



Balancing the Scales: The Weights and Means of Maintaining Well-Being Throughout Law School

Common maxim states that in order to identify

a problem, one must freely and openly admit that a problem exists in the first place. Overflowing amounts of psychological research and studies have been conducted among practicing attorneys. The results undoubtedly indicate the presence of depression, anxiety, substance abuse, suicide, and other mental or physical conditions. As a legal community, these problems affect the entire profession.

Recently, research is delving deeper into the legal profes-

sion. Now that the first step of identifying the problem has taken place, the task is to remedy the problem. As is the case with any tree or plant, healthy roots leads to a robust, strong, and long-lasting existence. The same rings true for the future of the legal profession. Emphasizing student health and well-being throughout law school may be achieved by many avenues that depend on individual concerns and needs.

As a general proposition, law schools across the country should consider deviating slightly from the pressure-cooker

“The legal profession appears to be facing significant problems, manifested both in decreasing overall professionalism in the field, and in decreased health and well-being among individual lawyers.”¹

sion psyche by examining its roots: law students. A 2014 survey of law student well-being sheds light on a persistent problem facing legal education. The numbers reflect a startling trend in overall student well-being and the legal education environment. Consider the following results of the survey:

- 89.6% of respondents have had a drink of alcohol in the last 30 days.
- 21.6% reported binge-drinking at least twice in the past two weeks.
- 20.4% have thought seriously about suicide sometime in their life.
- 6.3% have thought seriously about suicide in the last 12 months.
- 17.4% of respondents screened positive for depression, with 20 percent indicating that they had been diagnosed with depression at some time in their life.
- Roughly one-sixth of those with a depression diagnosis had received the diagnosis since starting law school.²

theory of year-end exams. Instead, legal education should focus on fostering a conduit of communication, trying to affirm a student’s understanding of substantive material, and providing exercises that promote mental stability. These small steps will ensure students receive positive reinforcement throughout the law school experience, and this may foster implementation in the legal profession when senior attorneys assist interns, associates, or clients.

As mentioned, vast amounts of literature have been published regarding the well-being of practicing attorneys, but little empirical evidence is available to find a causal link between mental health and law school.³ This may be due to the difficulty in measuring and ascertaining an issue that is subjective in nature; although, in recent years, scholars have developed theories seeking to explain and assist the issue—a few approaches are detailed below. A common denominator among these theories is that legal education may be a source of negative health-related issues among practicing attorneys and students. Research suggests that negative aspects of legal education include:

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- Excessive workloads, stress, and competition for academic superiority.
- Institutional emphasis on comparative grading.
- Lack of clear and timely feedback.
- Excessive faculty emphasis on analysis of linear thinking, causing loss of connection with feelings, personal values, and sense of self.
- Teaching practices that are isolating or intimidating and content that is excessively abstract or unrelated to the actual practice of law.⁴

A leading article on the topic of law student well-being, specifically depression, is “Stemming the Tide of Law Student Depression: What Law Schools Need to Learn from the Science of Positive Psychology.” Todd Peterson and Elizabeth Peterson emphatically argue a direct correlation between the demanding law school classroom environment and the mental well-being of law students. One finding that should be of stark concern to the legal education system is that 44 percent of law students meet the criteria of clinical levels of stress, higher levels of alcohol and drug abuse, and anxiety.⁵

At first glance, this statistic may seem realistic and somewhat explainable, meaning that a preconceived notion about law school is that it is supposed to be stressful, challenging, and mentally taxing on a student. This proverbial mental battle royale may be considered a condition precedent to successfully running the law school gauntlet, but is this really what law school is about? The answer, like the law, is difficult to ascertain but can be understood with proper methods.

Leading scholars in the area of law student well-being are Kennon Sheldon and Lawrence Krieger. Particularly, Sheldon and Krieger have dived deep into the problems facing law students and propose different courses of action, some of which provide very insightful advice for individual students and law schools alike. As a primary assertion, Sheldon and Krieger argue that the intense pressure and competitive atmosphere reorients a student’s moral compass, and, instead of seeking personal value, students move toward superficial rewards and image-based values.⁶ Krieger notes some telltale signs that students may exhibit, should the struggle become too much. Specifically, if a student is usually outgoing and shifts to an anxious and down-trodden demeanor, that student may be internalizing problems. Also, a shift in a student’s interest in continuing education may allude to a shift in a student’s mental state, impacting a shift in values.

Additionally, Sheldon and Krieger observe that attributing factors that minimize student health can, at the same time, be beneficial to legal education.⁷ Every student undoubtedly feels and internalizes the self-motivation to succeed in law school, but it is how these emotions materialize or do not materialize in which a problem arises. For example, a student may very well internalize inner success in mastering the rule against perpetuities in property law, but how is this student supposed to materialize this inner satisfaction? For many schools, the answer lies merely in a year-end exam in which a student is challenged to recall essentially all course material.

