

HELPING LAW STUDENTS GET THE HELP THEY NEED: AN ANALYSIS OF DATA REGARDING LAW STUDENTS' RELUCTANCE TO SEEK HELP AND POLICY RECOMMENDATIONS FOR A VARIETY OF STAKEHOLDERS

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This article summarizes some specific results from the Survey of Law Student Well-Being, which the authors administered as a voluntary and confidential web-based survey at 15 diverse law schools in the United States from February 2014 to May 2014. This is the first survey to assess alcohol and drug use among law students since 1991² and is the first ever to assess prescription drug use/misuse, mental health issues, and help-seeking attitudes. The primary goals of collecting and analyzing the responses from the Survey of Law Student Well-Being were to better understand 1) alcohol and drug use among law students, 2) the extent to which law students are experiencing mental health issues, and most importantly, 3) whether law students are seeking help for substance use and/or mental health issues and the reasons why they may be reluctant to do so.

The results of the survey suggest that significant percentages of law students are dealing with mental health issues and/or alcohol/drug issues but frequently are reluctant to seek the help they need to manage their issues in a healthy and responsible manner because of concerns about potential threats to bar admission, potential threats to job or academic status, or social stigma associated with seeking help. This article explores the survey data—particularly the help-seeking data—and discusses how various

stakeholders might take steps to increase the extent to which students choose to get the help they need to be successful students and successful legal professionals.³

THE SURVEY OF LAW STUDENT WELL-BEING

An invitation to take part in the survey went out to a few dozen law schools.⁴ The 15 law schools that agreed to participate included schools of differing enrollment size, institutional affiliation, and geographic location. At each law school, all J.D. students—a total of more than 11,000 across all 15 law schools—were invited by e-mail to complete the web-based survey.⁵ E-mail reminders were sent to those who had not completed the survey. More than 3,300 students responded to the survey. The overall response rate was just under 30%.⁶

SUBSTANCE USE AND MENTAL HEALTH RESULTS

To provide some understanding of the extent to which law students are dealing with alcohol issues, drug issues (whether involving street drugs or prescription drugs), and/or mental health issues, this section briefly summarizes some of the most notable results. Much more detailed analyses of the data from the survey will be set forth in an article

expected to be published in the May 2016 issue of the *Journal of Legal Education*.

Alcohol

Over half of the respondents reported drinking enough to get drunk at least once in the prior 30 days, while 43% reported binge drinking at least once in the prior two weeks and 22% reported binge drinking two or more times in the prior two weeks, with male respondents more likely than female respondents to engage in binge drinking. (Binge drinking is defined as five or more drinks in a row for men and four or more drinks in a row for women.⁷)

Nearly 25% of respondents affirmatively answered two or more of four questions that comprise the CAGE assessment, a widely used alcoholism screening tool,⁸ suggesting that perhaps as many as one-quarter of respondents should be considered for further screening for alcoholism.

Drugs (Street Drugs and Prescription Drugs)

Use of marijuana and cocaine appears to have increased since the 1991 survey based on reported use in the prior 12 months and prior 30 days. With respect to marijuana use, 25% (12 months) and 14% (30 days) of respondents had used marijuana compared with 21% (12 months) and 8% (30 days) in 1991. With respect to cocaine use, 6% (12 months) and 2.5% (30 days) had used cocaine compared with 5% (12 months) and 1% (30 days) in 1991.⁹

Regarding prescription drugs, the survey distinguished between use of prescription drugs *with* a prescription and *without* a prescription. Between 9% and 15% of respondents reported using one or more of five categories of prescription drugs in the prior year with a prescription (sleeping medication, sedative/anxiety medication, stimulants, pain medication, and antidepressant medication). Female respondents generally reported a higher rate of

prescription drug use with a prescription than male respondents, except with respect to prescription stimulants. Between 3% and 9% of respondents reported using one or more of four of these categories of prescription drugs *without a prescription* (sleeping medication, sedative/anxiety medication, stimulants,¹⁰ and pain medication). Male respondents generally reported a higher rate of prescription drug use without a prescription than female respondents. In total, over 14% of respondents reported use of some prescription drug without a prescription in the prior 12 months, while roughly 13% of those with a prescription reported sharing their prescription drugs with others in the prior 12 months, with prescription stimulants distributed most frequently, followed by sedatives and pain medication.

