The Path to Lawyer Well-Being: Practical Recommendations for Positive Change

The Report of the National Task Force on Lawyer Well-Being
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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 cannot 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. 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. 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. 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 they are 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. Confronted with the data, and acting for the benefit of lawyers who are functioning below their ability, as well as 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.

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, both in business organizations such as law firms and corporations, and in 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 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 just 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. Many lawyers strive to be leaders in society. We help enforce social and regulatory norms. When we are not behaving as leaders because of some mental health or substance use disorder, how can we lead? How can we help society as we have been trained to do?

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 involves the 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 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 the World Health Organization’s definition of “mental health,” which the WHO defines 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.” 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. While “well-being” is not solely an absence of mental illness, it is not limited to feelings of happiness and positive emotions.


14 The 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/featurefiles/mental_health_en.
Another common theme in social science research is that well-being is not just an intra-personal process: context powerfully influences it.\textsuperscript{15} Consistent with this view, a study of worldwide survey data found that five factors constitute the key elements of well-being: career, social relationships, community, health, and finances.\textsuperscript{16} The Task Force adopted this general multidimensional framework, reviewed academic research and other industries’ definitions of health and well-being, and devised a definition specifically tailored to the legal profession. We 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 multidimensional concept of mental health and the importance of context to complete health.

Our Call to Action

All told, the benefits of increased lawyer well-being are compelling, the cost of lawyer impairment too great to ignore, and 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, bar associations, legal employers, law schools, 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 tic-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 substance use disorders as well as navigating the practice of law in a healthy manner. Part-and-parcel of expanding educational outreach and programming is devoting more resources to well-being promotion.

5. Changing the tone of the profession one small step at a time. There are a number of small-scale recommendations in this report, such as the simple steps of allowing lawyers to earn continuing legal education (CLE) credit for well-being workshops or de-emphasizing alcohol at bar association social events, that collectively 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.
Defining Lawyer Well-Being

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

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

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

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

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

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

Cultivating personal satisfaction, growth, and enrichment in work. Financial stability.
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.

PART I.
RECOMMENDATIONS FOR ALL STAKEHOLDERS

First, we recommend strategies for all stakeholders in the legal profession to play a part in the transformational process aimed at 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. Many in the legal profession have behaved, at best, as if their colleagues’ well-being is none of their business or is a personal failing on the part of the lawyer in crisis. At worst, some appear to believe that supporting well-being will harm professional success. 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 that continues 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 leadership.\textsuperscript{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, addressing the multiple dimensions of well-being in their own lives and by supporting others to do the same.\textsuperscript{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.\textsuperscript{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.\textsuperscript{20} Top concerns of law students in the Survey of Law Student Well Being were fear of jeopardizing their academic standing or admission to the practice of law, social stigma, and privacy concerns.\textsuperscript{21}

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.

\textsuperscript{17} E. Schein, Organizational Culture and Leadership (2010); R. R. Sims & J. Brinkmann, Leaders As Moral Role Models, 35 J. BUS. ETHICS 327 (2002).
\textsuperscript{20} Krill, Johnson, & Albert, supra note 1, at 50.
\textsuperscript{21} Organ, Jaffe, & Bender, supra note 3, at 141.
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.24 Many lawyer assistance programs employ teams of experts 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).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.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

23 Wade, Vogel, Armistead-Jehle, Meit, Heath, Strass, supra note 19. The Real Warrior website can be found at www.realwarriors.net.
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.
26 Krill, Johnson, & Albert, supra note 1, at 50.
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, although care should be taken to ensure that they understand the particular types of stress that affect lawyers.

6. Foster Collegiality 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.\textsuperscript{31} 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 inflicts emotional and physiological damage. It diminishes

\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).
productivity, performance, creativity, and helping behaviors.\textsuperscript{32} 

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.\textsuperscript{33} In a 2007 survey of Illinois lawyers, 72 percent of respondents categorized incivility as a serious or moderately serious problem in the profession.\textsuperscript{34} A recent study of over 6,000 lawyers found that lawyers did not generally have a positive view of lawyer or judge professionalism.\textsuperscript{35} There is evidence showing that women lawyers are more frequent targets of incivility and harassment.\textsuperscript{36} Legal-industry commentators offer a host of hypotheses to explain the decline in civility.\textsuperscript{37} Rather than continuing to puzzle over the causes, we acknowledge the complexity of the problem and invite further thinking on how to address it.

