



Lee Burgess: Welcome to the Bar Exam Toolbox Podcast. Today, we're discussing our top tips for mastering the MBE portion of the bar exam, which causes a lot of stress for people studying for and taking the bar.

Your Bar Exam Toolbox hosts are Alison Monahan and Lee Burgess - that's me.

We're here to de-mystify the bar exam experience so you can study effectively, stay sane and hopefully pass and move on with your life!

We're the co-creators of the [Law School Toolbox](#), [Bar Exam Toolbox](#) and the Career related website [Career Dicta](#). Alison also runs [The Girl's Guide to Law School](#).

If you enjoy the show please leave a review on iTunes and check out sister podcast the [Law School Toolbox Podcast](#)! If you have any questions, don't hesitate to reach out to us. You can reach us via the contact form on [BarExamToolbox.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, 10 of them are where they float the questions out there to get feedback, and these 200 questions are given in two three hour blocks. (As of 2017, 175 questions are graded, while 25 are feedback questions).

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: Okay, it sounds to me like maybe they should just give this right away your 1L year, right?



- 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 your first year and then sometimes that first part of your second year.
- Alison Monahan: Yeah, or just evidence you can usually take whenever. I know I took evidence my last semester as a three L, 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 when it comes to studying for the bar.
- Alison Monahan: I mean there are lot of reasons, but I would say number one, it's just a really hard test.
- Lee Burgess: It is a really hard test.
- Alison Monahan: I mean, I'm somebody who basically got through life on multiple choice, being good at multiple choice tests, and I found this to be a really difficult exam. 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 didn't study really for the GRE and I did fine on all those. So, I remember sort of walking in to ... the first time I sat down to take these MBE questions, I was like, "Oh yeah. No problem, I'm good at standardize tests." And I was like, "Good lord! 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. Sure be 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 reason I think it's brutal is the law doesn't actually lend itself to the multiple choice format.
- Alison Monahan: Right exactly, it's like you get 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, or before I went in the test room on the second day of the bar, I had to take the MBE and my dad sent me a text and said, "Just remember is at least on the page." And I was like, "Yeah, but there's so many answers on the page."
- Alison Monahan: Yeah exactly. It could be any of them.
- Lee Burgess: Exactly.
- Alison Monahan: Flip a coin. For me, I think usually ... typically you can sort of eliminate one or two, but then often times you're not really choosing 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 over the years, most of us have learned tricks to take standardized tests. I mean, I used to tutor for the SAT, and all the tricks about eliminating answer choices, or ... going through and evaluating them certain ways to be faster. I mean, all of these tricks that we have learned over the years, and years, and years, those tricks typically don't work on the MBE, because of what Alison just said that often times, you're not necessarily picking the right answer, you may be picking the best answer, or the least wrong answer, or it's 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 can 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 student's, we're like, "Treat this almost like a mini hypo." Like read the question and then try to formulate an answer, as if you were gonna write an essay before you look at the answer choices, because if you start sometimes with these test taking tricks, it's like, "Oh read the answer choices first and then read the question." It's like, I think that's an absolute disastrously, 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 in all of your essay writing and trying to apply them to these mini hypos, 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 questions is not gonna be about negligence. It's gonna be about some very nit picky detail of like assumption of the risk, for example.
- Lee Burgess: Right.



- Alison Monahan: So, I think people who are sort of big picture thinkers are like, "Yeah, 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. Is it? See this is what we're talking about.
- Alison Monahan: It could be either.
- Lee Burgess: It could be either, but it depends-
- Alison Monahan: I could make a policy to argue that for either of those.
- Lee Burgess: That's right.
- Alison Monahan: What is the actually 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, that's a very nuanced questions 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. That's the kind of hair splitting that they're doing-
- Alison Monahan: Yeah, 'cause 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, I'm actually confusing that with the duty to continue rendering aid if you start rendering aid-
- Lee Burgess: Right.
- Alison Monahan: They're all these really small nuances."
- Lee Burgess: Yes, another place where the nuances get crazy on the MBE, character evidence and evidence when you can present character evidence. When you can-
- Alison Monahan: Oh god, yeah.
- Lee Burgess: Oh my gosh.
- Alison Monahan: Or like what-