This traditional concept may very well be a great indicator of what the student has substantively learned throughout the span

of the entire semester. However, without cementing the student’s knowledge on a particular subject as it is learned, this student may spend the entire year grasping a concept in an incorrect way. Therefore, a possible solution may be having law schools implement periodic quizzes or concept review papers that allow students to gauge their substantive understanding of the topic and receive positive (or negative) feedback from the professor.

This solution, as Ruth McKinney, Clinical Professor of Law Emeritus at the University of North Carolina School of Law, states, is not found in the year-end test approach. Rather, the solution is taking incremental steps throughout the semester to positively increase a student’s morale. For this assertion, McKinney believes the self-efficacy theory is relevant. This theory is applicable in narrow, specific, and concrete goals. Thus, one can achieve an objective by controlling the outcome of a desired result—or, control the means, and the desired end is achievable. As a base supposition, it must be presumed that students of law begin with low self-efficacy due to absence of feedback. McKinney identifies four facets of self-efficacy that may substantially increase mental well-being of a law student:

1. Personal experience
2. Vicarious experience
3. Social feedback
4. Physical and emotional reactions

Personal experience refers to the commonly recognized notion of the term, meaning that a law student gains self-efficacy through personal experience. For McKinney, personal experiences should not necessarily be easily obtained, but positive reinforcement of these personal experiences is necessary. A possible solution is found in the concept that sharing personal experiences within the classroom, and having them reinforced by peers outside the classroom, will lead to higher self-efficacy.

In correlation, vicarious experience is directly related to the law school experience and a primary facet of why law students exhibit stress: competition. It is uncommon to find a student that does not compare himself or herself to another student. This is the quintessential dilemma of law school: Class rank is on the mind of every student. McKinney suggests that the more a student could learn vicariously, or through the successes of a whole class, the more self-efficacy students might achieve.

Social feedback, or what McKinney calls “social persuasion,” is tied to the feedback that a student receives on the work completed. The problem of law student mental health may be directly rooted in this aspect because, as law students are well aware, the crux of doing well in law school depends on doing well on a semester-ending, comprehensive essay or expansive multiple-choice exam. As McKinney suggests, and as other literature echoes, for a student to successfully overcome mental health-related issues, the student must receive some sort of positive feedback that affirms a student’s understanding of a particular subject.

Conversely, this feedback must be realistic. For example, professors may promote positive social feedback or positive personal experience by stepping outside the bounds of the Socratic method. Schools may implement a series of in-class sample exam questions or, as some interactive classrooms utilize, technol-



ogy that allows students to take an in-class quiz or respond to a specific question on the board. These simple and quick steps will, even if minutely, affirm a student's conceptualization of a particular subject-matter area.

Perhaps one of the most difficult facets to ascertain is physical and emotional reaction, because it is purely subjective in nature. If a student contemplates negative emotions, this evokes a feeling of past failures, whereas positive thoughts evoke feelings of past accomplishments. Therefore, promoting positive thoughts within the context of legal education evokes a positive future outlook.⁸

An interesting approach has been proposed by the American Association of Law Schools and explained by Scott Rogers in his article "The Mindful Law School: An Integrative Approach to Transforming Legal Education." This approach seeks to actively engage the student body rather than taking an after-the-fact assessment of a student. For Rogers, mindfulness in legal education stands for the proposition that formal and informal practices may be cultivated to encourage present-moment awareness.⁹

A facet of this approach is taking legal terms and introducing synonyms that correlate to make a student pause and think. In what is coined "jursight," legal terms such as "justice" may be transformed into "just is"—meaning that students may take an issue in solidarity and think about what "just is." This present-sense awareness focuses a student's attention to the task at hand, rather than invoking panic of all other work.¹⁰

The University of California at Berkeley School of Law and the University of Miami School of Law actively integrate the mindfulness approach. Berkeley, for example, offers a course called Effective and Sustainable Law Practice: The Meditative

Perspective. This semester-long class is one of the most popular among the students, and it teaches aspects of walking meditation, breath awareness, and compassion. As one student positively noted, "When I meditate regularly, I find it easier to engage in the learning process without being distracted or paralyzed by self-doubt."¹¹

In 2008, Miami School of Law professor Scott Rogers implemented a similar program with the incoming 1L class. Miami Law utilized two meditation periods throughout the day during Wellness Week, and the school received massive amounts of feedback. In particular, the program encompasses the arguments of Sheldon, Krieger, and McKinney by actively promoting positive reinforcement. As a result of the program, one student noted, "when I was called on in other classes, I did not stress because I realized it was just an event that my answering the question right or wrong should not send me into a negative circle."¹²

