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LAW STUDENTS, SUBSTANCE USE, AND THE “CHARACTER AND FITNESS” REVIEW

Applicants who have a history of substance abuse face additional challenges to admission to the Oregon Bar – including the possibility of having to go through a “character and fitness” review, and the fear that it may impact their future as a lawyer. However, it is important to know that disclosing a history of substance abuse on the Bar exam application is not an automatic bar to admission in Oregon, especially if the applicant has sought help. (See the sidebar: Interview with OSB Bar Admissions Manager.)

For example, Tom¹ is a lawyer who stopped drinking while in law school. “My life had become chaotic. While I hadn’t (yet) been diagnosed with an alcohol use disorder, I clearly had a problem. But I was lucky – I never had any legal consequences as a result of my drinking.” Tom got help from the OAAP and from sober lawyers in AA. “When I filled out my application, I felt it was important to be completely honest. I wrote that I had been sober for two years, and that I was attending Alcoholics Anonymous. I let them know that I had a sponsor and had ‘worked the Steps.’ Apparently, based on my answer they were satisfied that I had dealt with the issue, and that I didn’t pose a risk to the public. They never contacted me; I didn’t have to provide any additional information, and I was sworn in that September.”

Alan’s circumstances were different. Upon passing the February exam, the Board of Bar Examiners questioned Alan’s character and fitness because of circumstances surrounding his historical use of alcohol, including a conviction for DUII two years

prior to his application. “I had no idea what to expect,” says Alan, a criminal and family law attorney. “Soon after I passed the Bar, I was interviewed by a panel of three Board members, consisting of two lawyers and a public member of the Board. It was much more formal than I anticipated. They asked a lot of tough questions about my past and my relationship with alcohol. The process was pretty intimidating.”

Hugh, a criminal defense attorney who also went through the character and fitness investigation process, agrees. “If I could change anything about the process, I would make it more transparent, both in terms of expectations of the applicant” and the decision-making criteria of the Board. For instance, Hugh feels it would have been helpful to know in law school that the Board would likely require a period of complete abstinence for applicants who have shown that they could not drink responsibly. It’s possible that if he had known, he might have been motivated to seek help sooner.

At the time Hugh applied to take the Bar exam, he had been struggling with a serious alcohol problem since college. As a result of his drinking, he had been suspended from school as an undergrad, spent nights in a detox facility, and had been convicted of DUII. Says Hugh, “A few weeks after the exam results were posted, an interview was held in which three members of the Board [of Bar Examiners] questioned me for around 45 minutes about my alcoholism, specific bad conduct, and plans for the future. Shortly thereafter, I got a call explaining that the Board was going

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to deny my admission.” However, Hugh was told he could request that the Board defer its decision, and, if he could demonstrate a year of sobriety, their decision “would likely be different.”

Hugh started the process of healing. Even though he relapsed twice in the first couple of months, he reported the relapses to the Board and they agreed to consider his case a year after his last relapse. Says Hugh, “A bit more than a year later, I got a phone call explaining that my case would be on the Board’s agenda at its next meeting, and that it would likely want to meet with me again.” Hugh sent a letter confirming his sobriety, and he was admitted without another interview.

As a result of their respective character and fitness investigations, both Hugh and Alan were conditionally admitted to practice law. Fortunately, Oregon is one of 24 states, in addition to the territories of Guam and Puerto Rico, that have such “conditional admission” programs.² These programs allow appropriate applicants with a history of substance misuse to be admitted subject to certain conditions during the first few years of their practice. The programs may require conditions such as monitoring or supervision, treatment, continued sobriety, attending community-based support groups such as SMART Recovery or AA, and drug testing. For Hugh, this meant being supervised by a monitor appointed by the State Lawyer Assistance Committee (SLAC),³ remaining abstinent, attending AA meetings, and submitting to random drug tests. Alan had similar requirements, but was also required to enter and complete an outpatient alcohol treatment program. At times, these requirements can feel like a burden. “Being a rural practitioner, there are not many treatment facilities or AA meetings close by,” says Alan, so he had to drive to a neighboring county for treatment and meetings. However, “I know that I excel with accountability and appreciate the opportunity for personal growth.”

