Episode 52: Bar Exam Tips for Mastering the MBE

Lee Burgess: Welcome to the Law School Toolbox podcast. Today we're discussing the MBE portion of the bar exam, which causes a lot of stress for people studying for and taking the bar. Your Law School Toolbox hosts are Alison Monahan and Lee Burgess, that's me. We're here to demystify the law school and early legal career experience so you'll be the best law student and lawyer you can be.

We're the co creators of the Law School Toolbox, the Bar Exam Toolbox, the Catapult Conference, and the Trebuchet Legal Career Site. Alison also runs the Girl's Guide to Law School. If you enjoy the show, please leave a review on iTunes, and if you have any questions, don't hesitate to reach out to us. You can reach us via the contact form on LawSchoolToolbox.com, and we'd love to hear from you. And with that, let's get started.

Alison Monahan: Welcome back. Today we're talking about how to conquer the bar exam, specifically the MBE. Taking six hours of multiple choice questions is challenging for just about everyone, but for some people, it can really be a major speed bump on the road to bar exam success. For those of you who might not know what the MBE is, Lee, could you give them a little bit of a rundown?

Lee Burgess: For sure. So, the MBE is a six hour multiple choice test given on the Wednesday session of the bar exam, which is given twice a year in late February and late July. The MBE tests seven subjects. If you're a 1L, many of these subjects may sound kind of familiar to you. Con Law, Criminal Law and Procedure, Civil Procedure, Contracts, Evidence, Property, and Torts.

There are 200 questions on the MBE. About 190 of them are graded. Ten of them are where they float the questions out there to get feedback. And these 200 questions are given in two three hour blocks. Every state but Louisiana uses the MBE exam as part of their bar exam. So pretty much if you're listening to this podcast, you at some point in your legal career are going to take the MBE.

Alison Monahan: I mean, it sounds to me like maybe they should just skip this right after your 1L year.

Lee Burgess: I know, I know. It does feel that way. Or maybe part of your final exams, who knows? But yeah, it definitely has a lot to do with what happens, you know, one, your first year, and then sometimes that second, first part of your second year.

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Alison Monahan: Yeah, or I guess evidence you can usually take whenever like I know I took evidence my last semester as a 3L mostly so that I didn't have to restudy it for the bar.

Lee Burgess: Which is pretty wise, yeah.

Alison Monahan: Yeah, it was recommended highly that that was a good thing to do so I took that to heart and pretty much everyone else in the class was doing the same thing.

Lee Burgess: Yeah, so why is the MBE so challenging? Because for a lot of people this is a huge point of stress where it comes from studying for the bar.

Alison Monahan: I mean, there are a lot of reasons, but I would say number one is it's just a really hard test.

Lee Burgess: It is a really hard test.

Alison Monahan: I mean, like, I'm somebody who's, you know, basically got through life on multiple choice, being good at multiple choice tests, and I found this to be a really difficult exam.

Lee Burgess: Mm-Hmm.

Alison Monahan: You know, I didn't really study for the lsat. I didn't really study for the SAT. I mean, you can all hate me now , but you know, I'm just not, you know, I didn't study really for the GRE and I did fine on all those. So I remember sort of walking in to, you know, the first time I sat down to take these MBE questions, I was like, oh yeah, no problem.

I'm good at standardized tests. And I was like. Like, good lord! Like, I have no idea what the right answer is here.

Lee Burgess: Yeah, I remember taking some practice ones and just reading the answer choices and being like, I mean, it's one of these. That was like my thought. It's one of these.

Alison Monahan: Yeah, yeah, I just remember like, well, you know, it's gotta be here somewhere, right?

Lee Burgess: Yeah, it's brutal. I mean, it really is brutal. And I think it's brutal for a number of reasons, but the first The reason I think it's brutal is the law doesn't actually lend itself to the multiple choice format.

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Alison Monahan: Right. Exactly. It's like you go through law school and every answer is it depends and suddenly you get to the MBE and it's like, oh, no, you have to pick one.

Lee Burgess: And I actually remember before I sat down, well, before I went into the test room on the second day of the bar to take the MBE, my dad sent me a text and said, just remember the answer is at least on the page. And I was like, yeah, but there are so many answers on the page.

Alison Monahan: Yeah, exactly. It could be any of them.

I mean, flip a coin. Well, I mean, for me, like, I think usually, you know, typically you can sort of eliminate like one or two, but then oftentimes you're really, you're not even choosing like the right answer, objectively speaking. You're choosing either the least bad answer or the best of two pretty good answers.

Lee Burgess: Yeah. And that is problematic for a lot of reasons, but one is, you know, over the years most of us have learned tricks to take standardized tests. I mean I used to tutor for the SAT and, you know, there are all the tricks about eliminating the answer choices, you know, or you know going through and evaluating them certain ways to be faster. I mean all of these tricks that we've learned over the years and years and years.

