Report of the
WELL-BEING WORKGROUPS

June 23, 2023

Acknowledgements

The Oregon State Bar, Professional Liability Fund, and Oregon Attorney Assistance Program extends their thanks and acknowledgment to the following members who volunteered with the Well-Being Work-Groups.

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Executive Summary

National survey findings and media attention have long documented the health concerns attendant to the legal profession, including stress, anxiety, depression, and problem substance use. It is evident that lawyer well-being issues can no longer be ignored. In 2016, a National Task Force on Lawyer Well-Being (Task Force) was formed as a collaborative effort by the ABA Commission on Lawyer Assistance Programs and a broad coalition of other national legal organizations. The 2017 Task Force Report was the impetus for a number of actions in 2018 by the Oregon State Bar (OSB or Bar) and the Oregon Supreme Court (Court), including the adoption of a continuing legal education requirement on mental health and substance use, the adoption of essential eligibility requirements for admission, and the revision of bar application questions about mental health history. The Task Force Report also inspired Oregon’s January 2019 Wellness Summit (2019 Summit), a collaboration by the Oregon State Bar’s (OSB or Bar) with the Oregon Attorney Assistance Program (OAAP). Leaders in the profession gathered at the 2019 Summit to discuss well-being issues, and then provided the Board of Governors (BOG) with recommendations for Bar departments and volunteer groups. The recommendations noted that volunteer groups were an integral element of the future of well-being.

In 2021, the Bar’s House of Delegates (HOD) built off the 2019 Summit and approved Delegate Resolution No. 5, Conference of Well-Being Stakeholders, directing the Bar and the BOG to convene a Conference of Well-Being Stakeholders (the Conference). In June 2022, this Conference convened with several leaders from stakeholder groups who identified and grouped challenges to well-being. These challenges were the subject of the discussion meetings of four designated Workgroups: (1) Well-Being in the Workplace and Evolving Legal Culture/Law Practice Management; (2) Regulatory and Disciplinary Practices, and Structural Impediments to Well-Being; (3) Reducing Vicarious Trauma and Stigma in the Legal Profession; and (4) Lawyer Education.
and Law School Well-Being. Workgroups were comprised of members of the bar from solo practitioners to members of mid-size and large firms; employees of non-profits; government; and employees of the OAAP, PLF and OSB.

Four recurring threads permeated the Workgroup discussions.

1. A Knowledge Gap exists among the public, members, bench, and law schools.

A knowledge gap is present for lawyers, judges, law schools, and the public. Improved well-being requires that the entire legal community recognize transformation has begun. While stakeholders have already implemented many much-needed changes, it is vital that more members of the community understand the need for well-being and gain familiarity with available resources.

2. Legal Culture and Business Practices are entrenched in historic traditions that are sometimes at odds with well-being practices.

Established and inflexible legal culture and business practices impact professional well-being. The profession is subject to a culture of stress when it may not need to be. The disciplinary process itself is stressful for attorneys, impacting their time and ability to engage in their livelihood.

3. Application & Disciplinary Processes are stressful and stigmatizing for both the public and the lawyer.

Attorney regulation plays a critical role in the protection of clients and the public. However, the regulatory process can be stressful to both the public, with concerns about malfeasance by lawyers, and lawyers involved in the process. The admissions process can be stressful to law students and deter students from seeking help. Disciplinary processes also were unclear procedurally and aggravated an already stressful process, and the stigma of discipline can affect well-being.

4. Cultural Changes are Necessary to Foster Well-Being and Longevity in the Profession.

Lastly, well-being issues impact attrition and retention futures for the profession. Demand for legal services is up, but professional membership is not. This is especially the case in rural marketplaces. Elements of the legal culture in Oregon have resulted in attorneys leaving the practice and not returning. The result is insufficient lawyers to meet the need for legal services in Oregon. An alarming number of lawyers are leaving Oregon or the profession or both, particularly lawyers from or expressing nondominant cultures or identities. This dramatically impacts access to justice for Oregonians.

Oregon has long been a national leader in recognizing the importance of well-being in the legal profession. The Oregon Attorney Assistance Program
(OAAP) has been a well-being resource since 1982, providing counseling, assisting, educating, and advocating for lawyers, judges, and law students. Additionally, the OSB Quality of Life Committee serves the Bar’s concern and commitment to the health and well-being of the legal community. Its mission is to encourage and support a culture that recognizes and promotes quality of life objectives as important to personal and professional development.

Based on the workgroup conversations, it is clear that there is more work to be done by all stakeholders to advance well-being in the legal profession. This report provides a summary of the types of issues that must be addressed, and ideas for stakeholders to consider to establish a sustainable culture-shift that recognizes and values lawyer well-being as critical to protection of the public, the provision of high quality legal services, and the advancement of a fair, inclusive, equitable and accessible justice system.

BACKGROUND

The legal profession has historically been synonymous with stress, anxiety, depression, problem substance use, and many other mental and behavioral health concerns. This reputation has ironically been a badge of honor for some and a sorrowful reality for many others. The first major study of lawyer mental health concerns was conducted over thirty years ago. These studies showed elevated levels of depression and alcohol abuse among lawyers. Over the decades there have been innumerable small, localized surveys confirming that, in many respects, the legal profession is unhealthy. These studies were briefly commented upon, but ultimately ignored, relegated to the bins of inconvenient research.

National Well-Being Surveys

In 2016, the American Bar Association and Hazelden Betty Ford Foundation conducted the first large-scale well-being study of lawyers (ABA/Hazelden Study). It identified the prevalence of substance use and mental and behavioral health conditions within a national survey sample of 13,000 lawyers. The ABA/Hazelden Study found that 21 percent of licensed, employed attorneys had

3 Id.
4 Id. at 367, 371, 388-389.
5 Patrick R. Krill et al., The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys, 10 J. Addiction Med. 46 (2016),
alcohol abuse issues, 28 percent struggle with some level of depression and 19 percent demonstrate symptoms of anxiety. The study also found that younger attorneys in the first 10 years of practice exhibit the highest incidence of these problems. One important finding from the research was that law students and lawyers both reported that stigma, the negative perception about mental health and substance use challenges, kept people from accessing help.

Also in 2016, fifteen law schools surveyed 3300 law students in a survey of law student well-being. The Survey of Law Student Well-Being concluded that 43 percent of law students reported binge drinking at least once in the prior two weeks, 14 percent reported the use of a prescription drug without a prescription, and that 17 percent of respondents screened positive of depression. Both surveys established that anxiety, depression, unhealthy stress, and problematic substance use are endemic within the legal profession and law schools at rates significantly higher than that of the general U.S. adult population. That trend held true when comparing lawyers to other professionals and law students to students in other advanced degree programs.

The 2017 National Task Force on Lawyer Well-Being

These survey findings, and the national attention they generated, sparked the creation of the National Task Force on Lawyer Well-Being (Task Force), a collaborative effort by the ABA Commission on Lawyer Assistance Programs and a broad coalition of other national legal organizations. In 2017, the Task Force published The Path to Lawyer Well-Being: Practical Recommendations for Positive Change (Task Force Report), identifying significant well-being challenges in all major sectors (i.e., “stakeholder groups”) of the U.S. legal profession. It made specific recommendations for comprehensive change in every sector, focusing on five central themes:

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6 Id.
7 Id.
9 The ABA’s 2017 Task Force was conceptualized in 2016 by the ABA Commission on Lawyer Assistance Programs (CoLAP), the National Organization of Bar Counsel (NOBC), and the Association of Professional Responsibility Lawyers (APRL). The stakeholder participants of this Task Force included the ABA CoLAP; ABA Standing Committee on Professionalism; ABA Center for Professional Responsibility; ABA Young Lawyers Division; ABA Law Practice Division Attorney Well-being Committee; The National Organization of Bar Counsel; Association of Professional Responsibility Lawyers; National Conference of Chief Justices; and National Conference of Bar Examiners.
1. Identifying stakeholders and the role each of us can play in reducing the level of toxicity in our profession,
2. Eliminating the stigma associated with help-seeking behaviors,
3. Emphasizing that well-being is an indispensable part of a lawyer’s duty of competence,
4. Educating lawyers, judges, and law students about lawyer well-being issues, and
5. Taking small, incremental steps to change how law is practiced and how lawyers are regulated to instill greater well-being in the profession.10

The Task Force Report created a template for vital changes needed within our country’s legal profession.

**Oregon’s Well-Being Action**

In Oregon, the Task Force Report was the impetus for a number of actions in 2018 by the bar and the Court, including the adoption of a continuing legal education requirement on mental health and substance use,11 the adoption of essential eligibility requirements for admission,12 and the revision of bar application questions about mental health history.13

The Task Force Report also inspired the 2019 Wellness Summit. On January 25, 2019, the Oregon State Bar (OSB or Bar), in collaboration with the Oregon Attorney Assistance Program (OAAP) held a Wellness Summit, bringing together Oregon’s leaders in the legal profession to discuss the issues facing the legal profession related to well-being. A panel of resource experts presented the concerns about well-being for Oregon lawyers, and a panel of lawyers shared their own experiences of overcoming stress, addiction, and mental health issues. Approximately 130 lawyers attended the 2019 Wellness Summit to discuss ideas and brainstorm solutions.

The 2019 Wellness Summit provided the Board of Governors (BOG) with recommendations for bar departments and volunteer groups.14 The recommendations addressed issues of (1) healthy habits; (2) substance abuse, addiction, and mental health; (3) inclusion of non-dominant cultures; (4)

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13 Board of Bar Examiners, Letter Memorandum to Oregon Supreme Court, Oct. 8, 2019.
unique challenges for sole practitioners, rural lawyers, and law students; and (5) law firms and organizational support.\textsuperscript{15}

This 2019 report also noted that OSB volunteer groups were connected closely to its recommendations and the future discussion of well-being.\textsuperscript{16} Such groups include the Quality of Life Committee (QOL), the Advisory Committee on Diversity & Inclusion (ACDI), and the Oregon New Lawyers Division (ONLD).\textsuperscript{17}

\textit{The Oregon Conference of Well-Being Stakeholders}

In 2021, the Bar’s House of Delegates (HOD) approved Delegate Resolution No. 5, Conference of Well-Being Stakeholders.\textsuperscript{18} Building off the 2019 Wellness Summit, Delegate Resolution No. 5 directed the Bar to convene a Conference of Well-Being Stakeholders (the Conference) to explore certain areas in need of attention and report back to the HOD.\textsuperscript{19} The issues included:

1. Informing well-being efforts using diversity, equity, and inclusion principles and values;
2. Reducing stigma/shame and increasing help-seeking behaviors;
3. Vicarious trauma within our profession;
4. Lawyer education and law school practices;
5. Regulatory and disciplinary practices that affect well-being;
6. Well-being in the workplace and evolving legal culture;
7. Law practice management;
8. Structural impediments to well-being, including UTCRs, court deadlines, and trial court administration.\textsuperscript{20}

\textit{Conference Planning Committee}

A planning committee was convened in early 2022, which included a diverse group of members from the OSB, PLF, and Oregon Attorney Assistance Program (OAAP). Planning committee members identified stakeholder groups

\textsuperscript{15} Id.
\textsuperscript{16} Id.
\textsuperscript{17} Id.
\textsuperscript{18} Oregon State Bar House of Delegates, Delegate Resolution No. 5 (2021 Session) (attached as Appendix B).
\textsuperscript{19} Id.
\textsuperscript{20} Id.
that needed to be involved in the conference and reached out to leaders in these groups to encourage their attendance at the Conference.21

The committee also identified the well-being challenges within the profession to discuss at the Conference, including the importance of equity issues within the context of well-being. The committee developed the Conference goals and program, and planned for post-conference stakeholder workgroups meetings to further identify challenges to and ideas for well-being improvements within the various stakeholder sectors of the Oregon legal community.

The 2022 Conference of Well-Being Stakeholders
The Conference of Well-Being Stakeholders was held remotely by Zoom on June 13, 2022.

The three primary goals of the Conference were to: initiate open and candid conversation about vital well-being issues within the Oregon legal profession; serve as a first step in encouraging broader discussion about needed change, and; collaboratively develop thoughtful suggestions to Oregon bar decision-makers concerning the identification and implementation of future actions.22
The conference was well attended and successfully accomplished its intended goals, providing participants:

1. The opportunity to hear from leaders in the local and national legal community about their efforts to improve well-being; 23
2. New information about current research concerning the need for greater support of lawyer well-being;
3. A description of factors preventing lawyers from seeking mental health assistance when needed;
4. The opportunity to reflect on their own role in helping to reduce stigma associated with mental and behavior health conditions; and

21 Specifically, the committee noted that the judiciary, bar regulators, legal employers, law schools, stakeholders and representatives of government lawyers, public defenders, nonprofit lawyers, and solos and firms of all sizes, the OSB, the PLF, and the OAAP all needed to be actively engaged in the Conference for it to be successful.
23 Several leaders from many stakeholder groups spoke about the challenges with well-being in the legal profession, including Chief Justice Martha Walters, OSB President Kamron Graham, OSB CEO Helen Hierschbiel, past OSB presidents Liani Reeves and Vanessa Nordyke, PLF CEO Megan Livermore, OAAP Director Kyra Hazilla, OAAP Attorney Counselors Doug Querin and Bryan Welch, and Terry Harrell, founding member of the National Task Force on Lawyer Well-Being, past chair of the American Bar Association Commission on Lawyer Assistance Programs, and the Executive Director of the Indiana Judges and Lawyers Assistance Program.
5. Some direction about steps needed to address well-being moving forward.

During the Conference, participants entered breakout groups to begin the conversation about well-being in more detail. The committee organized stakeholders and volunteers into four Workgroups (Workgroups) to meet after the Conference to regularly discuss the challenges impacting attorney well-being.

WORKGROUPS

Beginning in September 2022, the Workgroups met regularly. The Workgroups centered on the following areas:

1. Well-Being in the Workplace and Evolving Legal Culture/Law Practice Management;
2. Regulatory and Disciplinary Practices, and Structural Impediments to Well-Being; (including UTCRs, court timelines, and trial court administration);
3. Reducing Vicarious Trauma and Stigma in the Legal Profession; and

Each workgroup operated with a framework to determine challenges and opportunities within their spheres of influence. A copy of the framework is attached within Appendix C. Conversations were facilitated by OAAP Director Kyra Hazilla, and OAAP Counsellors Bryan Welch and Kirsten Blume.
Legal Culture/Law Practice Management

The Law Practice Management Workgroup met three times to discuss how legal culture could be improved to support lawyer well-being. The workgroup comprised members of the bar from solo practitioners to members of mid-size firms; employees of non-profits; and employees of the OAAP, PLF and OSB. The work of the group could have been enhanced by greater participation of practitioners in firms of all sizes, members of the bench, and members of marginalized or traditionally under-represented groups, and younger attorneys.

At its initial meeting, the group identified ways they hoped the legal community would be different in five years. These included:

- Greater emphasis on supportive well-being practices;
- Fewer barriers to accessing mental health resources through reducing stigma and increasing resources;
- More “people-centered” practices in organizations, including practices that support healthy disengagement from work;
- Improved well-being practices for all members of the profession through improving diversity, equity and inclusion efforts is important for the well-being of the profession as a whole.
- Increased, successful efforts to educate the bench and bar in effective well-being practices, perhaps through the development and implementation of a “Bar Books-type” or “legal practice guide” or attorney well-being best practices handbook.

Through discussion, the group identified several themes that present challenges to well-being in the profession. These included the pressure of the billable-hour-based compensation system as a business model; stakeholders from law firm leadership expressed concerns that reductions in hours billed have economic consequences for firms; pressures driven by court calendars and the judicial system; the general lack of management awareness of, training in, and support of, well-being in the workplace; and the disconnect from purpose and meaning in the work for many in the profession. The workgroup also recognized that some improvements have been made in these areas, and more efforts should be made to identify and learn from lawyers and firms that are developing and advancing well-being efforts in their practices. Participants noted that employers have been affected by changing values in the workplace as workers from younger generations are forcing changes in all industries including law firms, nonprofits, government and public defense offices.
As next steps, the workgroup would like to see:

- Support for the development and implementation of a best practices manual that would include recommendations for management training;
- Support for the development and implementation of a regular well-being conference that would qualify for MCLE credits and bring together members of the profession with leaders in the well-being field;
- Encouragement of organizational buy-in and support for a well-being pledge and OSB recognition of lawyers and firms that model superior well-being practices.

Members of the workgroup expressed interest in participating in any or all of these efforts moving forward.
Reducing Vicarious Trauma and Stigma in the Legal Profession

The reducing vicarious trauma and stigma workgroup met for three sessions. This workgroup included representatives of the PLF, Oregon Judicial Department, Oregon Department of Justice, medium size firms, solo practitioners, and indigent defense providers. Stakeholders were well-versed in the issues surrounding Vicarious Trauma, defined as the process through which the professional’s inner experience and sense of the world is negatively transformed through engagement with clients’ trauma.24

The workgroup discussed structural and cultural barriers that contribute to ongoing vicarious trauma and stigma in the Oregon legal community. Structural issues include lack of policies and institutional support to well-being in the profession such as lack of leave, sabbatical, vacation, or time off policies. Other structural issues that contribute to stigma include public disciplinary notices, and lack of avenue to re-enter the bar. Cultural barriers in the profession include managers and leaders who do not know how to support teams around mental health issues and who do not share vulnerably of their own mental health challenges. Other cultural barriers are mentalities around “if I had to do it this way, so should you”, blaming individuals versus feeling accountable for the collective culture, competitiveness, and isolation in the field. Participants noted that our own biases and ideas about ourselves as professionals, coupled with public perception of lawyers feed unhealthy elements of identity.

Ideas to address vicarious trauma and stigma through structural and policy changes include:

• Protecting and safeguarding confidentiality when people raise vulnerable issues to reduce stigma including continuing to support the OAAP’s work as a confidential and free resource.

• Supporting cultural shifts in the field and ongoing education around mental health topics as well as tangible skills. Necessary cultural shifts include shifting from blaming individuals to collective responsibility, shifting to see lawyers as whole people, shifting to see lawyer well-being as good for business, managers being trained and responsible for well-being, and leaders speaking vulnerably to their own mental health experiences.

• Increasing connection, mentorship, residency training periods, and consultation opportunities to try to combat vicarious trauma and stigma.

• Addressing imposter experience and vicarious trauma experienced by lawyers who face various forms of identity based institutionalized oppression.

• The group also emphasized the value of a best practices manual for individuals, peers, managers, and leaders to know how best to support mental health issues and reduce stigma.

• Attending to structural elements of legal work that lead to vicarious trauma including a culture of overwork and under-resourced systems. In private offices and firms, addressing alternatives to the billable hour as a program to measure performance while recognizing the pressure of retaining and compensating employees, and in nonprofit environments unmanageable caseloads with too few resources mean lawyers are working at an unsustainable pace. Improving access to programs designed to give employees time away from work like sabbatical policies, mental health days, building in time off after completion of major projects or trials, and policies that promote working regular hours.

• Increasing alternatives to the bar exam and licensing, changes to the public disciplinary system, and creating a system to re-enter the bar after discipline.
Lawyer Education and Law School Well-Being

The lawyer education and law school well-being workgroup met twice. Participants included law student and law school representatives, representatives from the OSB Diversity and Inclusion Department, New Lawyer Mentoring Program, and CLE Seminars Program, ONLD representatives, and solo, small and medium sized firm attorneys.

Participants identified areas for growth and changes they would like to see in the Oregon legal community in five years:

- Training for professors and law students in mental health, addiction, secondary trauma, and recovery. Increased awareness for law students that accessing support for challenges will not keep them from admission to the Bar.
- Mentorship and modeling through a best practices handbook, including chapters written by attorneys with lived experience, normalizing struggles.
- More inclusiveness in teaching models, culture change in law school, and in early years of practice. Decrease in alcohol centered events. More reasonable billable hours for new lawyers.
- Stable numbers of attorneys, people staying in Oregon and staying in practice.

In considering specific challenges the workgroup identified four main areas for action:

- While there have been many changes in recent years, stakeholders identified room for growth in recognizing that legal culture begins in law school and training lawyers for work in Big Law is training in not showing vulnerability or weakness.
-Professors can grow their knowledge of trauma-informed pedagogy both in the face of current events outside of school as well as curriculum materials. Stakeholders from Oregon law schools shared programs showing promise including Trauma-Informed Teaching, and Identity in the Classroom workshops for professors, and uniform syllabus language addressing well-being.
- There is room for more mentoring for students and early career lawyers as well as for adjunct professors.
- Students are hopeful for more well-being content in classes. Professors could explore collaboration with mental health professionals. Connecting well-being to professionalism in class and through CLEs offered by community members.
Debt is a huge issue for law students and new lawyers. Many possible changes are being considered by the legislature and others. The economic survey by the bar in 2022 demonstrates that this issue is pressing. The workgroup members identified that professors’ voices were absent from the discussion. In addition to inviting professions and more participation from law students and deans at all three schools, a representative from the Board of Bar Examiners would be a helpful addition.
Regulatory and Disciplinary Practices, and Structural Impediments to Well-Being (including UTCRs, court timelines, and trial court administration)

The workgroup on regulatory, disciplinary and structural impediments to well-being met three times. Participants in this workgroup included OSB CEO, representatives from the OSB Regulatory Team, the OSB Diversity & Inclusion Department, the PLF, Oregon Judicial Department, medium size firms, solo practitioners, indigent defense providers, Quality of Life Committee, and lawyers with lived experience with these processes.

Workgroup members identified elements of Oregon legal community culture that are areas for growth over the next five years. Some of those topics raised are:

- Increasing lawyer education programing to make more lawyers aware of services (like the OAAP, Practice Management Attorneys, OSB mentorship, etc.,) available to help as well as preventative practices and pitfalls to avoid;
- Recognition of the court’s role and supporting (or impeding) well-being and the need for judicial fitness evaluations (surveys) outside the disciplinary process;
- More support for lawyers in the discipline process, especially those lawyers who have difficulty engaging, through empowerment, consideration of restorative justice practices in disciplinary matters, and pro bono attorneys in discipline cases;
- Standardization of local rules and practices in the judiciary that support well-being around the state including resources for best practices and identification of disparity in rules with a resource (evaluation/ombudsperson/helpline) when inconsistencies are problematic.

In looking at specific areas for future growth and movement toward well-being, the workgroup recognized the following areas for exploration for possible changes:

- UTCR review and revisions to allow for attorneys to attend to physical and mental health including communicating unavailability for some period of time for vacation, recovery from physical or mental challenge, etc. Review of all UTCRs and SLRs to identify areas where a well-being focused change is possible. Some preliminary investigation on the Odyssey system revealed that further investigation is necessary to determine if some statewide changes may be technologically possible.
- A review of the regulation of lawyers to address stigmatization, lack of participation, and barriers in cases that continue to bog down the process for all. Specific concepts discussed included whether providing experienced ethics counsel for all lawyers involved in discipline would aid
regulation, whether the possibility of reapplication after some period of
time and proof of reformation for Form B and disbarment would allow
for lawyer reformation while still protecting the public and effectively
regulate the legal profession, and whether public protection can be
achieved through some other reporting mechanism aside from the
reporting of discipline in the Bar Bulletin.

- Identify whether processes could be put in place when lawyers are
  unavailable or unwell to support a more robust volunteer network of
  lawyers, and the possibility of all lawyers identifying a person who could
  serve that role.

- Further recognition that regulatory processes can interact with elements
  of identity, neurodivergence, mental health conditions, and trauma
  history. Because there is some uncertainty in the investigatory process and
  there are few markers to allow people to know what to expect, there is
  room for more trauma-informed practice in the regulatory process.

The workgroup participants engaged in robust discussion and identified
the need for more lawyers in practice and with lived experience with the
disciplinary system to join the workgroup. This workgroup also noted the need
for more training on management and well-being much as the Law Practice
workgroup did. Participants were interested in meeting again and continuing
to address challenges on these topics. In looking forward to future work on
this topic, stakeholders noted that it will be useful to separate discussion of
regulatory practices from court practices, policies and procedures.
THREADS RAISED BY STAKEHOLDERS ACROSS WORKGROUPS

Staff at the OSB, PLF, and OAAP who attended multiple Workgroups noted that each of the Workgroups discussed reoccurring issues and themes that permeate the entire conversation around lawyer well-being. These reoccurring issues, known as threads in this Report, are interwoven into all aspects the legal profession. There were four recurring threads that arose during all of the Workgroups:

1. Public, Members, Bench, Law Schools Knowledge Gap;
2. Established, Entrenched, Traditional Legal Culture and Business Practices;
3. Application & Disciplinary Process is Stressful and Stigmatizing for Participants;
4. Cultural Changes are Necessary to Foster Well-Being and Longevity in the Profession.

Thread 1. The Knowledge Gap – Lawyers, Judges, Law Schools, and the Public

Improved well-being in the legal profession requires that lawyers, law students, and others are knowledgeable; that is, they understand the need for well-being and have familiarity with available resources.

Law School

Too often self-care and well-being are not prioritized by new lawyers. Other personal and professional responsibilities all too often simply get in the way. Despite increasing efforts by many law schools today to emphasize the importance of self-care and balance in one’s life, many law students do not enter law practice with much experience in truly knowing how to physically and mentally care for themselves. In fact, surveys have shown that many third-year law students are less likely to reach out for well-being support than their first-year peers. The Law School Well-Being Workgroup expressed concerns about this lack of help-seeking behaviors among law students and the need for law schools to be certain that self-care and well-being are given appropriate attention on par with that of other courses. Law students are exceptionally sensitive that help-seeking could get in the way of their application to the bar or their acceptance in the professional legal community.

The Law School Stakeholder Workgroup additionally discussed the need for alternatives to the bar exam, the importance of identifying the skills and qualifications needed to practice law, awareness of the importance of help-seeking as well as accurate information about the effect of accessing treatment during law school, and the role of well-being topics in the academic curricula.
Law Practice

Once in practice, lawyers lack the knowledge, time, and resources to seek out and find resources for lawyer well-being. The legal profession is only recently beginning to understand the importance of mental health. For some firm leaders, it is important to tie well-being to improving legal services and adding value to the firm. The profession fails to invest time in lawyer mental health, and it does not allow space for addiction and recovery. Solo practitioners have no one to mentor them to be good and healthy lawyers.

It is vital that lawyers in all stages of professional life take advantage of available well-being resources. While mental health and addiction treatment resource availability is certainly not perfect for Oregon’s legal profession, every lawyer in the state does have free and confidential access to the Oregon Attorney Assistance Program (OAAP), staffed by four experienced, trained, and full-time attorney counselors. Despite the many hundreds of trainings and presentations the OAAP has given over the past forty years, many lawyers remain uninformed or misinformed about healthy self-care and well-being practices and resources. While some lawyers will likely always struggle to find a healthy balance between the demands of their work and their own self-care, there has been a noticeable improvement during the last few years in the degree to which Oregon lawyers are increasing their awareness of OAAP resources, accessing those resources, recognizing the importance of well-being in their lives, reaching out for help, and generally making self-care an increasing priority in their lives. The bar’s mandatory Mental Health and Substance Use continuing education requirement helps to destigmatize mental health and addiction conditions and encourages treatment. The leadership the OSB, OAAP, and other stakeholders have shown in establishing this credit is a model for other states looking to improve attorney well-being.

There is a mistaken belief by some lawyers that one’s attention to their well-being is a time-consuming process that necessarily will have negative financial consequences. Law firm managers need training, support, and instruction to dispel these types of beliefs within their organizations. OAAP services, Employee Assistance Program resources, and professionals in the community can often be helpful in helping firms address these issues. Additionally, those in management roles are often faced with attorneys and other legal professionals experiencing crises, and stakeholders identified specific training in this area as vital for the profession.

Additional workgroup observations included the need for continued attention at all levels of the legal profession to broaden interest and participation in, and access to, well-being seminars, programs, and conferences. This is necessary to maximize dialogue and creative thought to address attorney well-being issues within the legal community. Additionally, law firm hiring practices can be highly stressful for lawyer applicants. Consideration should be given to
healthy techniques to mitigate unnecessary and unhealthy stress and anxiety in this process.

The Practice Management and Regulatory/Structural Workgroups made a number of observations and recommendations, including the availability of continuing education programming that should include attention to some of the common well-being challenges that can arise in a lawyer's personal and/or professional life: divorce, substance use, mental health leave, grief, suicide of friend, etc. In particular, it was noted that there is a need for more experiential well-being CLEs and the publication of personal stories in OSB publications.

Additional workgroup suggestions included the development of a “Best Practices” handbook for lawyer well-being. The 2017 Task Force Report is a template for well-being issues addressed. It would need to be comprehensive in scope, appropriate from a medical, psychological, and clinical perspective, and “user-friendly.”

Consideration might be given to a “Wellness Pledge” that would include law practice well-being factors, such as lower billable hours, support for remote work, childcare, and medical and mental health support. The pledge could serve as a recruitment tool and it would be intended for the lawyer needing well-being assistance, their managers, supervisors, and colleagues.

**Lawyer Regulation**

There is a “knowledge gap” among lawyers regarding OSB’s regulatory and disciplinary process. This is especially true in the case of lawyers who may be experiencing distress as a result of a mental or behavior health concern.

**Form B Resignations**

An attorney subject to disciplinary investigation or prosecution,²⁵ may elect to end their disciplinary proceeding by submitting their Form B resignation. BR 9.1 et seq. An attorney’s Form B Resignation in Oregon permanently precludes them from ever again practicing law in the state, regardless of the conduct being investigated at the time of submission. Bar Rule (BR) 9.4.

Irrespective of gravity of offense, lawyers often experience significant mental or emotional distress throughout the bar disciplinary process. The stress of the entire disciplinary process leave lawyers unable to fully appreciate

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²⁵ Standard Form A resignation is not available to an attorney who the attorney is suspended, disbarred, or on probation pursuant to BR 6.1 or BR 6.2, or charged in any jurisdiction with an offense that is a misdemeanor that may involve moral turpitude, a felony under the laws of this state, or a crime punishable by death or imprisonment under the laws of the United States. BR 9.1.
their possible options within the process, such as stipulation to discipline, stipulation to diversion, probation, or the stipulation to transfer to inactive status. Lawyers view the Form B route as an immediate and expedient way of ending a disciplinary investigation and/or prosecution. Because the disciplinary process can trigger intensely negative emotional and physical responses, some lawyers feel that they have to choose between attending to their well-being and participating in the disciplinary process. For those lawyers, a Form B resignation can appear to be the only option. 26

*Lack of Knowledge - Bar Regulations*

The Regulatory, Disciplinary, and Structural Impediments to Well-Being Workgroup made a number of well-being observations, largely dealing with the familiarity of lawyers and the public with OSB systems and resources.

One such entity many lawyers and the public are unaware of is the State Lawyers Assistance Committee (SLAC) ORS 9.568. SLAC is an OSB committee providing confidential peer assistance and monitoring to lawyers struggling with a physical, mental, cognitive, or behavioral health condition that impairs, or may impair, their ability to practice law. A referral to SLAC may be a viable alternative to an OSB disciplinary referral. SLAC’s purpose is to protect the public and support the potentially impaired lawyer. The committee is composed of lawyers and public members, some of whom may be doctors or mental health professionals.

Lawyers may come under confidential SLAC monitoring/supervision by self-referral or by the referral of concerned others (e.g., lawyers, judges, members of the public). A referred lawyer’s confidentiality protections while under SLAC monitoring continue so long as they remain in compliance with SLAC’s monitoring instructions.

Stigma can be a powerful factor inhibiting lawyers from seeking and getting necessary mental/behavioral health treatment. It is vital that bar-sponsored conferences, seminars, and presentations seeking to increase awareness of bar regulations, professionalism and ethics, or mental/behavioral health issues be designed to *reduce stigma* by, for example, normalizing health conditions and being transparent, yet sensitive, to these topics.

In working to address the knowledge gap, it is vital that information is provided both to and from all sectors. Some parts of the Oregon legal community appear not to have been adequately represented in the well-being

26 Disciplinary alternatives to Form B resignation may include, BR 2.10: Diversion; BR 3.2: Stipulation to Transfer to Inactive Status – Mental Incompetency or Addiction. BR 3.6: Stipulation to Discipline; and BR 6.2: Probation.
stakeholder groups. This includes Office of Public Defense Services, Oregon Judicial Department, including Trial Court Administrators, and court staff.

**Thread 2. Established, Entrenched, Traditional Legal Culture and Business Practices**

An observation frequently made by all the stakeholder workgroups was that the inflexibility of many traditions, customs, and business imperatives in the practice of law often impacts a lawyer’s well-being.

The Culture of Stress

The reality of the practice of law and the business of the practice of law can be unnecessarily stressful and unhealthy; the actual practice is based more on habit and tradition than on reason and wisdom. For example, fractious or insensitive partner/associate relations, unprofessional communications with opposing counsel and the bench, excessive billable hour requirements, unreasonable work schedules, and last-minute assignments are generally contrary to lawyer well-being. There are many areas where improvements can be made. An important starting point is the willingness by all parties to have open, candid, respectful, and risk-free conversations about workplace well-being issues and consideration of person-centered policies and practices.

While the traditional law firm associate model is supposed to encourage mentorship, the reality is that the legal profession does not support mentorship of new lawyers enough and this impacts new lawyer wellness. In contrast, the medical field has a residency requirement or fellowship models. These support pathways and systems in the legal profession could have a positive impact on wellness.