- Lee Burgess: Types of character evidence, like oh my gosh, this makes your head spin.
- Alison Monahan: I mean, that's pretty sophisticated, 'cause you've gotta understand why someone is bringing this in. Is it actually hearsay? They love to lead people down these sort of faux hearsay paths and things like that.
- Lee Burgess: Oh let's not even start talking about the rule against perpetuity, oh my goodness.
- Alison Monahan: Luckily with that, you're only gonna get like one question, maybe two.
- Lee Burgess: Yeah, and mortgages.
- Alison Monahan: I feel like the evidence ones can just go on and on.
- Lee Burgess: That's true, but mortgages is ... I mean you could really
- Alison Monahan: Reporting statutes, and all that stuff.
- Lee Burgess: I really felt like half of my MBE was on mortgages and recording statutes. I realized that 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 the fourth amendment ones.
- Lee Burgess: Oh see I rocked those.
- Alison Monahan: Yeah, I mean you would, because you actually had background in this. I had an insane woman, who's now actually a federal judge, who thought basically the police could and should be able to do anything.
- Lee Burgess: Oh!
- Alison Monahan: Yeah, and you realize when you study for the MBE, you're like, "There are a lot of rules what they're actually allowed to do, and you have to memorize" Yeah, so it's this sort of thing where we'll 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 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 the type of questions, but if you get the opportunity to use multiple choice practice, either to study or to review the law in law school, it's going to help you out down the road when you 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, 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, and 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: Yeah absolutely. 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 yeah, frankly for a lot of people, they just don't that they're very good at multiple choice, or that they've historically been that great at multiple choice. I think that can lead to a lot of anxiety, and also 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 much time and so if you are a slow reader, or somebody who takes 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.

Alison Monahan: Absolutely, and then you go have lunch and come back and 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 on one to 100. I mean what is ... I don't know, like 60, 70%?

Lee Burgess: Yeah, it's between 60 and 70% typically, is a passing score in the MBE. 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% of them right, we would be really worried.



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

Lee Burgess: Exactly, and so that really mentally messes with you. 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 in mortgages, which I really didn't 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 the text I think said, "I think I just failed the Bar." Of course he called me back, 'cause 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. I'm going to lose my job." And this is what you do, you go down the road-

Alison Monahan: Yeah, down that path.

Lee Burgess: Down that path, "I'm gonna lose my job. I'm not gonna pass. What are we gonna do? I don't know what I'm gonna spend my time doing." I turned on HBO and it was Happy Feet's playing on repeat, and HBO in my hotel room I'm watching Happy Feet. Not sure what's going on. It's so easy to really spin yourself into a place of anxiety and questioning yourself, because the stakes are high and it's setup to make you feel like you're failing, and I probably was "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 ... my first bar exam, and the first day of that is the MBE.

Lee Burgess: Ooh.

Alison Monahan: So it was horrible. 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. At that point, they didn't care, they were just like whatever. So I remember being on G-chat or something, this good friend of mine from law school who just sat for New York, and he's out drinking and I'm back at my house preparing for the next day. And I was just like, "There is no way I didn't fail that. There is just no way. That was so brutal and so horrible, I had to have failed that test." He was just like, "Look, you were at 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 got 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 was like, "That's like five questions out of 200. There were probably not even the real ones, because they were completely insane. They were probably the ones that they were testing, that they'll never even use. Could you please calm down and go to sleep, and go take the second day of the test?"



But you know, that's what happens. 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 you didn't even realize how hard it was. So I think that's-

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

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

Alison Monahan: I think with reasonable expectations, you know? A reasonable expectation is not to be getting 90 or 95% of these right-

Lee Burgess: Nope.

Alison Monahan: You could give any law review, or law school professor in the country these questions, and they're not going to get all of them right.

Lee Burgess: Right.

Alison Monahan: And you could put 10 of them in a room, and they're not going to always agree on the answers.

Lee Burgess: Yeah, 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. 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. Then I kind of say, "Stop Lee, sit and really read it carefully. Read the facts carefully." 'Cause you get these questions and you're like, "I'll just read the paragraph." You can't just think about it that way, you've got to be careful about it.

Alison Monahan: Yeah, they're also fond of certain misdirections and things 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.



Alison Monahan: But, they love this sort of ... 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 out listening to this, trust me, I'm really good at this, you still have to study.

