The State of Lawyer Well-Being and Why it Matters

Hawaii Task Force on Lawyer Well-Being Virtual Summit 2020
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- Co-Chair, National Task Force on Lawyer Well-Being
- Immediate-past Chair, ABA Commission on Lawyer Assistance Programs
- Former litigator, law professor, lobbyist, lawyer assistance program director
- In recovery since December 2009
The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys (the “Lawyer 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)
Law Student Survey

- Conducted in 2014
- 15 diverse law schools
- 3,300 law students responded
- Published in 2016

- In the prior 12 months:
  - 25% at risk for alcohol use disorder
  - 17% screened positive for depression
  - 36% screened positive for anxiety
Law Student Survey

Low rates of help-seeking:
- 42% felt they needed mental health help in past year
- Only half of those sought assistance

Beliefs that discourage help-seeking:
- Threat to job or academic status
- Threat to bar admission
- Social stigma
- “I can handle it myself”
"Problematic Drinking" = hazardous, possible dependence

- General U.S. Population: 32%
- All Attorneys: 21%
- Attorneys under 30 years old: 6.4%
Mental Health Concerns During Career

For Lawyers:

- 46% depression (28% in the last year)
- 61% anxiety
- 11.5% suicidal thoughts
The younger the lawyer, the greater the likelihood of:

- Substance use disorder (1:3 for alcohol)
- Depression

“It is reasonable to surmise…that being in the early stages of one’s legal career is strongly correlated with a high risk of developing an alcohol use disorder.”

Study authors at 51.
# National Task Force on Lawyer Well-Being

## National Organizations
- Conference of Chief Justices
- National Conference of Bar Examiners
- National Organization of Bar Counsel
- Association of Professional Responsibility Lawyers
- National Client Protection Organization
- National Conference of Lawyer Disciplinary Boards
- The National Judicial College
- National Association of Law Student Affairs Professionals

## Entities Inside the ABA
- Commission on Lawyer Assistance Programs
- Standing Committee on Professionalism
- Center for Professional Responsibility
- Young Lawyers Division
- Law Practice Division Attorney Wellbeing Committee

## Individuals
- Malpractice Carriers
- Global Law Firms
- Authors of studies that served as catalyst for the Task Force

[www.lawyerwellbeing.net](http://www.lawyerwellbeing.net)
The Lawyer Well-Being Movement Is Sweeping The Nation

The National Task Force report triggered a wave of concern and action across the country. Hover over a state on the map to find out what State Task Forces and Commissions are doing to promote thriving in the legal profession.
Statewide Well-Being Initiatives

Supreme Court Initiatives
• Virginia – 2017*
• Vermont – 2017*
• Colorado – 2018
• Illinois – 2018
• Massachusetts – 2018*
• West Virginia – 2018
• Nebraska – 2019
• Utah – 2018*
• Arkansas – 2019*
• Kansas – 2019
• Minnesota – 2019
• Hawaii – 2019
• Montana – 2019
• Wisconsin – 2019
• Montana – 2019

State Bar Initiatives
• Pennsylvania – 2020
• New Mexico – 2020
• New York – 2020
• Georgia – ongoing
• Florida – ongoing
• Tennessee – ongoing
• Connecticut – 2018
• Texas – 2018
• Alabama – 2018
• Oregon – 2018
• Indiana – 2019
• Kentucky – 2020
• Oklahoma – 2020
• Wisconsin – 2020
• Idaho – 2020
What is Well-Being?

Well-Being is about:

• PREVENTION of impairments (substance abuse, mental health problems), and
• TREATING impairments when they occur, and
• PREVENTION of their relapse

AND it’s about a continuous process of thriving across multiple dimensions…
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**
  - Cultivating personal satisfaction, growth, and enrichment in work. Financial stability.

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

- **Spiritual**
  - 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.
Why Lawyer Well-Being is Important

Organizational effectiveness:
• It’s good for business!
• Recruitment and retention are supported
• Burnout, loss of productivity, malpractice claims are diminished

Ethical integrity and professionalism:
• It’s good for clients!
• Key element in competence and fitness to practice

Humanitarian reasons:
• It’s good for lawyers and their families!
Recruitment and Retention:

• Differing generational attitudes towards well-being (work-life balance)
  • Younger staff expect Er to care about them as a person
  • Quality of life is paramount concern

• Study of who has left a job due to mental health reason:
  • Gen Z (ages 5-23) 75% and Millennials (ages 24-39) 50%
  • Baby Boomer (ages 56-76) 10%

• Research regarding prevalence of depression, Millennials are:
  • 50% more likely than GenX (ages 40-55)
  • 110% more likely than Baby Boomer

• Cost of replacing an associate is $200-500k + implicit costs from lost relationships, disruption of work (avg. of 213% of annual comp.)
Why do *YOU* need to know all of this??