As a start, we recommend that bar associations and courts adopt rules of professionalism and civility, such as those that exist in many jurisdictions.\textsuperscript{38} 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.\textsuperscript{39} 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.\textsuperscript{40} A significant contributor to well-being is a sense of organizational


\textsuperscript{33} S. S. Daicoff, Lawyer, Know Thyself: A Psychological Analysis of Personality Strengths and Weaknesses (2004).


\textsuperscript{35} Krieger & Shelden, supra note 5.


\textsuperscript{37} E.g., Campbell, supra note 34; A. T. Kronman, The Lost Lawyer (1993); J. Smith, Lawyers Behaving Badly Get a Dressing Down from Civility Cops, WALL ST. J., Jan. 27, 2013, at A1; Walsh, Magley, Reeves, Davies-Schrls, Marmet, & Gallus, supra note 32.

\textsuperscript{38} Examples of professionalism codes can be found on the ABA Center for Professional Responsibility’s website: https://www.americanbar.org/groups/professional_responsibility_committees_commissions/standing_committee_professionalism/professionalism_codes.html; see also AM. BAR ASS’N RESOL. 108 (2011), available at http://www.americanbar.org/content_dam/aba/directories/policy/2011_am_108.authcheckdam.pdf.


\textsuperscript{40} E.g., M. M. Barak & A. Levin, Outside of the Corporate Mainstream and Excluded from the Work Community: A Study of Diversity, Job Satisfaction and Well-Being, 5 COMM., WORK & FAM. 133 (2002); J. Hwang & K. M.
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. Unfortunately, however, a lack of diversity and inclusion is an entrenched problem in the legal profession. The issue is pronounced for women and minorities in larger law firms.

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.

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. 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 most effective.⁵¹ Research confirms that environments that facilitate control and autonomy contribute to optimal functioning and well-being.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;

⁴⁸ Of 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.ht.
• 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 and Materials on Detecting and Redressing Lawyer Distress as Well as The Causes and Consequences of That Distress.

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.53 In this context, a team-based training program may be most effective because it focuses on the level at which the social norms are enforced.54

Given the influence of drinking norms throughout the profession, however, a more comprehensive, systemic campaign is likely to be the most effective—though certainly the most challenging.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. They also suggest 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

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).
55 Kolar & von Treuer, supra note 54.
Additionally, genuine efforts to enhance lawyer well-being must extend beyond disorder detection and treatment. Efforts aimed at remediating 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 educational programs, along with empirical evidence to support each example.


Like the general population, the lawyer community is aging and lawyers are practicing longer.\textsuperscript{57} In the Baby Boomer generation, the oldest turned 62 in 2008, and the youngest will turn 62 in 2026.\textsuperscript{58} In law firms, one estimate indicates that nearly 65 percent of equity partners will retire over the next decade.\textsuperscript{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:

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.\textsuperscript{60} A model program in this regard is the North Carolina Bar Association’s Senior Lawyers Division.\textsuperscript{61}

Third, we recommend that legal employers, law firms, courts, and law schools develop “re-orientation” programs to aid the transition of retiring legal professionals. Retirement can enhance

\textsuperscript{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.


\textsuperscript{61} Senior Lawyers Division, N. C. Bar Ass’n, https://www.ncbar.org/members/divisions/senior-lawyers/.
or harm well-being depending on the individual’s adjustment process.\textsuperscript{62} 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.\textsuperscript{63} 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.\textsuperscript{64}

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.\textsuperscript{65}

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 (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.\textsuperscript{66} 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.\textsuperscript{67} Further, a national survey of physician health programs found that among medical professionals who


\textsuperscript{63} Id.


completed their prescribed treatment requirements (including monitoring), 95 percent were licensed and actively 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.


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, both education and action are needed on the part of stakeholders. 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 in order 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. 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 understand the gravity of the impact and the need for prevention. In addition, stakeholders can schedule educational presentations that incorporate information on the signs and symptoms of suicidal ideation 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

71 Id.
72 The Colorado Lawyer Assistance Program sponsored one such Call to Action on January 21, 2016, in an effort to generate more exposure to this issue so the legal community better understands the need for dialogue and prevention.
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.

Stakeholders need to understand that while a lawyer might not tell us that he or she is suffering, that person will show us through various changes in behavior and communication styles because the majority of what we express is non-verbal. If we, as a legal community, can become educated in these tell-tale signs that something is “wrong,” then we can take action by asking the person how he or she is doing and direct him or her to resources that might be life-saving.

