The Path to Lawyer Well-Being: Eliminating the Stigma of Seeking Help

THE REPORT OF THE NATIONAL TASK FORCE ON LAWYER WELL-BEING
“Lawyers, judges and law students are faced with an increasingly competitive and stressful profession. Studies show that substance use, addiction and mental disorders, including depression and thoughts of suicide—often unrecognized—are at shockingly high rates. As a consequence the National Task Force on Lawyer Well-being, under the aegis of CoLAP, has been formed to promote nationwide awareness, recognition and treatment. This Task Force deserves the strong support of every lawyer and bar association.”

DAVID R BRINK
PAST PRESIDENT
AMERICAN BAR ASSOCIATION
National Task Force on Lawyer Well-Being

- National Organization of Bar Counsel
- ABA Commission on Lawyer Assistance Programs
- Association of Professional Responsibility Lawyers
- ABA Standing Committee on Professionalism
- ABA Center for Professional Responsibility
- National Conference of Chief Justices
- National Conference of Bar Examiners
- ABA Young Lawyers Division
- ABA Law Practice Division Attorney Wellbeing Committee
- Co-author of earlier studies.
TASK FORCE GENESIS

• *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys (the “Study”)*
  • P.R. Krill, R. Johnson, & L. Albert
  • 10 J. Addiction Med. 46 (2016)

• *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns (the “Law Student Survey”)*
  • J.M. Organ, D. Jaffe, K. Bender
  • 66 J. Legal Educ. 116 (2016)
Suffering in Silence:
The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help
Law Student Survey - Alcohol

- One-quarter at risk for alcoholism
- 15 law schools
- 3,300 law students

<table>
<thead>
<tr>
<th></th>
<th>Law Students</th>
<th>Other Grad Students</th>
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</thead>
<tbody>
<tr>
<td>Got drunk prior 30 days</td>
<td>53%</td>
<td>39%</td>
</tr>
<tr>
<td>Binge drank at least once prior 2 weeks</td>
<td>43%</td>
<td>36%</td>
</tr>
<tr>
<td>Binge drank at least twice</td>
<td>22%</td>
<td>21%</td>
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</tbody>
</table>
Law Student Survey – Mental Health

- 17% depression
- 14% severe anxiety
- 23% mild/moderate anxiety
- 6% suicidal thoughts in last year
Law Student Survey – Help-Seeking

• Factors that discourage help-seeking:
  • Threat to job or academic status
  • Potential threat to bar admission
  • Social stigma
  • “I can handle it myself”
Law Student Survey – Help-Seeking

- Half of respondents report:
  “better chance of getting admitted to the bar if a mental health or substance use problem is hidden”
Study of the Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys
"Problematic Drinking" = hazardous, possible dependence
Lawyer Study – Mental Health

- 28% depression
- 19% severe anxiety
- 11.5% suicidal thoughts during career
Young Lawyers at Risk

• The younger the lawyer, the greater the likelihood of:
  • Substance Use Disorder
  • Depression

• Opposite of current perception
Barriers to Help Seeking

• Not wanting others to find out they needed help

• Concerns regarding privacy or confidentiality

• = Stigma
National Task Force on Lawyer Well-Being:
“...seeking to create a MOVEMENT towards improving the health and well-being of the legal profession.”
Task Force Report

• “The Path to Lawyer Well-Being: Practical Recommendations for Positive Change”
  • Focused on impairment and well-being
  • 44 recommendations
  • Addressed to legal stakeholders:
    • Judges
    • Regulators
    • Legal Employers
    • Law Schools
    • Bar Associations
    • Professional Liability Carriers
    • Lawyers Assistance Programs
OUR CHALLENGES

- 21-36% problem drinkers
- 28% depression
- 19% anxiety
- 23% elevated stress
- 25% work addiction
- High suicide rate
- Sleep deprivation
- Work-life conflict
- Avoid seeking help
- Job dissatisfaction and attrition

OUR POTENTIAL

- Physically strong and healthy
- Emotionally thriving
- Contributing to society
- Focusing on client care
- Feeling connected and a sense of belonging
- Willing to seek help
- Engaged at work
- Continuously seeking intellectual growth
- Emotionally intelligent
- Experiencing a sense of meaning and purpose
What is lawyer “well-being”?

A continuous process in which lawyers strive for thriving in each dimension of their lives:

- **Emotional**
  - Recognizing the importance of emotions. Developing the ability to identify and manage our own emotions to support mental health, achieve goals, and inform decision-making. Seeking help for mental health when needed.

- **Occupational**
  - Engaging in continuous learning and the pursuit of creative or intellectually challenging activities that foster ongoing development. Monitoring cognitive well-being.

- **Intellectual**
  - Developing a sense of meaningfulness and purpose in all aspects of life.

- **Social**
  - Developing a sense of connection, belonging, and a well-developed support network while also contributing to our groups and communities.

