

WATKINS

The State of Lawyer Well-Being and Why it Matters

Hawaii Task Force on Lawyer Well-Being Virtual Summit 2020

Bree Buchanan, JD, MSF

Senior Advisor, Krill Strategies, LLC



- 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

Beginning of Well-Being Movement

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

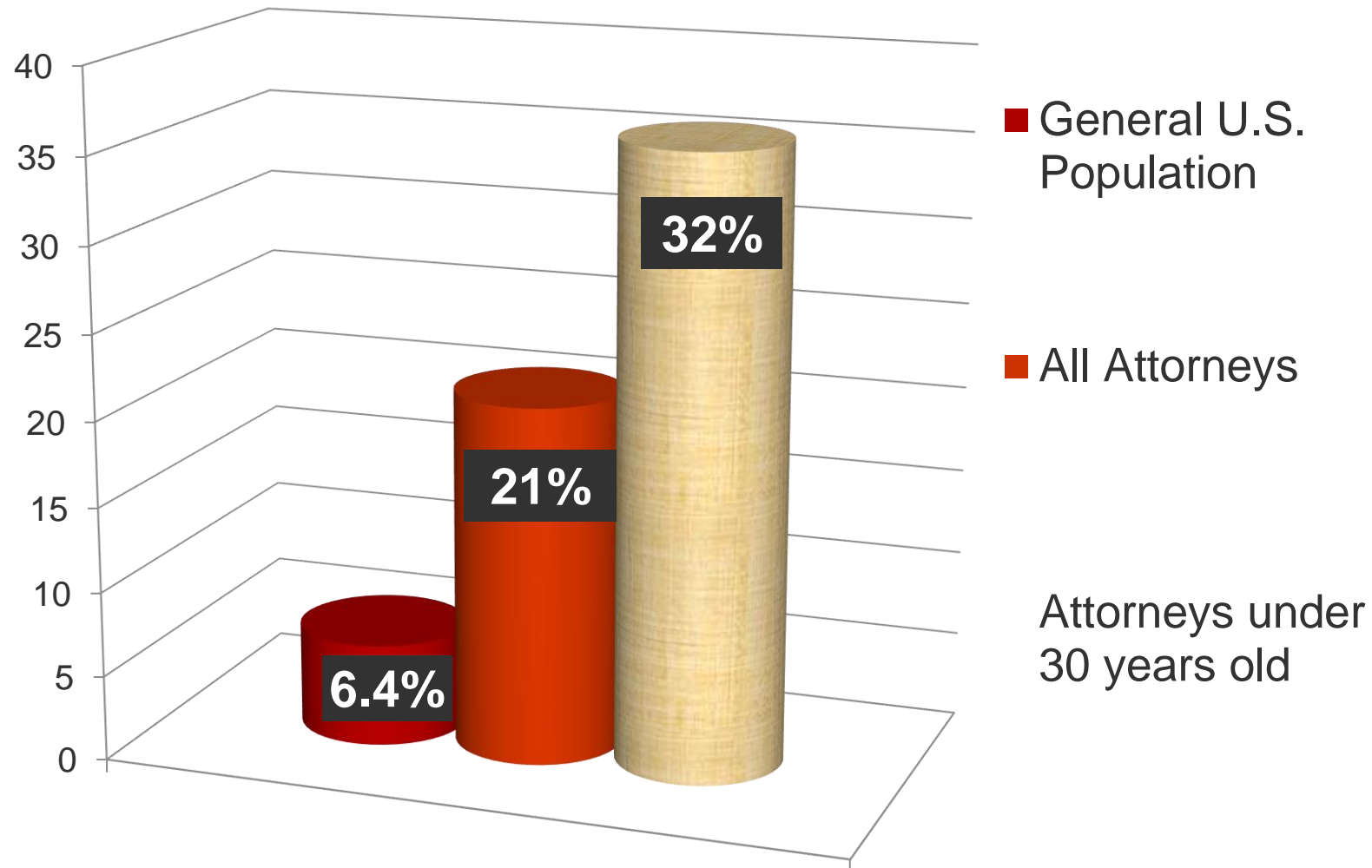
Low rates of help-seeking:

- 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”

U.S. Lawyer Study 2016



"Problematic Drinking" = hazardous,
possible dependence

Mental Health Concerns During Career

For Lawyers:

- 46% depression (28% in the last year)
- 61% anxiety
- 11.5% suicidal thoughts

Young Lawyers at Risk

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

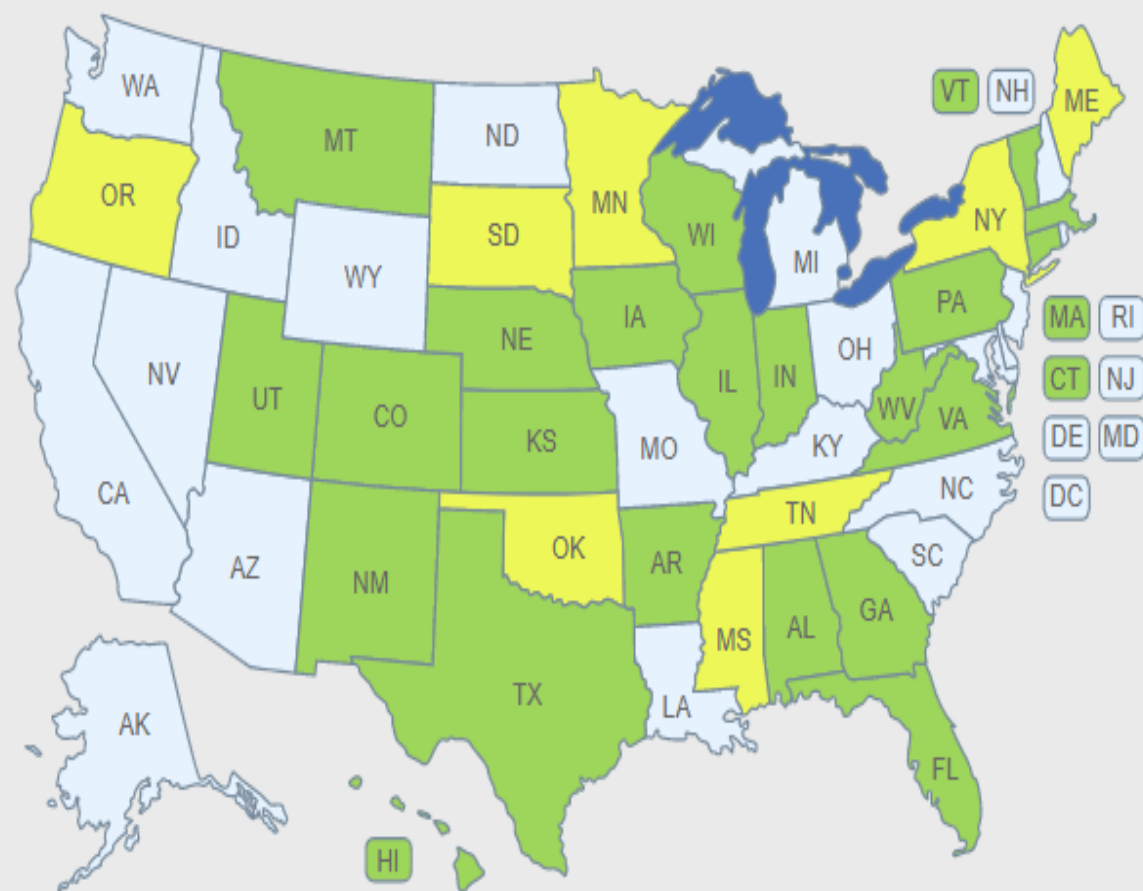
- Conference of Chief Justices
- National Conference of Bar Examiners
- National Organization of Bar Counsel
- Association of Professional Responsibility Lawyers
- National Client Protection Organization
- National Conference of Lawyer Disciplinary Boards
- The National Judicial College
- National Association 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



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

- Pennsylvania – 2020
- New Mexico – 2020
- New York - 2020

State Bar Initiatives

- 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?

