NATIONAL TASK FORCE ON LAWYER WELL-BEING
Creating a Movement To Improve Well-Being in the Legal Profession

August 14, 2017

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

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

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

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

Sincerely,

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Director        Attorney Regulation Counsel
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“Lawyers, judges and law students are faced with an increasingly competitive and stressful profession. Studies show that substance use, addiction and mental disorders, including depression and thoughts of suicide—often unrecognized—are at shockingly high rates. As a consequence the National Task Force on Lawyer Well-being, under the aegis of CoLAP (the ABA Commission on Lawyer Assistance programs) has been formed to promote nationwide awareness, recognition and treatment. This Task Force deserves the strong support of every lawyer and bar association.”

David R Brink*
Past President
American Bar Association

* David R. Brink (ABA President 1981-82) passed away in July 2017 at the age of 97. He tirelessly supported the work of lawyer assistance programs across the nation, and was a beacon of hope in the legal profession for those seeking recovery.
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INTRODUCTION

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

Although the legal profession has known for years that many of its students and practitioners are languishing, far too little has been done to address it. Recent studies show we can no longer continue to ignore the problems. In 2016, the American Bar Association (ABA) Commission on Lawyer Assistance Programs and Hazelden Betty Ford Foundation published their study of nearly 13,000 currently-practicing lawyers [the “Study”]. It found that between 21 and 36 percent qualify as problem drinkers, and that approximately 28 percent, 19 percent, and 23 percent are struggling with some level of depression, anxiety, and stress, respectively. 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 that they’re thriving. Many lawyers experience a “profound ambivalence” about their work, and different sectors of the profession vary in their levels of satisfaction and well-being.

Given this data, lawyer well-being issues can no longer be ignored. Acting for the benefit of lawyers who are functioning below their ability and for those suffering due to substance use and mental health disorders, the National Task Force on Lawyer Well-Being urges our profession’s leaders to act.

REASONS TO TAKE ACTION

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

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

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

Second, lawyer well-being influences ethics and professionalism. Rule 1.1 of the ABA’s Model Rules of Professional Conduct requires lawyers to “provide competent representation.” Rule 1.3 requires diligence in client representation, and Rules 4.1 through 4.4 regulate working with people other than clients. Minimum competence is critical to protecting clients and allows lawyers to avoid discipline. But it will not enable them to live up to the aspirational goal articulated in the Preamble to the ABA’s Model Rules of Professional Conduct, which calls lawyers to “strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession’s ideals of public service.” Troubled lawyers can struggle with even minimum competence. At least one author suggests that 40 to 70 percent of disciplinary proceedings and malpractice claims against lawyers involve substance use or depression, and often both.11 This can be explained, in part, by declining mental capacity due to these conditions. For example, major depression is associated

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.\textsuperscript{12} For alcohol abuse, the majority of abusers (up to 80 percent) experience mild to severe cognitive impairment.\textsuperscript{13} Deficits are particularly severe in executive functions, especially in problem-solving, abstraction, planning, organizing, and working memory—core features of competent lawyering.

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

\textbf{Defining “Lawyer Well-Being”}

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

\textbf{“Well-Being”: A Continuous process toward thriving across all life dimensions.}


\textsuperscript{13} C. Smeraldi, S. M. Angelone, M. Movalli, M. Cavicchioli, G. Mazza, A. Notaristefano, & C. Maffei, Testing Three Theories of Cognitive Dysfunction in Alcohol Abuse, 21 J. PSYCHOPATHOLOGY 125 (2015).\textsuperscript{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/factfiles/mental_health/en/.
is not defined solely by the absence of illness; it includes a positive state of wellness.

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

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

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

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

**OUR CALL TO ACTION**

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

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

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

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

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

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

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

**RECOMMENDATIONS**

Below, the Task Force provides detailed recommendations for minimizing lawyer dysfunction, boosting well-being, and reinforcing the importance of well-being to competence and excellence in practicing law. This section has two main parts. Part I provides general recommendations for all stakeholders in the legal community. Part II provides recommendations tailored to a specific stakeholder: (1) judges, (2) regulators, (3) legal employers, (4) law schools, (5) bar associations, (6) lawyers’ professional liability carriers, and (7) lawyer assistance programs.
First, we recommend strategies for all stakeholders in the legal profession to play a part in the transformational process aimed at developing a thriving legal profession.

1. ACKNOWLEDGE THE PROBLEMS AND TAKE RESPONSIBILITY.

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

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

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

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

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

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

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

Policy statements alone do not shift culture. Broad-scale change requires buy-in and role modeling from top
Leaders in the courts, regulators’ offices, legal employers, law schools, and bar associations will be closely watched for signals about what is expected. Leaders can create and support change through their own demonstrated commitment to core values and well-being in their own lives and by supporting others in doing the same.17

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.18

The Study identified similar factors. The two most common barriers to seeking treatment for a substance use disorder that lawyers reported were not wanting others to find out they needed help and concerns regarding privacy or confidentiality. Top concerns of law students in the Survey of Law Student Well Being were regarding privacy or confidentiality. These barriers are 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.

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

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

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

5. BUILD RELATIONSHIPS WITH LAWYER WELL-BEING EXPERTS.

5.1. Partner With Lawyer Assistance Programs.

All stakeholders should partner with and ensure stable and sufficient funding for the ABA’s Commission on Lawyer Assistance Programs (CoLAP) as well as

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19Kril, Johnson, & Albert, supra note 1, at 50.
20Organ, Jaffe, & Bender, supra note 3, at 141.
22Wade, Vogel, Armistead-Jehle, Melt, Heath, Strass, supra note 19. The Real Warrior website can be found at www.realwarriors.net.
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. Many lawyer assistance programs employ teams of experts that are well-qualified to help lawyers, judges, and law students who experience physical or mental health conditions. Lawyer assistance programs’ services are confidential, and many include prevention, intervention, evaluation, counseling, referral to professional help, and on-going monitoring. Many cover a range of well-being-related topics including substance use and mental health disorders, as well as cognitive impairment, process addictions, burnout, and chronic stress. A number also provide services to lawyer discipline and admissions processes (e.g., monitoring and drug and alcohol screening).

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. This at least suggests that lawyer assistance programs, which are specifically tailored to identify and refer lawyers to treatment providers and resources, are a better fit than general treatment programs.

Judges, regulators, legal employers, law schools, and bar associations should ally themselves with lawyer assistance programs to provide the above services. These stakeholders should also promote the services of state lawyer assistance programs. They also should emphasize the confidential nature of those services to reduce barriers to seeking help. Lawyers are reluctant to seek help for mental health and substance use disorders for fear that doing so might negatively affect their licenses and lead to stigma or judgment of peers. 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. 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.” Some city bar associations also have well-being initiatives, such as the Cincinnati Bar Association’s Health and Well-Being Committee. 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.

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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.
27 Id. at 51.
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.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 productivity, performance, creativity, and helping behaviors.32

Incivility appears to be declining in the legal profession. For example, in a 1992 study, 42 percent of lawyers and 45 percent of judges believed that civility and professionalism among bar members were significant problems. In a 2007 survey of Illinois lawyers, 72 percent of respondents categorized incivility as a serious or moderately serious problem33 in the profession. A recent study of over 6,000 lawyers found that lawyers did not generally have a positive view of lawyer or judge professionalism.34 There is evidence showing that women lawyers are more frequent targets of incivility and harassment.35 Legal-industry commentators offer a host of hypotheses to explain the decline in civility.36 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.38 Likewise, law firms should adopt their own professionalism standards.39 Since rules alone will not change culture, all stakeholders should devise strategies to promote wide-scale, voluntary observance of those standards. This should include an expectation that all leaders in the profession be a role model for these standards of professionalism.

Exemplary standards of professionalism are inclusive. Research reflects that organizational diversity and inclusion initiatives are associated with employee well-being, including, for example, general mental and physical health, perceived stress level, job satisfaction, organizational commitment, trust, work engagement,

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36This should include an expectation that all leaders in the profession be a role model for these standards of professionalism.

37Exemplary 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.40 A significant contributor to well-being is a sense of organizational belongingness, which has been defined as feeling personally accepted, respected, included, and supported by others. A weak sense of belonging is strongly associated with depressive symptoms.31 Unfortunately, however, a lack of diversity and inclusion is an entrenched problem in the legal profession.42 The issue is pronounced for women and minorities in larger law firms.43

6.1. Promote Diversity and Inclusivity.

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

6.2. Create Meaningful Mentoring and Sponsorship Programs.

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

7. ENHANCE LAWYERS’ SENSE OF CONTROL.

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


45See the American Bar Association for more information: http://www.americanbar.org/publications/tyl/topics/mentoring/the_positives_available_at http://www.nawl.org/programs/cle/cle-resources/diversity-inclusion.

46See Ferris, Daniels, & Sexton, supra note 40; A. Ramaswami, G. F. Dreher, R. Bretz, & C. Wiethoff, The Interactive Effects of Gender and Mentoring on Career Attainment: Making the Case for Female Lawyers, 37 J. CAREER DEV. 692 (2010).


48Of the 35 programs, seven are mandatory (GA, NV, NM, OR, SC, UT, and WY) and some are approved for CLE credits. See the American Bar Association for more information: http://www.americanbar.org/groups/professional_responsibility/resources/professionalism/mentoring.html.


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

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

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

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

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

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

Given the influence of drinking norms throughout the profession, however, isolated training programs are not sufficient. A more comprehensive, systemic campaign is likely to be the most effective—though certainly the most challenging. 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.

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.
Research also suggests that, where social drinking has become a ritual for relieving stress and for social bonding, individuals may resist efforts to deprive them of a valued activity that they enjoy. To alleviate resistance based on such concerns, prevention programs should consider making “it clear that they are not a temperance movement, only a force for moderation,” and that they are not designed to eliminate bonding but to ensure that drinking does not reach damaging dimensions.56

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

9. GUIDE AND SUPPORT THE TRANSITION OF OLDER LAWYERS.

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

**Planning Transition of Older Lawyers**

1. Provide education to detect cognitive decline.
2. Develop succession plans.
3. Create transition programs to respectfully aid retiring professionals plan for their next chapter.

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

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

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

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

10. DE-EMPHASIZE ALCOHOL AT SOCIAL EVENTS.

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

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

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

Extensive research has demonstrated that random drug and alcohol testing (or “monitoring”) is an effective way of supporting recovery from substance use disorders and increasing abstinence rates. The medical profession has long relied on monitoring as a key component of its treatment paradigm for physicians, resulting in long-term recovery rates for that population that are between 70-96 percent, which is the highest in all of the treatment outcome literature. One study found that 96 percent of medical professionals who were subject to random drug tests remained drug-free, compared to only 64 percent of those who were not subject to mandatory testing. Further, a national survey of physician health programs found that among medical professionals who completed their prescribed treatment requirements (including monitoring), 95 percent were licensed and actively...
working in the health care field at a five year follow-up after completing their primary treatment program. In addition, one study has found that physicians undergoing monitoring through physician health programs experienced lower rates of malpractice claims.

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

12. BEGIN A DIALOGUE ABOUT SUICIDE PREVENTION.

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

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

![Call to Action]

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

When people who have been affected by the suicide of a friend or colleague share their stories, other members of the legal community begin to better understand the impact and need for prevention. In addition, stakeholders can schedule educational presentations that incorporate information on the signs and symptoms of suicidal thinking along with other mental health/

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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.
substance use disorders. These can occur during CLE presentations, staff meetings, training seminars, at law school orientations, bar association functions, etc. Stakeholders can contact their state lawyer assistance programs, employee assistance program agencies, or health centers at law schools to find speakers, or referrals for counselors or therapists so that resources are available for family members of lawyers, judges, and law students who have taken their own life.

It’s important for all stakeholders to understand that, while lawyers might not tell us that they are suffering, they will show us through various changes in behavior and communication styles. This is so because the majority of what we express is non-verbal.73 Becoming better educated about signs of distress will enable us to take action by, for example, making health-related inquiries or directing them to potentially life-saving resources.

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

We recommend that the ABA coordinate with state bar associations to create a well-being index for the legal profession that will include metrics related to lawyers, staff, clients, the legal profession as a whole, and the broader community. The goal would be to optimize the well-being of all of the legal profession’s stakeholders.74 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.75 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.76

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73 ALBERT MEHRABIAN, SILENT MESSAGES: IMPLICIT COMMUNICATION OF EMOTIONS AND ATTITUDES (1972).
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, however, can take a toll on judges’ health and well-being. Judges regularly confront contentious, personal, and vitriolic proceedings. Judges presiding over domestic relations dockets make life-changing decisions for children and families daily. Some report lying awake at night worrying about making the right decision or the consequences of that decision. Other judges face the stress of presiding over criminal cases with horrific underlying facts.

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

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

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

14. COMMUNICATE THAT WELL-BEING IS A PRIORITY.

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

It is essential that the highest court and its commission on judicial conduct implement policies and procedures for intervening with impaired members of the judiciary. For example, the highest court should consider adoption of policies such as a Diversion Rule for Judges in appropriate cases. Administrative and chief judges also should implement policies and procedures for intervening with members of the judiciary who are impaired in compliance with Model Rule of Judicial Conduct 2.14. They should feel comfortable referring members to judicial or lawyer assistance programs. Educating judicial leaders about the confidential nature of these programs will go a long way in this regard. Judicial associations and educators also should promote CoLAP’s judicial peer support network, as well as the National Helpline for Judges Helping Judges.\(^9\)

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

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

17. CONDUCT JUDICIAL WELL-BEING SURVEYS.

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

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

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

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

\(^9\)The ABA-sponsored National Helpline for Judges Helping Judges is 1-800-219-6474.
program or mentoring circle for judicial members. We have identified isolation as a significant challenge for many members of the judiciary. Roundtable discussions and mentoring programs combat the detrimental effects of this isolation.91

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

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

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

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

J udges, 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.

94The ABA-sponsored National Helpline for Judges Helping Judges is 1-800-219-6474.
95For more information on judicial roundtables, see AM. BAR ASS’N COMM’N ON LAW. ASSISTANCE PROGRAMS, JUDICIAL ROUNDTABLES, available at https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/fs_colap_Judicial_Roundtable_Protocols.authcheckdam.pdf.
Regulators play a vital role in fostering individual lawyer well-being and a professional culture that makes it possible. We broadly define “regulators” to encompass all stakeholders who assist the highest court in each state in regulating the practice of law. This definition includes lawyers and staff in regulatory offices; volunteer lawyer and non-lawyer committee, board, and commission members; and professional liability lawyers who advise law firms and represent lawyers in the regulatory process.

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

Transform the profession’s perception of regulators from police to partner.

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

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

20. TAKE ACTIONS TO MEANINGFULLY COMMUNICATE THAT LAWYER WELL-BEING IS A PRIORITY.


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

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92See AM. BAR ASS’N RESOL. 105 (February 2016).
94RESOL. 105, supra note 92.
a version of the ABA's Regulatory Objectives. In doing so, it recommended proactive programs offered by the Colorado Lawyer Assistance Program and other organizations to assist lawyers throughout all stages of their careers to practice successfully and serve their clients. 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 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 mental health programming. The Model Rule requires lawyers to earn at least one credit hour every three years of CLE programming that addresses the prevention, detection, and/or treatment of “mental health and substance use disorders.” We recommend that all states adopt this provision of the Model Rule. Alternatively, states could consider authorizing ethics credit (or other specialized credits) for CLE programs that address these topics. California and Illinois are examples of state bars that already have such requirements.

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. The Task Force recommends that the Council revise the Standards and Rules of Procedure for Approval of Law Schools to require law schools to create well-being education as a criterion for ABA accreditation. The ABA should require law schools to publish their well-being-related resources on their websites. These disclosures can serve as resources for other law schools as they develop and improve their own programs. Examples of well-being education include a mandatory one credit-hour course on well-being topics or incorporating well-being topics into the professional responsibility curriculum.

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

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

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

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

Most bar admission agencies include inquiries about applicants’ mental health as part of fitness evaluations for licensure. Some critics have contended that the deterrent effect of those inquiries discourages persons in need of help from seeking it. Not everyone agrees with that premise, and some argue that licensing of professionals necessarily requires evaluation of all risks that an applicant may pose to the public. Over the past several decades, questions have evolved to be more tightly focused and to elicit only information that is current and germane. There is continuing controversy over the appropriateness of asking questions about mental health at all. The U.S. Department of Justice has actively encouraged states to eliminate questions relating to mental health, and some states have modified or eliminated such questions.

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.” We recommend that each state follow the ABA and more closely focus on such conduct or behavior rather than any diagnosis or treatment history.

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.\(^{105}\) 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.\(^{106}\) Conditional admission programs help dismantle the stigma of mental health and substance use disorders as “scarlet letters.” Especially for law students, they send a meaningful message that even in the worst circumstances, there is hope: seeking help will not block entry into their chosen profession.

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

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

22. ADJUST LAWYER REGULATIONS TO SUPPORT WELL-BEING.

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

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

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are designed to alleviate practice stress, improve lawyer-client relationships, and enhance career satisfaction.107 Further, PMBP programs allow regulators to engage with the profession in a service-oriented, positive manner, reducing the anxiety, fear, and distrust that often accompanies lawyers’ interactions with regulators.108 Transforming the perception of regulators so that they are viewed as partners and not only as police will help combat the culture of stress and fear that has allowed mental health and substance use disorders to proliferate.

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

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

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

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

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

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

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

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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.
certain conditions to continue practicing law. Those conditions can include training, drug or alcohol testing, peer assistance, and treatment. Monitoring plays a central role in ensuring compliance with the diversion agreement and helps lawyers successfully transition back to an unconditional practice of law and do so healthy and sober. By conditioning continued practice on treatment for an underlying mental health disorder or substance use disorder, diversion agreements can change a lawyer’s life.

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

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

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

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

24. ESTABLISH ORGANIZATIONAL INFRASTRUCTURE TO PROMOTE WELL-BEING.

24.1. Form A Lawyer Well-Being Committee.

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


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

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


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-1468963356; 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).
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. Programs in the medical profession have recommended a bi-annual distribution of the MBI.

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

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

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

Legal employers also should establish a confidential reporting procedure for lawyers and staff to convey concerns about their colleagues’ mental health or substance use internally, and communicate how lawyers and staff can report concerns to the appropriate disciplinary authority and/or to the local lawyer assistance program. Legal employers additionally should establish a procedure for lawyers to seek confidential help for themselves without being penalized or stigmatized. CoLAP and state lawyer assistance programs can refer legal employers to effective procedures that is staffed by properly-trained people. 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. The ABA has provided formal guidance on managing lawyer impairment.


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. Numerous health and relationship problems, including depression, anger, anxiety, sleep problems, weight gain, high blood pressure, low self-esteem, low life satisfaction, work burnout, and family conflict can develop from work addiction. Therefore, we recommend that legal employers monitor for work addiction and avoid rewarding extreme behaviors that can ultimately harm their health. Legal employers should expressly encourage lawyers to make time to care for themselves and attend to other personal obligations. They may also want to consider promoting physical activity to aid health and cognitive functioning.

25.2. Actively Combat Social Isolation and Encourage Interconnectivity.

As job demands have increased and budgets have tightened, many legal employers have cut back on social activities. This could be a mistake. Social support from colleagues is an important factor for coping with stress and preventing negative consequences like burnout. Socializing helps individuals recover from work demands.
and can help stave off emotional exhaustion. 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. 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. We also recommend 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 should ensure that all members and staff know about resources, including lawyer assistance programs, that can assist lawyers who may experience mental health and substance use disorders. This includes making sure that members and staff understand confidentiality issues pertaining to those resources.


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-

Work cultures that constantly emphasize competitive, self-serving goals can harm lawyer well-being.

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

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

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


Contextual factors (i.e., the structure, habits, and dynamics of the work environment) play an enormous role in influencing behavior change. Training alone is almost never enough. To achieve change, legal employers will need to set standards, align incentives, and give feedback about progress on lawyer well-being topics.

Currently, few legal employers have such structural supports for lawyer well-being. For example, many legal employers have limited or no formal leader development programs, no standards set for leadership skills and competencies, and no standards for evaluating leaders’ overall performance or commitment to lawyer well-being. Additionally, incentive systems rarely encourage leaders to develop their own leadership skills or try to enhance the well-being of lawyers with whom they work. In law firms especially, most incentives are aligned almost entirely toward revenue growth, and any feedback is similarly narrow. To genuinely adopt lawyer well-being as a priority, these structural and cultural issues will need to be addressed.

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

The 2016 Survey of Law Student Well-Being found troublesome rates of alcohol use, anxiety, depression, and illegal drug use at law schools across the country. 42% of students needed help for poor mental health but only about half sought it out.

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

The top factors that students reported as discouraging them from seeking help were concerns that it would threaten their bar admission, job, or academic status; social stigma; privacy concerns; financial reasons; belief that they could handle problems on their own; and not having enough time. Students’ general reluctance to seek help may be one factor explaining why law student wellness has not changed significantly since the last student survey in the 1990s. It appears that recommendations stemming from the 1993 survey either were not implemented or were not successful.

The Survey of Law Student Well-Being did not seek to identify the individual or contextual factors that might be contributing to students’ health problems. It is important to root out such causes to enable real change. For example, law school graduates cite heavy workload, competition, and grades as major law school stressors. Others in the legal community have offered additional insights about common law school practices, which are discussed below. Law school well-being initiatives should not be limited to detecting disorders and enhancing student resilience. They also should include identifying organizational practices that may be contributing to the problems and assessing what changes can be made to support student well-being. If legal educators ignore the impact of law school stressors, learning is likely to be suppressed and illness may be intensified.

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

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

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

Ignoring law school stressors can suppress learning and intensify illness.

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

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

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

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

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

Law schools should consider inviting law student and lawyer well-being experts to speak at faculty lunches, colloquia, and workshops to enhance their knowledge of this scholarship. 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.

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


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

While law students may occasionally miss class due to personal conflicts, their repeated absence often results from deteriorating mental health.146 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.147 In these programs, the identity of the person who provided the report is kept confidential.

Certain models on this issue include the American University Washington College of Law, which implements random “check-in” outreach, emailing students to visit the Student Affairs office for brief conversations. This method allows for a student about whom a concern has been raised to be folded quietly into the outreach.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.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.150

27.3. Provide Mental Health and Substance Use Disorder Resources.

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

Develop Student Resources

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

Every course syllabus identify the law school’s mental health resources. The syllabus language should reflect an understanding that stressors exist.151 Law schools also can hold special events, forums, and conversations that coincide with national awareness days, such as mental health day and suicide prevention day.

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

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

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

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

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

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

29. EMPOWER STUDENTS TO HELP FELLOW STUDENTS IN NEED.

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

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

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

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

**31. COMMIT RESOURCES FOR ONSITE PROFESSIONAL COUNSELORS.**

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

**32. FACILITATE A CONFIDENTIAL RECOVERY NETWORK.**

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

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

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

We agree with the Survey of Law Student Well-Being report’s recommendation that law schools should incorporate well-being topics into student orientation. We recommend that during 1L orientation, law schools should include information about student well-being and options for dealing with stress. Communications should convey that seeking help is the best way to optimize their studies and to ensure they graduate and move successfully into law practice. Other vulnerable times during which well-being-related programming would be particularly appropriate include the period before fall final exams, the period when students receive their first set of law school grades (usually at the start of spring semester), and the period before spring final exams. The Task Force commends Southwestern Law School’s IL “Peak Performance Program” and its goal of helping new law students de-stress, focus, and perform well in law school. 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 also has found that teaching well-being skills enhances student performance on standardized tests, and improves study habits, homework submission, relationships—all of which are required by the ABA’s Model Rules of Professional Conduct. The content of a well-being course could be guided by education reform recommendations. Appendix E provides content suggestions for such a course.

34. DISCOURAGE ALCOHOL-CENTERED SOCIAL EVENTS.

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

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


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Effects of Student Well-Being

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

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

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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.
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.


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

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

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

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

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

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

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

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

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

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

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

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

40. ACTIVELY SUPPORT LAWYER ASSISTANCE PROGRAMS.

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

41. EMPHASIZE WELL-BEING IN LOSS PREVENTION PROGRAMS.

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

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

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

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

LPL carriers traditionally track claims based on area of practice or the nature of the error. LPL carriers do not ordinarily track when substance abuse, stress, depression, or mental health are suspected to be contributing factors to the underlying claim. This is primarily due to the fact that most LPL claims adjusters, usually attorneys by trade, lack sufficient (or usually any) clinical training to make such a determination. That being said, anecdotal evidence suggests the impact is substantial. Thus, LPL carriers should consider whether a “common sense” assessment of instances where attorney impairment is suspected to be a contributing factor to the underlying claim. Such information would be helpful to lawyer assistance programs and as an important data point for what bar counsel or disciplinary units similarly see when investigating bar grievances. LPL carriers are in a prime position to collect data, share such data when appropriate, and assess the manner in which lawyer impairment has a direct correlation to claims activity.
Because lawyer assistance programs are so well-positioned to play a pivotal role in lawyer well-being, they should be adequately funded and organized to ensure that they can fulfill their potential.

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

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

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

#### 44.1 Pursue Stable, Adequate Funding.

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

#### 44.2 Emphasize Confidentiality.

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

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

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

Increasingly, lawyer assistance programs are expanding their services to affirmatively promote well-being (rather than seeking only to address dysfunction) as a means of preventing prevalent impairments.