- **Physical**
  - Striving for regular physical activity, proper diet and nutrition, sufficient sleep, and rejuvenation. Minimizing the use of addictive substances. Seeking help for physical health when needed.

- **Spiritual**
  - Financial stability.
Three Reasons to Take Action

(1) Organizational success—in law firms, corporations, and government entities.

(2) Well-being influences ethics and professionalism.
   - Rule 1.1 – competence
   - Rule 1.3 – diligence

(3) Humanitarian reasons—untreated mental health and substance use disorders ruin lives and careers.
Five core steps for a sustainable culture in the legal profession:

1. Identify stakeholders and their roles in bringing about culture change
2. Diminish stigma associated with seeking help for disorders
3. Emphasize that well-being is part of duty of competence
4. Expand educational outreach on mental health and substance use disorders, as well as issues related to well-being
5. Change tone of legal profession to make health and well-being a top priority
General Recommendation: Acknowledge the Problems and Take Responsibility

• Every sector of the legal profession must support lawyer well-being.

• Each of us should take a leadership role within our own spheres to change the profession’s mindset.

• Transform passive denial of problems to proactive support for change.
General Recommendation: Use This Report as a Launch Pad for a Profession-Wide Action Plan

• Changing the culture will not be easy.

• Develop a National Action Plan that continues the effort started in this report.

• An organized coalition will be necessary to plan, fund, instigate, motivate, and sustain long-term change.
General Recommendation:
Leaders Should Demonstrate a Personal Commitment To Well-Being

- Policy statements alone do not shift culture.
- Change requires buy-in and role modeling from top leadership.
- Leaders can create and support change through their own demonstrated commitment to core values and well-being.
General Recommendation: Facilitate, Destigmatize, and Encourage Help-Seeking Behaviors

• Take steps to minimize the stigma of mental health and substance use disorders.

• This stigma prevents lawyers from seeking help.

• Research shows that the most effective way to reduce stigma is through direct contact with someone who has personally experienced a relevant disorder.
What Stigma Means

• ABA Hazelden Study - Barriers to seeking help included
  • “not wanting others to find out they needed help”
  • “concerns regarding privacy or confidentiality”
Erasing the stigma

• Stigma refers to a feeling of disgrace or fear
• Experienced with mental health issue or just stress
• The bearer has feelings of shame and isolation
• “I’ll do it myself!”
• Education can help with public stigma; personal stigma is tougher – especially for us
• What do you think of?
Stigma

• How we visualize people
• How we talk about mental illnesses
• How we think about mental illnesses
• How we treat people with mental illnesses
Stigma

• Isolation - No get well cards
• Shame
• Negative attitudes
• Stereotypes
• Prejudice
• Misunderstanding
• Discrimination
• Indignity
• Hopelessness
Resistance to Treatment

• People live with their symptoms 10 years before seeking treatment

• Only 60% actually receive treatment

• Stigma is the largest barrier to people receiving treatment
Why Attorneys Can Be Resistant to Treatment

**RULES OF RECOVERY**
- Don’t analyze
- Don’t compare
- Don’t justify
- Don’t blame
- Don’t judge
- Don’t control

**RULES OF LEGAL PRACTICE**
- Analyze
- Compare
- Justify
- Blame
- Judge
- Try to control
Acceptance in Workplace

- Reluctance to disclose
- Nondisclosure adds stress
- Work is an evidence-based practice
- Accommodations work
Making a Change

• Be openly supportive of those working to support well-being
• Do not support jokes or comments about colleagues being weak, etc.
• Develop a good understanding of the potential for unconscious bias and be alert
• Think of your language
• Notice and interrupt
Changing Our Language

- Addict
- Substance Abuse
- Clean
- Dirty Screen
- Relapse
- Crazy
- Person with a Substance Use Disorder
- Substance Use
- Abstinent
- Testing Positive
- Recurrence
- Person with a Mental Illness
What Do You Think?

• What impact do your decisions have on decision making?

• Think about your own comfort and discomfort when communicating.

• Be aware of the comfort/discomfort of others.

• Be open to feedback.
Stress and Why Managing it Matters
Incremental Buildup of Stress

Gradual accumulation of minor stresses throughout the day/week

Low stress level

Noticeable stress reaction
Moderating Stress Buildup

Stress reduction activities
General Recommendation: Foster Collegiality and Respectful Engagement Throughout The Profession

- Develop and enforce standards of collegiality and respectful engagement.