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 counter-balance 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.

PART II.
RECOMMENDATIONS FOR SPECIFIC STAKEHOLDERS

Recommendations For Judges

Judges 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 can, however, take its 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

73 ALBERT MEHRABIAN, SILENT MESSAGES: IMPLICIT COMMUNICATION OF EMOTIONS AND ATTITUDES (1972).
decision or the consequences of that decision.\textsuperscript{78} Other judges face the stress of presiding over criminal cases with horrific underlying facts.\textsuperscript{79}

Another stressor is the increasing acts of violence against judges inside and outside the courthouse.\textsuperscript{80} Further, many judges contend with isolation in their professional lives and sometimes in their personal lives.\textsuperscript{81} 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.\textsuperscript{82} Often judges do not have feedback on their performance, and number take the bench with little preparation, compounding the sense of going it alone.\textsuperscript{83} 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.\textsuperscript{84} Additional stressors include re-election in certain jurisdictions.\textsuperscript{85} Limited judicial resources coupled with time-intensive, congested dockets are a pronounced problem.\textsuperscript{86} More recently, judges have reported a sense of diminishment in their estimation among the public at large.\textsuperscript{87} 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.\textsuperscript{88} Many judges, like lawyers, have a strong sense of perfectionism and believe they must display this perfectionism at all times.\textsuperscript{89} 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.


The highest court in each state should set the tone for the importance of the well-being of judges, realizing that judges are not immune from suffering from the same stressors as lawyers, but also additional stressors that are unique to work as a jurist.

\textsuperscript{78} Id. at 611-12.
\textsuperscript{82} Id.
\textsuperscript{83} C. Bremer, \textit{Reducing Judicial Stress Through Mentoring}, \textit{87 JUDICATURE} 244-45 (2004).
\textsuperscript{84} Resnick, Myatt, & Marotta, supra note 77, at 610.
\textsuperscript{85} Id. at 610-11; Zimmerman, supra note 81, at 11-12.
\textsuperscript{86} Resnick, Myatt, Marotta, supra note 77, at 610.

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.


The ABA Commission on Lawyer Assistance Programs has recently conducted research determining the extent of alcohol use, substance use disorders, mental health issues, and help-seeking behaviors for law students and for lawyers. 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.


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 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.\(^91\)

\(^90\) The ABA-sponsored National Helpline for Judges Helping Judges is 1-800-219-6474.

\(^91\) For more information on judicial roundtables, see AM. BAR ASS’N COMM’N ON LAW. ASSISTANCE PROGRAMS, JUDICIAL ROUNDTABLES, available at
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 are often 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, and we also believe that with the appropriate training, their 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.

Recommendations For Regulators

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.[^92] 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

[^92]: See Am. Bar Ass’n Res. 105 (February 2016).

[^92]: See Am. Bar Ass’n Res. 105 (February 2016).
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 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. The Supreme Court of Washington also recently enacted regulatory objectives.

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.


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.” We

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94 RESOL. 105, supra note 92.
95 COLO. REV. STAT., CT. RULES, Ch. 18-20 PMBL. (2016).
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. 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 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.

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 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. 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.\(^{101}\) The Task Force recommends 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 a resource 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 in to the professional responsibility curriculum.

A requirement similar to this has already 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.”\(^{102}\) 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 help 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 the mental health of applicants on applications 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 in order 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.\(^{103}\) 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.”\(^{104}\) We recommend that each state follow the ABA and more closely focus on such conduct or behavior rather than any diagnosis or treatment history.

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\(^{102}\) ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION, CGME COMMON PROGRAM REQUIREMENTS, § VI.A.2, available at https://www.acgme.org/Portals/0/PSAssets/ProgramRequirements/CPRs_07012016.pdf


\(^{104}\) 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 do know the actual percentage of such denied applications is low. Publication of this data might help alleviate law

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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.
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 are designed to alleviate practice stress, improve lawyer-client relationships, and enhance career satisfaction. 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 a lawyer’s interaction with a regulator. Transforming the perception of regulators from someone to be feared helps combat the culture of stress and fear that has allowed mental health and substance use disorders to proliferate.

22.2. Adopt A Centralized Grievance Intake System to Promptly Identify Well-Being Concerns.

We recommend regulators adopt centralized intake systems. These allow expedited methods for receipt and resolution of grievances, help reduce the stress associated with pending disciplinary matters and, 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.