Those tricks typically don't work on the MBE because of what Alison just said, is that oftentimes you're not necessarily picking the right answer, you may be picking the best answer, or the least wrong answer, or just the answer that seems to be the best fit in some way or another.

Alison Monahan: Yeah, and I think one place people can really go wrong on this is, I find it could actually be really confusing to sort of focus on the answer choices when you're working on the problem.

I know sometimes we talk with students, we're like, you know, treat this almost like a mini hypo, like read the question and then try to formulate an answer. As if you were going to write an essay before you look at the answer choices, because if you start, you know, sometimes with these test taking tricks, it's like, oh, you know, read the answer choices first and then read the questions.

Like, I think that's an absolute, disastrously, like, terrible approach to the MBE.

Lee Burgess: Yeah, I agree completely. I think it is very important to use the, kind of, fact reading skills and the legal analysis skills that you've done on all of your essay writing and try and apply them to these mini hypos.

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Basically all of these MBE questions are mini hypos.

Alison Monahan: Yeah, but one of the things to keep in mind is they're really testing these narrow exceptions and not a sweeping concept. So like maybe you understand negligence, but the MBE question is not going to be about negligence. It's going to be about some very nitpicky detail of like assumption of the risk, for example.

Lee Burgess: Right.

Alison Monahan: So. I think, you know, people who are sort of big picture thinkers are like, yeah, I basically get this. They're gonna zero in on those things where it's just like, oh, no, I definitely do not remember this.

Lee Burgess: Yeah, a question I often talk to my students about is about a doctor being at a restaurant and someone is choking and they don't save that person who's choking.

Does the doctor have a duty of care to save the person who's choking?

Alison Monahan: I think yes, but I'm not 100 sure-

Lee Burgess: Actually I think it is no. See, this is what we're talking about.

Alison Monahan: It could be either.

Lee Burgess: It could be either. You know, but it depends.

Alison Monahan: I can make a policy argument for either of those.

What is the actual black letter law in the MBE?

We would have to look it up.

Lee Burgess: Yeah, exactly. Luckily, we're not taking the bar in just a few weeks. But you know, I mean, that's a very nuanced question about negligence. And let's be honest, Alison and I know a lot of torts. We talk a lot of torts with a lot of people, but that's a very nuanced rule, and that's the kind of, kind of hair splitting that they're doing.

Alison Monahan: Yeah, because I'm thinking like, oh no, this is a different type of duty because the doctor is a professional, the professional has a duty, but then I'm thinking, huh,

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I'm actually confusing that with the duty to like continue rendering aid if you start rendering aid. They're all these really small nuances.

Lee Burgess: Yes, another place that the nuances get crazy on the MBE character evidence. In evidence, like when you can present character evidence when you could not

Alison Monahan: Oh God.

Lee Burgess: Oh my gosh.

Alison Monahan: Yeah. For like what-

Lee Burgess: The types of character evidence, like, oh my gosh, this makes your head spin. Let's-

Alison Monahan: And those are, I mean, that's pretty sophisticated.

'cause you've gotta understand, you know, why is someone bringing this in? Like, is, is it actually hearsay? You know, they, they love to like lead people down these sort of faux hearsay paths and things like that.

Lee Burgess: Oh, and let's not even start talking about the rule against perpetuities. Oh my goodness.

Alison Monahan: Luckily with that, you're only going to get like one question, maybe two.

Lee Burgess: Yeah, and mortgages.

Alison Monahan: I feel like the evidence ones could just go on and on.

Lee Burgess: That's true, but mortgages, I, I mean, you could really, my memory of my bar-

Alison Monahan: I mean, like recording statutes and all that stuff, ugh.

Lee Burgess: I really felt like half of my MBE was on mortgages and recording statutes.

I realize that's statistically not possible, but it sure felt that way.

Alison Monahan: Yeah, the ones that I always got wrong because I had this insane professor were the search and seizure, like, Fourth Amendment ones.

Lee Burgess: Oh, see, I rocked those.

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Alison Monahan: Yeah, I mean, you would, because, you know, you actually had background in this.

I had an insane woman who's now actually a federal judge who thought that basically the police could and should be able to do anything. Yeah, and you realize when you're studying for the MBE, you're like, Oh, no, there are a lot of like rules about what they're actually allowed to do. And you have to memorize-

And, you know, so it's this sort of thing where we will talk about this later, how to study, but I literally missed every single one of these questions for like weeks on end. Until finally I'd seen it enough times where I was like, oh, this is my instinct. However, I know my instinct is wrong, so I'm not gonna pick that.

I'm gonna look at the other choices.

Lee Burgess: Yeah, and I think, you know, if you're in law school and you're listening to this, it's possible that your professors are starting to incorporate multiple choice into your final exams, which I don't think is a terrible idea that you get a little bit comfortable with these types of questions.

