

NEW YORK MULTISTATE BAR (MBE) PRACTICE EXAM (SAMPLE)

STUDY GUIDE



Prepare with structure. Pass with confidence



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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. When the principal is liable on a contract, what is the agent's usual liability?**
 - A. Not personally liable
 - B. Personally liable for the contract
 - C. Always liable for unauthorized contracts
 - D. Only liable if the third party discloses identity
- 2. The Supreme Court may take state-case decisions only if there is no independent state-law ground of decision. Which statement describes the requirement?**
 - A. Requires no independent state-law ground of decision
 - B. Requires an independent state-law ground
 - C. Requires both state and federal grounds
 - D. Requires a federal-question-based decision only
- 3. Out-of-state service in federal court is the same as service in state court.**
 - A. True
 - B. False
 - C. Only for corporations
 - D. Not allowed
- 4. Which statement is an element of trade secret protection?**
 - A. Public disclosure
 - B. Secret kept secret
 - C. Kept as secret
 - D. Patent status
- 5. Under common law, which age group is prosecuted as an adult?**
 - A. Over 14
 - B. Under 7
 - C. 7-14
 - D. 16 and above

- 6. The statement against interest exception requires which condition in criminal cases?**
- A. Corroboration
 - B. The declarant's availability
 - C. The statement to be voluntary
 - D. The statement to be incidental
- 7. Who bears the burden to prove undue influence in forming a will?**
- A. The challenger
 - B. The proponent of the will
 - C. The court
 - D. The guardian
- 8. Truthful, nondeceptive commercial speech is subject to which standard?**
- A. Strict Scrutiny
 - B. Intermediate Scrutiny
 - C. Rational Basis
 - D. Per Se Invalid
- 9. Which statement accurately describes war powers?**
- A. The President alone can declare war.
 - B. The President can unilaterally deploy troops into foreign territory without congressional authorization.
 - C. Congress must declare war to authorize use of force, but the President may use troops in foreign soil under his commander-in-chief authority for limited purposes.
 - D. The President has no power to deploy troops without a constitutional amendment.
- 10. Under New York law, intoxication is a defense only if intoxication negates necessary mental status for a crime (intent/knowledge) and requires high level of intoxication.**
- A. Only if intoxication negates necessary mental status for a crime (intent/knowledge)
 - B. It negates the necessary mental status for a crime (intent/knowledge) and requires a high level of intoxication
 - C. It is never a defense
 - D. It is available for all crimes regardless of mental state

Answers

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

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Explanations

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1. When the principal is liable on a contract, what is the agent's usual liability?

- A. Not personally liable**
- B. Personally liable for the contract
- C. Always liable for unauthorized contracts
- D. Only liable if the third party discloses identity

When a contract is made by an agent for a disclosed principal, the principal is the one bound by the contract and the agent does not bear personal contractual liability. The agent's role is to facilitate the deal on behalf of the principal, so as long as the agent acts within authority and reveals the principal's identity, the third party can look only to the principal for performance. The agent would only be personally liable if the agent signs in the agent's own name, or if the principal is undisclosed or partially disclosed (or the agent lacks authority), in which case liability may attach to the agent.

2. The Supreme Court may take state-case decisions only if there is no independent state-law ground of decision. Which statement describes the requirement?

- A. Requires no independent state-law ground of decision**
- B. Requires an independent state-law ground
- C. Requires both state and federal grounds
- D. Requires a federal-question-based decision only

The key idea is that the Supreme Court cannot review a state-court decision if that decision rests on an independent state-law ground. An independent state ground is a basis for the ruling that can support the outcome entirely under state law, without reference to federal law. If such a state-ground exists, the decision is deemed final for purposes of Supreme Court review, and the Court lacks jurisdiction. Therefore, the Court may take a state-case decision only when there is no independent state-law ground to support it—i.e., the decision must hinge on a federal issue or otherwise fail to be fully supported by state law alone. That makes the statement describing the requirement the one that says there is no independent state-law ground. The other options run counter to how jurisdiction is determined: they either require an independent state ground, limit review to federal questions only, or insist on a combination of grounds that doesn't reflect the actual rule.

3. Out-of-state service in federal court is the same as service in state court.

- A. True**
- B. False
- C. Only for corporations
- D. Not allowed

Service of process in federal court is governed by the Federal Rules of Civil Procedure, but for serving someone out of state you may use methods permitted by Rule 4 and, in many cases, by the law of the state where service is made. That means you end up using the same kinds of procedures (personal delivery, delivery to an agent, etc.) that the state would allow, so long as those methods satisfy the FRCP. In practice, this makes out-of-state service in federal court essentially the same as service in state court, since you're applying the same acceptable methods under the federal rule framework. If the defendant is outside the United States, different rules (like the Hague Convention) would apply, but within the U.S. the approach mirrors state practice.

4. Which statement is an element of trade secret protection?

- A. Public disclosure
- B. Secret kept secret
- C. Kept as secret**
- D. Patent status

Secrecy is essential to trade secret protection. For information to qualify as a trade secret, it must not be generally known and there must be reasonable steps to keep it confidential. Public disclosure destroys that protection, and patent status is irrelevant to whether something is a trade secret (a secret can be protected even if you never patent it, or it can be disclosed to obtain a patent). The statement that the information is kept as secret captures this key requirement: it remains confidential and not publicly known, which is what makes it eligible for trade secret protection.