These data suggest that the use of street drugs and/or the use of prescription drugs without a prescription may be problematic for a significant percentage of law students.

Mental Health

The survey contained a screen¹¹ for depression, with 17% of respondents screening positive.¹² In addition, 18% of respondents indicated that they had been diagnosed with depression by a health professional at some point in their lives. Of these, over one-sixth had been diagnosed with depression since beginning law school.

The survey also contained a screen for anxiety, with 23% of respondents screening positive for mild to moderate anxiety and 14% of respondents screening positive for severe anxiety.¹³ In addition, 21% of respondents indicated that they had been diagnosed with anxiety by a health professional at some point in their lives. Of these, nearly one-third had been diagnosed with anxiety since starting law school.

Overall, more than one-quarter of respondents reported having one or more diagnoses, covering depression, anxiety, eating disorders, psychosis, personality disorder, and/or substance use disorder.

Multiple Issues

This survey data enables one to look at subsets of respondents who reported multiple issues that might raise concerns about well-being. We might be concerned about the well-being of those who reported binge drinking two or more times in the prior two weeks. We might be concerned about the well-being of those who used street drugs in the prior year or those who used prescription drugs without a prescription in the prior year. We might be concerned about the well-being of those who screened positive for depression or those who screened positive for severe anxiety. Might we want to be particularly concerned, however, about the well-being of those who have multiple issues? For example, roughly 6% of all respondents manifested three of these five issues.

HELP-SEEKING ATTITUDE RESULTS

One of the most important aspects of the research conducted as part of the Survey of Law Student Well-Being involved gathering information regarding the respondents' attitudes toward seeking help for alcohol, drug, or mental health issues. These help-seeking results are detailed in the following paragraphs.

Seeking Help Individually

The survey initially asked about the extent to which respondents would be likely to seek help from a health professional or to consult with a dean of students or a state Lawyer Assistance Program (LAP), either for help with an alcohol/drug problem or for help with a mental health problem. Respondents indicated that they were much more likely to seek

help from a health professional, with 81% indicating that they would be very likely or somewhat likely to seek help from a health professional for an alcohol/drug problem and 79% for a mental health problem. By contrast, only 14% (alcohol/drugs) and 15% (mental health) indicated that they would be very likely or somewhat likely to seek help from a dean of students.¹⁴

Even so, only 4% of respondents indicated that they had actually ever used a health professional for issues associated with alcohol or drugs, which seems to be a very low percentage relative to the percentages of respondents who indicated behavior suggestive of alcohol or drug issues.

As for mental health, 42% of respondents indicated that in the past year they had thought they needed help for emotional or mental health problems, with more female respondents than male respondents feeling a need for help. Of all the respondents who had thought they needed help in the last year for emotional or mental health problems, however, only roughly half had actually received counseling from a health professional, with female respondents reporting getting help with more frequency than male respondents.

Factors Discouraging Respondents from Seeking Help

The survey then asked respondents about factors that would discourage them from seeing a health professional for alcohol/drug issues and separately for mental health concerns. The top seven factors that would discourage respondents from seeking help for alcohol/drug issues were

1. potential threat to bar admission (63%),
2. potential threat to job or academic status (62%),
3. social stigma (43%),
4. concerns about privacy (43%),

5. financial reasons (41%),
6. the belief that they could handle the problem themselves (39%), and
7. not having the time (36%).

There were no significant differences in responses between male and female respondents, except that male respondents were much more likely than female respondents to believe that they could handle the problem themselves (51% of male respondents and 30% of female respondents).

The top seven factors that would discourage respondents from seeking help for mental health issues were

1. potential threat to job or academic status (48%),
2. social stigma (47%),
3. financial reasons (also 47%),
4. potential threat to bar admission (45%),
5. the belief that they could handle the problem themselves (36%),
6. not having the time (34%), and
7. concerns about privacy (30%).

Once again, male respondents were much more likely than female respondents to believe that they could handle the problem themselves (45% of male respondents and 29% of female respondents), but in addition, male respondents also had a higher concern about social stigma than female respondents (54% of male respondents and 41% of female respondents).

Perhaps most significantly, for the top three factors (potential threat to job or academic status, potential threat to bar admission, and social stigma), a higher percentage of respondents who were third-year law students identified these factors as a concern compared with respondents who were first-year law students, suggesting that while in

law school, students are getting messages indicating that seeking help may be problematic for their professional careers.

