

New Brunswick Bar Practice Exam (Sample)

Study Guide



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Questions

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- 1. What document must outline the proposed corporate name and share structures?**
 - A. By-laws**
 - B. Articles of incorporation**
 - C. Notice of registered office**
 - D. Partnership agreement**
- 2. How are expenses for child support determined?**
 - A. Equally shared between parents**
 - B. Based solely on the custodial parent's income**
 - C. Shared in proportion to each parent's income**
 - D. Based on the age of the child**
- 3. In what name can unincorporated associations act as parties?**
 - A. Only under the name of its members**
 - B. In the name of the association, regardless of a trust fund**
 - C. Under a designated agent's name**
 - D. In the name of the officers of the association**
- 4. What is the main purpose of the Child, Youth and Senior Advocate Act?**
 - A. To oversee all legal cases involving minors**
 - B. To ensure the rights of vulnerable groups are heard and protected**
 - C. To provide financial support to families**
 - D. To regulate youth offenders**
- 5. Which of the following is a procedural step related to trial?**
 - A. Confirm the trial date with the court**
 - B. Set down for judgment immediately**
 - C. Skip witness summons**
 - D. Withdraw all claims**

- 6. Which rule dictates the consideration of oppression and police trickery in determining the voluntariness of a confession?**
- A. Voluntary confessions rule**
 - B. Hearsay rule**
 - C. Standard of proof rule**
 - D. Competence to testify rule**
- 7. What is NOT a consideration when determining which assets to acquire in a purchase/sale transaction?**
- A. Goodwill and related assets**
 - B. Corporate tax liabilities**
 - C. Accounts receivable**
 - D. Machinery and equipment**
- 8. Which process is used to determine whether the reasons relied on in an administrative decision were reasonable?**
- A. Procedural Fairness Analysis**
 - B. Substantive Reasonableness Review**
 - C. Standard of Review Assessment**
 - D. Legislative Oversight**
- 9. When is a will considered to be revoked?**
- A. By writing another will or destroying the existing one**
 - B. By executing a codicil**
 - C. By notifying heirs of the change**
 - D. By registering with the court**
- 10. What was determined in Vout v Hay regarding the presumption of knowledge of will contents?**
- A. All testators are presumed to lack capacity**
 - B. Presumption is valid regardless of circumstances**
 - C. The presumption can be rebutted in the presence of suspicious circumstances**
 - D. If there are witnesses, the presumption is always valid**

Answers

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

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Explanations

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1. What document must outline the proposed corporate name and share structures?

A. By-laws

B. Articles of incorporation

C. Notice of registered office

D. Partnership agreement

The document that must outline the proposed corporate name and share structures is the Articles of Incorporation. This foundational document is critical for establishing a corporation and typically includes key information such as the corporation's name, the type of shares it is authorized to issue, the rights, privileges, and restrictions attached to each class of shares, and the corporation's purpose. While by-laws govern the internal management of the corporation and detail the rules for operation, they do not specify the corporate name or share structure. The notice of registered office serves the purpose of declaring the address where legal documents can be served to the corporation but does not include information about share structures. A partnership agreement pertains to the management and responsibilities amongst partners in a partnership, which is distinct from the requirements of a corporation. Thus, the Articles of Incorporation represent the necessary document for outlining the corporate name and share structures, as they officially establish the corporation's identity and framework.

2. How are expenses for child support determined?

A. Equally shared between parents

B. Based solely on the custodial parent's income

C. Shared in proportion to each parent's income

D. Based on the age of the child

The determination of expenses for child support is based on a system where the contributions from each parent are proportional to their respective incomes. This method is designed to ensure that the child's needs are met in a fair and equitable manner, taking into account the financial capabilities of both parents. When evaluating child support, courts consider several factors, including the income of both parents, the child's needs particularly related to education, healthcare, and overall well-being. This proportional approach means that if one parent earns significantly more than the other, that parent would contribute a larger share to the child's expenses. This framework aims to avoid placing an unfair financial burden on either parent and reflects the principle that both parents have a duty to support their child according to their means. In contrast to the other options, an equally shared payment approach does not account for disparities in each parent's ability to contribute. A method based solely on the custodial parent's income either overlooks the contributing role of the non-custodial parent or may not sufficiently address the child's needs. While the child's age can influence the needs that arise for support, it is not the primary determinant of how expenses are allocated between the parents. Thus, proportional to income is the most equitable and practical method for determining child support expenses.