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.

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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.
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.

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 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.\(^{110}\) When a lawyer enters a diversion program, he or she agrees to follow certain conditions in order 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.\(^ {111}\) Notwithstanding the pressure to address myriad topics in this course, increased attention must be given to reduce the 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.\(^ {112}\) Taking this step underscores both the importance of the topic and the


\(^{112}\) 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.
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.

**Recommendations For Legal Employers**

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 in the practice setting. 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 amongst employees, 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.


Consider assessing the state of well-being among lawyers and staff and whether your workplace culture supports well-being. Reassess to track progress. 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:


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-1468953053; 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. & PRAC. 147 (2015).
- 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.

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.\textsuperscript{115} Programs in the medical profession have recommend a bi-annual distribution of the MBI.\textsuperscript{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.

\textbf{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 then should make necessary adjustments. This evaluation should seek input from all employees in a safe and confidential manner. This creates transparency and builds trust with employees. \textbf{Appendix D} sets out topics for an assessment.

Legal employers should also 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.\textsuperscript{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.\textsuperscript{118} The ABA has provided formal guidance on managing lawyer impairment.\textsuperscript{119}

25.1. \textbf{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.\textsuperscript{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. \textbf{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.\textsuperscript{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.

26. \textbf{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

\textsuperscript{117} CoLAP’s website provides help-line information and a directory of state-based lawyer assistance programs: http://www.americanbar.org/groups/lawyer_assistance.html.


\textsuperscript{120} Brafford, supra note 2.

\textsuperscript{121} C. Maslach, W. B. Schaufeli, & M. P. Leiter, \textit{Job Burnout}, 52 ANN. REV. OF PSYCHOL. 397, 415 (2001); T. Reuter & R. Schwarzer, \textit{Manage Stress at Work Through Preventive and Proactive Coping}, in Locke, supra note 7.


orientation programs for new lawyers that incorporate lawyer well-being education and training. 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.
- 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.

Further, law firms need to 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.


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. Work cultures that constantly emphasize competitive, self-serving goals will continually trigger competitive, selfish behaviors from lawyers that harm organizations and individual well-being. This can be psychologically draining. Research of Australian lawyers found that 70 percent reported that the practice of law is bottom-line driven. Lawyers who reported that the practice of law was primarily about generating profits were more likely to be depressed. This affects the bottom line as the investment in those lawyers who seek other jobs or careers due to burn out or disability, is lost.

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

Procter LLP, O’Melveny & Myers LLP, Morgan Lewis & Bockius LLP, Fish & Richardson PC, Drinker Biddle & Reath LLP, Quarles & Brady LLP, and Neal Gerber & Eisenberg LLP as having hosted resilience workshops).


and pride, work is experienced as more meaningful. 130 Experiencing work as meaningful is the biggest contributor to work engagement—a form of work-related well-being. 131


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. 132

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.

Recommendations For Law Schools

Law 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. 133 Research suggests that law students are among the most dissatisfied, demoralized, and depressed of any graduate student population. 134

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. 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. 135 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. 136 Only four percent said they had ever received counseling for alcohol or drug issues—even though a quarter were at risk for problem drinking. 137

The top factors that students reported as discouraging them from seeking help were

135 Organ, Jaffe, & Bender, supra note 3, at 143.
136 Id. at 140.
137 Id.
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.\textsuperscript{138} It appears that recommendations stemming from the 1993 survey either were not implemented or were not successful.\textsuperscript{139}

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.\textsuperscript{140} 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 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 suppressed and illness may be intensified.\textsuperscript{141}

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 well-being. The recommendations below offer some ideas for both.


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.\textsuperscript{142} Students should be educated about faculty’s reporting requirements to add clarity and reduce student anxiety when interacting with faculty.

\textsuperscript{138} ASS’N AM. L. SCH. SPECIAL COMM. ON PROBLEMS OF SUBSTANCE ABUSE IN THE L. SCHS. (1993).
\textsuperscript{139} Id. at vi-vii.
\textsuperscript{141} Patthoff, supra note 134, at 424.
\textsuperscript{142} See Organ, Jaffé, & 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.
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. In order for faculty to take these issues seriously, it must be clear to them that deans consider the time faculty spend learning about and addressing the needs of students outside the classroom valuable. 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. 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. Their scholarship is organized in an online bibliography divided into two topics: Humanizing the Law School Experience and Humanizing the Practice of Law.