In addition, respondents were asked, with respect to both alcohol/drugs and mental health concerns, about talking with a dean of students or a state LAP regarding such concerns. Respondents first were asked if they thought such conversations would be confidential. With respect to alcohol/drugs, 80% of respondents believed that a conversation with a state LAP would be confidential, while 58% thought that a conversation with a dean of students would be confidential. With respect to mental health, 81% of respondents believed that a conversation with a state LAP would be confidential, while 65% thought that a conversation with a dean of students would be confidential.

Correspondingly, 54% thought that a conversation with a dean of students about alcohol/drugs would delay/prevent admission to the bar, while 46% thought that such a conversation with a state LAP would delay/prevent admission to the bar. With respect to conversations about mental health, 42% thought that a conversation with a dean of students about mental health would delay/prevent admission to the bar, while 39% thought that such a conversation with a state LAP would delay/prevent admission to the bar.

Moreover, 49% of respondents indicated that “[i]f I had a drug or alcohol problem, my chances of getting admitted to the bar are better if the problem is hidden,” while 43% of respondents indicated that “[i]f I had a mental health problem, my chances of getting admitted to the bar are better if the problem is hidden.” Most significantly, however, if one looks at the roughly 200 respondents who reported three of the five issues referenced previously, the percentage of respondents who believe their chances of getting admitted to the bar are better if their problem is

hidden increases to 72% for alcohol/drug problems and 62% for mental health problems. These data suggest a profound misapprehension among law students regarding the relationship between engaging in help-seeking behavior and being admitted to the bar that bodes ill for the well-being of law students, particularly those who most need help.

Encouraging Others to Seek Help or Informing Appropriate Parties about Concerns about Other Students

The survey also asked about the extent to which respondents would be likely to encourage another student to seek help if the student had an alcohol/drug problem or a mental health problem “that was sufficient to significantly impair his or her ability to fulfill his or her responsibilities as a student.” The largest percentage of respondents was somewhat likely or very likely to encourage the student to seek help from a campus counseling center (76% for alcohol/drugs, 77% for mental health), followed by a state LAP (51% for alcohol/drugs, 49% for mental health), with the smallest percentage somewhat likely or very likely to encourage the student to seek help from a dean of students (33% for alcohol/drugs, 36% for mental health). Roughly one-third were somewhat likely or very likely to do nothing (33% for alcohol/drugs and 36% for mental health). Female respondents were more likely than male respondents to encourage the student to seek help from campus counseling, while male respondents were more likely than female respondents to do nothing. Perhaps most significantly, respondents who were first-year law students were more likely than respondents who were third-year law students to encourage the student to seek help, while respondents who were third-year law students were more likely than respondents who were first-year law students to do nothing.

If the student with an alcohol/drug problem or a mental health problem that was sufficient to significantly impair his or her ability to fulfill his or her responsibilities as a student did not seek help following the respondent’s encouragement to do so, the vast majority of respondents were somewhat likely or very likely to do nothing (63% for alcohol/drugs, 55% for mental health), while much smaller percentages were somewhat likely or very likely to inform a campus counseling center (23% for alcohol/drugs, 31% for mental health), a dean of students (17% for alcohol/drugs, 20% for mental health), or a state LAP (12% for alcohol/drugs, 15% for mental health). Female respondents were more likely than male respondents to inform campus counseling, while male respondents were more likely than female respondents to do nothing. Perhaps most significantly, once again, respondents who were first-year law students were more likely than respondents who were third-year law students to inform campus counseling or a dean of students, while respondents who were third-year law students were more likely than respondents who were first-year law students to do nothing.

Factors Discouraging Respondents from Informing Appropriate Parties about Concerns about Other Students

The top four reasons respondents gave for being discouraged from informing a campus counseling center, a dean of students, or a state LAP about concerns about another student who did not seek help following the respondent’s encouragement to do so were

1. potential threat to the student’s job or academic status (60% alcohol/drugs, 53% mental health),
2. potential threat to the student’s bar admission (57% alcohol/drugs, 48% mental health) (both

higher among third-year students than first-year students),

3. social stigma on the part of the student (54% alcohol/drugs, 53% mental health), and
4. not wanting to get involved (53% alcohol/drugs, 54% mental health).