3. In what name can unincorporated associations act as parties?

- A. Only under the name of its members**
- B. In the name of the association, regardless of a trust fund**
- C. Under a designated agent's name**
- D. In the name of the officers of the association**

Unincorporated associations can act as parties in the name of the association itself, which provides a clear and consistent representation of the group. This means that the association can enter into contracts, sue, or be sued in its own name, providing a streamlined process for handling legal matters. When unincorporated associations are recognized as entities that can hold rights and obligations, it simplifies legal situations where multiple members would otherwise be involved, reducing complexity and potential confusion over responsibilities. Acting in the name of the association offers legal clarity, which is crucial for contracts and legal proceedings. Other options imply limitations or complications that do not reflect the primary legal standing of an unincorporated association. For instance, acting solely in the name of its members would create difficulties in accountability and representation. Similarly, using a designated agent's name or the officers' names could lead to confusion regarding who is actually responsible or representing the association, detracting from the collective identity that the association represents. Therefore, the ability to act in the name of the association itself enhances legal clarity and collectively represents the interests of its members.

4. What is the main purpose of the Child, Youth and Senior Advocate Act?

- A. To oversee all legal cases involving minors**
- B. To ensure the rights of vulnerable groups are heard and protected**
- C. To provide financial support to families**
- D. To regulate youth offenders**

The primary purpose of the Child, Youth and Senior Advocate Act is to ensure that the rights of vulnerable groups, specifically children, youth, and seniors, are recognized, heard, and protected. This act establishes a framework that enables advocates to support these groups in navigating systems that impact their lives, such as the child welfare system, youth justice system, and elder care services. Advocates play a crucial role in representing the interests of these individuals, ensuring that their voices are included in decision-making processes that affect their well-being. This focus on advocacy does not extend to overseeing all legal cases involving minors, providing financial assistance, or regulating youth offenders in a formal capacity, as those functions belong to other legal frameworks and agencies. Instead, the act is specifically designed to uphold and champion the rights and dignity of vulnerable populations, making option B the most aligned with the intent and scope of the legislation.

5. Which of the following is a procedural step related to trial?

A. Confirm the trial date with the court

B. Set down for judgment immediately

C. Skip witness summons

D. Withdraw all claims

Confirming the trial date with the court is a crucial procedural step in the trial process. This step ensures that all parties involved are aware of when the trial is scheduled to take place, allowing for proper preparation and availability of resources, including witnesses and legal counsel. This confirmation helps avoid any conflicts or scheduling issues that could delay the trial. It's an essential administrative function that supports the smooth progression of legal proceedings. The other options do not represent appropriate procedural steps within the context of a trial. Setting down for judgment is typically done after the conclusion of a trial or hearing, not as a pre-trial action. Skipping witness summons would undermine the trial's integrity, as witness testimony is vital for establishing facts. Withdrawing all claims would not pertain to an active trial process but rather indicate an intention to abandon a legal action altogether, which is fundamentally different from procedural steps taken in preparation for a trial.

6. Which rule dictates the consideration of oppression and police trickery in determining the voluntariness of a confession?

A. Voluntary confessions rule

B. Hearsay rule

C. Standard of proof rule

D. Competence to testify rule

The voluntary confessions rule is the correct answer because it specifically addresses the conditions under which a confession can be deemed admissible in court. This rule requires that confessions be made voluntarily, meaning that they should not result from coercive tactics, such as oppression or police trickery. When a confession is obtained through intimidation, deceit, or abuse by law enforcement, its voluntariness is compromised, and it may be excluded from evidence. This principle is fundamental in protecting the rights of individuals and ensuring that any self-incriminating statements are genuinely made without undue pressure. The other options do not directly relate to the issue of coercion or voluntariness of confessions. The hearsay rule deals with the admissibility of statements not made in court as evidence, the standard of proof rule pertains to the burden of proof in legal proceedings, and the competence to testify rule concerns an individual's ability to provide testimony in court rather than the circumstances surrounding a confession. Thus, none of these options address the crucial aspect of voluntariness in the context of confessions as effectively as the voluntary confessions rule.