This expansion is consistent with some scholars’ recommendations for Employee Assistance Programs that encourage engagement in a broader set of prevention and health-promotion strategies. Doing so could expand the lawyer assistance programs’ net to people who are in need but have not progressed to the level of a disorder. It also could reach people who may participate in a health-promotion program but would avoid a prevention program due to social stigma.\(^ {168}\)

Health-promotion approaches could be incorporated into traditional treatment protocols. For example, “Positive Recovery” strategies strive not only for sobriety but also for human flourishing.\(^ {169}\) Resilience-boosting strategies have also been proposed for addiction treatment.\(^ {170}\)

### 44.4 Lawyer Assistance Programs’ Foundational Elements.

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

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

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\(^{167}\) 2014 COMPREHENSIVE SURVEY OF LAWYER ASSISTANCE PROGRAMS, supra note 25, at 13.


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

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

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

"It always seems impossible until it's done." — Nelson Mandela

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

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

Review the Task Force Report

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

Do an inventory of recommendations

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

Create priorities

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

Develop an action plan

(Having inventoried the recommendations and prioritized them, now is the time to act. What does that path forward look like? Who needs to be involved? How will progress be measured?)
National Task Force on Lawyer Well-Being
State Action Plan & Checklist

Checklist for Gathering the Stakeholders

Item 1 of the Plan above recommends the gathering of stakeholders as a first step. The National Task Force suggests the Chief Justice of each state create a Commission on Lawyer Well-Being in that state and appoint representatives from each stakeholder group to the Commission. Below is a checklist of potential stakeholder representatives the Chief Justice may consider in making appointments.

JUDICIAL
__ Supreme Court Chief Justice or designated representative
__ Other judge representatives

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

LAW SCHOOLS
__ Dean representative
__ Faculty representative
__ Law student representative

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

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

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

BAR ASSOCIATIONS
__ Bar president
__ Bar president-elect
__ Executive director
__ Young lawyer division representative
__ Specialty bar representative
Recommendation 8 advises stakeholders to provide high-quality education programs and materials on causes and consequences of lawyer distress and well-being. Below is a list of example educational topics for such programming with empirical support.

8.1 Work Engagement vs. Burnout

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

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

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

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

The medical profession’s work on these issues can serve as a guide for the legal profession. It has conducted

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174Maslach, Schaufeli, & Leiter, supra note 121.
hundreds of studies, has identified many individual and organizational contributors to burnout, and has proposed wellness strategies and resilience programs. Bi-annually, the American Medical Association (AMA) co-sponsors an International Conference on Physician Health. The September 2016 conference was held in Boston with the theme, “Increasing Joy in Medicine.” The conference included 70 presentations, workshops, and plenary speaker sessions on a wide variety of well-being topics over a three-day period (See AMA website).

8.2 Stress

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

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

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

8.3 Resilience & Optimism

The American Psychological Association defines resilience as:

"The path to律师 well-being / Page 51"
as a process that enables us to bounce back from adversity in a healthy way. It also has been defined as a “process to harness resources to sustain well-being”—a definition that connects resilience to the resource-balancing framework of the work engagement-burnout model discussed above. Our capacity for resilience derives from a host of factors, including genetics and childhood experiences that influence the neurobiology of our stress response—specifically, whether the stress response is both activated and terminated efficiently.

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

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

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

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

8.4 Mindfulness Meditation

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

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196 Southwick, Bonanno, Masten, Panter-Brick, & Yehuda, supra note 185.
197 Alim, Lawson, & Neumeister, supra note 170.
201 Id.
204 Id.
207 Id.
208 Id.
209 Id.
210 Id.
211 Id.
212 Id.
213 Id.
214 Id.
215 Id.
216 Id.
217 Id.
218 Id.
219 Id.
220 Id.
221 Id.
222 Id.
223 Id.
224 Id.
225 Id.
226 Id.
227 Id.
also can enhance a host of competencies related to lawyer effectiveness, including increased focus and concentration, working memory, critical cognitive skills, reduced burnout, and ethical and rational decision-making. Multiple articles have advocated for mindfulness as an important practice for lawyers and law students. Evidence also suggests that mindfulness can enhance the sense of work-life balance by reducing workers’ preoccupation with work.

8.5 Rejuvenation Periods to Recover From Stress

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

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

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

Given lawyers’ high risk for depression, it is worth noting evidence that sleep problems have the highest predictive value for who will develop clinical depression.

8.6 Physical Activity

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

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

8.8 Control and Autonomy

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

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

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

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


can be enhanced by autonomy-supportive behaviors by both parties. Lawyers respect client autonomy by, for example, taking full account of their perspectives, not interrupting, affording choice, offering information respectfully, providing a rationale for recommendations, sharing power in decision-making (when appropriate), and accepting clients’ decisions.\textsuperscript{226} In the medical profession, this model of client-centered care has been found to result in better outcomes, patient satisfaction, and diminished risk of malpractice lawsuits.\textsuperscript{227}

\section*{8.9 Conflict Management}

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

\section*{8.10 Work-Life Conflict}

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

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

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

\begin{itemize}
\item \textsuperscript{226}G. C. Williams, R. M. Frankel, T. L. Campbell, & E. L. Deci, Research on Relationship-Centered Care and Healthcare Outcomes from the Rochester Biopsychosocial Program: A Self-Determination Theory Integration, 18 FAMILIES, SYS. & HEALTH 79 (2000).
\item \textsuperscript{227}Id.; see also C. White, The Impact of Motivation on Customer Satisfaction Formation: A Self-Determination Perspective, 49 EUROPEAN J. MARKETING 1923 (2015).
\item \textsuperscript{228}M. T. Colatrella, A Lawyer for All Seasons: The Lawyer as Conflict Manager, 49 SAN DIEGO L. REV. 93 (2012).
\item \textsuperscript{230}D. L. Haraway & W. M. Haraway, Analysis of the Effect of Conflict-Management and Resolution Training on Employee Stress at a Healthcare Organization, 83 HOSPITAL TOP-ICS 11 (2005); see also Colatrella, supra note 228.
\item \textsuperscript{231}BRAFFORD, supra note 131; D. A. MAJOR & R. BURKE, HANDBOOK OF WORK-LIFE INTEGRATION AMONG PROFESSIONALS: CHALLENGES AND OPPORTUNITIES (2013).
\item \textsuperscript{232}Hopkins & Gardner, supra note 183.
\item \textsuperscript{234}E.g., E. Amoaf, N. Hanabali, A. Patel, & P. Singh, What Are the Significant Factors Associated with Burnout in Doctors?, 65 OCCUPATIONAL MED. 117 (2015).
\item \textsuperscript{235}J. Goh, J. Pfefer, & S. A. Zenios, Workplace Stressors & Health Outcomes: Health Policy for the Workplace, 1 BEHAV. SCI. & POL’Y 43 (2015).
\item \textsuperscript{236}Major & Burke, supra note 231; S. L. Munn, Unveiling the Work-Life System: The Influence of Work-Life Balance on Meaningful Work
\end{itemize}
To support WLB, bar associations and regulators should work with legal employers to develop best practices and relevant training. Regulators and judges should consider whether any of their practices and policies can be modified to better support lawyer WLB.

8.11 Meaning and Purpose

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

For many lawyers, an important part of building a meaningful life is through meaningful work. Experiencing our work as meaningful means that we believe that our meaningful life is through meaningful work. Experiencing the experience of fit and meaningfulness by, for example, correspond to their values. Organizations can enhance meaning in life associated with a reduced risk of anxiety, depression, substance use, suicidal ideation, heart attack, and stroke; slower cognitive decline in Alzheimer’s patients; and lower overall mortality for older adults.

Meaningfulness develops when people feel that their work corresponds to their values. Organizations can enhance the experience of fit and meaningfulness by, for example, fostering a sense of belonging; designing and framing work to highlight its meaningful aspects; and articulating compelling goals, values, and beliefs.

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

8.12. Substance Use and Mental Health Disorders

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

8.13. Additional Topics

Many topics are possible for programming aimed at boosting work engagement and overall well-being (through resource-development) and curbing stress and burnout (by limiting demands) or otherwise promoting lawyer well-being. Additional topics to consider include: psychological

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247 Sheldon & Krieger, supra note 154.
capital (composed of optimism, self-efficacy, hope, and resilience), 248 psychological hardiness (composed of commitment, control, and challenge), 249 stress mindset, 250 growth mindset, 251 grit, 252 effort-reward balance, 253 transformational leadership, 254 self-determination theory, 255 strengths-based management, 256 emotional intelligence and regulation, 257 organizational fairness, 258 nutrition, 259 interpersonal skills, 260 and political skills. 261

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

- Gathering demographic information about the lawyer population, including years in practice, the nature of the practice, the size of the firm in which the lawyer’s practice is conducted, and whether the lawyer has engaged in any formal transition or succession planning for the lawyer’s practice;
- Working with medical professionals to develop educational programs, checklists, and other tools to identify lawyers who may be experiencing incapacity issues;
- Developing and implementing educational programs to inform lawyers and their staff members about incapacity issues, steps to take when concerns about a lawyer’s incapacity are evident, and the importance of planning for unexpected practice interruptions or the cessation of practice;
- Developing succession or transition planning manuals and checklists, or planning ahead guidelines for lawyers to use to prepare for an unexpected interruption or cessation of practice;\(^{262}\)
- Enacting rules requiring lawyers to engage in succession planning;
- Providing a place on each lawyer’s annual license renewal statement for the lawyer to identify whether the lawyer has engaged in succession and transition planning and, if so, identifying the person, persons or firm designated to serve as a successor;
- Enacting rules that allow senior lawyers to continue to practice in a reduced or limited license or emeritus capacity, including in pro bono and other public service representation;
- Enacting disability inactive status and permanent retirement rules for lawyers whose incapacity does not warrant discipline, but who, nevertheless, should not be allow to practice law;
- Developing a formal, working plan to partner with Judges and Lawyer Assistance Programs to identify, intervene, and assist lawyers demonstrating age-related or other incapacity or impairment.\(^{263}\)
- Developing “re-orientation” programs to proactively engage lawyers in transition planning with topics to include:
  - financial planning;
  - pursuing “bridge” or second careers;
  - identity transformation;
  - developing purpose in life;
  - cognitive flexibility;
  - goal-setting;
  - interpersonal connection;
  - physical health;
  - self-efficacy;
  - perceived control, mastery, and optimism.\(^{264}\)


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

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

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

MENTAL HEALTH & SUBSTANCE USE DISORDERS

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

LAW PRACTICE MANAGEMENT PRACTICES AFFECTING LAWYER WELL-BEING

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

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

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

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

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

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

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270F. Luthans & A. Stajkovic, Provide Recognition for Performance Improvement, in Locke, supra note 7, 239-53.


274Krieger & Sheldon, supra note 5.
Recommendation 33.2 suggests that law schools design a lecture series dedicated to well-being topics. In 2007, the Carnegie Foundation for the Advancement of Teaching issued a report titled *Educating Lawyers: Preparation for the Profession of Law* (referred to as the “Carnegie Report”). The Carnegie Report describes three “apprenticeships” in legal education: (1) the intellectual apprenticeship, where students acquire a knowledge base; (2) the practice apprenticeship, where students learn practical legal skills; and (3) the professional identity apprenticeship, where students cultivate the attitudes and values of the legal profession.275 The 2016 *Foundations for Practice Report* by the Institute for the Advancement of the American Legal System recommends that law schools teach character attributes including courtesy, humility, respect, tact, diplomacy, sensitivity, tolerance, and compassion; and self-care and self-regulation skills such as positivity and managing stress; exhibiting flexibility, adaptability, and resilience during challenging circumstances; and decision-making under pressure. A well-being course can address the *Foundations for Practice Report* recommendations while helping law students develop a professional identity that encompasses a commitment to physical and mental well-being.

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

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

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

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


289See AALS, supra note 145.

290See AALS, supra note 144.
The Report of the National Task Force on Lawyer Well-Being was primarily authored and edited by the Task Force members, whose biographies are below. The Task Force members were assisted in the creation of the Report by a team that included liaisons, contributing authors, peer reviewers, and individuals who contributed in a variety of other important capacities. Their biographies also are provided below.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHRIS L. NEWBOLD (AUTHOR)

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

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

JAYNE REARDON (EDITOR, AUTHOR)

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

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

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

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

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

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

ERICA MOESER
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ACKNOWLEDGEMENTS

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

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THE PATH TO LAWYER WELL-BEING:
Practical Recommendations For Positive Change
Well-Being Toolkit Nutshell: 80 Tips For Lawyer Thriving

Many legal employers are ready to become positive change agents on the path to lawyer well-being but are unsure where to start. To help, the American Bar Association’s Presidential Working Group to Advance Well-Being in the Legal Profession has launched the Well-Being Toolkit for Lawyers and Legal Employers. This nutshell summarizes 80 of the Toolkit’s key items to help get you started on a lawyer well-being initiative.

3 Reasons To Care About Well-Being
1. It’s the right thing to do
2. It impacts competence
3. It’s good for business

13 Healthy Workplace Factors
1. Culture of Trust
2. Mental Health Support
3. Effective Leadership
4. Civility & Respect
5. Good Person-Job Fit
6. Growth & Development
7. Recognition & Reward
8. Involvement & Influence
9. Workload Management
10. Employee Engagement
11. Work-Life Balance Support
12. Psychological Safety
13. Physical Safety

6 Dimensions Of Lawyer Well-Being
1. Occupational: Satisfaction, Growth, Financial Stability
2. Emotional: Manage Emotions & Protect Mental Health
3. Physical: Healthy Lifestyle, Help-Seeking When Needed
4. Intellectual: Learn, Pursue Challenge, Keep Developing
5. Spiritual: Meaning & Purpose
6. Social: Connection, Belonging, Contributing

8-Step Action Plan For Launching A Well-Being Program
1. Enlist Leaders
2. Start a Well-Being Committee
3. Define Well-Being
4. Do a Needs Assessment
5. Identify Priorities
6. Make & Execute an Action Plan
7. Create a Well-Being Policy
8. Measure, Evaluate, & Improve
15 Ideas for Well-Being Activities & Events

1. Use a Well-Being Scorecard to Assess Leader Effectiveness
2. Create a Well-Being Knowledge Hub
3. Start a Well-Being-Related Book or Video Club
4. Launch and Support a Leader Development Program
5. Invest in Professional Coaches
6. Measure Well-Being
7. Get Creative with CLEs, e.g., Spin Class CLE Events
8. Celebrate a Well-Being Week
9. Maintain a Calendar of Well-Being Events
10. Do Well-Being Goal-Setting
11. Embed Well-Being in Content & Format of Meetings
12. Incorporate Well-Being into Promotions & Other Transitions
13. Offer Treadmill/Standing Desks
14. Add Mental Health Apps to Insurance Plans
15. Audit policies/practices that may impact well-being.

18 Topic Ideas For Education & Development

1. Detecting Warning Signs of Mental Health & Alcohol Use Disorders
2. Facilitating & Destigmatizing Help-Seeking
3. Enhancing A Sense of Autonomy & Control
4. Elevating Focus on Client Care
5. Work Engagement & Burnout
6. Stress Mindset
7. Resilience & Optimism
8. Mindfulness
9. Rejuvenation
10. Leader Development
11. Conflict Management
12. Work-Life Conflict
13. Meaning & Purpose
14. Grit
15. Psychological Capital
16. Self-Determination Theory
17. Emotional Intelligence
18. Time Management/Alignment

17 Well-Being Activity Worksheets To Try

1. How to Be Happier? Make it a Priority
2. Six Sources of Well-Being
3. Grow Your Gratitude
4. Do Acts of Kindness
5. Psychological Capital
6. Resilience & Optimism
7. Mindfulness To Improve Well-Being & Performance
8. The Emotionally Intelligent Path to Well-Being
9. Well-Being & Confidence
10. Use Your Strengths
11. Capitalizing on Introverted Strengths
12. Overcoming Public Speaking Anxiety
13. Mind Your Marriage
14. Managers, Don't Forget Your Own Well-Being
15. Positive Leadership
16. Physical Activity & Vibrancy
17. Positive Golf Activities

Today’s Well-Being To Do List:

- Review the Toolkit
- Do one thing to get started
- Pass the Toolkit on to others
- Send questions to abrafford@aspire.legal
WELL-BEING TOOLKIT
FOR LAWYERS AND LEGAL EMPLOYERS

Created By Anne M. Brafford For Use By The American Bar Association

We’re In This Together.
ABOUT THE AUTHOR

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PERMISSION FOR USE

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ACKNOWLEDGMENTS

Many thanks to Terry Harrell, Bree Buchanan, Chris Newbold, Jonathan Beitner, and other members of the Presidential Working Group who provided helpful feedback during the creation of the Toolkit and to ABA President Hilarie Bass for supporting the project. Thanks also to Sara Smith for her continual support and positive energy on ABA projects. Thanks to all of the authors of the Well-Being Worksheets, who contributed their fine work pro bono to help support the important cause of lawyer well-being.
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Why Do Law Professionals Need a Well-Being Toolkit?

Being a lawyer is an immense privilege. Our law degrees give us opportunities to contribute to the vitality of our government, business sector, community safety, and individual lives. Ideally, lawyers design and create structures as real and as important as architects, engineers, or builders that allow “human beings to live, interact, and prosper.” We help others navigate the law to enable them to build the world they want to live in. As John Williams Davis, an American politician and lawyer, said, “True, we [lawyers] build no bridges. We raise no towers.... [But] we take up other [people’s] burdens and by our efforts we make possible” a peaceful life in a peaceful state.

To serve these crucial functions, many lawyers work very hard and take on hefty responsibilities that often have major consequences for clients. The demands that flow from this privilege can mount and threaten our well-being. When we ignore signs of distress, the quality of our work and lives can plummet. For too many lawyers, this is what already has occurred. A 2016 study of nearly 13,000 currently-practicing lawyers found that between 21 and 36 percent qualify as problem drinkers, approximately 28 percent experienced some level of depressive symptoms, and 18 percent experienced elevated anxiety. There also is evidence of suicide, work addiction, sleep deprivation, job dissatisfaction, a “diversity crisis” at the top of firms, work-life conflict, incivility, a narrowing of values so that profit predominates, and chronic loneliness.

The Lawyer Well-Being Movement

Because too many lawyers aren’t thriving, multiple initiatives have been launched to take action. For example, in 2015, former Chair of the American Bar Association’s (ABA) Law Practice Division Tom Bolt successfully advocated for the creation of a new Attorney Well-Being Committee. Next, the National Task Force on Lawyer Well-Being was formed and, in 2017, it issued a comprehensive report called The Path to Lawyer Well-Being: Practical Recommendations for Positive Change. The report motivated ABA President Hilarie Bass to form a Presidential Working Group to Advance Well-Being in the Legal Profession focused on how legal employers can support healthy workplaces. This Toolkit is an extension of these and other efforts.

We’re In This Together

We are happiest and healthiest when we adopt healthy work habits and lifestyle choices. Importantly, though, we won’t be successful on our own. Well-being is a team sport. For example, research reflects that, much more than individual employee traits and qualities, situational factors like workload, a sense of control and autonomy, adequate rewards, a sense of community, fairness, and alignment of values with our organizations influence whether people experience burnout or work engagement. As one leading burnout scholar put it, “burnout is more of a social phenomenon than an individual one.” Leaders in the medical profession’s effort to combat wide-spread physical burnout agree, saying: “Although burnout is a system issue, most institutions operate under the erroneous framework that burnout and professional
satisfaction are solely the responsibility of the individual."

This means that, if we truly desire to improve well-being, we can’t focus only on individual strategies like making lawyers more resilient to stress; it is equally important (if not more so) to focus on systemically improving our professional cultures to prevent problems from developing to begin with. We are interdependent in that our organizational and institutional cultures—to which we all contribute and which, in turn, shape us all—have a huge impact on our individual well-being. When our cultures support our well-being, we are better able to make good choices that allow us to thrive and be our best for our clients, colleagues, and organizations.

This Toolkit is designed to help lawyers and legal employers improve well-being holistically and systemically. This goal will require new choices, considerable effort, and changes that likely will upset the status quo. Positive change agents might meet with resistance—including complaints that there is no room, time, resources, or need for change. This Toolkit offers reasons for prioritizing lawyer well-being as well as information, strategies, and resources for implementing a plan for positive change.

**About This Toolkit**

**Who should use this Toolkit?** This Toolkit is primarily designed for use by lawyers and legal employers to enhance individual and workplace well-being. It offers a variety of suggestions, keeping in mind that needs and resources vary widely.

**How do I use the Toolkit?** The Toolkit contains information and resources to get started on the path to well-being, including:

- An Introduction to why lawyer well-being should be a priority.
- A definition of Lawyer Well-Being.
- A definition of a Healthy Workplace.
- Guidance for a Policy & Practice Audit to evaluate what supports and harms well-being.
- Recommendations for Activities & Events and for Education & Development to include as part of your Action Plan.
- Ideas for Assessments to track progress on well-being goals.
- Online Resources & Technology to help start and develop well-being initiatives.
- Book Recommendations.
- A list of Partners, which are organizations that already focus on lawyer well-being and can assist legal employers in their efforts.
- A list of Speakers and Consultants to contribute to well-being initiatives.
- An Activity Workbook that contains Worksheets with hands-on activities and checklists for enhancing well-being that can be used individually or collectively as part of organization-level initiatives.

The Toolkit should not be used as a substitute for seeking appropriate healthcare advice for wellness issues or legal advice for implementing new wellness programs.
**The Business, Professional, and Moral Case for Improving Lawyer Well-Being.**

There are at least three reasons why it’s important for legal employers to focus on lawyer well-being:

1. **Good For Business**

Organizational success depends on lawyer well-being, which is an important form of human capital. Worker mental health and alcohol use disorders cost businesses’ billions.

Additionally, work-related well-being in the form of employee engagement is linked to organizational success factors, including lower turnover, higher client satisfaction and loyalty, and higher productivity and profitability. But most workers (67%) are not engaged, which means that organizations are not getting the full benefit of their people’s talent. Low engagement also is linked to turnover—which often is problematic for law firms. For example, a 2016 survey by Law360 found that over 40 percent of lawyers said that they were likely or very likely to leave their firms in the next year. This high turnover rate is expensive—with estimated costs for larger firms of $25 million every year.

Improving engagement and other aspects of the workplace culture also is likely to help retain Millennials. A key driver of work engagement and psychological health is the experience of meaningful work, which is what Millennials say they want. Report after report about Millennial lawyers say things akin to, “Millennials want to work, they’re happy working, but they want to find meaning in work.”

2. **Good For Clients**

Well-being also is good for clients and the integrity of the profession. All state professional codes of conduct require lawyers to provide competent representation, which suffers when lawyers’ health declines.

Troubled lawyers can struggle with even minimum competence. This can be explained, in part, by declining mental capacity due to mental health conditions. For example, major depression and alcohol abuse is associated with impaired executive functioning, including diminished memory, attention, problem-solving, planning, and organizing—core features of competent lawyering.

Poor well-being also disables lawyers from living up to the vision conveyed 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.”

3. **The Right Thing To Do**

Promoting lawyer well-being also is the right thing to do. For most of us, over 50% of our waking daily lives is spent working. Given the dominance of work, enhancing the quality of our work lives can have an enormous impact on the quality of our lives as a whole. Additionally, untreated mental health and substance use disorders ruin lives and careers. Though our profession prioritizes individualism and self-sufficiency, we all contribute to, and are affected by, the collective work culture. Whether that culture is toxic or sustaining is up to us. Our interdependence creates a joint responsibility for solutions.
Defining Lawyer Well-Being: A Multi-Dimensional Approach

Well-being cannot be defined just by the absence of illness but also encompasses a positive state of wellness. From a whole-health perspective, it can be viewed as a continuous process in which we work across multiple dimensions of wellness. The way we function in one dimension can enhance or impede the way we function in another dimension. The report of the National Task Force on Lawyer Well-Being identified six dimensions that make up full well-being for lawyers:

1. **Occupational**
   Cultivating personal satisfaction, growth, and enrichment in work; financial stability.

2. **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.

3. **Physical**
   Striving for regular physical activity, proper diet and nutrition, sufficient sleep, and recovery; minimizing the use of addictive substances. Seeking help for physical health when needed.

4. **Intellectual**
   Engaging in continuous learning and the pursuit of creative or intellectually challenging activities that foster ongoing development; monitoring cognitive wellness.

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

6. **Social**
   Developing a sense of connection, belonging, and a well-developed support network while also contributing to our groups and communities.
DEFINITION OF A HEALTHY WORKPLACE

Like individual well-being, there’s no single definition of a healthy workplace. Adapting the World Health Organization (WHO)’s definition of a healthy workplace, the Toolkit defines it as follows:

**A healthy workplace is one in which all organizational members collaborate to continually improve processes to protect and promote member well-being and organizational success. All seek alignment of organizational and member goals and needs so that they can grow and thrive together.**

The WHO proposes that healthy workplaces depend on an interaction among four areas:

1. **Psychosocial work environment**
2. **Physical work environment**
3. **Personal resources of each organizational member**
4. **Community contribution**

The psychosocial work environment—which can have a big impact on lawyer well-being—is an area of vulnerability for many legal employers. The Tristan Jepson Memorial Foundation, an Australian charitable organization focused on healthy legal workplaces, has published *Workplace Well-Being: Best Practice Guidelines* for promoting and protecting psychological well-being in the legal profession. The Guidelines aim to help legal employers create workplaces that fulfill 13 factors that have been identified by extensive research as critical to psychological health.

Also helpful is the *Guarding Minds@Work* website, recommended by the WHO, which provides free resources including a survey and supporting documents to help employers assess and enhance these 13 factors:

1. **Organizational Culture**
   A culture characterized by trust, honesty, and fairness.

2. **Psychological Support**
   Supervisors and coworkers are supportive of organizational members’ psychological and mental health concerns, and respond appropriately.