Many of the workgroup well-being observations included moving away from what has traditionally been viewed as a normal part of the practice of law. Some suggestions included, the reduction/elimination of billable hour requirements and the expectation of hours worked weekly; the changing of expectations about pace of work, including eliminating firm policies regarding e-mail response time or hours of availability; an expansion of sabbatical policies; gym access; the use of part-time professionals to reduce attorney workloads; improved mentorship programs; time off benefits with a recognition of well-being (mental health days); and reasonable judicial sensitivity to lawyers’ schedules (e.g., taking planned vacations) and a meaningful opportunity outside of a formal complaint process for lawyers to provide feedback on judicial conduct. The courts’ application of the rules is inconsistent county to county, and this uncertainty impacts lawyer well-being.

Many of the well-being changes of the kinds suggested will likely occur over time. They will be part of a cultural change within the legal profession, one that has already begun. Workgroups explored different ideas for incentivizing these shifts in tradition and practices. While the American Bar Association’s Well-
Being Pledge is a resource, workgroups saw the value in exploring an Oregon-specific option. Workgroups also suggested using existing frameworks, like the Rules of Professional Conduct, the Uniform Trial Court Rules, or House of Delegate Resolution to illuminate the pervasive challenges to well-being that are entrenched in the culture.

Perceptions of Attorneys and Stigma

Public perception and self-conception within the legal community feed unhealthy ideas of professional identity and cut against a vital aspect of well-being, authenticity. The public and the media have many ideas about what lawyers do and who they are; for example, aggressiveness is prized and professionalism means disavowing one's emotions. Although, it was noted that lawyers do feel guilt when working with a heavy or excessive caseload. Many lawyers in many practice areas (personal injury, criminal defense, prosecution, juvenile, etc.) experience enmity because of their work. Attorney marketing reinforces the public's misconception that aggression by their lawyer is a desirable character trait and necessary to receive legal services of value. The public, the legal community, and lawyers themselves do not allow for lawyers to show up with their “whole selves” and to feel comfortable to express themselves genuinely. Mental health stigma and professional expectations discourage leaders from discussing their own struggles and successes. Being vulnerable in a profession subject to an adversarial process is not easy. This dynamic feeds the experience of “imposterism” – high achieving people doubting their own abilities and feeling as if they don’t belong. This is particularly true for lawyers who face various forms of identity-based institutionalized oppression.

There can be little question that lawyers, like most people, can occasionally feel stigmatized or “less than” because of some real or perceived condition, characteristic, or experience in their lives. This sense of feeling flawed can impact how one experiences life and interacts with others. Showing up in the world as one’s “true self” can be risky; the possibility of being exposed or found out can have a potential chilling effect on virtually all social interactions.

Feeling stigmatized is antithetical to well-being. As reflected in the ABA/Hazelden Study and the Survey of Law Student Well-Being referenced earlier, lawyers and law students alike have elevated levels of depression, anxiety, unhealthy stress, and problematic substance use. Many do not seek the assistance they need, primarily because they do not want others to find out; they often fear personal and/or professional repercussions. The fear of being stigmatized interferes with lawyers’ and law students’ willingness to get treatment.

One of the positive effects of the OSB’s mandatory Mental Health and Substance Use MCLE requirement is that all Oregon lawyers today have the opportunity to learn about mental and behavioral health and substance use
conditions. The OAAP, whose Attorney Counselors have made hundreds of these MCLE presentations to groups of lawyers over the years, is very aware of the potentially stigmatizing effects these health conditions can have. Normalizing these conditions, talking openly about them, publically speaking about them, and publishing personal stories about them has shown that gradually the toxic effects of stigma can be reduced and lawyers are more willing to seek assistance when they need it.

Thread 3: Application & Disciplinary Process is Stressful and Stigmatizing for Participants

The Workgroups noted that lawyers involved with the Bar’s admissions and regulatory process are likely to experience a significant amount of stress. Simply interfacing with the bar creates a substantial amount of stress for even rote matters, from the perspective of the practitioner.

Admissions

For law students, the transition from the educational experience to a professional path can be fraught with challenges. While in law school applicants find and complete a host of forms to sit for the bar examination. Many law students are deeply concerned about the process of admission to the bar including the crucible of the exam and the intense scrutiny of the character and fitness process. There are persistent misunderstandings about the character and fitness portion of the application that serve only to foment anxiety throughout a law student’s entire tenure at law school, and discourage students from accessing help when they need it. Students are not sure what information is relevant to the character and fitness evaluation and often have to revive previous traumatic experiences in order to fully recount relevant past conduct. The Court and the Bar has substantially changed the admissions approach to character and fitness questions in response to the 2017 Task Force Report; but the lore and misinformation surrounding the process persists. More outreach and communication is necessary to adequately support students with this overwhelming exercise.

The Lawyer Education and Law School Well-Being Workgroup observed that law school accommodations for academic testing are substantially different from bar accommodations for licensure exams for bar admission. The absence of common accommodations that are available in the academic setting can be a substantial shock to bar examinees. In addition, the current form used by the OSB for Bar testing accommodations can be a source of stress among applicants. The Test Accommodations Information Sheet asks for in-depth information regarding diagnoses, symptoms, and personality disorders that subjects students to a much higher level of scrutiny than they are accustomed to when accessing law school testing accommodations. Because they are often most familiar with the unique needs of their student cohorts,
law schools may be a helpful resource to the Bar in addressing accommodation issues.

The Bar’s application process includes investigation of the applicant’s character and fitness to practice law. Such scrutiny often has a chilling effect on law students’ willingness to seek needed treatment for mental and behavioral health conditions. Very simply, they do not want to create a record that may be to their disadvantage in getting Bar admission or getting a job.\(^2\)\(^7\) Despite significant positive changes to the character and fitness component of admissions,\(^2\)\(^8\) there continues to be misinformation about the character and fitness process with negatively impacts law students and applicants. It is important that students are clearly informed that the Board of Bar Examiners (BBX) is legally prohibited from discriminating against applicants on account of mental or physical conditions. Further, communication about the substantial changes to character and fitness process is needed for applicants. The BBX specifically considers an applicant’s rehabilitation efforts and activities if they are known to have a mental or behavioral health condition, which it intended to remove the stigma associated with seeking help.

**Discipline**

As a self-regulating profession, the disciplinary process plays a critical role in protecting clients and the public, but it may also impact a lawyer’s ability to engage in their livelihood. The Workgroups noted that procedural delay impacts elements of the disciplinary process and this aggravates an already stressful process.

Attorney well-being can be a primary factor in the violation of the Rules of Professional Conduct, resulting in discipline. The legal community needs to encourage more openness, encourage outreach, and encourage lawyers to look for help. As is, the purpose of lawyer discipline is not to stigmatize disciplined lawyers. The purpose of attorney discipline is to protect the public. The disciplinary process is an adversarial process, which can create delay through the process. Additionally, the disciplinary process is transparent and operates in full view of the public. The rules allowing an adversarial and transparent process to occur can be confusing, even to attorneys. The process needs more clarity, and attorneys within the system may benefit from

\(^{27}\) Organ et al., *supra* Note. 8 (Survey of Law Student Well-Being).

\(^{28}\) Section 21 of the ABA 2017 National Well-Being Task Force Report had four recommendations for Admissions Departments of State Bars. In response to the recommendations, the Oregon Board of Bar Examiners formed one task force to review and re-write the questions asked on the bar exam application, and to consider adopting essential eligibility requirements. The task force ultimately recommended the adoption of essential eligibility requirements, and the BBX recommended the same to the Court. The essential eligibility requirements are now codified as Rules for Admission (RFA) 1.20 - 1.45.
additional guidance from lawyers who understand the process. Discipline can seek special relief in cases of imminent danger to public; and lawyers may enter diversions and the SPRB recognizes the value of a diversion process.

One reoccurring discussion issue was about the Bar Bulletin publication of attorney discipline. The Bar publishes lawyer discipline as required by BR 2.4(i)(2) in the monthly Bar Bulletin. Stakeholders noted that identifying respondents subject to discipline creates a stigma against the attorney. The Bar’s records are all subject to Oregon Public Records law, ORS 192.011 et seq. and BR 1.7(b) provide that all disciplinary records are available to the public. Regulatory stakeholders noted that the purpose of the publication of discipline is to educate membership about legal ethics, support an open and transparent regulatory process, and to protect the public and the integrity of the profession. Other stakeholder noted that the publication in the Bar Bulletin perpetuates stigma and suggested considering other mechanisms to educate membership and support an open and transparent process.

An additional issue that arose concerned Form B resignations. As noted above, an Oregon lawyer who elect to submit their Form B resignation during a disciplinary investigation or those who are disbarred can never reinstate in Oregon. Oregon is one of nine jurisdictions within the United States with permanent disbarment. This is a barrier for those lawyers who would seek reinstatement because they have redeemed themselves and recovered. Stakeholders noted that upon recovery, the impairment that resulted in misconduct may be resolved, and a person may no longer be at risk for future misconduct. The Workgroup balanced this concept with the need of the Bar to regulate the legal profession and protect the public. Regulatory stakeholders noted the reality that disbarment is the result of the most serious of all legal ethical violations. Other options within the regulatory process, including temporary suspensions, stipulations to lesser sanctions, and diversion provide the opportunity to resolve discipline without a Form B resignation. Additionally, the Court must approve the Form B resignation as warranting disbarment and also find that adequate planning is established by the respondent attorney for client protection.

**Thread 4: Cultural Changes are Necessary to Foster Well-Being and Longevity in the Profession**

A lack of well-being causes professional attrition and impacts retention futures. Demand for legal services is up. But professional membership is not growing. All Oregon law school students do not stay in Oregon. There is a lack of attorneys in rural marketplaces where demand for legal services is high. There are some elements of the legal culture in Oregon that have resulted in attorneys leaving the practice, resulting in insufficient lawyers to meet the need for legal services in Oregon. Attorneys in Oregon are retiring or otherwise leaving the profession at a faster rate than new attorneys are entering the profession, causing little or no growth in the attorney population. One possible explanation for the professional attrition is that a lack of well-being in the profession is a contributing factor.
The Workgroups noted that an alarming number of lawyers are leaving Oregon, the profession, or both after taking the bar here, particularly lawyers representing or identifying with nondominant cultures or identities. The OSB Climate Assessment of 2018 indicated that this issue is particularly prevalent in Oregon and is interrelated with the experience of lawyers from under-represented groups experiencing micro-aggressions and other problematic aspects of traditional legal culture.\(^\text{29}\) The transition from student to Oregon lawyer must be more seamless. This is another element of collaboration between the profession and the schools. Oregon law schools have adopted transformational practices that have not yet made their way into the profession as a whole. It is important to make the Oregon practice appealing by improving lawyer well-being. Success would mean a boon to both schools and the Bar. There must be more outreach to law students about the opportunities in Oregon; and this is especially the case as the OSB promotes and integrates mental health assistance for the profession. Law schools have worked to provide support for well-being to their students. They are receptive to new approaches and much closer collaboration with the bar.

The Quality of Law Committee at the OSB and its groups need to develop closer relationships with the three law schools. The Bar has made more durable connections with the schools through the work of individual committees, sections, and divisions. Law schools would like to be more closely integrated and connected with the ONLD.

Law school may not be an attractive option primarily because of the debt. Law school debt is stressful for law students and lawyers. Salary and debt play a big role in career decision-making, keeping lawyers in positions that are not a good fit because of the debt load. The OSB’s most recent economic survey indicates the need for more attention to the relationship to levels of debt in the legal community, stress, well-being, and intersectional identities.\(^\text{30}\)

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\(^{29}\) [https://www.osbar.org/_docs/resources/ClimateSurvey/2019ClimateSurvey_Final.pdf](https://www.osbar.org/_docs/resources/ClimateSurvey/2019ClimateSurvey_Final.pdf)

\(^{30}\) 2022 Economic Survey, page 9:

Across the state, lawyers reported owing an average of $116,974 in law school student debt. The lawyers working in private nonprofits owed the highest amount on average ($135,900), while judges/hearing officers and in-house counsel have the least mean amount of debt ($54,692 and $94,512, respectively). At the same time, the highest mean total debt by years admitted to practice was 4-6 years ($168,384), and the lowest mean total debt was among those practicing for 16-20 years ($46,883). With race and ethnicity data, it seems that Black and African American lawyers have the highest total student debt on average ($179,874), and Asian ($112,513) and White ($112,446) lawyers have the lowest on average.
WELL-BEING RESOURCES

Oregon has been a national leader in recognizing the importance of well-being in the legal profession. We are today at the forefront of further expanding our focus and emphasis on this essential feature of who we are as a legal community. Well-being resources include the following:

Oregon Attorney Assistance Program (OAAP)
For over forty years, Oregon lawyers have had free and confidential access to the OAAP. Funded by the PLF and strongly supported by the bar membership, it has over this time become a primary resource for counseling, assisting, educating, and advocating for the well-being of Oregon’s lawyers, judges, and law students. As one of the oldest lawyer assistance programs in the country, it has long been viewed as a leader among the nation’s lawyer assistance programs. It offers many resources to our legal community, including working to bridge the education gap by offering approximately 40 CLEs per year. The OAAP works with Oregon firms and groups to tailor topics for the specific needs of the lawyers in the organizations requesting the presentation. All CLEs model destigmatizing, anti-oppressive, and trauma-informed practices. As a fully-funded program of the PLF with a full-time staff of dually trained, professionally educated and experienced attorney counselors it is uniquely able to serve the legal community on a daily basis throughout the entire state.

OSB Quality of Life Committee
This OSB committee has for years been a symbol of the Bar’s concern and commitment to the health and well-being of the Oregon legal community. Its mission has included encouraging and supporting a culture within our community that recognizes, accepts, and promotes quality of life objectives as important to personal and professional development. The committee’s vision is intended to support lawyers “in every dimension of their lives – at work, in their emotional and social lives, in nutrition, exercise and recovery practice, in cognitive wellness, in authentic connection with others, and in their systems of meaning and purpose in life.” The committee assisted the OSB in the inclusion of survey questions about well-being in the 2022 economic survey. This information had not been collected previously and this is an important measure to track over time. The committee encourages those lawyers needing help with stress, problem substance use, career transitions, and the like to contact the OAAP. The committee encourages those lawyers needing help with stress, problem substance use, career transitions, and the like to contact the OAAP.
CONCLUSION

The future of lawyer well-being depends on opening minds and growing connections in the legal community to more knowledge, programs, and people. Oregon’s legal community is already fertile ground for sustainable well-being as a critical element in the improvement of legal services and increasing access to justice. Stakeholders throughout Oregon have begun the work of sharing their experiences to combat stigma, looking at systems and organizations to identify areas for growth, and dedicating their time and energy to making change. While there is much more work to be done, the foundation is laid, and the people capable of advocacy and action are engaged and ready to begin.
2023
Well-Being Workgroup Report
Appendix A–D

Appendix A: 2019 Wellness Summit
Appendix B: Conference of Well-Being Stakeholders
(HOD Delegate Resolution No. 5)
Appendix C: Workgroup Frameworks
Appendix D: Handout: 2022 Conference of Well-Being Stakeholders
OREGON STATE BAR
Board of Governors Agenda

From: Policy & Governance Committee
Meeting Date: June 21, 2019
Re: Recommendations from the 2019 Wellness Summit

Action Recommended

Refer summary recommendations from the Wellness Summit to bar departments and volunteer groups for further consideration.

Background

OSB Past-President Vanessa Nordyke hosted a Wellness Summit on January 25, 2019, bringing together bar leaders and others to discuss the issues facing our profession related to lawyer well-being.

A panel of resource experts presented, along with a panel of lawyers sharing their own experiences of overcoming stress, addiction and mental health issues. Participants brainstormed solutions in small groups in the following topic areas: Healthy Habits; Law Firm/Organizational Support; Non-Dominant Culture Attorneys; Substance Abuse, Addiction and Mental Health Issues; and Sole Practitioners, Rural Lawyers, New Lawyers and Law Students.

A total of 85 lawyers attended in person, with another 52 registered for the presentation portions via live webcast. A recording of the program is available here: https://www.osbar.org/resources/WellnessSummit.html.

OSB and PLF staff coordinated the summit with the assistance of a volunteer planning committee. After the summit, the committee met once by teleconference to review recommendations from the participants and discuss next steps.

At its meeting on May 17, 2019, the Policy & Governance Committee received a report from staff regarding recommendations generated from the summit. The Policy & Governance Committee recommends sharing the summit report and recommendations with various bar departments and existing volunteer groups whose work is related to the recommendations. These groups, many of which were represented on the planning committee, include the Quality of Life Committee, the Advisory Committee on Diversity & Inclusion and the Oregon New Lawyers Division. The Policy & Governance Committee recommends asking each of these groups to discuss how they might advance the summit findings and goals and to discuss policy considerations regarding the use of alcohol at bar events.

A summary of the issues and recommendations discussed at the summit is attached; the attachment includes notations of the staff and volunteer groups most directly concerned with each item.
1. Healthy Habits Discussion

Challenges:

- Many lawyers suffer from vicarious trauma due to the nature of their work.
- Many, if not most of us, also have “imposter syndrome,” and are afraid we don’t really know what we’re doing and that others will find out.
- Lawyers may find it hard to turn off their brains, constantly analyzing/fixing/creating.

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<thead>
<tr>
<th>Solutions to Explore</th>
<th>Staff Groups</th>
<th>Member Groups</th>
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<tr>
<td>Address stigma against getting help – therapy is like exercise for your brain.</td>
<td>Communications, OAAP</td>
<td>QOL Comm.</td>
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<td>To avoid feeling overwhelmed, focus on “micro doses” of wellness activities, anything from mindfulness practice to taking walks in nature. Schedule time for wellness activities.</td>
<td>Communications, OAAP</td>
<td>QOL Comm.</td>
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<tr>
<td>Use technology for support – Ted Talks, breathwork apps, etc.</td>
<td>Communications, OAAP</td>
<td>QOL Comm.</td>
</tr>
<tr>
<td>Find others who will support you – be unapologetic and intentional in developing healthy habits, understanding that it may take time.</td>
<td>QOL Comm.</td>
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2. Substance Abuse, Addiction and Mental Health Discussion

Challenges:

- Law schools do not do a good job regarding lawyer vulnerability. This topic needs to expand into law schools to let students know it is okay to be vulnerable.
- There needs to be an attitude change at both the upper and lower ends of the attorney spectrum. First year law students need “wellness” as a subject matter.
- Vicarious trauma should be addressed in law school. Attorneys are expected to be “rocks” for their clients. Lawyers must be able to get tools to deal with that.
- The idea that attorneys have to ask for help is an issue. Firms need to have support in place and make sure new lawyers know about it. An example would be access to a “meditation minute.”
- Lawyers need to know what happens when they call OAAP.
- Rule 8.3 deals with reporting unethical conduct. “Drinking problems” shouldn’t be in the rules because that would cause stigma; lawyers need to know when they may, and may not, be getting a colleague “in trouble.”
• Need for increased suicide awareness, putting a name to the issue and bringing it into the open to make it easier for lawyers suffering suicidal ideation to seek help and make others more alert to the signs and symptoms that others may need help.

### Solutions to Explore

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<th>Solutions to Explore</th>
<th>Staff Groups</th>
<th>Member Groups</th>
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<tr>
<td>Work with law schools to address the challenges detailed above.</td>
<td>OAAP</td>
<td>BOG</td>
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<tr>
<td>Consider whether questions asked in the bar admissions process may have a chilling effect on law students getting needed help (out of fear of creating a record that may impair bar admission).</td>
<td>Admissions</td>
<td>BBX</td>
</tr>
<tr>
<td>Law firms and other legal employers should take the lead: Supportive policies, leadership supporting and modeling healthy behavior, providing mentors and other support, encouraging lawyers in trouble to seek help without fear of negative consequences at work.</td>
<td>OAAP</td>
<td>QOL Comm.</td>
</tr>
<tr>
<td>Messaging should be layered: Thread into substantive CLE seminars, publish articles in the bar Bulletin, involve new lawyers.</td>
<td>CLE Seminars, Communications</td>
<td>ONLD, QOL Comm.</td>
</tr>
<tr>
<td>Learn from practices in other high-stress professions and jobs, e.g., “critical incident debriefings” for law enforcement personnel.</td>
<td>OAAP</td>
<td>QOL Comm.</td>
</tr>
</tbody>
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### 3. Non-Dominant Culture Attorneys Discussion

**Challenges:**

• Unspoken judgment statements that hit the core of a lawyer’s self-worth or value, creating an atmosphere that the lawyer from the non-dominant culture needs to work ten times harder to get ahead, which adds to internal pressure (e.g., micro-aggression comments: “you speak English really well for being a (ethnicity).”)

• Some non-dominant culture lawyers who are serving as part of committees are not receiving the support they seek. To illustrate, someone mentioned that their request for funding that supports access to justice by having an attorney of color speak on barriers was denied.

• Systemic issues such as ableism. We need to look at how to make our environments more accessible to people with disabilities.

• Not enough leaders from the non-dominant culture.

### Solutions to Explore

<table>
<thead>
<tr>
<th>Solutions to Explore</th>
<th>Staff Groups</th>
<th>Member Groups</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consistently use language that is inclusive of other cultures or social groups.</td>
<td>D&amp;I, DAC, Communications</td>
<td></td>
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</tbody>
</table>
Focus on physical accessibility -- are law firms/offices and bar services welcoming or safe for those with a physical or mental disability?

D&I, BART

Disability §

Look at the way various systemic issues are impacting whether lawyers seek the help they may need. Have culture-specific or gender-specific treatment options available.

D&I, OAAP

Relationships -- be more supportive of committee activities promoted by lawyers from non-dominant cultures; elevate leadership from them and make that an agenda.

D&I

BOG, ACDI

Turn the concept of inclusivity into a philosophy so true equity can be reached, a place in which people from different cultures are free to be themselves without the expectation that they are representing everyone in their group.

All

All

4. Sole Practitioners, Rural Lawyers, New Lawyers and Law Students Discussions

Challenges:

- Finding connections and support can be an issue for this group, especially introverted lawyers.
- The stigma against self-care is strong.
- Lawyers need safe structures and resources for seeking help.
- Work-related anxiety – the point of realizing what you don’t know is more than what you do know; a tendency to perfectionism.
- Sole practitioners don’t have the benefit of sabbaticals, paid time off, paid leave, etc. If time is needed, are there options other than to just economize? Disability insurance?
- Need to set expectations and boundaries with clients to take time off, get balance.
- Help in how to find mentors – calls, emails and other ways to build connections.
- Older lawyers have issues other than cognitive decline; may need help with retirement planning.

Solutions to Explore:

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<tbody>
<tr>
<td>Promote the importance of meaningful, supportive connections – help lawyers feel comfortable reaching out and encouraging everyone to offer help when they can.</td>
<td>Communications, CLE</td>
<td>SSF §</td>
</tr>
<tr>
<td>Mentoring, networking events – including groups not just for lawyers. Create informal groups.</td>
<td>Mem. Services</td>
<td>SSF § ONLD</td>
</tr>
<tr>
<td>Promote OSB and PLF services that can help.</td>
<td>RIS, OAAP, Communications</td>
<td></td>
</tr>
<tr>
<td>Assistance with financial planning for law practice, retirement planning, help with student debt.</td>
<td>CLE Seminars</td>
<td>SSF §</td>
</tr>
</tbody>
</table>
Help with creating boundaries, maintaining a work/life balance for sole practitioners.

5. Law Firms and Organizational Support Discussion

Challenges:

- Wellness and health/fitness challenges can build camaraderie and reinforce good habits but partners and leaders need to participate for these programs to be successful.
- “Buying the answer” sometimes works for physical wellness programs, but should also be there from the mental health standpoint.
- Lawyers in firms need to support each other, share their stories – reach out to colleagues and connect on an authentic level – including partners, associates and staff.
- Career damage for lawyers who don’t want to take promotions or handle certain case types (e.g., sex abuse cases) because they don’t want to damage their mental health.
- Supporting parents who decline committee and other work that could advance their careers.
- Billable hours can be a barrier to asking for and getting help or accommodations for lawyers who need support. How do we define profitability beyond billable hours?
- Need structures in place to protect against and compensate for our own implicit biases.
- An obsessive need to monetize an intellectual product without regard to the human toll it takes.
- Unrealistic expectations regarding partner compensation as a percentage of firm profitability.

Solutions to Explore

<table>
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<tr>
<td>Leaders and partners need to talk about mental health and model asking for help as well as supporting others in getting help.</td>
<td>OAAP</td>
<td>QOL Comm.</td>
</tr>
<tr>
<td>Require lawyers to do something to decompress after stressful/traumatic projects or experiences; rotate people through the highest-stress areas.</td>
<td>QOL Comm.</td>
<td></td>
</tr>
<tr>
<td>Offer support for lawyers returning from leave; think about how to extract value for the firm from the leave, e.g., give presentations or mentor others.</td>
<td>QOL Comm.</td>
<td></td>
</tr>
<tr>
<td>Provide and facilitate support groups for lawyers experiencing various issues, e.g., parenthood, retirement planning, managing a health issue, maintaining good physical and mental health.</td>
<td>OAAP</td>
<td></td>
</tr>
<tr>
<td>Have reasonable financial expectations; examine billable hour requirements and profitability through a wellness lens.</td>
<td>QOL Comm., ONLD</td>
<td></td>
</tr>
</tbody>
</table>
Appendix B: Conference of Well-Being Stakeholders (HOD Delegate Resolution No. 5)

Whereas, the Well-being of the legal profession is of integral importance to the OSB, the PLF, the OJD, Oregon Law Schools, Affinity Bars, Legal Employers, and the OAAP. These stakeholders have been working toward improving the well-being of the Oregon legal community and collaboration is necessary to achieve the goal of improving well-being.

Whereas, Equity is a vital component of all well-being efforts in our professional community.

Whereas, Oregon is a national leader in well-being efforts within our profession and, despite many improvements having been made, there remain areas in need of attention. The following areas should be explored:

i. Informing well-being efforts using diversity, equity, and inclusion principles and values,
ii. Reducing stigma/shame and increasing help-seeking behaviors,
iii. Vicarious trauma within our profession,
iv. Lawyer Education and Law School practices,
v. Regulatory and disciplinary practices that affect well-being,
vi. Well-being in the workplace and evolving legal culture,
vii. Law practice management,
viii. Structural impediments to well-being including UTCRs, court timelines, and trial court administration,

Now, therefore, be it

Resolved, that the HOD directs the Oregon State Bar and stakeholders within its authority, and strongly recommends to those stakeholders who are not, to convene the Conference of Stakeholders to address the foregoing areas of concern by June 2022 and provide a provisional report to the HOD at its annual meeting in November 2022. The goal of the Conference of Stakeholders is to improve well-being through collaborative efforts in each of the areas of concern. There will be costs attached to this endeavor and stakeholders will discuss distribution of those costs.

Financial Impact

None stated.

Presenter:
Vanessa Nordyke, HOD, Region 6, OSB Past President 2018
Appendix C: Workgroup Frameworks

Framework for Session 1 - Workgroup Topic #__ - TITLE:

Please select one workgroup member to take notes and one to fill in this framework document to provide to the planning committee upon completion.

- Introductions (please list attendees below) (10 minutes):
  - On the topic of ____________, how would we like the Oregon legal community to be different in 5 years with regard to lawyer well-being (15 minutes):
    - 1. .
    - 2. .
    - 3. .

- What is going well/what well-being improvements have been implemented regarding this workgroup topic and in your stakeholder communities (15 minutes)?
  - 1. .
  - 2. .
  - 3. .

- Where are the general areas that still need improvement (15 minutes)?
  - 1. .
  - 2. .
  - 3. .

Break (5 mins)

- What specific changes and/or challenges need to be addressed (20 minutes)?
  - 1. .
  - 2. .
  - 3. .

- What organizations, groups, institutions will be needed to effectively make the changes (5 minutes)?
  - 1. .
2. 
3. 

- Who needs to be included that is not involved yet (5 minutes)?
  
  1. 
  2. 
  3. 

- Who will engage these folks (5 minutes)?

- What specific commitments will this workgroup make collectively in order to implement needed changes (10 minutes)?
  
  1. 
  2. 
  3. 

- Please reflect on your unique position within the Oregon legal community and how you can use that as a platform for modeling and encouraging positive change (5 minutes).
  
  1. 
  2. 
  3. 

- Do you have any other suggestions to enhance well-being in our legal culture in reference to this topic other than those mentioned above? (5 minutes)
  
  -

- Please pick a date in the next 60 days that a majority of the workgroup members can attend and indicate who will engage any stakeholders who are not yet involved (10 minutes): ________________________________
Framework for Workgroup Topic #__, Session 2. TOPIC________:

Please select one workgroup member to take notes and one to fill in this framework document to provide to the planning committee upon completion.

- Introductions (please list attendees below) (10 minutes):
  -  
- Review of last session and stakeholder actions since last meeting (15 minutes):

- What organizations, groups, institutions need to be included that are not involved yet? (10 minutes)
  -  
  -  
  -  

- What work is needed in 2023? (20 minutes)
  -  
  -  
  -  

- What specific projects, plans, or strategies does this group want to undertake to achieve the needed changes and who will be involved? (20 minutes)
  -  
  -  
  -  

- What outcome measurements should we consider having to identify effectiveness of our efforts to accomplish positive change? (15 minutes)

- Does this group need to meet again?
Conference of Well-Being Stakeholders

June 13, 2022
1:00 p.m. - 3:00 p.m.

Qualifies for 1 MHSU & 1 General MCLE credits
Conference of Well-Being Stakeholders

June 13, 2022 – 1:00-3:00 p.m.
Remote attendance via Zoom

On Friday, October 29, 2021, the Oregon State Bar House of Delegates voted to approve a resolution to schedule a collaborative conference of stakeholders to advance lawyer well-being. The need for this conference is informed by a landmark 2016 ABA/Hazelden Betty Ford Foundation national study finding that attorneys are more than twice as likely as the general population to experience problematic alcohol use, and attorneys under 30 are more than three times as likely. Reported levels of depression, anxiety, and stress were also significantly elevated among attorneys according to the study. In response, the ABA convened a task force and made recommendation to states and stakeholder groups to effect change in our legal culture to promote well-being. This conference will continue the efforts of Oregon’s legal community to identify and implement needed changes.

Lawyers who attend this 2-hour presentation will:

- Hear from other leaders in the legal community about their efforts to improve well-being;
- Learn about recent research that documents the need for greater support of lawyer well-being as well as suggestions for improvement;
- Consider factors that prevent lawyers from seeking help for mental health conditions and substance use challenges;
- Explore their own role in helping to reduce the stigma associated with mental health and substance abuse, in fostering acceptance, and in encouraging help-seeking behavior;
- Learn about future steps to engage in the work ahead.

Application for MHSU/General MCLE credits pending

“Every sector of the legal profession must support lawyer well-being. Each of us can take a leadership role within our own spheres to change the profession’s mindset from passive denial of problems to proactive support for change. We have the capacity to make a difference.”  - National Task Force On Lawyer Well-Being
Speaker Biographies

Kamron Graham: Kamron (she/her) was born and raised in rural Hillsboro. She is a graduate of Seattle University School of Law and studied law as a mid-career change after over a decade of non-profit management and program development. As an attorney, Kamron has worked for Legal Aid Services of Oregon, Clackamas County Circuit Court, and served as Deputy Public Guardian and Conservator for Multnomah County for nine years.

Kamron is the President of the Oregon State Bar, immediate Past President of Oregon Women Lawyer’s Foundation, Past President and current treasurer for OGALLA: Oregon’s LGTBQ Bar Association, past board member of Queen’s Bench, and past trustee for the Washington State Bar Association Foundation. Kamron is the Deputy Director of the Commons Law Center.

Liani Reeves: Liani Reeves is a Past President of the State Bar of Oregon and a shareholder at Bullard Law, a Portland-based law firm specializing in labor and employment matters. Her practice focuses on representing public sector clients in litigation and other high profile matters. Liani served as General Counsel to the Governor of Oregon for four years and spent most of a decade serving two different Oregon Attorneys General where her primary focus was on torts, employment, and constitutional Litigation. Liani is a Korean adoptee who was born in Korea and raised in upstate New York and rural Oregon. She is a founding member and former President of the civil rights organization Korean American Citizens League, the former Chair of the Oregon Commission on Asian and Pacific Islander Affairs, and former President of the Oregon Asian Pacific American Bar Association.

Justice Martha Walters: Chief Justice Martha L. Walters, was elected by her colleagues as Oregon’s 44th Chief Justice and began service on July 1, 2018. Chief Justice Walters joined the Oregon Supreme Court as an Associate Justice in October 2006. Before joining the court, Chief Justice Walters practiced law for almost 30 years, emphasizing employment law and civil litigation as well as general civil practice. She practiced law in Eugene with Walters Romm Chanti & Dickens, P.C. and its predecessor firms (1985 - 2006), serving as firm president (1992 - 2006) and secretary (2004 - 06) practiced law in Eugene with Harrang, Swanson, Long & Wilkinson, P.C. and its predecessor firms (1977 - 85). In 2007 after four years in other leadership positions, Chief Justice Walters was elected to a two-year term as the first woman president of the National Conference of Commissioners on Uniform State Laws. She joined the Conference of more than 300 members in 1992 as one of Oregon’s four commissioners. The Commission is a nonprofit organization that has worked to make state laws more uniform since 1892. All Commissioners are lawyers; none is paid for this work. A member of the Oregon State Bar since 1977, Chief Justice Walters has served in leadership positions and on many bar committees and task forces as well.