But, you know, if you get the opportunity to use multiple choice practice either to study or to to review the law in law school, it's going to help you out down the road when you, you know, get this huge, it's basically the biggest final exam you've ever taken.

Alison Monahan: Right, with really high stakes.

Lee Burgess: With really, really high stakes, and that is, I think, One of the other hard things about the MBE is, depending on your jurisdiction, I mean, it's a huge part of your score, and the stakes are very high.

If you fail, you have to wait until the next administration of the exam. We were just talking earlier today about how expensive it is to sit for this exam every time you take it. This is not a test to be taken lightly. This is a test you must take very seriously. We don't think you need to be crazy about it, but you have to take it seriously because my favorite motto is, one and done, you don't want to have to do it again if it's avoidable.

Alison Monahan: Absolutely. And I mean, the reality is just there's a lot of law to learn, there's a lot of nuance here, you have to, have to, have to practice. We'll talk about the details of that later, but you know, and frankly, for a lot of people, they just don't

think that they're very good at multiple choice or that they've historically been that great at multiple choice.

And I think that can lead to a lot of anxiety and also that, you know, the reality is just the time pressure here is really intense.

Lee Burgess: Yeah, it's really intense. You just have a little over two minutes to do every question which when you crack open the books and see how long just the prompt for the question is that's not that much time.

And so if you are a slow reader or somebody who can take tests kind of slowly, that can really, really be difficult. I think stamina is also a huge issue at three hours of multiple choice at one sitting is brutal. That's absolutely brutal.

Alison Monahan: And then you go, then you grab lunch and you come back and you do it all again.

Lee Burgess: Yeah. And I think the additional parts of this that is brutal is actually to pass because they do curve the MBE. You're probably getting pretty poor scores.

Alison Monahan: Oh yeah. Like objectively speaking.

Lee Burgess: Objectively speaking.

Alison Monahan: On a scale of one to a hundred, I mean, what is, I don't know, like 60, 70%?

Lee Burgess: Yeah, between 60 and 70 percent typically is a passing score in the MBE.

And so when you think about that, for most of us, if we were taking a final exam in law school and we were pulling 60, 65 percent of them right, we would be really worried.

Alison Monahan: Yeah, you would basically probably be receiving a failing grade.

Lee Burgess: Exactly. And so that really mentally messes with you. I mean, for me personally I remember taking the MBE in the morning session and I really did feel like the entire first half of those questions were all on mortgages, which I didn't really know anything about or felt that I didn't know anything about. And I went back to my hotel room and I text my now husband and just the text I think said, I think I just failed the bar. Of course, he called me back because he was a little worried, and he's like, what happened, and I'm like, I just, I felt okay after the first day, but I'm pretty sure things have gone south, and I don't know what I'm going to do.

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I'm going to lose my job, and this is what you do. You go down the road of-

Alison Monahan: Yeah, down that path.

Lee Burgess: Down that path. I'm going to lose my job, i'm not gonna pass, what are we gonna do? You know, I don't know what I'm gonna spend my time doing. You're turning, I turned on the HBO and it was Happy Feet, like playing on repeat in HBO in my hotel room.

I'm watching Happy Feet, like not sure what's going on, you know. It's so easy to really spin yourself into a place of anxiety and, and questioning yourself because the stakes are high and it's set up to make you feel like you're failing and I probably was quote unquote failing from my own standards, but I was passing the test.

Alison Monahan: Yeah, absolutely. I mean, I had a similar story, although I took the Massachusetts bar when I, my first bar exam, and the first day of that is the MBE. So it was horrible. So most of my friends were taking New York, so they had done the New York essays the day before, and then they did the MBE, and they were finished.

And like at that point, they didn't care. They were just like, whatever. So I remember like, you know, being on GCHAT or something with this good friend of mine from law school who just set for New York, and he's out drinking, and I'm like back in my house, like preparing for the next day. And I was just like, there is no way I didn't fail that.

Lee Burgess: Mm-Hmm.

Alison Monahan: Like there is just no way. Like that was so brutal and so horrible. Like I had to have failed that test. And he's just like, look, you're on, like you were law review at Columbia. You studied for this. You did not fail. I was like, no, I failed. And I started going through every question that I could remember that I was sure I gotten wrong.

And after like five of them, he was like, okay. Are there any others? And I'm like, well, those are the ones that I'm pretty sure I definitely got wrong. So I'm pretty sure I failed. He's like, that's like five questions out of 200. They were probably not even the real ones because they were completely insane and were probably like the ones they're testing that they'll never even use.

Like, you know, could you please calm down and go to sleep and like go take the second day of the test? But you know, I mean, that's what happens. You know,

you nobody, I don't think anybody walks out of that day of the exam feeling good about it.