For Hugh, the admissions process was extremely helpful. “Looking back, the process was one of a confluence of factors that got me sober. I was referred to the OAAP and introduced to a community of sober lawyers, a profoundly important change in my life. These lawyers provided the ‘carrot’ – showing what a sober life in the law could be like, and the Board and character investigation provided the ‘stick.’ Early in sobriety, I was not so steady, and the stick was important.”

Conditional admission programs help dismantle the stigma of mental health and substance use disorders as “scarlet letters.” Especially for law students, they send a meaningful message that even in the worst circumstances, there is hope: seeking help will not block entry into their chosen profession.⁴

Asking for help with a concern about substance abuse during law school can seem daunting, especially with the Bar exam application on the horizon. According to a 2014 survey of law students, “potential threat to bar admission” was the primary reason given for not seeking help for alcohol or drug issues.⁵ “While I understand a student’s reluctance to seek treatment,” says Libby Davis, Associate Dean for Student Affairs at Lewis and Clark Law School, “avoiding treatment out of fear of creating character and fitness issues will not, in the short or long run, benefit a student. Proactively seeking treatment shows the applicant’s commitment to self-care and to being as well-prepared as possible to meet the demands of serving clients and the community. Of even greater importance, going through law school and into a professional career without addressing substance use issues adds extraordinary challenges to already challenging endeavors. I strongly encourage students to seek the help they need.”

There is one other thing Hugh would like other applicants with addiction issues to know: “I would not have been able to navigate the character and fitness process or find my way to sobriety without help. My life was very dark and very narrow, and I was frightened to seek assistance. Frankly, I only reached out to the OAAP initially to give the Board the impression that I was serious about getting sober. The result was immeasurably more valuable.”

The Oregon Attorney Assistance Program is a confidential counseling resource for lawyers, judges, and law students. If you are a law student who needs help with substance use or mental health issues, or would like support while planning for or going through the character and fitness review process, call (503) 226-1057 or (800) 321-OAAP.

BRYAN R. WELCH, JD, CADC I
OAAP ATTORNEY COUNSELOR

Endnotes

1 The experiences of the lawyers in this article are their own. They should not be considered legal advice or predictors of outcomes in any particular case. Their names have been changed to protect their confidentiality.

2 Comprehensive Guide To Bar Admission Requirements 2016, National Board of Bar Examiners and American Bar Association. https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/ComprehensiveGuidetoBarAdmissions/2016_comp_guide.aucthecheckdam.pdf.

3 The State Lawyer Assistance Committee is a committee of the Oregon State Bar with authority to investigate and monitor lawyers whose substance abuse or mental health issues may impair their ability to practice law. It is not connected to the Oregon Attorney Assistance Program.

4 National Task Force on Lawyer Well-Being (2017), *The Path To Lawyer Well-being: Practical Recommendations For Positive Change*, pg. 28. www.lawyerwellbeing.net.

5 Organ, Jaffe and Bender, *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*, *The Bar Examiner* (December, 2015).

Men's Workshop

If you find it challenging to achieve a healthy balance between work and the rest of your life, the OAAP is here to help. Our confidential men's workshop, "Practicing Law While Practicing Life," provides practical techniques for lawyers to use while exploring topics such as unhealthy stress, self-care, and balancing the demands of work, family, and friends.

This five-session noontime workshop will meet at the OAAP starting fall 2018. The workshop facilitator will be OAAP Attorney Counselor Douglas S. Querin, JD, LPC, CADC I. There is no fee, but advance registration is required, as space is limited.

To participate in this workshop, please set up an meeting with Douglas S. Querin at 503-226-1057, ext. 12, or at douglasq@oap.org.