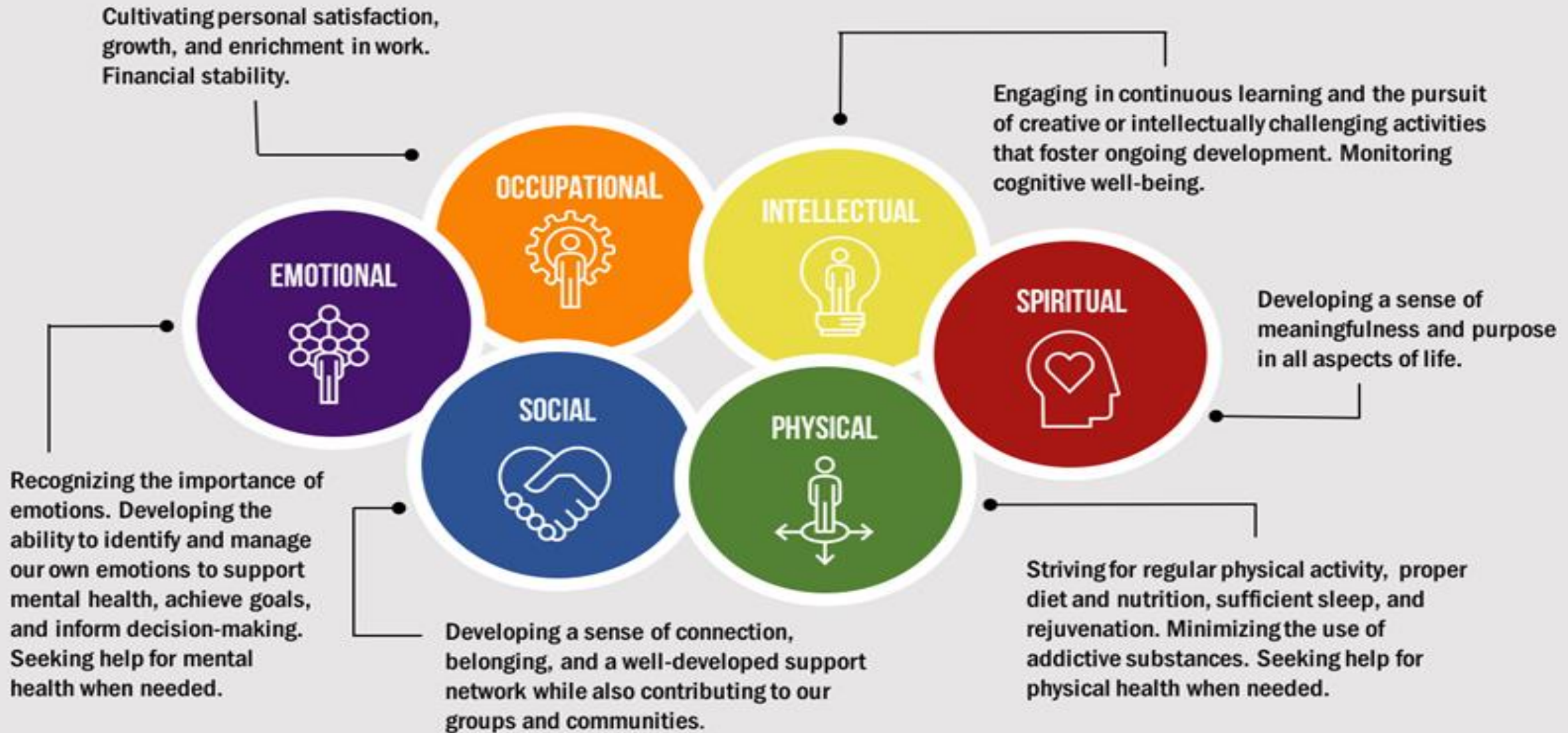
Well-Being is about:

- 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:



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!