Lee Burgess: Well, if you did, you probably missed the boat and And you didn't even realize how hard it was. So I think that's-

Alison Monahan: Yeah, I mean, like extremely high achieving people walk out in tears. Yeah, it's just the way it is.

Lee Burgess: Exactly. And so, you know, that makes studying for it as we're going to transition to studying for it very difficult too, because even studying for it, you're not going to perform particularly well.

And that can also be very frustrating and very emotionally challenging. So it's very important to understand this test and to understand, you know, what is required of you so you can study, you know, in a very targeted way to do the best that you can.

Alison Monahan: So I think with reasonable expectations, you know, a reasonable expectation is not to be getting like 90 or 95 percent of these right.

You could give, you know, any law review or like law school professor in the country these questions and they're not going to get all of them right. And you could put 10 of them in a room and they're not going to always agree on the answers.

Lee Burgess: Yeah, and, you know, even now, it's interesting how if a student sends me a question because they're doing practice and they're struggling with it, and if I read it too fast, and don't carefully, thoughtfully read it, I will get it wrong.

And I do this for a living. That doesn't mean that I'm not good at what I do. It just means that this stuff is complicated. Like you, and then I kind of say, ugh. Stop Lee, like sit and really read it carefully. Like read the facts carefully. 'cause you get these questions and you're like, oh, I'll just read the paragraph.

You know, that's, you can't just think about it that way. You've got to be very methodical about it.

Alison Monahan: They're, yeah. They also, you know, they're fond of like certain misdirections and things that you'll see over and over once you start doing a lot of these, which is why you need to do a lot.

Lee Burgess: Yep.

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Alison Monahan: But you know, you'll, they love the sort of like, they'll give you something that seems right if you're not really thinking carefully and you just pick that and move on.

And if you do that enough, things are not going to go well.

Lee Burgess: Exactly. All right. So now I think we've probably convinced everyone that they actually have to study for this test.

Alison Monahan: Hopefully. If you're not listening to this, trust me, I'm really good at this. You still have to study.

Lee Burgess: Exactly. But now how do we think people should be studying for the MBE?

Alison Monahan: Well, I think one of the mistakes people make is that they sort of passively listen to lectures on a topic. Like, oh, say evidence. You're like, oh, great, you know, I've got my, like, bar review course and it's got 10 hours of, or 10 hours of, like, stuff. I'll speed it up. I'll do, like, seven, you know. Okay, great.

I'm good for the MBE. Like, I know this stuff, but that's not really what you need to be doing here. You know, I think practicing these questions is just the only way that you can learn this material in a way that's useful for the MBE.

Lee Burgess: Yeah, I mean, like Alison said, she had just taken evidence before bar prep.

If you have just taken evidence before bar prep, if there's time to not listen to 10 hours of evidence lectures, that might be a good use of your time.

Alison Monahan: I mean, I would say basically sit down and do 30 questions and evidence, and if you get 80 percent of them right, move on with your life.

Lee Burgess: Yeah, I mean, and I think what's interesting is it's like if you spent those, you know, seven plus hours doing multiple choice practice on evidence, would that get you closer to your goals?

That's what you have to ask yourself. So, you know, doing the practice is so critical and not just doing it. Sometimes the mistake we see with students is they just say, oh, I'm gonna do a set of 33 questions. Oops, I got half of them wrong, oh, well. Yeah, that's not a good approach. You have to do the questions and then you have to study them.

You know, if you got it right, did you get it right for the right reasons, or are you lucky? Because luck isn't going to help you on exam day. So, you know, you've

got to make sure that you did understand the nuance, because sometimes you can get it right for the wrong reasons. And then when you get something wrong, you better understand why you got it wrong.

Was it a weak knowledge of the law? If so, that's fixable. Go learn that law. Or was it that you didn't read the facts carefully enough? Were you reading too quickly? I mean, guys, this is not a time to be, like, very, you know, oh, well, I can get through these questions without, you know, having to, like, underline things, and I can redo my questions in half the time.

Like, literally sitting down, if you're taking them on paper, and, like, underlining things, or I'm even a big fan of, like, taking the scratch paper and, like, covering the lines like you're in elementary school. No joke. Just slow yourself down. Like you've got to try and do these things because you need to figure out why you're missing these questions and play with different ways that you can try and keep yourself from going into bad habits the only way you can do that is by evaluating what went wrong and then trying different solutions to fix it.

Alison Monahan: Yeah And I think one of the things that's a great idea is if you know as soon as you miss like an area of law, like you miss a nuance, you don't know whether the doctor has a duty or not, write that down. You know, you should have like a master file That basically is either questions that you need to find answers to or things that you did not know. Because you want to be reviewing that because, you know, the reality is, you know, for most people after you've sort of done like a basic review of the law of these areas, like you probably know a lot of it.

