocer or a duty to have known about the peel. The peel is described as fresh and unblemished except for a mark from the customer's heel, which suggests the peel may have been left by a shopper or could have been walked on by the same or another shopper. There's no evidence the grocer knew of the peel, nor that the grocer's agents had exclusive control over it at a time when it would ordinarily be avoided or noticed. Without showing the grocer's knowledge or a reliable basis to infer negligent maintenance, res ipsa loquitur cannot properly be invoked, so the case shouldn't be sent to the jury on that theory. The other options rely on theories or duties that aren't supported by the facts: assuming an inspection-duty or implying knowledge of a dangerous condition without evidence of notice would be speculative, and simply asserting a general duty to maintain premises isn't enough without showing breach or notice.

5. If a conspirator is in jail on unrelated charges during the last six robberies within the period of a charged conspiracy, can the remaining conspirators still be convicted of conspiracy?

A. Yes, the conspiracy can continue, and other conspirators may be convicted.

B. No, the jailed conspirator's absence defeats the conspiracy.

C. Yes, but only if the jailed conspirator participated in those robberies.

D. No, because all conspirators must be free during all offenses.

The key idea is that a conspiracy is a partnership in a crime that can continue even if one member is temporarily removed from the scene. Two or more people must agree to commit an unlawful act, and acts in furtherance of that plan can sustain the conspiracy across time. If one conspirator is jailed on unrelated charges, the remaining conspirators can still carry on the plan, and their ongoing actions during the period in question can support a conviction for conspiracy. The jailed conspirator's absence does not automatically dissolve the agreement or prevent the others from being found guilty, as long as there is evidence of the original conspiracy and continued participation by at least two conspirators. In this scenario, the fact that the last six robberies occurred while the conspirator was incarcerated doesn't negate the conspiracy; the remaining conspirators can still be convicted for their role in continuing the plan.

6. A county regulation prohibits all construction in a foothill area to conserve wildlife and plant habitats. The purchaser claims this is a taking of property rights. On what basis is the court likely to rule for the purchaser?

A. Yes, because the regulation eliminates the investor's investment-backed expectations and essentially all economically beneficial use

B. No, because the regulation is a legitimate exercise of the police power with no compensation

C. Yes, but only if the property is physically occupied

D. No, because compensation is never required for land-use regulations

The core rule is that a regulation that deprives a landowner of all economically beneficial use of property is a taking under the Fifth Amendment, requiring just compensation. This is the per se taking rule from Lucas v. South Carolina Coastal Council. When a rule goes so far as to eliminate the investor's ability to use the land for its most valuable purpose, no amount of public interest or benefits can avoid paying for the loss. In this scenario, banning all construction in the foothill area removes essentially every economically beneficial use of the property. The owner purchased with the expectation of being able to develop or at least realize a substantial return from development; eliminating that option frustrates those investment-backed expectations. Under Lucas, that complete deprivation triggers a taking, and the owner is entitled compensation. The rule is not simply about police power or public welfare; even a legitimate land-use regulation can require compensation if it wipes out all value. It's also not limited to situations where land is physically occupied by the government, and it doesn't mean compensation is never required for other kinds of restrictions, since Lucas addresses total takings by regulation.

7. In a personal injury case, the plaintiff sues a store for injuries from a slip at the store's entry. Before suit, the store offers to pay medical bills and the plaintiff releases claims. At trial, the plaintiff seeks to admit the store manager's statement that there was slush on the entryway. Is the statement admissible?

- A. Yes, under Rule 408.
- B. No, because it is excluded by Rule 408.**
- C. Yes, but only to prove liability.
- D. No, unless admitted for bias.

The main idea here is how Rule 408 treats evidence from compromise negotiations. Rule 408 bars evidence of offers to settle or statements made during compromise negotiations if they're offered to prove liability for the claim or the amount of damages. The store's offer to pay medical bills and the plaintiff's release of claims places the parties squarely in settlement negotiations. The manager's statement that there was slush on the entryway is a statement made in that context about the hazard contributing to the injury, and using it to prove negligence would be exactly the type of liability evidence Rule 408 excludes. The only potential exception is if the evidence were admitted for a purpose other than proving liability, such as showing bias or prejudice of a witness. But in this scenario the statement is being offered to prove the condition of the entry and liability, not to show bias, so that exception does not apply. Therefore the statement is not admissible. So the best answer is that it is excluded by Rule 408.