Lee Burgess: Exactly, but 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 say evidence. You're like, "Oh great. I've got my bar review course and it's got 10 hours of stuff, I'll speed it up. I'll do like seven. Okay great. I'm good for the MBE. I know this stuff." But, that's not really what you need to be doing here. 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 time.

Alison Monahan: No, I was able to sit down and do 30 questions in evidence, and if you get 80% of them right, move on with your life.

Lee Burgess: Yeah. I think what's interesting, if you spent those 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, doing the practice is so critical, and not just doing it. Sometimes mistakes we see with students is they just say, "Oh, I'm going to do a set of 30 questions. Oops I got half of them wrong. Oh well." Yeah, that's not a good approach. You have to do the questions, then you have to study them, 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 any damn day.

Alison Monahan: No.

Lee Burgess: So, you gotta 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 very ... "Oh well, I can get through these questions without having to underline things. I can do my questions in half the time." Like literally sitting down if you're taking them on paper and underlining things, or



I'm even a big fan of taking the scratch paper and covering the lines, like you're in elementary school. No joke, just slow yourself down.

You've gotta 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, I think one of the things that's a great idea is as soon as you miss an area of law, you miss a nuance, you don't know whether the doctor has a duty or not, write that down.

Lee Burgess: Yeah.

Alison Monahan: 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 the reality is for most people after you've sort of done like a basic review of the law of these areas, you probably know a lot of it, but there are these things you're not going to know. That's what you really need to focus on.

Lee Burgess: 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, they write down the rule that they missed on the legal pad, or a journal, or an Excel spreadsheet. Whatever floats your boat.

Alison Monahan: Whatever ... who cares?

Lee Burgess: Exactly.

Alison Monahan: You could have an amazing Trello board-

Lee Burgess: Oh Trello.

Alison Monahan: That you just set up for each topic area, you add a new card for each thing that you don't know, whatever it is that works for you. Just do something-

Lee Burgess: That's what I'm-

Alison Monahan: Just be like, "Oops, got that wrong, moving on."

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 maybe what questions you're using to practice. If you're taking the commercial bar course like BARBRI, Kaplan, Themis, BarMax, 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 whose better writing questions, BARBRI, Kaplan, Themis whatever. The reality is, I would make sure that whatever you're using to study uses at least the majority of the release 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 BARBRI, they're questions are going to be in a slightly different style than Kaplan's questions or an Emmanuel's Strategies and Tactics, which is a book you can buy on Amazon. 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 probably you've seen a lot of the practice questions once or twice before you get there, but yeah. I think that's a great idea. What are some other tools people might consider?

Lee Burgess: So one of the tools that we like is a [Adaptibar](#), you guys might have heard us talk about this on the podcast, and they were 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 them for years and years before they even started supporting us, but the reason we like it is when they do use the past release questions from the National Conference of Bar Examiners. Then they have this kind of back end algorithms that really help you practice weak areas, 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 their 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 are the technical mind.

Alison Monahan: Well, I think that's pretty much it, but I'll just say, I actually studied 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 yeah, basically started studying in earnest kind of after the Fourth of July. I had this moment of like, "Okay, what I'm gonna do?" And on the MBE, I had a similar program, it was very cutting edge at that point, but it did whatever ... a 100 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 is extremely effective. It's extremely efficient, the downside is also brutal.

Lee Burgess: That's true.

Alison Monahan: Because all you're basically getting are [the questions that you're getting wrong consistently](#). For me, like I said, it was all the fourth amendment questions. 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 spent half of the day really focusing on this. But the upside of that is, if I just been doing assorted questions, it might not have become obvious to me that I really just had absolutely no idea on this.

Lee Burgess: Yeah.

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

Lee Burgess: Yeah for sure, and if you really ... If you can't 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 there are lots of things that you can do, but Alison's right, doing what you're not good at, is going to make you uncomfortable, but doing what you're good at, doesn't get you any closer to passing. So-

Alison Monahan: Yeah it's like somebody could construct their own spreadsheet where they really drill down into like, "Okay, I missed 10 out of these 30 questions I just did, what is the category? What's the big area? Am I in contracts? Am I in property? Am I in evidence?" But then also what's the actual issue here? 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 bar world that's actually free. So we have linked those in 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 want to 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.

Lee Burgess: Yes.