Chief Justice Walters is a regular speaker, instructor, and author on the law and law improvement, including teaching law school classes, speaking at continuing legal education programs, and teaching for the Sakhalin/Oregon Rule of Law partnership.
Chief Justice Walters also writes professional articles on the law, including a 2002 article that she co-authored for the Brandeis Law Journal -- "When the Only Way to Equal is to Acknowledge the Difference: PGA Tour, Inc., v. Martin."

Chief Justice Walters was born in 1950, and grew up in Grand Rapids, Michigan. She graduated from the University of Michigan with distinction (B.A., 1972) and the University of Oregon School of Law (JD 1977; Order of the Coif).

**Terry Harrell:** Terry has been the Executive Director of the Indiana Judges and Lawyers Assistance Program since 2002. She also chairs the Court’s Well-Being Committee. She is a past chair of the American Bar Association's Commission on Lawyer Assistance Programs (2014-2017) and a founding member of the National Task Force on Lawyer Well-Being. She previously chaired the ABA Working Group to Advance Well-Being in the Legal Profession (2017-2019) where the Well-Being Pledge for Legal Employers was developed. She currently serves on the Advisory Board for the Institute for Well-Being in Law. Terry is a Fellow of the Indiana Bar Association and active with the Indiana State Bar Association. For her own well-being Terry likes to train with her dog, run, walk, and read. The Indiana Supreme Court Employee Book Club is her new favorite activity. It provides both an opportunity to read books she might not have discovered and a welcome opportunity to connect with co-workers she doesn’t typically see.

**Vanessa Nordyke:** Vanessa Nordyke is a mental health advocate, Salem City Councilor, and a Senior Assistant Attorney General at the Oregon Department of Justice. Vanessa is an award-winning mentor to local students. She helped found the Marion County Veterans Treatment Court. She serves on the Salem Family YMCA Board of Directors and Oregon National Alliance on Mental Illness Board of Directors. Her commitment to service began in her teens, with work on issues like homelessness, veterans, domestic violence, mental health and substance abuse, women’s rights, at-risk youth, and the empowerment of communities of color since the 1990s.

In 2018, Vanessa made history as the youngest ever-elected President of the Oregon State Bar, a unified bar of about 19,500 lawyers and judges. As President, Vanessa brought wellness to the forefront, by overseeing the creation of mandatory mental health and substance training for all Oregon lawyers, and spearheading OSB’s first Wellness Summit.

Vanessa graduated with honors from Georgetown University School of Foreign Service with a Bachelor’s of Science in International Political Economy in 2002. After graduating from University of Oregon School of Law in 2008, Vanessa was admitted to the prestigious Honors Attorney Program with the Oregon Department of Justice, where she has made her career as a civil rights lawyer. She is the recipient of Oregon DOJ’s Excellence in Justice Award, the Marion County Bar Association’s Carson Award for Service to the Community; and the University of Oregon School of Law’s Outstanding Young Alumnus Award.

**Helen Hierschbiel:** received her J.D. from Lewis & Clark Law School. She is the Chief Executive Officer for the Oregon State Bar (OSB). Prior to her work as the OSB CEO, Ms. Hierschbiel worked as Deputy General Counsel, before that she worked in the Client Assistance Office of the OSB (2003-2006), in private practice (1998 to 2003), and in legal services in Arizona (1991 to 1997).
Megan Livermore: currently serves as the Chief Executive Officer of the Professional Liability Fund. Prior to joining the PLF, Megan was a business and real estate attorney in Eugene for more than 15 years. She focused her practice around advising clients on strategic planning, business transactions, IP management, commercial and residential real estate transactions, and cannabis law. Before entering private practice, she served as a law clerk in the Trial Division of the Oregon Department of Justice and clerked for the Honorable Darryl L. Larson at the Lane County Circuit Court. In addition to her legal expertise, Megan’s background includes entrepreneurial experience – helping to launch a successful tech company from startup to IPO. Ms. Livermore graduated from Willamette University College of Law (JD 2005) and received a BS in Speech Communication from Oregon State University in 1994.

Douglas Querin, JD, LPC, CADC I: is an Attorney-Counselor with the Oregon Attorney Assistance Program (OAAP), providing resource referrals and confidential behavioral health and addiction counseling services to Oregon lawyers, judges, and law students. He practiced law as a trial lawyer in state and federal courts in Oregon for over 25 years, returned to graduate school earning an M.A. in Counseling, and became licensed as a Professional Counselor and certified as a Drug and Alcohol Counselor. He started at OAAP in 2006. Doug frequently presents at Oregon law schools, law firms, and bar associations on professional well-being issues in the legal community.

Bryan Welch, JD, CADC I: is an attorney counselor with the Oregon Attorney Assistance Program. Prior to joining the OAAP staff in 2015, he was in the private practice of law for 12 years, primarily in family law and family mediation. Additionally, he has provided drug and alcohol counseling services for a court-mandated DUII treatment program. Bryan particularly enjoys working with groups and currently leads peer support groups for lawyers practicing law with ADHD, or while experiencing anxiety and depression. As he says, “Being a witness to the support and healing that comes from people sharing their experience with – and learning from – others who have similar challenges, is a powerful experience.” Bryan enjoys playing music with friends and hiking in the beautiful Pacific Northwest. He can be reached at 503.226.1057 ext. 19, or at bryanw@oaap.org.

Kyra Hazilla, JD, LCSW: is the director and an attorney counselor with the Oregon Attorney Assistance Program (OAAP). In her legal career, Kyra was primarily a public defender practicing juvenile law. Kyra is a 2006 graduate of the University of Michigan Law School (JD) and School of Social Work (MSW), and studied psychology and music at Vassar College (BA, 2002). For most of her legal career, Kyra advocated for children and families struggling with myriad challenges. She is a trained counselor having completed more than 3,500 postgraduate social service hours, whose experience includes crisis intervention, working with victims of sexual assault, drug and alcohol dependency, and many years helping survivors of interpersonal violence and their children.
Conference Schedule

1:00 – President’s Welcome, Kamron Graham

1:05 – Master of Ceremonies, Liani Reeves

1:10 – Chief Justice Martha Walters Address

1:15 – National efforts, Terry Harrell

1:35 – Call to Action, Vanessa Nordyke

1:50 – Our work today and going forward, Helen Hierschbiel, Megan Livermore, Doug Querin, Bryan Welch, and Kyra Hazilla

2:20 – Breakout rooms, our work begins

2:40 – Return from breakout rooms

2:45 – Next steps, Kamron Graham

2:50 – Optional gratitude meditation, David Rosen

3:00 – Conclusion of the session

A huge thank you to the conference planning committee: Vanessa Nordyke, Kamron Graham, Douglas Querin, Kyra Hazilla, Helen Hierschbiel, Megan Livermore, Maureen DeFrank, Heather Bowman, David Rosen, Karen Lee, JB Kim, Jamie Pruitt, Cathy Petrecca, Cindy Hill

Special thanks to Jeanne Ulrich, Ankur Doshi, Bryan Welch, and our wonderful speakers.
Stakeholder Participation Expectations

Adapted from the Oregon State Bar Board of Governors ground rules for meetings

1. Listen actively and respectfully. Do not interrupt. Seek first to understand, then to be understood. Be curious.
2. Assume good intent. We are all doing the best we can. Seek to meet people where they are. Focus on content, not perceived emotion.
4. Attack the problem, not the person. Recognize that it is vital that we bring our personal experience to this work and others’ experiences are vastly different from our own.
5. Recognize that no single person speaks on behalf of all that share their identity(ies).
6. Be mindful of and attempt to balance introvert and extrovert sensibilities. Give yourself and others time to process and permission to not make sense.
7. Participate. Each person has a perspective that is valuable to the decision-making process and community growth depends on the inclusion of every individual voice.
8. Let others participate. Monitor the space you are occupying in the discussion and share responsibility for including all voices in the discussion.
9. Be present. Recognize that your multi-tasking may interfere with your attentive presence and be a distraction to others. Limit outside work to the extent possible.
10. Speak up if someone is not following the ground rules.
11. Make space for participants to share personal experiences by respecting confidentiality. Do not repeat what others say in workgroups without their permission.
Section 15. Conference of Well-Being Stakeholders
(Delegate Resolution No. 5)

Whereas, the Well-being of the legal profession is of integral importance to the OSB, the PLF, the OJD, Oregon Law Schools, Affinity Bars, Legal Employers, and the OAAP. These stakeholders have been working toward improving the well-being of the Oregon legal community and collaboration is necessary to achieve the goal of improving well-being.

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Financial Impact
None stated.

Presenter:
Vanessa Nordyke, HOD, Region 6, OSB Past President 2018
In 2017, the National Task Force on Lawyer Well-Being (Task Force), consisting of the American Bar Association (ABA) Commission on Lawyer Assistance Programs and a broad coalition of other national legal organizations, published the most comprehensive report (Report) to date on the well-being of American lawyers. The Report, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*, relied on numerous empirical studies, two of the most notable being the 2016 joint ABA and Hazelden Betty Ford Foundation survey of nearly 13,000 practicing U.S. lawyers and the 2016 Survey of Law Student Well-Being, which surveyed over 3,300 law students from 15 law schools throughout the country. These surveys revealed that anxiety, depression, unhealthy stress, and substance use challenges are endemic within our profession and law schools, and at significantly higher rates than that of the general population. See: https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf

**WELL-BEING IN THE LEGAL PROFESSION.** The findings of these surveys, and the national media attention their publication generated, sparked the creation of the Task Force and its Report. The central question for the Task Force was how the profession can best address these behavioral health concerns in a collaborative, comprehensive, and sustainable way to meet the needs of all concerned.

The Report made clear that, although a disturbing portion of our legal profession has substance use and behavioral health challenges, the majority of lawyers and law students do not. It noted, however, “... that does not mean that they’re thriving. Many lawyers experience a ‘profound ambivalence’ about their work, and different sectors of the profession vary in their levels of satisfaction and well-being.” Well-being is thus more than “the absence of illness; it includes a positive state of wellness.” To be a good lawyer, the Report noted, one has to be a healthy lawyer, and the research suggests that “the current state of lawyers’ health cannot support a profession dedicated to client service and dependent on the public trust.” The Task Force thus undertook to address not only mental health and problematic substance use concerns, but also the overarching issue of lawyer well-being within the profession. In short, how can lawyers experience well-being and, at the same time, actually thrive in their personal and professional lives?
**LAWYER WELL-BEING.** The Task Force defined lawyer well-being as a *continuous process* whereby one seeks to thrive in six primary areas:

- Emotional health – identifying and managing emotions in personal and professional environments;
- Occupational pursuits – cultivating personal satisfaction, growth, enrichment, and financial stability;
- Creative or intellectual endeavors – engaging in continuous learning and the pursuit of creative or intellectually challenging activities;
- Spirituality – experiencing a sense of meaningfulness and purpose in all aspects of life;
- Social connections – developing a sense of belonging and support with others important in one’s life; and
- Physical health – striving for regular physical activity, proper diet, nutrition, sufficient sleep, and recovery from the use of unhealthy substances.

**STAKEHOLDERS.** The Task Force’s Report is intended to spur needed conversation within all sectors of our country’s legal profession to “get serious about the substance use and mental health of ourselves and those around us” and to bring conversations about these conditions out in the open. (p10) To this end, it has made recommendations to various “stakeholder” groups within the profession, including the judiciary, regulators, legal employers, law schools, bar associations, lawyers’ professional liability carriers, and lawyer assistance programs. The Report makes over 40 recommendations, some general to *all* stakeholders and some specific to each individual stakeholder group.

The Report is nothing less than a *call to action*. It seeks to encourage through collective action significant change in the culture of our profession. Below is a summary of the Report’s recommendations.

**Recommendations for All Stakeholders.** (p.12)

1. The profession must acknowledge the problems and take responsibility.
2. Use this report as a launching pad for a profession-wide action plan.
3. Leaders should demonstrate a personal commitment to well-being and model well-being.
4. Facilitate, destigmatize, and encourage help-seeking behavior.
5. Build relationships with lawyer well-being experts.
   i. Partner with Lawyer Assistance Programs.
   ii. Consult lawyer well-being committees and others with recognized education, experience, and training.
6. Foster collegiality and respectful engagement throughout the profession; discourage incivility.
i. Promote diversity and inclusivity.
ii. Create meaningful mentoring and sponsorship programs.
7. Enhance lawyers’ sense of control; encourage autonomy.
8. Provide high-quality educational programs about lawyer distress and well-being.
9. Guide and support the transition of older lawyers.
10. De-emphasize alcohol at social events.
11. Utilize monitoring to support recovery from substance use disorders.
13. Support a lawyer well-being index to measure the profession’s progress.

Recommendations for Judges. (p.22)
14. Communicate that well-being is a priority.
15. Develop policies for impaired judges.
16. Reduce the stigma of mental health and substance use disorders.
17. Conduct judicial well-being surveys.
18. Provide well-being programming for judges and staff.
19. Monitor for impaired lawyers and partner with Lawyer Assistance Programs.

Recommendations for Regulators (i.e., those who assist the state’s highest court in regulating the practice of law). (p.25)
20. Take actions to meaningfully communicate that lawyer well-being is a priority.
   i. Adopt regulatory objectives that prioritize lawyer well-being.
   ii. Modify the rules of professional conduct to endorse well-being as a part of a lawyer’s duty of competence.
   iii. Expand continuing education requirements to include well-being topics.
   iv. Require law schools to create well-being education for students as an accreditation requirement.
21. Adjust the admissions process to support law student well-being.
   i. Re-evaluate bar admission application inquiries about mental health history.
   ii. Adopt essential eligibility admission requirement.
   iii. Adopt a rule for conditional admission to practice law with specific requirements and conditions.
   iv. Publish data reflecting low rate of denied admissions due to mental health disorders and substance use.
22. Adjust lawyer regulations to support well-being.
   i. Implement proactive management-based programs (PMBP) that include lawyer well-being components.
   ii. Adopt a centralized grievance intake system to promptly identify well-being concerns.
   iii. Modify confidentiality rules to allow one-way sharing of lawyer well-being related information from regulators to Lawyer Assistance Programs.
iv. Adopt diversion programs and other alternatives to discipline that are proven successful in promoting well-being. ("Discipline does not make an ill lawyer well.")

23. Add well-being-related questions to the Multistate Professional Responsibility Exam (MPRE).

**Recommendations for Legal Employers. (p.31)**

24. Establish organizational infrastructure to promote well-being.
   i. Form a lawyer well-being committee.
   ii. Assess lawyers’ well-being.

25. Establish policies and practices to support lawyer well-being.
   i. Monitor for signs of work addiction and poor self-care.
   ii. Actively combat social isolation and encourage interconnectivity.

26. Provide training and education on well-being, including during new lawyer orientation.
   i. Emphasize a service-centered mission.
   ii. Create standards, align incentives, and give feedback.

**Recommendations for Law Schools. (p.35)**

27. Create best practices for detecting and assisting students experiencing psychological distress.
   i. Provide training to faculty members relating to student mental health and substance use disorders.
   ii. Adopt a Uniform Attendance Policy to detect early warning signs of students in crisis.
   iii. Provide mental health and substance use disorder resources.

28. Assess law school practices and offer faculty education on promoting well-being in the classroom.

29. Empower students to help fellow students in need.

30. Include well-being topics in courses on professional responsibility.

31. Commit resources for onsite professional counselors.

32. Facilitate confidential recovery network.

33. Provided education opportunities on well-being-related topics.
   i. Provide well-being programming during 1L year.
   ii. Created a well-being course and lecture series for students.

34. Discourage alcohol-centered social events.

35. Conduct anonymous surveys relating to student well-being.

**Recommendations for Bar Associations. (p. 41)**

36. Encourage education on well-being topics in coordination and in association with Lawyer Assistance Programs.
i. Sponsor high-quality CLE programming on well-being-related topics.

ii. Create educational materials to support individual well-being and “Best Practices” for legal organizations.

iii. Train staff to be aware of Lawyer Assistance Program resources and refer members.

37. Sponsor empirical research on lawyer well-being as part of annual member surveys.
38. Launch a lawyer well-being committee.
39. Serve as an example of best practices relating to lawyer well-being at bar association events.

Recommendations for Lawyers’ Professional Liability Carriers. (p. 43)
40. Actively support Lawyer assistance Programs.
41. Emphasize well-being in loss-prevention programs.
42. Incentivize desired behavior in underwriting law firm risks.
43. Collect data when lawyer impairment is a contributing factor to claims activity.

Recommendations for Lawyer Assistance Programs. (p. 45)
44. Lawyers Assistance Programs should be appropriately organized and funded.
   i. Purse stable and adequate funding.
   ii. Emphasize confidentiality.
   iii. Develop high-quality well-being programming.
   iv. Foundational elements of programs.

The Report contains the following Appendices.
- Appendix A: State Action Plan & Checklist. (p.48)
- Appendix B: Examples of Educational Topics About Lawyer Distress and Well-Being. (p.50)
- Appendix C: Guide and Support the Transition of Older Lawyers. (p. 58)
- Appendix D: Topics for Legal Employers’ Audit of Well-Being Related Policies and Practices. (p.59)
- Appendix E: Creating a Well-Being Course and Lecture Series for Law Students. (p. 61)
- Appendix F: Biographies of Task Force Members, Authors, and Editors. (p.63)

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Oregon Attorney Assistance Program
1/12/22
NATIONAL STUDY ON LAWYER SUBSTANCE USE AND MENTAL HEALTH

For the first time ever, a national research study has been undertaken to empirically quantify the prevalence of substance use and other behavioral health conditions within the lawyer population of the United States. Results of the study, jointly undertaken by the American Bar Association (ABA) and the Hazelden Betty Ford Foundation (ABA-Hazelden Study), have been published in the February 2016 edition of the Journal of Addiction Medicine. The study, “The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys,” presents a revealing picture of our profession that is old news to some and disturbing news to many others.

Nearly 13,000 currently employed attorneys completed anonymous surveys assessing alcohol and drug use and symptoms of depression, anxiety, and stress. Specifically, the survey utilized (1) the Alcohol Use Disorders Identification Test (AUDIT)\(^2\), a self-report instrument developed by the World Health Organization to screen for hazardous use, harmful use, and the potential for alcohol dependence; and (2) the Depression Anxiety Stress Scales-21 (DASS-21)\(^3\), a widely used self-report mental health questionnaire.

The study sample’s demographic profile was obtained by the participants’ self-reports. The personal characteristics of the group were as follows:

<table>
<thead>
<tr>
<th>GENDER*</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Men</td>
<td>53.4%</td>
</tr>
<tr>
<td>Women</td>
<td>46.5%</td>
</tr>
</tbody>
</table>

*Election options limited to the male-female gender binary.

Participants were asked to identify legal, illicit, and prescribed substance use within the preceding 12 months. Participants reported as follows:

<table>
<thead>
<tr>
<th>Substances</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Alcohol</td>
<td>84.1%</td>
</tr>
<tr>
<td>Tobacco</td>
<td>16.9%</td>
</tr>
<tr>
<td>Sedatives</td>
<td>15.7%</td>
</tr>
<tr>
<td>Marijuana</td>
<td>10.2%</td>
</tr>
<tr>
<td>Opioids</td>
<td>5.6%</td>
</tr>
<tr>
<td>Stimulants</td>
<td>4.8%</td>
</tr>
<tr>
<td>Cocaine</td>
<td>0.8%</td>
</tr>
</tbody>
</table>

The study also elicited detailed information about the participants’ professional characteristics, asking respondents to identify their age (≤30, 31-40, 41-50, etc.), their years in the field (≤10, 11-20, 21-30, etc.), work environments (solo practitioner, private firm, government, non-profit, corporation in-house, etc.), firm position (junior associate, senior associate, junior partner, etc.), hours worked per week (≤10, 11-20, 21-30, etc.), and whether or not they did litigation. All personal and professional data obtained were statistically analyzed, revealing the following regarding the rates of substance use among practicing attorneys in the United States:
● Over 20% of the lawyers who responded scored at a level consistent with problematic drinking⁵; that is, using AUDIT criteria, they screened positive for hazardous and/or harmful use, having the potential for alcohol dependence. This rate is over twice that of the general adult population in this country.⁶

● Men scored significantly higher for problematic alcohol use than women, reporting 25.1% and 15.5%, respectively.

● Problematic alcohol use was highest (28.1%) among attorneys in the early stages of their careers (0-10 years), with declining rates reported thereafter:

<table>
<thead>
<tr>
<th>Years in Legal Field</th>
<th>Problematic %</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-10</td>
<td>28.1%</td>
</tr>
<tr>
<td>11-20</td>
<td>19.2%</td>
</tr>
<tr>
<td>21-30</td>
<td>15.6%</td>
</tr>
<tr>
<td>31-40</td>
<td>15.0%</td>
</tr>
<tr>
<td>41 or more</td>
<td>13.2%</td>
</tr>
</tbody>
</table>

● Problematic alcohol use was highest (31.9%) among attorneys ages 30 or younger, with declining rates reported thereafter:

<table>
<thead>
<tr>
<th>Age Category</th>
<th>Problematic %</th>
</tr>
</thead>
<tbody>
<tr>
<td>30 or younger</td>
<td>31.9%</td>
</tr>
<tr>
<td>31-40</td>
<td>25.1%</td>
</tr>
<tr>
<td>41-50</td>
<td>19.1%</td>
</tr>
<tr>
<td>51-60</td>
<td>16.2%</td>
</tr>
<tr>
<td>61-70</td>
<td>14.4%</td>
</tr>
<tr>
<td>71 or older</td>
<td>12.1%</td>
</tr>
</tbody>
</table>

● Within different work environments, reported problematic alcohol use rates were varied, though clearly highest in private law firms (23.4%):

<table>
<thead>
<tr>
<th>Work Environment</th>
<th>Problematic %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private firms</td>
<td>23.4%</td>
</tr>
<tr>
<td>In-house gov’t, public, or non-profit</td>
<td>19.2%</td>
</tr>
<tr>
<td>Solo practitioner</td>
<td>19.0%</td>
</tr>
<tr>
<td>In-house corp. or for-profit institution</td>
<td>17.8%</td>
</tr>
</tbody>
</table>

● Within private firms, reported problematic alcohol use rates tended to be inversely related to law firm seniority:

<table>
<thead>
<tr>
<th>Firm Position</th>
<th>Problematic %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Junior associate</td>
<td>31.1%</td>
</tr>
<tr>
<td>Senior associate</td>
<td>26.1%</td>
</tr>
<tr>
<td>Junior partner</td>
<td>23.6%</td>
</tr>
<tr>
<td>Managing partner</td>
<td>21.0%</td>
</tr>
<tr>
<td>Senior partner</td>
<td>18.5%</td>
</tr>
</tbody>
</table>

The ABA-Hazelden Study produced a second, and equally revealing, set of statistical data concerning depression, anxiety, and stress within the American lawyer population, as follows:

● Utilizing the DASS-21 mental health questionnaire, male respondents reported significantly higher levels of depression than women, a finding generally contrary to conventional findings among the U.S. adult population.⁷

● Female respondents’ anxiety and stress scores were higher than corresponding male scores.

● Depression, anxiety, and stress scores among responding lawyers generally decreased as age increased and also as years in practice increased.

● Solo practitioners in private practice reported the highest levels of depression, anxiety, and stress, followed by lawyers working in private firms.

● In private law firm environments, more senior positions were generally associated with lower reported symptoms of depression, anxiety, and stress; that is, fewer senior lawyers reported greater symptom levels of these conditions.

● Significantly, when respondents’ AUDIT and DASS-21 scores were compared, a correlation was found – those with problematic alcohol use scores reported higher rates of depression, anxiety, and stress.

● Finally, participating lawyers were asked about past mental health concerns over their legal career. The most common mental health conditions reported were anxiety (61.1%), depression (45.7%), social anxiety (16.1%), attention deficit hyperactivity disorder (12.5%), panic disorder (8.0%), and bipolar disorder (2.4%).
While this study is subject to certain inherent limitations (e.g., participants were not randomly selected, but rather self-selected by voluntarily responding to emails, news postings, and websites; given the nature of the survey, the participants may have overstated or understated their individual symptoms, etc.), it does produce an abundance of data that seem to reinforce in an empirical way what many intuitively suspect represents a fairly accurate description of the behavioral health of our profession. At a minimum, the study does suggest that the prevalence of problematic drinking, depression, anxiety, and stress within the American lawyer population should be cause for significant concern.

In Part II of this article we will discuss some of the implications of the ABA-Hazelden Study and, in particular, provide some recommendations that may be of value in specifically assisting our Oregon legal community.

**Douglas Querin, JD, LPC, CADC I**
**OAAP Attorney Counselor**

**References**

1. [http://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_USE_and_Other_Mental.8.aspx](http://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_USE_and_Other_Mental.8.aspx)


4. For statistical reasons, no significant inferences could be drawn about participating lawyers’ use or misuse of substances other than alcohol.

5. The AUDIT generates scores ranging from 0 to 40. Scores of 8 or higher indicate hazardous or harmful alcohol intake and also possible dependence. Scores are categorized into zones to reflect increasing severity, with zone II reflective of hazardous use, zone III indicative of harmful use, and zone IV warranting full diagnostic evaluation for alcohol use disorder. The study uses the phrase “problematic use” to capture all three of the zones related to a positive AUDIT score.


LOOKING FORWARD: IMPROVING OUR HEALTH AND WELL-BEING

The following is Part II of In Sight’s June 2016 article “National Study on Lawyer Substance Use and Mental Health.”

The 2015 landmark study jointly undertaken by the American Bar Association and Hazelden Betty Ford Foundation (ABA-Hazelden Study) presented a revealing picture of the prevalence of substance use and other behavioral health conditions within the U.S. lawyer population. The study, surveying nearly 13,000 practicing lawyers, was published in early 2016 in the Journal of Addiction Medicine.¹

Summary of Primary Findings

Over 20% of lawyers surveyed scored at levels consistent with problematic alcohol use, over twice that of the general U.S. adult population.

- Problematic alcohol use was highest among younger lawyers: 32% among lawyers aged 30 or younger; 25% among those aged 31 through 40, with modest declines thereafter.

- Comparing work environments, the study reported problematic alcohol use was highest in private law firms (23%). Within those firms, there were clear correlations between firm positions and levels of problematic use: 31% among junior associates, 26% among senior associates, 24% among junior partners, and 19% among senior partners.

- Solo practitioners reported problematic alcohol use levels of 19%. Lawyers in other types of practices (government, corporate in-house, non-profit, etc.) reported rates between 17% and 19%.

Rates of depression were reported at 28%, more than three times that of the general U.S. adult population. Reported rates of anxiety (19%) and stress (23%) were also considerably higher than that of the general U.S. adult population.

- Attorneys reporting problematic alcohol use also tended to report higher levels of depression, anxiety, and stress when compared to those screening within the normal range for alcohol use.

- Rates of depression, anxiety, and stress were reported highest among younger and newer lawyers, a pattern also seen for reports of problematic alcohol use among these lawyers.

A Clarion Call

The ABA-Hazelden Study and the attention it received within the profession and from the national media have created a clarion call for responsive action by the various institutions, organizations, and regulatory bodies within our profession. Among those best positioned to play leading roles in helping to improve the health and well-being of our lawyers are law schools, law offices/firms, and professional legal associations. It will take a coordinated effort, and the Oregon Attorney Assistance Program is committed to working with these groups to improve the health and well-being of lawyers and law students. Let’s look at how we might work together for the benefit of our local legal community.

Law Schools

In its 2015 publication, Substance Abuse and Mental Health Tool Kit for Law
Students, the ABA noted that, on entering law school, law students have clinical stress and depression rates consistent with national averages, but those rates sharply increase during their first year of law school. Thereafter, the rates of law students grappling with substance abuse and mental health problems increase dramatically.  

Referencing a 2014 national law student survey, the ABA further reported:

- 22% reported binge drinking at least twice in the past two weeks;
- 17% screened positive for depression; and
- 20% reported they had thought seriously about suicide sometime in their life; 6% reporting thinking seriously about suicide in the prior 12 months. 

The OAAP is committed to improving the well-being of Oregon law students and is available to partner with law schools as they serve their students. We can brainstorm ways in which we can work together. The following are just some of the actions law schools might consider as we seek to address the concerns raised by the ABA Hazelden Study:

- Promote anonymous and confidential support groups for law students;
- Offer health, wellness, and self-care information as an integrated part of students’ curricula;
- Increase coordination of services between university counseling departments and the OAAP;
- Utilize OAAP as resources for presentations to faculty and students and for referrals for students needing help; and
- Address the social stigma and fear of consequences that discourage many law students from getting help.

**Law Offices**

The ABA-Hazelden Study made clear there are startlingly high levels of problematic alcohol use, depression, anxiety, and stress in our profession. Our newer and younger lawyers appear to be at especially high risk and, as is the case with law students, many lawyers avoid getting needed help because of social stigma and fear of professional consequences.

As with law students, the OAAP is also committed to the well-being of Oregon lawyers and is available to work together with law firms as they seek to address the findings of the study.

Here are some possible approaches law offices might consider:

- Provide health and wellness resources to lawyers in their work environments;
- Provide training to law office management, attorneys, and staff to recognize signs of impairment and health-related problems;
- Consider what role alcohol plays in social gatherings and professional events;
- Establish effective response protocols for when someone is concerned about a colleague;
- Help to reduce the stigma that often accompanies lawyers’ behavioral health challenges and prevents them from getting needed help;
- Establish protocols to assist lawyers needing treatment or recovering from behavioral health conditions; and
- Become familiar with the resources available through the Oregon Attorney Assistance Program.

**Professional Organizations**

Oregon has a variety of professional associations, both affiliated and not affiliated with state and local bar associations. These associations can play an important leadership role in addressing the behavioral health issues that disproportionately affect our profession. The OAAP reaffirms its commitment to the Oregon legal community and is available to work alongside these organizations toward our common goal of lawyer wellness. Here are some approaches to consider:

- Be cautious about how alcohol is used in the advertising of conferences, retreats, and social events;
- Provide a variety of non-alcoholic beverage alternatives to attendees at conferences, retreats, and social events;
- Include presentations and speakers addressing lawyer health, wellness, and self-care issues at continuing legal education events and conferences;
- In membership publications, include articles that address lawyer health, wellness, and self-care issues; and
- Include wellness information and a resource table at conferences and retreats.
Conclusion

The ABA-Hazelden Study has resulted in a national discussion and a definite call to action. Its findings have dramatically underlined the fact that today's levels of depression, anxiety, stress, and problematic alcohol use within our profession are so significantly elevated that they simply cannot be ignored. Past efforts to address these issues have not been sufficient.

In this article, we have addressed only a few of the actions that might be considered by law schools, law offices, and law-related professional associations in collaboration with the OAAP. Many other entities will need to be part of a coordinated effort to address the challenges we face, including actions by bar regulatory agencies; bar admission offices; disciplinary departments; lawyer assistance programs; and various other state and national institutions, entities, and organizations. If we are to improve the health and well-being of our lawyers and law students, it will likely come only as the result of a systemic and sustained effort by all sectors of our profession.

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OAAP ATTORNEY COUNSELOR
In 2017, the National Task Force on Lawyer Well-Being (Task Force), consisting of the American Bar Association (ABA) Commission on Lawyer Assistance Programs and a broad coalition of other organizations, published the most comprehensive report (Report) to date on the well-being of American lawyers. The Report, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*, relied on numerous empirical studies, two of the most notable being the recent ABA-Hazelden Betty Ford Foundation survey of nearly 13,000 currently practicing U.S. lawyers and the 2016 Survey of Law Student Well-Being, surveying over 3,300 law students from 15 law schools throughout the country. These studies revealed that many lawyers and law students struggle with anxiety, depression, and/or substance use issues.

**Well-Being in the Legal Profession**

The findings of these studies and the national media attention their publication generated, sparked the creation of the Task Force and its Report. The central question for the Task Force was how the profession can best address these health concerns in a collaborative, comprehensive, and sustainable way to meet the needs of all concerned.

The Report made clear that, although a disturbing portion of our legal profession has substance use and behavioral health challenges, the majority of lawyers and law students do not. It noted, however, “... that does not mean that they’re thriving. Many lawyers experience a ‘profound ambivalence’ about their work, and different sectors of the profession vary in their levels of satisfaction and well-being.” Well-being is thus more than “the absence of illness; it includes a positive state of wellness.” To be a good lawyer, the Report noted, one has to be a healthy lawyer, and the research suggests that “the current state of lawyers’ health cannot support a profession dedicated to client service and dependent on the public trust.” The Task Force thus undertook to address not only mental health and problematic substance use concerns, but also the overarching issue of lawyer well-being within the profession. How can lawyers experience well-being and actually thrive in their personal and professional lives?

The Task Force defined lawyer well-being as a continuous process whereby one seeks to thrive in six primary areas of one’s life:

**Emotional health** – identifying and managing emotions in personal and professional environments;

**Occupational pursuits** – cultivating personal satisfaction, growth, enrichment, and financial stability;

**Creative or intellectual endeavors** – engaging in continuous learning and the pursuit of creative or intellectually challenging activities;

**Spirituality** – experiencing a sense of meaningfulness and purpose in all aspects of life;

**Social connections** – developing a sense of belonging and support with others important in one’s life; and
Physical health – striving for regular physical activity, proper diet, nutrition, sufficient sleep, and recovery from the use of unhealthy substances.