8. A dentist is performing anesthesia and a hypodermic needle breaks in the patient's gum due to a manufacturing defect. Is the patient likely to recover damages in an action against the dentist on strict products liability and malpractice?

- A. Yes, on strict products liability only.
- B. Yes, on malpractice only.
- C. No, on both.**
- D. Yes, on both.

The main idea is that liability for a defective product generally rests on the manufacturer or seller, not the end user who uses the product. Strict products liability targets the party that placed the defective item in the stream of commerce, because a consumer should not have to prove negligence to recover for injuries caused by a product defect. A dentist who uses a needle that breaks due to a manufacturing defect is not the proper target for strict products liability—the manufacturer would be. So there isn't a strict liability claim against the dentist. As for malpractice, you must show that the health professional breached the standard of care and that this breach caused the injury. If the needle broke because of a manufacturing defect, and the dentist used the instrument properly and followed standard procedures, there isn't a breach of the dentist's duty. In that scenario, the injury isn't the dentist's fault, so a malpractice claim would not succeed. The only way malpractice could exist is if the dentist itself acted negligently (for example, by using an obviously defective instrument without taking reasonable steps to remedy the situation), which isn't indicated here. So, the patient is unlikely to recover on either theory.

9. At a civil trial for slander, the plaintiff shows that the defendant called the plaintiff a thief. The defendant introduces a witness who says, "I have been the plaintiff's neighbor for many years, and people in our community generally have said that he is a thief." Is the testimony concerning the plaintiff's reputation admissible?

A. Yes, to prove the plaintiff's actual character and truth.

B. No, because reputation evidence is never admissible in slander.

C. Yes, because reputation evidence is admissible when the plaintiff's character is in issue under Rule 405.

D. No, because reputation evidence is prejudicial.

The test here is whether reputation evidence about a plaintiff's character is admissible when that character is at issue. In a defamation case, the statement that the plaintiff is a thief directly implicates his honesty and moral character. When a trait is in issue, reputation or opinion evidence about that trait is admissible under Rule 405. So the neighbor's remark about the plaintiff's reputation for being a thief serves to prove the plaintiff's character for truthfulness, which is relevant to the defamation claim. The court may limit the evidence to reputation or opinion on direct, with specific instances potentially explored on cross if needed. This makes the testimony admissible, fitting the rule and the defamation context. This isn't precluded simply because it's slander, and prejudicial concerns aren't automatic disqualifiers—the rule allows it when the trait is in issue and the probative value outweighs any prejudice.

10. In the land transfer scenario where the owner devises to his wife for life or until remarriage, then to their daughter, and the daughter later conveys to a friend, who holds the land after subsequent events?

A. The Wife

B. The Daughter

C. The Wife's new husband

D. The Daughter's friend

This setup creates a life estate for the wife that ends either at her death or upon remarriage, followed by a shifting executory interest in the daughter that takes effect when the life estate ends. Because the language says "then to their daughter," the daughter's interest is not a traditional vested remainder but an executory interest that divests the life tenant upon the triggering event (remarriage or death). The daughter can convey that future interest, and when she does, the transferee (the daughter's friend) becomes the holder of that executory interest. So, when the life estate ends—whether the wife remarries or dies—the property passes to the friend who now holds the daughter's executory interest. The wife remains the life tenant only up to that termination; after termination the friend takes. That's why the land ends up in the friend's hands after the subsequent events.

Next Steps

Congratulations on reaching the final section of this guide. You've taken a meaningful step toward passing your certification exam and advancing your career.

As you continue preparing, remember that consistent practice, review, and self-reflection are key to success. Make time to revisit difficult topics, simulate exam conditions, and track your progress along the way.

If you need help, have suggestions, or want to share feedback, we'd love to hear from you. Reach out to our team at hello@examzify.com.

Or visit your dedicated course page for more study tools and resources:

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We wish you the very best on your exam journey. You've got this!

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