3. **Clear Leadership & Expectations**
   There is effective leadership and support that helps organizational members know what they need to do, how their work contributes to the organization, and whether there are impending changes.

[Image of puzzle pieces labeled Psychosocial, Physical, Personal, Community]
4. **Civility & Respect**

Employees are respectful and considerate in their interactions with one another, as well as with clients and the public.

5. **Psychological Competencies & Requirements**

There is a good fit between employees’ interpersonal and emotional competencies and the requirements of the position they hold.

6. **Growth & Development**

Employees receive encouragement and support in the development of their interpersonal, emotional, and job skills.

7. **Recognition & Reward**

There is appropriate acknowledgment and appreciation of organizational members’ efforts in a fair and timely manner.

8. **Involvement & Influence**

Organizational members are included in discussions about how their work is done and how important decisions are made.

9. **Workload Management**

Tasks and responsibilities can be accomplished successfully within the time available.

10. **Engagement**

Organizational members feel connected to their work and are motivated to do their job well.

11. **Balance**

There is recognition of the need for balance between the demands of work, family, and personal life.

12. **Psychological Protection**

Organizational members’ psychological safety is ensured.

13. **Protection of Physical Safety**

Management takes appropriate action to protect the physical safety of organizational members.
any legal employers already have started well-being initiatives and are looking for more guidance on where to go next. Others are unsure how to begin. Below are strategies and resources for both--for getting started as well as developing existing well-being initiatives.

Many private and government organizations have published resources to help guide employers’ well-being programs. The medical profession in particular has made big strides in advancing well-being, and has created many resources that can benefit legal employers. Below, links are embedded to some of these resources, which include things like manuals, templates, fact sheets, and other practical tools.

1. **Enlist Leaders**

   No organizational change effort will succeed without leader commitment, support, and role modeling of desired behaviors. Communicating the business case for well-being can help build leader buy-in.

2. **Launch a Well-Being Committee**

   As a first step, recruit a Champion or launch a Committee to lead your well-being agenda. The Committee should include a high-level leader who has the credibility and influence to make things happen. Your organization’s Employee Assistance Program, health insurance carrier, and/or a local Lawyer Assistance Program may be interested in participating and contributing resources.

3. **Define Well-Being**

   It will be important to define well-being as a guide for your agenda. This subject may mean very different things to different people. The multi-dimensional definition of well-being proposed by the National Task Force on Attorney Well-Being (and set out above) is an excellent option.

4. **Conduct a Needs Assessment**

   Among the first things a Well-Being Committee should do after defining well-being is to conduct a needs assessment. Any organizational change effort is more likely to succeed if it grows out of an analysis of the gap between the desired and current state. A number of needs assessment templates created for other contexts are available on the Internet and can be adapted for legal employer well-being programs.

   The assessment might include stakeholder interviews or surveys to understand challenges to well-being that dominate in your organization.

   The assessment also should include an audit of policies and practices that influence lawyers’ well-being. The Policies & Practices Audit section below provides recommendations and online resources to guide an audit. The list includes topics that are not routinely encompassed in discussions of well-being, such as on-boarding, diversity, work-life conflict, 24/7-availability expectations, billing practices, performance appraisals, compensation systems, and fairness. Research shows that these often-overlooked practices substantially contribute to cultures that can support or harm well-being.

5. **Identify Priorities**

   The best way to get started on well-being initiatives is to set a narrow set of priorities and to accumulate quick “small wins” that can build credibility and momentum. Too many change efforts try to do too much too soon. The result is paralysis and lack of progress. To avoid this fate, selectively choose priorities that are manageable and achievable.

6. **Create & Execute an Action Plan**

   Next, the Committee should begin to prepare and execute an action plan. This phase should include a discussion of concrete goals, obstacles to achieving them, and pathways for overcoming obstacles. This phase also should consider how the well-being
program will be sustained over the long-term. Ideas for activities and events to be included in the action plan are discussed below.

7. **Create a Well-Being Policy**

As part of the action plan, consider creating a formal well-being policy. It will help convey that the organization prioritizes and values lawyers as people and establish expectations and intentions. Ideally, legal employers will invite broad review and comment on a draft of the policy.

The ABA Presidential Working Group currently is drafting a Model Impairment Policy for Legal Employers to guide management of lawyers with mental health and substance use disorders. Employers should incorporate impairment provisions into their policies but also will want to convey that the initiative broadly seeks to advance well-being and is not focused solely on detecting and treating mental health and substance use disorders.

Because this type of full well-being policy is new, legal employers will have an opportunity for considerable innovation. A well-being policy template created by the Government of South Australia’s (GOSA) can be found here. You’ll need to substantially tailor it to align with your organization’s priorities, but it can serve as a starting place to rev up your thinking.

8. **Continually Measure, Evaluate, & Improve**

To develop, improve, and justify your organization’s well-being program, it will be important to continually evaluate the success of individual program elements (e.g., attendance/participation) and measure overall progress on well-being indicators (e.g., engagement). The Kirkpatrick model (and related models) is most often used to evaluate development programs. It recommends evaluating multiple factors as indicators of success. Possible measures include:

- Satisfaction with and attitudes toward well-being programs;
- Extent of learning new information and skills;
- Behavioral change growing out of the programs;
- Measures of lawyer well-being and organizational success. A list of possible measures appears below in the Assessment section. Also, GOSA has created a fact sheet to guide thinking on measuring outcomes of workplace well-being initiatives that can be used for brainstorming.

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8-Step Well-Being Action Plan

1. **Enlist Leaders**
2. **Create a Well-Being Committee**
3. **Define Well-Being**
4. **Conduct Needs Assessment**
5. **Identify Priorities**
6. **Create & Execute Action Plan**
7. **Create Well-Being Policy**
8. **Continually Measure, Evaluate, & Improve**
Legal employers should consider topics like the following as part of their audits of current policies and practices to evaluate whether the organization adequately supports lawyer well-being.

(The checklist below originally appeared in the National Task Force report. The citations from the report have been omitted here to manage space.)

**Mental Health & Substance Use Disorders**

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

**Management Practices Affecting Lawyer Well-Being**

- **Assessment of Well-Being:** Is there a regular practice established to assess work engagement, burnout, job satisfaction, turnover intentions, psychological well-being, or other indicators of well-being and to take action on the results?
- **Orientation Practices:** Are orientation practices established to set new lawyers up for success, engagement, and well-being?
- **Work-Life Balance-Related Policies & Practices:** Is there a policy that allows flexibility and an organizational climate that supports it? Is it a practice to recognize lawyers and staff who demonstrate a high standard of well-being?

- **Diversity/Inclusion-Related Policies & Practices:** Diversity and inclusion practices impact lawyer well-being. Are policies and practices in place with a specific mission that is adequately funded?

- **24/7 Availability Expectations:** Do practices allow lawyers time for sufficient rejuvenation? Are response-time expectations clearly articulated and reasonable? Is there an effort to protect time for lawyers to recover from work demands by discouraging work-related calls and emails during evenings, weekends, and vacations?

- **Billing Policies & Practices:** Do billing practices encourage excessive work and unethical behavior?

- Does the firm monitor the hours billed by its attorneys and follow up with lawyers whose hours are persistently and significantly higher or lower than typical? Abnormal hours sometimes reflect deeper issues that might warrant further questions.

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

- Is the firm’s approach to compensation holistic, or does it instead focus exclusively or primarily on hours?

- **Performance Appraisal Practices:** Carefully managing this process is essential given evidence that bungled performance feedback harms well-being and performance.

- Are performance appraisal practices fair and perceived as fair?

- Do multiple raters contribute? Are they trained on the process and to reduce common biases?

- Is specific, timely feedback given regularly, not just annually?

- Is feedback given in a two-way communication? Is it empathetic and focused on behavior, not the person’s self-worth? Is it balanced and injected with positive regard and respect?

- Are good performance and progress toward goals regularly recognized?

- **Vacation Policies & Practices:** In their study of 6,000 practicing lawyers, law professor Larry Krieger and psychology professor Kennon Sheldon found that the number of vacation days taken was a significant predictor of lawyer well-being--and was stronger even than income level in predicting well-being. This suggests that legal employers should try to encourage and protect vacations.

- Is there a clear vacation policy?

- Does the organizational culture encourage usage and support detachment from work?

**More Guidance For Selecting Topics for a Policies & Practices Audit**

Online resources also are available to help legal employers identify potential topics for a well-being policies and practices audit:

- Tristan Jepson Memorial Foundation’s Best Practice Guidelines for the Legal Profession,

  which are discussed above in the section on the Definition of A Healthy Workplace.

- The **Developing Resilience** white paper published by Chartered Institute of Personnel and Development (CIPD) identifies a helpful and substantial list of individual-level and organizational-level strategies for boosting resilience at work

- The World Health Organization’s (WHO) **Healthy Workplace Framework and Model**. The model proposes five keys to workplace well-being, and the WHO has provided guidance on implementing it as well as supporting evidence.

- **Guarding Minds@Work**, recommended by the WHO, is a free resource to employers for assessing and improving psychosocial health in the workplace. It has identified 13 evidence-based psychosocial factors that impact organizational and individual well-being as well as the financial bottom line. The 13 factors would provide a helpful guide for legal employers’ audits and goal-setting. The website also provides a free assessment of workplace well-being that aligns with the 13 factors.

- Society for Human Resource Management (SHRM) **Practice Guidelines** for Creating a More Human Workplace Where Employees and Business Thrive and **The Seven Components** of an Effective Workplace.

- GOSA has created a framework for a **Healthy Workplaces Audit.**
Your organization’s well-being action plan will include elements that align with its priorities, such as activities, events, creation or redesign of practices and policies, and the like. Ideas for these elements of your action plan are identified below.

**Policies & Practices.** Revise/create policies and practices based on findings from your organization’s needs assessment. Incentive systems should encourage leaders to support well-being initiatives by, for example, developing their own leadership skills and supporting the well-being of their teams. If incentives are aligned solely with organizational revenue growth, lawyers’ limited resources of time and attention will be spent only there—-to the detriment of any other organizational goal. To genuinely adopt lawyer well-being as a priority, such structural and cultural issues will need to be addressed. A GOSA fact sheet offers ideas for incentives and rewards to encourage support of well-being programs.

**Well-Being Scorecard.** To ensure sustainability of an organization’s well-being initiative, the WHO recommends that it should be integrated into the overall strategic business plan, rather than existing in a separate silo, and it should be continually evaluated and improved. A tool to help legal employers do so is a Balanced Scorecard for the organization and individual leaders that measures financial and people-related goals together.

**Onboarding.** Design new-lawyer orientation programs to include well-being-related topics. This will signal that the organization prioritizes the issue and will help prepare newcomers for the challenges and opportunities of their new roles.

**Knowledge Hub.** Create a well-being knowledge hub to provide lawyers with ongoing, practical information and updates.

**Book/Video Club.** Create a book or video (TED talks are a great resource) “club” for reflection and discussion of enhancing individual well-being and fostering workplaces where people thrive.

**Activity Workbook.** At the end of the Toolkit is an Activity Workbook with hands-on activities, checklists, and reminders for enhancing various dimensions of well-being. Well-Being Committees can use the worksheets as part of its own education curriculum and activities.

**Leader Development.** Implement a leader development program. Leader behavior has a substantial impact on followers’ well-being. Additionally, people monitor leaders closely for indicators of cultural norms. If leaders don’t walk the talk of lawyer well-being, followers are not likely to either--and are likely to become cynical.
On-Staff Professional Coaches. Professional coaches collaborate with their clients to achieve goals, improve performance, and boost career satisfaction and happiness. Law firms have become increasingly interested in coaching, including hiring on-staff professional coaches. While direct partner contact is critical for associate growth, coaches could help shoulder some of the burden for developmental plans, career guidance, and feedback. Also, for lawyers experiencing a decline in mental health, they may feel more comfortable broaching the topic with someone identified as a coach rather than a clinician. Coaches may then be able to assist lawyers in getting the help they need sooner.

Well-Being Surveys. Use surveys to periodically assess indicators of well-being (e.g., engagement, burnout, comfort with help-seeking, etc.). A list of potential surveys is provided below in the Assessments section.

Well-Being Week. Establish an annual Well-Being Week with activities and prizes (a practice already adopted in the medical profession).

Well-Being Calendar. Create a Well-Being Calendar and organize relevant activities or information blasts. GOSA has created a Health Events Calendar that can be adapted to recognize similar national and local events in the U.S. Example events include National Depression Screening Day (October), National Alcohol Screening Day (April), Mental Health Awareness Month (May), Love Your Lawyer Day (November), and the International Day of Happiness (March, World Gratitude Day (September)). Additional ideas can be found listed here and on the Days of the Year website, which is a clearinghouse for days of recognition.

Sweat & Learn. Get creative with CLEs and other training sessions to avoid adding to the long hours lawyers spend sitting. For example, I’ve heard about a popular CLE event that has been conducted in a spinning studio.

Individual Goal-Setting. As part of professional development plans or other goal-setting practices, ask lawyers to set well-being goals. Goals might relate to, for example, physical activity, nutrition, sleep, relationship quality, work-life balance, or meditation — to name just a few. Supervisors could monitor these goals in the same manner as other professional development goals. Mentors might consider giving a gift to mentees of a fun goal-setting journal and make goal-progress a cornerstone of their mentoring relationship.

Embed Well-Being into Meetings. Embed well-being into regular meetings by, for example:

- Include well-being as a permanent agenda item
- Incorporate engagement-boosting strategies, such as gratitude activities and shout-outs for good work.
- Encourage “walking meetings” outside rather than sitting in conference rooms.
- Set new norms for long meetings in which it’s OK to stand in the back, walk around, or stretch.
ACTIVITIES & EVENTS

Include Well-Being Topics in Organizational Transitions. Incorporate well-being topics into orientation programs to welcome new lawyers or to elevate them to new roles. For example, give a realistic preview of the new role, identify common stressors, and train them on well-being strategies to help them succeed while staying healthy.

Leverage Technology. You can leverage the growing field of well-being technology in a number of ways: For example:

- **Mental Health Apps.** Among the many factors that can hinder lawyers from seeking help for mental-health conditions are a preference for self-reliance and a perceived lack of time to fit treatment into busy schedules. To help address this, consider informing lawyers about electronic mental-health tools or adding them to your organization’s health plans. These include mental-health apps as well as therapy via smart phone.

- **Treadmill & Standing Desks.** Place treadmill desks in a conference room or empty office for use by all. Subsidize treadmill desks or standing desks.

- **Health-Promoting Give-Aways.** For office giveaways, give health-related technology prizes, like a Fitbit; a Spire Mindfulness Tracker; Muse: The Brain Sensing Headband; Pip (gives feedback about stress level); or a Bellabeat Leaf Health Tracker (activity, sleep, and stress tracker).

- **Review of Well-Being Apps.** Create a review of well-being-related smart phone apps, such as for guided meditation, nutrition, physical exercise, gratitude journals, time management, etc.

- **Engagement Technology.** Try tech tools designed to boost employee engagement, such as Celpax, emooter, Morale.me, Glint, and Awesome Boss.

**WHAT ARE OTHER LEGAL EMPLOYERS DOING?**

A number of law firms already have launched well-being initiatives. Below are a sampling of events and strategies that they’ve adopted.

**Akin Gump Strauss Hauer & Feld** has launched a “Be Well” initiative that provides on-site health screenings, access to a personal health care advocate, and access to programs relating to parenting support and financial well-being.

**Hanna Brophy.** Several law firm leaders from Hanna Brophy are participating in an online positive psychology course designed by Yale. Their goal is to improve the quality of their own well-being and serve as role models for positive cultural tone and well-being for other lawyers.

**Drinker Biddle** has launched DBR Well-Being 360, which includes the creation of a well-being committee, assessment of progress on well-being goals, educational programming, mindfulness training, and creation of a resource portal.

**Hogan Lovells.** A few offices of Hogan Lovells offer an on-site psychologists who visits once weekly and is available to lawyers and staff.

**Norton Rose Fulbright** has trained a team of employees to be mental-health first-aid responders, who can spot warning signs of addiction or mental-health concerns and offer assistance.

**Ogletree, Deakins, Nash, Smoak & Stewart** and **Seyfarth Shaw**, among others, have introduced mindfulness meditation programs.
Reed Smith has launched a well-being initiative called Wellness Works, which encompasses the topics of stress management, work-life balance, healthy habits, health mindfulness, physical fitness, and mental health and substance use awareness. The firm has developed an online information hub and plans to create individual pages for each office that will provide information about wellness programming options.

Salazar Jackson invites guest speakers on wellness topics; offers a Zen Garden, a quiet room, outdoor patio areas for socializing, and free healthy snacks; and has implemented a project management platform to streamline work.

Crowell & Moring provides access to a smart phone app called Virgin Pulse that pairs with fitness trackers. If firm members achieve certain well-being-related milestones, they earn a discount on their insurance premiums.

Does Your Firm Have A Well-Being Program?

Please tell us about it!
Email: abrafford@aspire.legal
Education, training, and development will be an essential component of legal employers’ well-being initiatives. To ensure high-quality, effective programs, consider partnering with, for example, Employee Assistance Programs, Lawyer Assistance Programs, insurance carriers, and expert consultants.

To support holistic lawyer well-being, programs should focus on fostering cultures and individual competencies that support lawyers’ optimal health, motivation, and performance and not only on detecting and treating disorders. Focusing on both sides of the lawyer well-being coin is important for developing successful well-being programs. Many topics are possible for programming, and some ideas are provided below.

**Detecting Warning Signs of Mental Health & Alcohol Use Disorders**

As the American Association of Suicidology put it, “Suicide prevention is everyone’s business.” The same is true for other mental health and alcohol use disorders. Accordingly, legal employers should provide training on 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 of participants’ mental health or substance use risk.

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.

**Facilitate, Destigmatize, and Encourage Help-Seeking Behaviors**

An important area warranting considerable attention is the stigma of mental health and substance use disorders that prevents lawyers from seeking help. As the National Task Force report explained (see page 13), research reflecting the many factors that can hinder people from seeking help can help guide legal employers’ strategies. These factors include:

- Failure to recognize symptoms
- Not knowing how to identify or access appropriate treatment or believing it to be a hassle to do so
- A culture’s negative view of such conditions
- Fear of adverse reactions by others whose opinions are important
- Feeling ashamed
- Viewing help-seeking as a sign of weakness
Having a strong preference for self-reliance or a tendency toward perfectionism

Fear of career repercussions and concerns about confidentiality

Uncertainty about the quality of organizationally-provided therapists or otherwise doubting that treatment will be effective

Lack of time in busy schedules.

Research also suggests that professionals with hectic, stressful jobs (like many lawyers) 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.

Removing these barriers requires education and stigma-reduction strategies. 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 in order to create a personal connection that lends credibility and combats stigma. Viewing videotaped narratives also is useful, but not as effective as in-person contacts.

**Carefully Implement Programs That Encourage Help-Seeking**

Among the more common employer-sponsored strategies to detect and respond to mental health and alcohol use disorders include workplace-based public awareness campaigns that involve posting warning signs, referral resources and general anti-stigma messages, and workplace-based screenings. These can be effective and definitely should be considered as part of organization’s well-being programs. But, because such strategies can backfire, they should be implemented carefully and, preferably, with advice from experts in the field. One researcher cautioned:

“Anyone who creates a [depression-related public service announcement] targeting people with depression without considering how the mind of a person with depression operates is engaging in behavior akin to reckless endangerment.”

Research shows, for example, that:

- Because depressive symptoms can radically distort how people interpret information, campaigns to encourage help-seeking must be carefully worded to avoid boomerang effects that decrease the likelihood of help-seeking.

- For example, a depressed person might interpret a message that says: “It takes courage to ask for help. Melvin did” as this: “But, I can’t be strong anymore. I can’t ask for help. If others can and I can’t, I might as well kill myself.” They might interpret a message that says: “Call 1-800-XXX-XXXX for confidential information on where to get help” as this: “Confidential? Why does it have to be confidential?”

- Messages that encourage people to seek help “for friends” rather than for themselves (called “mistargeting”) have had some success avoiding boomerang effects.

- Some public health campaigns have backfired due to “bossy” language that causes targets of the message to react negatively due to perceived threats to their autonomy (called “reactance”).
• **Anti-drinking campaigns** that emphasize the prevalence of alcohol use can backfire by reinforcing existing, excessive drinking norms.

Because of these dangers, organizations that plan to initiate campaigns to encourage help-seeking should consider consulting an outside expert before doing so. One of the leading researchers in the area is Dr. Jason Siegel, a professor of psychology at Claremont Graduate University. He is the Director of the Depression and Persuasion Research Lab, which focuses on projects to reduce stigma toward mental illness and increase help-seeking of people with depression. Contact: jason.siegel@cgu.edu.

**DE-EMPHASIZE ALCOHOL AT SOCIAL EVENTS**

(See National Task Force Report, p. 19).

**BEGIN A DIALOGUE ABOUT SUICIDE PREVENTION**

(See National Task Force Report, p. 20).

**ENHANCE LAWYERS’ AUTONOMY & 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. A sense of autonomy is considered to be a basic psychological need that is foundational to well-being and optimal functioning. Research shows that high job demands paired with a lack of a sense of control breeds depression and other psychological disorders. 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. Environments that facilitate control and autonomy contribute to optimal functioning and well-being. A few examples of the types of practices to review include the following:

• Excessive workload and controlling management;
• Tight deadlines not based on business needs;
• Senior lawyers making key decisions without consulting other members of the litigation team;

• Senior lawyers’ poor time-management habits that result in repeated emergencies and weekend work for junior lawyers and staff;
• Expectations of 24/7 work schedules and of prompt response to messages at all times;
• Extent of discretion that lawyers have in deciding where, when, and how to perform their work.

**ELEVATE THE FOCUS ON CLIENT CARE**

One strategy for aligning organizational incentives with lawyer well-being and profitability at the same time is to elevate the focus on client care and connection. Research reflects that work cultures that emphasize competitive, self-serving goals will continually trigger competitive, selfish behaviors that harm organizations and individual well-being. This can be psychologically draining. For example, studies in 2013 and 2014 of Australian lawyers found that law firms’ emphasis on profits and competitiveness was associated with depression and anxiety.

On the other hand, research shows that the experience of meaningfulness in and at work is a core contributor to work engagement. For most people, feeling that we are benefiting others or contributing to the greater good is the biggest driver of meaningfulness. For most of us, regularly connecting with clients and hearing how our work benefits them gives us a powerful motivational and well-being boost.

In practice, this might include more routine client satisfaction surveys and conversations and inviting clients to speak at formal and informal events about the positive impact of lawyers’ work. Emphasizing client care aligns with lawyer well-being goals while also contributing to the bottom line. Ideas for what to include in client satisfaction surveys and how to conduct them can be found here and here.
MORE TOPICS SUMMARIZED IN THE NATIONAL TASK FORCE REPORT

Additional evidence-based educational topics were summarized in Appendix B (pp. 50-57) of the National Task Force Report. Condensed versions of those summaries are provided next, with the literature citations omitted.

WORK ENGAGEMENT & BURNOUT

Work engagement is a kind of work-related well-being that includes high levels of energy, mental resilience, and a sense of meaningful work. It contributes to, for example, mental health, less stress and burnout, job satisfaction, helping behaviors, reduced turnover, performance, and profitability. At the other end of the spectrum is burnout, which is a stress response syndrome that is highly correlated with depression. It can have serious psychological and physiological effects and harm performance and professionalism.

STRESS

Stress is inevitable in lawyers’ lives and is not necessarily unhealthy. Mild to moderate levels of stress that are within our capability can present positive challenges that result in a sense of mastery and accomplishment. But when lawyers feel overburdened by their work, they are at much greater risk of burnout, depression, anxiety, alcohol abuse, and physical health conditions. Both personal and environmental factors in the workplace contribute to stress and whether it positively fuels performance or impairs mental health and functioning.

RESILIENCE & OPTIMISM

Resilience can be defined as a process that enables us to bounce back from adversity in a healthy way. Our capacity for resilience derives from a host of factors, including a collection of psychological, social, and contextual factors that we can change and develop. These include, for example, optimism, confidence in our abilities and strengths (self-efficacy), effective problem-solving, a sense of meaning and purpose, flexible thinking, impulse control, empathy, close relationships and social support, and faith/spirituality.

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

MINDFULNESS MEDITATION

Mindfulness meditation is a practice that can help us change our mental habits and support resilience. It can aid our ability to monitor our thoughts and avoid becoming emotionally overwhelmed. A rapidly growing body of research on meditation has shown its potential for help in addressing a variety of psychological and psychosomatic disorders, especially those in which stress plays a causal role.

One type of meditative practice is mindfulness—a technique that cultivates the skill of being present by focusing attention on your breath and detaching from your thoughts or feelings. Research has found that mindfulness can reduce rumination, stress, depression, and anxiety. It also can enhance a host of competencies related to lawyer effectiveness, including increased focus and concentration, working memory, critical cognitive skills, reduced
burnout, and ethical and rational decision-making.

**Rejuvenation Periods**

Lawyers must have downtime to recover from work-related stress. People who do not fully recover are at an increased risk over time for depressive symptoms, exhaustion, and burnout. By contrast, people who feel recovered report greater work engagement, job performance, willingness to help others at work, and ability to handle job demands.

Quality sleep is critically important in the recovery process. Sleep deprivation has been linked to a multitude of health problems that decay the mind and body, including depression, cognitive impairment, decreased concentration, and burnout.

