

TORTS MULTISTATE BAR EXAMINATION (MBE) PRACTICE TEST (SAMPLE)

STUDY GUIDE



**SAMPLE STUDY GUIDE
WITH LIMITED QUESTIONS**

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THE FULL VERSION STUDY GUIDE**

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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 situation most clearly creates a nondelegable duty that could render the hiring party liable for contractor's negligence?**
 - A. Routine maintenance performed by a licensed contractor.
 - B. A contractor performing a simple landscaping task with no risk.
 - C. Work performed by a tenant on leased property.
 - D. Work involving inherently dangerous activities.

- 2. A nuisance case involves a neighbor's loud music late at night. The appropriate remedy is an injunction to stop the noise. What is a typical remedy in a private nuisance action in addition to injunction?**
 - A. Punitive damages.
 - B. Nominal damages.
 - C. Compensatory damages.
 - D. Updated property tax credits.

- 3. A five-year-old child is burned by a downed power line managed by the electric company. Is there liability if the company could have taken reasonable steps to prevent the lines from falling when insulators were repeatedly destroyed?**
 - A. Yes, if the company could have taken reasonable steps to prevent the lines from falling.
 - B. Yes, the company is strictly liable for injuries from its lines.
 - C. No, unless the company failed to warn the public.
 - D. No, because downed lines are an inevitable hazard.

- 4. A swimmer at a private lake resort is within a roped-in swimming area but leaves the rope area to reach a volleyball game. The lifeguard on duty sees the swimmer but does not warn him to return. Is the lifeguard liable for any injuries the swimmer sustains?**
 - A. Yes, because lifeguards owe a duty to supervise all swimmers.
 - B. No, because the swimmer knowingly left the roped area.
 - C. Yes, because failure to warn constitutes breach.
 - D. No, because the duty to warn is limited to those inside the roped area.

- 5. An employee driving a bus injures a pedestrian while performing duties. The employer is therefore liable if the employee was acting within the scope of employment. Which statement is correct?**
- A. No, the employer is not liable.
 - B. Yes, if the employee was acting within the scope of employment.
 - C. Yes, regardless of scope of employment.
 - D. Only if the employee's actions were authorized by employer.
- 6. A professional football player signs a written consent for his team's doctor to perform a knee operation. During surgery, the doctor asks a world-famous orthopedic surgeon to perform the operation; The operation is successful. In an action for battery by the athlete against the surgeon, what is the likely result?**
- A. Prevail, because the athlete did not consent to the surgeon performing the operation.
 - B. Not prevail, because the consent form was in writing.
 - C. Not prevail, because the surgeon's skills were necessary to successfully perform the operation.
 - D. Not prevail, because the operation was successful and the athlete suffered no harm.
- 7. In a jurisdiction that follows traditional contributory negligence and assumption of risk rules, what is the motorist's best defense when the other driver ran a stop sign and the motorist was using a cell phone?**
- A. The other driver's running the stop sign was unintentional.
 - B. The motorist was negligent in purchasing a car that would suffer heavy damage when struck at low speed.
 - C. The motorist was contributorily negligent.
 - D. The motorist had the last clear chance to avoid the accident.
- 8. A crowded city bus suddenly brakes and a woman in very high-heeled shoes begins to stumble. A man who did not know her steadies her by wrapping his arm around her waist. If the woman sues for battery, what is the most likely outcome?**
- A. Yes, because the man intended to put his arm around her waist.
 - B. Yes, because the man touched her without her permission.
 - C. No, because the man prevented her from harm.
 - D. No, because his conduct was socially acceptable.

- 9. Which statement correctly describes strict liability for abnormally dangerous activities?**
- A. The activity is inherently dangerous and the plaintiff's harm is foreseeable.
 - B. The activity is lawful and benign.
 - C. The plaintiff must prove intent for liability.
 - D. The defendant is always liable for any harm.
- 10. Private nuisance typically requires which showing?**
- A. Substantial interference with the use and enjoyment of land
 - B. A mere annoyance or upset
 - C. A violation of a city ordinance
 - D. Intentional interference with another's rights

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Answers

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

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Explanations

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1. Which situation most clearly creates a nondelegable duty that could render the hiring party liable for contractor's negligence?

- A. Routine maintenance performed by a licensed contractor.
- B. A contractor performing a simple landscaping task with no risk.
- C. Work performed by a tenant on leased property.