Stakeholders

The Task Force’s Report makes over 40 recommendations, some general to all stakeholders within the legal community and some very specific to each individual stakeholder group. The Report is nothing less than a call to action. It seeks to encourage through collective action significant change in the culture of the legal profession. The stakeholder groups addressed include judges, regulators, legal employers, law schools, bar associations, professional liability carriers, and lawyer assistance programs.

Task Force Recommendations

To their credit, many of the stakeholders in Oregon are committed to lawyer well-being and have already begun implementing some of the Task Force’s recommendations. However, there is always room for additional improvement when it comes to one of the most important issues for this and future generations of our legal community.

Some of the general recommendations to all stakeholder groups include:

- Take action to minimize the stigma that is often attached to mental health and substance use disorders; encourage those with such conditions to seek help.
- Foster collegiality and respectful engagement throughout the profession; reduce chronic incivility that can foment a toxic culture that is counter to well-being.
- Promote diversity and inclusivity initiatives that encourage both individual and institutional well-being.
- Create meaningful mentoring and sponsorship programs, which research shows can aid well-being and career progress, particularly for women and diverse professionals.
- Guide and support the transition of older lawyers to, among other things, capitalize on the wealth of experience they can offer and, at the same time, reduce risks sometimes faced by senior lawyers challenged by the demands of technically evolving professional environments.

- De-emphasize alcohol at social events, and provide a variety of alternative non-alcoholic beverages at such events.
- Utilize monitoring to support recovery from substance use disorders in environments where it can be supportive.

Some of the recommendations to specific stakeholder groups include:

- Conduct judicial well-being surveys.
- Provide well-being programming for judges and staff.
- Encourage judicial participation in the activities of lawyer assistance programs, such as volunteering as speakers, particularly when the judge is in recovery him/herself.
- Educate and inform the judiciary regarding signs and symptoms associated with substance use and behavior health conditions so they are better able to identify when a lawyer may be in need of assistance.

- Adopt regulatory objectives that prioritize lawyer well-being, such as expanding continuing education requirements to include well-being topics; require law schools to create well-being education as a criterion for ABA accreditation; more closely focus on conduct and behavior rather than diagnosis and treatment as character and fitness bar admission criteria so as to avoid stigmatizing mental and behavioral health conditions and treatment; educate and accurately inform law students about bar admission criteria to reduce their fear that getting needed professional treatment will hinder their chances of bar admission.

- Adopt diversion programs and other alternatives to discipline for minor lawyer misconduct to encourage treatment for underlying substance use and mental health disorders.

- Add well-being-related questions to the multistate professional responsibility exam.

- In legal work environments, form active lawyer well-being committees; monitor for signs of work addiction and poor self-care in legal work; and actively combat social isolation and encourage interconnectivity.

- In law schools, create best practices for assisting law students experiencing psychological distress; provide training to law school faculty regarding student mental
What the Research Tells Us

For years, many have voiced varying degrees of concern about the physical and behavioral health of the legal profession. The findings of the two research studies referred to above clearly signaled “an elevated risk in the legal community for mental health and substance use disorders tightly intertwined with an alcohol-based social culture.” Below are some highlights of that research:

Among law students surveyed:

- 17% experienced some level of depression;
- 14% experienced severe anxiety;
- 23% had mild or moderate anxiety;
- 6% reported serious suicidal thoughts in the past year;
- 43% reported binge drinking at least once in the prior two weeks;
- Nearly one-quarter reported binge drinking two or more times in the prior two weeks;
- 25% qualified as being at risk for alcoholism for which further screening was recommended; and
- 50% reported that chances of bar admission are better if a mental health or substance use problem is hidden.

Among lawyers surveyed:

- Between 21% and 36% qualified as problem drinkers (i.e., hazardous use, possible dependence);
- 28% struggled with depression;
- 19% struggled with anxiety; and
- 23% struggled with unhealthy stress.

Lawyers with less than 10 years of practice and those working in private law firms experienced the highest rates of problem drinking and depression and elevated levels of other difficulties, including social isolation, work addiction, suicide, sleep deprivation, job dissatisfaction, and work-life conflicts.

health and substance use disorders; and develop mental health and substance use disorder resources, including taking active steps to encourage help-seeking practices by students.

- Empower law students to help fellow students in need; facilitate a confidential recovery network for students; provide educational opportunities on well-being-related topics in law schools; and discourage alcohol-centered law-school-related events.
- Encourage local and state bar associations to sponsor quality CLE programming on well-being topics, and utilize the resources of state lawyer assistance programs when appropriate.
- Emphasize well-being in loss prevention programs, including being aware of the role of lawyer impairment in claims activity.
- Among lawyer assistance programs, encourage emphasis on confidentiality; high-quality well-being programming; and appropriate and stable funding for outreach, screening, counseling, professional staffing, and preventative education.

The Task Force Report “makes a compelling case that the legal profession is at a crossroads” and the time for action is now. It is premised on the belief that, through collective action by all of us, we have the capacity to create a better future for our nation’s lawyers. Improving lawyer well-being is a win-win for everyone: it is good for clients, good for business, good for the profession – and it is the right thing to do!

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OAAP Attorney Counselor

References appear on page 4
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NATIONAL TASK FORCE ON LAWYER WELL-BEING
Creating a Movement To Improve Well-Being in the Legal Profession

August 14, 2017

Enclosed is a copy of The Path to Lawyer Well-Being: Practical Recommendations for Positive Change from the National Task Force on Lawyer Well-Being. The Task Force was conceptualized and initiated by the ABA Commission on Lawyer Assistance Programs (CoLAP), the National Organization of Bar Counsel (NOBC), and the Association of Professional Responsibility Lawyers (APRL). It is a collection of entities within and outside the ABA that was created in August 2016. Its participating entities currently include the following: ABA CoLAP; ABA Standing Committee on Professionalism; ABA Center for Professional Responsibility; ABA Young Lawyers Division; ABA Law Practice Division Attorney Wellbeing Committee; The National Organization of Bar Counsel; Association of Professional Responsibility Lawyers; National Conference of Chief Justices; and National Conference of Bar Examiners. Additionally, CoLAP was a co-sponsor of the 2016 ABA CoLAP and Hazelden Betty Ford Foundation’s study of mental health and substance use disorders among lawyers and of the 2016 Survey of Law Student Well-Being.

To be a good lawyer, one has to be a healthy lawyer. Sadly, our profession is falling short when it comes to well-being. The two studies referenced above reveal that too many lawyers and law students experience chronic stress and high rates of depression and substance use. These findings are incompatible with a sustainable legal profession, and they raise troubling implications for many lawyers’ basic competence. This research suggests that the current state of lawyers’ health cannot support a profession dedicated to client service and dependent on the public trust.

The legal profession is already struggling. Our profession confronts a dwindling market share as the public turns to more accessible, affordable alternative legal service providers. We are at a crossroads. To maintain public confidence in the profession, to meet the need for innovation in how we deliver legal services, to increase access to justice, and to reduce the level of toxicity that has allowed mental health and substance use disorders to fester among our colleagues, we have to act now. Change will require a wide-eyed and candid assessment of our members’ state of being, accompanied by courageous commitment to re-envisioning what it means to live the life of a lawyer.
This report’s recommendations focus on five central themes: (1) identifying stakeholders and the role each of us can play in reducing the level of toxicity in our profession, (2) eliminating the stigma associated with help-seeking behaviors, (3) emphasizing that well-being is an indispensable part of a lawyer’s duty of competence, (4) educating lawyers, judges, and law students on lawyer well-being issues, and (5) taking small, incremental steps to change how law is practiced and how lawyers are regulated to instill greater well-being in the profession.

The members of this Task Force make the following recommendations after extended deliberation. We recognize this number of recommendations may seem overwhelming at first. Thus we also provide proposed state action plans with simple checklists. These help each stakeholder inventory their current system and explore the recommendations relevant to their group. We invite you to read this report, which sets forth the basis for why the legal profession is at a tipping point, and we present these recommendations and action plans for building a more positive future. We call on you to take action and hear our clarion call. The time is now to use your experience, status, and leadership to construct a profession built on greater well-being, increased competence, and greater public trust.

Sincerely,

Bree Buchanan, Esq.
Task Force Co-Chair
Texas Lawyers Assistance Program
State Bar of Texas

James C. Coyle, Esq.
Task Force Co-Chair
Attorney Regulation Counsel
Colorado Supreme Court

“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 (the ABA Commission on Lawyer Assistance programs) 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

* David R. Brink (ABA President 1981-82) passed away in July 2017 at the age of 97. He tirelessly supported the work of lawyer assistance programs across the nation, and was a beacon of hope in the legal profession for those seeking recovery.
THE PATH TO LAWYER WELL-BEING:
Practical Recommendations For Positive Change

THE REPORT OF THE NATIONAL TASK FORCE ON LAWYER WELL-BEING

August 2017
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THE PATH TO LAWYER WELL-BEING: Practical Recommendations For Positive Change

Although the legal profession has known for years that many of its students and practitioners are languishing, far too little has been done to address it. Recent studies show we can no longer continue to ignore the problems. In 2016, the American Bar Association (ABA) Commission on Lawyer Assistance Programs and Hazelden Betty Ford Foundation published their study of nearly 13,000 currently-practicing lawyers [the “Study”]. It found that between 21 and 36 percent qualify as problem drinkers, and that approximately 28 percent, 19 percent, and 23 percent are struggling with some level of depression, anxiety, and stress, respectively.¹ The parade of difficulties also includes suicide, social alienation, work addiction, sleep deprivation, job dissatisfaction, a “diversity crisis,” complaints of work-life conflict, incivility, a narrowing of values so that profit predominates, and negative public perception.² Notably, the Study found that younger lawyers in the first ten years of practice and those working in private firms experience the highest rates of problem drinking and depression. The budding impairment of many of the future generation of lawyers should be alarming to everyone. Too many face less productive, less satisfying, and more troubled career paths.

Additionally, 15 law schools and over 3,300 law students participated in the Survey of Law Student Well-Being, the results of which were released in 2016.³ It found that 17 percent experienced some level of depression, 14 percent experienced severe anxiety, 23 percent had mild or moderate anxiety, and six percent reported serious suicidal thoughts in the past year. As to alcohol use, 43 percent reported binge drinking at least once in the prior two weeks and nearly one-quarter (22 percent) reported binge-drinking two or more times during that period. One-quarter fell into the category of being at risk for alcoholism for which further screening was recommended.

The results from both surveys signal an elevated risk in the legal community for mental health and substance use disorders tightly intertwined with an alcohol-based social culture. The analysis of the problem cannot end there, however. The studies reflect that the majority of lawyers and law students do not have a mental health or substance use disorder. But that does not mean that they’re thriving. Many lawyers experience a “profound ambivalence” about their work,⁴ and different sectors of the profession vary in their levels of satisfaction and well-being.⁵ Given this data, lawyer well-being issues can no longer be ignored. Acting for the benefit of lawyers who are functioning below their ability and for those suffering due to substance use and mental health disorders, the National Task Force on Lawyer Well-Being urges our profession’s leaders to act.

¹P. R. Krill, R. Johnson, & L. Albert, The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys, 10 J. ADDICTION MED. 46 (2016).
REASONS TO TAKE ACTION

We offer three reasons to take action: organizational effectiveness, ethical integrity, and humanitarian concerns.

First, lawyer well-being contributes to organizational success—in law firms, corporations, and government entities. If cognitive functioning is impaired as explained above, legal professionals will be unable to do their best work. For law firms and corporations, lawyer health is an important form of human capital that can provide a competitive advantage.6

For example, job satisfaction predicts retention and performance.7 Gallup Corporation has done years of research showing that worker well-being in the form of engagement is linked to a host of organizational success factors, including lower turnover, high client satisfaction, and higher productivity and profitability. The Gallup research also shows that few organizations fully benefit from their human capital because most employees (68 percent) are not engaged.8 Reducing turnover is especially important for law firms, where turnover rates can be high. For example, a 2016 survey by Law360 found that over 40 percent of lawyers reported that they were likely or very likely to leave their current law firms in the next year.9 This high turnover rate for law firms is expensive—with estimated costs for larger firms of $25 million every year.10 In short, enhancing lawyer health and well-being is good business and makes sound financial sense.

Second, lawyer well-being influences ethics and professionalism. Rule 1.1 of the ABA’s Model Rules of Professional Conduct requires lawyers to “provide competent representation.” Rule 1.3 requires diligence in client representation, and Rules 4.1 through 4.4 regulate working with people other than clients. Minimum competence is critical to protecting clients and allows lawyers to avoid discipline. But it will not enable them to live up to the aspirational goal articulated in the Preamble to the ABA’s Model Rules of Professional Conduct, which calls lawyers to “strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession’s ideals of public service.”

Troubled lawyers can struggle with even minimum competence. At least one author suggests that 40 to 70 percent of disciplinary proceedings and malpractice claims against lawyers involve substance use or depression, and often both.11 This can be explained, in part, by declining mental capacity due to these conditions. For example, major depression is associated

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with impaired executive functioning, including diminished memory, attention, and problem-solving. Well-functioning executive capacities are needed to make good decisions and evaluate risks, plan for the future, prioritize and sequence actions, and cope with new situations. Further, some types of cognitive impairment persist in up to 60 percent of individuals with depression even after mood symptoms have diminished, making prevention strategies essential. For alcohol abuse, the majority of abusers (up to 80 percent) experience mild to severe cognitive impairment. Deficits are particularly severe in executive functions, especially in problem-solving, abstraction, planning, organizing, and working memory—core features of competent lawyering.

Third, from a humanitarian perspective, promoting well-being is the right thing to do. Untreated mental health and substance use disorders ruin lives and careers. They affect too many of our colleagues. Though our profession prioritizes individualism and self-sufficiency, we all contribute to, and are affected by, the collective legal culture. Whether that culture is toxic or sustaining is up to us. Our interdependence creates a joint responsibility for solutions.

**DEFINING “LAWYER WELL-BEING”**

We define lawyer well-being as a continuous process whereby lawyers seek to thrive in each of the following areas: emotional health, occupational pursuits, creative or intellectual endeavors, sense of spirituality or greater purpose in life, physical health, and social connections with others. Lawyer well-being is part of a lawyer’s ethical duty of competence. It includes lawyers’ ability to make healthy, positive work/life choices to assure not only a quality of life within their families and communities, but also to help them make responsible decisions for their clients. It includes maintaining their own long term well-being. This definition highlights that complete health

**“Well-Being”: A Continuous process toward thriving across all life dimensions.**

Daniel Goleman, in his book *Primal Leadership*, describes a fundamental process for promoting well-being. The process he describes is called “Well-Being”: A Continuous process toward thriving across all life dimensions. The book proposes that well-being is a fundamental process for promoting overall health and happiness. It is a process that involves cultivating personal satisfaction, growth, and enrichment in work; financial stability; recognizing the importance of emotions and the ability to identify and manage our own emotions to support mental health, achieve goals, and inform decision-making; developing a sense of connection, belonging, and a well-developed support network; and contributing to our groups and communities. It also involves engaging in continuous learning and the pursuit of creative or intellectually challenging activities that foster ongoing development; monitoring cognitive wellness; developing a sense of meaningfulness and purpose in all aspects of life; striving for regular physical activity, proper diet and nutrition, sufficient sleep, and recovery; and minimizing the use of addictive substances. Seeking help for mental health when needed is also an important aspect of this process. The definition of “health” can be found at: http://www.who.int/about/mission/en. The definition of “mental health” can be found at: http://www.who.int/features/factfiles/mental_health/en/.
is not defined solely by the absence of illness; it includes a positive state of wellness.

To arrive at this definition, the Task Force consulted other prominent well-being definitions and social science research, which emphasize that well-being is not limited to: (1) an absence of illness, (2) feeling happy all the time, or (3) intra-individual processes—context matters. For example, the World Health Organization (WHO) defines “health” as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” It defines “mental health” as “a state of well-being in which every individual realizes his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community.”

Social science research also emphasizes that “well-being” is not defined solely by an absence of dysfunction; but nor is it limited to feeling “happy” or filled with positive emotions. The concept of well-being in social science research is multi-dimensional and includes, for example, engagement in interesting activities, having close relationships and a sense of belonging, developing confidence through mastery, achieving goals that matter to us, meaning and purpose, a sense of autonomy and control, self-acceptance, and personal growth. This multi-dimensional approach underscores that a positive state of well-being is not synonymous with feeling happy or experiencing positive emotions. It is much broader.

Another common theme in social science research is that well-being is not just an intra-personal process: context powerfully influences it. Consistent with this view, a study of world-wide survey data found that five factors constitute the key elements of well-being: career, social relationships, community, health, and finances.

The Task Force chose the term “well-being” based on the view that the terms “health” or “wellness” connote only physical health or the absence of illness. Our definition of “lawyer well-being” embraces the multi-dimensional concept of mental health and the importance of context to complete health.

**OUR CALL TO ACTION**

The benefits of increased lawyer well-being are compelling and the cost of lawyer impairment are too great to ignore. There has never been a better or more important time for all sectors of the profession to get serious about the substance use and mental health of ourselves and those around us. The publication of this report, in and of itself, serves the vital role of bringing conversations about these conditions out in the open. In the following pages, we present recommendations for many stakeholders in the legal profession including the judiciary, regulators, legal employers, law schools, bar associations, lawyers' professional liability carriers, and lawyer assistance programs. The recommendations revolve around five core steps intended to build a more sustainable culture:

(1) Identifying stakeholders and the role that each of us can play in reducing the level of toxicity in our profession.

(2) Ending the stigma surrounding help-seeking behaviors. This report contains numerous recommendations to combat the stigma that seeking help will lead to negative professional consequences.

(3) Emphasizing that well-being is an indispensable part of a lawyer’s duty of competence. Among the report’s recommendations are steps stakeholders can take to highlight the tie-in between competence and well-being. These include giving this connection formal recognition through modifying the Rules of Professional Conduct or their comments to reference well-being.

(4) Expanding educational outreach and programming on well-being issues. We need to educate lawyers, judges, and law students on well-being issues. This includes instruction in recognizing mental health and

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14The WHO’s definition of “health” can be found at: http://www.who.int/about/mission/en. The definition of “mental health” can be found at: http://www.who.int/features/factfiles/mental_health/en/


substance use disorders as well as navigating the practice of law in a healthy manner. To implement this recommendation effectively, more resources need to be devoted to promoting well-being.

(5) Changing the tone of the profession one small step at a time. This report contains a number of small-scale recommendations, such as allowing lawyers to earn continuing legal education (CLE) credit for well-being workshops or de-emphasizing alcohol at bar association social events. These small steps can start the process necessary to place health, resilience, self-care, and helping others at the forefront of what it means to be a lawyer. Collectively, small steps can lead to transformative cultural change in a profession that has always been, and will remain, demanding.

Historically, law firms, law schools, bar associations, courts, and malpractice insurers have taken a largely hands-off approach to these issues. They have dealt with them only when forced to because of impairment that can no longer be ignored. The dedication and hard work of lawyer assistance programs aside, we have not done enough to help, encourage, or require lawyers to be, get, or stay well. However, the goal of achieving increased lawyer well-being is within our collective reach. The time to redouble our efforts is now.

**RECOMMENDATIONS**

Below, the Task Force provides detailed recommendations for minimizing lawyer dysfunction, boosting well-being, and reinforcing the importance of well-being to competence and excellence in practicing law. This section has two main parts. Part I provides general recommendations for all stakeholders in the legal community. Part II provides recommendations tailored to a specific stakeholder: (1) judges, (2) regulators, (3) legal employers, (4) law schools, (5) bar associations, (6) lawyers’ professional liability carriers, and (7) lawyer assistance programs.
“None of us got where we are solely by pulling ourselves up by our bootstraps. We got there because somebody bent down and helped us pick up our boots.” — Thurgood Marshall

First, we recommend strategies for all stakeholders in the legal profession to play a part in the transformational process aimed at developing a thriving legal profession.

1. ACKNOWLEDGE THE PROBLEMS AND TAKE RESPONSIBILITY.

Every sector of the legal profession must support lawyer well-being. Each of us can take a leadership role within our own spheres to change the profession’s mindset from passive denial of problems to proactive support for change. We have the capacity to make a difference.

For too long, the legal profession has turned a blind eye to widespread health problems.

For too long, the legal profession has turned a blind eye to widespread health problems. Many in the legal profession have behaved, at best, as if their colleagues’ well-being is none of their business. At worst, some appear to believe that supporting well-being will harm professional success. Many also appear to believe that lawyers’ health problems are solely attributable to their own personal failings for which they are solely responsible.

As to the long-standing psychological distress and substance use problems, many appear to believe that the establishment of lawyer assistance programs—a necessary but not sufficient step toward a solution—has satisfied any responsibility that the profession might have. Lawyer assistance programs have made incredible strides; however, to meaningfully reduce lawyer distress, enhance well-being, and change legal culture, all corners of the legal profession need to prioritize lawyer health and well-being. It is not solely a job for lawyer assistance programs. Each of us shares responsibility for making it happen.

2. USE THIS REPORT AS A LAUNCH PAD FOR A PROFESSION-WIDE ACTION PLAN.

All stakeholders must lead their own efforts aimed at incorporating well-being as an essential component of practicing law, using this report as a launch pad. Changing the culture will not be easy. Critical to this complex endeavor will be the development of a National Action Plan and state-level action plans that continue the effort started in this report. An organized coalition will be necessary to plan, fund, instigate, motivate, and sustain long-term change. The coalition should include, for example, the Conference of Chief Justices, the National Organization of Bar Counsel, the Association of Professional Responsibility Lawyers, the ABA, state bar associations as a whole and specific divisions (young lawyers, lawyer well-being, senior lawyers, etc.), the Commission on Lawyer Assistance Programs, state lawyer assistance programs, other stakeholders that have contributed to this report, and many others.

3. LEADERS SHOULD DEMONSTRATE A PERSONAL COMMITMENT TO WELL-BEING.

Policy statements alone do not shift culture. Broad-scale change requires buy-in and role modeling from top

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leadership.17 Leaders in the courts, regulators’ offices, legal employers, law schools, and bar associations will be closely watched for signals about what is expected. Leaders can create and support change through their own demonstrated commitment to core values and well-being in their own lives and by supporting others in doing the same.18

4. FACILITATE, DESTIGMATIZE, AND ENCOURAGE HELP-SEEKING BEHAVIORS.

All stakeholders must take steps to minimize the stigma of mental health and substance use disorders because the stigma prevents lawyers from seeking help.

Research has identified multiple factors that can hinder seeking help for mental health conditions: (1) failure to recognize symptoms; (2) not knowing how to identify or access appropriate treatment or believing it to be a hassle to do so; (3) a culture’s negative attitude about such conditions; (4) fear of adverse reactions by others whose opinions are important; (5) feeling ashamed; (6) viewing help-seeking as a sign of weakness, having a strong preference for self-reliance, and/or having a tendency toward perfectionism; (7) fear of career repercussions; (8) concerns about confidentiality; (9) uncertainty about the quality of organizationally-provided therapists or otherwise doubting that treatment will be effective; and (10) lack of time in busy schedules.19

The Study identified similar factors. The two most common barriers to seeking treatment for a substance use disorder that lawyers reported were not wanting others to find out they needed help and concerns regarding privacy or confidentiality. Top concerns of law students in the Survey of Law Student Well Being were regarding privacy or confidentiality. Other concerns included fear of jeopardizing their academic standing or admission to the practice of law, social stigma, and privacy concerns.20

Research also suggests that professionals with hectic, stressful jobs (like many lawyers and law students) are more likely to perceive obstacles for accessing treatment, which can exacerbate depression. The result of these barriers is that, rather than seeking help early, many wait until their symptoms are so severe that they interfere with daily functioning. Similar dynamics likely apply for aging lawyers seeking assistance.

Removing these barriers requires education, skill-building, and stigma-reduction strategies. Research shows that the most effective way to reduce stigma is through direct contact with someone who has personally experienced a relevant disorder. Ideally, this person should be a practicing lawyer or law student (depending on the audience) in order to create a personal connection that lends credibility and combats stigma.22 Viewing video-taped narratives also is useful, but not as effective as in-person contacts.

The military’s “Real Warrior” mental health campaign can serve as one model for the legal profession. It is designed to improve soldiers’ education about mental health disorders, reduce stigma, and encourage help-seeking. Because many soldiers (like many lawyers) perceive seeking help as a weakness, the campaign also has sought to re-frame help-seeking as a sign of strength that is important to resilience. It also highlights cultural values that align with seeking psychological help.23

5. BUILD RELATIONSHIPS WITH LAWYER WELL-BEING EXPERTS.

5.1. Partner With Lawyer Assistance Programs.

All stakeholders should partner with and ensure stable and sufficient funding for the ABA’s Commission on Lawyer Assistance Programs (CoLAP) as well as
for state-based lawyer assistance programs. ABA CoLAP and state-based lawyer assistance programs are indispensable partners in efforts to educate and empower the legal profession to identify, treat, and prevent conditions at the root of the current well-being crisis, and to create lawyer-specific programs and access to treatment.\textsuperscript{24} Many lawyer assistance programs employ teams of experts that are well-qualified to help lawyers, judges, and law students who experience physical or mental health conditions. Lawyer assistance programs’ services are confidential, and many include prevention, intervention, evaluation, counseling, referral to professional help, and on-going monitoring. Many cover a range of well-being-related topics including substance use and mental health disorders, as well as cognitive impairment, process addictions, burnout, and chronic stress. A number also provide services to lawyer discipline and admissions processes (e.g., monitoring and drug and alcohol screening).\textsuperscript{25}

Notably, the Study found that, of lawyers who had reported past treatment for alcohol use, those who had used a treatment program specifically tailored to legal professionals reported, on average, significantly lower scores on the current assessment of alcohol use.\textsuperscript{26} This at least suggests that lawyer assistance programs, which are specifically tailored to identify and refer lawyers to treatment providers and resources, are a better fit than general treatment programs.

Judges, regulators, legal employers, law schools, and bar associations should ally themselves with lawyer assistance programs to provide the above services. These stakeholders should also promote the services of state lawyer assistance programs. They also should emphasize the confidential nature of those services to reduce barriers to seeking help. Lawyers are reluctant to seek help for mental health and substance use disorders for fear that doing so might negatively affect their licenses and lead to stigma or judgment of peers.\textsuperscript{27} All stakeholders can help combat these fears by clearly communicating about the confidentiality of lawyer assistance programs.

We also recommend coordinating regular meetings with lawyer assistance program directors to create solutions to the problems facing the profession. Lawyer assistance programs can help organizations establish confidential support groups, wellness days, trainings, summits, and/or fairs. Additionally, lawyer assistance programs can serve as a resource for speakers and trainers on lawyer well-being topics, contribute to publications, and provide guidance to those concerned about a lawyer’s well-being.

5.2. Consult Lawyer Well-Being Committees and Other Types of Well-Being Experts.

We also recommend partnerships with lawyer well-being committees and other types of organizations and consultants that specialize in relevant topics. For example, the American Bar Association’s Law Practice Division established an Attorney Well-Being Committee in 2015. A number of state bars also have well-being committees including Georgia, Indiana, Maryland, South Carolina, and Tennessee.\textsuperscript{28} The Florida Bar Association’s Young Lawyers Division has a Quality of Life Committee “for enhancing and promoting the quality of life for young lawyers.”\textsuperscript{29} Some city bar associations also have well-being initiatives, such as the Cincinnati Bar Association’s Health and Well-Being Committee.\textsuperscript{30} These committees can serve as a resource for education, identifying speakers and trainers, developing materials, and contributing to publications. Many high-quality consultants are also available on well-being subjects.

\textsuperscript{24} The ABA Commission on Lawyer Assistance Programs’ (CoLAP) website provides numerous resources, including help lines and a directory of state-based law assistant programs. See http://www.americanbar.org/groups/lawyer_assistance.html.

\textsuperscript{25} COMM’N ON LAWYER ASSISTANCE PROGRAMS, AM. BAR ASS’N, 2014 COMPREHENSIVE SURVEY OF LAWYER ASSISTANCE PROGRAMS 34-37 (2014).

\textsuperscript{26} Krill, Johnson, & Albert, supra note 1, at 50.

\textsuperscript{27} Id. at 51.


\textsuperscript{29} The Fla. Bar Ass’n, Young Lawyers Division, Committees, Quality of Life, https://flayld.org/board-of-governors/committees/ (last visited June 8, 2017).

Care should be taken to ensure that they understand the particular types of stress that affect lawyers.

**6. FOSTER COLLEGIALLY AND RESPECTFUL ENGAGEMENT THROUGHOUT THE PROFESSION.**

We recommend that all stakeholders develop and enforce standards of collegiality and respectful engagement. Judges, regulators, practicing lawyers, law students, and professors continually interact with each other, clients, opposing parties, staff, and many others. Those interactions can either foment a toxic culture that contributes to poor health or can foster a respectful culture that supports well-being. Chronic incivility is corrosive. It depletes energy and motivation, increases burnout, and infects emotional and physiological damage. It diminishes productivity, performance, creativity, and helping behaviors.

Civility appears to be declining in the legal profession. For example, in a 1992 study, 42 percent of lawyers and 45 percent of judges believed that civility and professionalism among bar members were significant problems. In a 2007 survey of Illinois lawyers, 72 percent of respondents categorized incivility as a serious or moderately serious problem in the profession. A recent study of over 6,000 lawyers found that lawyers did not generally have a positive view of lawyer or judge professionalism. There is evidence showing that women lawyers are more frequent targets of incivility and harassment. Legal-industry commentators offer a host of hypotheses to explain the decline in civility.

Rather than continuing to puzzle over the causes, we acknowledge the complexity of the problem and invite further thinking on how to address it.

**Incivility appears to be on the rise.**

As a start, we recommend that bar associations and courts adopt rules of professionalism and civility, such as those that exist in many jurisdictions. Likewise, law firms should adopt their own professionalism standards. Since rules alone will not change culture, all stakeholders should devise strategies to promote wide-scale, voluntary observance of those standards. This should include an expectation that all leaders in the profession be a role model for these standards of professionalism.

Exemplary standards of professionalism are inclusive. Research reflects that organizational diversity and inclusion initiatives are associated with employee well-being, including, for example, general mental and physical health, perceived stress level, job satisfaction, organizational commitment, trust, work engagement,
perceptions of organizational fairness, and intentions to remain on the job.43 A significant contributor to well-being is a sense of organizational belongingness, which has been defined as feeling personally accepted, respected, included, and supported by others. A weak sense of belonging is strongly associated with depressive symptoms.31 Unfortunately, however, a lack of diversity and inclusion is an entrenched problem in the legal profession.42 The issue is pronounced for women and minorities in larger law firms.43

6.1. Promote Diversity and Inclusivity.

Given the above, we recommend that all stakeholders urgently prioritize diversity and inclusion. Regulators and bar associations can play an especially influential role in advocating for initiatives in the profession as a whole and educating on why those initiatives are important to individual and institutional well-being. Examples of relevant initiatives include: scholarships, bar exam grants for qualified applicants, law school orientation programs that highlight the importance of diversity and inclusion, CLE programs focused on diversity in the legal profession, business development symposia for women- and minority-owned law firms, pipeline programming for low-income high school and college students, diversity clerkship programs for law students, studies and reports on the state of diversity within the state's bench and bar, and diversity initiatives in law firms.44

6.2. Create Meaningful Mentoring and Sponsorship Programs.

Another relevant initiative that fosters inclusiveness and respectful engagement is mentoring. Research has shown that mentorship and sponsorship can aid well-being and career progression for women and diverse professionals. They also reduce lawyer isolation.46 Those who have participated in legal mentoring report a stronger sense of personal connection with others in the legal community, restored enthusiasm for the legal profession, and more resilience—all of which benefit both mentors and mentees.47 At least 35 states and the District of Columbia sponsor formal mentoring programs.48

7. ENHANCE LAWYERS’ SENSE OF CONTROL.

Practices that rob lawyers of a sense of autonomy and control over their schedules and lives are especially harmful to their well-being. Research studies show that high job demands paired with a lack of a sense of control breeds depression and other psychological disorders.49 Research suggests that men in jobs with such characteristics have an elevated risk of alcohol abuse.50 A recent review of strategies designed to prevent workplace depression found that those designed to improve the perception of control were among the

48Ferris, Daniels, & Sexton, supra note 40; A. Ramaswami, G. F. Dreher, R. Bretz, & C. Wietthoff, The Interactive Effects of Gender and Mentoring on Career Attainment: Making the Case for Female Lawyers, 37 J. CAREER DEV. 692 (2010).
50Of the 35 programs, seven are mandatory (GA, NV, NM, OR, SC, UT, and WY) and some are approved for CLE credits. See the American Bar Association for more information: http://www.americanbar.org/groups/professional_responsibility/resources/professionalism/mentoring.html.
most effective.\textsuperscript{51} Research confirms that environments that facilitate control and autonomy contribute to optimal functioning and well-being.\textsuperscript{52}

We recommend that all stakeholders consider how long-standing structures of the legal system, organizational norms, and embedded expectations might be modified to enhance lawyers’ sense of control and support a healthier lifestyle. Courts, clients, colleagues, and opposing lawyers all contribute to this problem. Examples of the types of practices that should be reviewed include the following:

- Practices concerning deadlines such as tight deadlines for completing a large volume of work, limited bases for seeking extensions of time, and ease and promptness of procedures for requesting extensions of time;
- Refusal to permit trial lawyers to extend trial dates to accommodate vacation plans or scheduling trials shortly after the end of a vacation so that lawyers must work during that time;
- Tight deadlines set by clients that are not based on business needs;
- Senior lawyer decision-making in matters about key milestones and deadlines without consulting other members of the litigation team, including junior lawyers;
- Senior lawyers’ poor time-management habits that result in repeated emergencies and weekend work for junior lawyers and staff;
- Expectations of 24/7 work schedules and of prompt response to electronic messages at all times; and
- Excessive law school workload, controlling teaching styles, and mandatory grading curves.