Making the Business Case for Well-Being

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

LATHAM & WATKINS LLP

Well-Being Strategies: **You | Your Colleagues | Your Work Community**

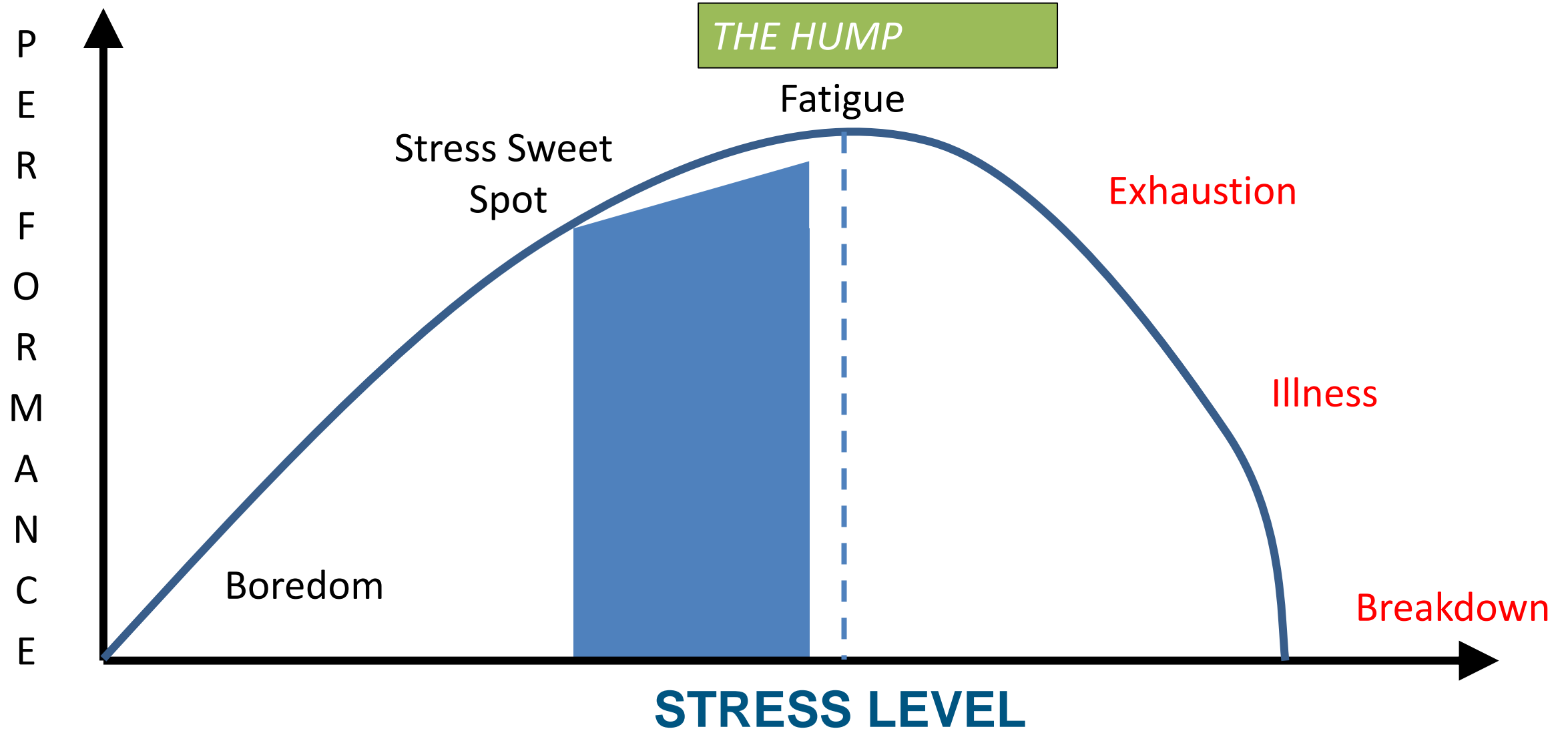
Context: Practicing During a Pandemic

Among U.S. Workers:

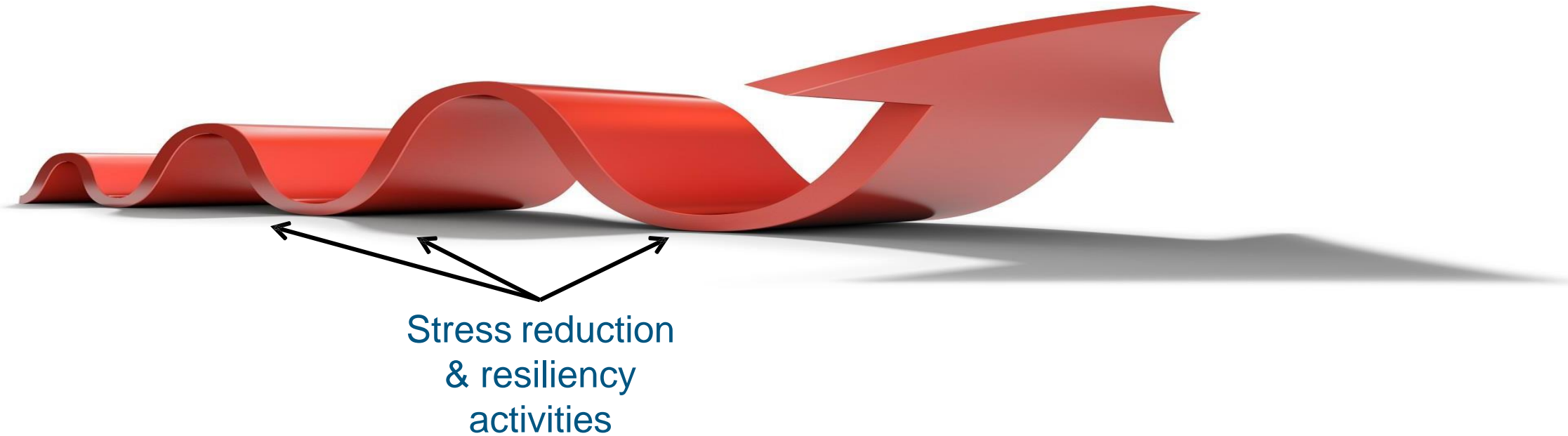
- National Center for Health Statistics and Census Bureau's Household Pulse Survey shows that in the third week of July:
 - 36% of adults exhibiting signs of anxiety disorder (8% last year)
 - 30% exhibiting signs of depressive disorder (6.6% last year)
- Between 40-50% of workers report feeling burned 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