D. Work involving inherently dangerous activities.

A nondelegable duty means some duties cannot be shifted to someone else, so the party who owes the duty remains responsible for safety even when a contractor is used. When the activity is inherently dangerous, the risk is so central to the activity that the hiring party cannot avoid liability for injuries caused by the contractor's negligence. Inherently dangerous work carries dangers that are not easily mitigated by ordinary care, so the party who controls the activity bears the responsibility to ensure safety, making them liable if the contractor acts negligently. Routine maintenance by a licensed contractor, simple landscaping, or work by a tenant on leased property do not involve inherently dangerous activities in the same way. These tasks can generally be delegated with the hiring party relying on professional standards, and liability for the contractor's negligence is not automatically imposed on the hiring party solely for using a contractor.

2. A nuisance case involves a neighbor's loud music late at night. The appropriate remedy is an injunction to stop the noise. What is a typical remedy in a private nuisance action in addition to injunction?

- A. Punitive damages.
- B. Nominal damages.
- C. Compensatory damages.**
- D. Updated property tax credits.

In private nuisance, the remedy beyond stopping the nuisance is compensatory damages for the actual harm caused by the interference. Even when a court issues an injunction to stop the loud music, the harmed neighbor can recover money to make up for real losses from the disturbance—such as sleep deprivation, lost use of the property, or any reduction in enjoyment or value of the home due to the ongoing noise. Punitive damages aren't the standard here unless there's something exceptionally malicious or willful about the conduct, which is not typical in ordinary nuisance cases. Nominal damages would only apply if no actual harm were shown, which isn't the situation when the neighbor has suffered real disturbance. Updated property tax credits don't fit as a remedy in tort.

3. A five-year-old child is burned by a downed power line managed by the electric company. Is there liability if the company could have taken reasonable steps to prevent the lines from falling when insulators were repeatedly destroyed?

A. Yes, if the company could have taken reasonable steps to prevent the lines from falling.

B. Yes, the company is strictly liable for injuries from its lines.

C. No, unless the company failed to warn the public.

D. No, because downed lines are an inevitable hazard.

Power lines are a dangerous instrumentality, and the company that controls them has a duty to exercise reasonable care to keep them in a safe condition for the public. If the insulators were repeatedly destroyed, the company has notice of a persistent risk that the lines could fall. In that situation, it must take reasonable steps to prevent the hazard—such as repairing or replacing components, increasing inspections, or securing the lines. If it could have taken such steps but did not, that breach of duty makes the company liable for injuries caused by the downed line. This is negligence, not strict liability. Strict liability would apply only in limited circumstances involving abnormally dangerous activities, which isn't prompted by simply having a dangerous instrumentality that could have been managed with reasonable care. Warnings alone are not enough when there are reasonable precautions that could have prevented the harm, and the hazard isn't considered unavoidable if preventive steps were available.

4. A swimmer at a private lake resort is within a roped-in swimming area but leaves the rope area to reach a volleyball game. The lifeguard on duty sees the swimmer but does not warn him to return. Is the lifeguard liable for any injuries the swimmer sustains?

A. Yes, because lifeguards owe a duty to supervise all swimmers.

B. No, because the swimmer knowingly left the roped area.

C. Yes, because failure to warn constitutes breach.

D. No, because the duty to warn is limited to those inside the roped area.

The key idea is the scope of a lifeguard's duty. A lifeguard is responsible for supervising and protecting swimmers within the designated swimming area. If a swimmer voluntarily leaves that area, the lifeguard's duty to warn or supervise the swimmer in that context generally ends because the risk now lies outside the protected zone and the swimmer has assumed it. Here, the swimmer knowingly stepped out of the roped area to join a volleyball game, and the lifeguard did not warn him to return. Since the swimmer left the safe zone, the lifeguard's failure to warn does not breach a duty. The injuries occurred outside the lifeguard's duty-bound area, so there's no liability. Choosing a broader duty to supervise all swimmers or a broader duty to warn those outside the area would be inaccurate; the duty is tied to the designated safe zone, and the swimmer's voluntary departure ends that specific duty. If the swimmer had stayed inside and the lifeguard failed to warn or protect him, that could be different.

5. An employee driving a bus injures a pedestrian while performing duties. The employer is therefore liable if the employee was acting within the scope of employment. Which statement is correct?

- A. No, the employer is not liable.
- B. Yes, if the employee was acting within the scope of employment.**
- C. Yes, regardless of scope of employment.
- D. Only if the employee's actions were authorized by employer.

Respondeat superior makes the employer vicariously liable for torts committed by an employee within the course and scope of employment. Here, the bus driver injures a pedestrian while performing duties—driving the bus is part of the job, and the harm occurs in the work context. That places the act within the scope of employment, so the employer is liable. The other statements aren't correct because liability depends on whether the act was within the scope; it isn't automatic regardless of scope, and authorization by the employer isn't a gatekeeping requirement—being within the scope is enough for liability, while acts clearly outside the scope might not trigger it.