8. PROVIDE HIGH-QUALITY EDUCATIONAL PROGRAMS ABOUT LAWYER DISTRESS AND WELL-BEING.

All stakeholders should ensure that legal professionals receive training in identifying, addressing, and supporting fellow professionals with mental health and substance use disorders. At a minimum, training should cover the following:

- The warning signs of substance use or mental health disorders, including suicidal thinking;
- How, why, and where to seek help at the first signs of difficulty;
- The relationship between substance use, depression, anxiety, and suicide;
- Freedom from substance use and mental health disorders as an indispensable predicate to fitness to practice;
- How to approach a colleague who may be in trouble;
- How to thrive in practice and manage stress without reliance on alcohol and drugs; and
- A self-assessment or other check of participants’ mental health or substance use risk.

As noted above, to help reduce stigma, such programs should consider enlisting the help of recovering lawyers who are successful members of the legal community. Some evidence reflects that social norms predict problem drinking even more so than stress.\textsuperscript{53} Therefore, a team-based training program may be most effective because it focuses on the level at which the social norms are enforced.\textsuperscript{54}

Given the influence of drinking norms throughout the profession, however, isolated training programs are not sufficient. A more comprehensive, systemic campaign is likely to be the most effective—though certainly the most challenging.\textsuperscript{55} All stakeholders will be critical players in such an aspirational goal. Long-term strategies should consider scholars’ recommendations to incorporate mental health and substance use disorder training into broader health-promotion programs to help skirt the stigma that may otherwise deter attendance.

\textsuperscript{52}Y-L Su & J. Reeve, A Meta-Analysis of the Effectiveness of Intervention Programs Designed to Support Autonomy, 23 EDUC. PSYCHOL. REV. 159 (2011).
\textsuperscript{53}D. C. Hodgins, R. Williams, & G. Munro, Workplace Responsibility, Stress, Alcohol Availability and Norms as Predictors of Alcohol Consumption-Related Problems Among Employed Workers, 44 SUBSTANCE USE & MISUSE 2062 (2009).
\textsuperscript{55}Kolar & von Treuer, supra note 54.
Research also suggests that, where social drinking has become a ritual for relieving stress and for social bonding, individuals may resist efforts to deprive them of a valued activity that they enjoy. To alleviate resistance based on such concerns, prevention programs should consider making “it clear that they are not a temperance movement, only a force for moderation,” and that they are not designed to eliminate bonding but to ensure that drinking does not reach damaging dimensions.56

Additionally, genuine efforts to enhance lawyer well-being must extend beyond disorder detection and treatment. Efforts aimed at remodeling institutional and organizational features that breed stress are crucial, as are those designed to cultivate lawyers’ personal resources to boost resilience. All stakeholders should participate in the development and delivery of educational materials and programming that go beyond detection to include causes and consequences of distress. These programs should be eligible for CLE credit, as discussed in Recommendation 20.3. Appendix B to this report offers examples of well-being-related educational content, along with empirical evidence to support each example.

Well-being efforts must extend beyond detection and treatment and address root causes of poor health.

9. GUIDE AND SUPPORT THE TRANSITION OF OLDER LAWYERS.

Like the general population, the lawyer community is aging and lawyers are practicing longer.57 In the Baby Boomer generation, the oldest turned 62 in 2008, and the youngest will turn 62 in 2026.58 In law firms, one estimate indicates that nearly 65 percent of equity partners will retire over the next decade.59 Senior lawyers can bring much to the table, including their wealth of experience, valuable public service, and mentoring of new lawyers. At the same time, however, aging lawyers have an increasing risk for declining physical and mental capacity. Yet few lawyers and legal organizations have sufficiently prepared to manage transitions away from the practice of law before a crisis occurs. The result is a rise in regulatory and other issues relating to the impairment of senior lawyers. We make the following recommendations to address these issues:

Planning Transition of Older Lawyers

1. Provide education to detect cognitive decline.

2. Develop succession plans.

3. Create transition programs to respectfully aid retiring professionals plan for their next chapter.

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57 A recent American Bar Association report reflected that, in 2005, 34 percent of practicing lawyers were age fifty-five or over, compared to 25 percent in 1980. See LAWYER DEMOGRAPHICS, A.B.A. SEC. OF LEGAL EDUC. & ADMISSIONS TO THE BAR (2016), available at http://www.americanbar.org/content/dam/aba/administrative/market_research/lawyer-demographics-tables-2016.authcheckdam.pdf.


First, all stakeholders should create or support programming for detecting and addressing cognitive decline in oneself and colleagues.

Second, judges, legal employers, bar associations, and regulators should develop succession plans, or provide education on how to do so, to guide the transition of aging legal professionals. Programs should include help for aging members who show signs of diminished cognitive skills, to maintain their dignity while also assuring they are competent to practice. A model program in this regard is the North Carolina Bar Association's Senior Lawyers Division.

Third, we recommend that legal employers, law firms, courts, and law schools develop programs to aid the transition of retiring legal professionals. Retirement can enhance or harm well-being depending on the individual’s adjustment process. Many lawyers who are approaching retirement age have devoted most of their adult lives to the legal profession, and their identities often are wrapped up in their work. Lawyers whose self-esteem is contingent on their workplace success are likely to delay transitioning and have a hard time adjusting to retirement. Forced retirement that deprives individuals of a sense of control over the exit timing or process is particularly harmful to well-being and long-term adjustment to retirement.

To assist stakeholders in creating the programming to guide and support transitioning lawyers, the Task Force sets out a number of suggestions in Appendix C.

10. DE-EMPHASIZE ALCOHOL AT SOCIAL EVENTS.

Workplace cultures or social climates that support alcohol consumption are among the most consistent predictors of employee drinking. When employees drink together to unwind from stress and for social bonding, social norms can reinforce tendencies toward problem drinking and stigmatize seeking help. On the other hand, social norms can also lead colleagues to encourage those who abuse alcohol to seek help.

In the legal profession, social events often center around alcohol consumption (e.g., “Happy Hours,” “Bar Reviews,” networking receptions, etc.). The expectation of drinking is embedded in the culture, which may contribute to over-consumption. Legal employers, law schools, bar associations, and other stakeholders that plan social events should provide a variety of alternative non-alcoholic beverages and consider other types of activities to promote socializing and networking. They should strive to develop social norms in which lawyers discourage heavy drinking and encourage others to seek help for problem use.

11. UTILIZE MONITORING TO SUPPORT RECOVERY FROM SUBSTANCE USE DISORDERS.

Extensive research has demonstrated that random drug and alcohol testing (or “monitoring”) is an effective way of supporting recovery from substance use disorders and increasing abstinence rates. The medical profession has long relied on monitoring as a key component of its treatment paradigm for physicians, resulting in long-term recovery rates for that population that are between 70-96 percent, which is the highest in all of the treatment outcome literature. One study found that 96 percent of medical professionals who were subject to random drug tests remained drug-free, compared to only 64 percent of those who were not subject to mandatory testing. Further, a national survey of physician health programs found that among medical professionals who completed their prescribed treatment requirements (including monitoring), 95 percent were licensed and actively available at W. SLEASE ET AL., NOBC-APRL-COLAP SECOND JOINT COMMITTEE ON AGING LAWYERS, FINAL REPORT (2014), available at http://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/fs_colap_nobc_april_colap_second_joint_committee_aging_lawyers.authcheckdam.pdf.

63 Id.
working in the health care field at a five year follow-up after completing their primary treatment program. In addition, one study has found that physicians undergoing monitoring through physician health programs experienced lower rates of malpractice claims.

Such outcomes are not only exceptional and encouraging, they offer clear guidance for how the legal profession could better address its high rates of substance use disorders and increase the likelihood of positive outcomes. Although the benefits of monitoring have been recognized by various bar associations, lawyer assistance programs, and employers throughout the legal profession, a uniform or “best practices” approach to the treatment and recovery management of lawyers has been lacking. Through advances in monitoring technologies, random drug and alcohol testing can now be administered with greater accuracy and reliability—as well as less cost and inconvenience—than ever before. Law schools, legal employers, regulators, and lawyer assistance programs would all benefit from greater utilization of monitoring to support individuals recovering from substance use disorders.

12. BEGIN A DIALOGUE ABOUT SUICIDE PREVENTION.

It is well-documented that lawyers have high rates of suicide. The reasons for this are complicated and varied, but some include the reluctance of attorneys to ask for help when they need it, high levels of depression amongst legal professionals, and the stressful nature of the job. If we are to change these statistics, stakeholders need to provide education and take action. Suicide, like mental health or substance use disorders, is a highly stigmatized topic. While it is an issue that touches many of us, most people are uncomfortable discussing suicide. Therefore, stakeholders must make a concerted effort towards suicide prevention to demonstrate to the legal community that we are not afraid of addressing this issue. We need leaders to encourage dialogue about suicide prevention.

One model for this is through a “Call to Action,” where members of the legal community and stakeholders from lawyer assistance programs, the judiciary, law firms, law schools, and bar associations are invited to attend a presentation and community discussion about the issue.

**Call to Action**

- Organize “Call to Action” events to raise awareness.
- Share stories of those affected by suicide.
- Provide education about signs of depression and suicidal thinking.
- Learn non-verbal signs of distress.
- Collect and publicize available resources.

When people who have been affected by the suicide of a friend or colleague share their stories, other members of the legal community begin to better understand the impact and need for prevention. In addition, stakeholders can schedule educational presentations that incorporate information on the signs and symptoms of suicidal thinking along with other mental health/
substance use disorders. These can occur during CLE presentations, staff meetings, training seminars, at law school orientations, bar association functions, etc. Stakeholders can contact their state lawyer assistance programs, employee assistance program agencies, or health centers at law schools to find speakers, or referrals for counselors or therapists so that resources are available for family members of lawyers, judges, and law students who have taken their own life.

It’s important for all stakeholders to understand that, while lawyers might not tell us that they are suffering, they will show us through various changes in behavior and communication styles. This is so because the majority of what we express is non-verbal. Becoming better educated about signs of distress will enable us to take action by, for example, making health-related inquiries or directing them to potentially life-saving resources.

13. SUPPORT A LAWYER WELL-BEING INDEX TO MEASURE THE PROFESSION’S PROGRESS.

We recommend that the ABA coordinate with state bar associations to create a well-being index for the legal profession that will include metrics related to lawyers, staff, clients, the legal profession as a whole, and the broader community. The goal would be to optimize the well-being of all of the legal profession’s stakeholders. Creating such an index would correspond with a growing worldwide consensus that success should not be measured solely in economic terms. Measures of well-being also have an important role to play in defining success and informing policy. The index would help track progress on the transformational effort proposed in this report. For law firms, it also may help counterbalance the “profits per partner metric” that has been published by The American Lawyer since the late 1980s, and which some argue has driven the profession away from its core values. As a foundation for building the well-being index, stakeholders could look to, for example, criteria used in The American Lawyer’s Best Places to Work survey, or the Tristan Jepson Memorial Foundation’s best practice guidelines for promoting psychological well-being in the legal profession.
J udges occupy an esteemed position in the legal profession and society at large. For most, serving on the bench is the capstone of their legal career. The position, however, can take a toll on judges’ health and well-being. Judges regularly confront contentious, personal, and vitriolic proceedings. Judges presiding over domestic relations dockets make life-changing decisions for children and families daily. Some report lying awake at night worrying about making the right decision or the consequences of that decision. Other judges face the stress of presiding over criminal cases with horrific underlying facts.

Also stressful is the increasing rate of violence against judges inside and outside the courthouse. Further, many judges contend with isolation in their professional lives and sometimes in their personal lives. When a judge is appointed to the bench, former colleagues who were once a source of professional and personal support can become more guarded and distant. Often, judges do not have feedback on their performance. A number take the bench with little preparation, compounding the sense of going it alone. Judges also cannot “take off the robe” in every day interactions outside the courthouse because of their elevated status in society, which can contribute to social isolation. Additional stressors include re-election in certain jurisdictions. Limited judicial resources coupled with time-intensive, congested dockets are a pronounced problem. More recently, judges have reported a sense of diminishment in their estimation among the public at large. Even the most astute, conscientious, and collected judicial officer can struggle to keep these issues in perspective.

We further recognize that many judges have the same reticence in seeking help out of the same fear of embarrassment and occupational repercussions that lawyers have. The public nature of the bench often heightens the sense of peril in coming forward. Many judges, like lawyers, have a strong sense of perfectionism and believe they must display this perfectionism at all times. Judges’ staff can act as protectors or enablers of problematic behavior. These are all impediments to seeking help. In addition, lawyers, and even a judge’s colleagues, can be hesitant to report or refer a judge whose behavior is problematic for fear of retribution.

In light of these barriers and the stressors inherent in the unique role judges occupy in the legal system, we make the following recommendations to enhance well-being among members of the judiciary.

14. COMMUNICATE THAT WELL-BEING IS A PRIORITY.

The highest court in each state should set the tone for the importance of the well-being of judges. Judges are not immune from suffering from the same stressors as lawyers, and additional stressors are unique to work as a jurist.
15. DEVELOP POLICIES FOR IMPAIRED JUDGES.

It is essential that the highest court and its commission on judicial conduct implement policies and procedures for intervening with impaired members of the judiciary. For example, the highest court should consider adoption of policies such as a Diversion Rule for Judges in appropriate cases. Administrative and chief judges also should implement policies and procedures for intervening with members of the judiciary who are impaired in compliance with Model Rule of Judicial Conduct 2.14. They should feel comfortable referring members to judicial or lawyer assistance programs. Educating judicial leaders about the confidential nature of these programs will go a long way in this regard. Judicial associations and educators also should promote CoLAP’s judicial peer support network, as well as the National Helpline for Judges Helping Judges.90

16. REDUCE THE STIGMA OF MENTAL HEALTH AND SUBSTANCE USE DISORDERS.

As reflected in Recommendation 4, the stigma surrounding mental health and substance use disorders poses an obstacle to treatment. Judges are undisputed leaders in the legal profession. We recommend they work to reduce this stigma by creating opportunities for open dialogue. Simply talking about these issues helps combat the unease and discomfort that causes the issues to remain unresolved. In a similar vein, we encourage judges to participate in the activities of lawyer assistance programs, such as volunteering as speakers and serving as board members. This is a powerful way to convey to lawyers, law students, and other judges the importance of lawyer assistance programs and to encourage them to access the programs’ resources.

17. CONDUCT JUDICIAL WELL-BEING SURVEYS.

This report was triggered in part by the Study and the Survey of Law Student Well-Being. No comparable research has been conducted of the judiciary. We recommend that CoLAP and other concerned entities conduct a broad-based survey of the judiciary to determine the state of well-being and the prevalence of issues directly related to judicial fitness such as burnout, compassion fatigue, mental health, substance use disorders and help-seeking behaviors.

18. PROVIDE WELL-BEING PROGRAMMING FOR JUDGES AND STAFF.

Judicial associations should invite lawyer assistance program directors and other well-being experts to judicial conferences who can provide programming on topics related to self-care as well as resources available to members of the judiciary experiencing mental health or substance use disorders. Topics could include burnout, secondary traumatic stress, compassion fatigue, strategies to maintain well-being, as well as identification of and intervention for mental health and substance use disorders.

Judicial educators also should make use of programming that allows judges to engage in mutual support and sharing of self-care strategies. One such example is roundtable discussions held as part of judicial conferences or establishing a facilitated mentoring

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90The ABA-sponsored National Helpline for Judges Helping Judges is 1-800-219-6474.
program or mentoring circle for judicial members. We have identified isolation as a significant challenge for many members of the judiciary. Roundtable discussions and mentoring programs combat the detrimental effects of this isolation.81

Judicial associations and educators also should develop publications and resources related to well-being, such as guidebooks. For example, a judicial association could create wellness guides such as “A Wellness Guide for Judges of the California State Courts.” This sends the signal that thought leaders in the judiciary value well-being.

19. MONITOR FOR IMPAIRED LAWYERS AND PARTNER WITH LAWYER ASSISTANCE PROGRAMS

Judges often are among the first to detect lawyers suffering from an impairment. Judges know when a lawyer is late to court regularly, fails to appear, or appears in court under the influence of alcohol or drugs. They witness incomprehensible pleadings or cascading requests for extensions of time. We believe judges have a keen pulse on when a lawyer needs help. With the appropriate training, judges’ actions can reduce client harm and save a law practice or a life. We make the following recommendations tailored to helping judges help the lawyers appearing before them.

Consistent with Recommendation 5.1, judges should become familiar with lawyer assistance programs in their state. They should learn how best to make referrals to the program. They should understand the confidentiality protections surrounding these referrals. Judges also should invite lawyer assistance programs to conduct educational programming for lawyers in their jurisdiction using their courtroom or other courthouse space.

Judges, for example, can devote a bench-bar luncheon at the courthouse to well-being and invite representatives of the lawyers assistance program to the luncheon.

Judicial educators should include a section in bench book-style publications dedicated to lawyer assistance programs and their resources, as well as discussing how to identify and handle lawyers who appear to have mental health or substance use disorders. Further, judges and their staff should learn the signs of mental health and substance use disorders, as well as strategies for intervention, to assist lawyers in their courtrooms who may be struggling with these issues. Judges can also advance the well-being of lawyers who appear before them by maintaining courtroom decorum and de-escalating the hostilities that litigation often breeds.

80The ABA-sponsored National Helpline for Judges Helping Judges is 1-800-219-6474.
81For more information on judicial roundtables, see AM. BAR ASS’N COMM’N ON LAW. ASSISTANCE PROGRAMS, JUDICIAL ROUNDTABLES, available at https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/fs_colap_Judicial_Roundtable_Protocols.authcheckdam.pdf.
Regulators play a vital role in fostering individual lawyer well-being and a professional culture that makes it possible. We broadly define “regulators” to encompass all stakeholders who assist the highest court in each state in regulating the practice of law. This definition includes lawyers and staff in regulatory offices; volunteer lawyer and non-lawyer committee, board, and commission members; and professional liability lawyers who advise law firms and represent lawyers in the regulatory process.

Courts and their regulators frequently witness the conditions that generate toxic professional environments, the impairments that may result, and the negative professional consequences for those who do not seek help. Regulators are well-positioned to improve and adjust the regulatory process to address the conditions that produce these effects. As a result, we propose that the highest court in each state set an agenda for action and send a clear message to all participants in the legal system that lawyer well-being is a high priority.

To carry out the agenda, regulators should develop their reputation as partners with practitioners. The legal profession often has a negative perception of regulators, who typically appear only when something has gone awry. Regulators can transform this perception by building their identity as partners with the rest of the legal community rather than being viewed only as its “police.”

Most regulators are already familiar with the 1992 Report of the Commission on Evaluation of Disciplinary Enforcement—better known as the “McKay Commission Report.” It recognized and encouraged precisely what we seek to do through this report: to make continual improvements to the lawyer regulation process to protect the public and assist lawyers in their professional roles. Accordingly, we offer the following recommendations to ensure that the regulatory process proactively fosters a healthy legal community and provides resources to rehabilitate impaired lawyers.

20. Take actions to meaningfully communicate that lawyer well-being is a priority.


In 2016, the Conference of Chief Justices adopted a resolution recommending that each state’s highest court consider the ABA’s proposed Model Regulatory Objectives. Among other things, those objectives sought to encourage “appropriate preventive or wellness programs.” By including a wellness provision, the ABA recognized the importance of the human element in the practice of law: To accomplish all other listed objectives, the profession must have healthy, competent lawyers. The Supreme Court of Colorado already has adopted

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82See AM. BAR ASS’N RESOL. 105 (February 2016).
84RESOL. 105, supra note 92.
a version of the ABA's Regulatory Objectives. In doing so, it recommended proactive programs offered by the Colorado Lawyer Assistance Program and other organizations to assist lawyers throughout all stages of their careers to practice successfully and serve their clients.95 The Supreme Court of Washington also recently enacted regulatory objectives.96

We recommend that the highest court in each U.S. jurisdiction follow this lead. Each should review the ABA and Colorado regulatory objectives and create its own objectives that specifically promote effective lawyer assistance and other proactive programs relating to well-being. Such objectives will send a clear message that the court prioritizes lawyer well-being, which influences competent legal services. This, in turn, can boost public confidence in the administration of justice.

**20.2. Modify the Rules of Professional Conduct to Endorse Well-Being As Part of a Lawyer’s Duty of Competence.**

ABA Model Rule of Professional Conduct 1.1 (Competence) states that lawyers owe a duty of competence to their clients. “Competent” representation is defined to require “the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”97 We recommend revising this Rule and/or its Comments to more clearly include lawyers’ well-being in the definition of “competence.”

One alternative is to include language similar to California’s Rule of Professional Conduct 3-110, which defines “competence” to include the “mental, emotional, and physical ability reasonably necessary” for the representation.98 A second option is to amend the Comments to Rule 1.1 to clarify that professional competence requires an ability to comply with all of the Court’s essential eligibility requirements (see Recommendation 21.2 below).

Notably, we do not recommend discipline solely for a lawyer’s failure to satisfy the well-being requirement or the essential eligibility requirements. Enforcement should proceed only in the case of actionable misconduct in the client representation or in connection with disability proceedings under Rule 23 of the ABA Model Rules for Disciplinary Enforcement. The goal of the proposed amendment is not to threaten lawyers with discipline for poor health but to underscore the importance of well-being in client representations. It is intended to remind lawyers that their mental and physical health impacts clients and the administration of justice, to reduce stigma associated with mental health disorders, and to encourage preventive strategies and self-care.

**20.3. Expand Continuing Education Requirements to Include Well-Being Topics.**

We recommend expanding continuing education requirements for lawyers and judges to mandate credit for mental health and substance use disorder programming and allow credit for other well-being-related topics that affect lawyers’ professional capabilities.

In 2017, the ABA proposed a new Model Continuing Legal Education (MCLE) Rule that recommends mandatory mental health programming. The Model Rule requires lawyers to earn at least one credit hour every three years of CLE programming that addresses the prevention, detection, and/or treatment of “mental health and substance use disorders.” We recommend that all states adopt this provision of the Model Rule. Alternatively, states could consider authorizing ethics credit (or other specialized credits) for CLE programs that address these topics. California and Illinois are examples of state bars that already have such requirements.99

The ABA’s new Model Rule also provisionally recommends that states grant CLE credit for “Lawyer Well-Being Programming.” The provision encompasses a broader scope of topics than might fall under a narrow definition of mental health and substance use

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disorders. Tennessee is one example of a pioneering state that authorizes credit for a broad set of well-being topics. Its CLE Regulation 5H authorizes ethics and professionalism credit for programs that are designed, for example, to: enhance optimism, resilience, relationship skills, and energy and engagement in their practices; connect lawyers with their strengths and values; address stress; and to foster cultures that support outstanding professionalism.\textsuperscript{100} We recommend that regulators follow Tennessee’s lead by revising CLE rules to grant credit for similar topics.

**20.4. Require Law Schools to Create Well-Being Education for Students as An Accreditation Requirement.**

In this recommendation, the Task Force recognizes the ABA's unique role as accreditor for law schools through the Council of the Section of Legal Education and Admissions to the Bar of the ABA.\textsuperscript{101} The Task Force recommends that the Council revise the Standards and Rules of Procedure for Approval of Law Schools to require law schools to create well-being education as a criterion for ABA accreditation. The ABA should require law schools to publish their well-being-related resources on their websites. These disclosures can serve as resources for other law schools as they develop and improve their own programs. Examples of well-being education include a mandatory one credit-hour course on well-being topics or incorporating well-being topics into the professional responsibility curriculum.

A requirement similar to this already has been implemented in the medical profession for hospitals that operate residency programs. Hospitals that operate Graduate Medical Education programs to train residents must comply with the Accreditation Council for Graduate Medical Education (ACGME) Program Requirements. The ACGME requires hospitals to “be committed to and responsible for . . . resident well-being in a supportive educational environment.”\textsuperscript{102} This provision requires that teaching hospitals have a documented strategy for promoting resident well-being and, typically, hospitals develop a wellness curriculum for residents.

**21. ADJUST THE ADMISSIONS PROCESS TO SUPPORT LAW STUDENT WELL-BEING.**

To promote law student well-being, regulations governing the admission to the practice of law should facilitate the treatment and rehabilitation of law students with impairments.

**21.1. Re-Evaluate Bar Application Inquiries About Mental Health History.**

Most bar admission agencies include inquiries about applicants’ mental health as part of fitness evaluations for licensure. Some critics have contended that the deterrent effect of those inquiries discourages persons in need of help from seeking it. Not everyone agrees with that premise, and some argue that licensing of professionals necessarily requires evaluation of all risks that an applicant may pose to the public. Over the past several decades, questions have evolved to be more tightly focused and to elicit only information that is current and germane. There is continuing controversy over the appropriateness of asking questions about mental health at all. The U.S. Department of Justice has actively encouraged states to eliminate questions relating to mental health, and some states have modified or eliminated such questions.\textsuperscript{103} In 2015, the ABA adopted a resolution that the focus should be directed “on conduct or behavior that impairs an applicant’s ability to practice law in a competent, ethical, and professional manner.”\textsuperscript{104} We recommend that each state follow the ABA and more closely focus on such conduct or behavior rather than any diagnosis or treatment history.

\textsuperscript{102} ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION, CGME COMMON PROGRAM REQUIREMENTS, § VI.A.2, available at https://www.acgme.org/Portals/0/PFAssets/ProgramRequirements/CPRs_07012016.pdf.
\textsuperscript{104} AM. BAR ASS’N RESOL. 102 (August 2015).

Promoting lawyer well-being includes providing clear eligibility guidelines for lawyers with mental or physical impairments. Regulators in each state should adopt essential eligibility requirements that affirmatively state the abilities needed to become a licensed lawyer. Their purpose is to provide the framework for determining whether or not an individual has the required abilities, with or without reasonable accommodations.

At least fourteen states have essential eligibility requirements for admission to practice law. These requirements help the applicant, the admissions authority, and the medical expert understand what is needed to demonstrate fitness to practice law. Essential eligibility requirements also aid participants in lawyer disability and reinstatement proceedings, when determinations must be made of lawyers’ capacity to practice law.

21.3. Adopt a Rule for Conditional Admission to Practice Law With Specific Requirements and Conditions.

Overly-rigid admission requirements can deter lawyers and law students from seeking help for substance use and mental health disorders. To alleviate this problem, states should adopt conditional admission requirements, which govern applicants for admission to the practice of law who have successfully undergone rehabilitation for substance use or another mental disorder, but whose period of treatment and recovery may not yet be sufficient to ensure continuing success. Conditional admission programs help dismantle the stigma of mental health and substance use disorders as “scarlet letters.” Especially for law students, they send a meaningful message that even in the worst circumstances, there is hope: seeking help will not block entry into their chosen profession.

21.4. Publish Data Reflecting Low Rate of Denied Admissions Due to Mental Health Disorders and Substance Use.

At present, no state publishes data showing the number of applications for admission to practice law that are actually denied or delayed due to conduct related to substance use and other mental health disorders. From informal discussions with regulators, we know that a low percentage of applications are denied. Publication of this data might help alleviate law students’ and other applicants’ fears that seeking help for such disorders will inevitably block them from practicing law. Accordingly, we recommend that boards of bar examiners collect and publish such data as another means of encouraging potential applicants to seek help immediately and not delay until after their admission.

22. ADJUST LAWYER REGULATIONS TO SUPPORT WELL-BEING.

22.1. Implement Proactive Management-Based Programs (PMBP) That Include Lawyer Well-Being Components.

PMBP programs encourage best business practices and provide a resource-based framework to improve lawyers’ ability to manage their practice. Such programs

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106 About a quarter of all jurisdictions already have conditional admission rules for conduct resulting from substance use or other mental disorders. See 2016 NAT’L CONF. OF BAR EXAMINERS, COMPREHENSIVE GUIDE TO BAR ADMISSIONS REQUIREMENTS, Chart 2: Character and Fitness Determinations (2016). Those states include Arizona, Connecticut, Florida, Idaho, Illinois, Indiana, Kentucky, Louisiana, Minnesota, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Oregon, Puerto Rico, Rhode Island, South Dakota, Tennessee, Texas, West Virginia, Wisconsin and Wyoming. Additionally, Guam allows conditional admission for conduct related to substance abuse.
are designed to alleviate practice stress, improve lawyer-client relationships, and enhance career satisfaction.\textsuperscript{107} Further, PMBP programs allow regulators to engage with the profession in a service-oriented, positive manner, reducing the anxiety, fear, and distrust that often accompanies lawyers’ interactions with regulators.\textsuperscript{108} Transforming the perception of regulators so that they are viewed as partners and not only as police will help combat the culture of stress and fear that has allowed mental health and substance use disorders to proliferate.

\textbf{22.2. Adopt A Centralized Grievance Intake System to Promptly Identify Well-Being Concerns.}

We recommend that regulators adopt centralized intake systems. These allow expedited methods for receipt and resolution of grievances and help reduce the stress associated with pending disciplinary matters. With specialized training for intake personnel, such systems also can result in faster identification of and possible intervention for lawyers struggling with substance use or mental health disorders.\textsuperscript{109}

\textbf{22.3. Modify Confidentiality Rules to Allow One-Way Sharing of Lawyer Well-Being Related Information From Regulators to Lawyer Assistance Programs.}

Regulators’ information-sharing practices can contribute to the speed of help to lawyers in need. For example, admissions offices sometimes learn that applicants are suffering from a substance use or other mental health disorder. Other regulators may receive similar information during investigations or prosecutions of lawyer regulation matters that they consider to be confidential information. To facilitate help for lawyers suffering from such disorders, each state should simplify its confidentiality rules to allow admissions offices and other regulators to share such information immediately with local lawyer assistance programs.

Allowing this one-way flow of information can accelerate help to lawyers who need it. To be clear, the recommended information sharing would be one-way. As always, the lawyer assistance programs would be precluded from sharing any information with any regulators or others.

\textbf{22.4. Adopt Diversion Programs and Other Alternatives to Discipline That Are Proven Successful in Promoting Well-Being.}

Discipline does not make an ill lawyer well. We recommend that regulators adopt alternatives to formal disciplinary proceedings that rehabilitate lawyers with impairments. Diversion programs are one such alternative, and they have a direct and positive impact on lawyer well-being. Diversion programs address minor lawyer misconduct that often features an underlying mental health or substance use disorder.\textsuperscript{110} When lawyers enter a diversion program, they agree to follow

\textsuperscript{109}The American Bar Association’s Model Rules for Lawyer Disciplinary Enforcement, Rule 1, defines a Central Intake Office as the office that “receive[s] information and complaints regarding the conduct of lawyers over whom the court has jurisdiction” and determines whether to dismiss the complaint or forward it to the appropriate disciplinary agency. The Model Rules for Lawyer Disciplinary Enforcement are available at http://www.americanbar.org/groups/professional_responsibility/resources/lawyer_ethics_regulation/model_rules_for_lawyer_disciplinary_enforcement.html.
\textsuperscript{110}Title 6 of Washington’s Rules for Enforcement of Lawyer Conduct provides an excellent overview of when diversion is appropriate and procedures for diversion. It is available through the Washington State Courts website at http://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=ga&set=ELC. Some of the many jurisdictions to adopt such programs are Arizona, Colorado, the District of Columbia, Florida, Illinois, Iowa, Kansas, Louisiana, New Hampshire, New Jersey, Oklahoma, Oregon, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming.
certain conditions to continue practicing law. Those conditions can include training, drug or alcohol testing, peer assistance, and treatment. Monitoring plays a central role in ensuring compliance with the diversion agreement and helps lawyers successfully transition back to an unconditional practice of law and do so healthy and sober. By conditioning continued practice on treatment for an underlying mental health disorder or substance use disorder, diversion agreements can change a lawyer’s life.

In addition, probation programs also promote wellness. Lawyer misconduct that warrants a suspension of a lawyer’s license may, under certain circumstances, qualify for probation. In most jurisdictions, the probation period stays the license suspension and lawyers may continue practicing under supervision and specified conditions that include training, testing, monitoring, and treatment. Once again, this places a lawyer facing a mental health or substance use crisis on the path to better client service and a lifetime of greater well-being and sobriety.

23. ADD WELL-BEING-RELATED QUESTIONS TO THE MULTISTATE PROFESSIONAL RESPONSIBILITY EXAM (MPRE).

A 2009 survey reflected that 22.9 percent of professional responsibility/legal ethics professors did not cover substance use and addiction at all in their course, and 69.8 percent addressed the topic in fewer than two hours. Notwithstanding the pressure to address myriad topics in this course, increased attention must be given to reduce these issues among our law students. The National Conference of Bar Examiners should consider adding several relevant questions to the MPRE, such as on the confidentiality of using lawyer assistance programs, the frequency of mental health and substance use disorders, and the tie-in to competence and other professional responsibility issues. Taking this step underscores both the importance of the topic and the likelihood of students paying closer attention to that subject matter in their course. In addition, professional responsibility casebook authors are encouraged to include a section devoted to the topic, which will in turn compel instructors to teach in this area.


