MULTISTATE BAR (MBE) OPE 2 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.

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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!

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Questions

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1. A right of first refusal may vest outside the 21-year perpetuity period if it is triggered by the decision to sell the property. This statement concerns which rule?

A. The Rule Against Perpetuities

B. The Statute of Frauds

C. The Parol Evidence Rule

D. The Capitation Tax Rule

2. Which elements must a plaintiff prove to establish negligence?

A. Duty and damages.

B. Duty and breach.

C. Duty, breach, causation, and damages.

D. Causation and damages only.

3. Who has standing to enforce the restrictive covenant that the 40-acre tract be used for residential purposes, given the developer transferred most of the land but the original owner retained a nearby tract?

A. The developer who received the 40-acre tract.

B. The man who retained the five-acre tract and is benefitted.

C. The current owners of the 40 lots.

D. The neighbor across the street.

4. For an easement by prescription, which element is NOT required?

A. Open and notorious use

B. Continuous use for the statutory period

C. Actual use of the land

D. Written permission from the landowner

5. A manufacturing plant storing highly volatile explosives is involved in a wind-related incident where a tile damages a passing car. Is the driver likely to prevail under strict liability?

A. Yes, because explosives storage is always strict liability laibility.

B. No, because the harm did not result from the abnormally dangerous activity.

C. Yes, if the plant failed to implement safety measures.

D. No, because strict liability does not apply to property damage.

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6. A hiker injured by a falling limb on private forest land the owner did not know about. Will the hiker prevail against the owner?

A. Yes, because the owner knew the land contained hazards

B. No, because the hiker was a licensee

C. No, because the hiker was a trespasser and landowners owe no duty to trespassers

D. Yes, because the owner had a duty to inspect for hazards

7. In the case involving a mountain sacred site and a federal ski facility permit, what standard governs the court's review of the permit with respect to the group's free exercise claim?

A. Strict scrutiny applies only if the action targets the religious practice

B. Intermediate scrutiny applies

C. Rational basis applies

D. The standard is preemption

8. Which statement about the Fourth Amendment exclusionary rule and federal grand jury proceedings is correct?

A. The exclusionary rule does not apply to federal grand juries and cannot dismiss an indictment

B. The exclusionary rule applies and can dismiss an indictment

C. The exclusionary rule applies to statements made in the grand jury

D. The exclusionary rule applies only if the witness was represented by counsel

9. Which statement below correctly describes when the Best Evidence Rule applies?

A. It applies when a witness testifies about the content of a writing or recording.

B. It applies only to original documents in all cases.

C. It applies to every type of out-of-court statement.

D. It never applies to public records.

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10. In a sale of goods under the UCC, the buyer accepts nonconforming goods and later sues for breach of warranty. What is the proper measure of damages for a breach of warranty that reduces the value of the goods?

A. The difference between the value of the goods as delivered and the value if they had been conforming, plus incidental and consequential damages.

B. The contract price paid for the goods.

C. The diminution in value alone, without incidental damages.

D. The cost to repair the goods, up to the contract price.

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Answers

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

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Explanations

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1. A right of first refusal may vest outside the 21-year perpetuity period if it is triggered by the decision to sell the property. This statement concerns which rule?

A. The Rule Against Perpetuities

B. The Statute of Frauds

C. The Parol Evidence Rule

D. The Capitation Tax Rule

This concerns the Rule Against Perpetuities. It blocks future interests from vesting later than 21 years after a life in being, so the timing of when an interest actually vests matters. A right of first refusal that is triggered by the decision to sell creates a condition whose vesting date is the sale decision itself. That decision could occur long after the grant, potentially beyond the life-in-being plus 21 years. If the ROFR could vest outside that window, it violates RAP unless it's rewritten to vest within the allowed period or tied to a definite event likely to occur within it. The other rules listed don't govern when a future property interest must vest: Statute of Frauds concerns the writing requirement for land transfers, Parol Evidence Rule concerns evidence of terms, and the Capitation Tax Rule is about taxes. So the rule at issue is the Rule Against Perpetuities.