INTERPRETING AND LEARNING FROM THE HELP-SEEKING DATA

State disciplinary authorities, boards of law examiners, and law schools all want lawyers and law students who need help for alcohol/drug problems or mental health problems to get the help they need to address and manage these problems so that they can be successful legal professionals and work responsibly on behalf of their clients. Existing research suggests that a significant number of lawyers who face discipline have an underlying addiction or mental health issue that has made it more difficult for them to fulfill their responsibilities to clients and the profession.¹⁵ Accordingly, helping lawyers and law students with alcohol/drug problems or mental health problems get the help they need would go a long way toward reducing the number of disciplinary proceedings against lawyers and the number of clients who are ill-served by members of the legal profession.

However, the data generated in the Survey of Law Student Well-Being related to help-seeking behavior is profoundly disturbing. Those most in need of help are least likely to seek help. While there are a number of reasons why they are reluctant to seek help, one of the most significant factors is the concern respondents have that seeking help will delay or prevent admission to the bar. The very students who most need to understand that they will be best served by seeking help and getting the help they need are the very students who are most

concerned that seeking help will be detrimental to their bar admission process.

Likely Causes for Students' Reluctance to Seek Help

Several components likely contribute to the challenge we face in getting law students and lawyers to understand that they are better off seeking help as opposed to keeping problems hidden.

First, even before getting to law school, prospective law students may be hearing from pre-law advisors or from lawyers with whom they consult that they are better off not answering character and fitness inquiries on law school applications affirmatively unless the phrasing of the question absolutely requires them to do so. This is the adversarial mindset many lawyers embrace in the context of discovery disputes in litigation applied to the law school application process. It is as if the character and fitness questions on the law school application were interrogatories, with some lawyers advising some applicants that if their situation is not clearly within the scope of the question, they need not answer affirmatively and provide an explanation. There are many anecdotes from law students saying that they failed to disclose something on their law school applications because they were advised by a lawyer not to do so. While this is frequently bad advice, the point for our purposes is that many law students are sensitized, even before getting to law school, to think carefully about disclosing information and to be wary of how disclosure might be perceived by law schools or by state boards of law examiners.

Second, while in law school, students are socialized into a competitive environment in which showing any vulnerability is discouraged. Seeking help is an acknowledgment of vulnerability. The competitive nature of law school reinforces a message that

students are better off not seeking help and instead trying to handle problems on their own.¹⁶

Third, as students move through law school and begin contemplating the bar admission process, they may see questions on some jurisdictions' applications that make them think they might be better off not seeking help so that they do not have to disclose anything in response to those questions.¹⁷

In addition, anecdotal evidence suggests that students are hearing "hallway horror stories" about the bar admission process from recent graduates that leave them with the perception that seeking help is likely to delay or prevent their admission to the bar. These are not the messages that law schools and boards of law examiners intend to send to students, but they are the messages students are receiving.

Efforts Currently in Place to Encourage Disclosure and Help-Seeking

On the other hand, students are frequently encouraged during orientation and/or sometime during the first year of law school to update their law school application files if there is anything that they may not have disclosed for which disclosure might be required on a bar application. This messaging is designed to make students aware that in most cases, it is not the item disclosed, but the inconsistency between a law school application and a bar application, that can raise issues about the student's honesty and trustworthiness. Thus, law schools are trying to send a message emphasizing the importance and wisdom of disclosing information.

In addition, in some jurisdictions, representatives from the board of law examiners visit law schools in an effort to help students better understand the bar admission process. As part of their presentations, those representatives often also impress upon students the importance of disclosure. They may communicate, for instance, that the board of

law examiners is less likely to be concerned about an alcohol issue if the student has been sober for four years or that it is less likely to be concerned about an issue with depression if the student has been diagnosed, has been on medication, and has had a solid record of accomplishment in law school. Some schools also have presentations from state LAPs making students aware of the availability of confidential resources to help them with substance use or mental health issues.

More Work to Be Done to Counteract Misconceptions about Seeking Help

Despite these efforts at communicating the importance of disclosure and of seeking help, however, the survey data suggest that at many law schools, students believe that seeking help for alcohol/drug issues or mental health problems will result in negative consequences for bar admission. This perceived association is such that they are disinclined to seek help and disinclined to inform appropriate parties if they have significant concerns about another student's inability to fulfill his or her responsibilities because of an alcohol/drug issue or a mental health problem.