112 See Krill, Johnson, & Albert, supra note 1, for the ABA Commission on Lawyer Assistance Programs and Hazelden Betty Ford Foundation Study; Organ, Jaffe, Bender, supra note 3, for 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.
Legal employers, meaning all entities that employ multiple practicing lawyers, can play a large role in contributing to lawyer well-being. While this is a broad and sizable group with considerable diversity, our recommendations apply fairly universally. A specific recommendation may need to be tailored to address the realities particular to each context, but the crux of each recommendation applies to all.

24. ESTABLISH ORGANIZATIONAL INFRASTRUCTURE TO PROMOTE WELL-BEING.

24.1. Form A Lawyer Well-Being Committee.

Without dedicated personnel, real progress on well-being strategies will be difficult to implement and sustain. Accordingly, legal employers should launch a well-being initiative by forming a Lawyer Well-Being Committee or appointing a Well-Being Advocate. The advocate or committee should be responsible for evaluating the work environment, identifying and addressing policies and procedures that create the greatest mental distress among employees, identifying how best to promote a positive state of well-being, and tracking progress of well-being strategies. They should prepare key milestones, communicate them, and create accountability strategies. They also should develop strategic partnerships with lawyer assistance programs and other well-being experts and stay abreast of developments in the profession and relevant literature.


Legal employers should consider continually assessing the state of well-being among lawyers and staff and whether workplace cultures support well-being. An assessment strategy might include an anonymous survey conducted to measure lawyer and staff attitudes and beliefs about well-being, stressors in the firm that significantly affect well-being, and organizational support for improving well-being in the workplace. Attitudes are formed not only by an organization’s explicit messages but also implicitly by how leaders and lawyers actually behave. Specifically related to the organizational climate for support for mental health or substance use disorders, legal employers should collect information to ascertain, for example, whether lawyers:

- Perceive that you, their employer, values and supports well-being.
- Perceive leaders as role modeling healthy behaviors and empathetic to lawyers who may be struggling.
- Can suggest improvements to better support well-being.
- Would feel comfortable seeking needed help, taking time off, or otherwise taking steps to improve their situation.
- Are aware of resources available to assist their well-being.
- Feel expected to drink alcohol at organizational events.
- Feel that substance use and mental health problems are stigmatized.
- Understand that the organization will reasonably accommodate health conditions, including recovery from mental health disorders and addiction.

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114 For guidance on developing their own strategic plan, Well-Being Committees could look to the Tristan Jepson Memorial Foundation’s best practice guidelines for promoting psychological well-being in the legal profession, see supra note 76. They might also consider creating an information hub to post all well-being related resources. Resources could include information about the growing number of mental health apps. See, e.g., R. E. Silverman, Tackling Workers’ Mental Health, One Text at a Time, WALL ST. J., July 19, 2016, available at https://www.wsj.com/articles/tackling-workers-mental-health-one-text-at-a-time-1468620356; B. A. Clough & L. M. Casey, The Smart Therapist: A Look to the Future of Smartphones and eHealth Technologies in Psychotherapy, 46 PROF. PSYCHOL. RES. & PRACT. 147 (2015).
As part of the same survey or conducted separately, legal employers should consider assessing the overall state of lawyers’ well-being. Surveys are available to measure concepts like depression, substance use, burnout, work engagement, and psychological well-being. The Maslach Burnout Inventory (MBI) is the most widely used burnout assessment. It has been used to measure burnout among lawyers and law students.115 Programs in the medical profession have recommended a bi-annual distribution of the MBI.116

Legal employers should carefully consider whether internal staff will be able to accurately conduct this type of assessment or whether hiring an outside consultant would be advisable. Internal staff may be more vulnerable to influence by bias, denial, and misinterpretation.

**25. ESTABLISH POLICIES AND PRACTICES TO SUPPORT LAWYER WELL-BEING.**

Legal employers should conduct an in-depth and honest evaluation of their current policies and practices that relate to well-being and make necessary adjustments. This evaluation should seek input from all lawyers and staff in a safe and confidential manner, which creates transparency that builds trust. Appendix D sets out example topics for an assessment.

Legal employers also should establish a confidential reporting procedure for lawyers and staff to convey concerns about their colleagues’ mental health or substance use internally, and communicate how lawyers and staff can report concerns to the appropriate disciplinary authority and/or to the local lawyer assistance program. Legal employers additionally should establish a procedure for lawyers to seek confidential help for themselves without being penalized or stigmatized. CoLAP and state lawyer assistance programs can refer legal employers to existing help lines and offer guidance for establishing an effective procedure that is staffed by properly-trained people.117 We note that the ABA and New York State Bar Association have proposed model law firm policies for handling lawyer impairment that can be used for guidance.118 The ABA has provided formal guidance on managing lawyer impairment.119

**25.1. Monitor For Signs of Work Addiction and Poor Self-Care.**

Research reflects that about a quarter of lawyers are workaholics, which is more than double that of the 10 percent rate estimated for U.S. adults generally.120 Numerous health and relationship problems, including depression, anger, anxiety, sleep problems, weight gain, high blood pressure, low self-esteem, low life satisfaction, work burnout, and family conflict can develop from work addiction. Therefore, we recommend that legal employers monitor for work addiction and avoid rewarding extreme behaviors that can ultimately harm their health. Legal employers should expressly encourage lawyers to make time to care for themselves and attend to other personal obligations. They may also want to consider promoting physical activity to aid health and cognitive functioning.

**25.2. Actively Combat Social Isolation and Encourage Interconnectivity.**

As job demands have increased and budgets have tightened, many legal employers have cut back on social activities. This could be a mistake. Social support from colleagues is an important factor for coping with stress and preventing negative consequences like burnout.121 Socializing helps individuals recover from work demands...
and can help stave off emotional exhaustion.\textsuperscript{122} It inhibits lawyers feeling isolated and disconnected, which helps with firm branding, messaging, and may help reduce turnover. We recommend deemphasizing alcohol at such events.

\textbf{26. PROVIDE TRAINING AND EDUCATION ON WELL-BEING, INCLUDING DURING NEW LAWYER ORIENTATION.}

We recommend that legal employers provide education and training on well-being-related topics and recruit experts to help them do so. A number of law firms already offer well-being related programs, like meditation, yoga sessions, and resilience workshops.\textsuperscript{123} We also recommend orientation programs for new lawyers that incorporate lawyer well-being education and training.\textsuperscript{124}

Introducing this topic during orientation will signal its importance to the organization and will start the process of developing skills that may help prevent well-being problems. Such programs could:

- Introduce new lawyers to the psychological challenges of the job.\textsuperscript{125}
- Reduce stigma surrounding mental health problems.
- Take a baseline measure of well-being to track changes over time.
- Provide resilience-related training.
- Incorporate activities focused on individual lawyers’ interests and strengths, and not only on organizational expectations.\textsuperscript{126}

Further, law firms should ensure that all members and staff know about resources, including lawyer assistance programs, that can assist lawyers who may experience mental health and substance use disorders. This includes making sure that members and staff understand confidentiality issues pertaining to those resources.

\textbf{26.1. Emphasize a Service-Centered Mission.}

At its core, law is a helping profession. This can get lost in the rush of practice and in the business aspects of law. Much research reflects that organizational cultures that focus chiefly on materialistic, external rewards can damage well-being and promote a self-only focus. In fact, research shows that intrinsic values like relationship-development and kindness are stifled in organizations that emphasize extrinsic values like competition, power, and monetary rewards.\textsuperscript{127} Work cultures that constantly emphasize competitive, self-serving goals can harm lawyer well-being.

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\textsuperscript{130} A. Hansen, Z. Byrne, & C. Kiersch, How Interpersonal Leadership Relates to Employee Engagement, 29 J. MANAGERIAL PSYCHOL. 953 (2014).


bottom line since poor mental health can cause disability and lost productivity.

Consequently, we recommend that legal employers evaluate what they prioritize and value, and how those values are communicated. When organizational values evoke a sense of belonging and pride, work is experienced as more meaningful. Experiencing work as meaningful is the biggest contributor to work engagement—a form of work-related well-being.


Contextual factors (i.e., the structure, habits, and dynamics of the work environment) play an enormous role in influencing behavior change. Training alone is almost never enough. To achieve change, legal employers will need to set standards, align incentives, and give feedback about progress on lawyer well-being topics. Currently, few legal employers have such structural supports for lawyer well-being. For example, many legal employers have limited or no formal leader development programs, no standards set for leadership skills and competencies, and no standards for evaluating leaders’ overall performance or commitment to lawyer well-being. Additionally, incentive systems rarely encourage leaders to develop their own leadership skills or try to enhance the well-being of lawyers with whom they work. In law firms especially, most incentives are aligned almost entirely toward revenue growth, and any feedback is similarly narrow. To genuinely adopt lawyer well-being as a priority, these structural and cultural issues will need to be addressed.

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aw students start law school with high life satisfaction and strong mental health measures. But within the first year of law school, they experience a significant increase in anxiety and depression. Research suggests that law students are among the most dissatisfied, demoralized, and depressed of any graduate student population.

The 2016 Survey of Law Student Well-Being found troublesome rates of alcohol use, anxiety, depression, and illegal drug use at law schools across the country.

42% of students needed help for poor mental health but only about half sought it out.

Equally worrisome is students’ level of reluctance to seek help for those issues. A large majority of students (about 80 percent) said that they were somewhat or very likely to seek help from a health professional for alcohol, drug, or mental health issues, but few actually did. For example, while 42 percent thought that they had needed help for mental health problems in the prior year, only about half of that group actually received counseling from a health professional. Only four percent said they had ever received counseling for alcohol or drug issues—even though a quarter were at risk for problem drinking.

The top factors that students reported as discouraging them from seeking help were concerns that it would threaten their bar admission, job, or academic status; social stigma; privacy concerns; financial reasons; belief that they could handle problems on their own; and not having enough time. Students’ general reluctance to seek help may be one factor explaining why law student wellness has not changed significantly since the last student survey in the 1990s. It appears that recommendations stemming from the 1993 survey either were not implemented or were not successful. The Survey of Law Student Well-Being did not seek to identify the individual or contextual factors that might be contributing to students’ health problems. It is important to root out such causes to enable real change. For example, law school graduates cite heavy workload, competition, and grades as major law school stressors. Others in the legal community have offered additional insights about common law school practices, which are discussed below. Law school well-being initiatives should not be limited to detecting disorders and enhancing student resilience. They also should include identifying organizational practices that may be contributing to the problems and assessing what changes can be made to support student well-being. If legal educators ignore the impact of law school stressors, learning is likely to be suppressed and illness may be intensified.

The above reflects a need for both prevention strategies to address dysfunctional drinking and misuse of substances as well as promotion strategies that identify aspects of legal education that can be revised to support

135 Organ, Jaffe, & Bender, supra note 3, at 143.
136 Id. at 140.
137 Id.
139 Id. at vi-vii.
141 Patthoff, supra note 134, at 424.
The recommendations below offer some ideas for both.

27. CREATE BEST PRACTICES FOR DETECTING AND ASSISTING STUDENTS EXPERIENCING PSYCHOLOGICAL DISTRESS.

Ignoring law school stressors can suppress learning and intensify illness.

Law schools should develop best practices for creating a culture in which all associated with the school take responsibility for student well-being. Faculty and administrators play an important role in forming a school’s culture and should be encouraged to share responsibility for student well-being.

27.1. Provide Training to Faculty Members Relating to Student Mental Health and Substance Use Disorders.

Faculty have significant sway over students but generally students are reluctant to approach them with personal problems, especially relating to their mental health. Students’ aversion to doing so may be exacerbated by a perception that faculty members must disclose information relating to students’ competence to practice to the state bar. To help remove uncertainty and encourage students to ask for help, law schools should consider working with lawyer assistance programs on training faculty on how to detect students in trouble, how to have productive conversations with such students, what and when faculty need to report information relating to such students, as well as confidentiality surrounding these services.142 Students should be educated about faculty’s reporting requirements to add clarity and reduce student anxiety when interacting with faculty.

Additionally, faculty members should be encouraged to occasionally step out of their formal teaching role to convey their respect and concern for students, to acknowledge the stressors of law school, and to decrease stigma about seeking help for any health issues that arise. Faculty should consider sharing experiences in which students confronted similar issues and went on to become healthy and productive lawyers.

To support this recommendation, deans of law schools must be engaged. The well-being of future lawyers is too important to relegate to student affairs departments. For faculty to take these issues seriously, it must be clear to them that deans value the time that faculty spend learning about and addressing the needs of students outside the classroom. With the full backing of their deans, deans of students should provide training and/or information to all faculty that includes talking points that correspond to students’ likely needs—e.g., exam scores, obtaining jobs, passing the bar, accumulating financial debt, etc. Talking points should be offered only as a guideline. Faculty should be encouraged to tailor conversations to their own style, voice, and relationship with the student.

Law schools should consider inviting law student and lawyer well-being experts to speak at faculty lunches, colloquia, and workshops to enhance their knowledge of this scholarship.143 Such programming should include not just faculty but teaching assistants, legal writers, peer mentors, and others with leadership roles in whom law students may seek to confide. Many of these experts are members of the Association of American Law Schools section on Balance in Legal Education.144 Their scholarship is organized in an online bibliography divided into two topics: Humanizing the Law School Experience and Humanizing the Practice of Law.145

142 See Organ, Jaffe, & Bender, supra note 3, at 153. At American University Washington College of Law, as but one example likely among many, the dean of students invites faculty no less than every other year to meet with the University Counseling director and D.C. Bar Lawyer Assistance Program manager to discuss trends, highlight notable behaviors, discuss how to respond to or refer a student, and the importance of tracking attendance.


145 Id. at Bibliography.
27.2. Adopt a Uniform Attendance Policy to Detect Early Warning Signs of Students in Crisis.

While law students may occasionally miss class due to personal conflicts, their repeated absence often results from deteriorating mental health. Creating a system to monitor for chronic absences can help identify students for proactive outreach. Consequently, law schools should adhere to a consistent attendance policy that includes a timely reporting requirement to the relevant law school official. Absent such a requirement, deans of students may be left with only a delayed, reactive approach.

If faculty members are reluctant to report student absences, a system can be created to ensure that a report cannot be traced to the faculty member. Several law schools have adopted “care” networks or random check-ins whereby someone can report a student as potentially needing assistance. In these programs, the identity of the person who provided the report is kept confidential.

Certain models on this issue include the American University Washington College of Law, which implements random “check-in” outreach, emailing students to visit the Student Affairs office for brief conversations. This method allows for a student about whom a concern has been raised to be folded quietly into the outreach. Georgetown Law School allows anyone concerned about a student to send an email containing only the student’s name, prompting relevant law school officials to check first with one another and then investigate to determine if a student meeting is warranted. The University of Miami School of Law uses an online protocol for a student to self-report absences in advance, thus enabling the dean of students to follow up as appropriate if personal problems are indicated.

27.3. Provide Mental Health and Substance Use Disorder Resources.

Law schools should identify and publicize resources so that students understand that there are resources available to help them confront stress and well-being crises. They should highlight the benefits of these resources and that students should not feel stigmatized for seeking help. One way to go about this is to have

- Create and publicize well-being resources designed for students.
- Counter issues of stigma.
- Include mental health resources in every course syllabus.
- Organize wellness events.
- Develop a well-being curriculum.
- Establish peer mentoring.

Every course syllabus identifies the law school’s mental health resources. The syllabus language should reflect an understanding that stressors exist. Law schools also can hold special events, forums, and conversations that coincide with national awareness days, such as mental health day and suicide prevention day.

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146 See Organ, Jaffe, & Bender, supra note 3, at 152.
147 Id.
148 Id.
149 Id.
150 Id.
151 One example of such a provision is: “Mental Health Resources: Law school is a context where mental health struggles can be exacerbated. If you ever find yourself struggling, please do not hesitate to ask for help. If you wish to seek out campus resources, here is some basic information: [Website]. [Law School Name] is committed to promoting psychological wellness for all students. Our mental health resources offer support for a range of psychological issues in a confidential and safe environment. [Phone; email; address; hotline number].”
Developing a well-being curriculum is an additional way to convey that resources are available and that the law school considers well-being a top priority. Northwestern University’s Pritzker School of Law has accomplished the latter with well-being workshops, mindfulness and resilience courses, and meditation sessions as part of a larger well-being curriculum.152

Another noteworthy way to provide resources is to establish a program where law students can reach out to other law students who have been trained to intervene and help refer students in crisis. Touro Law School established a “Students Helping Students” program in 2010 where students volunteer to undergo training to recognize mental health problems and refer students confronting a mental health crisis.153

28. ASSESS LAW SCHOOL PRACTICES AND OFFER FACULTY EDUCATION ON PROMOTING WELL-BEING IN THE CLASSROOM.

Law school faculty are essential partners in student well-being efforts. They often exercise powerful personal influence over students, and their classroom practices contribute enormously to the overall law school experience. Whether faculty members exercise their influence to promote student well-being depends, in part, on support of the law school culture and priorities. To support their involvement, faculty members should be invited into strategic planning to develop workable ideas. Framing strategies as helping students develop into healthy lawyers who possess grit and resilience may help foster faculty buy-in. Students’ mental resilience can be viewed as a competitive advantage during their job searches and as support along their journeys as practicing lawyers toward sustainable professional and personal identities.

Evaluating law school faculty on how classroom practices can affect student well-being is one place to start the process of gaining faculty buy-in. For example, law professor Larry Krieger and social scientist Kennon Sheldon identified potential culprits that undercut student well-being, including hierarchical markers of worth such as comparative grading, mandatory curves, status-seeking placement practices, lack of clear and timely feedback, and teaching practices that are isolating and intimidating.154

Evaluate classroom practices for their impact on student well-being.

Because organizational practices so significantly influence student well-being, we recommend against focusing well-being efforts solely on detecting dysfunction and strengthening students’ mental toughness. We recommend that law schools assess their classroom and organizational practices, make modifications where possible, and offer faculty programming on supporting student well-being while continuing to uphold high standards of excellence. Harmful practices should not be defended solely on the ground that law school has always been this way. Teaching practices should be evaluated to assess whether they are necessary to the educational experience and whether evidence supports their effectiveness.

29. EMPOWER STUDENTS TO HELP FELLOW STUDENTS IN NEED.

As noted above, students often are reluctant to seek mental health assistance from faculty members. Empowering students to assist each other can be a helpful alternative. One suggestion is to create a peer mentoring program that trains student mentors to provide support to fellow students in need. The ideal mentors would be students who are themselves in

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152 Northwestern Law’s well-being curriculum can be found at http://www.law.northwestern.edu/law-school-life/studentservices/wellness/curriculum/.
recovery. They should be certified by the local lawyer assistance program or another relevant organization and should be covered by the lawyer assistance program’s confidentiality provisions. Peer mentors should not have a direct reporting obligation to their law school dean of students. This would help ensure confidentiality in the peer mentoring relationship and would foster trust in the law school community.155

30. INCLUDE WELL-BEING TOPICS IN COURSES ON PROFESSIONAL RESPONSIBILITY.

Mental health and substance use should play a more prominent role in courses on professional responsibility, legal ethics, or professionalism. A minimum of one class session should be dedicated to the topic of substance use and mental health issues, during which bar examiners and professional responsibility professors or their designee (such as a lawyer assistance program representative) appear side-by-side to address the issues. Until students learn from those assessing them that seeking assistance will not hurt their bar admission prospects, they will not get the help they need.

31. COMMIT RESOURCES FOR ONSITE PROFESSIONAL COUNSELORS.

Law schools should have, at a minimum, a part-time, onsite professional counselor. An onsite counselor provides easier access to students in need and sends a symbolic message to the law school community that seeking help is supported and should not be stigmatized. Although the value of such a resource to students should justify the necessary budget, law schools also could explore inexpensive or no-cost assistance from lawyer assistance programs. Other possible resources may be available from the university or private sector.

32. FACILITATE A CONFIDENTIAL RECOVERY NETWORK.

Law schools should consider facilitating a confidential network of practicing lawyers in recovery from substance use to connect with law students in recovery. Law students are entering a new community and may assume that there are few practicing lawyers in recovery. Facilitating a confidential network will provide an additional support network to help students manage the challenges of law school and maintain health. Lawyers Concerned for Lawyers is an example of a legal peer assistance group that exists in many regions that may be a confidential network source.

33. PROVIDE EDUCATION OPPORTUNITIES ON WELL-BEING-RELATED TOPICS.

33.1. Provide Well-Being Programming During the 1L Year.

We agree with the Survey of Law Student Well-Being report’s recommendation that law schools should incorporate well-being topics into student orientation.156 We recommend that during 1L orientation, law schools should include information about student well-being and options for dealing with stress. Communications should convey that seeking help is the best way to optimize their studies and to ensure they graduate and move successfully into law practice. Other vulnerable times during which well-being-related programming would be particularly appropriate include the period before fall final exams, the period when students receive their first set of law school grades (usually at the start of spring semester), and the period before spring final exams. The Task Force commends Southwestern Law School’s IL “Peak Performance Program” and its goal of helping new law students de-stress, focus, and perform well in law school.157 This voluntary program is the type of programming that can have a transformative effect on law student well-being.

33.2. Create A Well-Being Course and Lecture Series for Students.

To promote a culture of well-being, law schools should create a lecture series open to all students and a course designed to cover well-being topics in depth. Well-being

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155The University of Washington School of Law offers a “Peer Support Program” that includes peer counseling, that offers stress management resources, and support for multicultural engagement. More information on the program can be found at https://www.law.uw.edu/wellness/resources/.

156Organ, Jaffe, & Bender, supra note 3, at 148.

has been linked to improved academic performance, and, conversely, research reflects that well-being deficits connect to impaired cognitive performance. Recent research also has found that teaching well-being skills enhances student performance on standardized tests, and improves study habits, homework submission, relationships—all of which are required by the ABA’s Model Rules of Professional Conduct. The content of a well-being course could be guided by education reform recommendations. Appendix E provides content suggestions for such a course.

34. DISCOURAGE ALCOHOL-CENTERED SOCIAL EVENTS.

Although the overwhelming majority of law students are of legal drinking age, a law school sends a strong message when alcohol-related events are held or publicized with regularity. Students in recovery and those thinking about it may feel that the law school does not take the matter seriously and may be less likely to seek assistance or resources. A law school can minimize the alcohol provided; it can establish a policy whereby student organizations cannot use student funds for the purchase of alcohol. Events at which alcohol is not the primary focus should be encouraged and supported. Further, law school faculty should refrain from drinking alcohol at law school social events.

35. CONDUCT ANONYMOUS SURVEYS RELATING TO STUDENT WELL-BEING.


Effects of Student Well-Being

- Better academic performance and cognitive functioning
- Enhanced test performance
- Improved study habits and homework quality
- Long-term academic success

grades, and long-term academic success, as well as adult education attainment, health, and wealth. A well-being course can, for example, leverage research findings from positive psychology and neuroscience to explore the intersection of improved well-being, enhanced performance, and enriched professional identity development for law students and lawyers. Further knowledge of how to maintain well-being can enhance competence, diligence, and work


159 At a minimum, permission should be sought from the dean of students to serve alcohol at school-sponsored, school-located events, so administration is aware. Off-campus events should be only on a cash basis by the establishment. Professional networking events, and on campus events should be focused on the program or speaker, and not on drink specials or offers of free alcohol. Publicity of these events should avoid mention of discounted drink specials that could detract from the professional networking environment. In all instances, providing alcohol should be limited to beer and wine. Open bars not regulated by drink tickets or some other manner of controlling consumption should not be permitted.
Bar associations are organized in a variety of ways, but all share common goals of promoting members’ professional growth, quality of life, and quality of the profession by encouraging continuing education, professionalism (which encompasses lawyer competence, ethical conduct, eliminating bias, and enhancing diversity), pro bono and public service. Bar members who are exhausted, impaired, disengaged, or overly self-interested will not live up to their full potential as lawyers or positive contributors to society. Below are recommendations for bar associations to foster positive change in the well-being of the legal community which, in turn, should benefit lawyers, bar associations, and the general public.

**36. ENCOURAGE EDUCATION ON WELL-BEING TOPICS IN COORDINATION AND IN ASSOCIATION WITH LAWYER ASSISTANCE PROGRAMS.**

**36.1. Sponsor High-Quality CLE Programming on Well-Being-Related Topics.**

In line with Recommendation 8, bar associations should develop and regularly offer educational programming on well-being-related topics. Bar leadership should recommend that all sections adopt a goal of providing at least one well-being related educational opportunity at all bar-sponsored events, including conferences, section retreats, and day-long continuing legal education events.

**36.2. Create Educational Materials to Support Individual Well-Being and “Best Practices” for Legal Organizations.**

We recommend that bar associations develop “best practice” model policies on well-being-related topics, for example practices for responding to lawyers in distress, succession planning, diversity and inclusion, mentoring practices, work-life balance policies, etc.

**36.3 Train Staff to Be Aware of Lawyer Assistance Program Resources and Refer Members.**

Educating bar association staff regarding lawyer assistance programs’ services, resources, and the confidentiality of referrals is another way to foster change in the legal community. Bar association staff can further promote these resources to their membership. A bar association staff member may be the person who coordinates a needed intervention for a lawyer facing a mental health or substance use crisis.

**37. SPONSOR EMPIRICAL RESEARCH ON LAWYER WELL-BEING AS PART OF ANNUAL MEMBER SURVEYS.**

Many bar associations conduct annual member surveys. These surveys offer an opportunity for additional research on lawyer well-being and awareness of resources. For example, questions in these surveys can gauge awareness of support networks either in law firms or through lawyer assistance programs. They can survey lawyers on well-being topics they would like to see addressed in bar journal articles, at bar association events, or potentially through continuing legal education courses. The data gathered can inform bar associations’ outreach and educational efforts.
38. LAUNCH A LAWYER WELL-BEING COMMITTEE.

We recommend that bar associations consider forming Lawyer Well-Being Committees. As noted in Recommendation 5.2, the ABA and a number of state bar associations already have done so. Their work supplements lawyer assistance programs with a more expansive approach to well-being. These committees typically focus not only on addressing disorders and ensuring competence to practice law but also on optimal functioning and full engagement in the profession. Such committees can provide a valuable service to members by, for example, dedicating attention to compiling resources, high-quality speakers, developing and compiling educational materials and programs, serving as a clearinghouse for lawyer well-being information, and partnering with the lawyer assistance program, and other state and national organizations to advocate for lawyer well-being initiatives.

The South Carolina Bar’s Lawyer Wellness Committee, launched in 2014 and featuring a “Living Above the Bar” website, is a good model for well-being committees. In 2016, the ABA awarded this Committee the E. Smythe Gambrell Professionalism Award, which honors excellence and innovation in professionalism programs.160

39. SERVE AS AN EXAMPLE OF BEST PRACTICES RELATING TO LAWYER WELL-BEING AT BAR ASSOCIATION EVENTS.

Bar associations should support members’ well-being and role model best practices in connection with their own activities and meetings. This might include, for example, organizing functions to be family-friendly, scheduling programming during times that do not interfere with personal and family time, offering well-being-related activities at events (e.g., yoga, fun runs, meditation, providing coffee or juice bars, organizing Friends of Bill/support group meetings), providing well-being-related education and training to bar association leaders, and including related programming at conferences and other events. For instance, several bar associations around the country sponsor family-friendly fun runs, such as the Maricopa County Bar Association annual 5k Race Judicata.

160 The South Carolina Bar’s lawyer well-being website is available at http://discussions.scbar.org/public/wellness/index.html.
Lawyers’ professional liability (LPL) carriers have a vested interest from a loss prevention perspective to encourage lawyer well-being. Happier, healthier lawyers generally equate to better risks. Better risks create stronger risk pools. Stronger risk pools enjoy lower frequency and often less severe claims. Fewer claims increases profitability. For lawyers, the stronger the performance of the risk pool, the greater the likelihood of premium reduction. Stakeholders interested in lawyer well-being would be well-served to explore partnerships with lawyers’ professional liability carriers, many of whom enjoy bar-related origins with their respective state bar and as members of the National Association of Bar-Related Insurance Carriers (or NABRICOs). Even commercial carriers active in the lawyers’ malpractice market enjoy important economic incentives to support wellness initiatives, and actively assess risks which reflect on the likelihood of future claims.161 Below are several recommendations for LPL carriers to consider in their pursuit of improving lawyer well-being.

40. ACTIVELY SUPPORT LAWYER ASSISTANCE PROGRAMS.

In certain jurisdictions, lawyers’ professional liability carriers are amongst the most important funders of lawyer assistance programs, appreciating that an ounce of prevention is worth a pound of cure. An impaired or troubled attorney who is aided before further downward spiral harms the lawyer’s ability to engage in high-quality professional services can directly prevent claims. Thus, LPL carriers are well-served to understand lawyer assistance program needs, their impact, and how financial and marketing support of such programs can be a worthy investment. At the same time, where appropriate, lawyer assistance programs could prepare a case for support to LPL carriers on how their activities affect attorneys, much like a private foundation examines the impact effectiveness of grantees. If the case for support is effectively made, support may follow.

41. EMPHASIZE WELL-BEING IN LOSS PREVENTION PROGRAMS.

Most LPL carriers, as a means of delivering value beyond just the promise of attorney protection in the event of an error or omission, are active in developing risk management programs via CLE, law practice resources, checklists, and sample forms designed to reduce the susceptibility of an attorney to a claim. These resources often center on topics arising from recent claims trends, be it law practice management tips, technology traps, professionalism changes, or ethical infrastructure challenges. LPL carriers should consider paying additional attention to higher level attorney wellness issues, focusing on how such programs promote the emotional and physical foundations from which lawyers can thrive in legal service delivery. Bar associations are increasingly exploring well-being programs as a member benefit, and LPL carriers could be helpful in providing financial support or thought leadership in the development of such programs.

161 Examples of LPL carriers serving the market from the commercial side include CNA, AON, Liberty Mutual, Hartford, among others.
42. INCENTIVIZE DESIRED BEHAVIOR IN UNDERWRITING LAW FIRM RISK.

The process of selecting, structuring, and pricing LPL risk is part art, part science. Underwriters, in addition to seeking core LPL information such as area of practice, claim frequency, claim severity, firm size, firm longevity and firm location, are also working to appreciate and understand the firm’s complete risk profile. The more effectively a firm can illustrate its profile in a positive manner, the more desirable a firm will be to a carrier’s risk pool. Most states permit carriers flexibility in applying schedule rating credits or debits to reflect the individual risk characteristics of the law firm. LPL carriers should more actively explore the application of lawyer well-being premium credits, much like they currently do for internal risk management systems, documented attorney back-up systems, and firm continuity.

43. COLLECT DATA WHEN LAWYER IMPAIRMENT IS A CONTRIBUTING FACTOR TO CLAIMS ACTIVITY.

LPL carriers traditionally track claims based on area of practice or the nature of the error. LPL carriers do not ordinarily track when substance abuse, stress, depression, or mental health are suspected to be contributing factors to the underlying claim. This is primarily due to the fact that most LPL claims adjusters, usually attorneys by trade, lack sufficient (or usually any) clinical training to make such a determination. That being said, anecdotal evidence suggests the impact is substantial. Thus, LPL carriers should consider whether a “common sense” assessment of instances where attorney impairment is suspected to be a contributing factor to the underlying claim. Such information would be helpful to lawyer assistance programs and as an important data point for what bar counsel or disciplinary units similarly see when investigating bar grievances. LPL carriers are in a prime position to collect data, share such data when appropriate, and assess the manner in which lawyer impairment has a direct correlation to claims activity.
It is under the greatest adversity that there exists the greatest potential for doing good, both for oneself and others.” — Dalai Lama

Because lawyer assistance programs are so well-positioned to play a pivotal role in lawyer well-being, they should be adequately funded and organized to ensure that they can fulfill their potential.

**Lawyer assistance programs should be supported to fulfill their full potential.**

This is not consistently the case. While a lawyer assistance program exists in every state, according to the 2014 Comprehensive Survey of Lawyer Assistance Programs their structures, services, and funding vary widely. Lawyer assistance programs are organized either as agencies within bar associations, as independent agencies, or as programs within the state’s court system. Many operate with annual budgets of less than $500,000. About one quarter operate without any funding and depend solely on volunteers. The recommendations below are designed to equip lawyer assistance programs to best serve their important role in lawyer well-being.

**44. LAWYERS ASSISTANCE PROGRAMS SHOULD BE APPROPRIATELY ORGANIZED AND FUNDED.**

### 44.1 Pursue Stable, Adequate Funding.

Lawyer assistance programs should advocate for stable, adequate funding to provide outreach, screening, counseling, peer assistance, monitoring, and preventative education. Other stakeholders should ally themselves with lawyer assistance programs in pursuit of this funding.

### 44.2 Emphasize Confidentiality.

Lawyer assistance programs should highlight the confidentiality of the assistance they provide. The greatest concern voiced by lawyer assistance programs in the most recent CoLAP survey was under-utilization of their services stemming from the shame and fear of disclosure that are bound up with mental health and substance use disorders. Additionally, lawyer assistance programs should advocate for a supreme court rule protecting the confidentiality of participants in the program, as well as immunity for those making good faith reports, volunteers, and staff.