- Chronic incivility:
  - Depletes energy and motivation
  - Increases burnout
  - Inflicts emotional and physiological damage
  - Diminishes productivity, performance, creativity, and helping behaviors
General Recommendation: Partner With Lawyer Assistance Programs

- Partner with and ensure stable and sufficient funding for the ABA’s Commission on Lawyer Assistance Programs (CoLAP).
- Partner with and help ensure sufficient funding for state-based lawyer assistance programs.
- Lawyer assistance programs are indispensable partners in educating and empowering the profession to address the well-being crisis.
General Recommendation: Guide and Support the Transition of Older Lawyers

- Senior lawyers can bring much to the table:
  - Wealth of experience
  - Public service
  - Mentoring of new lawyers

BUT, aging lawyers have an increasing risk for declining physical and mental capacity.
General Recommendation: Begin a Dialogue About Suicide Prevention

• Lawyers have high rates of suicide.
• Stakeholders need to provide education and take action.
• Suicide is a highly stigmatized topic.
• Make a concerted effort towards suicide prevention to demonstrate to the legal community that we are not afraid of addressing this issue.
Judicial Recommendations

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Judicial Stress – The Cases

• Judges regularly confront contentious, personal and vitriolic proceedings.
• Judges make life changing decisions.
• Judges face a significant decision burden.
• Judges encounter Horrific underlying facts.
• Judges experience constant exposure to trauma.
Judicial Stress – The Job

- Violence
- Elections
- Isolation – the robe never comes off
- Technology expectations
- Congested dockets
- Public criticism and lack of respect for the rule of law
Judicial Stress – The Stigma

• Embarrassment
• Fear of public exposure
• Perfectionism
• He or she will figure it out themselves/I don’t know what to say
• Fear of retribution
• Staff and lawyers as enablers
• I’m the one who gives the orders
Judicial Recommendations

• Communicate that Well-Being is a Priority
• Develop Policies for Impaired Judges
• Reduce the Stigma of Mental Health and Substance Use Disorders
• Conduct Judicial Well-Being Surveys
• Provide Well-Being Programming for Judges and Staff
• Provide information about available resources and encourage use.
• Monitor for Impaired Lawyers and Partner with Lawyer Assistance Programs
Recommendations for Employers

• Establish Organizational Infrastructure to Promote Well-Being.
• Form a Lawyer Well-Being Committee.
• Assess Lawyers’ Well-Being.
• Establish Policies and Practices to Support Lawyer Well-Being.
• Monitor for Signs of Work Addiction and Poor Self-Care.
• Actively Combat Social Isolation and Encourage Interconnectivity.
• Provide Training and Education on Well-Being, Including During New Lawyer Orientation.
• Emphasize a Service-Centered Mission.
• Create Standards, Align Incentives, and Give Feedback.
Law School Recommendations

THE REPORT OF THE NATIONAL TASK FORCE ON LAWYER WELL-BEING
Law School Recommendations:

- Create Best Practices for Detecting/Assisting Distressed Students
- Develop well-being resources
- Evaluate classroom practices for their impact on student well-being
- Include Well-Being Topics in Courses on Professional Responsibility
- Discourage alcohol-based social events
THE REPORT OF THE NATIONAL TASK FORCE ON LAWYER WELL-BEING

Bar Association Recommendations

THE PATH TO LAWYER WELL-BEING: Practical Recommendations For Positive Change
Bar Association Recommendations:

• Encourage and Provide Well-Being Education in Coordination with Lawyer Assistance Programs

• Train Staff to be Aware of LAP Resources & Refer its Members

• Serve as an Example of Best Practices at Bar Association Events
Bar Association Recommendations:

- Sponsor Research on Lawyer Well-Being as part of Annual Member Surveys
- Launch/Support a Lawyer Well-Being Committee
Lawyer Assistance Program Recommendations

THE REPORT OF THE NATIONAL TASK FORCE ON LAWYER WELL-BEING
Lawyer Assistance Program Recommendations

- Emphasize confidentiality
- Develop high quality well-being programming
- Follow ABA recommendations for foundational elements
- Secure adequate and stable funding
State by State Implementation

• Begin with Chief Justice or his or her designee and create a “to do list”
  • Review the Report, create priorities, develop an “action plan”

• Convene state stakeholders:
  • Include representatives from:
    • The state judiciary
    • Law schools
    • Law firms
    • Other employer representatives
    • Regulator’s office
    • State lawyers assistance programs
    • Bar associations
    • Insurance carriers
Why do it?


“When Spider Webs Unite they can Tie Up a Lion”...

Ethiopian Proverb
Lawyers Concerned for Lawyers
Minnesota LAP

• History

• Current Services
  • Confidentiality
  • Lawyers, judges law students and their families
  • Education
    • CLEs
    • Website [www.mnlcl.org](http://www.mnlcl.org)
  • Consultation
    • Advice and support to concerned persons
    • Assistance to legal organizations with policies and procedures
Lawyers Concerned for Lawyers Minnesota LAP (continued)

- Current Services (continued)
  - Clinical Services
    - 24 hour hotline
    - Assessment
    - Intervention Coaching
    - Short term counseling
    - Referral to Community Services
    - Group Therapy
    - Support Group
  - Mentoring
  - Social Support
Partnership with EAP

- Up to 4 free counseling sessions
- Resource website
- www.sandcreekeap.com
  - Click on employees
  - Enter password LCL1
- Contact EAP directly at 612-332-4805 or toll-free: 1-800-367-3271
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LAWYERS CONCERNED FOR LAWYERS

There is Help

There is Hope