Going back to the mid-1990s, various parties have raised concerns that some character and fitness questions are counterproductive because they may discourage students from seeking help.¹⁸ These survey data provide some empirical grounding for opinion testimony that has been in reported decisions suggesting that character and fitness questions on bar applications can discourage students from seeking help.

More recently, the Disability Rights Section of the U.S. Department of Justice has asserted that Louisiana's character and fitness questions violate the Americans with Disabilities Act,¹⁹ resulting in changes in these questions in Louisiana and in NCBE's character and fitness application, which

other states may use.²⁰ The ABA also has passed a resolution calling for a change in the scope of character and fitness questions.²¹


While having more carefully constructed character and fitness questions will be helpful, simply changing the questions is not likely to result in a change in perception among law students. The lack of transparency regarding the bar admission process may contribute to this misunderstanding among students. With very little data publicly available about the types of situations that give rise to investigations by boards of law examiners and about the number of situations that result in modest delay, lengthy delay, or outright denial, students take whatever misinformation they hear and construct their own worst-case scenarios that make them conclude that they are better off not seeking help.

For a self-regulating profession, these data should be very worrisome. The fact that respondents who are third-year law students are less likely than respondents who are first-year law students to seek help for their own problems or to inform appropriate parties about significant concerns about another student should be very troubling. While law students should be socialized into their responsibilities to participate in self-regulation as members of the legal profession, their time in law school appears to be socializing them away from taking responsibility for engaging in self-regulatory behavior.

CONCLUSION

As the ABA Section of Legal Education and Admissions to the Bar shifts its accreditation standards toward learning outcomes and assessment of whether students are demonstrating competency at the learning outcomes each school has identified,²² law schools are becoming aware that it is less important what they teach than it is what their students learn. This is an important lesson regarding the bar admission process and help-seeking

behavior as well. It is less important what law schools and boards of law examiners think they are teaching law students than it is what law students appear actually to be learning. The data from the Survey of Law Student Well-Being function as an “assessment” of learning outcomes and suggest that law students are not learning what we want them to be learning and may, in fact, be learning things we do not want them to learn.

Changing culture is difficult, particularly when the voices that shape the culture are quite diverse and diffuse—from lawyers advising prospective law students; to law professors, law school administrators, law students, and alumni; to boards of law examiners. Getting these diverse and diffuse voices to all get “on message” regarding the importance of engaging in help-seeking behavior will be daunting. Ensuring that those students most at risk actually “learn” that help-seeking behavior is preferable to hiding the problem will be a real challenge. But we need to do something, and we need to get started now. Boards of law examiners, state LAPs, and representatives from law schools need to get together to talk about how we can do better to make sure we are accomplishing the outcomes we desire for our students—that they understand the value of seeking help for alcohol/drug or mental health problems and that they get the help they need to be successful as law students and as legal professionals. 

NOTES

1. The authors are grateful for the cooperation of the 15 participating law schools and the research assistance and statistical assistance of Heather Lindeborg, Tim Lacine, and Sara Smith, along with the team at Survey Sciences Group that helped implement the survey and compile the data. We are very grateful for the grants we received from the ABA Enterprise Fund (with sponsorship from the ABA Commission on Lawyer Assistance Programs and the support of the ABA Law Student Division; ABA Solo, Small Firm and General Practice Division; ABA Young Lawyers Division; and ABA Commission on Disability Rights) and from the Dave Nee Foundation. Without their financial support, this research project would not have been possible.