PROFESSIONAL DUTIES
- Disciplinary Rules of Professional Conduct
  - 1.1 Competence
  - 5.1 Responsibility of Supervisory Lawyer
  - 8.3 Reporting Professional Misconduct

PROFESSIONAL RESPONSIBILITIES (*What responsibilities do I owe to my profession?*)
- Part of being a self-governing profession
- Part of my duty as an officer of the court
- Taking care of our own
Well-Being Strategies:
You | Your Colleagues | Your Work Community
Among U.S. Workers:

- National Center for Health Statistics and Census Bureau’s Household Pulse Survey shows that in the third week of July:
  - 36% of adults exhibiting signs of anxiety disorder (8% last year)
  - 30% exhibiting signs of depressive disorder (6.6% last year)
- Between 40-50% of workers report feeling burned out (= disengagement)
- 60% of adults say they’re more tired than ever before
- Loneliness, social isolation, and touch deprivation is a factor (Law was already the loneliest profession)
- Use of alcohol, anti-anxiety medications, antidepressants and sleep aids are increasing
Stress Impacts Well-Being

(Based on work by Drs. David Posen & Peter Nixon)

- Boredom
- Stress Sweet Spot
- Fatigue
- Exhaustion
- Illness
- Breakdown

Stress Level

Performance

Stress Level
Moderating Stress Buildup

Stress reduction & resiliency activities
Your Circle of Control/The Role of Acceptance

What you CAN control

What you can’t control

What you can’t control

What you can’t control
Positive Emotions
Creating Upward Spirals
Benefits of Positive Emotions

- Positive emotions boost resilience
  - Quicker cardiovascular recovery after disruption
  - Post 9/11, people with more frequent positive emotions showed greater post-traumatic growth and less depression
- Better physical health
- More life and work satisfaction
- Less anxiety and depression
Developing an “Attitude of Gratitude”
Meditation
Calming the Mind
Benefits of Meditation

- Physical:
  - lowers heart rate
  - stress reduction

- Cognitive:
  - improves memory and focus
  - increases effectiveness

- Emotional:
  - stabilizes emotions
  - reduces anger
Mindfulness Resources

- MindfulnessinLawSociety.com
  - virtual sits
  - “Mindful Mondays”
- Apps for guided meditations
  - UCLA Mindful - free
  - Headspace for Work
  - Calm
  - Insight Timer
Mindfulness Technique: STOP

A simple way to remember to be mindful is to STOP:

- S – Stop
- T – Take a Breath
- O – Observe
- P – Proceed
Be Vulnerable

Ask for Help
Why Get Help Sooner, Not Later

- Substance use and mental health disorders are:
  - typically progressive and often get worse over time
  - treatable and manageable, especially if dealt with early
- Extreme suffering can be avoided – of the lawyer, family, friends and firm.
- Recovery really is possible
Getting Help

• Hawai‘i Supreme Court – Attorneys and Judges Assistance Program
  • 1-800-273-8775
  • 24/7 CONFIDENTIAL assistance
  • https://hawaiiaap.com/

• Find a Therapist  www.psychologytoday.com

• Employee Assistance Program

• Law School Office of Student Affairs

• Suicide Prevention Lifeline
  • 1-800-273-TALK
Worried about someone?

Hey! I have a strong opinion about this! 
Listen to your gut.
What You Could/Should Do

• Talk directly to the other person
• If you cannot (or should not), find someone who can
• Consult with Hawaiʻi Supreme Court – Attorneys and Judges Assistance Program ahead of time (https://hawaiiaap.com/)
• RU Ok is a great resource (www.ruok.aus.org)
• Don’t ignore your concerns!
WFH is a complicating factor
  ▪ Isolation is the norm (breeding ground for SUDs)
  ▪ Online interaction impedes reading of body language, behavior

Standards of appearance have changed

Valid signs:
  ▪ Poor (or absent) work product; absenteeism from online meetings
  ▪ Changes in speech patterns (slurring)
  ▪ Not responding to emails, texts, etc.

Compassionate peer to peer connection is still the key
Formula for the “difficult conversation”

- Plan the place and time; be ready to suggest resources (get from AAP)
- Establish rapport
- Convey your concern
- State the facts of what you’ve noticed
  - don’t diagnose
  - don’t lecture or accuse
- Ask them to talk about what’s going on, then LISTEN!!
- Offer resources
- Repeat as necessary
We may all be in the same storm...

but we’re not in the same boat!
Well-Being and Your Work Community Amidst Covid

Some things to remember now:

1. For many, the “check engine” light is on
   • you just might not see it - yet
   • recognition and acceptance of this new reality is essential for dealing with it

2. Talk! On the phone, Zoom, etc.
   • create opportunities to talk 1:1 and together
   • the value of good listening and kindness can’t be understated!

3. For those in leadership: everyone else will model your behavior
   • demonstrate your own commitment to self-care
   • encourage others to do the same.
U.S. Lawyer Well-Being Initiatives

Since Publication of Report in 2017:

- ABA Legal Employer Pledge Campaign – over 185 signatories
- Well-Being Toolkit for Lawyers and Legal Employers
- *Fear Not: Speaking Out to End Stigma* – ABA Video 2019
- Law School Wellness Survey 2019
- Judicial Survey of Stress and Resilience 2019
- Legal Employer Policy on Impairment and Well-Being
- Annual Lawyer Well-Being Week – [www.lawyerwellbeing.net](http://www.lawyerwellbeing.net)
- NTF’s State Initiatives Collaboration Project
- “Path Well-Being in Law” Podcast
ABA Legal Employer Pledge Campaign*

- 186 of largest legal employers on the globe have signed
- Other signatories include small firms, law schools, gov’t offices
- Pledge asks for commitment to:
  - Provide education on well-being and impairments
  - Disrupt the status quo of drinking-based events
  - Provide confidential access to experts and in-house self-assessments
  - Protocol and leave policy for those needing treatment
  - Help-seeking and self-care are core values

*email Bree if you want to sign up: bree1964@att.net
Well-Being Toolkit for Legal Employers

- Packed with ideas for promoting well-being
- Educational programming
- Well-being surveys
- Resources

Find it at: https://lawyerwellbeing.net/well-being-week-resources/
QUESTIONS?