Alison Monahan: 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." So I'll look that up, but most of it was like, "Okay, I pretty much get this." So then, you could 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, of like, "Okay, I missed this, I missed this, I missed this." I think would pretty rapidly become apparent what your weak and strong points are.

Lee Burgess: For sure, and if you noticed the 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 you-

Alison Monahan: Yeah absolutely, you better know whatever, all 18 of them or whatever it is. Not just like, "Oh yeah, I kind of get that hearsay is a statement of out court declarant. Okay, no you need to know the details of it."

Lee Burgess: Right. Exactly like what qualifies as a statement? You know, what sort of conduct is a statement, when is it a statement? When is something a non-hearsay? All these details, but they tell you what's going to be tested. I had no idea these subject matter lines existed when I was studying for the bar, because nobody told me about them. 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 there are going to be people down the road that listen to this much later than we 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.

Lee Burgess: Yeah.



- Alison Monahan: For example, 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, yeah. Okay, so we've talked about outlines, what about time management and this issue of dealing with time. 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. I see a lot of students struggle with focusing and let's be honest, I struggled, with focusing on multiple choice for three hours. It is a grind; it really is. You need to practice it 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 three hour practice tests, you're going to notice that maybe at certain points, you missed strings of questions, 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 exercise, 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-
- Alison Monahan: Have a sip of whatever caffeine drink they let you imbibe, if any.
- Lee Burgess: If any, most of ours won't even let you have any liquids in the bar room, but I'm a big fan of walking to the bathroom and washing my hands. That was like what I did, I don't know why.
- Alison Monahan: I agree. I mean people are like, "Oh, there's no possible way I could get up in a three hour time limit." It's like ... actually if you get up and walk quickly to the bathroom. 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.
- Lee Burgess: Right.
- Alison Monahan: You know, if that then increases your focus 80% 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. Alison made a good point of taking sips of your caffeine drink or whatever, it's important to find out what the bar is going to allow you to have in
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the room, because if you're not allowed to have water, 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 taking these practice tests without these comforts.

Alison Monahan: Oh yeah, exactly, you're sitting there with your donut and your cup of coffee.

Lee Burgess: Yeah.

Alison Monahan: It's not going to be like that.

Lee Burgess: No, it's really funny now that I hang out with kids and toddlers, which I never used to do. Kids and toddlers love to have whatever their one precious thing is that they're going to hold onto for dear life for that outing, and 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 something in our hands, some sort of comfort thing that we have. No checking your email during a three hour practice test. No reading texts. You really have to be comfortable being in this exam mode. It's very important to practice this.

Alison Monahan: Well, people might consider as they get closer to the test date, you're not going to be alone in your room. You might consider going to Starbucks for a few hours and doing-

Lee Burgess: True.

Alison Monahan: These 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 ear plugs, which you're not used to doing. You might want to replicate the exam experience as well you can, particularly if you have any sort of anxiety about testing and that kind of thing. 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: Exactly, and to practice what you're going to do if you start to freak out. If you're someone who has anxiety and you know that you're sitting in the room and that if you feel like you get three or four questions in a row that are just complete head scratchers, and that's going to send you over the edge-

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

Lee Burgess: Right. What are you going to do? Because the thing is, you gotta have a plan and that plan by our friends who are experts in the field are 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.

Alison Monahan: And it almost becomes 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 close your eyes, you count, 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 good way to make yourself not cry, is to start doing math problems. So I can see it also working for anxiety, 'cause it just distracts you and you think about something else.

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

Alison Monahan: Yeah, it just like switches something.

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

Alison Monahan: Oh god.

Lee Burgess: But what is interesting advice that I got from the owner's 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 over breakfast, or drinking coffee, only so the first thing you read in the morning is not questions number one.

Alison Monahan: Yeah, I can see that. You're going to get your brain in a good place of focus, so 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.