2. The previous survey was conducted in 1991 by the Association of American Law Schools (AALS)'s Special Committee on Problems of Substance Abuse in the Law Schools. *See* Report of the AALS Special Committee on Problems of Substance Abuse in the Law Schools (May 1993), which also was published as an article in the *Journal of Legal Education: Report of the AALS Special Committee on Problems of Substance Abuse in the Law Schools*, 44 J. LEGAL EDUC. 1, 35–80 (March 1994). Although some questions cover the same subjects, the 2014 survey project has no official connection with the AALS survey from 1991.
3. The data reported here are excerpted from a forthcoming article, expected to be published in the May 2016 issue of the *Journal of Legal Education*, which describes in much greater detail the results of the Survey of Law Student Well-Being.
4. The Institutional Review Board (IRB) of the University of St. Thomas (at whose law school this article's co-author Jerome M. Organ is on the faculty) had granted "master" approval of the survey project. Several schools accepted the University of St. Thomas IRB master approval, while several schools required separate IRB approval at their own universities. (An IRB is a committee established to evaluate and approve research proposals involving human subjects to ensure that such research is conducted ethically and meets federal and institutional guidelines.)
5. Students were informed that the survey took an average of 15–20 minutes, based on the experiences of the 800-plus respondents who completed the pilot survey conducted in spring 2013 for whom the mean/median response times were roughly 18 minutes. Respondents were also asked to provide informed consent in a manner required by the IRB before commencing the survey. The survey was designed with skip logic: for example, if a respondent answered "no" with respect to use of prescription drugs without a prescription, the survey then "skipped" over the remaining subset of questions regarding use of prescription drugs without a prescription.
6. This response rate is consistent with that of a similar long-standing study, the Healthy Minds Study, an annual survey-based study launched in 2007 examining mental health and related issues and utilization of services among college students. *See* Healthy Minds Network, <http://healthymindsnetwork.org/>.
7. This definition of binge drinking is a fairly common metric used in surveys of alcohol use, such as the Harvard College Alcohol Study. *See, e.g.,* Henry Wechsler & Toben F. Nelson, *What We Have Learned from the Harvard School of Public Health College Alcohol Study: Focusing Attention on College Student Alcohol Consumption and the Environmental Conditions That Promote It*, 69(4) J. STUDIES ON ALCOHOL & DRUGS 481, 481 (2008) (citing use of five drinks for men and four drinks for women as a measure of binge drinking). This measure also has been used in the Healthy Minds Study (*see supra* note 6). The following is a link to the Healthy Minds Study survey questions, of which C4a and C4b relate to binge drinking using the five-drink and four-drink measures: <http://healthymindsnetwork.org/system/resources/W1siZiIsIjIwMTQvMDkvMTAvMTBfNDZfMjVfNDM4XzIwMTRfMjAxNV9IZWFsdGh5X01pbmRzX1N0dWR5X1F1ZXN0aW9ubmFpcmUucGRmIl1d/2014-2015%20Healthy%20Minds%20Study%20Questionnaire.pdf> (last visited July 19, 2015).
8. The CAGE, whose name is an acronym of the key words in its four questions, can identify alcohol problems over an individual's lifetime, with two positive responses out of the four indicating a positive test warranting further assessment. The CAGE assessment can be accessed on the website of the National Institute on Alcohol Abuse and Alcoholism at <http://pubs.niaaa.nih.gov/publications/arh28-2/78-79.htm> (last visited June 29, 2015).
9. *See* AALS Special Committee Report, *supra* note 2, App. B, Table 4. Encouragingly, use of LSD, other psychedelics, and heroin has declined since 1991 based on past 12 months and past 30 days of use, dropping from 1–2% for use in past 30 days to less than one-half of 1%. *Id.*
10. Nearly 20% of those using prescription stimulants without a prescription reported using them to prevent others who use prescription stimulants from getting an edge academically.
11. A *screen* is a questionnaire designed to be taken by an individual to identify symptoms and provide a preliminary assessment.
12. The depression screen was the Patient Health Questionnaire (PHQ)-2, a two-question screen based on frequency within the last two weeks of being bothered by feeling hopeless or having little interest in doing things. Each PHQ-2 question is scored on a 0–3 basis, with a positive screen reflected by a total score of 3 or more (out of a possible 6 points). It also was used in the Healthy Minds Study (*see supra* note 6). For a good description of the PHQ-2 and the PHQ-9 from which it is derived, *see* <http://www.aafp.org/afp/2012/0115/p139.html> (last visited July 2, 2015). We also had a three-question screen asking about the frequency with which the respondents had felt happy or hopeful or had enjoyed life in the last week. These three "positive" questions were drawn from the Center for Epidemiologic Studies Depression Scale (CES-D), a 20-question depression screen, which can be found at <http://www.ncbi.nlm.nih.gov/books/NBK64056/> (last visited July 2, 2015). Respondents were asked about the frequency in the last week in which they had felt each of the three "positive" feelings. It was scored inversely (to highlight those who did not enjoy life, were not happy, or were not hopeful about the future), with a score of 4 or more (out of 9) yielding a positive screen. This short version of the CES-D has not been validated, but we wanted to have something that could provide a cross-check with the PHQ-2 responses, without the full set of the CES-D, given concerns that the survey instrument was already long.
13. The anxiety screen used was the Kessler Psychological Distress Scale (Kessler 6), a six-question screening tool with a five-point likert scale (a psychometric scale commonly used in research involving questionnaires), 0–4, scored on a 0–24 scale, with moderate anxiety reflected by a score of 8–12 and severe anxiety reflected by a score of 13 or more. For more information about the Kessler 6, *see* <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3322665/> and <http://dhds.cdc.gov/guides/demographics/core?i=PsychologicalDistress> (last visited July 2, 2015). For compari-