But there are these things you're not going to know, and that's what you really need to focus on.

Lee Burgess: And I've had students do these kind of banks of problem areas in lots of different ways. Some students keep a legal pad and each sheet is a different subject. You know, and then they write down the rule that they missed on the legal pad, or a journal.

Or an Excel spreadsheet, you know, whatever floats your boat.

Alison Monahan: Whatever, Evernote, like who cares? Trello. You could have an amazing Trello board that you set up for each topic area that, you know, you add a new card for each thing that you don't know. You know, whatever it is that works for you. You know, just do something.

Don't just be like, oh, whoops, got that wrong, moving on.

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Lee Burgess: Yeah, that Trello board idea, though. We should do a blog post about that. I'll put that on my list. That's a good idea.

Alison Monahan: Yeah, using Trello for your bar study could be so amazing.

Lee Burgess: Yes. Okay. So, you've got to figure out what went wrong. And you also have to evaluate, you know, maybe, what questions are you using to practice?

I mean, if you're taking a commercial bar course like Barbary, Kaplan, Themis, Barmax, you know, the list goes on you likely have an MBE module, they're giving you questions, they've got different ways for you to study for the MBE, there are different schools of thoughts on who's better writing questions, Barbary, Kaplan, like Themis, whatever.

The reality is I would make sure that whatever you're using to study uses at least the majority of the released questions from the National Conference of Bar Examiners so you are taking retired questions. I think those are very important to review. And if you have access to a few different questions, either from different books or different bar providers, mix it up.

Because if you only take questions from Barbary, their questions are going to be in a slightly different style than Kaplan's questions, or Emanuel's Strategies and Tactics, which is a book you can buy on Amazon. It, you know, it's good to have a variety, because everyone will tell you when they sit down to the test that the test questions were slightly different than whatever questions they did for practice.

Alison Monahan: Yeah, and part of that is probably just like you've seen a lot of the practice questions, once or twice, before you get there but yeah, I mean, I think that's a great idea. I mean, what are some other tools people might consider?

Lee Burgess: So, one of the tools that we like is Adaptibar. You guys might have heard us talk about this on the podcast and they were even kind enough to sponsor a previous podcast episode.

Alison Monahan: That's not why we're talking about it.

Lee Burgess: That's not why we're talking about that because I've been recommending it for years and years before they even started supporting us, but the reason I like it is they do use the past released questions from the national conference of bar examiners, and then they have this kind of backend algorithms that really help you practice weak areas. And so they take out a little bit of the guesswork for

you because you don't have to necessarily track the types of questions you're missing.

They're doing it and then they're computer magically forces you to take more types of those questions. Now, that's a very, non technical explanation. And Alison, is there a better explanation for that than what I just described since you were in my technical mind?

Alison Monahan: Well, I think that's pretty much it, but I'll just say, like, I actually studied, like, way back in the day before Adaptibar even existed.

I studied with a program like this because I only had two weeks to study for the entire Massachusetts Bar Exam because I was working over the summer and, I don't know, just didn't get started on it. So, you know, I basically started studying in earnest kind of after the of July and had this, you know, moment of like, okay, like, what am I going to do?

And on the MBE, I had a similar program. It was very like cutting edge at that point. But it, you know, did whatever, a hundred questions, saw what you're getting right, saw what you're getting wrong, and didn't really give you the questions you were getting right, because why bother? The downside of this approach, it's extremely effective, it's extremely efficient. The downside is it's also brutal.

Lee Burgess: It's brutal.

Alison Monahan: You know, because all you're basically getting are the questions that you're getting wrong consistently. And for me, like I said, it was all the Fourth Amendment questions. Like, I just had no idea on search and seizure. And it took a little while for that reality to sink in, but like, they just kept giving them to me and I kept missing them until I finally, you know, spent half of a day like really focusing on this.

But the upside of that is if I just been doing, you know, assorted questions, assorted questions, it might not have become obvious to me that like, I really just had absolutely no idea on this.

Lee Burgess: Yeah.

Alison Monahan: So I think, you know, you have to focus on your weak areas.

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Lee Burgess: Mm hmm. Yeah, for sure. And if you really if you can't, you know, invest in a tool like Adaptibar, another option that you can try is the National Conference of Bar Examiners.

You can actually purchase old tests and take them. online as well that is a bit of a lower price point. And that's another way to practice with the release questions. I know closer to the exam, sometimes students use those as three hour practice exams. So, you know, there are lots of things that you can do, but Alison's right.

This, doing what you're not good at is going to make you uncomfortable. Doing what you're good at doesn't get you any closer to passing.

Alison Monahan: Yeah, you know, it's like, yeah, obviously somebody could construct their own spreadsheet where they really drill down into like, okay, you know, I missed 10 out of these 30 questions.

