Charting a Sustainable Path Forward: What the ABA/Hazelden Betty Ford Study on Substance Use and Mental Health Means for the Future of the Profession

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Sponsored by the Commission on Lawyer Assistance Programs, Standing Committee on the Delivery of Legal Services, Solo, Small Firm and General Practice Division, Law Practice Division, Commission on Law and Aging, Standing Committee on Legal Aid & Indigent Defendants, Government & Public Sector Lawyers Division, Division for Public Services, Commission on Disability Rights, Young Lawyers Division, Tort Trial and Insurance Practice Section, and the ABA Center for Professional Development
Charting a Sustainable Path Forward: What the ABA/Hazelden Betty Ford Study Means for the Future of the Profession

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Objectives

- Understand the newly published data on the substance use and mental health concerns of U.S. attorneys.
- Understand what the profession can do to address these problems.
Why do you think lawyers are so hesitant to seek help for their mental health or substance abuse problems?

• 1. Fear of being judged
• 2. Fear it will harm their professional rep.
• 3. Fear it would impact their license
• 4. Think they can solve the problem themselves
• 5. Because of denial about the existence or severity of their problem
Lawyers Assistance Programs

internetaddictions
careertransitions
stressmanagement
gambling
suicide
sexualaddictions
substanceabuse
physicalimpairments
eatingdisorders

depression
aging/retirement
grief
ADD
dementia
anxiety
ABA/HBF Study

Current Rates- Substance Use and Behavioral Health Problems

- 12,825 licensed, employed attorneys & judges
- Males = 53.4%
- Females = 46.5%
- Transgender = .1%
- Diversity of race
  - Asian 1.2%
  - Black/African American 2.5%
  - Caucasian/White 90.9%
  - Latino/Hispanic 2.6%
  - Native American .3%
  - Other .7%
  - Missing .5%
SUBSTANCE USE FINDINGS
Survey Instruments

AUDIT 10-Alcohol Use Disorder Identification Test

- Developed by World Health Organization
- Widespread use by health workers and alcohol researchers
- Screens for hazardous, harmful and possible alcohol dependence
Alcohol Use – AUDIT 10

- **20.6 % scored at a level consistent with problematic drinking**
  - Using Audit 10 = problem behaviors and levels of use
    - Problematic drinking = hazardous drinking and possible dependence
    - More males than females among lawyers

- **Using the Audit C = levels and frequency of use**
  - Physicians 15% problematic drinking
  - Lawyers 36.4%
  - More females than males among lawyers

- **Position in the field**
  - Higher scores for those working in private firms or Bar Associations
Self-Reporting Concerns

- 22.6% felt their use of alcohol or substances was a problem sometime during their lives
- 27.6% reported problematic use prior to law school
- 14.2% reported problematic use started during law school
- 43.7% reported problematic use started within the first 15 years following law school
- 14.5% reported problematic use started more than 15 years after law school
Regression Analysis-predictive validity of age, position and years in the field

- Age 30 and under higher Audit and Audit C scores—more hazardous drinking
- Less years working in the field = higher Audit scores
- Working in a private firm or for a bar association yielded higher Audit scores
ABA/Hazelden-Betty Ford Study – Problematic Drinking

"Problematic Drinking" = hazardous, possible dependence
MENTAL HEALTH FINDINGS
Depression, Anxiety and Stress Scale = DASS-21

- Depression 28%
- Males higher levels of depression than females
  - Rates decreased as age increased
  - Junior positions = higher rates
Anxiety/Stress

- Anxiety 19%
  - Females higher than males
- Stress 23%
- Higher scores on Audit correlated with higher scores on the DASS
- DASS scores deceased as age and years in the field increased-similar to Audit
Self-Reporting of Mental Health Concerns

- Anxiety 61%
- Depression 45.7%
- Social Anxiety 16.1%
- ADHD 16.1%
- Panic Disorder 8.0%
- Bipolar Disorder 2.4%
Suicidal Thoughts and Self Harm

• 11.5% reported suicidal thoughts during their career
• 2.9% reported self injurious behaviors
• 0.7% reported at least one suicide attempt
Help Seeking Behaviors-

- Not wanting others to find out they needed help - Stigma
- Concerns regarding privacy or confidentiality

No one can know
# Summary of Findings

## AODA

- PROBLEMATIC USE OF ALCOHOL = 21-36%
- DRUGS USE PROBLEMS:
  - Low rates of abuse = 76%
  - Intermediate = 20.9%
  - Substantial = 3.0%
  - Severe = .01%

## MENTAL HEALTH

- DEPRESSION = 28%
- ANXIETY = 19%
- STRESS = 23%
What Have We Learned?

- Lawyers have significantly higher rates of problematic drinking and mental health problems than the general population.

- Lawyers don’t seek help for behavioral health problems because they fear someone will find out and it will discredit them and possibly affect their license.
What Have We Learned?