### 44.3 Develop High-Quality Well-Being Programming.

Lawyer assistance programs should collaborate with other organizations to develop and deliver programs on the topics of lawyer well-being, identifying and treating substance use and mental health disorders, suicide prevention, cognitive impairment, and the like. They should ensure that all training and other education efforts emphasize the availability of resources and the
confidentiality of the process. Lawyer assistance programs should evaluate whether they have an interest in and funding to expand their programming beyond the traditional focus on treatment of alcohol use and mental health disorders. Some lawyer assistance programs already have done so. The 2014 Comprehensive Survey of Lawyer Assistance Programs reflects that some well-resourced lawyer assistance programs include services that, for example, address transition and succession planning, career counseling, anger management, grief, and family counseling.167 Increasingly, lawyer assistance programs are expanding their services to affirmatively promote well-being (rather than seeking only to address dysfunction) as a means of preventing prevalent impairments.

This expansion is consistent with some scholars’ recommendations for Employee Assistance Programs that encourage engagement in a broader set of prevention and health-promotion strategies. Doing so could expand the lawyer assistance programs’ net to people who are in need but have not progressed to the level of a disorder. It also could reach people who may participate in a health-promotion program but would avoid a prevention program due to social stigma.168 Health-promotion approaches could be incorporated into traditional treatment protocols. For example, “Positive Recovery” strategies strive not only for sobriety but also for human flourishing.169 Resilience-boosting strategies have also been proposed for addiction treatment.170

44.4 Lawyer Assistance Programs’ Foundational Elements.

All lawyer assistance programs should include the following foundational elements to provide effective leadership and services to lawyers, judges, and law students:

- A program director with an understanding of the legal profession and experience addressing mental health conditions, substance use disorders, and wellness issues for professionals;
- A well-defined program mission and operating policies and procedures;
- Regular educational activities to increase awareness and understanding of mental health and substance use disorders;
- Volunteers trained in crisis intervention and assistance;
- Services to assist impaired members of the legal profession to begin and continue recovery;
- Participation in the creation and delivery of interventions;
- Consultation, aftercare services, voluntary and diversion monitoring services, referrals to other professionals, and treatment facilities; and
- A helpline for individuals with concern about themselves or others.171

CONCLUSION

“This always seems impossible until it’s done.”  — Nelson Mandela

This Report makes a compelling case that the legal profession is at a crossroads. Our current course, one involving widespread disregard for lawyer well-being and its effects, is not sustainable. Studies cited above show that our members suffer at alarming rates from conditions that impair our ability to function at levels compatible with high ethical standards and public expectations. Depression, anxiety, chronic stress, burnout, and substance use disorders exceed those of many other professions. We have ignored this state of affairs long enough. To preserve the public’s trust and maintain our status as a self-regulating profession, we must truly become “our brothers’ and sisters’ keepers,” through a strong commitment to caring for the well-being of one another, as well as ourselves.

The members of the National Task Force for Lawyer Well-Being urge all stakeholders identified in this report to take action. To start, please review the State Action Plan and Checklist that follows in Appendix A. If you are a leader in one of these sectors, please use your authority to call upon your cohorts to come together and develop a plan of action. Regardless of your position in the legal profession, please consider ways in which you can make a difference in the essential task of bringing about a culture change in how we, as lawyers, regard our own well-being and that of one another.

We have the capacity to create a better future for our lawyers.

As a profession, we have the capacity to face these challenges and create a better future for our lawyers that is sustainable. We can do so—not in spite of—but in pursuit of the highest professional standards, business practices, and ethical ideals.

National Task Force on Lawyer Well-Being  
State Action Plan & Checklist  
*Chief Justice (or Designee) “To Do List”*

____ Gather all stakeholders

(Identify leaders in the jurisdiction with an interest in and commitment to well-being issues. Bring these leaders together in a Commission on Lawyer Well-Being. The attached list of potential stakeholder representatives offers guidance.)

____ Review the Task Force Report

Have Commission members familiarize themselves with the Task Force Report. It provides concrete recommendations for how to address lawyer well-being issues.

____ Do an inventory of recommendations

(Next, assess which recommendations can be implemented in the jurisdiction. This includes an assessment of the leadership and resources required to implement these recommendations.)

____ Create priorities

(Each jurisdiction will have its own priorities based on the inventory of recommendations. Which ones are the most urgent? Which ones will create the most change? Which ones are feasible?)

____ Develop an action plan

(Having inventoried the recommendations and prioritized them, now is the time to act. What does that path forward look like? Who needs to be involved? How will progress be measured?)
Item 1 of the Plan above recommends the gathering of stakeholders as a first step. The National Task Force suggests the Chief Justice of each state create a Commission on Lawyer Well-Being in that state and appoint representatives from each stakeholder group to the Commission. Below is a checklist of potential stakeholder representatives the Chief Justice may consider in making appointments.

**JUDICIAL**
- Supreme Court Chief Justice or designated representative
- Other judge representatives

**LAWYER ASSISTANCE PROGRAM (LAP)**
- LAP Director
- Clinical director
- Lawyer representative to the LAP

**LAW SCHOOLS**
- Dean representative
- Faculty representative
- Law student representative

**REGULATORS**
- Admissions (or Board of Law Examiners) representative
- Mandatory CLE program representative
- CLE provider representative
- Regulation/Bar/Disciplinary Counsel representative

**LAW FIRMS**
- Sole practitioner
- Small firm representative (2-5 lawyers)
- Medium firm representative (6-15 lawyers)
- Large firm representative (16+ lawyers)
- In-house counsel representative
- Non-traditional lawyer representative

**ALLIES**
- ASAM representative (addiction psychiatrist)
- Organizational/behavioral psychologist
- Members of the public

**BAR ASSOCIATIONS**
- Bar president
- Bar president-elect
- Executive director
- Young lawyer division representative
- Specialty bar representative
Appendix to Recommendation 8:
Example Educational Topics About Lawyer Distress and Well-Being

Recommendation 8 advises stakeholders to provide high-quality education programs and materials on causes and consequences of lawyer distress and well-being. Below is a list of example educational topics for such programming with empirical support.

8.1 Work Engagement vs. Burnout

The work engagement-burnout model can serve as a general organizing framework for stakeholders’ efforts to boost lawyer well-being and curb dysfunction. Work engagement is a kind of work-related well-being. It includes high levels of energy and mental resilience, dedication (which includes a sense of meaningfulness, significance, and challenge), and frequently feeling positively absorbed in work. Work engagement contributes to, for example, mental health, less stress and burnout, job satisfaction, helping behaviors, reduced turnover, performance, and profitability.

Burnout is essentially the opposite of engagement. It is a stress response syndrome that is highly correlated with depression and can have serious psychological and physiological effects. Workers experiencing burnout feel emotionally and physically exhausted, cynical about the value of their activities, and uncertain about their capacity to perform well.

The work engagement-burnout model proposes the idea of a balance between resources and demands: Engagement arises when a person’s resources (i.e., positive individual, job, and organizational factors, like autonomy, good leadership, supportive colleagues, feedback, interesting work, optimism, resilience) outweigh demands (i.e., draining aspects of the job, like work overload and conflicting demands). But when excessive demands or a lack of recovery from demands tip the scale, workers are in danger of burnout. Disengagement, alienation, and turnover become likely. Resources contribute to engagement; demands feed burnout. Using this framework as a guide, stakeholders should develop lawyer well-being strategies that focus on increasing individual and organizational resources and decreasing demands when possible.

The incidence of burnout vs. work engagement in the legal profession is unknown but has been well-studied in the medical profession. Research has found that 30-40 percent of licensed physicians, 49 percent of medical students, and 60 percent of new residents meet the definition of burnout, which is associated with an increased risk of depression, substance use, and suicidal thinking. Burnout also undermines professionalism and quality of patient care by eroding honesty, integrity, altruism, and self-regulation.

The medical profession’s work on these issues can serve as a guide for the legal profession. It has conducted...
hundreds of studies, has identified many individual and organizational contributors to burnout, and has proposed wellness strategies and resilience programs. Bi-annually, the American Medical Association (AMA) co-sponsors an International Conference on Physician Health. The September 2016 conference was held in Boston with the theme, “Increasing Joy in Medicine.” The conference included 70 presentations, workshops, and plenary speaker sessions on a wide variety of well-being topics over a three-day period (See AMA website).

8.2 Stress

Stress is inevitable in lawyers’ lives and is not necessarily unhealthy. Mild to moderate levels of stress that are within our capability can present positive challenges that result in a sense of mastery and accomplishment. Much of our daily stress is governed by our beliefs about our coping abilities. When stress is perceived as a positive, manageable challenge, the stress response actually can enable peak performance. For example, in a study of a New Zealand law firm, researchers found that lawyers who frequently experience positive challenge reported the highest levels of work engagement. The researchers also found that, where lawyers felt overburdened by work, they were more likely to experience burnout.

This finding highlights the importance of positive challenge but also its paradoxical effect: Challenge contributes to work-related well-being, but it also can lead to negative consequences like burnout when it becomes overwhelming. Stressors that pose the greatest risk of harm are those that are uncontrollable, ambiguous, unpredictable, and chronic that we perceive as exceeding our ability to cope. Such stressors increase the rise of (or exacerbate) depression, anxiety, burnout, alcohol abuse, and physical conditions such as cardiovascular, inflammatory, and other illnesses that can affect lawyers’ health and capacity to practice. For example, in a 2004 study of North Carolina lawyers, more than half had elevated levels of perceived stress, and this was the highest predictor of depression of all factors in the study.

Stress also is associated with cognitive decline, including impaired attention, concentration, memory, and problem-solving. Stress also can harm one’s ability to establish strong relationships with clients and is associated with relational conflict, which can further undermine lawyers’ ability to competently represent and interact with clients. Both personal and environmental factors in the workplace contribute to stress and whether it positively fuels performance or impairs mental health and functioning. Research reflects that organizational factors more significantly contribute to dysfunctional stress responses than individual ones, and that the most effective prevention strategies target both.

8.3 Resilience & Optimism

The American Psychological Association defines resilience as the capacity to bounce back from stress and adversity. Resilience is not the absence of stress or negative emotional experience, but rather the ability to cope and grow from it.

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as a process that enables us to bounce back from adversity in a healthy way. It also has been defined as a “process to harness resources to sustain well-being”—a definition that connects resilience to the resource-balancing framework of the work engagement-burnout model discussed above. Our capacity for resilience derives from a host of factors, including genetics and childhood experiences that influence the neurobiology of our stress response—specifically, whether the stress response is both activated and terminated efficiently.\(^\text{191}\)

But resilience also derives from a collection of psychological, social, and contextual factors—many of which we can change and develop. These include, for example, optimism, confidence in our abilities and strengths (self-efficacy), effective problem-solving, a sense of meaning and purpose, flexible thinking, impulse control, empathy, close relationships and social support, and faith/spirituality.\(^\text{192}\) A model for developing many of these psychological and social competencies is provided by the U.S. Army’s Master Resilience Training program.\(^\text{193}\) As noted above, the medical profession also has designed resilience programs for physicians and residents that can serve as guides, and researchers have offered additional strategies.\(^\text{194}\)

Among the most important of the personal competencies is optimistic explanatory style, which is a habit of thought that allows people to put adverse events in a rational context and not be overwhelmed by catastrophic thinking. The principal strategy for building optimistic explanatory style is by teaching cognitive reframing based on cognitive-behavioral therapy research.\(^\text{195}\) The core of the technique is to teach people to monitor and dispute their automatic negative self-talk. Neurobiology scholars recently have argued that this capacity is so important to our regulation of stress that it constitutes the cornerstone of resilience.\(^\text{196}\)

This skill can benefit not only practicing lawyers but also law students.\(^\text{197}\) Stanford Law, for example, has offered a 3-hour course teaching cognitive framing that has been popular and successful.\(^\text{198}\) Lawyer assistance programs also could benefit from learning this and other resilience strategies, which have been used in addiction treatment.\(^\text{199}\)

Aside from individual-level skills and strengths, developing “structural resilience” also is important, if not more important. This requires leaders to develop organizations and institutions that are resource-enhancing to help give people the wherewithal to realize their full potential.\(^\text{200}\) Individual resilience is highly dependent on the context in which people are embedded. This means that initiatives to foster lawyer well-being should take a systemic perspective.

### 8.4 Mindfulness Meditation

Mindfulness meditation is a practice that can enhance cognitive reframing (and thus resilience) by aiding our ability to monitor our thoughts and avoid becoming emotionally overwhelmed. A rapidly growing body of research on meditation has shown its potential for help in addressing a variety of psychological and psychosomatic disorders, especially those in which stress plays a causal role.\(^\text{201}\) One type of meditative practice is mindfulness—a technique that cultivates the skill of being present by focusing attention on your breath and detaching from your thoughts or feelings. Research has found that mindfulness can reduce rumination, stress, depression, and anxiety.\(^\text{202}\) It

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\(^{191}\) Southwick, Bonanno, Masten, Panter-Brick, & Yehuda, supra note 185.

\(^{192}\) Alim, Lawson, & Neumeister, et al., supra note 170.


\(^{197}\) Id.

\(^{198}\) K. Alim, Lawson, & Neumeister, supra note 170.


also can enhance a host of competencies related to lawyer effectiveness, including increased focus and concentration, working memory, critical cognitive skills, reduced burnout, and ethical and rational decision-making. Multiple articles have advocated for mindfulness as an important practice for lawyers and law students. Evidence also suggests that mindfulness can enhance the sense of work-life balance by reducing workers’ preoccupation with work.

8.5 Rejuvenation Periods to Recover From Stress

Lawyers must have downtime to recover from work-related stress. People who do not fully recover are at an increased risk over time for depressive symptoms, exhaustion, and burnout. By contrast, people who feel recovered report greater work engagement, job performance, willingness to help others at work, and ability to handle job demands. Recovery can occur during breaks during the workday, evenings, weekends, vacations, and even microbreaks when transitioning between projects. The quality of employees’ recovery influences their mood, motivation, and job performance.

Researchers have identified four strategies that are most effective for recovering from work demands: (1) psychological detachment (mentally switching off from work), (2) mastery experiences (challenges and learning experiences), (3) control (spending time off as we choose), and (4) relaxation. Falling into the second category is physical activity (exercise and sports), which may be an especially effective form of recovery for people performing mentally demanding work—like lawyers. This is so because low-effort activities (e.g., watching TV) may actually increase subjective feelings of fatigue.

Quality sleep is critically important in the recovery process. Sleep deprivation has been linked to a multitude of health problems that decay the mind and body, including depression, cognitive impairment, decreased concentration, and burnout. Cognitive impairment associated with sleep-deprivation can be profound. For example, a study of over 5,000 people showed that too little sleep was associated with a decline over a five-year period in cognitive functioning, including reasoning, vocabulary, and global cognitive status. Research on short-term effects of sleep deprivation shows that people who average four hours of sleep per night for four or five days develop the same cognitive impairment as if they had been awake for 24 hours—which is the equivalent of being legally drunk. Given lawyers’ high risk for depression, it is worth noting evidence that sleep problems have the highest predictive value for who will develop clinical depression.

8.6 Physical Activity

Many lawyers’ failure to prioritize physical activity is harmful to their mental health and cognitive functioning. Physical exercise is associated with reduced symptoms of anxiety and low energy. Aerobic exercise has been found to be as effective at improving symptoms of depression.
as antidepressant medication and psychotherapy. In a review of strategies for preventing workplace depression, researchers found that interventions to increase physical activity were among the most effective.

Research also shows that physical exercise improves brain functioning and cognition. Physical activity, which stimulates new cell growth in the brain, can offset the negative effects of stress, which causes brain atrophy. Greater amounts of physical activity (particularly aerobic) have been associated with improvements in memory, attention, verbal learning, and speed of cognitive processing. A growing body of evidence reflects that regular aerobic activity in middle age significantly reduces the risk of developing dementia and, in older age, can slow the progression of cognitive decline of those who already are diagnosed with Alzheimer’s disease.

8.7 Leader Development and Training

Leader development and training is critically important for supporting lawyer well-being and optimal performance. Low-quality leadership is a major contributor to stress, depression, burnout, and other mental and physical health disorders. Even seemingly low-level incivility by leaders can have a big impact on workers’ health and motivation. Research found harmful effects from leaders, for example, playing favorites; criticizing unfairly; and failing to provide information, listen to problems, explain goals, praise good work, assist with professional development, and show that they cared. On the other hand, positive leadership styles contribute to subordinates’ mental health, work engagement, performance, and job satisfaction.

Many studies confirm that positive leader behaviors can be trained and developed. Training is important for all levels of lawyers who supervise others. This is so because leaders with the most direct contact with subordinates have the most significant impact on their work experience. Subordinates’ immediate leader drives almost 70 percent of their perceptions of the workplace.

8.8 Control and Autonomy

As noted in Recommendation 7, feeling a lack of control over work is a well-established contributor to poor mental health, including depression and burnout. A sense of autonomy is considered to be a basic psychological need that is foundational to well-being and optimal functioning. Research confirms that leaders can be trained to be more autonomy-supportive. Other organizational practices that can enhance a sense of autonomy include, for example, structuring work to allow for more discretion and autonomy and encouraging lawyers to craft aspects of their jobs to the extent possible to best suit their strengths and interests.

The benefits of autonomy-support are not limited to manager-subordinate relationships for legal employers. Research reflects that law students with autonomy-supportive professors and school cultures have higher well-being and performance. Lawyer-client relationships also

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215 A. Kandola, J. Hendrikse, P. J. Lucassen, & M. Yücel, Aerobic Exercise as A Tool to Improve Hippocampal Plasticity and Function in Humans: Practical Implications for Mental Health Treatment, 10 FRONTIERS IN HUMAN NEURSCIENCE 373 (2016).

216 Id.; J. E. Ahlground, Y. E. Geda, N. R. Graff-Radford, & R. C. Petersen, Physical Exercise as a Preventive or Disease-Modifying Treatment of Dementia and Brain Aging, 86 MAYO CLINIC PROC. 876 (2011).


222 Id.


224 E.g., Sheldon & Krieger, supra note 5; see also G. F. Hess, Collaborative Course Design: Not My Course, Not Their Course, But Our Course, 47 WASHBURN L.J. 367 (2008).
can be enhanced by autonomy-supportive behaviors by both parties. Lawyers respect client autonomy by, for example, taking full account of their perspectives, not interrupting, affording choice, offering information respectfully, providing a rationale for recommendations, sharing power in decision-making (when appropriate), and accepting clients’ decisions.231 In the medical profession, this model of client-centered care has been found to result in better outcomes, patient satisfaction, and diminished risk of malpractice lawsuits.227

8.9 Conflict Management

Our legal system is adversarial—it’s rooted in conflict. Even so, lawyers generally are not trained on how to constructively handle conflict and to adapt tactics based on context—from necessary work-related conflicts to inter-personal conflicts with clients, opposing counsel, colleagues, or loved ones.228 Conflict is inevitable and can be both positive and negative.229 But chronic, unmanaged conflict creates physical, psychological, and behavioral stress. Research suggests that conflict management training can reduce the negative stressful effects of conflict and possibly produce better, more productive lawyers.230

8.10 Work-Life Conflict

The stress of chronic work-life conflict can damage well-being and performance.231 A study of a New Zealand law firm found that work-life conflict was the strongest predictor of lawyer burnout.232 Similarly, a study of Australian lawyers found that preoccupation with work was the strongest predictor of depression.233 Research in the medical profession repeatedly has found that work-life conflict contributes to burnout.234 A large scale study across a variety of occupations found that reports of work-life conflict increased the odds of poor physical health by 90 percent.235 On the other hand, work-life balance (WLB) benefits workers and organizations.236

WLB is a complex topic, but research provides guidance on how to develop a WLB-supportive climate. Adopting a formal policy that endorses flexibility is a threshold requirement. Such policies foster the perception of organizational support for flexibility, which is even more important to workers’ experience of WLB than actual benefit use. Policies should not be restricted to work-family concerns and any training should emphasize support for the full range of work-life juggling issues. Narrow family-focused policies can create feelings of resentment by workers who have valued non-family commitment.

WLB initiatives cannot end with formal policies or people will doubt their authenticity and fear using them. For example, nearly all large firms report having a flexible schedule policy.237 But a recent survey of law firm lawyers found that use of flexibility benefits was highly stigmatizing.238 To benefit from WLB initiatives, organizations must develop a WLB-supportive climate. Research has identified multiple factors for doing so: (1) job autonomy, (2) lack of negative consequences for using WLB benefits, (3) level of perceived expectation that work should be prioritized over family, and (5) supervisor support for WLB. By far, the most important factor is the last. Supervisors communicate their support for WLB by, for example, creatively accommodating non-work-related needs, being empathetic with juggling efforts, and role modeling WLB behaviors.239


To support WLB, bar associations and regulators should work with legal employers to develop best practices and relevant training. Regulators and judges should consider whether any of their practices and policies can be modified to better support lawyer WLB.

8.11 Meaning and Purpose

Research has found that feeling that our lives are meaningful is important for physical and psychological wellness. It provides a buffer against stress. For example, meaning in life is associated with a reduced risk of anxiety, depression, substance use, suicidal ideation, heart attack, and stroke; slower cognitive decline in Alzheimer’s patients; and lower overall mortality for older adults.

For many lawyers, an important part of building a meaningful life is through meaningful work. Experiencing fit and meaningfulness by, for example, fostering a sense of belonging; designing and framing work to highlight its meaningful aspects; and articulating compelling goals, values, and beliefs.

These same principles apply in law school. Studies in the college context have found that the majority of students want their educational experiences to be meaningful and to contribute to a life purpose. One study measured “psychological sense of community,” which was proposed as a foundation for students to find greater meaning in their educational experience. It was the strongest predictor of academic thriving in the study. Deterioration of law students’ sense of meaning may contribute to their elevated rate of psychological distress. Research reflects that, over the course of law school, many students disconnect from their values and become emotionally numb.

8.12. Substance Use and Mental Health Disorders

Recommended content for training on substance use and mental disorders is outlined above in Recommendation 8 in the body of this report.

8.13. Additional Topics

Many topics are possible for programming aimed at boosting work engagement and overall well-being (through resource-development) and curbing stress and burnout (by limiting demands) or otherwise promoting lawyer well-being. Additional topics to consider include: psychological...
capital (composed of optimism, self-efficacy, hope, and resilience),\textsuperscript{248} psychological hardiness (composed of commitment, control, and challenge),\textsuperscript{249} stress mindset,\textsuperscript{250} growth mindset,\textsuperscript{251} grit,\textsuperscript{252} effort-reward balance,\textsuperscript{253} transformational leadership,\textsuperscript{254} self-determination theory,\textsuperscript{255} strengths-based management,\textsuperscript{256} emotional intelligence and regulation,\textsuperscript{257} organizational fairness,\textsuperscript{258} nutrition,\textsuperscript{259} interpersonal skills,\textsuperscript{260} and political skills.\textsuperscript{261}

\textsuperscript{248}E.g., Avey, Luthans, & Jensen, supra note 181.


\textsuperscript{250}Crum, Salovey, Achor, supra note 50; McGonigal, supra note 182.

\textsuperscript{251}C. S. DWECK, MINDSET: THE NEW PSYCHOLOGY OF SUCCESS (2008).

\textsuperscript{252}A. DUCKWORTH, GRIT: THE POWER OF PASSION AND Perseverance (2016).

\textsuperscript{253}A. Allsley, J. Rodwell, & A. Noblet, Personality and the Effort-Reward Imbalance Model of Stress: Individual Differences in Reward Sensitivity, 26 WORK & STRESS 230 (2012)


\textsuperscript{255}Krieger & Sheldon, supra note 5.

\textsuperscript{256}D. O. Clifton & J. K. Harter, Investing in Strengths, in Cameron, Dutton, & Quinn, supra note 32.

\textsuperscript{257}T. Rath, EAT, MOVE, SLEEP (2013).

\textsuperscript{258}J. Mencl, A. J. Wefald, & K. W. van Ittersum, Transformational Leader Attributes: Interpersonal Skills, Engagement, and Well-Being, 37 LEADERSHIP & ORG. DEV. J. 635 (2016).

\textsuperscript{259}J. Menci, A. J. Wefald, & K. W. van Ittersum, Transformational Leader Attributes: Interpersonal Skills, Engagement, and Well-Being, 37 LEADERSHIP & ORG. DEV. J. 635 (2016).

\textsuperscript{260}J. Greenberg, Positive Organizational Justice: From Fair to Fairer—and Beyond, in EXPLORING POSITIVE RELATIONSHIPS AT WORK: BUILDING A THEORETICAL AND RESEARCH FOUNDATION 159-78 (J. E. Dutton & B. R. Rags eds., 2007).

\textsuperscript{261}J. Greenberg, Positive Organizational Justice: From Fair to Fairer—and Beyond, in EXPLORING POSITIVE RELATIONSHIPS AT WORK: BUILDING A THEORETICAL AND RESEARCH FOUNDATION 159-78 (J. E. Dutton & B. R. Rags eds., 2007).

\textsuperscript{262}R. E. Riggio, Emotional Intelligence and Interpersonal Competencies, in SELF-MANAGEMENT AND LEADERSHIP DEVELOPMENT 160-82 (M. G. Rothstein, R. J. Burke eds., 2010).

Recommendation 9 advised stakeholders to create programs for detecting and addressing cognitive decline in lawyers, develop succession plans for aging lawyers, and develop reorientation programs to support lawyers facing retirement. Such initiatives and programs may include the following:

- Gathering demographic information about the lawyer population, including years in practice, the nature of the practice, the size of the firm in which the lawyer’s practice is conducted, and whether the lawyer has engaged in any formal transition or succession planning for the lawyer’s practice;

- Working with medical professionals to develop educational programs, checklists, and other tools to identify lawyers who may be experiencing incapacity issues;

- Developing and implementing educational programs to inform lawyers and their staff members about incapacity issues, steps to take when concerns about a lawyer’s incapacity are evident, and the importance of planning for unexpected practice interruptions or the cessation of practice;

- Developing succession or transition planning manuals and checklists, or planning ahead guidelines for lawyers to use to prepare for an unexpected interruption or cessation of practice;\(^{262}\)

- Enacting rules requiring lawyers to engage in succession planning;

- Providing a place on each lawyer’s annual license renewal statement for the lawyer to identify whether the lawyer has engaged in succession and transition planning and, if so, identifying the person, persons or firm designated to serve as a successor;

- Enacting rules that allow senior lawyers to continue to practice in a reduced or limited license or emeritus capacity, including in pro bono and other public service representation;

- Enacting disability inactive status and permanent retirement rules for lawyers whose incapacity does not warrant discipline, but who, nevertheless, should not be allow to practice law;

- Developing a formal, working plan to partner with Judges and Lawyer Assistance Programs to identify, intervene, and assist lawyers demonstrating age-related or other incapacity or impairment.\(^{263}\)

- Developing “re-orientation” programs to proactively engage lawyers in transition planning with topics to include:
  - financial planning;
  - pursuing “bridge” or second careers;
  - identity transformation;
  - developing purpose in life;
  - cognitive flexibility;
  - goal-setting;
  - interpersonal connection;
  - physical health;
  - self-efficacy;
  - perceived control, mastery, and optimism.\(^{264}\)


\(^{263}\)See generally W. Slease, et al., supra note 60.

\(^{264}\)See, e.g., S. D. Asebedo & M. C. Seay, Positive Psychological Attributes and Retirement Satisfaction, 25 J. FIN. COUNSELING & PLANNING 161 (2014); Dingemans & Henkens, supra note 64; Houlfort, Fernet, Vallerand, Laframboise, Guay, & Koestner, supra note 62; Muratore & Earl, supra note 64.
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Appendix to Recommendation 25:
Topics for Legal Employers’ Audit of Well-Being Related Policies and Practices

Legal employers should consider topics like the following as part of their audits of current policies and practices to evaluate whether the organization adequately supports lawyer well-being.

MENTAL HEALTH & SUBSTANCE USE DISORDERS

- Is there a policy regarding substance use, mental health, and impairment? If so, does it need updating?
- Does the policy explain lawyers’ ethical obligations relating to their own or colleagues’ impairment?
- Is there a leave policy that would realistically support time off for treatment?
- Are there meaningful communications about the importance of well-being?
- Do health plans offered to employees include coverage for mental health and substance use disorder treatment?

LAW PRACTICE MANAGEMENT PRACTICES AFFECTING LAWYER WELL-BEING

- **Assessment of Well-Being:** Is there a regular practice established to assess work engagement, burnout, job satisfaction, turnover intentions, psychological well-being, or other indicators of well-being and to take action on the results?
- **Orientation Practices:** Are orientation practices established to set new lawyers up for success, engagement, and well-being?
- **Work-Life Balance-Related Policies & Practices:** Is there a policy that allows flexibility and an organizational climate that supports it? Is it a practice to recognize lawyers and staff who demonstrate a high standard of well-being?
- **Diversity/Inclusion-Related Policies & Practices:** Diversity and inclusion practices impact lawyer well-being. Are policies and practices in place with a specific mission that is adequately funded?265
- **24/7 Availability Expectations:** Do practices allow lawyers time for sufficient rejuvenation? Are response-time expectations clearly articulated and reasonable? Is there an effort to protect time for lawyers to recover from work demands by regulating work-related calls and emails during evenings, weekends, and vacations?266

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265For example, a 2015 report found that most larger firms have some type of diversity training (80 percent) and all participating firms reported having a women’s affinity group. But the report also found that affinity groups were “woefully underfunded” and lacking clear goals and missions. See L. S. RIKLEEN, REPORT OF THE NINTH ANNUAL NAWL NATIONAL SURVEY ON RETENTION AND PROMOTION OF WOMEN IN LAW FIRMS, NAT’L ASSOC. OF WOMEN LAWYERS FOUND. (2015), available at http://www.nawl.org/2015nawlsurvey.

266For example, McDonald’s and Volkswagen—along with one in four U.S. companies—have agreed to stop sending emails to employees after hours. See Fritz, Ellis, Densky, Lin, & Guros, supra note 206. In the highly-demanding world of law, firms should consider the possibility of establishing new norms for lawyers that limit after-hours emails and calls to actual emergencies—especially to associates who have less work-related autonomy and, thus, are at a higher risk for fatigue and burnout.
• **Billing Policies & Practices:** Do billing practices encourage excessive work and unethical behavior?\(^{267}\)

• **Compensation Practices:** Are compensation practices fair? And are they perceived as fair? Do they follow standards of distributive (fair outcome), procedural (fair process), interpersonal (treating people with dignity and respect), and informational (transparency) fairness? Perceived unfairness in important practices can devastate well-being and motivation. For example, a large-scale study found that people were 50 percent more likely to have a diagnosed health condition if they perceived unfairness at work.\(^{268}\) Further, high levels of interpersonal and informational fairness should not be ignored—they can reduce the negative effect of less fair procedures and outcomes.\(^{269}\)

• **Performance Appraisal Practices:** Are performance appraisal practices fair and perceived as fair? Are observations about performance regularly noted to use in the review? Do multiple raters contribute? Are they trained on the process and to reduce common biases?\(^{270}\) Is feedback given in a two-way communication? Is specific, timely feedback given regularly, not just annually? Is feedback empathetic and focused on behavior not the person’s worth? Is good performance and progress toward goals regularly recognized? Is goal-setting incorporated?\(^{271}\) Is performance feedback balanced and injected with positive regard and respect to improve likelihood of acceptance?\(^{272}\) Are lawyers asked to describe when they feel at their best and the circumstances that contribute to that experience?\(^{273}\) Carefully managing this process is essential given evidence that bungled performance feedback harms well-being and performance.

• **Vacation Policies & Practices:** Is there a clear vacation policy? Does the organizational culture encourage usage and support detachment from work? In their study of 6,000 practicing lawyers, law professor Larry Krieger and psychology professor Kennon Sheldon found that the number of vacation days taken was the strongest predictor of well-being among all activities measured in the study. It was a stronger predictor of well-being even than income level.\(^{274}\) This suggests that legal employers should encourage taking of vacation—or at least not discourage or unreasonably interfere with it.


\(\text{\textsuperscript{270}}\)F. Luthans & A. Stajkovic, Provide Recognition for Performance Improvement, in Locke, supra note 7, 239-53.


\(\text{\textsuperscript{272}}\)O. Bouskila-Yam & A. N. Kluger, Strengths-Based Performance Appraisal and Goal Setting, 21 HUMAN RES. MGMT. REV. 137 (2011).


\(\text{\textsuperscript{274}}\)Krieger & Sheldon, supra note 5.
Appendix to Recommendation 33.2: Creating a Well-Being Course and Lecture Series for Law Students

Recommendation 33.2 suggests that law schools design a lecture series dedicated to well-being topics. In 2007, the Carnegie Foundation for the Advancement of Teaching issued a report titled *Educating Lawyers: Preparation for the Profession of Law* (referred to as the “Carnegie Report”). The Carnegie Report describes three “apprenticeships” in legal education: (1) the intellectual apprenticeship, where students acquire a knowledge base; (2) the practice apprenticeship, where students learn practical legal skills; and (3) the professional identity apprenticeship, where students cultivate the attitudes and values of the legal profession.\(^{275}\) The 2016 *Foundations for Practice Report* by the Institute for the Advancement of the American Legal System recommends that law schools teach character attributes including courtesy, humility, respect, tact, diplomacy, sensitivity, tolerance, and compassion; and self-care and self-regulation skills such as positivity and managing stress; exhibiting flexibility, adaptability, and resilience during challenging circumstances; and decision-making under pressure.

A well-being course can address the *Foundations for Practice Report* recommendations while helping law students develop a professional identity that encompasses a commitment to physical and mental well-being.