I just did. What is the category? You know, what's the big area? Like, I mean, contracts, I mean, property, I mean, evidence, where, but then also, like, what's the, you know, what's the actual issue here? And isn't there, like, a list somewhere about the topics that are tested?

Lee Burgess: Oh, yes, there is, and it's actually free. One of the few things in the bar world that's actually free.

So, we have linked this in the show notes, but the National Conference of Bar Examiners are nice enough to release a subject matter outline that lists all of the possible topics that can be tested on. And they also give you a ballpark of what the breakdown within that given subject is about how many of those questions you're going to see on a given topic.

So if you really wanna be strategic about this, you can print out this outline for free. You can go in with a highlighter and pretty much get a really good idea of what the majority of the questions are going to be on.

Alison Monahan: I recall doing this. I recall basically, my idea was like, I'll print it out, I'll see if there's anything on there that I've never seen before, and so I'll, like, look that up. But most of it's like, okay I pretty much get this. And so then, you know, you can almost use that outline when you're trying to figure out what you don't know. You know, go through that outline, and mark off ticks, like, okay I missed this, I missed this, I missed this. I think it pretty you know, pretty rapidly become apparent what your weak and strong points are.

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Lee Burgess: For sure, and you know, if you notice that a large chunk of the evidence questions happen to be on hearsay exceptions, and if you're pretty weak on hearsay exceptions, well, then you better sit down and start studying some hearsay exceptions, because-

Alison Monahan: Yeah, absolutely, you better know all whatever 18 of them or whatever it is, you know, not just like, oh, yeah, I kind of get the hearsay is like a statement of out of court declarant.

Okay, no, it's like you need to know the details of it.

Lee Burgess: Right, exactly, like what qualifies as a statement, you know, is assertive conduct a statement, when is it a statement, when is something a non hearsay, like all these details, but they tell you what's, what's going to be tested. I had no idea these subject matter outlines existed when I was studying for the bar because nobody told me about them.

The bar providers don't tell you about them, which I think is silly, but you can do this right now. Go click on it. One thing I will say is that since I'm there are going to be people down the road that listen to this much later than after we recorded it I did see on the National Conference of Bar Examiners website that there are going to be new outlines released in early 2017, because they're slightly changing real property in February of 2017.

So if you're listening to this in 2017, make sure you are getting the updated outlines for 2017.

Alison Monahan: Yeah, I think that's a good piece of advice in any case. Make sure you're studying the right stuff. For example, like until recently the MBE did not include Civ Pro

Lee Burgess: Yeah.

Alison Monahan: So if you have a set of old books from your friend who took the exam three years ago, you need to double check that.

Lee Burgess: Yeah. Yep, okay, so we've talked about our outlines. What about kind of like time management in this issue of dealing with time? I mean, you know, sure you can take sets of 33 questions, which is about an hour, but unfortunately you do need to sit down and take some three hour timed practice. It's really the only way to see where you are and to get comfortable with this undertaking of doing these 100 questions.

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I see a lot of students struggle with focusing on- and let's be honest, I struggled- on focusing on multiple choice for 3 hours. It is a grind. It really is. And you need to practice it to see if there are any coping mechanisms that are going to make it easier. So for instance, I have some students who if you take enough 3 hour practice tests. You're going to notice that maybe at certain points you miss strings of questions.

You know, you might miss five in a row, and that might almost always happen after the first hour. Well, that probably means that you are losing focus. You know, you're getting too tired. And so my recommendation would be stop around an hour, look up, stretch, do some breathing exercises, repeat some positive mantras, walk up, go get a drink of water.

I don't really care what you do. I'm a big fan of-

Alison Monahan: Yeah, have a sip of, you know, whatever caffeine drink they let you and buy, if any.

Lee Burgess: If any. Most bars won't even let you have any liquids in the bar room. But, you know, I'm a big fan of walking to the bathroom and washing my hands. That was like what I did.

Alison Monahan: I agree. I mean, people think, oh, there's no possible way I could get up in a three hour test. It's like, it actually, you know, if you get up and like walked, walk quickly to the bathroom, like use the bathroom, have a sip of water, throw some water on your face and walk back. We're talking like a few minutes max. You know, if, if that then increases your focus 80 percent for the next hour, it's totally worth it.

Lee Burgess: Exactly. And the only way that you figure out if you need this stuff is by practicing. And, you know, Alison made a good point of, like, taking, you know, sips of your caffeine drink or whatever. It's important to find out what the bar is going to allow you to have in the room. Because if you're not allowed to have water, if you're not allowed to have caffeine drinks, if you're not allowed to have snacks, the list goes on and on and on, you better be breaking these practice tests without these rules.

Alison Monahan: Oh yeah, exactly. You're sitting there with your, like, donut and your cup of coffee. Like, it's like, it's not going to be like that.