Interview with OSB Bar Admissions Manager

The OAAP helps a lot of law students who then go on to apply for Oregon State Bar admission. Some of them have had difficult times earlier in their lives, have made poor choices, or have substance use or mental health challenges. OAAP Attorney Counselor Douglas S. Querin, JD, LPC, CADC I, interviewed Troy Wood, OSB Admissions Manager, about the Character and Fitness interviews and the conditional admissions process.

DSQ: Will an Oregon State Bar (OSB) exam applicant with a problematic alcohol/drug use history automatically be denied Bar admission or have to be "conditionally admitted"?

TW: Absolutely not. Generally, applicants with a history of problematic substance use who do not have a corresponding criminal or negative employment history, and who candidly disclose their use and appropriate efforts they have taken to address it are granted full Bar admission. If the applicant's recovery efforts are consistent with recognized recovery practices and the applicant has credible

recovery time, then the admission process should be uncomplicated.

DSQ: About what percent of law student OSB exam applicants are interviewed as part of their admission process? What percent of these interviews are because of the applicant's drug/alcohol use history?

TW: Looking at our averages since 2014:

- Character and Fitness (C&F) interviews are required for about 2.2% of all exam applicants.
- Approximately 25% of this 2.2% group were interviewed primarily for reasons related to alcohol/drug use issues.
- Approximately 4 out of 5 of this interviewed group were unconditionally admitted to practice in Oregon; about 20% were "conditionally admitted."
- Thus, of the entire bar exam applicant population during the last four years, only about 0.1% of them were conditionally admitted because of problematic substance use issues.

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DSQ: *What are some of the primary factors considered when making admission decisions about a bar applicant's alcohol/drug use history?*

TW: Some of the main questions are:

- Is the applicant in denial about his/her substance use challenges or does the applicant acknowledge having, or having had, problems with alcohol and/or drugs?
- Does the applicant take responsibility for past alcohol/drug-related actions or conduct and acknowledge the relationship between the problematic substance use and those behaviors?
- What recovery-related actions has the applicant taken to address the problematic substance use? For example, does the applicant consistently engage in recognized recovery practices?
- Does the applicant practice healthy self-care? Does the applicant participate in recovery support groups? Does the applicant have a demonstrated record of recovery? Does the applicant utilize health and/or recovery professionals when necessary?

DSQ: *If you had any single piece of advice to law students struggling with alcohol/drug use challenges who are applying to the OSB, what would that be?*

TW: My best advice to the law student would be:

- Take an honest look at your condition and take responsibility for your actions. Do not fool yourself into denial, hide your condition, assume it will automatically get better after the stress of law school, or delay addressing it until some more convenient time in the future.
- Knowledgeable medical and recovery professionals are very clear that serious and addictive alcohol and drug use are progressive diseases; they are conditions that typically do not get better, only worse. The good news, however, is that they are conditions that, when properly addressed, can be successfully dealt with and treated so they do not lead to severe personal and professional consequences.
- Applicants with significant substance use problems who have taken the necessary actions to address them are generally admitted without condition upon successfully passing the bar examination. Those who

are in need of ongoing support for serious substance use are regularly offered “conditional admission,” which permits the active practice of law with ongoing monitoring of their recovery efforts for a designated period of time. Those successfully completing their conditional admission requirements receive full admission status. The OSB’s conditional admission program has proven to be very successful in both protecting the public and getting quality lawyers off to a good start in their careers.

- Once the Supreme Court approves a conditional admission, the OSB does not publish or disclose a lawyer’s conditional admission status to anyone. Of equal importance to the program, conditionally admitted lawyers are not required to disclose their conditional status to others.

Resources

What resources are available to law students to get additional information about the OSB’s Character & Fitness (C&F) process?

Applicants are welcome to contact Bar Admissions with procedural C&F questions, but recognize that they cannot give advice or counseling. It is best for an applicant to call the Oregon Attorney Assistance Program (OAAP) and discuss their issues and/or consult with legal counsel. You can contact Troy Wood, Admissions Manager, at (503) 620-0222, ext. 310, or at twood@osbar.org.