5. Under common law, which age group is prosecuted as an adult?

- A. Over 14**
- B. Under 7
- C. 7-14
- D. 16 and above

Under common law, the age of criminal responsibility is fourteen or older. Those over fourteen could be prosecuted as adults because they were presumed to have the capacity to distinguish right from wrong. Children under seven were considered incapable of crime, and those between seven and fourteen were presumed incapable (doli incapax) unless proven they understood the difference between right and wrong. So the group that could be prosecuted as adults is the age group over fourteen.

6. The statement against interest exception requires which condition in criminal cases?

- A. Corroboration**
- B. The declarant's availability
- C. The statement to be voluntary
- D. The statement to be incidental

Corroboration is required for the statement against interest exception in criminal cases. A statement that goes against the declarant's own interest can be admitted, but in criminal cases the reliability of such statements must be supported by independent corroborating evidence that clearly indicates its trustworthiness. This safeguards against false or self-serving statements that might otherwise be admitted on their face. Note that availability is a separate condition under the rule (the declarant must be unavailable), and the statement's voluntariness or incidental nature are not the controlling requirements for this particular exception.

7. Who bears the burden to prove undue influence in forming a will?

- A. The challenger
- B. The proponent of the will**
- C. The court
- D. The guardian

In a will contest alleging undue influence, the party seeking to have the will admitted bears the burden of proof on that issue. The proponent must show that the testator acted freely and with full understanding, and that no improper pressure or manipulation shaped the disposition. This is particularly important when there are suspicious circumstances or a close, controlling relationship between the tester and a beneficiary; the proponent must produce credible evidence of independent decision-making and voluntariness, often by clear and convincing evidence. The court oversees the probate process, but it is the proponent's duty to address and overcome any claims of undue influence by demonstrating the testator's true, autonomous wishes.

8. Truthful, nondeceptive commercial speech is subject to which standard?

- A. Strict Scrutiny
- B. Intermediate Scrutiny**
- C. Rational Basis
- D. Per Se Invalid

Truthful, nondeceptive commercial speech is protected by the First Amendment but is reviewed under a form of intermediate scrutiny. The governing framework, established in Central Hudson, allows regulation of truthful commercial speech only if the government has a substantial interest, the regulation directly advances that interest, and it is not more extensive than necessary to achieve it. This places commercial speech between the highest protection given to political speech and the much looser scrutiny used for other types of regulation. So the correct standard is intermediate scrutiny. Strict scrutiny would require a compelling interest and narrow tailoring, which isn't needed here; rational basis is too deferential to government regulation of commercial speech; and there is no separate "per se invalid" standard governing these restrictions.

9. Which statement accurately describes war powers?

- A. The President alone can declare war.
- B. The President can unilaterally deploy troops into foreign territory without congressional authorization.
- C. Congress must declare war to authorize use of force, but the President may use troops in foreign soil under his commander-in-chief authority for limited purposes.**
- D. The President has no power to deploy troops without a constitutional amendment.

This question tests how war powers are shared between Congress and the President and how limited use of force works in practice. The President, as Commander in Chief, can initiate limited military actions without a formal declaration of war, but for broader or ongoing hostilities, Congress must authorize the use of force or declare war. The War Powers Resolution (1973) reinforces this by requiring the President to notify Congress within 48 hours of introducing armed forces and limiting deployment to about 60 days (with a possible short withdrawal period) unless Congress authorizes a longer commitment or declares war. So the best statement captures both aspects: Congress must authorize use of force through a declaration or other authorization, but the President may deploy troops for limited purposes under his commander-in-chief role for a finite period. Why the other options don't fit: a president cannot declare war by himself; deployments are not unlimited or without constraint, since without congressional authorization they are limited in time under the War Powers framework; and there is no constitutional requirement for an amendment to permit deployment—war power is allocated between Congress and the President, with the President having authority to act in limited fashion without a formal amendment.

10. Under New York law, intoxication is a defense only if intoxication negates necessary mental status for a crime (intent/knowledge) and requires high level of intoxication.

- A. Only if intoxication negates necessary mental status for a crime (intent/knowledge)
- B. It negates the necessary mental status for a crime (intent/knowledge) and requires a high level of intoxication**
- C. It is never a defense
- D. It is available for all crimes regardless of mental state

Intoxication works as a defense in New York only when it defeats the mental state the crime requires. If the statute calls for a specific intent or knowledge, a defendant who is intoxicated enough to prevent forming that intent can raise the defense. In contrast, crimes that only require general intent, recklessness, or negligence aren't subject to this defense because the mental state isn't the same as a specific intent or knowledge element. The defense hinges on whether the intoxication is substantial enough to negate the required mens rea, not merely on any amount of intoxication. That combination—negating the necessary mental state and being sufficiently severe to do so—is why this option is correct.

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:

<https://nymbe.examzify.com>

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

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