• Younger, less experienced lawyers have higher levels of distress symptoms than their older, more experienced peers.

• Law school research seems to demonstrate similar themes with higher levels of distress symptoms than the general population and limited help seeking behaviors.*

Organ, Jaffe and Bender, Helping Law Students Get the Help They Need. 2015
• This research is a *call for action*.

• The numbers are incompatible with a sustainable professional culture.

• Too many individuals are struggling and suffering, and the impact on the public is too great for the profession to ignore.
What is Your Response to These Numbers?

1. Very surprised
2. Somewhat surprised
3. Not at all surprised
4. I thought they would be higher
WHY DOES THE PROFESSION HAVE THIS PROBLEM?
Why Does the Profession Have This Problem?

1. By nature, the work environment is inherently stressful and therefore amounts to a risk factor for developing a substance use disorder

- Conflict and competition are the norm in the profession.
- External sources of conflict and competition (e.g. opposing counsel and often the judge)
- Internal sources of conflict and competition (e.g. Competition within the law firm for clients, advancement, etc.)
- Clients are generally starting from a place of unpleasant emotions (loss, anxiety, grief, conflict, anger). In other words, people aren’t generally “happy” to be seeing an attorney.
- Fact that the entire job centers on solving problems, which are seldom solved to the complete satisfaction of the client (including the bill at the end).
- High—and possibly unrealistic—client expectations.
Why Does the Profession Have This Problem?

- Good lawyering skills don’t necessarily translate into good workplace skills. (i.e. emphasis on “winning” instead of collaboration; skilled at “debate” and “arguments” rather than discussion and collaboration).
- Distrust of colleagues and inability to share frustrations, problems, issues, emotional/behavioral conditions---fears that you will look weak or colleague will use against you.
- Time pressures such as deadlines from the court, administrative agencies, the client
- LONG hours
- Increasingly anxiety-based profession based on excess number of lawyers and limited number of jobs
- Required billable hours
- Required origination of business (this applies particularly to partners)
Why Does the Profession Have This Problem?

2. Alcohol is deeply engrained in the culture of the profession. Heavy drinking and regular drinking are highly normalized and often encouraged, while self-care, healthy boundaries and overall wellness are grossly under prioritized.

3. Help seeking behaviors are dis-incentivized and dysfunctional coping mechanisms are widespread and tolerated.

4. Personal wellbeing (mental and chemical health) is not adequately emphasized as an indispensable predicate for fitness to practice.

5. Historic and cultural reluctance of the profession to acknowledge and address the issues in a meaningful way; lack of systemic buy-in towards proactive change.
Traits of Lawyers Themselves

- Arrogance
- Strong ego
- Intolerance
- Self-reliance
- Perfectionism
- People-pleasing
- Competitiveness
- Argumentativeness
- Self-centeredness
- Always be in control
- Comfortable isolating
- Advanced verbal skills
- Emotional detachment
- Black and white thinking
- Experts at rationalization
- Secretive; everything is confidential
- Intellectualization is the comfort zone
- Winning irrespective of the cost to self
- Stubbornness and a reluctance to give up
- Circumspection, skepticism and questioning
- Comfortable manipulating facts and situations
- Predisposition towards denial and shifting blame
- Be a problem-solver, not someone who has problems
- Avoid risk taking or potential exposure to rejection or criticism
- Logic and critical thinking far more important than trusting “their gut”
- Over identification with professional self; self-worth based on being a lawyer
- Terminal sense of uniqueness; strong feeling of being different than non-attorneys
Why is This Important?

• Humanitarian Reasons
• Business
• Ethics
WHAT DOES IT TAKE TO BE A SUCCESSFUL ATTORNEY AND STILL HAVE A HAPPY LIFE?
The Business Case for Taking Action

- Malpractice avoidance and ethical adherence
- Firm image and overall customer satisfaction
- Delivery of quality, effective client service
- Individual employee performance, development, and retention
- Collective culture and morale
- Turnover and healthcare costs
“Foundations for Practice: The Whole Lawyer and the Character Quotient” : More than 24,000 lawyers from all 50 states responded to the survey seeking practitioners’ opinions on what new lawyers need. And the study found that only 23 percent of respondents felt entering lawyers have sufficient skills for practice.
The top 10 skills, in order, considered necessary in the short term include:

- Keeping confidentiality.
- Arriving on time.
- Honoring commitments.
- Integrity and trustworthiness.
- Treating others with courtesy and respect.
- Listening attentively and respectfully.
- Responding promptly.
- Diligence.
- Having a strong work ethic.
- Paying attention to detail.
Turnover Costs

- Turnover costs in the legal industry are roughly $9.1 billion annually. That is gargantuan considering that figure applies just the 400 largest firms in the United States.