2. Which elements must a plaintiff prove to establish negligence?

A. Duty and damages.

B. Duty and breach.

C. Duty, breach, causation, and damages.

D. Causation and damages only.

To prove negligence, you must show four elements: duty, breach, causation, and damages. Duty means the defendant owed the plaintiff a legal obligation to exercise reasonable care under the circumstances. Breach occurs when the defendant fails to meet that obligation by acting or failing to act as a reasonably prudent person would. Causation requires the breach to be the actual cause of the plaintiff's injuries (the harm wouldn't have happened but for the breach, and typically involves proximate cause limits). Damages are the actual losses suffered, such as medical costs or lost wages. Without all four, the claim fails. The other options leave out one or more essential elements (for example, missing breach or missing damages or missing causation).

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3. Who has standing to enforce the restrictive covenant that the 40-acre tract be used for residential purposes, given the developer transferred most of the land but the original owner retained a nearby tract?

A. The developer who received the 40-acre tract.

B. The man who retained the five-acre tract and is benefitted.

C. The current owners of the 40 lots.

D. The neighbor across the street.

The key idea is that a private restrictive covenant runs with the land and can be enforced by those who hold the land that benefits from the restriction, or their successors. In this scenario, the covenant restricts the 40-acre tract to residential use. The party who benefits from keeping nearby land residential is the owner of the tract retained by the original owner—the nearby five-acre parcel. That nearby land's value and character are protected by the restriction on the 40-acre tract, so the owner of the five-acre tract has a concrete interest in enforcing that the 40-acre tract remains residential. The developer who received the 40 acres is the burdened owner, not the beneficiary, so he wouldn't have standing to enforce the covenant against others. The current owners of the 40 lots would only have standing if they themselves own land that benefits from the covenant; the clearly benefitted party here is the owner of the nearby five-acre tract. Therefore, the man who retained the five-acre tract and is benefitted has standing to enforce the covenant.

4. For an easement by prescription, which element is NOT required?

A. Open and notorious use

B. Continuous use for the statutory period

C. Actual use of the land

D. Written permission from the landowner

Prescriptive easements come from long, open, adverse use of another's land. To establish one, the use must actually occur on the land, be visible or known to the owner (open and notorious), continue for the statutory period, and be adverse to the owner's rights (without permission). Written permission from the landowner would destroy the adverse element, so it is not required and in fact would prevent a prescriptive easement from arising. Thus, written permission is the element that is NOT required.

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5. A manufacturing plant storing highly volatile explosives is involved in a wind-related incident where a tile damages a passing car. Is the driver likely to prevail under strict liability?

A. Yes, because explosives storage is always strict liability laibility.

B. No, because the harm did not result from the abnormally dangerous activity.

C. Yes, if the plant failed to implement safety measures.

D. No, because strict liability does not apply to property damage.

Concept: Strict liability for abnormally dangerous activities requires that the harm be of the type that the activity itself poses, even if reasonable care is used. A plant storing highly volatile explosives is an abnormally dangerous activity because of the risk of explosions and related debris. But the incident described—wind causes a tile to damage a passing car—shows harm that doesn't appear to be a direct or foreseeable result of that dangerous activity. If the injury or property damage isn't the kind of harm caused by the explosive hazard (explosion, blast debris, chemical release), strict liability typically wouldn't attach, regardless of safety measures or the level of care exercised. Therefore, the driver is unlikely to prevail under strict liability. Exploring the other options: assuming strict liability applies only to the type of harm associated with the activity, not every consequence of living near a hazardous facility; safety measures don't convert a non-qualifying harm into a qualifying one; and strict liability can extend to property damage in the right context, but the harm here isn't shown to be the kind caused by the abnormally dangerous activity.

6. A hiker injured by a falling limb on private forest land the owner did not know about. Will the hiker prevail against the owner?

A. Yes, because the owner knew the land contained hazards

B. No, because the hiker was a licensee

C. No, because the hiker was a trespasser and landowners owe no duty to trespassers

D. Yes, because the owner had a duty to inspect for hazards

Premises liability hinges on the entrant's status. A hiker on private forest land without permission is a trespasser, and landowners owe trespassers only a narrow duty—do not injure them willfully or wantonly. They are not generally obligated to inspect for hazards or warn about dangerous conditions that they don't know about. Since the owner did not know about the fallen limb, there's no duty to warn or fix the hazard, so the hiker cannot prevail on negligence. If the hiker were a licensee or invitee, the owner would have additional duties to warn or inspect, but those duties don't apply here given the lack of knowledge and the trespasser status.

