

# Student Edition

## Professionalism

### Bar Admission

#### Seeking Help for Substance Use Before the Bar Becomes a Bar



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#### Substance Use and Abuse is a Problem Among Law Students

“Jane,” a rising 2L, came to my office last week to share that she was off probation for her DUI charge. She thanked me for my counsel during the prior year, including the recommendation that she seek support from the local Lawyer Assistance Program (LAP). Jane also informed me that she had been attending a local AA meeting, and was both surprised and relieved to recognize several individuals from the law school.

Outwardly, I expressed happiness for Jane that she was taking affirmative steps in addressing her situation. I assured her that her actions, while not guaranteeing success, would only facilitate her ultimate admission to the bar, adding that what was paramount was that she was simultaneously taking care of her physical and

mental well-being. Internally, though, I was troubled: “Just a few recognizable faces at the AA meeting? Given the suspicion that a far greater number of law students are affected by issues involving alcohol (as well as drugs), were others attending different meetings, or is my ongoing concern about students in need not getting help being confirmed?”

Substance use and abuse by students, including alcohol, performance-enhancing drugs such as Adderall and Ritalin, and other illicit drugs, exists at law schools throughout the United States.<sup>1</sup> Such behaviors by law students can adversely affect their academic (and, ultimately, professional) interests, along with their physical well-being. Stressors unique to law school, including a new vocabulary, the Socratic method, and limited feedback leaving some at least initially confused; higher levels of competition; increasing debt coupled with employment concerns; expectations from family members, are exacerbated for many by their undergraduate experience and concomitant experimentation in things illicit (or even legal). Law school can be an erratic time, one of excitement and anticipation, but also of transition and anxiety.

#### Implications for Character and Fitness Assessment for Admission to the Bar

Whether a student finds herself engaging in “self-medicating” or other unhealthy methods of coping with stress, or as a continuation of an addiction previously acquired, many students believe they face a major hurdle in seeking assistance: the bar exam application, specifically the portion related to character and fitness. A number of jurisdictions call for information relating to evidence of substance abuse or treatment thereof,<sup>2</sup> and these questions often have a chilling effect on a student’s willingness to seek treatment. “If I ask for help, either I or my dean of students will have to report this to the bar authorities, and I will never be admitted.” The truth is students have this perception only partially correct.

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Bar officials seek to admit candidates who are able to provide proper and appropriate representation as an attorney. While some jurisdictions ask seemingly probing questions, many use language that reflects on the respondent's assessment of the candidate as he or she is presently situated.<sup>3</sup> Ideally, jurisdictions are seeking assurance that their applicants have or are in the process of receiving assistance for their issues. Moreover, more than half of the U.S. jurisdictions allow for conditional admission,<sup>4</sup> whereby an applicant is able to practice while under supervision of a lawyer assistance, review, or disciplinary program; the status of the attorney is generally understood to be confidential.<sup>5</sup>

Beyond an applicant's failure to address an underlying substance use or abuse issue, what often concerns bar authorities (and what will certainly trip up a bar applicant) is if the applicant has been less than candid and forthright regarding prior incidents and circumstances. Whether in an effort to address the perception that he will be denied bar admission, or because the student is in denial, an inappropriate response to one or more bar application/character and fitness questions may be inconsistent with a deeper background check by a bar admissions office. The failure to report a DUI, a conversation with a former employer or other acquaintance that suggests there may have been a substance use issue, or some other relevant information brought to light will lead an examiner to address two matters: the substantive issue at hand, and the failure to report the issue as a reflection on the applicant's character. A situation such as this is virtually guaranteed to slow the process.

### Resources for Preventing and Recovering From Substance Use and Other Destructive Behaviors

What then are the remedies to address the foregoing situations? First, a student who is not engaged in harmful practices can help herself by not succumbing to stressors that by and large offer no positive consequences. A booklet developed by Prof. Lawrence Krieger, "The Hidden Sources of Law School Stress," is designed to help students with issues they face during law school that may affect them during school or afterwards.<sup>6</sup> According to Krieger, actions can be taken to prevent those stressors that are avoidable and thereby prepare oneself for healthier professional and personal development. Further, a law student early on should identify who she is, what her strengths are, and where potential challenges may lie, with the goal of developing herself in ways that best support her character and traits.<sup>7</sup> Understanding and being honest about one's capacities and limitations will allow for a more honest assessment of what is achievable, and will give way to an open mind and clear and positive outlook to accomplishing one's goals. This positive outlook in turn should go a long way to staving off detrimental means of coping with circumstances that arise.

Students who have brought forward an addiction prior to law school or who have developed a use issue while in school need to be honest with themselves and then with others about their prior and current behaviors. Getting help early on in school is the best way to ensure that several years of study (and tuition) are not forfeited. A student can utilize a variety of resources

for advice and counseling and comprehensive treatment. Every U.S. bar jurisdiction (and Canada) has either an affiliated or freestanding lawyer assistance program that offers law students (as well as attorneys and judges) free and confidential counseling.<sup>8</sup> These programs are equipped to address not only issues involving substance abuse, but other forms of addiction such as gambling, pornography, and shopping, as well as stress and anxiety stemming from other sources. LAPs are also aware of students' concerns and challenges facing them regarding the bar application. Therefore, a major LAP goal is to provide direct treatment or, when appropriate, to direct the student to other resources, and to rehabilitate not only the student's health, but the student's record in seeking admission. The single best way to overcome concerns about the bar application (if it is not obvious by now) is to begin seeking allies in getting help. At the same time, a student needs to overcome any sense of stigma attached to seeking help; beyond the assurances of privacy surrounding the assistance provided, it is far better to seek help when not doing so will have immediate, ongoing, and long-term consequences.