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.

145 Id. at Bibliography.
146 See Organ, Jaffe, & Bender, supra note 3, at 152.
147 Id.
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.\textsuperscript{148} 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.\textsuperscript{149} 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.\textsuperscript{150}

\textbf{27.3. Provide Mental Health and Substance Use Disorder Resources.}

Law schools need to identify and publicize resources so that students understand that there are resources available to help them confront stress and well-being crises. They need to highlight the benefit of these resources and that students should not feel stigmatized for seeking help. One way to go about this is to have every course syllabus identify the law school’s mental health resources. The syllabus language should reflect an understanding that stressors exist.\textsuperscript{151} Law schools can also hold special events, forums, and conversations that coincide with national awareness days, such as mental health day and suicide prevention day.

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.\textsuperscript{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.\textsuperscript{153}

\textbf{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

\textsuperscript{148} \textit{id.}
\textsuperscript{149} \textit{id.}
\textsuperscript{150} \textit{id.}
\textsuperscript{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].”
\textsuperscript{152} Northwestern Law’s well-being curriculum can be found at http://www.law.northwestern.edu/law-school-life/student-services-wellness-curriculum/.
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.

Educating law school faculty on how classroom practices can effect 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 have suggested that hierarchical markers of worth such as comparative grading, mandatory curves, as well as status-seeking placement practices, lack of clear and timely feedback, and teaching practices that are isolating and intimidating, are culprits undercutting student well-being.¹⁵⁴

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. Lawyer assistance programs can help develop programming to educate faculty on supporting student well-being.

**29. Empower Students To Help Fellow Students in Need.**

As noted above, students often are reluctant to seek out 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 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


¹⁵⁵ The 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/.
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.


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. 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 1L “Peak Performance Program” and its goal of helping new law students de-stress, focus, and perform well in law school. 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 has been linked to improved academic performance, and, conversely, research reflects that well-being deficits connect to impaired cognitive performance. Recent research has also found that teaching well-being skills enhances student performance on standardized tests, and improves study habits,

156 Organ, Jaffe, & Bender, supra note 3, at 148.
homework submission, grades, and long-term academic success, as well as adult education attainment, health, and wealth. A well-being course can 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 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 social events.

35. **Conduct Anonymous Surveys Relating to Student Well-Being.**


**Recommendations For Bar Associations**

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.**

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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.

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.


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 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.  

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.

**Recommendations For Lawyers’ Professional Liability Carriers**

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. 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.

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160 The South Carolina Bar’s lawyer well-being website is available at [http://discussions.scbar.org/public/wellness/index.html](http://discussions.scbar.org/public/wellness/index.html).

161 Examples of LPL carriers serving the market from the commercial side include CNA, AON, Liberty Mutual, Hartford, among others.
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 times 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.

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.

**Recommendations For Lawyers Assistance Programs**

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. 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.162

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162 2014 COMPREHENSIVE SURVEY OF LAWYER ASSISTANCE PROGRAMS, supra note 25, at 3.
Many operate with annual budgets of less than $500,000.\textsuperscript{163} About one quarter operate without any funding and depend solely on volunteers.\textsuperscript{164} 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.\textsuperscript{165} 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.\textsuperscript{166} 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.\textsuperscript{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-  

\textsuperscript{163} Id. at 5.  
\textsuperscript{164} Id. at 27.  
\textsuperscript{165} Id. at 49-50.  
\textsuperscript{166} Accommodating adult learning should inform program development. The Illinois Supreme Court Commission on Professionalism offers a number of resources through its “Strategies for Teaching CLE” web page, https://www.2civility.org/programs/cle/cle-resources/strategies-for-teaching-cle/. See also K. TAYLOR & C. MARENAU, FACILITATING LEARNING WITH THE ADULT BRAIN IN MIND: A CONCEPTUAL AND PRACTICAL GUIDE (2016); M. Silverthorn, Adult Learning: How Do We Learn?, ILL. SUP. CT. COMM’N ON PROFESSIONALISM, Dec. 4, 2014, https://www.2civility.org/adult-learning/.  
\textsuperscript{167} 2014 COMPREHENSIVE SURVEY OF LAWYER ASSISTANCE PROGRAMS, supra note 25, at 13.
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. 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. Resilience-boosting strategies have also been proposed for addiction treatment.