6. A professional football player signs a written consent for his team's doctor to perform a knee operation. During surgery, the doctor asks a world-famous orthopedic surgeon to perform the operation; The operation is successful. In an action for battery by the athlete against the surgeon, what is the likely result?

- A. Prevail, because the athlete did not consent to the surgeon performing the operation.
- B. Not prevail, because the consent form was in writing.**
- C. Not prevail, because the surgeon's skills were necessary to successfully perform the operation.
- D. Not prevail, because the operation was successful and the athlete suffered no harm.

Consent to medical treatment defeats a claim for battery because it authorizes the touching that occurs as part of the procedure. Here, the athlete gave written consent for the knee operation to be performed by the team doctor. If a different, equally skilled surgeon carries out the operation as part of that same procedure, the contact is still within the scope of the consent. The fact that the consent was in writing provides clear evidence that the patient agreed to the procedure and to involvement by others necessary to complete it. The outcome of the operation—whether successful or not—does not change the battery analysis, and lack of harm would not create liability where there was valid consent.

7. In a jurisdiction that follows traditional contributory negligence and assumption of risk rules, what is the motorist's best defense when the other driver ran a stop sign and the motorist was using a cell phone?

- A. The other driver's running the stop sign was unintentional.
- B. The motorist was negligent in purchasing a car that would suffer heavy damage when struck at low speed.
- C. The motorist was contributorily negligent.**
- D. The motorist had the last clear chance to avoid the accident.

Under traditional contributory negligence, a plaintiff cannot recover if they were negligent in any way. Here, the motorist's use of a cell phone while driving is negligent and contributes to the collision. Even though the other driver ran a stop sign, that does not salvage the motorist's claim in a pure contributory negligence system; the motorist's own fault defeats recovery, so the best defense is that the motorist was contributorily negligent. The other options don't fit: pointing to the stop sign being unintentional doesn't absolve the motorist of fault, and blaming a car purchase is irrelevant to tort liability. The last clear chance doctrine is a rule that can mitigate contributory fault in some jurisdictions, but it is not a defense that the motorist would rely on to negate liability in this context.

8. A crowded city bus suddenly brakes and a woman in very high-heeled shoes begins to stumble. A man who did not know her steadies her by wrapping his arm around her waist. If the woman sues for battery, what is the most likely outcome?

- A. Yes, because the man intended to put his arm around her waist.
- B. Yes, because the man touched her without her permission.
- C. No, because the man prevented her from harm.
- D. No, because his conduct was socially acceptable.**

In battery, the touch must be harmful or offensive and not privileged. Here, the man's arm around the woman is to steady her during a sudden stop, not to harm her. He acted to prevent imminent harm, and the contact is modest, reasonable given the dangerous situation, and socially acceptable in that emergency context. Because the touch is privileged to avert harm, it is not an offensive or unconsented harmful contact, so there is no battery. The key idea is that emergency aid can excuse or justify what would otherwise be an unwanted touch.

9. Which statement correctly describes strict liability for abnormally dangerous activities?

- A. The activity is inherently dangerous and the plaintiff's harm is foreseeable.**
- B. The activity is lawful and benign.
- C. The plaintiff must prove intent for liability.
- D. The defendant is always liable for any harm.

Strict liability for abnormally dangerous activities rests on the idea that certain activities pose an unusually high risk of serious injury, even when reasonable care is taken. The key concept is that the danger is inherent in the activity itself, so the defendant is responsible for harms that flow from that activity regardless of fault. The best statement reflects this by pointing to the inherent danger of the activity and the fact that there is a foreseeable risk of harm. This captures why liability attaches without proof of intent or negligence and why the focus is on the dangerous nature of the activity rather than the actor's state of mind.

10. Private nuisance typically requires which showing?

A. Substantial interference with the use and enjoyment of land

B. A mere annoyance or upset

C. A violation of a city ordinance

D. Intentional interference with another's rights

Private nuisance rests on protecting a landowner's use and enjoyment of land. The damage must be a substantial interference with that use and enjoyment, not just a minor irritation. Courts evaluate whether the interference is material and unreasonable given the circumstances—factors include the character of the neighborhood, the social utility of the defendant's conduct, and the intensity and duration of the harm. This is more than a mere annoyance; it must materially affect how the land owner can use or enjoy the property. Intent to harm isn't required; nuisance can arise from negligent or even inherently lawful activities if the resulting interference is substantial and unreasonable. Violating a city ordinance isn't the test for nuisance, and a defendant's conduct isn't automatically a nuisance simply because it is intentional. The core idea is that the interference with land use is substantial, not merely trivial or incidental.

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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://tortsmbe.examzify.com>

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

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