**Physical Activity**

Many lawyers’ failure to prioritize physical activity is harmful to their health and functioning. Physical exercise is associated with reduced symptoms of anxiety, depression, and low energy and enhanced brain functioning and cognition. It stimulates new cell growth in the brain, which can offset the negative effects of stress, which can cause brain atrophy.

**Leader Development and Training**

Leader development and training is critically important for supporting lawyer well-being and optimal performance. Low-quality leadership is a major contributor to stress, depression, burnout, and other mental and physical health disorders. Even seemingly low-level incivility by leaders can have a big impact on workers’ health and motivation. Further, good leaders are made not born: Many studies confirm that positive leader behaviors can be trained and developed.

**Conflict Management**

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

**Work-Life Conflict**

The stress of chronic work-life conflict can damage well-being and performance. Evidence indicates that it is a strong predictor of burnout and significantly increases the risk of poor physical health. On the other hand, work-life balance (WLB) benefits workers and organizations. WLB is a complex topic, but research provides guidance on how to develop a WLB-supportive climate through policies and consistent support for WLB by leaders and direct supervisors.

**Meaning & Purpose**

A large body of research shows that feeling that our work is meaningful plays an important role in workplace well-being and performance. Evidence suggests that the perception of meaningfulness is the strongest predictor of work engagement. Meaningfulness develops, for example, when people feel that their work corresponds to their values. Organizations can enhance the experience of fit and meaningfulness by, for example, fostering a sense of belonging; designing and framing work to highlight its meaningful aspects; and articulating compelling goals, values, and beliefs.

**Additional Topics**

Some additional topics to consider include:

- Psychological capital (composed of optimism, self-efficacy, hope, and resilience)
- Psychological hardiness (composed of
commitment, control, and challenge)

- Stress mindset
- Growth mindset
- Grit
- Effort-reward balance
- Transformational leadership
- Self-determination theory (a well-established motivational theory on which multiple lawyer and law student well-being studies have been based)

- Strengths-based management
- Emotional intelligence and regulation
- Organizational fairness
- Nutrition
- Interpersonal skills to foster high-quality relationships and avoid conflict
- Political skills (which have been show to enhance a sense of control and reduce stress),
- Time management/alignment (i.e., investing time in alignment with ones values and priorities)
Legal employers should consider periodically measuring well-being on an anonymous basis to track progress on well-being goals. As the old saying goes, “what gets measured gets done.” Further, evaluating which strategies are effective and which are not will be impossible without ongoing assessment.

**Deciding Whether to Assess Well-Being**

The Centers for Disease Control and Prevention (CDC) recommends that employers regularly assess employee health and provides an Employee Health Assessment and Health and Safety Climate Survey for doing so. (These surveys may need some revisions to be adapted to a legal employer context.) The CDC also has provided a User Manual for the Climate Survey, which includes guidance on how to distribute and use this type of survey effectively. As the CDC User Manual reflects, the feedback from well-being-related assessments can guide further investigation and interventions.

The medical profession has made much more progress than the legal profession on establishing programs to assess and advance well-being. For example, the National Academy of Medicine recommends using surveys to assess well-being and guide interventions. The Academy recognizes, however, the potential tension between maintaining confidentiality and a desire to help that arises when measuring sensitive areas, such as depression, suicide, and substance use disorders. In its view, especially given the unfortunate continued stigma about mental health, ensuring confidentiality is critical to participants and to collecting accurate results.

A possible way to address this tension that the Academy recommends is to take all participants to a new screen at the end of the survey that: (a) provides general information about mental health and substance use disorders, (b) encourages them to seek help if experiencing symptoms, and (c) and gives information on resources for relevant services, including a suicide hot line.

**Choosing Specific Assessments**

As the well-being movement in the legal profession continues, we hope to validate and recommend a set of well-being-related surveys specifically tailored to lawyers and legal employers. At this point, though, following the medical profession’s lead, we offer multiple existing surveys from which legal employers can choose. Legal employers may wish to hire external consultants to help select specific surveys that are the best fit for the organization’s priorities and to handle and analyze the data appropriately. This is the recommended course especially for surveys and other communications related to sensitive topics like mental health and alcohol abuse and help-seeking behaviors or attitudes.

**Possible Risks?**

If legal employers have any concerns that collecting such information would create legal risks, they may wish to discuss these issues with their legal counsel or with Employee Assistance Programs and insurance carriers that have experience in this area.

**Organization-Level Surveys**

Legal employers should consider organization-level assessments and not only individual-level assessments of health and well-being. Legal employers will want to pay closer attention to organizational and cultural factors that can contribute to poor well-being, burnout, and departures.

**13 Factors for Workplace Well-Being**

As noted above, the Tristan Jepson Memorial Foundation has identified 13 factors as part of its Best Practice Guidelines for promoting psychological well-being in the legal profession, and the Guarding Minds@Work provides a survey and supporting documents to help employers assess and enhance these 13 factors.
CDC Healthy Climate Survey

As mentioned above, the CDC recommends the Health and Safety Climate Survey for assessing workplace well-being as well as a User Manual.

Individual-Level Surveys

For individual lawyers, taking time to engage in self-assessment is imperative to overall wellness. Many lawyers have a hard time paying attention to their own needs. This is probably due to many factors, including the tendency to focus on the needs of clients and others and a high need for achievement that drives long working hours at a fast pace with too little rest and rejuvenation.

Lawyers who pay more attention to their own needs will be happier and healthier, will be able to provide higher quality professional services, and will be better colleagues and family members. Lawyers who take the time to assess their values, goals, and level of well-being are able to make choices with greater clarity and confidence. They can also make better decisions about how they want to practice and live their lives. Since many lawyers are high-achievers by nature, they often tend to push themselves to do more work than their own personal resources allow.

The following individual-level assessments are designed and intended for personal use and guidance purposes only. Their results should not be viewed as a diagnosis of having or not having a mental health disorder. Participants should be informed that such surveys are not intended to take the place of a professional evaluation and that questions and concerns should be referred to a mental health professional.

Depression

The CDC recommends that employers assess employee depression and provides recommendations for interventions and evaluating depression-related initiatives. As noted above, the CDC also has provided an assessment tool called the Employee Health Assessment, which includes a section on mental health. Three validated surveys that measure only depression are identified below:

- **The Patient Health Questionnaire-9 (PHQ-9)** is a common screening tool for depression and suicidal thoughts. An Instruction Manual also is available. It does not diagnose clinical depression but helps identify people who are experiencing elevated depressive symptoms and are at risk for developing a disorder.
- **The Depression Anxiety Stress Scales-21 (DASS-21)**. This scale was used in the 2016 lawyer mental health study referenced above.
- **The Center for Epidemiological Studies-Depression (CES-D) Scale**. This also is a common screening tool for depression. To take it individually and immediately receive a feedback report, participants can be directed to the University of Pennsylvania’s Authentic Happiness website where the CES-D Scale is available in the Questionnaire Center.

Anxiety

- **The General Anxiety Disorder (GAD) Scale** is a common assessment used to screen for anxiety. It is available in the Screening Tools section of the website offered by SAMHSA–HRSA Center for Integrated Health Solutions (CIHS).

Alcohol Use Disorders

- **The Alcohol Use Disorder Identification Test (AUDIT)** is a commonly used tool to screen for risk of alcohol use disorders. This was the scale used in the large-scale study of lawyers published in 2016 that is referenced above.

Burnout

- **The Maslach Burnout Inventory (MBI)** is the most frequently-used burnout scale, but users
must pay a license fee. A few free validated alternatives are offered below:

- **Oldenburg Burnout Inventory.** This is a validated burnout measure that’s available for use and in the public domain. The scale appears at the end of the article you’ll find in the hyper-link.

- **Non-Proprietary Single-Item Burnout Measure.** Scholars in the medical profession have validated a single-item burnout measure (to replace the MBI), which is freely-available for use. The article that is hyper-linked contains the measure and describes it, and it also is set out below:

  □ **Overall, based on your definition of burnout, how would you rate your level of burnout?**

  1-I enjoy my work. I have no symptoms of burnout.

  2-Occasionally I am under stress, and I don’t always have as much energy as I once did, but I don’t feel burned out.

  3-I am definitely burning out and have one or more symptoms of burnout, such as physical and emotional exhaustion.

  4-The symptoms of burnout that I’m experiencing won’t go away. I think about frustration at work a lot.

  5-I feel completely burned out and often wonder if I can go on. I am at the point where I may need some changes or may need to seek some sort of help.

  **Scoring Instructions:** This item often is scored as ≤2 (no symptoms of burnout) vs. ≥3 (1 or more means there are burnout symptoms).

- **Utrecht Work Engagement Scale (UWES).** The scale and manual both are available in the hyper-linked document. The UWES is the engagement scale used in most academic research. While Gallup’s Q12 is focused more on the preconditions that contribute to high motivation, the UWES measures the energetic state that results from supportive conditions. The 9-item version of the UWES scales appears in the hyper-linked document and is set out below, to which participants respond on a scale from 0-Never to 6-Always.

  □ At my work, I feel bursting with energy.

  □ At my job, I feel strong and vigorous.

  □ I am enthusiastic about my job.

  □ My job inspires me.

  □ When I get up in the morning, I feel like going to work.

  □ I feel happy when I am working intensely.

  □ I am proud on the work that I do.

  □ I am immersed in my work.

  □ I get carried away when I’m working.

**Work Engagement**

- **Gallup’s Q12.** This is a popular, copyrighted measure. You can view the items in a Gallup report discussing the measure. The “Q12” asks 12 questions covering concepts like: job satisfaction; clear work expectations; a purpose or mission that imbues work with importance; adequate resources to perform the work; opportunities to use strengths and to learn, grow, and develop; supervisors who care, provide recognition, and discuss progress; co-workers who value quality; meaningful opportunities to give input; and a close friendship with someone.

**Overall Well-Being**

- **Workplace PERMA Profiler.** In his popular book *Flourish*, Dr. Martin Seligman—the founder of positive psychology—defined human flourishing as made up of six dimensions: Positive Emotions,
Engagement, Relationships, and Achievement (which form the acronym “PERMA”). The Workplace PERMA Profiler was created and validated to measure the PERMA factors in the workplace.

- **Subjective Well-Being (SWB)** is the most frequently-used measure of overall well-being or “happiness.” An SWB score typically is computed by creating a composite measure of (1) the Satisfaction with Life Scale (SWLS) and (2) a scale that measures the ratio of positive to negative emotions. The composite score is calculated like this: SWLS + (positive emotions - negative emotions). Higher SWB is associated with many benefits—including better psychological and physical health and occupational success. SWB was the measure of happiness used in a recent lawyer well-being study that measured factors contributing to the happiness of thousands of practicing lawyers.

The first component of SWB is the Satisfaction with Life Scale (SWLS). The second component of SWB is a measure of the ratio of positive to negative emotions, such as the Scale of Positive and Negative Experience (SPANE). Both scales are free to use so long as credit is given to the authors. Because negative emotions are much stronger than positive ones, it’s important to intentionally foster positive emotions to maintain a healthy “positivity ratio” of about 3:1 positive to negative emotions. A tendency toward positive emotions (called a Positive Emotional Style) is associated with psychological and physical health as well as occupational success and effective leadership.

- **The Wellness Assessment** is another overall well-being measure that asks for your perceived progress on your best life in terms of important relationships, community where you live, occupation, physical health and wellness, emotional and psychological well-being, and economic situation.

**Resilience**

There’s no standard definition or measure of resilience and many scales are available—some of which require payment of a licensing fee. You can find a discussion of various options on the Positive Psychology Program website.

- **Brief Resilience Scale.** This is a 6-item measure of resilience.

**Meaningful Work**

**Work and Meaning Inventory (WAMI).** The WAMI is a common survey for measuring the experience of meaningful work. It is free to use for noncommercial research and educational purposes without permission. Research shows that the experience of meaningfulness is associated with physical and mental health and is the biggest driver of work engagement.

**Optimism**

Much evidence reflects that optimism is associated with physical and psychological health. There are two primary ways that optimism is measured:

- **Life Orientation Scale-Revised.** This scale measures trait or dispositional optimism. It measures your habits of thought when facing obstacles or considering the future.

- **Attributional Style Questionnaire (ASQ)** (aka Explanatory Style Questionnaire). This assessment measures explanatory style, which are your habits of thought when attributing the causes of good and bad events. It is the optimism measured used by research by positive psychology founder Dr. Martin Seligman and discussed in his popular book Learned Optimism. It can be found in the Questionnaire Center of University of Pennsylvania’s Authentic Happiness website. There is some evidence that lawyers tend to have a pessimistic explanatory style, which is associated with depression.
LEADERSHIP

• **Transformational Leadership.** Transformational leadership is by far the most-studied leadership theory in the academic leadership literature. A common measure of transformational leadership is the *Multifactor Leadership Questionnaire*. It’s copyrighted and users must pay a licensing fee.

• **Leader-Member Exchange (LMX).** LMX also is a popular leadership theory that focuses on the quality of relationships between leaders and followers. This measure is freely available for non-commercial research and educational purposes without seeking permission. It can be found in this [article about LMX](#) that also describes the scale.

• **Leader Development Plan Template.** Claremont Graduate University’s LeadLabs website offers a free [leader development plan template](#). It’s an automated template that walks you through an exercise to identify your leadership strengths and goals.

INCIVILITY

**Workplace Incivility Scale.** This scale was developed by one of the leading experts in workplace civility, Dr. Lilia Cortina. The scale is contained in the research article available through the hyper-link and its 12 items are reprinted below:

During the PAST YEAR, were you ever in a situation in which any of your supervisors or co-workers:

• Paid little attention to your statements or showed little interest in your opinions.

• Doubted your judgment on a matter over which you had responsibility.

• Gave you hostile looks, stares, or sneers.

• Addressed you in unprofessional terms, either publicly or privately.

• Interrupted or “spoke over” you.

• Rated you lower than you deserved on an evaluation.

• Yelled, shouted, or swore at you.

• Made insulting or disrespectful remarks about you.

• Ignored you or failed to speak to you (e.g., gave you “the silent treatment”).

• Accused you of incompetence.

• Targeted you with anger outbursts or “temper tantrums.”

• Made jokes at your expense.
RESOURCES FOR CREATING & DEVELOPING WELL-BEING COMMITTEES

- The *Manual for Well-Being Ambassadors* and slide deck that the American Psychiatric Association created for the medical profession.

- The Government of South Australia’s (GOSA) *Workplace Health and Wellbeing Toolkit: Step by Step Guide to Developing a Successful Workplace Program*. The Guide provides a framework for starting and sustaining well-being initiatives. The website also includes links to a variety of templates, fact sheets, and other tools.

- The National Academy of Medicine’s Action Collaborative on Clinician Well-Being and Resilience *Knowledge Hub*.

- A *Wellness Toolbox* created for medical residency programs to provide practical steps to create a culture that emphasizes full wellness.

- The American Medical Association’s *Five Steps to Create a Wellness Culture*.

- *Work and Well-Being Toolkit for Physicians* prepared by University of Colorado’s Behavioral Health and Wellness Program.

- Globoforce’s *Ten-Step Guide to Working More Human*.

- *The Wellness Network for Law*, Collection of resources related to lawyer well-being provided by an Australian-based group.

- *Patrick Krill Strategies* Website. Patrick Krill, who led the 2016 study on lawyer mental health and substance abuse, is the leading expert on such disorders in the legal profession. His website provides resources relating to those topics.

- *Guarding Minds at Work*. In 2013, Canada adopted the National Standard of Canada for Psychological Health and Safety in the Workplace—a set of voluntary guidelines, tools, and resources to guide organizations in promoting mental health and preventing psychological harm at work. Its website collects resources to support the Standard.


SMART PHONE & ONLINE APPS

- *Headspace*: A popular meditation app.


- *Calm*: Mindfulness and meditation app.


- *Stand Up!* Work break timer app. Prompts you to stand up according to a schedule you customize.

- *Happy Tapper Gratitude Journal*: Gratitude App

- *Mental Health Apps*. The number of mental health-related apps is growing, including those targeting depression. A number of articles have tracked the trend and studies of effectiveness, such as:
  - Smart phone apps can reduce depression.
  - New apps designed to reduce depression, anxiety as easily as checking your phone.
  - Use and effectiveness of mobile apps for depression.

- *Cognitive Reframing Training*. *Mood Gym* is a subscription-based online application created by academics to teach cognitive reframing—a key to mental health and resilience. Mood Gym has been recommended by a scholar studying resident well-being in hospitals, and other applications like this are becoming increasingly available.
BOOK RECOMMENDATIONS

**Lawyer-Specific Well-Being Books**

Anne Brafford, *Positive Professionals: Creating High-Performing, Profitable Firms Through The Science of Engagement*

Heidi Brown, *The Introverted Lawyer: A Seven Step Journey Toward Authentically Empowered Advocacy*

Kevin Chandler, *The Lawyer’s Light: Daily Meditations for Growth and Recovery*


Andrew N. Elowitt & Marcia Watson Wasserman, *Lawyers as Managers: How to be a Champion for Your Firm and Employees*

Amiram Elwork, *Stress Management For Lawyers: How To Increase Personal & Professional Satisfaction In The Law*

Stewart Levine (Editor), *The Best Lawyer You Can Be* (compilation of chapters on lawyer well-being from multiple authors), forthcoming 2018

Michael F. Melcher, *The Creative Lawyer: A Practical Guide to Authentic Professional Satisfaction*

Rebecca Nerison, *Lawyer Anger and Anxiety: Dealing with the Stresses of the Legal Profession*

Hallie Neuman Love & Nathalie Martin, *Yoga For Lawyers: Mind-Body Techniques to Feel Better All The Time*

Scott L. Rogers, *The Six-Minute Solution: A Mindfulness Primer for Lawyers*

**Well-Being Books—General Audience**

Shirzad Chamine, *Positive Intelligence: Why Only 20% of Teams and Individuals Achieve Their True Potential*

Cary Cooper and colleagues, *Resilience for Success: A Resource for Managers and Organizations*

Carol S. Dweck, *Mindset: The New Psychology of Success*

Daniel Goleman & Richard Davidson, *Altered Traits*

Adam Grant, *Give and Take: Why Helping Others Drives Our Success*

Robert Kegan & Lisa Laskow Lahey, *Immunity to Change: How to Overcome It and Unlock the Potential in Yourself and Your Organization*

Alex Korb, *The Upward Spiral: Using Neuroscience to Reverse the Course of Depression, One Small Change at a Time*

Sonja Lyubomirsky, *The How of Happiness: A New Approach to Getting the Life You Want*

Cal Newport, *Deep Work: Rules for Focused Success in a Distracted World*


Christine Porath, *Mastering Civility: A Manifesto for the Workplace*


Tom Rath, *Are You Fully Charged?*

Tom Rath, *Eat Move Sleep: How Small Choices Lead to Big Changes*

Karen Reivich & Andrew Shatte, *The Resilience Factor*

Martin E. P. Seligman, *Learned Optimism: How to Change Your Mind and Your Life*

Emily Esfahani Smith, *The Power of Meaning: Finding Fulfillment in a World Obsessed with Happiness*

Chade-Meng Tan, *Search Inside Yourself*

Caroline Webb, *How to Have a Good Day*

Paul J. Zak, *Trust Factor: The Science of Creating High-Performance Companies*
Below is a list of organizations focused on lawyer well-being that can partner with legal employers on their well-being initiatives. They can provide or recommend qualified speakers and provide other support and resources.

**ABA CoLAP & State Lawyer Assistance Programs**

The ABA’s Commission on Lawyer Assistance Programs (CoLAP) provides support to people in the legal profession who are confronting alcoholism, substance use disorders, or mental health issues. It carries out its mission by supporting the work of state and local Lawyer Assistance Programs (LAPs) that provide hands-on services and support to those in need. CoLAP and LAPs offer a variety of resources, guidance, and speakers— including on lawyer wellness topics, such as clinical substance abuse, mental health issues, and wellness and stress management for lawyers. CoLAP’s website includes a directory so that legal employers can locate their local LAPs. Additionally, CoLAP hosts a Speakers Bureau Directory, which is another source to locate speakers on wellness topics.

To make it even easier to contact your local LAP, the Well-Being Partner Appendix at the end of the Toolkit provides a list of Directors or other leaders of the state LAPs whom you can contact for support with your well-being initiatives.

**ABA LP Attorney Well-Being Committee**

The mission of the ABA Law Practice Division’s Attorney Well-Being Committee is to help the legal profession thrive by providing resources, education, and leadership on well-being-related topics. Contact: Anne Brafford, abrafford@aspire.legal.

**Dave Nee Foundation**

The Dave Nee Foundation works to prevent suicide in the legal profession by educating law students/lawyers about depression, its prevalence in the legal profession, and the availability and effectiveness of treatment. Contact: info@daveneefoundation.org.

**Mindfulness in Law Society**

The Mindfulness in Law Society (MILS) is an education and support hub for mindfulness in the legal profession, bringing together lawyers, law students, faculty, judges, and other legal professionals across the nation, and supporting their interests in mindful lawyering. MILS offers and shares programming, resources and networking opportunities. Contact: Richard Reuben, Contact: ReubenMindfulness@gmail.com.

**Stanford Law School Wellness Project**

The goal of the Stanford Law School Wellness Project is to help respond to the explosion of interest in wellness at law schools and in the greater legal community. The Project launched a website to share ideas, teaching materials, articles and announcements. The Project also includes The WellnessCast, which is a podcast on well-being related topics.

**State Bar Well-Being Committees**

A number of state bars have launched lawyer well-being initiatives, including South Carolina and Georgia. Even for legal employers outside these states, the Committees’ websites may provide useful materials and ideas.

**South Carolina Attorney Wellness Committee**

The SC Attorney Wellness Committee was launched in 2014 in an effort to address serious issues confronting members of the legal profession. Its aim is to help lawyers achieve total wellness: mentally, physically, and socially. The Committee started the “Living Above the Bar” wellness initiative and website, which included activities and wellness resources.

**Georgia Attorney Wellness Task Force**

The Task Force seeks to study and promote lawyer wellness programs by identifying factors that impact the physical and emotional well-being of attorneys. It started the “Lawyers Living Well” initiative and
website, which included activities and wellness resources.

**Berkley Law Mindfulness Program**

The Berkley Law Mindfulness in Legal Education Program provides a website with mindfulness-related resources for teaching and practicing mindfulness in the legal profession.

Do You Recommend Other Well-Being Partners?

Please Let Us Know!

Contact: abrafford@aspire.legal
Below is a list of consultants, speakers, and professional coaches to aid your well-being initiatives. Many on the list are lawyers, and all have credentials or significant professional experience outside of practicing law. The list is provided as one resource for legal employers looking for collaborators. It is not offered as an “ABA-endorsed” list. The people on the list are either in my own personal network or were recommended to me by someone I know. Many other candidates clearly are available, and I encourage additional recommendations. No negative inferences should be made by the exclusion of anyone from this list. Also, all should be vetted according to your regular procedures for ensuring high-quality, reliable content.

**Debra Austin, JD, PhD**

Debra Austin is a Professor of the Practice at University of Denver Sturm College of Law. She writes and speaks about how neuroscience and psychology research can improve law student and lawyer well-being and performance. Her papers are available online. Contact: daustin@law.du.edu.

**Lisle Baker, LLB, MAPP**

Lisle Baker, a professor at Suffolk Law School in Boston, focuses on incorporating positive psychology into the law school classroom and practice of law. In 2017, he launched a Suffolk Law Positive Psychology Conference to provide an annual forum for professors, experts, and practitioners to share ideas. Contact: lbaker@suffolk.edu.

**Jonathan A. Beitner, JD, CPC In Progress**

Jonathan Beitner is a practicing Senior Associate in a large law firm who is completing his professional coaching certification. He speaks and writes on topics related to attorney well-being, including mindfulness, fostering positivity/optimism, taking the anxiety out of networking, and breaking through procrastination. Contact: jbeitner@jenner.com.

**Robin Belleau, JD, LCPC**

Robin Belleau is a Licensed Clinical Professional Counselor and former criminal defense litigator. She speaks on the topics of substance abuse, mental health, and well-being in the legal profession. Contact: rbelleau@illinoislap.org.

**Dan Bowling, JD, MAPP**

Dan Bowling is a former practicing lawyer and current law professor who focuses on the positive aspects of law practice and the importance of using one’s strengths. He teaches and researches on this topic at Duke Law School and has written and spoken extensively on the topic. Contact: dabowling@gmail.com.

**Anne Brafford, JD, MAPP, PhD In Progress**

Anne Brafford, a former Big Law partner, is an author, speaker, and researcher. She focuses on the many aspects of law firm culture that boost engagement and well-being and avoid burnout, such as meaning and purpose, positive leadership, high-quality motivation, resilience, work-life balance, organizational practices and leadership behaviors that contribute to depression and burnout, and more. She also can provide organizational development and statistical analysis services for well-being initiatives. Contact: abrafford@aspire.legal.

**Heidi K. Brown, JD**

Heidi Brown is an Associate Professor of Law at Brooklyn Law School. She is the author of *The Introverted Lawyer* and champions the power of quiet individuals to be impactful advocates, in their authentic voices. Heidi illuminates the gifts that introverted, shy, and socially anxious individuals offer the legal profession, and seeks to help amplify their advocacy voices in an authentic manner Contact: heidi.brown@brooklaw.edu.
**Bree Buchanan, MSF, JD**

Bree Buchanan is a Co-Chair of the National Task Force on Lawyer Well-Being, Chair of the ABA Commission on Lawyers Assistance Programs (CoLAP), and Director of the Texas Lawyers Assistance Program. Bree is a former litigator, law professor, and lobbyist who now dedicates her life to promotion of well-being in the legal profession. Contact: bree.buchanan@texasbar.com.