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.

CONCLUSION

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 herein show that our members suffer from alarming rates of conditions that impair our ability to function at levels compatible with high ethical standards and public expectations. Depression, anxiety, chronic stress, burnout, substance use disorders exceed those of 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.

We, 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 action plans and checklists that follow 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, as a profession, have the capacity to face these challenges and create a 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.
APPENDIX A

STATE ACTION PLAN CHECKLISTS
National Task Force on Lawyer Well-Being

Chief Justice (or Designee) "to do list"

1. 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.)

2. 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.

3. 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.)

4. 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?)

5. 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?)
National Task Force on Lawyer Well-Being

Checklist Item 1

Gathering the Stakeholders

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.

1. Judicial
   ___ Supreme Court Chief Justice or designated representative
   ___ Other judge representatives

2. Lawyer Assistance Program (LAP)
   ___ LAP Director
   ___ Clinical director
   ___ Lawyer representative to the LAP

3. Law Schools
   ___ Dean representative
   ___ Faculty representative
   ___ Law student representative

4. Regulators
   ___ Admissions (or Board of LX) representative
   ___ Mandatory CLE program representative
   ___ CLE provider representative
   ___ Regulation/Bar/Disciplinary Counsel representative

5. Bar Associations
   ___ Bar president
6. 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

7. Allies
   __ ASAM representative (addiction psychiatrist)
   __ Organizational/behavioral psychologist
   __ Members of the public
CONFERENCE OF CHIEF JUSTICES

RESOLUTION

Recommending Consideration of the Report of the National Task Force on Lawyer Well-Being

WHEREAS, in 2016, the American Bar Association (ABA) Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation published a study of currently practicing lawyers that found between 21 and 36 percent of lawyers qualify as problem drinkers, and that approximately 28 percent struggle with some level of depression, 19 percent suffer from anxiety, and 23 percent are dealing with stress symptoms; and

WHEREAS, a similar survey of Law Student Well-being was conducted, published in 2016, showing 25 percent of those students were at risk for alcoholism, 17 percent experienced some level of depression, 14 percent experienced severe anxiety, 23 percent had mild or moderate anxiety and 6 percent reported serious suicidal thoughts in the past year; and

WHEREAS, other research reveals many lawyers experience a "profound ambivalence" about their work and are functioning below their abilities due to well-being issues; and

WHEREAS, supporting lawyer well-being contributes to organizational success in law firms, corporations and courts including influencing lawyer ethics and professionalism; and

WHEREAS, the National Task Force on Lawyer Well-Being is a coalition comprised of representatives from the ABA Commission on Lawyer Assistance Programs; the National Organization of Bar Counsel; the Association of Professional Responsibility Lawyers; the ABA Center for Professional Responsibility; the ABA Standing Committee on Professionalism; the ABA Young Lawyers Division; and the ABA Law Practice Division; and

WHEREAS, the National Task Force on Lawyer Well-being issued a report – “The Path to Lawyer Well-being: Practical Recommendations for Positive Change,” which contains 44 recommendations for stakeholders, including recommendations for judges, regulators, legal employers, law schools, bar associations, and lawyer professional liability carriers; and

WHEREAS, the Report makes recommendations for all stakeholders including the following recommendations for judges:
- Communicate that Well-Being is a Priority
- Develop Policies for Impaired Judges
- Reduce Stigma of Mental Health and Substance Use Disorders
- Conduct Judicial Well-Being Surveys
- Provide Well-Being Programming for Judges and Staff
- Monitor for Impaired Lawyers and Partner with Lawyer Assistance Programs; and

WHEREAS, the Conference of Chief Justices fully supports the concept of lawyer well-being as a critical component to lawyer competence, and reinforces the critical role that the
highest court in each jurisdiction assumes in its oversight of the legal profession in each state; and

WHEREAS, the Conference of Chief Judges recognizes that the highest court in each jurisdiction must take an active role in the development of effective mechanisms for the regulation of the legal profession including by convening the relevant stakeholders in each jurisdiction to improve lawyer well-being;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices supports the underlying premises of reducing impairment and improving the well-being of lawyers in the United States and recommends to each jurisdiction consideration of the recommendations contained in the Report of the National Task Force on Lawyer Well-Being Report.

Proposed by the CCJ Professionalism and Competence of the Bar Committee at the 2017 Annual Meeting on August 7, 2017.