What role, if any, can the OAAP play in the bar admission process for a student with alcohol/drug use issues?

The OAAP is a confidential, voluntary, and free service whose resources are available to all OSB applicants. We strongly recommend that any law student with drug and alcohol issues or similar concerns contact the OAAP. The communication is confidential and will not be reported to the OSB, PLF, or others without the consent of the applicant. The OAAP Attorney Counselors are knowledgeable and experienced, with a 35+ year track record of helping Oregon Bar applicants get their lives in order so that they can be admitted to the practice of law. You can contact the OAAP Attorney Counselors at (503) 226-1057 or at (800) 321-6227.

Fall Career CLEs – Save the Date!

This fall, the OAAP will present two half-day CLEs, “The Career of a Lawyer: Creating Success at Each Stage.”

The seminar will be held Friday, November 2, 2018, at the World Trade Center, Mezzanines 2, 3, and 4, in Portland. The morning program will run from 9 a.m. to 12 p.m. (registration at 8:30 a.m.), and the afternoon program will run from 1:30 p.m. to 4:30 p.m. (registration at 1 p.m.). Lunch is on your own.

The morning presentation will focus on finding your direction through self-assessment; guiding your job search; and a panel of lawyers who have successfully navigated their careers in years 1-10. The afternoon presentation will focus on succeeding mid-career; considering retirement; and a panel of lawyers who have either successfully retired or are working toward retirement.

The program speakers will feature career coaches Kirsten Meneghello, JD, and Susanne Aronowitz, JD, ACC, in addition to the OAAP Attorney Counselors Shari R. Gregory, LCSW, JD (also OAAP Assistant Director); Douglas S. Querin, JD, LPC, CADC I, Bryan R. Welch, JD, CADC I, and Karen A. Neri, JD.

The cost for each seminar is \$35, or \$50 for both. Registration at the morning seminar includes the book, *The New What Can You Do With a Law Degree? A Lawyer’s Guide to Career Satisfaction Inside, Outside & Around the Law*. Registration at the afternoon seminar includes the book, *Lawyers at Midlife: Laying the Groundwork for the Road Ahead*.

Application for MCLE credits is pending.

Broadcast emails will be sent with links to register later this summer and early this fall. Watch your inbox for an email from the OAAP.

Registration deadline: Wednesday, October 31, 2018

For more information, contact OAAP Attorney Counselor Shari Gregory, LCSW, JD, at (503) 226-1057, ext. 14, or at sharig@oaap.org.

MOVING IN PLACE: FOUR STEPS TO CREATING MORE SATISFACTION IN YOUR WORK

Life is good. You are one of those seemingly rare attorneys who is content at work. You feel a sense of mastery (or at least competence) over the subject matter you handle, you have a good relationship with your peers, and the compensation meets your needs. Your employment provides the stability that you crave. You have no desire to change the status quo. Yet when you notice that your colleagues in other offices are jockeying for some bigger-and-better opportunity, you start to wonder whether you should aspire to climb the corporate ladder. But what if you don’t want to? Or what if you’d like to grow but are at an organization that does not offer a ladder to climb?

Is it OK for an attorney to simply stay put?

In short, yes. But to avoid burnout and boredom, and to continue adding value to your internal and external clients, it is helpful to find ways to develop and grow, even when staying in place.

The good news is that the strategies you can use to avoid stagnation are easy to add to your plate. In fact, by engaging with issues that excite you, or by seeking opportunities for connection and leadership, you can infuse your professional life with energy. And in the event your work circumstances change, this approach will put you in a better position to successfully navigate a job transition.

The key is to find activities that are intrinsically interesting to you. Here is a menu of ideas to consider; select the ones that resonate most with you:

Continue to build and showcase your expertise

Whether you are new to the profession or a seasoned veteran, be a curious consumer of the legal issues in your practice and trends in your clients’ industries. Set aside a period of time each day or week to review the legal press and bar association newsletters. Subscribe to topical legal blogs, and actually read the posts. (The

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American Bar Association has an excellent directory of legal blogs for you to explore.) Listen to podcasts during your commute or view webinars on your lunch hour. Figure out what your favorite mode of delivery is, and seek out material that suits you.