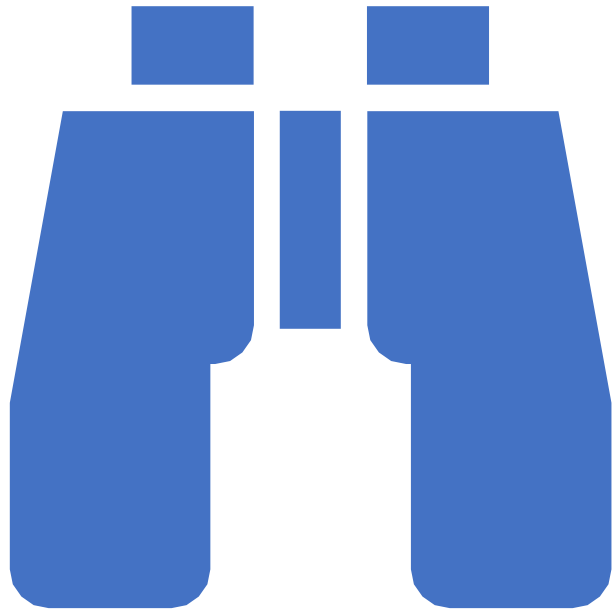
Stress Impacts Well-Being

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



Moderating Stress Buildup



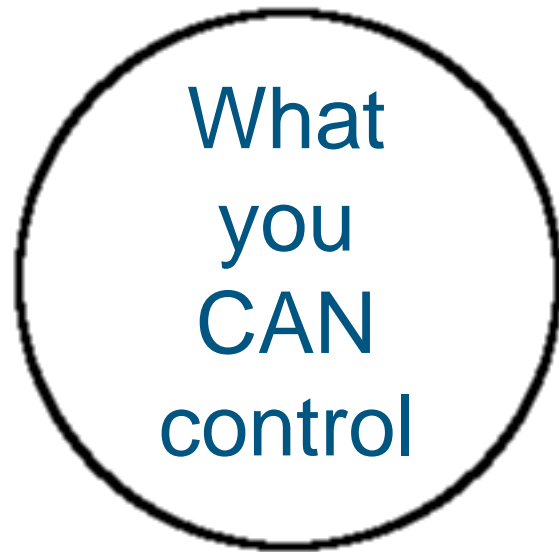


Perspective

Getting Right-Sized



Your Circle of Control/The Role of Acceptance



What you
can't control

What you
can't control



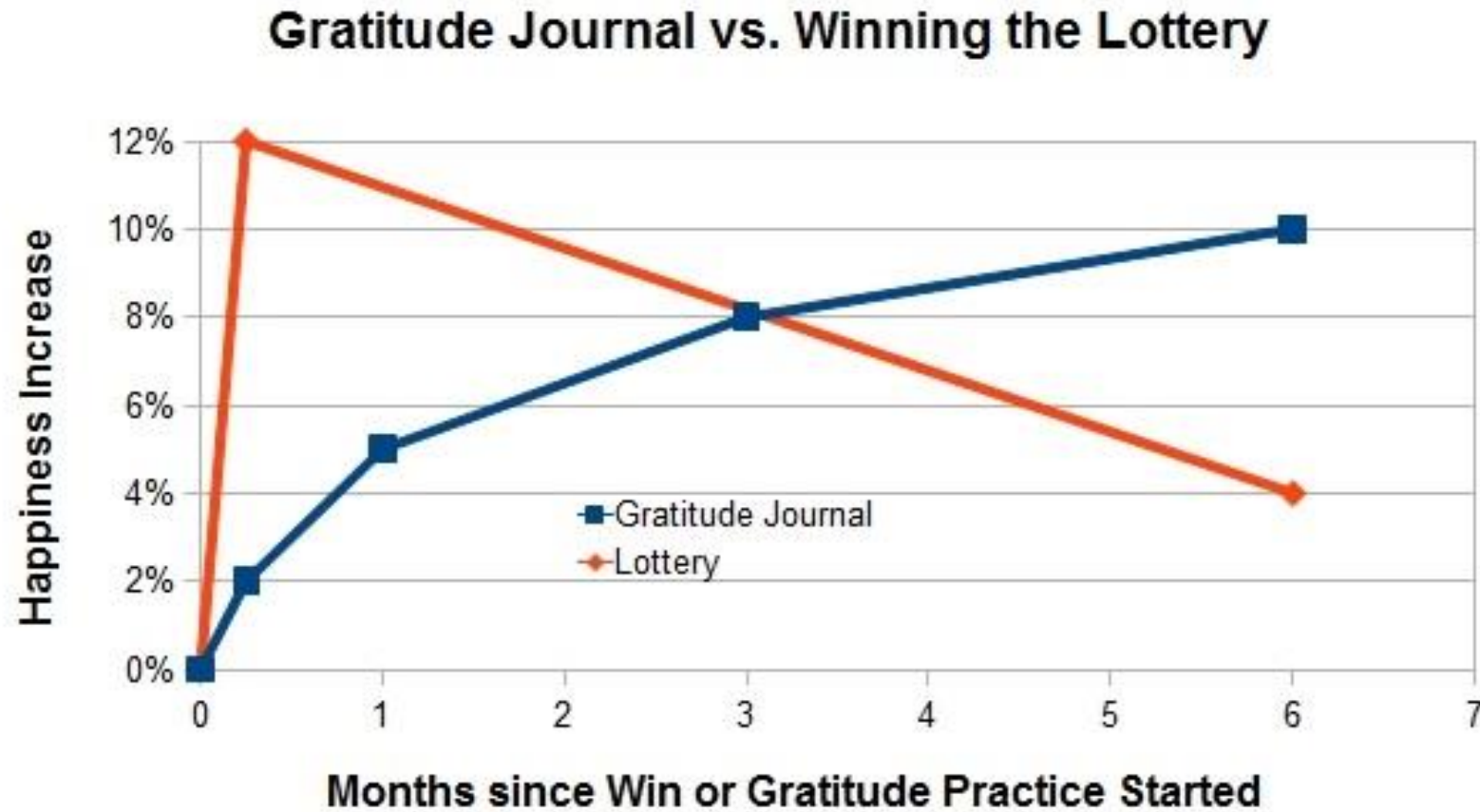
Positive Emotions

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](https://www.mindfulnessinlaw.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?