**Jeffrey H. Bunn, JD**

Jeffrey Bunn, a retired long-time business litigator and mediator, is the owner of The Mindful Law Coaching & Consulting Group. As part of his advocacy for incorporating meditation into the law firm business model, he speaks about mindfulness in the legal workplace, the business case for mindfulness, and measuring success of mindfulness practice. Contact: jbunnlaw@gmail.com.

**Shannon Callahan, JD, CPC (Pending)**

Shannon Callahan is a member of the Advisory Committee to the Lawyers Assistance Program Board Vice Chair of the Illinois Task Force on Lawyer Well-being. She does individual and group coaching; speaks on mindfulness through training with Mindfulness Based Stress Reduction (MBSR); and speaks on growth mindset, grit, self-compassion, resilience, goal-setting, and wellness. Contact: Scallahan@seyfarth.com.

**Chelsy A. Castro, JD, MA MSW, LCSW**

Chelsy A. Castro is an attorney, psychotherapist, and author who speaks to lawyers, judges, and law students on stress-management techniques, success strategies for high-achievers under pressure, mindfulness, substance abuse, mental health, and wellbeing. Contact: ccastro@illinoislap.org.

**Jeena Cho, JD**

Jeena Cho, a practicing lawyer, consults and speaks with lawyers about using mindfulness and meditation to reduce stress and enhance resilience. She co-authored *The Anxious Lawyer: An 8-Week Guide to a Joyful and Satisfying Law Practice Through Mindfulness and Meditation*. Contact: hello@jeenacho.com.

**Judi Cohen, JD**

Judi Cohen is a Lecturer at Berkeley Law and the founder of Warrior One LLC, a provider of continuing legal education focused exclusively on mindfulness training for the legal mind. Warrior One offers in-person trainings in-house and for firms, government, and public interest attorneys; and on-demand for individuals and licensed to law firms and legal organizations. Contact: judi@warriorone.com.

**Andrew Cohn, JD, MA**

Andrew Cohn, a professional coach, trainer, and consultant, focuses on wellness and achievement, including clearer thinking, improved decision-making, and alignment among project/work teams. He uses a variety of tools and assessments, as well as principles of Aikido both on and off the mat. Contact: andrew@lighhthousteams.com.

**Brian Cuban, JD**

Brian Cuban is a practicing attorney, author, and addiction recovery advocate. The younger brother of Dallas Mavericks owner and entrepreneur Mark Cuban, Brian has been in long-term recovery from alcohol, cocaine, and bulimia since 2007. He is the author of *The Addicted Lawyer, Tales of The Bar, Booze, Blow, & Redemption*. Contact: brian@briancuban.com.

**Sharon F. Danzger, CFA, CLU, ChFC, MAPP (Pending)**

Through corporate training programs and one-on-one coaching, Sharon Danzger teaches individuals to be more productive, healthier and happier. Using evidence-based, practical strategies, clients are able to build daily habits that enable them to make
the best use of their time while reducing stress and improving overall well-being. Sharon is the author of *Super Productive: 120 Strategies to Do More and Stress Less*. Contact: Sharon@ControlChaos.org.

**STEWART I. DONALDSON, PhD**

Stewart Donaldson is a Professor of Psychology and Community & Global Health at Claremont Graduate University and the Executive Director of the Claremont Evaluation Center (CEC). His focus includes program evaluation, health promotion and disease prevention, positive psychology, and organizational development. Stewart and the CEC can provide support to organizations interested in evaluating the effectiveness of well-being initiatives, including evaluation and statistical analysis services. Contact: stewart.donaldson@cgu.edu.

**STACEY DOUGAN, JD, LLM, MS, APC, NCC**

Stacey Dougan is a lawyer-turned-therapist who helps attorneys and law students align their needs and values with their personal and professional roles and responsibilities. As a writer, speaker, and consultant, Stacey also works with bar associations, law firms, and law schools to promote wellbeing in the legal profession. Contact: Stacey@workbestconsulting.com.

**SEAN DOYLE, JD, MAPP**

John “Sean” Doyle, J.D., MAPP, is General Counsel for a broadband provider and has taught psychology at North Carolina State University for a decade. Sean works with lawyers on enhancing their effectiveness and increasing their sense of meaning and joy. His book, *Mud and Dreams*, is a series of essays about overcoming hardships and falling deeper in love with life. Contact: www.JohnSeanDoyle.com, LiveFully@JohnSeanDoyle.com.

**ANDREW ELOWITT, JD, MBA, PCC**

Andrew Elowitt is a speaker, consultant, coach, and author focusing on emotional, social and conversational intelligence; soft skills; and related topics. Titles of past presentation include: Maintaining Peak Performance by Managing Energy & Stress Rather than Time; Developing Competence with Interpersonal Conflicts; Working With Difficult People; Stress is Not Your Enemy; Growing Beyond Perfectionism; and Forget About Balance – How About Work-Life Integration? He is the author of the ABA book *Lawyers as Managers*. Contact: elowitt@newactions.com.

**TAL FAGIN, JD, CLC**

Tal Fagin is a former practicing lawyer and certified life coach. Her clients are successful people who, despite their many achievements, tend to feel perpetually dissatisfied. They often are looking for “something more,” whether that be in their personal relationships, careers, or health. Tal works together with her clients to devise effective strategies for healthier, happier, more balanced living. Contact: tal@talfusion.net.

**JEFFREY FORTGANG, PhD**

Jeffrey Fortgang is a licensed psychologist and alcohol/drug counselor with a PhD in Clinical Psychology who provides counseling services to lawyers. He also speaks and writes on these topics and is co-author of the ABA book *The Full Weight of the Law: How Legal Professionals Can Recognize and Rebound from Depression*, which focuses on how law students and lawyers can recognize, sometimes avoid, and even rebound from depression. Contact: drjeff@lclma.org.

**SARAH CAMPBELL FOWLER, MAPP**

Sarah Campbell Fowler is a presenter and coach who uses her background in positive psychology and resilience to help clients combat counterproductive thinking, manage stress, increase well-being, develop leadership skills, and strengthen relationships. She has developed a series of short videos focused on resilience skills and positive psychology specifically for lawyers. Sarah earned a Master of Applied Positive Psychology from the University of
Pennsylvania and has completed her certification in Leadership Coaching from Georgetown University. Contact: sarah@sarahcfowler.com.

**Samantha Golkin, JD, LLM, MAPP**

Samantha Golkin, a practicing lawyer, is a breast cancer survivor who regularly speaks on topics related to the connection between stress, rigorous work environments, and health. Her focus is on how professionals can incorporate positive behaviors in a high-stress profession to improve well-being and positively affect overall health. Contact: sgolkin@samanthagolkin.com.

**Megan Grandinetti, JD**

Megan Grandinetti is a certified health coach, yoga teacher and (non-practicing) attorney. Megan works with her coaching clients on stress reduction, work-life balance, career transition, and holistic health. She often interweaves meditation, breath-work, and other tools from her extensive yoga training into her coaching sessions and speaking engagements. Contact: megan.grandinetti@gmail.com.

**Terry Harrell, JD, LCSW, MAC, LCAC**

Terry Harrell was appointed by 2017-2018 ABA President Hilarie Bass as the Chair of the ABA Working Group to Advance Well-Being in the Legal Profession. She also is a member of the National Task Force on Lawyer Well-Being and the Director of the Indiana Judges and Lawyers Assistance Program. Terry combines her experience as therapist and a lawyer when speaking on topics such as lawyer well-being, resilience, and happiness. Contact: terry.harrell@courts.in.gov.

**Milana Hogan, EdD**

Milana Hogan focuses on the non-cognitive traits—like grit, growth mindset orientation, and resilience—that have been shown to be predictors of long-term, successful careers in the law, particularly for women lawyers. She is one of the co-creators of the ABA Commission on Women in the Profession’s Grit Project, which offers practical tools for women to assess, develop and strengthen these traits. She is the author of the ABA book *Grit, The Secret To Advancement: Stories of Successful Women Lawyers*. Contact: hoganm@sullcrom.com.

**Michael Hoeppner**

Michael Hoeppner is president of GK Training and Communications, which trains lawyers to access their most genuine, authentic selves as communicators. He uses performance techniques and kinesthetic learning tools to help clients transform their breathing, anxiety reflex, and stress response to handle high-consequence communication situations with grace and ease. Contact: Mhoeppner@gktandc.com.

**John F. Hollway, JD, MAPP (pending)**

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Do You Have A Well-being Speaker Or Consultant To Recommend?

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WHAT IS THE WORKBOOK?

In the following pages, you’ll find Well-Being Worksheets that provide hands-on activities, guidelines, reminders, and the like to help boost well-being. The Worksheets can be used by individual lawyers or collectively as part of legal employers’ well-being initiatives.

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How To Be Happier? Make it a Priority
Contribute by: Anne Brafford, JD, MAPP, PhD In Progress
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While genetics play a role in our patterns of happiness, our biology doesn’t have to be our destiny. Much about our genetic makeup is malleable. Also, our life circumstances and factors within our voluntary control play a big role in our level of happiness (Lyubomirsky et al., 2005). This is good news. It means that even those born with a genetic tendency for gloominess have an opportunity to take control over factors that can significantly increase their well-being.

Happiness Is Worth The Effort

Most of us would like more happiness in our busy lives, and science shows that it’s worth making an effort. People with a Positive Emotional Style (PES)—who tend toward positive emotions—are more resilient, healthier, and happier. Among other things, they have fewer symptoms of anxiety and depression; live longer; have better immune systems, cardiovascular health, and pulmonary functioning; and have higher life and work satisfaction (Brafford, 2017). Science suggests that creating a personal Happiness Plan can contribute to our health and success.

Prioritize Positivity

When designing your own Happiness Plan, you’ll want to keep in mind that, for evolutionary reasons, bad is stronger than good: Negative emotions are much stronger than positive ones. We’re hardwired to react more strongly to bad things. As a result, we’re not likely to feel happy (and experience the related beneficial effects) unless our positive emotions outweigh bad ones.

To feel happy, shoot for a ratio 3-5:1. In other words, try to offset every negative experience with three to five positive ones. This is not to say that we should strive to eliminate negative emotion (which would be impossible anyway!). Negative emotions are useful. They let us know, for example, when we need to make important changes and often accompany early stages of growth activities. But if negative emotions dominate our lives, our health and well-being will suffer. Especially if you experience a high frequency of negative emotions as a regular part of your work (as lawyers often do), you may need to consciously seek out good things to restore your equilibrium after something bad happens. No one said happiness didn’t require some work!

But be aware that pursuing happiness for its own sake can backfire and make us less happy. The best strategy is to deliberately plan daily opportunities that can lead to naturally-occurring positive emotions (Datsu & King, 2016). Focus on the journey, not the destination. The benefits are greater positive emotions and well-being.

Choose High-Value Happiness Activities

Not all activities that trigger short-term positive emotions contribute equally to our long-term happiness. Scarfing down an entire pizza with extra cheese, for example, may give me a jolt of temporary pleasure, but it’s unlikely to do much for my long-term well-being. Activities that will give the biggest boost to our health and happiness are those that support our basic needs as continually-evolving...
human beings. The challenge will be to figure out how to include more activities that support these needs into your everyday life. It won’t happen by accident.

✓ **Connection & Belonging.** We humans have a fundamental need to connect and belong. This includes supportive relationships as well as a sense of belonging or fit with groups we care about. A sizable body of inter-disciplinary research shows that this need is powerful and pervasive. It can help or harm our cognitive processes, emotional patterns, behaviors, and health and well-being. A poor sense of belonging and feelings of exclusion can trigger self-defeating behaviors like procrastination, lethargy, and depression.

✓ **Mastery Activities.** Our fundamental needs also include feeling confident in our ability to master new skills and to have an impact on our environment. Continuous learning and a growing sense of mastery in activities that are significant to us are keys to this source of well-being.

✓ **Maximize Autonomy.** A third fundamental need is driven by a basic human desire to be “self-creating” and under self-rule. It’s about feeling authentic and like the author and architect of our own behavior—that our behavior aligns with our interests and values and is within our responsibility and control.

✓ **Help Others.** Research also suggests that we have a basic need to feel that we’re benefiting others or the common good.

✓ **Do Something Meaningful.** We often waste our scarce free time by mindlessly watching TV, paging through gossip magazines, reading click-bait on the Internet, or perusing social media. These don’t contribute much to our sense of meaningfulness in our lives or work—which research shows is powerfully related to health and happiness. Meaningful activities include those that make us feel that we’re doing something significant within your own values system and/or that help us make progress toward goals or a general purpose.

**Plan & Track Your Progress**

It may seem counter-intuitive but, like anything worth doing, increasing happiness will take effort and planning. Below are suggested steps to get started on your Happiness Plan:

1. **Learn Your Behavior Patterns.** Much of our behavior is so automatic that it occurs outside of our awareness and as a matter of habit. To begin to change our patterns to boost well-being, we need to gain better awareness of them. A good way to do so is to create an Activity and Mood Monitoring Chart. For a week or more, complete an activity log (sort of like your billable time log) on an hour-to-hour basis. Write down brief statements of what you are doing each hour (Addis & Martell, 2004).

2. **Learn Associated Moods.** Next, for each activity, write down a few words that describe how you felt during the activity. Words might include, for example, happy, joyful, passionate, angry, anxious, or sad. Rate each emotion on a scale of 1 to 10, with 10 being the most intense (Addis & Martell, 2004).

3. **Review What You Noticed.** After you’ve created your logs for a week, review them and identify patterns. Did your moods vary or not? Are there common times of the day that are more difficult or easier for you? Are there situations that routinely make you happy or are associated with negative emotions? (Addis & Martell, 2004).

4. **Identify Behaviors That Have Positive/Negative Impact.** Next, review your logs and identify what activities or behaviors made you feel bad on a regular basis. Consider what alternatives you may have that can make you feel better or improve the situation. Also identify activities and behaviors that regularly boosted your mood. Consider why that was so and how you can increase those ingredients in your daily schedule.
5. Create a Schedule of Mood-Boosting Activities. After looking over the behaviors, activities, and alternatives from Step 4, create a daily log for the upcoming week in which you schedule doable activities that may help you avoid negative experiences and increase positive ones. Also try to choose high-value happiness activities that are most likely to have the biggest positive impact:

- How can you connect more frequently with people who give you energy? How can you foster a greater sense of belonging inside of work and in non-work activities? What can you do to contribute to others’ sense of connection and belonging?

- What can you do to support your need for continual learning and mastery—both inside work and in non-work activities? How can you help others do the same?

- How can you more effectively plan your schedule and activities so that you feel that they are more aligned with your own interests and choices? How can you reduce feeling that you’re being “bossed around” by your schedule and others’ demands? How can you help support others’ autonomy?

- What can you do each day or each week to support others or the common good? How can you highlight for others how their contributions have helped you, clients, or others?

- How might you foster a greater sense of meaningfulness in your work and non-work life? What can you do to ensure that meaningful activities are prioritized over mindless activities? How can you help others feel a greater sense of meaning?

Start relatively small so that you can ensure early wins that will fuel your motivation to keep at it. As you pick up momentum, you can increase the difficulty of your goals and begin designing realistically ideal days that are filled with more positive experiences.

6. Adopt a Mindset of Curiosity. As you progress through these steps, do so with an experimental (not a judgmental) mindset. Notice how you feel and whether your plan is working or not. No matter what the outcome, you’re likely to learn something useful. Keep trying new experiments to discover what works best for you.

7. Periodically Measure Your Happiness. To test whether your Happiness Plan is working, consider measuring your level of happiness with a validated scale. To get a base line, take a happiness survey before you launch your Happiness Plan. Then repeat the survey in six-week intervals and keep track of your results. You might find your happiness levels perking up!

One good measure to use is Subjective Well-Being, which is discussed in the Assessments section of the Toolkit. It measures life satisfaction and your balance of positive to negative emotions. It has been linked to many positive well-being consequences.

If you’re experiencing depressive symptoms, you might also decide to use a depression scale to track your progress—such as the CES-D Scale discussed in the Assessment section. The recommendation here to prioritize positivity is similar to what’s called “behavioral activation.” This is a cognitive behavioral-based strategy for overcoming depression and other mental health difficulties that’s been used effectively as part of self-help programs and in conjunction with clinical therapy (Addis & Martell, 2004). The strategy
involves identifying one’s values and scheduling daily activities to better align with those values. To learn how to take a structured approach to behavioral activation, Drs. Michael Addis and Christopher Martell’s award-winning workbook *Overcoming Depression One Step at a Time* guides readers through helpful exercises.

**CONCLUSION**

As the above reflects, for many of us, making up our minds to be happier and healthier by prioritizing positivity is likely to have the intended results. Fellow lawyer Abraham Lincoln appears to have had it about right when he said, “Folks are usually about as happy as they make up their minds to be.”

**REFERENCES**


PERMA is a theory of well-being developed by Dr. Martin E.P. Seligman and includes the following five dimensions: Positive emotions, Engagement, Relationships, Meaning, and Achievement (also called Accomplishment). According to Dr. Seligman, people thrive or flourish when they prioritize all of these dimensions. While Dr. Seligman has not formally added “health” to his theory, my colleagues and I think it is an indispensable aspect of well-being.

**Instructions For Part 1:**

Answer the questions below and then assign a value for each category, for a total of 40 points (your “PERMA-H Score”).

**Positive Emotion:** What positive emotions do you experience regularly? What activities facilitate those emotions?

VALUE: _______

**Engagement:** What activities cause you to lose track of time and make you feel like you’re “in the zone’’?

VALUE: _______

**Relationships:** Who are the people at work and home who most contribute to your sense of well-being? Who makes you feel the most authentic?

VALUE: __________

**Meaning:** What contributes to your sense of meaning and purpose?

VALUE: _____

**Achievement:** What activity types drive you? What does achievement mean to you?

VALUE: ______

**Health:** Burnout prevention requires self-care. How do you re-charge your batteries at work and outside work? What prevents you from fostering good self-care habits?

VALUE: _______

**Instructions for Part 2:**

**Step 1.** Create a PERMA-H Score that represents how you feel when you’re at your best.

**Step 2.** Now create a second PERMA-H Score for how you feel on a typical day.

**Step 3.** What are the similarities and differences?

(The PERMA model was created by Dr. Martin E.P. Seligman. Thanks to my colleague Gretchen Pisano for introducing me to the concept of creating a formula.)
Because how you think about yourself and everything around you is more important to your happiness than your actual objective circumstances, increasing your attention to all the good things in your life can significantly enhance your happiness. Multiple studies have shown the positive power of gratitude (e.g., Emmons & McCullough, 2003; Lyubomirsky, Sheldon et al., 2005; Sheldon & Lyubomirsky, 2006). People who are consistently grateful are happier, more energetic, and less depressed, anxious, and envious (Lyubomirsky, 2008).

**Three Good Things**

One well-tested activity is to take time once a week to write down three or more things for which you’re grateful. Studies have shown that people who do this activity for six weeks markedly increase their happiness (Lyubomirsky, Sheldon et al., 2005). But it’s also important to vary your gratitude activities so that you don’t get bored. The good effects can wear off if you do the same activity all the time. Below is a list of different gratitude activities for you to try. Pick one day each week to do your gratitude activity—e.g., Thankful Thursdays. And then pick an activity. Try one for three or more weeks and then switch to another.

**Gratitude Journal**

Once a week, think about everything—large and small—for which you are thankful (e.g., got called on in class and was prepared, roommate made a delicious dinner, tulips are blooming). Think about things you’re good at, advantages you’ve had, people who care about you and have touched your life. Then pick three to five things and write a brief note about them. Try out a gratitude journal website or smart phone app (e.g., My Gratitude Journal by Happytapper), which will send you regular reminders.

**Appreciative Art**

Engage in something artistic to express your gratitude to another. Draw or paint a picture, make a collage, sculpt with clay, etc. Or write a poem, a song, or a story. Studies indicate that art-creation boosts mood (Dalebroux, Goldstein, & Winner, 2008). Evidence suggests that art-making that depicted something happy was more effective at improving short-term mood than using art to vent negative emotions (Dalebroux et al., 2008).

Evidence also indicates that a variety of different art-making activities (e.g., drawing, painting, collage-making, clay work, etc.) may reduce anxiety (Sandmire, Gorham, Rankin & Grimm, 2012). So, engaging in an appreciative art activity may give you benefits both from artistic engagement and from your grateful thinking.
**Gratitude Photo Collage**

Taking and sharing “selfies” is popular, but try this too: For a week, keep a look-out for every-day things for which you’re grateful (e.g., your dog, a warm garage in winter, dinner with friends, your baby sister) and take photos of them. At the end of the week, post them all on your favorite social networking website with fun notes. Research shows that sharing good things with others (the more the better) actually increases your enjoyment of them (Gable & Reis, 2004; Gable & Gosnell, 2011). So share your photos with friends and explain why they represent something for which you’re grateful.

**Gratitude Letter**

Think about the people for whom you feel grateful—a family member, old friends, a special teacher or coach, a good boss. Write a letter expressing your gratitude and, if you can, visit that person and read it aloud or call them on the phone. Describe in detail what they did for you and how they affected your life. You might even write a letter to people who are helpful everyday but whom you don’t know—e.g., postal carrier, garbage removers, bus drivers, politicians, authors. You might also choose to write a letter but then not deliver it.

One study showed that participants who spent 15 minutes writing gratitude letters once a week over an eight-week period became happier during and after the study (Lyubomirsky, 2008). Check out this fun [video from Soul Pancake](#) showing real-life results from the gratitude letter activity.

**Gratitude Jar**

Designate a jar or other container as the Gratitude Jar and invite others to drop notes in whenever someone does something helpful. Then read the notes aloud once a week. Use this activity with your roommates, classmates, family, team members, work colleagues—any group that spends significant time together.

**References**


Scientific studies have shown that doing acts of kindness for others is not just helpful to them, it’s also good for your own well-being (Lyubomirsky, et al., 2005). There are a number of ways to maximize your happiness from acts of kindness:

**BURSTS OF KINDNESS**

People typically get a bigger boost to their happiness when they do a bunch of smaller acts of kindness or one big act of kindness all on one day rather than spread out over a week (Lyubomirsky, et al., 2005). So consider adopting “Friendly Fridays” (or whatever day of the week you like) to shower those around you with kindness.

**YOU CHOOSE**

Your acts of kindness should be things you choose and not too disruptive to your life (Della Porta, 2012).

**AIM FOR VARIETY & NOVELTY**

Variety is important. Shake it up so that you don’t get bored. You’re more likely to sustain the benefits of doing acts of kindness when you vary your activities (Lyubomirsky & Layous, 2013). Also, your acts of kindness should be new and outside of your routine activities.

**KEEP A KINDNESS JOURNAL**

Record your planned acts of kindnesses and reflect on the experience. There’s evidence that counting your own acts of kindness contributes to increases in happiness (Otake et al., 2006).

**BE MINDFUL**

Do your kindness activities mindfully. Put yourself in the other persons’ shoes and consider the impact of your actions on their lives (Lyubomirsky, 2007).

**DO SECRET ACTS**

Remember that acts of kindness are not all about receiving approval and admiration. Consider doing at least one act of kindness per week anonymously. Giving for kindness’ sake can reap tremendous rewards.

**BE AUTHENTIC**

Acts of kindnesses can be big or small. What is important is that they be a part of your kindness intention. You’ll want to design activities that feel authentic for you.

### 44 ACTS OF KINDNESS TO DO FOR YOUR BOSSES, COLLEAGUES, STAFF, & CLIENTS

“No act of kindness, no matter how small, is ever wasted.” —Aesop

1. Offer to help them with a difficult project or meet a tight deadline.
2. Tell them why you appreciate them.
3. Be a cheerleader for their ideas.
4. Share your expertise with them.
5. Do great work that’s ready to go and requires little more from them.
6. Send them flowers.
7. Bring their favorite kind of coffee from their favorite coffee shop.

8. Assume their good intentions.

9. Make sure they know why their work matters and how it benefits others.

10. Admit to them when you’re wrong.

11. Invite them to lunch.

12. Put your phone away when you’re with them.

13. Tell them thank you.

14. Cheer them up after disappointments.

15. Write, make, or buy something to provide encouragement when they’re experiencing difficulties.

16. Praise them to others.

17. Really be present and listen to them without interrupting.

18. Learn something new about them.

19. Look for opportunities to make helpful introductions.

20. Celebrate their accomplishments.

21. Help them before they ask.

22. If they’re overwhelmed with personal or work challenges, ask if you can help in some way.

23. Forward articles that may interest them.

24. Allow them to help you.

25. Pass along useful information.

26. Buy them a book that you know they’ll love.

27. Leave positive sticky notes on their computers.

28. Scout for reasons to compliment them. Shoot for three people a day.

29. Give them a “care package” when they’re preparing for trial, participating in a deal closing, etc.

30. Send them greeting cards on holidays.

31. Notice and note their progress on something important to them.

32. Compliment a good presentation, high-quality meeting, contribution on a call.

33. When you open your inbox each day, make the first email you write a compliment, note of support or appreciation, or other positive jolt.

34. Sneak into their offices and leave them candy or other treats.

35. Get to know them as people, remember the details, and follow up on them.

36. Don’t gossip or talk negatively about them.

37. Make them laugh.

38. Celebrate their birthdays by making them cards and a cake.

39. If they blog or publish online, read, comment, circulate, and encourage others to do the same.

40. Create a spreadsheet that includes their likes (e.g., simple things like favorite candy, favorite drink, favorite snack, etc.) and use it regularly.
WORKSHEET # 4

41. Share credit with them.

42. Learn and use their names.

43. Start meetings by inviting them to share “what’s going well”?

44. Be their “wing man.” Find out their strengths and accomplishments and share them with others at conferences, meetings, networking events, retreats, etc.