Consider sharing your knowledge by writing for the very resources you are consuming; many of them thrive on volunteer submissions. Or consider writing for non-legal publications where you can offer your expertise to a lay audience. If you are more of a talker than a writer, consider speaking on topics of mutual interest at bar association meetings or community groups. These are effective ways of connecting with others who share your passions, displaying your expertise, and raising your professional profile. They can also help you provide a more interesting answer to the tired “what are you up to” question you will inevitably receive at social and networking functions.

Deepen your skill set

To represent your clients effectively, it is essential that you continue to deepen your skill set. Look at what attorneys who are senior to you in your office are doing to identify gaps in your skills, and design an action plan to build in these areas. Take the initiative at work to seek new responsibilities that expand your repertoire. Consider pro bono opportunities to gain more experience in direct client representation. Seek out CLE courses that focus on skill building and training.

Expand your circle of contacts

Practicing law can be very isolating. While this is particularly true for solo practitioners, attorneys in larger organizations can also struggle to find trusted colleagues. By expanding your professional community, you are likely to find mentors, new peers who share your interests, potential client referrals, and opportunities for leadership.

Start by tending the network you’ve already established. Reconnect with old colleagues, supervisors, law school professors, and mentors with a holiday card, email message, or invitation to get together for lunch or coffee. Join professional, industry, and com-

munity associations that relate to your professional or personal interests, and seek ways to get involved by serving on a committee or task force. If you are seeking something that requires less bandwidth, join virtual groups on LinkedIn and other platforms that provide an opportunity to exchange ideas and build a presence within your professional community.

Seek leadership opportunities within and outside of your organization

One of the best ways to solidify your own skills and knowledge is to train and support others. Volunteer to mentor junior colleagues or people new to your organization. Serve as a mentor through bar associations or community groups. Investing in someone else’s success tends to add a residual effect to your own.

Consider mentoring “up” by noticing the tasks that vex senior colleagues. Are they struggling with technology? Procrastinating on writing that law journal article or preparing that bar association presentation? Avoiding the preparation for a client pitch meeting? Volunteer to help with the projects that they find burdensome. These are easy ways to showcase your value to your employer and solidify relationships with key stakeholders. By adding more value to your current organization, you enhance your worth to them while building more variety into how you spend your day.

Getting Started

Enhancing your professional life with new activities does not have to be hard or time consuming. Identify two or three items from this article that you want to incorporate into your routine. Be specific: what steps do you want to take, and when will you take them? Even better, find a colleague who is similarly motivated, and serve as accountability partners for each other. Share your goals and outcomes with each other. Articulate for each other how these activities will add value to your professional portfolio. In addition to celebrating your successes, you may even find some new sources of inspiration.

SUSANNE ARONOWITZ, JD, ACC

The author is a career coach and can be contacted at www.susannearonowitz.com. This article was previously published at the ABA Legal Career Center in February 2017.

WOMEN'S WELLNESS RETREAT

The Oregon Attorney Assistance Program (OAAP) and Oregon Women Lawyers (OWLS) held their 11th Annual Women's Wellness Retreat for Lawyers at the Surfsand Resort in Cannon Beach on April 27 and 28. A wide-sweeping view of the ocean and the majestic Haystack Rock served as an inspiring and spectacular backdrop.

This year's theme was "Powering Up Our Resilience Through Mindfulness." Fifty-six women lawyers came together to learn, relax, and create new or sustain existing connections. With the help of our speakers, this two-day event was filled with thought-provoking presentations, reflections, and relaxation.