What You Could/Should Do

- Talk directly to the other person
- If you cannot (or should not), find someone who can
- Consult with Hawai'i Supreme Court – Attorneys and Judges Assistance Program ahead of time (<https://hawaiiiaap.com/>)
- RU Ok is a great resource (www.ruok.aus.org)
- Don't ignore your concerns!

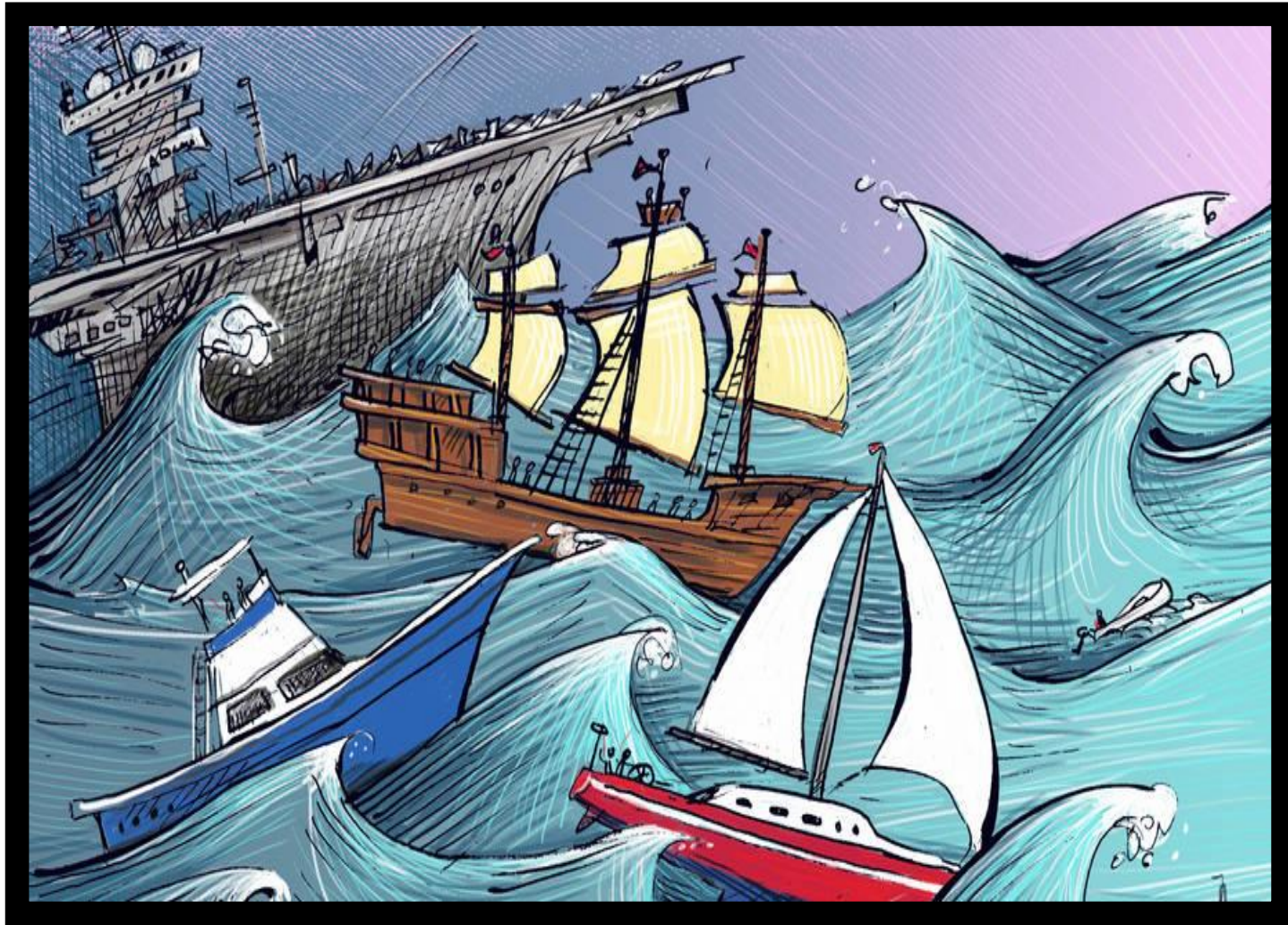
Helper Considerations During Covid-19

- 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

Well-Being and Your Work Community (...and Covid)



***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
- NTF's State Initiatives Collaboration Project