**PAY SPECIAL ATTENTION TO NEWCOMERS**

Getting started as a new lawyer or even starting at a new place of work is stressful, so try to pay special attention to newcomers when doing at your acts of kindness:

- Invite them to networking events and “shepherd” them through.
- Recommend professional associations for them to join.
- Drop by their offices and say hello.
- Make introductions—to peers, staff, leaders, clients, insiders, etc.
- Invite them to attend hearings, meetings, etc. with you.
- Offer to observe them in a hearing, deposition, call, etc., and provide feedback.
- Mentor them.
- Give guidance on developing their reputation.
- Help them learn the firm’s “political” ropes.
- Praise them to higher-ups and insiders.
- Leave a “welcome” greeting card signed by everyone on the team/department/office.
- Tell them all the great reasons they were hired.
- Leave a note saying, “We’re glad you’re here!”
- Take a strengths assessment together and share ideas about using those strengths at work.
- Discuss their goals and how you can support them.

**REFERENCES**


Psychological Capital (PsyCap) – the powerful combination of our resilience, optimism, hope, and confidence – helps us to keep our competitive edge while managing the stress of lawyering. Research links high levels of PsyCap with better job performance, a greater ability to overcome obstacles, higher job satisfaction, and elevated well-being (Avey, Reichard, Luthans, & Mhatre, 2011; Luthans, Youssef-Morgan, & Avolio, 2015).

PsyCap can be thought of as positive mental strength and flexibility. It can be developed by building these four mental capacities:

- **Resilience**: Being able to cope, sustain, and bounce back to attain success when challenge strikes.
- **Optimism**: Having a positive expectation about your ability to meet challenges and succeed now and in the future.
- **Hope**: Having the ambition to persevere toward goals and, when necessary, to change direction to reach goals in order to succeed.
- **Confidence (or Self-efficacy)**: Having the belief you can successfully take on and put in the necessary effort to succeed at challenging tasks.

While each of these capacities individually contributes to our positive mental strength, when combined and used together they become stronger than the sum of their parts.

This worksheet will help you build each PsyCap capacity by having you work through a real-life adversity. You will identify new ways to look at your issue and challenge basic assumptions you might have about your ability to overcome it. Then, you will take an inventory of the resources you have to help you successfully resolve the problem and use your critical thinking skills to see if you’ve overlooked anything. Finally, you will set a S.M.A.R.T. goal, devise multiple ways to reach it, and anticipate ways to overcome any obstacles to your success.

**STEP 1:**
Describe a challenging situation that is not going as well as you would like.

**STEP 2:**
Reflect on your mindset.
Take a minute to understand the nature of your mindset when the situation first occurred, and you initially assessed the risk. How did you respond? Were you energized and ready to rise to the challenge? Or, were you overwhelmed? Defeated? Something else?
**WORKSHEET # 5**

**STEP 3:**

Frame the situation again in terms of its actual impact.

A. What is the real risk? Is this risk something in or out of your control? What are your options? Is it possible your initial mindset colored your first assessment?

B. Are there any different ways to look at the situation that will allow you more options or control over your success? [Note: if you get stuck, it can help to get a colleague’s viewpoint. They might see it differently than you.]

**STEP 4:**

Identify helpful skills and resources. [Note: these can include your knowledge, work ethic, legal skills, colleague networks, ideas from others, finances, creativity, past experience, and the like.]

A. List the skills and resources you have used to respond to the challenge.

B. Are there other resources available you haven’t considered?

**STEP 5:**

Set a goal that is directly related to overcoming your challenge.

A. Write down your goal using S.M.A.R.T. criteria – Specific, Measurable, Attainable, Relevant, and Timely. [Note: pick a goal you want to achieve rather than avoid.]

B. Break your goal into manageable small steps and list them in sequential order.

**STEP 6:**

Identify multiple ways to goal accomplishment.

A. Write down all the paths you can think of that could realistically lead you to reaching your goal.

B. For each path make a list of the skills and resources you will need.

**STEP 7:**

Identify and plan ways to overcome potential obstacles.

A. List the obstacles that could get in the way of each path you identified in Step 6.

B. List how you can deal with each of these obstacles. Are there ways around them? Be specific.

**STEP 8:**

Take time to visualize your success.

Set aside 10 minutes every day to think through the steps of this worksheet and visualize your success. Really get into it. See each step with as much detail as possible. Imagine using your resources to navigate the different paths toward your goal with you confidently getting around any obstacles in your way. Then, visualize yourself reaching your goal and imagine celebrating your win!

**REFERENCES**


RESOURCES

Contributed by Anne Brafford

Reading Recommendations

• Martha Knudson, Building Attorney Resources: Helping New Lawyers Succeed Through Psychological Capital
• Fred Luthans, Carolyn M. Youssef-Morgan, & Bruce J. Avolio, Psychological Capital and Beyond
• Martin Seligman, Learned Optimism
• Karen Reivich & Andrew Shatte, The Resilience Factor
• Shirzad Chamine, Positive Intelligence: Why Only 20% of Teams and Individuals Achieve Their True Potential
• Russ Harris & Steven Hayes, The Confidence Gap: A Guide to Overcoming Fear & Self-Doubt
• Louisa Jewell, Wire Your Brain for Confidence: The Science of Conquering Self-Doubt
• Katty Kay & Claire Shipman, The Confidence Code: The Science and Art of Self-Assurance--What Women Should Know
• Amy Cuddy, Presence: Bringing Your Boldest Self To Your Biggest Challenges
• Carol S. Dweck, Mindset: The New Psychology of Success
• Cary Cooper, Jill Flint-Taylor, & Michael Pearn, Building Resilience for Success: A Resources for Managers and Organization
Lawyers spend years learning, and then practicing how to “think like a lawyer.” Professionally, lawyers are responsible for doing all of the due diligence in a matter, analyzing what could go wrong in a situation and steering their clients away from negative impact. That’s important when lawyers are engaged in the practice of law; however, when lawyers practice looking at issues through such a pessimistic, rigid lens 12-14 hours a day, that thinking style becomes harder to turn off when it’s not needed. Ultimately, it can undercut leadership capabilities, interactions with clients, colleagues, and family and cloud the way life is viewed generally.

This skill will help you think more flexibly about stressful situations.

**STEP 1:**
Think of a situation you are struggling with or frustrated about, and write it in the space below:

_______________________________________________
_______________________________________________
_______________________________________________
_______________________________________________

**STEP 2: LIST…**

The aspects of the situation you can control or influence:

_______________________________________________
_______________________________________________
_______________________________________________
_______________________________________________
_______________________________________________
_______________________________________________
_______________________________________________
_______________________________________________

The aspects of the situation you can’t control or need to accept:

_______________________________________________
_______________________________________________
_______________________________________________
_______________________________________________
_______________________________________________
_______________________________________________
_______________________________________________
_______________________________________________

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The specific action steps you can take to make the situation better:

________________________________________________
________________________________________________
________________________________________________
________________________________________________
________________________________________________
________________________________________________
________________________________________________

*(Based on the work of Drs. Martin Seligman, Karen Reivich, & colleagues).*

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**RESOURCES**

*Contributed by Anne Brafford*

**Book Recommendations**

- Martin Seligman, *Learned Optimism*
- Karen Reivich & Andrew Shatte, *The Resilience Factor*
- Shirzad Chamine, *Positive Intelligence: Why Only 20% of Teams and Individuals Achieve Their True Potential*
- Kelly McGonigal, *The Upside of Stress*

**Videos**

- Kelly McGonigal, *How to make stress your friend* (www.TED.com)

**Web Resources**

- www.happify.com
- www.superbetter.com
- **Mood Gym** is a subscription-based online application created by academics to teach cognitive reframing—a key to mental health and resilience.

**Smart Phone Apps**

- A growing number of smart phone apps are available to teach cognitive reframing and other psychological tools to manage stress and reduce depression and anxiety. Examples include *Pacifica, Betterhelp, and Ginger.io.*
Meditation has become enormously popular, and with good reason: it’s great for you. Research shows that meditation can reduce stress and anxiety [1], increase resilience and well-being [2], develop emotional intelligence [3], boost focus [4], enhance cognitive flexibility [5], and improve physical health [6].

**Meditation: Why & How**

Here’s one way to understand meditation: **It is the practice of learning to stay in the present moment and out of our heads.** We spend so much time wrapped up in worries, fears, plans, and memories. When we untangle ourselves from those mental stories and rest in the present moment, we discover a refreshing calm and simplicity. The simple, present-moment awareness we cultivate through meditation has a name you may have heard before: mindfulness.

Here’s a simple, powerful meditation technique you can try (a video version available here):

1. **Sit down:** Find a comfortable seated posture that lets you maintain a straight, unsupported spine. The simplest way is to sit in a chair, with both feet on the floor and your hands on your thighs. For detailed instructions on meditation posture, see this video.

2. **Find your anchor:** Bring your attention to the sensation of air passing through your nostrils as you breathe. That sensation will help anchor you in the present moment.

3. **Rest attention on the anchor:** Rest your attention on the breath at the nostrils. Form the gentle intention simply to observe the flow of sensation at that spot. As you do this, there’s no need to deliberately control your breath. If the rhythm of your breath changes on its own, that’s fine.

4. **When the attention wanders, notice that and return:** Eventually, you’ll get distracted. Not only is that okay, it’s supposed to happen. Just notice that the attention has wandered and then gently escort it back to the breath at the nostrils — back to the present.

Some final thoughts on meditation:

Meditation is often soothing and enjoyable... but not always. Like most things worth doing, meditation will sometimes challenge you. It can be agitating or uncomfortable on occasion. It can even stir up...
difficult thoughts, emotions, or memories. These experiences are a normal part of the process and are actually useful learning opportunities. I hope you’ll embrace the challenge and growth it brings.

One last tip: **Meditating regularly is more important than sitting for a long time.** Even a few minutes a day can bring real benefits. The Tibetan meditation masters say, “Short sessions, many times.”

**Mindfulness & Anxiety**

Anxiety isn’t fun, but it’s totally normal — everyone experiences it. Luckily, there are simple ways to work with anxiety so that it’s less of a problem. To use these strategies effectively, it’s helpful first to understand how anxiety arises and grows.

The root of anxiety is avoidance. We feed anxiety whenever we avoid uncomfortable feelings, thoughts, and situations. Because anxiety itself is uncomfortable, we avoid it when it appears, which makes the anxiety worse, which triggers more avoidance, and so on. It’s a vicious circle.

However, there’s good news: avoidance is a reflex we can unlearn. Through mindfulness practice, we can experience discomfort without fighting or flinching away. In doing so, we deprive anxiety of its fuel source.

Here are some mindfulness practices that can help when you’re feeling anxious:

**The Mindful Pause**

This technique takes about 30 seconds. You can do it sitting, standing, or lying down. Your eyes can be open or closed. The practice is quick and discreet, so you can do it almost anywhere. It has four steps:

(Video version available here.)

1. **Take a deep breath.**

   Take a slow inhale and exhale. Fill your lungs all the way, but really take your time doing it.

2. **Turn toward your body.**

   Turn your attention toward the sensations in your body. Whatever comes up, just notice it: warmth, pressure, itching, tickling, aching, etc. There’s no need to evaluate the sensations as “good” or “bad.” Itching is just itching. Coolness is just coolness.

   If you notice sensations that seem related to anxiety, those are particularly good to turn toward. You’re developing the skill of observing those sensations without resisting, condemning, or judging them.

   This step can be as quick as one in-breath or out-breath.

3. **Rest your attention on your breath.**

   Pay attention to the sensation of air passing through your nostrils as you breathe. This is the same technique as the meditation practice we explored earlier.

   Just like the previous step, this step needn’t take longer than one in-breath or one out-breath.

4. **Carry on with your life!**

   The last step of the mindful pause is simply to re-engage with the world, without hurry. Don’t lunge for your phone or speed off to your next activity. Move at a leisurely pace.

**Floating Noting**

Like the Mindful Pause, floating noting works by helping you turn toward your present-moment experience instead of avoiding it. However, it’s a bit more comprehensive and less bite-sized. Once again, you don’t need to adopt a special posture or even find a quiet place. Here’s how you do it:

(Video version available here.)

- **Let your attention float freely.** As your attention drifts, various sights, sounds, sensations, and thoughts may grab your attention and take center stage in your awareness.
As this happens, just (1) notice whatever stands out in awareness and (2) give it a light mental label.

To keep the labeling simple, we’ll use categories: “seeing” for sights, “hearing” for sounds, “feeling” for physical sensations, and “thinking” for anything that arises in the mind.

As new objects arise in awareness, just continue noting whatever is most prominent.

Let’s say the sound of a passing car draws your attention. You just label the experience “hearing.” Then a thought arises — maybe something about a client matter you’re working on. Instead of getting caught up in the thought, you label it “thinking.” The thought then triggers a hollow sensation in your stomach, which you label “feeling.”

Even difficult experiences become less overwhelming when you break them down in this way. An anxious sensation or a worried thought is less of a problem when you just notice it, label it, and move on.

Here are a few practice tips:

Find a nice, steady rhythm for your noting. Personally, I find that noting once every couple of seconds feels good. I advise against noting more quickly than that. Fast noting can produce unpleasant side effects and is best done under a teacher’s supervision.

If you’re somewhere private, you can note out loud. It helps you stay focused and present. It can even bring you into a pleasant sort of “flow state.”

If the same object stands out in your awareness for a while, just keep noting it: “hearing... hearing... hearing...”

If multiple objects stand out at once, and you don’t know which one to label, just pick one.

If you have no idea what to label in a given moment, you can just notice that uncertainty and label it “don’t know.”

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Contributed by Anne Brafford

Book Recommendations
- Rick Hanson, Buddha’s Brain
- Daniel Goleman & Richard Davidson, Altered Traits: Science Reveal How Meditation Changes Your Mind, Brain, & Body
- Cal Newport: Deep Work

Videos
- Andy Puddicombe, All It Takes Is 10 Mindful Minutes (www.TED.com)

Web Resources
- Mindfulness-Based Stress Reduction (MBSR) is a well-established, meditation-based stress management program developed by Prof. Jon Kabat Zinn. MBSR resources are widely available and some can be found here.

Smart Phone Apps
- Headspace: Among the most popular meditation apps.
- 10% Happier: Meditation for Fidgety Skeptics. A popular meditation app.
Raising Awareness of Emotions

A lack of awareness of emotions (our own and others’) is on average the greatest emotional intelligence (EI) deficit in lawyers. Emotional awareness gives us the data we need to spot and then solve emotional problems which if unaddressed can sabotage our productivity and our mental and physical health.

Here are some suggestions aimed at helping us gain greater awareness of emotions. Remember that changing an old habit or establishing a new one usually takes at least three weeks of hard work, and sometimes longer, so don’t despair if you don’t see immediate results. Persistence will pay off.

1. Take an EI Assessment. A number of EI assessments can give you good information about your personal strengths and challenges. The major ones, such as the MSCEIT, EQi 2.0, and ECSI, take approximately 40 minutes to complete, charge a fee, and often include professional feedback to help you understand your results. While there are plenty of free assessments, and some may give you some useful information, for the most part they are not reliable indicators of your emotional intelligence.

2. Profit from Performance and Client Reviews. These are ideal venues to better understand how well others think you handle your own emotions and how well you read others’ emotional cues. Remember that perception is reality. Regardless of your intentions, if others are misunderstanding your reactions or you are misunderstanding theirs, it’s time for a concerted effort at raising your emotional awareness by following some of these suggestions.

3. Chart Your Emotions. The Yale Center for Emotional Intelligence recommends making a chart on a regular basis of how you feel. The Yale Mood Meter app—which features a four-quadrant chart with two axes: energy and pleasantness—can be downloaded to easily record your feelings.

   You can set your phone to alarm on whatever schedule you prefer—every hour, every meal, or once or twice a day—and record where in the four quadrants your mood at that moment fits, creating a visual map of your moods for that day, week, and month. The point is not to change or like your moods, but to faithfully become aware of what you feel on those two dimensions.

4. Build Your Emotional Vocabulary. As you check in with your emotions, try to be more specific about what you’re feeling so you can build a more extensive vocabulary. After placing the emotion within one of the four quadrants mentioned above, then identify its degree of intensity—slight to severe, and give that feeling a more nuanced name, like melancholy or annoyance instead of sadness, contentment or joy instead of pleasantness.

5. Pay Attention to Your Body. Paying attention to your body goes hand-in-hand with building your vocabulary. Identifying the physical sensations that go along with whatever you are feeling can help distinguish emotions. Are you hot or cold, tense or relaxed? Do you have sensations in your head or your chest? As an example, you might recognize...
that “This feels disturbing, a little hot and makes me feel somewhat aggressive and energized but doesn’t make me lose control. This might be the feeling of frustration.”

6. Get a Coach, Mentor or EI Buddy. Coaching and mentoring are two reliable, institutional, and interactive methods that legal workplaces often employ that can help raise your emotional awareness, and which you can arrange even if your firm or department doesn’t offer them.

Even if you don’t have access to, or the time/money/patience for, a mentoring or coaching relationship, find a “high EI buddy”—preferably someone who knows your workplace and/or the players involved or works in a similar environment and whose interpersonal skills you admire—to see if he or she agrees on your take on your own emotions or your reading of others’ emotional cues. The person could be your spouse, your relative, a friend, or a colleague. Ideally, this is someone who often sees things differently than you do and also seems to move in and out of difficult situations with aplomb. Describe a situation and ask for his or her assessment of what the various players’ body language, words and tones might mean, and how best to proceed.

7. Practice Mindfulness. Practicing mindfulness allows us to make enough room mentally to detach from our emotions long enough to identify them. It also gives us a short “vacation” from the stress of emotional turmoil so we can hopefully view our emotional landscape from a refreshed vantage point.

8. Try a Screen Vacation. Research indicates that putting away the devices for even a few days and interacting socially with others can significantly raise your emotional perception skills.

LEARNING TO REGISTER OTHERS’ EMOTIONS

Although all the above suggestions can help fine-tune your awareness of others’ emotions as well as your own, these suggestions specifically help to more accurately read others’ emotional cues.

1. Ask. Here’s a low-tech suggestion: if you’re not sure what emotion another person is experiencing, ask! You can say “it looks like you are [insert emotion here—angry, pleased, defiant, etc.]; is that correct?” or you can simply ask what/how he or she is feeling.

2. Train Yourself. Paul Ekman found we can improve our ability to recognize other’s emotions by systematically studying facial expressions and has produced a number of training programs to help train how to read various facial cues in different settings.

3. Take the Silent Route. Watching movies on mute (a good way to spend time on an airplane) is an excellent method to build your emotion reading skills. Try to understand the action by the facial expressions and body language—you can turn on the sound periodically to verify or redirect your take.

4. Mimic Facial Expressions. Our mirror neurons can convey to us the feelings of someone else by our replicating their outward expressions. If contorting your face in a meeting is a no-go, at least think consciously about their specific expressions in trying to understand what they feel.

5. Play A Videogame. The GSL Studios game Crystals of Kaydor could help your child or the child in you develop skill in reading nonverbal emotional cues. In it, an advanced robot that crash lands on an alien planet helps the natives solve problems by interpreting their body language and nonverbal cues.

RAISING EMOTIONAL MANAGEMENT

Learning to recognize emotional signals will give you a major leg up in the emotional management trenches, where most problem solving resides. Once you register the emotions at play, you don’t want to automatically default to old emotional regulation strategies—like suppression and rumination, which are common to lawyers—that are not constructive and can even be counterproductive.

Here are some suggestions to improve how you manage your emotions.
1. Take a Deep Breath. Daniel Goleman heralds the importance of signaling a slowdown to your brain and your body by taking a deep oxygen-filled breath before taking any important actions.

2. Accept Your Thoughts and Emotions. Acceptance does not mean resigning yourself to negativity but responding to your emotions with an open attitude—letting yourself experience them without jumping to behavioral conclusions, a danger for those of us high in a sense of urgency. This acceptance can bring relief, but it won’t necessarily make you feel good. In fact, you may realize just how upset you really are. It is still a good place to start in order to achieve better emotional and behavioral management.

3. Count Yourself Down. It’s true what your mother said—sometimes simply counting to ten works well to clear your mind for a better emotional response. It allows time for the rational brain to engage and survey the situation. Consciously asking questions or attempting to analyze the problem can also delay and help redirect a habitual emotional response to a more rationally engaged one.

4. Walk It Off. Taking a walk outdoors has been demonstrated to improve mental functioning and positive well-being, and is a particularly good antidote to brooding, rumination, and depression. But the walk has to be outside in a natural setting, not on asphalt in an urban setting.

5. Change Your Self-Talk. How we talk to ourselves can also help us manage our emotions. Telling ourselves repetitively our angry aggravations or negative predictions will not help us make good emotional management decisions. Reframing our internal dialogue away from entrenched pessimism is a way to build a new response. Get in the habit of marshaling credible counterarguments against that internal voice predicting doom and gloom and blaming it all on you.

6. Practice Mindfulness Meditation. In addition to helping us identify our emotions, practicing mindfulness allows us to learn how to slow ourselves down from automatically reacting and give ourselves time to choose better responses.

7. Download a Game or an App. The GLS Studios game Tenacity focuses on learning self-regulation by maintaining attention and calm when serene scenes are bombarded with various distractions—a plane flying by, animals running past. Stanford University’s Calming Technology Lab is developing devices that help you respond to strong emotions, such as a belt that can detect breathing and connects to an app that helps calm you when you’re feeling emotionally out of control.

LEGAL EMPLOYERS’ CHECKLIST FOR RAISING EMOTIONAL INTELLIGENCE

- Include emotional intelligence (EI) assessments either before or after hiring. These can be full blown EI assessments or, what is more likely at least in applications, questions that can elicit an applicant’s EI skills, like the questions Dartmouth College’s Tufts School of Business has added to its applications and recommendations asking about a student’s ability to interact well with others in challenging circumstances. Assessments given after hiring can help guide young lawyers to their most
successful position and give them a base against which to measure improvements.

- **Offer well-educated mentors, coaches and/or confidential counselors.** To achieve their best performance, lawyers need to be keenly aware of how they come off to their clients and colleagues and also how to handle professional challenges. Well-educated mentors and/or professional coaches and counselors who have the confidence of their charges, can listen well and can give honest but sensitive and confidential advice will make valuable improvements in your organization’s performance.

- **Provide EI development as part of your professional development programs.** Emotional intelligence is unquestionably trainable, and lawyers—in a highly personal service industry where they regularly face severe stress—can benefit from better understanding their own and others’ emotions. That understanding will improve their client service skills and their personal functioning.

- **Add specific EI-related features to performance reviews.** Including discussions in performance reviews of collegiality, collaboration and teamwork helps spotlight their importance and promotes developing those skills.

- **Reward EI skills.** Show that you go beyond simple lip service to valuing EI skills by giving recognition, promotions and bonuses to high achievers.

**References**

There is something in your life you would really like to do next, but you are not feeling confident about it, so you avoid it? Do you have something coming up in your life that you are anxious about, and you want to raise your level of confidence about it? Next time you are feeling particularly low in confidence about something you need to undertake, ask yourself these questions. (Or ask a trusted colleague to ask you them.) These questions are helpful when helping others boost their confidence too.

First, recall a time when you were successful at doing that particular thing in the past (or doing something similar). Then ask yourself: What was key to my success? What did I do then that made me successful? How did I manage to do that? What is one thing I did then that I am not doing now?

1. Considering what I am embarking on now, what is already going well? What small successes have I had so far?
2. How can I do more of what is already going well?
3. How have I managed to get this far?
4. What does that tell me about myself?
5. What have I done in the past that might help me now?
6. What personal qualities and strengths do I have that will help me be successful?
7. What ideas do I have for solving this?
8. Who can help me with this?
9. Who would have a different perspective on this?

Take some time with these questions and try to recall your past experiences. When you realize you have done this same endeavor successfully in the past, you will quickly shift into believing you can do it again. If you haven’t done exactly the same thing, contemplate similar parts of the experience that you mastered in the past. (For example, many years ago, I was asked to deliver my first ever keynote address. I had already delivered numerous workshops, but never a keynote. I was not feeling confident about it.


After asking myself the questions above, I realized that I had actually mastered many keynote skills in all my years of workshop delivery. Taking the leap to keynote deliveries no longer seemed as daunting. I worked on the gaps to improve my skills and my confidence shot up again.

The other questions also get you thinking about the progress you have already made with this accomplishment, rather than your shortcomings. This gets you thinking about everything that is already working in your favor, and you will experience a boost in confidence. Once you have asked yourself the questions above and are feeling a shift in your confidence, ask yourself this important question: What is one small step I can take to get myself closer to my goal? Commit to taking that step.

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To get started on this activity, you’ll first need to identify your strengths by taking the values in action (VIA) Survey. The VIA Survey measures 24 character strengths. The results are simply a rank order of your own strengths. Your results are not compared to others. Also, the survey doesn’t measure which strengths you value the most; it measures the strengths that you report as most often showing up in your actions and thoughts. It’s an effective way to identify your own strengths, which you then can use to spur your thinking about how to use those strengths more and in new ways to improve your and others’ happiness.

The VIA is based on the VIA Classification, which resulted from an extensive 3-year research project. Researchers explored the best thinking from all over the world on virtue and positive human qualities in philosophy, virtue ethics, moral education, psychology, and theology over the past 2500 years.