son purposes, a national study of more than 197,000 people found 9% with mild to moderate anxiety and 4% with serious anxiety using the Kessler 6. See Satvinder S. Dinghra, et al., *Psychological Distress Severity of Adults Reporting Receipt of Treatment for Mental Health Problems in the BRFSS*, 62 PSYCHIATRIC SERVICES 396–403 (April 2011).

14. The survey asked about willingness to seek help from state LAPs as well, but the question was inadvertently asked only with respect to alcohol/drugs, not with respect to mental health. Respondents were more likely to seek help from a state LAP than from a dean of students, with 30% indicating a willingness to seek help for alcohol/drugs from an LAP (versus 14% from a dean of students).
15. See G. M. Filisko, *Disbarred Lawyers Who Seek Reinstatement Have a Rough Road to Redemption*, ABA J., Aug. 1, 2013 (citing Sarah Krauss, then chair of the ABA Commission on Lawyer Assistance Programs, as indicating that mental health or substance abuse issues may be a factor in more than half of lawyer discipline cases), available at http://www.abajournal.com/magazine/article/disbarred_lawyers_who_seek_reinstatement_have_a_rough_road_to_redemption (last visited July 19, 2015).
16. See, e.g., Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112, 117–18 (2002); Roger C. Cramton, *Ordinary Religion of the Law School Classroom*, 29 J. LEGAL EDUC. 247, 262 (1978).
17. See Alyssa Dragnich, “Have You Ever...?” *How State Bar Association Inquiries into Mental Health Violate the Americans with Disabilities Act*, 80 BKLYN L. REV. 677, 683–84 (2015); Jennifer Jolly-Ryan, *The Last Taboo: Breaking Law Students with Mental Illnesses and Disabilities Out of the Stigma Straitjacket*, 79 UMKC L. REV. 123, 128–31 (2011).
18. *In re Petition & Questionnaire for Admission to R.I. Bar*, 683 A.2d 1333, 1336 (R.I. 1996) (questions regarding mental health may prevent a person in need of treatment from seeking help); *Clark v. Va. Bd. of Bar Exam’rs*, 880 F. Supp. 430, 445–46 (E.D. Va. 1995) (mental health question may deter applicants from seeking counseling and treatment that would be beneficial); *In re Petition of Frickey*, 515 N.W.2d 741 (Minn. 1994) (“the prospect of having to answer the mental health questions in order to obtain a license to practice causes many law students not to seek necessary counseling”).
19. See Letter of Findings from U.S. Department of Justice to Louisiana Supreme Court, http://www.ada.gov/enforce_activities.htm#lof (February 15, 2014); see also Dragnich, *supra* note 17, at 700–702.
20. See Settlement Agreement Between the United States of America and the Louisiana Supreme Court Under the Americans with Disabilities Act (2014), available at http://www.ada.gov/louisiana-supreme-court_sa.htm; see Memorandum from Erica Moeser, President, National Conference of Bar Examiners, to Bar Admission Administrators (Feb. 24, 2014) (on file with author).
21. Available at <http://www.americanbar.org/content/dam/aba/images/abanews/2015annualresolutions/102.pdf> (note exception in resolution re follow-up inquiries where applicant self-discloses to explain conduct of concern).

22. Managing Director’s Guidance Memo, Standards 301, 302, 314 and 315 (June 2015) (describing the transition to the new learning outcomes and assessment standards), available at http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2015_learning_outcomes_guidance.authcheckdam.pdf.



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