We kicked off Friday afternoon with a satisfying lunch, welcome remarks, and introductions. The atmosphere was casual, light, and cheerful. Speaker Virginia Terhaar, PsyD, encouraged us to turn off our phones for 24 hours and to observe any reactions to the urge to reach for our device.

Our keynote speaker, Laura Mahr, JD, a mindfulness coach, defined mindfulness, resilience, and power. She distinguished between discernment and criticism in explaining mindfulness as the act of paying attention to the present without judgment. Nonjudgment can be understood as being less critical of one's present experience while engaging in discernment. Laura also conceptualized resilience as making use of mindfulness tools to bring us out of our reactive mode to a responsive mode, where we can make better decisions and enter a state of flow.

After Laura's presentation, we were given free time to enjoy our cozy rooms and make use of the pool, hot tub, and sauna before returning for dinner. During dinner, attendees discussed their favorite ways of de-stressing, including any meditation practices, and the meaning of resilience. Most of us stayed behind for the beach bonfire. Friday night ended with our yoga teacher, Michelle Ryan, JD, guiding us with her soothing voice into complete relaxation through Yoga Nidra (sleep with awareness).

The next day, Michelle led us in a morning yoga session to help us feel grounded. We gathered for breakfast

and readied ourselves for a presentation on Trauma Informed Lawyering by Ali Schneider, JD, and Brigitte Rodriguez, MSW.

Brigitte helped us understand that trauma is an individualized experience and influenced by culture. She spoke of the main elements of a trauma-informed care (realization of trauma's prevalence, its recognition, and responsiveness towards it) and the principles of a trauma-informed approach such as safety, trustworthiness, and peer support. Ali then described the practical steps lawyers can take such as creating a comfortable space, making one's legal services more accessible to clients with barriers, or spending more time introducing clients to the process during a consultation.

Virginia Terhaar later led us in a discussion on how to create a supportive legal community. She explained that the quality of our connection gives us our secured sense of self. She had us consider how we may use the ideas from the retreat to form or improve our relationships with other lawyers.

During lunch, attendees had the option of participating in an art and crafts activity with creativity coach Megan Saint-Marie and create a vision candle. Participants were given a candle to decorate as they envisioned their past, present, and/or future.

We wrapped up the retreat with Laura Mahr leading us through exercises and discussions that reflect how we can be responsive rather than reactive. She had us list our personal strengths and taught us mindfulness tools so we can build resilience, transform our emotions, and take actions that improve our well-being.

Special thanks to all of our speakers and the wonderful women lawyers who participated in our event. Your presence was truly valuable, significant, and impactful. Cheers to OAAP and OWLS for another successful retreat!

KAREN A. NERI, JD,
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Finding Meaningful Work

The OAAP holds a periodic six-session networking and support group for lawyers making job or career transitions, called “Finding Meaningful Work.” The topics are designed to assist lawyers in creating and executing a personalized job search plan; developing a mission statement and elevator speech; learning and practicing networking skills; and honing their job search skills. The group is facilitated by OAAP Attorney Counselor Shari R. Gregory, LCSW, JD. To participate, please contact Shari at 503-226-1057, ext. 14, or at shari@oaap.org.

Career Self-Assessment

The OAAP attorney counselors can help you assess your career path and job and career opportunities. If you would like additional information about the Finding Meaningful Work group or about individual self-assessment, contact OAAP Attorney Counselor Shari R. Gregory, LCSW, JD, at 503-226-1057, ext. 14, or at sharig@oaap.org.

Lawyers in Transition Presentation Calendar

A “Lawyers in Transition” guest speaker is featured quarterly on Thursdays at noon at the OAAP, 520 SW Yamhill, Suite 1050, Portland, Oregon 97204. These presentations are open for anyone to attend. See the calendar below for scheduled speakers.

Sept. 13, 2018 **Mavel Morales** **Legal aid attorney to ADA Coordinator & Civil Rights Investigator with Oregon Health Authority**

For current information on upcoming Lawyers in Transition speakers and topics, please visit the OAAP website at www.oaap.org and click on CLEs/Workshops.