Appendix B includes topics that could be incorporated into a well-being course for law students. The list below includes additional topics and provides suggested student readings in the footnotes:

- Basic Wellbeing and Stress Reduction;\(^{277}\)
- Cognitive Well-being and Good Nutrition;\(^{278}\)
- Restorative Practices, such as Mindfulness, Meditation, Yoga, and Gratitude;\(^{279}\)
- The Impact of Substances such as Caffeine, Alcohol, Nicotine, Marijuana, Adderall, Ritalin, Cocaine, and Opiates on Cognitive Function;\(^{280}\)
- “Active bystander” training that educates students about how to detect when their fellow students may be in trouble with respect to mental health disorders, suicidal thinking, or substance use and what action to take;
- Cultivating a Growth Mindset;\(^{281}\)
- Improving Pathway (strategies for identifying goals and plans for reaching them) and Agency (sustaining motivation to achieve objectives) Thinking.\(^{282}\)

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• Enhancing Emotion Regulation;283
• Fostering Optimism and Resilience;284
• Preparing for a Satisfying Legal Career;285
• Developing Strong Lawyering Values, such as Courage, Willpower, and Integrity;286
• Work Life Balance in the Law;287 and
• Lawyers as Leaders.288

Many resources for teaching well-being skills are available to legal educators in the online AALS Balance in Legal Education Bibliography.289 Expert guest speakers can be found in the AALS Balance in Legal Education section,290 and at local lawyer assistance programs and lawyer well-being committees.

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289See AALS, supra note 145.

290See AALS, supra note 144.
BIOGRAPHIES OF TASK FORCE MEMBERS AND TASK FORCE REPORT AUTHORS AND EDITORS

The Report of the National Task Force on Lawyer Well-Being was primarily authored and edited by the Task Force members, whose biographies are below. The Task Force members were assisted in the creation of the Report by a team that included liaisons, contributing authors, peer reviewers, and individuals who contributed in a variety of other important capacities. Their biographies also are provided below.

BREE BUCHANAN
(CO-CHAIR, EDITOR, AUTHOR)
Bree Buchanan, J.D., is Director of the Texas Lawyers Assistance Program of the State Bar of Texas. She serves as co-chair of the National Task Force on Lawyer Wellbeing and is an advisory member of the ABA Commission on Lawyers Assistance Programs (CoLAP). Ms. Buchanan is also the appointed chair of CoLAP for 2017-2018.

Ms. Buchanan, upon graduation from the University of Texas School of Law, practiced in the public and private sector with a focus on representing both adult and child victims of family violence. She worked on public policy initiatives and systems change at both the state and federal level as the Public Policy Director for the Texas Council on Family Violence and the National Domestic Violence Hotline. After this position, Ms. Buchanan was appointed Clinical Professor and Co-Director of the Children’s Rights Clinic at the University of Texas School of Law.

Ms. Buchanan is a frequent speaker at CLE programs for national organizations, as well as for state and local bar entities. She is a graduate student at the Seminary of the Southwest where she is pursuing a Masters in Spiritual Direction, and is the proud parent of a senior at New York University. Ms. Buchanan tends to her own well-being by engaging in a regular meditation practice, rowing, staying connected to 12-Step recovery, and being willing to ask for help when she needs it.

JAMES C. COYLE
(CO-CHAIR, EDITOR, AUTHOR)
Jim Coyle is Attorney Regulation Counsel for the Colorado Supreme Court. Mr. Coyle oversees attorney admissions, attorney registration, mandatory continuing legal and judicial education, attorney discipline and diversion, regulation of the unauthorized practice of law, and inventory counsel matters. Mr. Coyle has been a trial attorney with the Office of Disciplinary Counsel or successor Office of Attorney Regulation Counsel since 1990. Prior to that, he was in private practice. He served on the National Organization of Bar Counsel (NOBC) board of directors from 2014 – 2016. Mr. Coyle was on the Advisory Committee to the ABA Commission on Lawyer Assistance Programs and is now a member of the Commission for the 2017 – 2018 term.

Mr. Coyle is active in promoting proactive regulatory programs that focus on helping lawyers throughout the stages of their careers successfully navigate the practice of law and thus better serve their clients. This includes working on and co-hosting the first ABA Center for Professional Responsibility (CPR)/NOBC/Canadian Regulators Workshops on proactive, risk-based regulatory programs, in Denver in May 2015, in Philadelphia in June 2016, and St. Louis in June 2017; participating in the NOBC Program Committee and International Committee, including as Chair of the Entity Regulation Subcommittee, now known as the Proactive Management-Based Programs Committee; and prior service on the NOBC Aging Lawyers and Permanent Retirement subcommittees. Mr. Coyle tends to his own well-being through gardening, exercise, and dreaming about retirement.
ANNE BRAFFORD (EDITOR-IN-CHIEF, AUTHOR)
Anne Brafford served as the Editor-in-Chief for the Task Force Report on Lawyer Well-Being. Anne is the Chairperson of the American Bar Association Law Practice Division’s Attorney Well-Being Committee. She is a founding member of Aspire, an educational and consulting firm for the legal profession (www.aspire.legal). In 2014, Anne left her job as an equity partner at Morgan, Lewis & Bockius LLP after 18 years of practice to focus on thriving in the legal profession. Anne has earned a Master’s degree in Applied Positive Psychology (MAPP) from the University of Pennsylvania and now is a PhD student in positive organizational psychology at Claremont Graduate University (CGU). Anne’s research focuses on lawyer thriving and includes topics like positive leadership, resilience, work engagement, meaningful work, motivation, and retention of women lawyers. She also is an Assistant Instructor in the MAPP program for Dr. Martin Seligman and, for two years, was a Teaching Assistant at CGU for Dr. Mihaly Csikszentmihalyi, the co-founders of positive psychology. Look for her upcoming book to be published this fall by the American Bar Association’s Law Practice Division called Positive Professionals: Creating High-Performing, Profitable Firms Through The Science of Engagement. It provides practical, science-backed advice on boosting work engagement for lawyers. Anne can be reached at abrafford@aspire.legal, www.aspire.legal.

JOSH CAMSON (EDITOR, AUTHOR)
Josh Camson is a criminal defense attorney with Camson Law, LLC in Collegeville, Pennsylvania. He is a member of the Pennsylvania Bar Association Ethics Committee and the ABA Standing Committee on Professionalism. He is a former long-time staff writer for Lawyerist.com, a law practice management blog and the former editor of BitterLawyer.com, a comedy site for lawyers and law students.

CHARLES GRUBER (AUTHOR)
Charles A. Gruber is a solo practitioner in Sandy, Utah. He is a graduate of the University of Texas Law School. He is licensed to practice law in Utah and California. His areas of practice are personal injury, medical malpractice, and legal malpractice.

A former attorney with the Utah State Bar Office of Professional Conduct, Mr. Gruber represents and advises attorneys on ethics issues. A former member of the NOBC, he currently is a member of APRL. He serves on the Board of Utah Lawyers Helping Lawyers. Utah Lawyers Helping Lawyers is committed to rendering confidential assistance to any member of the Utah State Bar whose professional performance is or may be impaired because of mental illness, emotional distress, substance abuse or any other disabling condition or circumstance.

Mr. Gruber tends to his own well being by trying to remember and follow the suggestions of the 11th step of the 12 Steps.

As we go through the day we pause, when agitated or doubtful, and ask for the right thought or action. We constantly remind ourselves we are no longer running the show, humbly saying to ourselves many times each day “They will be done”. We are then in much less danger of excitement, fear, anger, worry, self-pity, or foolish decisions. We become much more efficient. We do not tire so easily, for we are not burning up energy foolishly as we did when we were trying to arrange life to suit ourselves. Big Book pg. 87-88.

TERRY HARRELL (AUTHOR)
Terry Harrell completed her undergraduate degree in psychology at DePauw University in 1986 and completed her law degree at Maurer School of Law in 1989. Following law school she practiced law with Ice Miller and then clerked for Judge William I. Garrard on the Indiana Court of Appeals.

In 1993 she completed her Master of Social Work Degree (MSW) at Indiana University. Terry is a Licensed Clinical Social Worker (LCSW), a Licensed Clinical Addictions Counselor (LCAC) in Indiana, and has a Master Addictions Counselor certification from NAADAC. In 1992 Terry began working for Midtown Community Mental Health Center. While there she worked in a variety of areas including inpatient treatment, crisis services, adult outpatient treatment, wrap around services for severely emotionally disturbed adolescents, and management. In 2000 Terry began working as the Clinical Director for JLAP and in 2002 became the Executive Director.

From 2007 through 2010 Terry served on the Advisory Committee to the American Bar Association’s Commission on Lawyer Assistance Programs (CoLAP).
She served from 2010 through 2013 as a commissioner on CoLAP. She is past Chair of the Senior Lawyer Assistance Subcommittee for CoLAP and an active member of the CoLAP National Conference Planning Committee. In August 2014 Terry became the first ever LAP Director to be appointed Chair of the ABA Commission on Lawyer Assistance Programs. Locally, Terry is a member of the Indiana State Bar Association and is active with the Professional Legal Education Admission and Development Section, the Planning Committee for the Solo Small Firm Conference, and the Wellness Committee.

DAVID B. JAFFE (AUTHOR)
David Jaffe is Associate Dean for Student Affairs at American University Washington College of Law. In his work on wellness issues among law students over the last decade, he has served on the D.C. Bar Lawyer Assistance Program including as its chair, and continues to serve on the ABA Commission on Lawyer Assistance Programs (CoLAP) as co-chair of the Law School Assistance Committee. Jaffe co-authored “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”, reporting the results of a survey he co-piloted in 2014. He also produced the “Getting Health, Staying Healthy” video that is used as a resource in many Professional Responsibility classes around the country, and is responsible for modernizing the “Substance Abuse & Mental Health Toolkit for Law Students and Those Who Care About Them”.

Jaffe has presented frequently on law student wellness, including to the National Conference of Bar Examiners, the ABA Academic Deans, the ABA Young Lawyers Division, CoLAP, AALS, the D.C. Bar, and NALSAP. He received the 2015 CoLAP Meritorious Service Award in recognition of his commitment to improving the lives of law students, and the 2009 Peter N. Kutulakis Award from the AALS Student Services Section for outstanding contributions to the professional development of law students. Jaffe states that he seeks self-care each day by being in the moment with each of his two daughters.

TRACY L. KEPLER (AUTHOR)
Tracy L. Kepler is the Director of the American Bar Association’s Center for Professional Responsibility (CPR), providing national leadership in developing and interpreting standards and scholarly resources in legal and judicial ethics, professional regulation, professionalism and client protection. In that role, she manages and coordinates the efforts of 18 staff members and 13 entities including five ABA Standing Committees (Ethics, Professionalism, Professional Regulation, Client Protection, and Specialization), the ABA/BNA Lawyers’ Manual on Professional Conduct, the Center’s Coordinating Council and other Center working committees.

From 2014-2016, Ms. Kepler served as an Associate Solicitor in the Office of General Counsel for the U.S. Patent & Trademark Office (USPTO), where she concentrated her practice in the investigation, prosecution and appeal of patent/trademark practitioner disciplinary matters before the Agency, U.S. District Courts and Federal Circuit, provided policy advice on ethics and discipline related matters to senior management, and drafted and revised Agency regulations. From 2000-2014, she served as Senior Litigation Counsel for the Illinois Attorney Registration and Disciplinary Commission (ARDC), where she investigated and prosecuted cases of attorney misconduct.

From 2009-2016, Ms. Kepler served in various capacities, including as President, on the Board of the National Organization of Bar Counsel (NOBC), a non-profit organization of legal professionals whose members enforce ethics rules that regulate the professional conduct of lawyers who practice law in the United States and abroad. Ms. Kepler also taught legal ethics as an Adjunct Professor at American University’s Washington College of Law. Committed to the promotion and encouragement of professional responsibility throughout her career, Ms. Kepler has served as the Chair of the CPR’s CLE Committee and its National Conference Planning Committee, and is a frequent presenter of ethics related topics to various national, state and local organizations. She has also served as the NOBC Liaison to the ABA CPR Standing Committees, and to the ABA Commission on Lawyer Assistance Programs (CoLAP), where she was a Commission member, a member of its Advisory Committee, the Chair of its Education and Senior Lawyer Committees, and also a member of its National Conference Planning Committee. Ms. Kepler also participates as an...
faculty member for the National Institute of Trial Advocacy (NITA) trial and deposition skills programs, and served as the Administrator of the NOBC-NITA Advanced Advocates Training Program from 2011-2015. She is a graduate of Northwestern University in Evanston, Illinois, and received her law degree from New England School of Law in Boston, Massachusetts.

PATRICK KRILL (AUTHOR)
A leading authority on the addiction and mental health problems of lawyers, Patrick is the founder of Krill Strategies, a behavioral health consulting firm exclusively for the legal profession. Patrick is an attorney, licensed and board certified alcohol and drug counselor, author, and advocate. His groundbreaking work in the field of attorney behavioral health includes initiating and serving as lead author of the first and only national study on the prevalence of attorney substance use and mental health problems, a joint undertaking of the American Bar Association Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation that was published in The Journal of Addiction Medicine.

Patrick is the former director of the Hazelden Betty Ford Foundation’s Legal Professionals Program, where he counseled many hundreds of legal professionals from around the country who sought to better understand and overcome the unique challenges faced on a lawyer’s road to recovery. He has authored more than fifty articles related to addiction and mental health, and has been quoted in dozens of national and regional news outlets, including the New York Times, Wall Street Journal, Washington Post, Chicago Tribune, and countless legal industry trade publications and blogs. As a frequent speaker about addiction and its intersection with the law, Patrick has taught multiple graduate-level courses in addiction counseling, and has spoken, lectured, or conducted seminars for over one hundred organizations throughout the United States, including professional and bar associations, law firms, law schools, and corporations.

Patrick maintains his own wellbeing by prioritizing his personal relationships and exercising daily. Whether it be hiking, yoga, or weight lifting, his secret to managing stress is a dedication to physical activity. Patrick can be reached at patrick@prkrill.com, www.prkrill.com.

CHIEF JUSTICE DONALD W. LEMONS, SUPREME COURT OF VIRGINIA (AUTHOR)
Chief Justice Donald W. Lemons received his B.A. from the University of Virginia in 1970. Before entering law school, he served as a Probation Officer in Juvenile and Domestic Relations Court. In 1976, he earned his J.D. from the University of Virginia School of Law. From 1976 until 1978, he served as Assistant Dean and Assistant Professor of Law at the University of Virginia School of Law. Thereafter, he entered the private practice of the law in Richmond, Virginia. Chief Justice Lemons has served at every level of the court system in Virginia. He served as a substitute judge in General District Court and in Juvenile and Domestic Relations Court. In 1995, he was elected by the General Assembly to be a Judge in the Circuit Court of the City of Richmond. While serving in that capacity, Chief Justice Lemons started one of the first Drug Court dockets in Virginia. He was then elected by the General Assembly to serve as a Judge on the Court of Appeals of Virginia. In 2000, he was elected by the General Assembly as a Justice of the Supreme Court of Virginia. In 2014, the Justices of the Supreme Court of Virginia elected Justice Lemons to serve as the next Chief Justice, following the retirement of Chief Justice Cynthia D. Kinser on December 31, 2014. Chief Justice Lemons is also the Distinguished Professor of Judicial Studies at the Washington and Lee University School of Law, serves on the Board of Directors for the Conference of Chief Justices, is the former President of the American Inns of Court (2010 – 2014), and an Honorary Bencher of Middle Temple in London. He is married to Carol Lemons, and they have three children and six grandchildren. He and Carol reside in beautiful Nelson County, Virginia, in the foothills of the Blue Ridge Mountains.

SARAH MYERS (AUTHOR)
Sarah Myers is the Clinical Director of the Colorado Lawyer Assistance Program. She received her B.A. from the University of Richmond in Virginia, her M.A. from Naropa University in Boulder, Colorado, and her J.D. at the University of Denver in Colorado. She is a Colorado licensed attorney, licensed marriage and family therapist, and licensed addiction counselor. Ms. Myers is also a licensed post-graduate level secondary teacher, certified trauma and abuse psychotherapist, and certified LGTBQ
therapist. She has over 18 years of experience as a professor and teacher, psychotherapist, clinical supervisor, and program director.

Ms. Myers specializes in stress management, psychoneuroimmunology, and psychoeducation, topics that she presents to thousands of judges, lawyers, and law students each year. In addition, she has authored hundreds of articles on wellness concepts such as compassion fatigue, professional burnout, mental health support, and life-enhancing techniques for the legal community. Ms. Myers strives to “practice what she preaches” for self-care, which includes: simple meditation throughout the day to relax her nervous system, using humor and laughter to cope with difficult situations or personalities, cultivating positive relationships with friends and family, and engaging in hobbies such as gardening, caring for numerous pets (including a koi pond), yoga, learning new things, and reading science fiction and fantasy novels.

CHRIS L. NEWBOLD (AUTHOR)
Chris Newbold is Executive Vice President of ALPS Corporation and ALPS Property & Casualty Company. In his role as Executive Vice President, Mr. Newbold oversees bar association relations, strategic and operational planning, risk management activities amongst policyholders, human resources, and non-risk related subsidiary units. Internally at ALPS, Mr. Newbold has developed leading conceptual models for strategic planning which have driven proven results, ensured board and staff accountability, focused organizational energies, embraced change, integrated budgeting and human resource functions into the process and enabled a common vision for principal stakeholders. Externally, Mr. Newbold is a nationally-recognized strategic planning facilitator in the bar association and bar foundations worlds, conducts risk management seminars on best practices in law practice management and is well-versed in captive insurance associations and other insurance-related operations.

Mr. Newbold received his law degree from the University of Montana School of Law in 2001, and holds a bachelor’s degree from the University of Wisconsin-Madison. Following his graduation from law school, he served one year as a law clerk for the Honorable Terry N. Trieweiler of the Montana Supreme Court. He began his career at ALPS as President and Principal Consultant of ALPS Foundation Services, a non-profit fundraising and philanthropic management consulting firm. Mr. Newbold is currently a member of the State Bar of Montana, the American Bar Association, and is involved in a variety of charitable activities. Mr. Newbold resides in Missoula, Montana, with his wife, Jennifer, and their three children, Cameron (11), Mallory (9) and Lauren (5).

JAYNE REARDON (EDITOR, AUTHOR)
Jayne Reardon is the Executive Director of the Illinois Supreme Court Commission on Professionalism. A tireless advocate for professionalism, Jayne oversees programs and initiatives to increase the civility and professionalism of attorneys and judges, create inclusiveness in the profession, and promote increased service to the public. Jayne developed the Commission’s successful statewide Lawyer-to-Lawyer Mentoring Program which focuses on activities designed to explore ethics, professionalism, civility, diversity, and wellness in practice settings. She spearheaded development of an interactive digital and social media platform that connects constituencies through blogs, social networking sites and discussion groups. A frequent writer and speaker on topics involving the changing practice of law, Jayne asserts that embracing inclusiveness and innovation will ensure that the profession remains relevant and impactful in the future. Jayne's prior experience includes many successful years of practice as a trial lawyer, committee work on diversity and recruiting issues, and handling attorney discipline cases as counsel to the Illinois Attorney Registration and Disciplinary Commission Review Board.

Jayne graduated from the University of Notre Dame and the University of Michigan Law School. She is active in numerous bar and civic organizations. She serves as Chair of the American Bar Association’s Standing Committee on Professionalism and is a Steering Committee member of the National Lawyer Mentoring Consortium. Jayne also is active in the ABA Consortium of Professionalism Initiatives, Phi Alpha Delta Legal Fraternity, Illinois State Bar Association, Women’s Bar Association of Illinois, and the Chicago Bar Association. Jayne lives in Park Ridge, Illinois, with her husband and those of her four children who are not otherwise living in college towns and beyond.
HON. DAVID SHAHEED (AUTHOR)
David Shaheed became the judge in Civil Court 1, Marion County, Indiana, in August, 2007. Prior to this assignment, Judge Shaheed presided over Criminal Court 14, the Drug Treatment Diversion Court and Reentry Court. The Indiana Correctional Association chose Shaheed as 2007 Judge of the Year for his work with ex-offenders and defendants trying to recover from substance abuse.
Judge Shaheed has worked as a judicial officer in the Marion County Superior Court since 1994 starting as a master commissioner and being appointed judge by Governor Frank O’Bannon in September 1999. As a lawyer, Judge Shaheed was Chief Administrative Law Judge for the Indiana Unemployment Appeals Division; Legal Counsel to the Indiana Department of Workforce Development and served as Counsel to the Democratic Caucus of the Indiana House of Representatives in 1995. He was also co-counsel for the Estate of Michael Taylor, and won a 3.5 million dollar verdict for the mother of a sixteen year-old youth who was found shot in the head in the back seat of a police car.
Judge Shaheed is an associate professor for the School of Public and Environmental Affairs (SPEA) at Indiana University in Indianapolis. He is also a member of the ABA Commission on Lawyers Assistance Programs (CoLAP).

LYNDA C. SHELY (EDITOR, AUTHOR)
Lynda C. Shely, of The Shely Firm, PC, Scottsdale, Arizona, provides ethics advice to over 1400 law firms in Arizona and the District of Columbia on a variety of topics including conflicts of interest, fees and billing, trust account procedures, lawyer transitions, multi-jurisdictional practice, ancillary businesses, and ethics requirements for law firm advertising/marketing. She also assists lawyers in responding to initial Bar charges, performs law office risk management reviews, and trains law firm staff in ethics requirements. Lynda serves as an expert witness and frequently presents continuing legal education programs around the country. Prior to opening her own firm, she was the Director of Lawyer Ethics for the State Bar of Arizona. Prior to moving to Arizona, Lynda was an intellectual property associate with Morgan, Lewis & Bockius in Washington, DC.
Lynda received her BA from Franklin & Marshall College in Lancaster, PA and her JD from Catholic University in Washington, DC. Lynda was the 2015-2016 President of the Association of Professional Responsibility Lawyers. She serves on several State Bar of Arizona Committees, and as a liaison to the ABA Standing Committee on Ethics and Professional Responsibility. She is an Arizona Delegate in the ABA House of Delegates. Lynda has received several awards for her contributions to the legal profession, including the 2007 State Bar of Arizona Member of the Year award, the Scottsdale Bar Association’s 2010 Award of Excellence, and the 2015 AWLA, Maricopa Chapter, Ruth V. McGregor award. She is a prior chair of the ABA Standing Committee on Client Protection and a past member of the ABA’s Professionalism Committee and Center for Professional Responsibility Conference Planning Committee. Lynda was the 2008-2009 President of the Scottsdale Bar Association. She has been an adjunct professor at all three Arizona law schools, teaching professional responsibility.

WILLIAM D. SLEASE (AUTHOR)
William D. Slease is Chief Disciplinary Counsel for the New Mexico Supreme Court Disciplinary Board. In addition to his duties as Chief Disciplinary Counsel, he serves as an adjunct professor at the University of New Mexico School of Law where he has taught employment law, ethics and trial practice skills. He currently chairs the Supreme Court of the State of New Mexico’s Lawyer’s Succession and Transition Committee which has developed a comprehensive set of materials for lawyers to use in identifying and responding to incapacities that affect lawyers’ abilities to practice law. He is a member and the 2016-17 President of the National Organization of Bar Counsel and previously served as the Chair of the NOBC-APRL-CoLAP Second Joint Committee on Aging Lawyers charged with studying and making recommendations for addressing the so-called “senior tsunami” of age-impaired lawyers. Bill takes care of his own wellness by spending time with his family, and by fishing for trout in the beautiful lakes and streams of New Mexico.
TASK FORCE LIAISONS

LINDA ALBERT
Linda Albert is a Licensed Clinical Social Worker and a Certified Alcohol and Drug Counselor. She received her Master's Degree from UW-Madison in Science and Social Work. Linda has worked over the past 34 years as an administrator, consultant, trainer, program developer and psychotherapist in a variety of settings including providing services to impaired professionals. Linda served on the ABA Commission on Lawyer Assistance Programs heading up the Research section. She co-facilitated a research project on compassion fatigue and legal professionals resulting in two peer reviewed publications and multiple articles. She is co-author of the ABA, Hazelden Betty Ford collaborative national research study on the current rates of substance use, depression and anxiety within the legal community. Linda has done multiple presentations for conferences at the local, state and national level. She loves her work and is driven by the opportunity to make a positive contribution to the lives of the individuals and the fields of practice she serves. Currently Linda is employed by The Psychology Center in Madison, Wisconsin, where she works as a professional trainer, consultant, and psychotherapist.

DONALD CAMPBELL
Donald D. Campbell is a shareholder at Collins Einhorn Farrell in suburban Detroit, Michigan. Don’s practice focuses on attorney grievance defense, judicial grievance matters, and legal malpractice defense. He has extensive experience in counseling and advising lawyers and judges regarding professional ethics. He is an adjunct professor of law at the University of Detroit School of Law, where he has taught professional responsibility and a seminar in business law and ethics. Prior to joining the Collins Einhorn firm, Don served as associate counsel with the Michigan Attorney Grievance Commission, the Michigan Supreme Court’s arm for the investigation and prosecution of lawyer misconduct. He also previously served as an assistant prosecuting attorney in Oakland County, Michigan. He currently serves as the President of the Association of Professional Responsibility Lawyers (see APRL.net). Don tends to his well-being by cheering for the Detroit Lions (and he has been about as successful).

ERICA MOESER
Erica Moeser has been the president of the National Conference of Bar Examiners since 1994. She is a former chairperson of the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association, and has served as a law school site evaluator, as a member of the Section’s Accreditation and Standards Review Committees, and as the co-chairperson of the Section’s Bar Admissions Committee. She served as the director of the Board of Bar Examiners of the Supreme Court of Wisconsin from 1978 until joining the Conference. Ms. Moeser holds the following degrees: B.A., Tulane University, 1967; M.S., the University of Wisconsin, 1970; and J.D., the University of Wisconsin, 1974. She was admitted to practice law in Wisconsin in January 1975. Ms. Moeser holds honorary degrees from three law schools. Ms. Moeser has taught Professional Responsibility as an adjunct at the University of Wisconsin Law School. She was elected to membership in the American Law Institute in 1992.

In 2013 Ms. Moeser received the Kutak Award, honoring “an individual who has made significant contributions to the collaboration of the academy, the bench, and the bar,” from the ABA Section of Legal Education and Admissions to the Bar.

ACKNOWLEDGEMENTS

PAUL BURGOYNE, TERRY HARRELL, AND LYNDA SHELY
The Task Force gratefully acknowledges the contributions of Paul Burgoyne, immediate past president of the National Organization of Bar Counsel and Deputy Chief Disciplinary Counsel, The Disciplinary Board of the Supreme Court of Pennsylvania, as well as Terry Harrell, President of the ABA Commission on Lawyer Assistance Programs (ABA CoLAP), and Lynda Shely, past president of the Association of Professional Responsibility Lawyers (APRL), for their formal endorsement of the Task Force's formation in the spring of 2016 on behalf of their respective organizations.

JONATHAN WHITE (AUTHOR, EDITOR)
Jonathan White is the Task Force Staff Attorney and also served as a contributing author and editor to the Report. Mr. White is a staff attorney at the Colorado Supreme Court.
Office of Attorney Regulation Counsel. He is the day-to-day project manager for the Colorado Supreme Court Advisory Committee’s Proactive Management-Based Program (PMBP) Subcommittee. The subcommittee is developing a program to help Colorado lawyers better serve their clients through proactive practice self-assessments. The self-assessments also promote compliance with the Colorado Rules of Professional Conduct. Mr. White rejoined the Office of Attorney Regulation Counsel in November 2016 after previously working for the office as a law clerk in 2009 and 2010.

Mr. White practiced civil defense litigation for several years before rejoining the Office of Attorney Regulation Counsel. Mr. White also served as a judicial law clerk to the Honorable Christopher Cross and the Honorable Vincent White of the Douglas County District Court in Castle Rock, Colorado. He is a 2010 graduate of the University of Colorado Law School. While in law school, he was an articles editor for the Colorado Journal of International Environmental Law & Policy. The Journal published his note, “Drilling in Ecologically and Environmentally Troubled Waters: Law and Policy Concerns Surrounding Development of Oil Resources in the Florida Straits,” in 2010. In 2009, fellow law students selected him to receive the annual Family Law Clinic Award in recognition of his work in the law school’s clinical program.

Mr. White received his B.A. from Middlebury College in 2003. He recently volunteered as a reading tutor to elementary school students in the Denver Public Schools during the 2015-2016 academic year.

ED BRAFFORD, GRAPHIC DESIGNER
Edward Brafford donated his skills and talents to design the layout for the Task Force Report. Mr. Brafford designs for The Firefly Creative LLC (www.thefireflycreative.com) and can be reached at Ed@tffcreative.com.

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DEBRA AUSTIN, PH.D.
Dr. Austin is a law professor and lawyer wellbeing advocate. She writes and speaks about how neuroscience and positive psychology research can help law students, lawyers, and judges improve their wellbeing and performance. Her seminal work, Killing Them Softly, shines a bright light on lawyer depression, substance abuse, and suicide, and its application of neuroscience to the chronic stresses of law school and law practice depicts how law students and lawyers suffer cognitive damage that impairs them from doing precisely what their studies and practices require. Drink Like a Lawyer uses neuroscience research to demonstrate how self-medication with substances like alcohol, marijuana, and study drugs impairs law student and lawyer thinking. Food for Thought examines neuroscience research that explores the relationship between diet and increased risk of cognitive damage, such as dementia and Alzheimer’s disease, and describes optimal nutrition habits that build and maintain a healthy lawyer brain. Positive Legal Education proposes a new field of inquiry and a new method of training lawyer leaders that will enhance lawyer effectiveness and wellbeing. Dr. Austin’s presentations connect lawyer wellbeing to performance and ethical obligations, and they are accredited for general and ethics CLE in multiple states.

Dr. Austin teaches at the University of Denver Sturm College of Law. She received her Bachelor of Music Education from University of Colorado; her J.D. from University of San Francisco; and her Ph.D. in Education from University of Denver. She received the William T. Driscoll Master Educator Award in 2001. To maintain her wellbeing, Dr. Austin meditates, practices yoga, and cycles on the beautiful trails around Colorado.

HON. ROBERT L. CHILDERS
Judge Childers was the presiding judge of Division 9 of the Circuit Court of Tennessee for the 30th Judicial District from 1984 to 2017. He is a past president of the Tennessee Judicial Conference and the Tennessee Trial Judges Association. He has also served as a Special Judge of the Tennessee Supreme Court Workers’ Compensation Panel and the Tennessee Court of Appeals. He served on the ABA Commission on Lawyer Assistance Programs (CoLAP) from 1999 to 2011, including serving as Chair of the Commission from 2007-2011. He is a founding member, past president and Master of the Bench of the Leo Bearman Sr. Inn of Court. The Memphis Bar Association recognized Judge Childers in 1986, 1999, and 2006 as Outstanding Judge of the Year, and he was recognized by the MBA Family Law Section in 2006. He was recognized as Outstanding
Judge of the Year by the Shelby County (TN) Deputy Sheriffs Association in 1990. He received the Judge Wheatcraft Award from the Tennessee Coalition Against Domestic and Sexual Violence for outstanding service in combating domestic violence in 2001. He has received the Distinguished Alumnus Award from the University of Memphis (2002), the Justice Frank F. Drowota III Outstanding Judicial Service Award from the Tennessee Bar Association (2012), and the Excellence in Legal Community Leadership Award from the Hazelden Foundation (2012). In 2017 he received the William M. Leech Jr. Public Service Award from the Fellows of the Tennessee Bar Association Young Lawyers Division.

Judge Childers is currently serving as president of the University of Memphis Alumni Association. He has been a faculty member at the National Judicial College at the University of Nevada–Reno, the Tennessee Judicial Conference Judicial Academy, and a lecturer at the Cecil C. Humphreys School of Law at the University of Memphis. He has also been a frequent lecturer and speaker at CLE seminars and before numerous schools, civic, church and business groups in Tennessee and throughout the nation.

COURTNEY WYLIE

Courtney recently joined the professional development team at Drinker Biddle & Reath LLP. In this position, she designs and implements programs for the firm's attorneys on leadership, professionalism, and lawyer well-being topics. Prior to joining DBR, Courtney Wylie worked at the University of Chicago Law School as the Associate Director of Student Affairs & Programs. In this position, she was primarily responsible for the Keystone Leadership and Professional Program and the Kapnick Leadership Development Initiative. Before that Courtney worked in both the private and public sector as an attorney.

Courtney is the current appointed ABA Young Lawyer’s Division Liaison to the Commission on Lawyer Assistance Programs (COLAP) and an appointed Advisory Committee Member of (COLAP). Though an initial skeptic regarding meditation and exercise, she now makes an effort to make it part of her daily practice to remain healthy, positive, focused, and centered. She similarly regularly lectures on the importance of self-care for attorneys and law students.

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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 healthy
- Mentally thriving
- Contributing to society
- Focusing on client care
- Feeling connected and a sense of belonging
- Willing to seek help
- Engaged at work
- Continually seeking intellectual growth
- Emotionally intelligent
- Experiencing a sense of meaning and purpose

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

Report of National Taskforce on Lawyer Well-being
https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf

Oregon State Bar Bulletin: In Pursuit of Well-being (October 2019 issue)

OAAP Website
https://www.oaap.org

Oregon State Bar Professional Liability Fund website
https://osbplf.org

Oregon State Bar website
https://www.osbar.org