**VIA Classifications**

Six core themes emerged, which were found across religions, cultures, nations, and belief systems. These “virtues” were subdivided into 24 universal character strengths:

**Wisdom:** Creativity, curiosity, judgment/open-mindedness, love of learning, & perspective

**Courage:** Bravery, perseverance, honesty

**Justice:** Teamwork, fairness, & leadership

**Humanity:** Love, kindness, & social intelligence

**Temperance:** Forgiveness, humility, prudence, & self-regulation

**Transcendence:** Appreciation of beauty & excellence, gratitude, hope, humor, spirituality, & zest

Character strengths are stable, universal personality traits that show themselves in how you think, feel, and behave. They are considered to be the basic building blocks of human flourishing. They are not fixed; they can be developed. Most people likely can enhance their capacity for expressing each of the 24 character strengths.

“Signature strengths” are your top character strengths that really resonate with you and feel like they are at the core of who you are (Peterson, 2006).

**INTERPRETING THE VIA REPORT**

- The VIA report is about your strengths. It doesn’t measure weaknesses or problems. So, lower strengths still are strengths.
- The VIA Survey measures your view of yourself, not facts about your character. The results are broad brushstrokes. So don’t sweat the details.

**WHY USE YOUR SIGNATURE STRENGTHS?**

Studies show that using your signature strengths more or in new ways can improve well-being.

- Regularly using strengths is linked to work satisfaction and engagement at work, lower turnover, greater psychological well-being, less stress, goal achievement, and lower depression levels as much as 6 months after participating.
in a strengths-based exercise (Biswas-Diener, Kashdan, & Gurpal, 2012).

• Two of the most important predictors of employee retention and satisfaction are: Reporting use of your top strengths at work and that your immediate supervisor recognizes your top strengths.

• Character strengths buffer people from the negative effects of vulnerabilities (e.g., perfectionism and need for approval) and play an important role in depression recovery.

• As you learn more about your 24 strengths, you can begin to develop your competence in using them all in the right proportion that each situation calls for. This can improve your interpersonal effectiveness and other aspects of personal performance and sense of well-being (Biswas-Diener, Kashdan, & Gurpal, 2012).

**Put Your Strengths into Action**

Now that you’ve identified your character strengths and know why it’s valuable to use them, it’s time to put them into action...

Think of a specific time when you were at your best—when you really were feeling and behaving at a high level and you felt that you were being your authentic self. Describe that time.

**List Your Top Strengths**

Now, list your top strength from your VIA survey report.

Strength 1:
Strength 2:
Strength 3:
Strength 4:
Strength 5:
Strength 6:
Strength 7:

**Identify Your Signature Strengths**

Next, you’ll identify your signature strengths, which are strengths that you easily recognize in yourself, regularly exercise, and celebrate. You feel that they describe the “real me.” You have a rapid learning curve and feel joy and enthusiasm when using them (Peterson & Seligman, 2004; Seligman, 2011).

• Review your top VIA strengths and ask the following questions:

  • Is this strength the real, authentic you? Does it come naturally to you? Is it easy for you to express?

  • Do you feel more energized when you’re using this strength?

  • Would your family and friends be quick to identify this strength in you?

  • Do you use this strength frequently at home, at work, and in your social life?

  • What character strengths have you used in your past and current successes?

When you’re happiest, what strengths are you using?

**Reflecting on Your Strengths**

• What was your initial reaction to your survey results?

• Did anything from your survey results surprise you? If so, why?

• What strengths can you identify in the story of you at your best?

• Which one of your signature strengths seems most evident in your every-day life right now?

• What are examples of how you use that strength now?
**Using Your Signature Strengths**

Our work doesn’t end with identifying our strengths. Having strengths and values in the abstract is not enough to flourish. What we do makes the difference (Peterson, 2006). According to Seligman (2002) and Peterson (2006), the regular use of signature strengths—especially in service to others—cultivates well-being.

A good place to start is with a well-tested exercise in which you pick a signature strength and, for the next week, use it in a new way every day (Peterson, 2006; Seligman & Peterson, 2005).

The strengths of hope, zest, gratitude, curiosity, and love, have the strongest link to life satisfaction (Park, Peterson, & Seligman, 2004). So you might consider them as top targets if they are among your signature strengths.

For ideas on activities that incorporate your signature strengths, take the Person-Activity Fit Diagnostic test developed by Sonja Lyubomirsky (2008). You’ll likely find that such activities improve your well-being through engagement.

**Three Ways to Use Your Strengths**

What are three ways in which you can use your signature strength more or in a new way in the next three weeks to help you progress toward something important to you? For ideas, review *340 Ways to Use VIA Character Strengths* (Rashid & Anjum, 2008),

1. 

2. 

3. 

**References**


Niemiec, R. M. (2013). VIA character strengths: Research and practice (The first 10 years). In H. H. Knoop & A. Delle Fave (Eds.), Well-being and cultures: Perspectives on positive psychology (pp. 11-30). New York: Springer.


Investigating & Capitalizing on Our Introverted Strengths

Contributed by Professor Heidi K. Brown, Brooklyn Law School
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“To be yourself in a world that is constantly trying to make you something else is the greatest accomplishment.” -- Ralph Waldo Emerson

Introverts and otherwise quiet advocates are well-poised to play an influential role in the legal profession through their inherent capacities for active listening, analytical thinking, thoughtful writing, empathy, and creative problem-solving (See The Introverted Lawyer: A Seven-Step Journey Toward Authentically Empowered Advocacy, ABA 2017).

If you are a naturally quiet lawyer, this activity can help identify your natural gifts. With enhanced self-awareness, instead of trying to force extroversion to fit the “stereotypical gregarious lawyer” mold in our day-to-day lives, we can capitalize on our inherent strengths in being authentically empowered advocates.

• Listening: Are you a good listener? How do you listen? How do you physically position yourself? Where do you focus your attention? Do you maintain eye contact? How do you demonstrate to the speaker that you are listening?

• Data-gathering: Are you a good note-taker? How do you capture the thoughts of others, and your own thoughts, while others are speaking?


• Researching: When you’re researching something or trying to figure out a problem, do you dig deep? If you can’t easily find an answer, are you comfortable changing tactics and trying new research angles or sources?

• Creative thinking: Do you consider yourself a creative person? This does not necessarily mean artistic, but instead, being innovative in your thinking. Do you come up with interesting or even wild ideas for solving problems?

• Deep thinking: Are you a deep thinker? Do you find yourself wrestling with problems or concepts to figure them out?


• Choosy speech: Are you a person of few words? Do you like finding the right word to express a thought? Do you think about how to phrase your ideas before relaying them aloud? When you speak, are people sometimes surprised at how good your ideas are?
• **Negotiating:** When you negotiate, do you prefer a win-win effort, or a winner-takes-all competition?

• **Tolerating silence:** Are you comfortable with silence? Why or why not? With whom?

• **Modeling empathy:** Do you consider yourself an empathetic person? Are you able to listen to another person describe his or her experiences and understand that person’s reactions, feelings, perceptions, and choices—even if they are different from your own? How do you convey to others that you understand their feelings or emotions?

Now, try to recall specific situations in which any of the foregoing inherent traits were beneficial in solving a problem, resolving a conflict, achieving progress in a stalled situation, or counseling another person through a difficult circumstance.

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As introverts, many of us feel pressure to try to “act extroverted,” when in reality, it is our introverted assets that make us authentically powerful legal advocates. Next time you are in an interactive lawyering scenario, consider how your introverted strengths can power you through the experience in an authentic and fulfilling manner.

**References**

www.theintrovertedlawyer.com


Brown, Heidi K. The Introverted Lawyer: A Seven-Step Journey Toward Authentically Empowered Advocacy (ABA 2017) (the foregoing activity questions are found on pp. 64-66 of this book).


Overcoming Public Speaking Anxiety & Amplifying Our Authentic Lawyer Voices

Contributed by Professor Heidi K. Brown, Brooklyn Law School
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Many lawyers experience public speaking anxiety, even though the stereotypical gregarious advocate seems to be born with the gift of gab. Instead of getting down on ourselves when we experience public speaking anxiety, or forcing ourselves to “just do it!,” we can tap into our authentically empowered voices through a bit of mental and physical reflection, and then a reframed mental and physical action plan. Try this activity to amplify your advocacy voice in an authentic manner. No “faking it till we make it!” Let’s be our genuine impactful selves.

1. ENVISION THE SCENE

First, envision an interpersonal interaction, a command performance, or a public speaking scenario in the legal context. Let’s be specific: Is it a courtroom scenario? A law office interaction? A meeting with opposing counsel? A conference call? A negotiation? An argument or speech?

2. MENTAL REFLECTION

For some of us, when we anticipate nerve-wracking performance scenarios, we hear negative mental messages that can rattle us, but often we don’t know what to do with this information. In this activity, let’s listen and transcribe, so we can eventually delete the negative and re-craft some positive personal slogans.

First, what mental messages do you hear when you anticipate the lawyering scenario? What are the exact words, language, or phrases you hear? Write them down. How do those words, language, or phrases make you feel? Agitated, annoyed, nervous, angry, numb? Now, try to think back to events in your past when you experienced similar feelings and heard comparable language. Who was there? What was happening? What were their exact words, language, or phrases? Make a list of those past messages and their sources.

Now think about how much time has passed since you originally received those messages. Do any of these past messages have any relevance to your present life in the law? Can you view the original messengers in a different light, perhaps with compassion, and realize their words might have come from a place of their own fear, but have no relevance to your legal persona now? If you can, label the messages as no longer useful, and name the original sources as no longer relevant or influential in your legal persona.

3. PHYSICAL REFLECTION

Next, catalogue your body’s physical responses when anticipating the performance-oriented event. Try to notice both subtle and obvious changes in your body and record each one, as if someone is snapping photographs of each new physical response the instant it appears.

What part of your body do you feel or sense first? When you first felt the emotional kick of stress or anxiety toward the interpersonal exchange, did your physical body shift in any way? Were you sitting or standing? Did you subconsciously cross your legs? Fold your arms? Hunch or crouch lower?

4. Mental Action

Now that you have reflected on messages from the past that re-appear in the face of a future performance-oriented event, contemplate a list of new personal taglines that can help you recalibrate and take control of your thoughts. Consider these prompts:

- **I feel strongest and most like a rockstar when:** ____________________________.
  [Note: This could be weightlifting at the gym, playing the guitar, cooking, running, painting a picture, rehabilitating an abused pit bull, whatever. Be specific with the details. The point is to identify an environment in your life where you feel almost invincible. We want to bring some of that swagger into the legal context.]

- **I am really good at:** ____________________________.
  [Note: This can be completely unrelated to law. Again, we are trying to identify aspects of ourselves that showcase our strengths. Then, we bring some of that swagger into the legal context.]

- **I feel really smart when I:** ____________________________.

- **I feel really physically capable when I:** ____________________________.

- **People seem surprised when I:** ____________________________.

- **My best day was when I:** ____________________________.

- **My ideal day is when I:** ____________________________.

- **People listen to me when I talk about:** ____________________________.

- **I bring something different to the table because I:** ____________________________.

- **I am not afraid to speak to others when:** ________.

5. Create 10 Positive Slogans

Now that you have reflected on the scenarios in your life in which you feel most powerful, write out at least 10 positive personal slogans. If you need a prompt, or are not sure how to phrase them, try these:

- **I am a _______ person.**

- **I bring ____________ to the table.**

- **I care about _______________.**

- **I deserve to be treated _________________.**

- **Perfection is boring; be _____________**

- **Who cares if people can see [insert your least favorite visible physical response to stress]; I will keep talking and it will go away.**

- **Who cares if I don’t express myself perfectly; it is more important in this moment for me to be ____________.**

- **Not everyone needs to like me; ____________ likes me.**

- **This doesn’t have to go perfectly; my goal is to get through the experience, while doing the best I can while I am learning, and reminding myself that ______________.**
• I do not need to be perfect at this; this is just practice in ___________.

6. PHYSICAL ACTION

Armed with new information about how your body instinctively responds to anxiety toward a public speaking event, consider subtle changes to your physical stance and movement that can help channel your energy, blood, and oxygen flow in a productive manner. How about these:

• **Stance and Posture:** Do you have a favorite athlete? How does he or she stand when preparing to move? Most athletes stand in a balanced, open stance. Consider watching a helpful TED Talk by Professor Amy Cuddy about “power poses”—standing in a powerful pose for a few minutes before a performance event.

• **Breath:** Practice breathing to slow your heart rate.

• **Appendages:** Open your arms and hands; let that excess energy jump out of you, or direct it into a podium or desk.

• **Eye Contact:** Practice channeling excess energy out of you by projecting eye contact to various individuals around the room.

• **Voice Projection:** Practice channeling excess energy out of you by projecting your voice to the person furthest away from where you sit or stand.

• **Blushing or Sweating:** For some of us, blushing or sweating are normal bodily reactions to anxiety. Because we cannot change this instinctive reaction, we instead can embrace it. As author Erika Hillard says, “[t]o see a blush is to celebrate life’s living . . . fullness, ripeness, color, and flourishing life.” Let’s also make ourselves as physically comfortable as possible; we can wear clothing that helps us breathe!

7. PRACTICE

Identify one low-stakes performance-oriented event in the lawyering context, to practice your new Mental and Physical Action Plans. It could be a team meeting, a one-on-one meeting with a supervisor, or a phone call with opposing counsel.

8. DEVELOP A PRE-GAME & GAME-DAY STRATEGY

**Brain Pre-Game:** What substantive preparation is necessary for your first exposure event?

**Body Pre-Game:** Can you visit the exposure event location? Will you be sitting or standing? Where? What adjustments can you make to your physical stance and comportment to channel your energy, oxygen, and blood flow in a constructive manner?

**Mind Pre-Game:**

• Have you written out and reread your new positive personal taglines?

• What can you do the night before the event to minimize anxiety?

• What will you do the morning of the event to minimize anxiety?

• What will you do a half hour before the event?

• What will you do right before you enter the room?

• Visualize the exposure event space. Imagine your
entry into the room, and the chronological steps leading up to the moment you begin speaking
Anticipate the potential influx of the negative thoughts and physical responses. Rehearse halting the negative soundtrack and replacing it with your positive mental taglines. Envision physically adjusting your stance, enhancing blood, oxygen, and energy flow.

9. Apply Your Learning

- Step into the event with your new Mental and Physical Action Plans:
- Consider doing a “power pose” for a few minutes before the event
- Remind yourself that the natural mental and physical manifestations of anxiety will naturally re-appear…but we have a plan now!
- When the usual negative mental messages re-appear, apply the fire-drill mantra of “stop, drop, and roll”: Stop for a moment; greet the messages; remember that they are no longer relevant now in your lawyering life; remind yourself of your NEW mental messages;
- When the usual physical manifestations of anxiety re-appear: Stop for a moment; breathe deeply; adopt a balanced athlete’s stance (seated or standing); send excess energy out of you and into a podium or desk or into the air; make eye contact; project your voice; remember that, for some of us, blushing or sweating is just life surging through us!

10. Take Time To Reflect

After the event, reflect. What worked great? What techniques could use adjustments for next time?

11. Celebrate!

Congratulate yourself for an amazing effort!

References

www.theintrovertedlawyer.com

Brown, Heidi K. The Introverted Lawyer: A Seven-Step Journey Toward Authentically Empowered Advocacy (ABA 2017) (the foregoing activity questions are found throughout the exercises in this book).


As Esther Perel, noted psychotherapist, author and TED speaker says, “The quality of our relationships determines the quality of our lives,” so it’s about time to start talking about attorneys and their marriages and partnered-relationships. Too often these most important relationships get sacrificed or pushed to the edge of life while you are busy showing up 100% at work. It doesn’t seem right that your clients and your firm and your practice group gets the best of you, while your spouse/partner and your family gets whatever is left over, essentially “the scraps.”

So, what can you do about it? Start by being more intentional about the time you do have in these relationships. Don’t spend date nights going to see a movie, where although you’re both entertained, there is no further emotional connection being formed, no conversation whatsoever. Of course that’s okay every once and a while, but if you’re like most couples who only have date nights once a month, it’s important not to squander that time.

Be intentional. That means two things. One, put those date nights on your calendar. Ideally, every week, your relationship should have time put aside to grow together as a couple. Two, in advance, think about how you want to show up for the date — energized? tired? another thing “to do?” excited? curious? — and then do that.

The following lists contains fun date night ideas, together with fun questions and conversation starters. The key is to have fun. Don’t make date night an evening to talk about “all the things” in your relationship that need attention — kids, money, etc.. Schedule that for another time and place, and keep it out of the date night time. Date nights are for the two of you and for your relationship together. Your relationship together is the “glue” for everything else in your life. When your relationship is in a good place, everything else flows so much better, including your work.

**Fun Date Night Ideas (That Don’t Involve Alcohol):**

- Cooking Class
- Hiking
- Art Gallery Walk
- Comedy Club
- Zip-Lining
- Live Theater
- Kayaking
- Live Music
- Bowling
- Blankets and Star-Gazing
- Late Night at the Museum
- Long Walks
- Rock Climbing
- Trampoline Park
- Hotel Room
- Dance Lessons
- Arcade

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WORKSHEET # 13

- Coffee Shop and Board Games
- Any Festival
- Driving Range
- Mini-Golf
- Biking
- Random Open House Tours
- Painting Class
- Ice Skating
- Couples Massage
- Indoor Sky Diving

**Fun Conversation Starters:**

- Ask Each Other [36 Questions](#) on the Way To Love
- Download Gottman Card Decks (a smart phone app) and ask each other questions.

**Go Home And Have Sex**

Needs no further explanation. Your physical relationship is an integral part of your marriage/partner relationship. When a couple isn’t having sex or not having sex as frequently as they once did, it’s often the sign of an emotional disconnect between the partners. Rather than ignoring the distance and watching it grow across time, work to get closer. Utilize the ideas above. And sometimes, you simply need to have sex, so that you remember why you like having sex to begin with. Sex begets sex. This is good for your physical relationship, for your emotional relationship together, and for your own release of hormones and stress-relief.

**RESOURCES**

**Book Recommendations**

- Gary Chapman, *The 5 Love Languages.*
- Harville Hendrix, *Getting the Love You Want.*
- Byron Katie, *Loving What Is.*
- Kerry Patterson, *Crucial Conversations.*
- Laura Vanderkam, *Off The Clock.*

**Apps For Your Phone**

- Gottman Card Decks (Love Maps, Questions/Conversations, Resources)
- 36 Questions To Fall In Love
- Danielle LaPorte’s “Conversations”

**Podcasts to Listen To**

- Where Should We Begin (Esther Perel)
- Rise Together Podcast
- Marriage Therapy Radio
- Relationship Advice
- The Loveumentary

**Follow on IG and FB**

- @gottmaninstitute
- @estherperelofficialbetter

**Email Newsletters**

- The Marriage Minute
- Five Love Languages
Managers, Don’t Forget Your Own Well-Being

Contributed by Andrew Elowitt, JD MBA PCC
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Studies have shown that the demands and stress of legal practice take a toll on many lawyers’ mental and physical health (Krill, Johnson, & Albert 2016). For many lawyers the additional demands of being in a management position exacerbate those stresses. As other activities in this toolkit demonstrate, lawyers can build resilience and minimize the risk of burnout by developing healthy personal habits, good work-life integration, and competence in handling interpersonal conflicts.

But even managers who are genuinely concerned about the wellbeing of their firm members may overlook or underestimate the importance of looking out for their own physical and mental health. As a firm leader your wellbeing is important not only to you but to everyone else. If you’re sidelined by physical or mental health problems, firm members who depend on you for guidance and leadership may suffer as well, not to mention the impact your problems may have on your clients.

In many respects, your health and wellbeing is more important than that of other firm members. As a manager and leader, you need to set an example for others by modeling behaviors that promote wellbeing. Credibility suffers and cynicism grows when leaders don’t walk their talk and follow their own advice. How likely would you be to follow health advice from an obese doctor who smokes and drinks excessively?

At this point is should be rather obvious that whether you’re a manager or not, you need to pay attention to your own wellbeing. But you may well be asking yourself, “How on earth am I going to do that with the increased time pressures of being a manger?” It’s a great question and a real quandary. And though it may at first seem a bit counterintuitive, follow the advice of Dirty Harry Callahan from the classic movie Magnum Force—“know your limitations!”

Practices To Promote Firm Managers’ Well-being

1. Don’t Go It Alone! Your first activity may be the least visible but it’s the most important. Schedule an hour or two when you know you will have a minimum of interruptions or distractions. It can be time in or outside of your office as long as you can do a big-think and deep-think. You will ask yourself and hopefully answer four questions:
• What support do I need as the manager of my firm (or practice area head, or legal department head)?
• Who within the firm can provide me with that support?
• Who outside of the firm can provide me with support?
• How do I feel about asking for that support?

Don’t skip the last question! If you’re like a lot of lawyers, you may be hesitant to acknowledge you need support, let alone to ask for it. When compared to the general population, lawyers are far more autonomous and achievement oriented. These personality traits lead many to assume that they should, without additional training or support, be able to handle leadership and management responsibilities on their own. They worry that their peers and firm members will perceive a request for support as a sign of (gasp) weakness or (double gasp) incompetence. Nothing could be further from the truth. One of your top priorities as a manager are to set you and your firm up for success, so don’t be shy in asking for support.

The following activities and practices will improve the odds of you being an effective firm leader and manager, while at the same time reducing your stress and enhancing your wellbeing.

2. Mind Your Time. Make sure you have time to manage and lead. Time is a finite resource and no matter how efficient you are management activities take time. Running even faster on the hamster wheel is a poor strategy for improving your wellbeing. Try these instead:

• Delegate more. Every day try to delegate at least three client or administrative matters that you usually would have handled yourself. For guidelines on how and what to delegate, please refer to Chapter 6 of Lawyers as Managers (Elowitt & Wasserman, 2017, pp. 79-104). Studies show that law firm partners that delegate not only save time but also make more money (Hubbard, 2016).
• Track your energy levels. There are times of day and days of the week when we are our most focused and productive. When our energy levels are low, it takes us longer to get things done. If we can’t add hours to the clock, at least we can use those hours more productively. By tracking your energy levels you will learn the best times for you to approach items that require the most analytical skill and concentration. You may also learn that caffeinating, though widely used, is not the best or only practice for boosting your energy levels. Paying attention to your sleep, nutrition, exercise, and recreation are better and more sustainable strategies (Schwartz & McCarthy 2007).
• Manage other’s expectations of you. Don’t forget the importance of also managing the expectations of you firm, partners, and family as to how much time you can and will devote to management activities. These conversations can help prevent strife and stress down the road. Initiate discussions with your firm about adjustments to your billable hours targets, client development efforts, and compensation that reflect your added contributions as a manager.

3. Clarify Your Authority. Make sure your management authority is commensurate with your responsibilities. There are few things more frustrating than being given the responsibility to do something without also being given adequate resources and authority to accomplish it. Your authority will of course vary depending on the nature and significance of a decision. You can simplify your life and save time by sharing the following guidelines with other firm members to clarify the boundaries of your power (Elowitt & Wassermann, 2017, pp. 210-215):

✓ Who is making the decision?
  • You, as the manager?
  • You with input from one or more individuals?
Once firm stakeholders are in agreement with you about these guidelines, time is saved and wasteful firm politics are minimized. Conversations are focused where they should be—on the merits of a decision rather than on personalities. Knowing the limits of your authority will help you determine whether your decision-making authority matches your management responsibilities. If it does, great! And if it doesn’t, you can begin conversations to help bring them into congruence. Either way you will minimize your chances of feeling powerless and disengaged.

4. Commit to a Shared Vision. Make sure your firm has a clear vision, direction, and business plan. You may be wondering how doing this will enhance your wellbeing. Managing lawyers can be challenging and stressful. It has often been likened to herding cats (Richard, 2002, and Elowitt, 2018). It’s much easier to lead and manage when everyone is on the same page about a firm’s values, direction, and plans to get there. Getting agreement and alignment up front minimizes tensions and provides you with a game plan you can follow. When your “cats” all have the same goal, you will deal with fewer conflicts within your firm.

5. Develop Your Support System. Further develop your support system by reaching outside your firm. The burdens of management can feel heavy at times and it can be difficult to look to someone within your firm for support. The alternative is to look outside where there are abundant resources:

- Law practice management coaches and consultants can help you develop your skills and work through especially tough challenges.
- Managing partner roundtables are in-person or virtual groups of lawyers that meet on a regular basis to discuss management matters, share best practices, and offer mutual support.
- Bar associations offer CLE programs and webinars on a wide range of management topics. Attending them is a great way to benchmark your management skills, meet people with similar challenges, and discover the most useful law practice management blogs, websites, periodicals, and books.

Any of these three resources will help keep you from feeling lonely and isolated at the top of your firm. Several recent studies have shown that feelings of loneliness are especially prevalent among lawyers and that they threaten our physical health and wellbeing (Rubino, 2018).
REFERENCES


Wouldn’t we all love to work in law firms that bring out our best? And, as aspiring positive leaders, wouldn’t we all love to know the secrets to unleashing the best in others? Psychological science offers some helpful insights on these very questions. Of particular importance is a well-established and powerfully predictive framework of human motivation called “self-determination theory” (SDT), which forms the foundation of my book Positive Professionals. SDT identifies key ingredients that contribute to optimal performance, health, and happiness.

SDT proposes that we’re all naturally inclined toward growth and happiness and that our social surroundings facilitate or thwart our path toward optimal functioning. Our continued growth depends on whether our social conditions thwart or help meet basic psychological needs:

- **Autonomy.** This need is driven by a basic human desire to be “self-creating” and under self-rule. It’s about feeling authentic and like the author and architect of our own behavior—that our behavior aligns with our interests and values and is within our responsibility and control. It is the opposite of feeling controlled, bossed around, or guilted in to things.