Resources also exist for law school administrators and students wishing to help their classmates by bringing support to their student community. While most law schools are well-equipped to respond to students in crisis, few have had the resources to invest in prevention. Whether through orientation, professional development/legal ethics classes, or stand-alone wellness programs, information needs to be conveyed to students on multiple, appropriate occasions. LAPs are available to assist in this area. For example, your area LAP can send a director or counselor into the classroom to describe their services or have a volunteer share his or her (typically quite compelling) story. A video produced by American University Washington College of Law for the classroom features current law students and lawyers in prominent positions who communicate the importance of getting in front of substance issues.<sup>9</sup> Further, the ABA has produced "Substance Abuse in Law Schools: A Tool Kit for Law School Administrators,"<sup>10</sup> which provides strategies on developing policies and procedures, prevention, education, and related areas.

Law school administrators can identify additional ways to support student efforts to avoid falling prey to substance abuse issues. If a law school campus is not dry, an administrator may wish to explore what possibilities exist for making it so, or at least for limiting alcohol consumption to certain occasions.<sup>11</sup> Career services offices that work with law firms may consider asking whether the firms have considered minimizing an emphasis on cocktail receptions and drinking-tailored events, rather than sending the message that drinking is a regular component of working.<sup>12</sup>

A collaborative effort between law school administrators and students regarding substance abuse issues, coupled with a student's willingness to get in front of an issue should it arise, is a recipe for success in seeing these students develop physically and mentally into the attorneys they are training to become. Numerous resources exist, from local bar associations, law schools and other organizations, to help law students prevent or overcome substance abuse and destructive behaviors. For law

students that do struggle with such problems, admitting that the problem exists and seeking help will not jeopardize your legal career; ignoring the problem will.

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- <sup>1</sup> Report of the Association of American Law Schools Special Committee on Problems of Substance Abuse in the Law Schools (May 1993) (indicating, *inter alia*, that 12 percent of law students begin abusing substances in law school, and that nearly 82 percent of the students had consumed alcohol in the prior 30 days, a reliable indicator of regular use of a substance). Although the data is 20 years old, administrators are convinced that use and abuse has at a minimum remained constant, and that the pervasive use of performance-enhancing drugs, not discussed in the 1993 report, also needs to be taken into account.
- <sup>2</sup> See "Survey of State Bar Form Questions to Law Deans Regarding Students Character" (prepared by Patricia A. Halstead, Cornell Law School Certification Coordinator at the request of Dean Anne Lukingbeal, Cornell University Law School; copy on file with the author). A jurisdiction, for example, that asks if an applicant has been addicted to or dependent on prescription drugs within the past 10 years, or has displayed a substance abuse problem, without further inquiring as to the current health and state of the applicant, creates at a minimum the perception that the applicant will have trouble being admitted.
- <sup>3</sup> *Id.* Some jurisdictions use language such as "... impairing the ability to perform the functions of an attorney", "... that would currently interfere with [the candidate's] ability to practice law," inferring their interest in the applicant's present abilities, not past actions.
- <sup>4</sup> See "Comprehensive Guide to Bar Admissions Requirements 2011" (National Conference of Bar Examiners and the American Bar Association Section of Legal Education and Admissions to the Bar) at [www.ncbex.org](http://www.ncbex.org).
- <sup>5</sup> See ABA Model Rule on Conditional Admission to Practice Law at <http://apps.americanbar.org/legalservices/colap/>.
- <sup>6</sup> [http://www.law.fsu.edu/academic\\_programs/humanizing\\_lawschool/booklet.html](http://www.law.fsu.edu/academic_programs/humanizing_lawschool/booklet.html)
- <sup>7</sup> The VIA (Values in Action) survey ([www.viacharacter.org](http://www.viacharacter.org)) is an increasingly popular vehicle for assessing one's character strengths.
- <sup>8</sup> See "State and Local Lawyer Assistance Programs" at <http://apps.americanbar.org/legalservices/colap/>
- <sup>9</sup> <http://www.wcl.american.edu/studentaffairs/> ("Staying Healthy Video"; also available in hard copy upon request)
- <sup>10</sup> [http://apps.americanbar.org/legalservices/colap/downloads/Substance\\_Abuse\\_in\\_Law\\_Schools.pdf](http://apps.americanbar.org/legalservices/colap/downloads/Substance_Abuse_in_Law_Schools.pdf)
- <sup>11</sup> A number of schools in recent years, for example, have moved away from open bars at on-campus and/or off-campus events, citing both the expense and the wrong message being sent.
- <sup>12</sup> Students alternatively should order a non-alcoholic drink either openly or separately if they feel more comfortable doing so.