- “Path Well-Being in Law” Podcast

Law Firm Well-Being Initiatives

ABA Legal Employer Pledge Campaign*

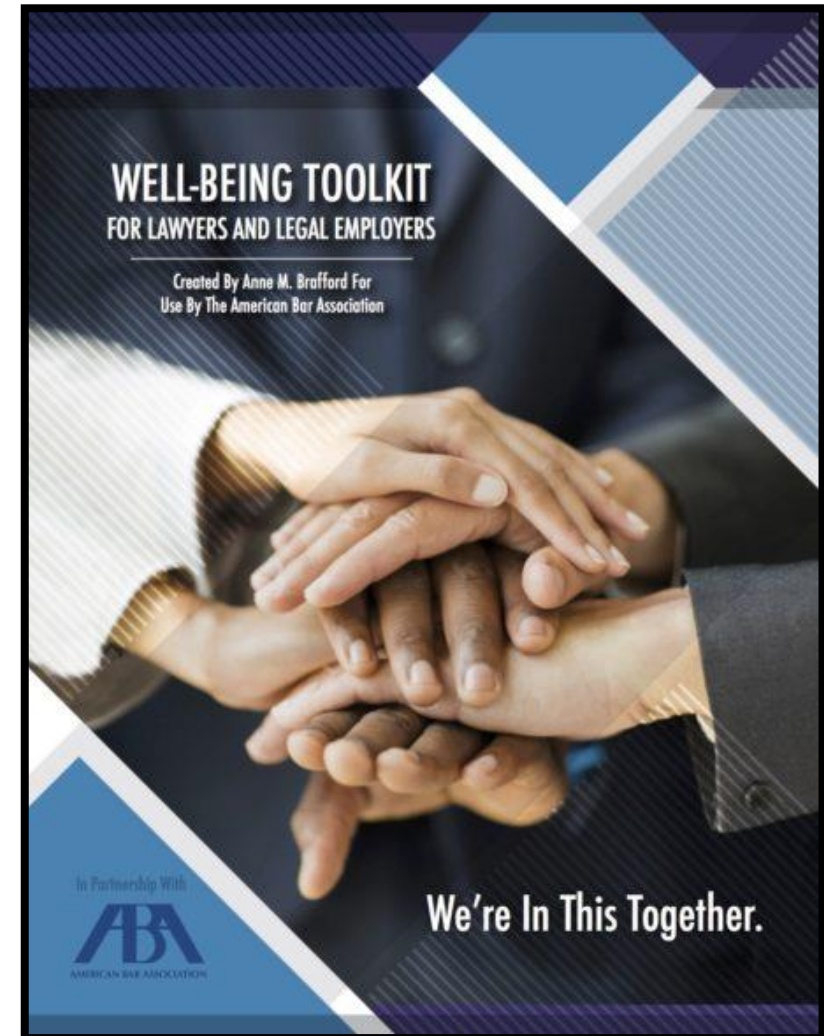
- 186 of largest legal employers on the globe have signed
- Other signatories include small firms, law schools, gov't offices
- Pledge asks for commitment to:
 - Provide education on well-being and impairments
 - Disrupt the status quo of drinking-based events
 - Provide confidential access to experts 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?





KRILL STRATEGIES

TRANSFORMING THE LEGAL PROFESSION

Bree Buchanan, JD

bree@prkrill.com

512.797.6118