- Alison Monahan: And you know, if there are techniques you can use to do that, I think great. What you do not want to do is demoralize yourself the morning of the test, by getting a bunch of stuff wrong.
- Lee Burgess: Exactly. So if you think that's going to demoralize you, even reading it and not evaluating your work, read something else. 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, these are things if something horrible happens in the world the night before your test, don't read about it, don't listen to NPR, these-
- Lee Burgess: I know.
- Alison Monahan: 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 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 he advises his students ... so many people have such time management issues on the MBE or even on the LSAT, and you're like, "I just can't get through all of the questions. There's just no way." They spend all this time focusing on how much time they have left, and how much time per question, it can be really distracting. 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, given that the normal rate that you need to pass is pretty low.
- If you can increase the number of questions you're getting right substantially by not just finishing the test, I'm not saying do half of them.
- Lee Burgess: Right.
- Alison Monahan: But, you know let's say you leave off ... you say you don't get to the last 10 questions consistently, well you know, if you just bubble in C you're going to get some percentage of those, and if that allows you to increase ... say that you were getting 40% right before, and now you can get 70% right. That seems like something you should experiment with.
- Lee Burgess: Yeah, I think that it's a really interesting idea and I can 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
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you need a little bit more of a buffer, but I think it's an interesting mathematical exercise to try and think through.

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 it's really what you make of the opportunity to sit for those 100 questions. It's not about ... nobody will know if you finish the test, it's just about all about how many you get right.

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

Lee Burgess: Yeah, that 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, "What is the danger zone? Where should they be really worried?" That's always a tough question, but if you are, let's say half way through your bar prep, you've been studying all the MBE subjects and you're getting like 40 to 50% of them right consistently and that's it-

Alison Monahan: I would say seriously red flag.

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

Alison Monahan: No, you're digging yourself such a hole.

Lee Burgess: Yeah.

Alison Monahan: That's there's just absolutely no way that you can make that up on the essays.

Lee Burgess: Yep.

Alison Monahan: And maybe the flip side of that is, 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, if you're consistently getting 80 or 90% 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 awhile at least. 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 a lot of students ... in California, can get obsessed with the MBE, and forget that it's just ... a bit over a third of the rest of the exam. So you have to really make sure that you are allocating your time around, based on what the test is for. 50% of the test, of 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, and the other thing I would say, is somebody isn't going to do the sort of full eight week, 10 week prep and they're really focusing on, "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. Think about all the law you might have to learn for the essays, well if you get 80% of the MBE, in a state where it's 50% of the test and you're basically, like 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 the performance test, which you don't need to know any law.
- Alison Monahan: Yeah.
- Lee Burgess: So that means that you got the MBE and a good chunk of the essays already basically done before you get to the short ... well it's the MEE, it's like 30 minute questions. So you really need 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 you have to triage, make sure you're getting the most bang for your buck when it comes to your study time.
- Alison Monahan: Absolutely.
- Lee Burgess: And with that, I think we're out of time.



Lee Burgess:

But before we finish up, I want to take a second to remind you to check out our blog at <http://barexamtoolbox.com> which is full of helpful tips to help you prepare (and stay sane) as you study for the bar exam. You can also find information on our website about our [courses](#), [tools](#) and one-on-one [tutoring](#) programs to support you as you study for the UBE or California bar exam.

If you enjoyed this episode of the Bar Exam Toolbox podcast, please take a second to leave a review and a rating on iTunes. We'd really appreciate it. And be sure to subscribe, so you don't miss anything. If you are still in law school, you might also like to check out our popular [Law School Toolbox podcast](#) as well.

If you have any questions or comments, please don't hesitate to reach out to Lee and Alison at [Lee@barexamtoolbox.com](mailto:Lee@barexamtoolbox.com) or [Alison@barexamtoolbox.com](mailto:Alison@barexamtoolbox.com) or you can always contact us via our website contact form at [barexamtoolbox.com](http://barexamtoolbox.com).

Thanks for listening, and we'll talk soon!

#### RESOURCES:

- [Law School Toolbox](#)
- [Law School Toolbox Podcast](#)
- [Bar Exam Toolbox](#)
- [CareerDicta](#)
- [The Girl's Guide to Law School](#)
- [Writing of the Week Course](#)
- [Brainy Bar Bank Tool](#)
- Tutoring: [Law School](#) or [Bar Exam](#)
- [Bar Exam Toolbox Podcast Episode 7: A Conversation with Sean Silverman – MBE Expert](#)
- [AdaptiBar](#)
- [A Slightly Counterintuitive Way to Study for the MBE](#)
- [National Conference of Bar Examiners Study Aids](#)
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- [Can Taking a Break Save Your MBE Score](#)