The American Bar Association (ABA) has initiated what it calls the Law Student Mental Health Initiative and has named March 27 as National Mental Health Day in law schools across the country (*Yale Journal of Health Policy*). This initiative encourages law schools to "sponsor educational programs and events that teach and foster breaking the stigma associated with severe depression and anxiety amongst law students and lawyers."¹³ The ABA provides a Mental Health Toolkit that details how a school may approach Mental Health Day by explaining signs associated with mental health, as well as providing multiple outlets to seek assistance.¹⁴

Additionally, the Dave Nee Foundation, created in 2006, is a non-profit organization that was created in memory of a law student who took his own life after a battle with depression. A fantastic tool created

by the foundation seeks to provide a conduit of communication for law students to voice concerns about themselves or fellow students. The LawLifeline, co-created by the Jed Foundation and Dave Nee Foundation, provides not only students but also practicing legal professionals the opportunity to do a self-evaluation and reach out for help. Students are then able to search the site for mental-health assistance programs at their individual school.¹⁵

Law student physical and mental well-being should be of utmost importance to law schools around the nation. Schools and peers must take it upon themselves to actively engage in a conversation with students and faculty to identify potential areas of change and improvement. By actively engaging students and promoting incremental feedback to each individual student throughout the year, schools and students may see a rise in overall student well-being. Mental health may come with a preconceived negative connotation, but it does not need to. Undoubtedly, every person has felt down and out at some point in his life, and it is the responsibility of the legal community to break ties with the connotation and progressively move toward a healthy, strong, and robust future.

[B]eing able to see and advocate for both sides of any argument is good; losing your own personal moral, ethical or aesthetic judgment about right and wrong, true and false; that is bad.

[B]eing confident in stating a position and sticking to it is good; being arrogant, overbearing, and unable to listen to others is bad.

[W]anting to work in a high-paid, high-status, corporate law firm is good; wanting that because it seems like any other choice is second-rate, and in spite of all the contrary goals or expectations you have coming into law school ... well, I think that's bad.¹⁶ ☉

Endnotes

¹Lawrence Krieger and Kennon Sheldon. *Does Legal Education have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being*, BEHAV. SCI. LAW 22; 261-286 (2004).

²ABA Law Student Division and ABA Commission on Lawyer Assistance Programs and the Dave Nee Foundation, *Substance Abuse Mental Health Toolkit: for Law School Students and Those Who Care About Them* (2014), www.americanbar.org/content/dam/aba/administrative/law_students/mhw-handbk.authcheckdam.pdf.

³Lawrence Krieger and Kennon Sheldon. *Does Legal Education have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being*, BEHAV. SCI. LAW 22; 263 (2004).

⁴*Id.* at 262.

⁵Peterson, Todd David and Peterson, Elizabeth Waters, *Stemming the Tide of Law Student Depression: What Law Schools Need To Learn from the Science of Positive Psychology*, YALE JOURNAL OF HEALTH POLICY, LAW, AND ETHICS: Vol. 9: Iss. 2, Article 2 at 3 (2013).

⁶*Does Legal Education have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being*, BEHAV. SCI. LAW 22, at 264.

⁷*Id.*

⁸Ruth Ann McKinney, *Depression and Anxiety in Law Students: Are We Part of the Problem and Can We be Part of the Solution?*,

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⁹Scott L. Rogers, *The Mindful Law School: An Integrative Approach to Transforming Legal Education*, TOURO L. REV. 1189 (2012).

¹⁰*Id.*

¹¹University of California Berkeley Law, *The Mindfulness Initiative at Berkeley Law* report, January 2014 (2014), www.law.berkeley.edu/files/2014_BIML_Report_WebVersion.pdf.

¹²Miami Law Mindfulness in Law Program, www.miamimindfulness.org/index.html.

¹³Mental Health Initiative, American Bar Association, www.americanbar.org/groups/law_students/initiatives_awards/lshealth.html.

¹⁴ABA Law Student Division and ABA Commission on Lawyer Assistance Programs and the Dave Nee Foundation, *Substance Abuse Mental Health Toolkit: for Law School Students and Those Who Care About Them*, (2014), www.americanbar.org/content/dam/aba/administrative/law_students/mhw-handbk.authcheckdam.pdf.

¹⁵Jed Foundation and Dave Nee Foundation, LawLifeline, www.lawlifeline.org/facts.

¹⁶Barbara Glesner Fines, *Law School and Stress*, LawLifeline, www.lawlifeline.org/articles/458-law-school-and-stress.

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