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7. In the case involving a mountain sacred site and a federal ski facility permit, what standard governs the court's review of the permit with respect to the group's free exercise claim?

A. Strict scrutiny applies only if the action targets the religious practice

B. Intermediate scrutiny applies

C. Rational basis applies

D. The standard is preemption

When reviewing a free exercise claim, the level of scrutiny depends on whether the government action is aimed at the religious practice itself. If the action directly targets the religious practice—singling out the group's religion or its rituals—the court applies strict scrutiny, requiring a compelling government interest and narrowly tailored means. If the action is neutral toward religion and generally applicable, burdens on religious exercise are reviewed under the ordinary framework (often not strict scrutiny). In the mountain sacred site case with a federal ski facility permit, the court would apply strict scrutiny only if the permit decision is directed at the religious practice. If the decision is neutral and generally applicable, strict scrutiny would not apply.

8. Which statement about the Fourth Amendment exclusionary rule and federal grand jury proceedings is correct?

A. The exclusionary rule does not apply to federal grand juries and cannot dismiss an indictment

B. The exclusionary rule applies and can dismiss an indictment

C. The exclusionary rule applies to statements made in the grand jury

D. The exclusionary rule applies only if the witness was represented by counsel

The main idea here is how the Fourth Amendment exclusionary rule works with grand jury proceedings. The exclusionary rule bars using evidence obtained in violation of the Fourth Amendment at trial to convict someone. But grand juries aren't trials; they're gatekeepers that decide whether there's enough probable cause to indict. Because the rule's deterrent purpose is tied to trial proceedings, applying it at the grand jury stage would disrupt the function of the grand jury. So, in federal practice, the exclusionary rule does not apply to grand jury proceedings, and it cannot be a basis to dismiss an indictment. If police conduct or the manner in which evidence was obtained becomes an issue, any remedy is generally suppression at trial, not invalidation of the indictment itself. Statements made in the grand jury are also not excluded under the Fourth Amendment's rule at that stage, though they remain subject to other protections (like the Fifth Amendment). Counsel's presence doesn't change this outcome. That's why the correct statement is that the exclusionary rule does not apply to federal grand juries and cannot dismiss an indictment.

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9. Which statement below correctly describes when the Best Evidence Rule applies?

A. It applies when a witness testifies about the content of a writing or recording.

B. It applies only to original documents in all cases.

C. It applies to every type of out-of-court statement.

D. It never applies to public records.

The Best Evidence Rule focuses on proving the content of a writing or recording. When a witness testifies about what a document says, you generally must produce the original writing (or a valid duplicate) to prove that content, rather than relying on memory or a secondary copy. That's why the statement that it applies when a witness testifies about the content of a writing or recording is the best fit: it identifies the exact situation that triggers the rule. Remember, the rule isn't about every out-of-court statement or about originals in every case. It covers writings, recordings, and photographs, with exceptions that allow copies or other forms of proof when the original can't be produced or isn't at issue.

10. In a sale of goods under the UCC, the buyer accepts nonconforming goods and later sues for breach of warranty. What is the proper measure of damages for a breach of warranty that reduces the value of the goods?

A. The difference between the value of the goods as delivered and the value if they had been conforming, plus incidental and consequential damages.

B. The contract price paid for the goods.

C. The diminution in value alone, without incidental damages.

D. The cost to repair the goods, up to the contract price.

The key concept is how damages are measured after the buyer has accepted nonconforming goods. When a breach of warranty occurs post-acceptance, the proper measure is the diminution in value caused by the nonconformity, plus incidental and consequential damages resulting from the breach. In other words, you compare what the goods are worth as delivered with what they would be worth if they had conforming quality, and you add the additional losses incurred because of the breach (like inspection, handling, transport, and other foreseeable damages). This is why the correct choice captures both parts: the difference in value plus incidental and consequential damages. The contract price alone doesn't reflect the actual loss in value, and using only the diminution in value omits recoverable incidental and consequential damages. The cost to repair isn't the governing measure for the post-acceptance warranty damages, though repair costs may fall under incidental damages in some cases, they're not the primary measure by themselves.

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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:

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

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