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Lee Burgess: No, it's really funny, you know, now that I, like, hang out with kids and toddlers, which I never used to do, you know, kids and toddlers love to, like, have whatever their one precious thing is that they're going to, you know, hold on to for dear life for that outing and you know, you kind of think like well That's kind of silly and then you realize how many of us have those objects many of it's our phone, but we've always got like something in our hands some sort of comfort thing that we have You know, no checking your email during a three hour practice test You know, you really have to be comfortable being in this exam mode.

It's very important-

Alison Monahan: Well, and people might consider, you know, as they get closer to the test date, I mean, think about you're not going to be alone in your room. You might consider going to Starbucks for a few hours and doing the set of tests because that's more, I mean, that's closer to what your exam environment's going to be like.

There are going to be distractions. You might be wearing earplugs, which you're not used to doing. You know, you want to try to replicate the exam environment. The exam experience as well as you can. I mean particularly if you have any sort of like, anxiety about testing and that kind of thing, you know, the best way to get over that, or one of the ways is just to really expose yourself to that stimulus as much as you can beforehand.

Lee Burgess: Mm hmm, exactly. And, to practice what you're gonna do when you start to freak out. You know, if you're someone who has anxiety and you are, you know, that you're sitting in the room, and that if you get, feel like you get three or four questions in a row that are just complete head scratchers, and that's gonna send you over the edge-

Alison Monahan: Or, like when that, when that test shows up on your desk and you open it, and you have, you know, you start to like not be able to focus, or you're like, oh my god, I can't breathe, you know?

Lee Burgess: Right. What are you gonna do? Because the thing is, you gotta have a plan. And that plan, you know, by our friends who are experts in the field is typically to have some sort of breathing technique, have some sort of coping mechanism that you have practiced throughout your bar prep so you can call on it at the time and get it together.

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Alison Monahan: And it becomes almost second nature.

Lee Burgess: Yes, exactly.

Alison Monahan: You're not thinking about what to do, you just immediately go to your tactical breathing.

Lee Burgess: You go to your tactical breathing, you do your visualization, you know, you close your eyes, you count, like whatever it might be, you need to have a plan and it needs to be second nature.

Alison Monahan: Apparently doing math is actually a great distraction in your head.

Lee Burgess: Really? I didn't know that.

Alison Monahan: Yeah, apparently it's a really good way to make yourself not cry, is to start doing math problems. So I can see it also working for anxiety, because it just distracts you and you think about something else.

Lee Burgess: Oh, that's interesting. I wonder if it just also uses a completely different part of your brain.

Alison Monahan: Yeah, exactly. It just like switches something.

Lee Burgess: Yeah. Well, it's really fascinating. The other thing is an old trick from my SAT tutoring days is sometimes in the morning before the exam you know, students want to take practice questions to quiz themselves, and I would say that's a terrible idea.

But what is interesting advice that I got from the owners of my SAT prep company that I actually think can be wise is reading, yet not taking questions before you walk into the room. So for breakfast, you're drinking coffee only, so the first thing that you read in the morning, it's not question number one.

Alison Monahan: Yeah, I can see that. You want to get your brain like in a good place of focus, so you're, you know, you're sort of excited, you're ready to go, you're ready to knock this test out of the park, get rid of it.

Lee Burgess: Exactly.

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Alison Monahan: And if, you know, there are techniques you can use to do that, I think Great. What you do not wanna do is demoralize yourself the morning of the task by getting a bunch of stuff wrong.

Lee Burgess: Exactly. So if you think that's gonna demoralize you, even reading it and not evaluating your work, read something else, you know. As long as it's also not going to be upsetting or demoralizing, like the news right now, which I have a really hard time reading and then focusing on whatever I'm supposed to do.

Alison Monahan: Yeah, exactly. Like, you want to, these are things, you know, if something horrible happens in the world the night before your test, like, don't read about it. Don't listen to NPR, like these-

Lee Burgess: I know, I know.

Alison Monahan: I mean, sad but true, but you need to focus on getting rid of the bar exam and then you can go out and save the world.

Lee Burgess: It's true. It's true. It's time to live in a bit of a bubble, because- as much as you can, because it's, it can be very distracting. You have to deal with the task at hand.

Alison Monahan: Yeah one thing I want to bring up and people can sort of take or leave this as an idea, but when I had a really interesting podcast with Nathan Fox, who runs Fox LSAT, and one of the things he said to me, which is he advises his students, because a lot of so many people have like such time management issues on the MBE or even on the LSAT, and they're like, you know, I just can't get through all the questions, there's just no way, you know, they spend all this time kind of focusing on like how much time they have left and how much time per question.