7. What is NOT a consideration when determining which assets to acquire in a purchase/sale transaction?

- A. Goodwill and related assets**
- B. Corporate tax liabilities**
- C. Accounts receivable**
- D. Machinery and equipment**

In a purchase/sale transaction, the considerations for acquiring assets typically revolve around factors that can impact the value and functionality of the business being purchased. Goodwill and related assets represent intangible benefits that a company may possess, making them a significant consideration as they affect the overall value and goodwill of the business. Accounts receivable are also vital as they represent outstanding payments from customers that the purchasing company will need to account for in terms of assets and cash flow management. Machinery and equipment are tangible assets crucial for the operation of the business, impacting both the operational capacity and costs after the acquisition. Corporate tax liabilities, however, while they are an important aspect of the overall financial evaluation of a business, do not directly pertain to the assets being acquired. Corporate tax liabilities represent obligations rather than assets and are more related to the company's existing financial obligations and future liabilities rather than the tangible and intangible assets involved in the transaction itself. Therefore, they are not a consideration in the same way that the other options are when determining which assets to acquire in a purchase/sale transaction.

8. Which process is used to determine whether the reasons relied on in an administrative decision were reasonable?

- A. Procedural Fairness Analysis**
- B. Substantive Reasonableness Review**
- C. Standard of Review Assessment**
- D. Legislative Oversight**

The process that is utilized to determine whether the reasons relied on in an administrative decision were reasonable is substantive reasonableness review. This form of review focuses on assessing the validity and appropriateness of the rationale provided by an administrative body for its decision. It examines whether those reasons hold sufficient weight and rationale under applicable legal standards. Substantive reasonableness review ensures that decisions are not just procedurally correct, but also that the conclusions reached by the administrative entity are justifiable based on the evidence presented and the law. This evaluation is crucial because it goes beyond simply confirming that an appropriate process was followed, requiring a deeper analysis of the decision's merits and the coherence of its underlying justification. While procedural fairness analysis is concerned with whether the process leading to the decision was conducted fairly, that does not assess the content or reasonableness of the actual decision itself. The standard of review assessment is aimed at identifying the level of scrutiny that a reviewing court should apply to the administrative decision, rather than evaluating the merits of the reasons provided. Legislative oversight involves the broader function of legislative bodies to monitor and guide administrative agencies but does not specifically address the reasonableness of individual decisions.

9. When is a will considered to be revoked?

- A. By writing another will or destroying the existing one**
- B. By executing a codicil
- C. By notifying heirs of the change
- D. By registering with the court

A will is considered to be revoked when the testator (the person who made the will) takes clear and intentional steps to indicate that they wish to cancel or replace the existing will. Writing another will or destroying the existing one are both recognized methods of revocation. When a new will is drafted, it often contains a clause explicitly stating that it revokes any prior wills, making the intent of the testator clear. Similarly, physically destroying the will, whether by tearing it up, burning it, or any other means, demonstrates a clear intention to revoke the previous document. Both actions unequivocally signify that the testator no longer wants the prior will to have effect. In contrast, executing a codicil—essentially a supplement or amendment to a will—does not revoke the original will but instead alters its terms. Notifying heirs of a change does not fulfill the legal requirements for revoking a will and does not replicate the formalities required for that action. Additionally, simply registering a will with the court does not imply any intention to revoke it, as registration does not change the will itself.

10. What was determined in Vout v Hay regarding the presumption of knowledge of will contents?

- A. All testators are presumed to lack capacity
- B. Presumption is valid regardless of circumstances
- C. The presumption can be rebutted in the presence of suspicious circumstances**
- D. If there are witnesses, the presumption is always valid

In Vout v Hay, the court established important principles regarding the presumption of knowledge and approval of a will's contents by the testator. The correct choice highlights that the presumption can be rebutted in the presence of suspicious circumstances. This means that if there are elements that suggest the testator may not have been fully aware of or may have been coerced regarding the contents of the will, this presumption of knowledge and approval can be challenged. The ruling reinforces the idea that while there is an initial presumption that a testator knows and approves the contents of their will, this assumption is not absolute. If evidence indicates that something unusual or questionable occurred—such as lack of capacity, coercion, or undue influence—the presumption can be set aside, allowing for a deeper examination of the circumstances surrounding the will's execution. By recognizing the possibility of rebutting the presumption, Vout v Hay provides a safeguard against potential abuses in will-making, ensuring that the true intention of the testator is respected and upheld in cases where there are signs of misconduct or manipulation. This approach underscores the importance of fair and just processes in will execution while protecting the rights of the testator.