- When considering the 50- to 100-attorney firms, that figure grows to $13 billion.
What’s the Impact Upon the Profession...CAN IT SUSTAIN THIS?

• Research shows some depressed, anxious, substance abusing lawyers struggle with follow through, attention, integrity, trustworthiness, responding promptly, diligence.

• There’s an interface between these struggles and ethical violations.
Whose Job is it to Improve the Health and Wellbeing of the Profession?

1. The individual lawyer
2. Law Schools
3. The firm/employer
4. Regulation/discipline
5. Admissions agencies
6. Bar Associations
7. All of the above
New Message:
HELP IS NOT A FOUR LETTER WORD

Unless you’re a law student or legal professional.....
Potential Contributors

- What is it about the nature of being a legal professional that contributes to higher levels of distress symptoms among its practitioners?
Could a change in the culture of practicing law impact these numbers?

A Movement to Teach Law Students, Lawyers and Judges AND the Organizations they Work for that Maintaining Personal Wellbeing Equates with Professional Responsibility.
What Doesn’t Work…

Alan Deutschman in *Change or Die*
The Happy Lawyer

“Lawyers and clients deserve the benefits of Larry’s approach.”
Jack Canfield
Co-author of the New York Times #1 Bestselling Chicken Soup for the Soul series

Larry Schreiter

How to gain more satisfaction, suffer less stress, and enjoy higher earnings in your law practice

BECOMING A JOYFUL LAWYER

Contemplative Training in Non-Distraction, Empathy, and Emotional Wisdom

DEBORAH CALLOWAY
Faced with the choice between changing one's mind and proving that there is no need to do so, almost everyone gets busy on the proof.

**John Kenneth Galbraith**
Avoidance of change can be costly...
Whose job is it anyway?

Everybody was sure Somebody would do it.

Anybody could have done it, but Nobody did it.

Somebody got angry about that, because it was Everybody’s job

Everybody thought Nobody could do it but Nobody realised that Everybody wouldn’t do it.

It ended up that Everybody blamed Somebody when Nobody did what Anybody could have done!
Cultural Change

Motivate the Elephant - Who is the Elephant in your System?

Switch by Heath and Heath
2010
Rider, (Director) Needs to Have Clarity

Switch by Heath and Heath 2010
SHAPE THE PATH

LET’S DO THIS

TOGETHER
Clarity: Specifics
Law Schools/Admissions

- Change the messaging to law students: full disclosure is the smart thing to do.
- Asking for help is the smart thing to do.
- Decrease the competitive environment so often cited by students in law school.
- Increase transparency of Bar Application.

Source: Organ, J., Jaffe, D., Bender, K.
Specific Recommendations-Law Schools/Admissions

• Core curriculum classes on the importance of maintaining personal wellbeing, mitigation of impairment to insure fitness to practice, similar to other areas of professional responsibility.

• Bar Examiners should make automatic referrals to local lawyer assistance programs when they receive at-risk applications or have concerns about an applicant.
Specific Recommendations

• Bar Associations to have comprehensive mentoring programs for new lawyers. It is imperative that these programs do not center on happy hours or other alcohol-related events to generate participation or facilitate networking.

• All states should have conditional admission which allows lawyers who are currently fit to practice (but otherwise have conduct in their past that might warrant denial) to be admitted and monitored by a lawyers assistance program.
SUGGESTIONS FOR FIRMS

- Acknowledge the issues
- Assess your firm’s culture, philosophy and history
- Define your firm’s goals
- Evaluate your firm’s policies, protocols & practices
- Invest in education, training, guidance and support
- Change
- Track (progress)
Get Connected
Profession Wide Collaboration

- All regulatory agencies should make sure their rules allow referral to the lawyer assistance program when concerned about a lawyer prior to, during, or after discipline.
- Profession-wide health and wellness summits should be organized to develop strategies for improving the wellbeing of lawyers. Summits would include key stakeholders from all sectors of the profession.
- The health and wellness activities promoted by local and state bars could include wellness fairs with health screenings (“Practice Wellness Not Law Day”).
REALITY

- Often, by the time an attorney is referred into a program they are severely impaired which may negatively impact outcome.
- Early identification is the key and a duty.
Recommendations
Funding

• Lawyer assistance programs must be funded at a level that allows more outreach, screenings, counseling, peer assistance, support groups, monitoring and preventive education.

• All jurisdictions should establish an assistance fund for lawyers who could not otherwise afford treatment for substance abuse or mental health disorders.

• Funding for regulatory agencies could be structured so as to allow for prevention, diversion, and other measures to identify and create appropriate solutions when dealing with conduct related to substance use or mental health disorders.
Where do you fit in?
“When Spider Webs Unite they can Tie Up a Lion”…

Old Ethiopian Proverb
TALENT, GREAT MINDS, RESOURCES, HOPE, RESILIENCE, MOTIVATION, EXPERTISE…BRING IT ON!