It can be really distracting. And one of the things he said was he doesn't tell them to try to finish. Which I thought was sort of fascinating advice. I really wonder if you can apply to the MBE. I mean, given that, you know, the normal rate that you need to pass is pretty low, you know, if you can increase the number of questions you're getting right substantially by just not finishing the test, I'm not saying like do half of them, but you know, like if you can say you leave off, you say you don't get to the last 10 questions consistently.

Well, you know, if you just bubble and see, you're going to get some percentage of those. And if that allows you to increase, you know, say that you were getting

40 percent right before and now you can get 70 percent right? That seems like something you should experiment with.

Lee Burgess: Yeah, I think that it's a really interesting idea, and I could see this being effective for people who have extreme time issues.

Maybe even folks who have attention deficit issues that can show up when you don't get extended time, that maybe you need a little bit more of a buffer, but, but I think it's, it's an interesting mathematical exercise to try and think through, you know-

Alison Monahan: How much better do you have to be doing to just be able to leave some of them off?

Lee Burgess: Exactly, exactly. And I think sometimes, you know, it's really what you make of the opportunity to sit for those hundred questions. You know, it's not about, nobody will know if you finish the test. It's just all about how many you get right.

Alison Monahan: Exactly. So I just thought that was an interesting point that, so if somebody's really struggling and feeling like a lot of time pressure, it might be worth doing a set or two of a hundred questions and just not, you know, obviously move through as rapidly as possible, but stop worrying about the timing and see if you're getting a lot more right.

Lee Burgess: Yeah, yeah, it would really be interesting. So something to think about if you're really up against a wall with the timing. The other thing students often ask me is like, where's the danger zone? You know, where should they be really worried? And that's always a tough question, but if you are, let's say, halfway through your bar prep, you've been studying all the MBE subjects, and you are not getting, and you're getting like, 40 to 50 percent of them right consistently, and-

Alison Monahan: I would say serious red flag.

Lee Burgess: Serious red flag. It is time to, like, open up your mind about different ways that you can prep. So it could be talking to an MBE expert, hiring a tutor, trying a different tool. Something needs to happen. But those aren't scores that you can come back from. Like, I don't want to be harsh, but that's just where we are.

Alison Monahan: You're digging yourself such a hole that there's just absolutely no way that you can make that up on the essays. And then the flip side of that is, you know, the only reason I passed the bar is the MBE. So, you know, if you're getting a

substantial percentage of the MBE questions right, you know, if you're, if you're consistently getting 80 or 90 percent of them, you can probably basically stop studying and turn your focus to something else.

Lee Burgess: But I think what's interesting is depending on your jurisdiction, like in California, which still has the three day test for a while at least, You know, the MBE is not weighted as heavily as in jurisdictions with two day tests, and so.

Alison Monahan: Thank God for the performance test.

Lee Burgess: I know, exactly, but what's interesting about that is, you know, a lot of students get kind of, in California, can get obsessed with the MBE and, like, forget that it's just, you know, like, a bit over a third of the rest of the exam, and so you have to really make sure that you are allocating your time around based on what the test is for.

If it's 50% of the test, If your entire test and you're struggling massively with it, it needs some serious time or you just can't take yourself out of that.

Alison Monahan: Yeah, the other thing I would say is, if somebody, you know, isn't gonna do the sort of full eight week, ten week prep and they're really focusing on like, how do I get the most bang for my buck, I would often argue that doing really well in the MBE, which I think is actually more trainable and faster, can be a decent argument, you know. It's like, think about all the law you might have to learn for the essays. Well, if you get 80% in the MBE in a state where it's 50% of the test and you're basically a reasonable writer who's done some studying on the rest, you're probably not going to fail.

Lee Burgess: Well especially if your jurisdiction uses a performance test which you don't need to know any law. So that means that you've got the MBE and a good chunk of the essays already basically done before you get to this sub, you know this short, well if it's the MBE. It's like 30 minute questions. So, you really have to think through the test.

Alison Monahan: And studying for the MBE also basically covers a lot of the topic areas that you're going to see on these essays too.

Lee Burgess: Yeah. So, it's not to be ignored, but it's also to be thoughtful about how you're allocating your time. You know, you shouldn't ignore any part of the test, but if you have to be strategic and if you have to triage, make sure you're getting the most bang for your buck when it comes to your study time.

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Alison Monahan: Absolutely.

Lee Burgess: And with that, I think we're out of time. If you enjoyed this episode of the Law School Toolbox podcast, please take a second to leave a review and rating on iTunes. We'd really appreciate it. And be sure to subscribe so you don't miss anything. If you have any questions or comments, please don't hesitate to reach out to Lee or Alison at Lee@LawSchoolToolbox.com or Alison@LawSchoolToolbox.com, or you can contact us via our website contact form at LawSchoolToolbox.com. And don't forget, for more bar exam tips, you can check out some prior podcasts, and also check out our bar exam site, BarExamToolbox.com. Thanks for listening, and we'll talk soon.