- **Connection & Belonging (or “Relatedness”).** We humans have a fundamental need to connect and belong. This includes supportive relationships as well as a sense of belonging or fit with groups we care about. This need is powerful and pervasive. It can help or harm our cognitive processes, emotional patterns, behaviors, and health and well-being. Lack of belonging and feelings of exclusion can trigger self-defeating behaviors like procrastination and depression.

- **Mastery (or “Competence”).** Our fundamental needs also include feeling confident in our ability to master new skills and to have an impact on our environment. Continuous learning and a growing sense of mastery in activities that are significant to us are keys to this source of well-being.

- **Helping Others (or “Benevolence”).** Research also suggests that we have a basic need to feel that we’re benefiting others or the common good.

### Ingredients For Thriving Firms

- **Connection & Belonging**
  
  Supportive relationships and a sense of belonging or fit with groups we care about.

- **Mastery Activities**
  
  Continually learning, growing, and gaining confidence in our ability to make things happen.

- **Autonomy**
  
  Feeling that our choices are self-authored and aligned with our own preferences. The opposite of feeling controlled, forced, or guilt-driven.

- **Helping Others**
  
  Having a positive impact on others or the common good.
This may all sound fine and good but still leave you wondering if it really applies to that special breed of people called lawyers. Recent research shows that it absolutely does.

Researchers Larry Krieger (a law professor-turned-researcher) and Dr. Kennon Sheldon (a highly respected social scientist) conducted a large-scale study of 6,000 lawyers working in a wide variety of legal jobs. The study, titled *What Makes Lawyers Happy?*, asked what kinds of things in lawyers’ social surroundings contributed to their happiness.

It found that SDT needs made a huge difference in lawyers’ lives. The relationships between lawyer happiness and SDT needs was much larger than other factors in the study. For example, the positive relationship between need-fulfillment and happiness was three times as large as the relationship between income and happiness. And whether lawyers had achieved a high class rank during law school (something that so many law students stress out about) had a very small relationship with their current levels of happiness.

Supporting The Autonomy Need

All of the SDT needs are essential ingredients to thriving workplace cultures. But we need to start somewhere, and the autonomy need is a good place to start. (My book *Positive Professionals* offers strategies for fulfilling all of the needs). Leaders, colleagues, clients, and workplace policies and practices all can support or undermine our sense of autonomy.

Experiencing autonomy goes hand-in-hand with feeling respected, valued, and important. It is the experience of choosing an activity freely because it aligns with our own values, goals, and desires—it aligns with who we are. It’s not synonymous with individualism or detachment. In particular, it doesn’t mean that we must act independently from others’ desires. Instead, it’s a need to act with a sense of choice and volition, even if doing so might mean complying with the wishes of others.

Autonomy at work typically takes the form of discretion for work scheduling, decision-making, and work methods. All three forms of autonomy significantly contribute to job satisfaction and engagement, but decision-making autonomy leads the pack. Below are some strategies for fostering a culture that supports autonomy:

1. **Foster A Sense of Control**

   Autonomy is closely related to the concept of control—which affects not only engagement but also psychological health. Feeling in control of one’s own work and schedule is a well-established factor contributing to mental health. Lack of control—especially in the face of high demands—is a strong predictor of depression and burnout. A high level of responsibility with little control is a toxic combination that can destroy health and performance.

2. **Optimize Independence**

   Among the best way to support autonomy is to allow as much independence and discretion as followers’ level of experience and competence allow. We should allow people to figure things out for themselves, make their own choices as much as possible, and not hijack the project at the first sign of a wobble.

3. **Give Flexibility in Time & Place of Work**

   Flexibility in where and when followers’ do their work also helps meet their autonomy need. Technology has dramatically enhanced the potential for such flexibility, making telecommuting both feasible and desirable because it provides greater autonomy and job satisfaction.

   Many firms still have not embraced the full potential for flexibility, although some have formally adopted telecommuting policies. Some lawyers continue to frown on the practice, having long relied on “face time” in the office as a de facto measure of commitment and productivity. They worry that associates will shirk their responsibilities if allowed to work from home. In short, they don’t trust them.
Recent research should help allay these concerns. A 2015 study that crossed industries found that telecommuting did not harm workers’ performance—and, in fact, boosted it. They found that the autonomy need was at the root of the effect. Workers felt grateful for the trust and autonomy granted to them by their organizations and so reciprocated with greater energy that positively influenced their performance.

4. Frame Work-Related Communications to Respect Autonomy

When making work-related requests, leaders respect followers’ autonomy by using words of influence rather than coercion. Dwight D. Eisenhower defined motivation as “the art of getting people to do what you want them to do because they want to do it.” This is precisely what leaders do when they tailor work requests to respect autonomy.

To take Eisenhower’s advice, research shows that we should show responsiveness to others’ perspectives, avoid bossy- or coercive-sounding language, give meaningful rationales for requests, and offer opportunities for choice. For example, a junior lawyer might question the tight deadline given for a project but still act willingly and autonomously because the partner provided a meaningful rationale for it.

The opposite of an autonomy-orientated leadership style is a controlling one. Controlling leaders ignore others’ needs, interests, and feelings. To motivate followers, they use directives, threats, incentives, and deadlines. In short, they’re bossy and rely on power differentials to motivate. The result is extrinsic, low-quality motivation among followers and all the trouble that flows from that.

Research has found that, no matter what your natural tendencies, you can learn to use a more autonomy-oriented style. Below are some fairly simple research-backed behaviors that you can adopt to start championing autonomy right away:

**Autonomy-Supportive Communications**

**Behavior**

- Use language that doesn’t sound controlling or coercive. (Avoid bossiness.)
- Take followers’ perspectives and acknowledge their feelings.
- Give rationales for requests.
- Tailor motivation strategies to account for followers’ interests, preferences, work-related values, and to boost their confidence in their abilities to be effective and master new skills.
- Maximize followers’ sense of choice and self-initiation.

**Example**

- “Can you please ____? It would be really helpful if you could ____.”
- “I’m sorry about this short turn-around t. I know it’s a pain and I’m sorry about that.”
- “The client just asked for this by tomorrow.”
- “I wouldn’t ask just anyone to do this, but I know you can handle it. And the upside is that it might give you a chance to take a deposition.”
- “I know it’s getting late and it’s fine if you want to go home and work there. What time do you think is reason-able to get me a draft?”
5. Use Participatory Leadership

In participatory management styles, leaders invite others’ suggestions, solicit input, and spur open discussions for identifying new solutions. This type of leadership demonstrates that leaders value others’ opinions, contributions, and talents. When people are involved in making decisions, they feel more autonomous when carrying them out. This tactic boosts followers’ sense of meaningfulness because they feel valued and that their opinions matter. On the other hand, people who are left out of decision-making have a higher risk of burnout.

Won’t This Take More Time & Effort?

It’s true that autonomy-oriented leadership often requires investment of extra effort compared to directive or controlling styles. It can be easier to boss people around than inspire them. But research indicates that it’s worth it. It will pay off by enhancing motivation and engagement.

Autonomy-Support Checklist:

- Foster a Sense of Control
- Optimize Independence
- Give Flexibility in Time & Place
- Make Non-Controlling Requests
- Use Participatory Leadership

RESOURCES

Book Recommendations

- Anne Brafford, Positive Professionals: Creating High-Performing, Profitable Firms Through The Science of Engagement
- Liz Wiseman, Multipliers: How the Best Leaders Make Everyone Smarter
- Jane Dutton & Gretchen Spreitzer (Editors), How to Be A Positive Leader
- Daniel Pink, Drive: The Surprising Truth About What Motivates Us
- Paul J. Zak, Trust Factor: The Science of Creating High-Performance Companies
- Bruce Avolio, Leaderhip Development in The Balance
- John Mackey & Raj Sisodia, Conscious Capitalism: Liberating the Heroic Spirit of Business
Do you want to feel more healthy and energetic? Don’t we all? Physical activity can help:

- Engaging in physical activity helps build positive resources and promotes health, vibrancy, and flourishing lives (Mutrie & Faulkner, 2004).
- Physical activity, movement, and play are essential to our physical, social, emotional, cognitive well-being and for our development at every age.
- Epidemiological data and considerable research indicate that physical activity is a major factor in reducing the risk of disease and disability, and for improving our well-being.

**CALL TO ACTION**

A “critical call to action” was made at the United Nations High-Level Meeting on Physical Activity and Non-Communicable Diseases that I attended in 2011. This summit identified physical activity as “a fast-growing public health problem contributing to a variety of chronic diseases and health complications, including obesity, heart disease, diabetes, hypertension, cancer, depression and anxiety, arthritis, and osteoporosis.” Three urgent, guiding principles were articulated:

1. Exercise and physical activity are important to health and the prevention and treatment of many chronic diseases.
2. More should be done to address physical activity and exercise in different settings, including at home and at work.
3. Multi-organizational efforts to bring a greater focus on physical activity and exercise across settings are to be encouraged.

**LIFESTYLE MEDICINE**

In Spring 2018, at the inaugural American College of Lifestyle Medicine Summit, leaders in health, medicine, fitness, and well-being, joined forces. They sought to define the empirical, fast-growing science of Lifestyle Medicine. As defined, Lifestyle Medicine directly encourages:

- Healthful eating of whole plant based foods
- Developing strategies to manage stress
- Forming and maintaining positive relationships
- Improving your sleep
- Cessation of smoking
- Increasing physical activity.

The rationale is that Lifestyle Medicine not only has the power to prevent, treat, and reverse disease, but it may also contribute to real health care reform.
INFUSING PHYSICAL ACTIVITY AND PROMOTING HIGH PERFORMANCE LIVING

This worksheet offers strategies and information on how you can become more positively self-determined to infuse more physical activity, vibrant health, and positive energy into your life.

Our bodies are important to how we think, feel and behave. Vibrancy is a quality of harnessing zest, enthusiasm, and vitality. A focus on the somatopsychic, how our body impacts our mind, as well as the psychosomatic, raises our whole experience of living.

“OUR BODIES ARE IMPORTANT TO HOW WE THINK, FEEL, AND BEHAVE.”

We have the ability every day to heighten our proprioception: the amazing knowledge of our body in space. With this, we positively impact vibrant health, usually manifested in uplifted energy, confidence, and enhanced performance (Teixeira, 2012). It also feels great.

TIPS TO GET MOVING MORE AND WELL

Is there a way you can increase your motivation to move well and more at home and at work? Can you take your levels of physical activity and fun in frequency, intensity, duration, creativity and enjoyment. Here are some tips to help you get going:

1. Set Goals. Create a strategy that will set you up for success. Write down an action plan that is simple, realistic, and optimistic. Tweak it as needed and as you like. Some people like the SMART goal model: Systematic, Measurable, Action Oriented, Realistic, Timed. Think about and write your short term/long term goals.

2. Prioritize Activity. You action plan should consider how you can prioritize physical activity in your busy schedules. In the 1440 minutes of your day, give at least 30 minutes, 5-6 days per week to physical activity, especially aerobic fitness.

3. Start Small and Progress. If you’ve been inactive, find simple ways to get moving more and well. Take the stairs and frequent short walks. Gradually increase your activity to 30 minutes (non-consecutive minutes are ok), on most days. For example, start by challenging yourself to power walk for 20 minutes. As you progress, increase the intensity so that you’re working in your target heart rate zone alternating with easy and challenging intervals of walking--and, if you want, some running. Try this for 4 to 5 days per week for 8 weeks, alternating with a light, and then a more challenging day. Note your progress, and aim to mark your feelings in a journal at least once a week.

4. Straighten Up. As you get moving, remember to “posture check” yourself. Think of lifting your heart, opening up and increasing your postural awareness: Crown of the head to the sky, tall neck, rib cage lifted up, shoulders down and in, abdominals in and up, hips in alignment, knees in line with hips and ankles, good, balanced foot placement. Then give yourself a big whole hearted forward and backward hug. It’s a great stretch, feels good, and can prime your senses.
5. **Learn to Love Change.** Mixing up your routine keeps it fun, reduces the risk of overuse injuries, and boosts your skill levels. Practice Cross Training (not Cross Fit®), which incorporates a variety of activities (e.g., exercises, dance, sport, recreational moves). This activates different muscle groups, keeps training interesting, and helps reduce the risk of boredom.

6. **Pick a Partner(s).** Having trusted accountability buddies can boost adherence, motivation, and success, and research shows that being part of a group can positively impact health and well-being (Putnam, 2000). Having social support can offer us companionship, strength, and can give us a sense of purpose around our commitment to train. Start a walking club at work, walk with family members, and/or check your local community center, church, or park/recreation program for activities you might enjoy.

7. **Break a Sweat.** Incorporate aerobic movement --“the key to fitness” (Cooper, 1977)--to improve your physical, emotional, social, and neural health and protect you against non-communicable diseases (Ratey, 2008; O’Brien, 2013).

8. **Be Safe.** Create a SAFE, effective training space, even in your office, with a warm, welcoming atmosphere, encouraging positive connections (O’Brien, 2015; Peterson, 2007).

9. **No Pain, Just Gain.** Create an exercise plan that promotes injury-free health. Even in moderation, physical activity, exercise, and movement enhance positive health and well-being. You do NOT need to feel pain to get great benefits. Listen to your body’s cue, and move with good form and safety first. Avoid the weekend warrior syndrome. Don’t overdo it! Listen to your body, challenge yourself, and have fun.

10. **Aim For Exhilaration.** Leave your training session feeling great, wanting a little more. Feel exhilarated, not exhausted.

11. **Reward your Achievements.** Savor your successes. Find meaningful ways to celebrate your accomplishments.

12. **Get Out in Nature.** The term “green exercise” emerges from a growing body of research that shows that interacting with nature can positively affect our health and well-being, relieving stress, and promoting lucidity and clearer concentration (Archer, 2007). Breathing fresh air and being exposed to the land, sky, and nature’s panoply of colors offers refreshing sensory stimulation. The awe of our surroundings bolsters our appreciation of the beauty of nature. We can reenergize by getting away from stress giving us time to reflect and gain clarity in thinking.

13. **Get Moved By Music.** Being “moved” by music is an ancient, global tradition. Music can enhance our performance, increase our motivation, boost our stamina, and reduce exercise recovery times. What music moves you? Can you think of and play-list tunes from your peak years to boost your energy and your inclination to move? Music is a great way to quickly enhance mood (O’Brien, 2014; Langer, 2009).

14. **Adopt a Play Mindset.** To boost your motivation to move, think of play. What did you enjoy as a child. Are any of those interesting, modifiable, or viable now?

15. **Laugh!** Bring humor, smiles, and laughs to your training (O’Brien, 2013; Seligman, 2011).
**Psychological Benefits of Exercise**

The investment into daily activity boosts not only physical health but also psychological well-being. For example, exercise:

- Acts as a relief from tension, depression, and fatigue. “It’s an ideal antidepressant” (Ornish, 2018). Tal Ben-Shahar has stated, “Not exercising is like taking a depressant!”
- Helps create a sense of independence/self-care/positive self-determination.
- Helps cultivate experiences of joy, self-worth, mastery, possibility, and fulfillment.
- Can result in experiences of “flow” (as defined by Mihaly Csikszentmihalyi).
- Fulfills a need to play and have fun.
- Inspires others by being a positive role model.
- Builds confidence and kinesthetic awareness.
- Creates change in values generally as well as positive feelings about your body.
- Boosts greater sexual appreciation (Ornish, 2018).

**Health Benefits of Aerobic Activity**

*“Aerobics is the key to fitness.”*
– Dr. Ken Cooper

Aerobic activity has special benefits. “Aerobics” means “with oxygen.” Aerobic exercise, in the presence of oxygen, trains the heart and lungs (cardiopulmonary system), the brain, and all bodily systems. Some examples of aerobic activities for you to incorporate include:

- Brisk walking (100 steps/minute)
- Dancing
- Running
- Water Fitness/Swimming
- Cross Country Skiing
- Bicycling
- Hiking
- Skating
- Skiing
- Surfing
- Basketball

Important benefits of aerobic activity include:

1. **Boosts Your Energy.** An important benefit of aerobic activity is that it gives you more energy. As your heart strengthens, it will pump more blood with less work, and your resting pulse will drop, as your body’s amazing efficiency improves.

2. **Boosts Your Brain Power.** A growing body of research has demonstrated that aerobic exercise boosts our brain power, increasing brain derived neurotropic factor, which is like Miracle Grow for your brain’s synaptic connectivity. Ratey (2008) discusses how aerobic exercise benefits the brain:

   - Generates new brain cells, which is called “neurogenesis”
   - Strengthens between cell connections
   - Promotes neuroplasticity: restoring, repairing, and building resilience in the brain.

Boosting our executive function is important because it helps us plan, organize, and initiate action. It helps us learn from mistakes and maintain focus, and improve working memory. On the other hand, dysfunction in the executive function leads to a disruption in the organization and control of behavior. Additionally, aerobic exercise in the middle years has been shown to greatly reduce the risk of cognitive disorders later in life (Aamodt & Wang, 2007).

In short, aerobic exercise makes us smarter daily and for the long haul, while also making us look better, feel better, do better, and boost our mood.
FITTING IN MORE PHYSICAL FITNESS EVERYDAY

The many benefits of physical activity should have us all feeling inspired to get moving. But how do we fit it into our busy schedules? Most of us are sitting way too much. Changing this will take time and perseverance, but it will be worth the effort.

Creating more ways to incorporate physical activity into your work day is a good place to start. Below are some strategies for doing so:

• Standing or walking meetings
• Treadmill or standing desks
• Energy breaks during meetings
• Exercises at your desk like seated push ups, seated jumping jacks, knee raises
• Joining forces to train together with colleagues in meaningful activities. You can Race for the Arts, Walk for the Cure, and find ways to be a positive role model.
• Have an office mini Dance Break – take turns picking music and coming up with cool moves.

For more ideas and encouragement, check the Exercise is Medicine website.

RELAXATION TRAINING

While being more physically active is essential for our health, so is calming the high physiological arousal that our stressful work often generates.

“Arousal” generally is not a bad thing, but arousal that triggers our stress response can be harmful if not “shut off.” “Arousal” is simply the physiological and psychological state of being awake. It is also the stimulation of our sensory organs. Arousal is important in regulating consciousness, attention, alertness, and information processing. Arousal can be learned and with intention, and practice, we can consciously regulate, maintain, and establish better, more consistent performance.

Green and Green (1977) studied autonomic function control. Their findings demonstrated how, with training, individuals can alter their:

• Brain waves
• Heart rate
• Respiration
• Blood pressure
• Body temperature
• Other bodily processes generally associate with the autonomic nervous system.

Relaxation Training is a practice used to increase calmness or otherwise reduce pain, anxiety, stress or anger. Because we are often faced with many demands, and a deluge of overstimulation, here are some tools to help you breathe and relax:

**Easy Belly Breath for Calming, Reorganizing, and Energizing.** Sit in a comfortable spot. Close your eyes. Imagine your belly is the ocean, and your breath, the waves. As the waves roll in, breathe in, and as the waves roll out, breathe out. Allow your breath to be natural and easy, flowing effortlessly like the waves onto the beach. Enjoy becoming more relaxed, nurtured, peaceful, and clear.
**Methods of Breathing:** All breaths start with a deep exhalation; then breathe in through the nose, and out through the mouth. All breaths are executed with excellent posture, form, with your eyes open or closed, honoring the self and others.

1. **Complete breath/diaphragmatic breathing:** Place one hand on your abdomen, and the other on your upper chest. Slowly, and while visualizing the lungs as 3 chambers, breathe in, and fill your belly, chest cavity, and then the top of your lungs (by your collarbone, expanding the shoulders) with air. Exhale and repeat.

2. **Rhythmic breathing, & sigh of exhalation:** Breathe in for a count of 4, hold the breath for a count of 7, and exhale audibly for a count of 8. *Relax and repeat.*

3. **1:2 ratio: Breathe in and out fully.** Breathe in for a count of 4, out for a count of 8. With practice you can change the count to 5:10, or 6:12.

4. **5-to-1 count:** Say and visualize the number “5: as you take in a full deep breath in and out. Mentally count and visualize the number “4,” saying to yourself, “I am more relaxed than I was at 5.” Continue the countdown until you get to “1,” and are totally relaxed.

5. **Concentration Breathing:** Breath of Thanks: Breathe in for 7 counts, hold for 7 counts, and exhale out for 7 counts. *Relax and repeat.*

**Incorporating Calming Activities at Work.** Taking moments to engage in beneficial breathing is one way to incorporate more calming, relaxation activities into our work days. Others include:

- Siesta pods for a little necessary and beneficial rest time.
- Mats for prayer, rest, or meditation
- Availability of good, clean, fresh, (plant based) food
- Flex, time, and shorter or variable hours

**POSITIVE EMBODIMENT: CARE FOR YOUR BODY, HEART AND MIND**

“Embodiment” is a field of study dedicated to exploring and understanding the subjective experience of the body. Embodiment has to do with things like our proprioception: awareness of our body in space, and our comportment: how we carry ourselves, mentally and physically, during the day.

The hope is that this worksheet will inspire you to find ways to elevate your well-being for a lifetime. Taking moments for self care and reflection are important. So is appreciation for your self. Here are questions around physical activity, embodiment, and vibrancy to consider in lovingly tending for your body, heart, and mind:

**Appreciative Questions and Reflections on Your Body and Vibrancy:**

1. What aspects of my body can I notice or appreciate that I may take for granted?
2. When do I tend to have the most energy, or feel best during the day?
3. How can I incorporate more of this good energy into each day?
4. Think back to an experience when you really felt good physically. What was going on during this peak time? What can I apply in my life now?
5. Imagine optimal health. How does it feel? How can I create that?
6. How might I infuse more passion and zest into my life today?

**RESOURCES AND REFERENCES**

Want an Energy Boost; Making Positive Psychology Work: Podcast with Elaine O’Brien and Michelle McQuaid:


RESOURCES

Contributed by Anne Brafford

Book Recommendations

• Tom Rath, Eat, Move, Sleep
• Tom Rath, Are You Fully Charged? The 3 Keys to Energizing Your Work and Life
• John Ratey, Spark: The Revolutionary New Science of Exercise and the Brain
• John Ratey, Go Wild: Eat Fat, Run Free, Be Social, and Follow Evolution’s Other Rules for Total Health and Well-being
• Eva Selhub & Alan Logan, Your Brain on Nature: The Science of Nature’s Influence on Your Health, Happiness, & Vitality
• David Carless & Kitrina Douglas, Sport and Physical Activity for Mental Health
• Mihaly Czikszentmihalyi, Flow: The Psychology of Optimal Experience

Videos

• Wendy Suzuki, The Brain Changing Benefits of Exercise, TED Talk
A key strategy to help increase our daily physical activity is to increase the physical challenge of activities that we’re already doing. Golf is one such activity that many lawyers already enjoy.

First, golf can be an aerobic activity if you play a fast game and without a golf cart. Adding a golf conditioning program is another great way to help raise your fitness level. It also can improve your game and add yardage to your drive. To get started, below are some stretching and strengthening moves to help you improve your health, stability, and vitality and also improve your game:

1. **Dorsi flex**: This is a simple toe tap that can improve flexibility. It stretches the gastrocnemius (calf) and strengthens the tibialis anterior (shin area). This simple, but effective stretch helps us with balance, flexibility and injury prevention. It’s easy to do at the office, at home, or at play. Do 12 toe taps, each foot, 3-4 times per day.

2. **Calf stretch**: Put your feet parallel in a stride position with one foot in front of the other. Lower your back heel to the floor, and hold the stretch, static (not bouncing) for 15-20 seconds. Then switch. Repeat throughout the day to increase your flexibility.

3. **Quadricep Stretch**: Bend your leg gently at the knee with your foot towards your buttock until you can feel a gentle stretch on the front of the thigh. To increase the stretch, tilt your hips slightly backwards. Hold for 20-30 seconds and repeat 3 times. Do this at least 3 times a day.

4. **Seated Hamstring Stretch**: Bring your hands behind the back upper thigh, (not behind the fragile kneecap, but the belly of the hamstring muscle); extend your leg, and lift it up, alternately pointing and flexing the feet. Hold for 20-30 seconds, and repeat 3 times. Do this at least 3 times a day to reduce your risk of low back pain.

5. **The Plank**: This is a slightly advanced, simple, but effective bodyweight exercise. Holding the body (light as a feather) and stiff as a board develops strength primarily in the core—the muscles that connect the upper and lower body—as well as the shoulders, arms, and glutes. There are variations on this, and like other exercises and skills, it’s good to build progression.

6. **Push-ups**: Wall push ups, which can be done anywhere, boost chest and arm strength.

7. **Squat**: Targeting the legs and gluteals, squats are an excellent way to warm up your core, especially prior to stretching, and power up your energy and strength.

In a golf swing, 33 major muscles are activated. Also, the nature of golf is that is a highly repetitive activity, often at a relatively high level. Because golf involves core flexion and rotation in the swing, and bending over and over again and again to pick up the ball (up to 200 times/game), there tend to be higher incidences of chronic low back pain among golfers. Light rhythmic strength training, and stretching can help reduce the risk of aches and pains. It’s a good idea to speak with your golf pro or a kinesiologist about ways you can improve your swing, and your biomechanics.

**Fit Fore Golf: Dr. Elaine’s PGA, Positive Golf Activities**

Contributed by Elaine O’Brien, PhD, MAPP, CPT
Move2Love@gmail.com | www.ElaineOBrienPhD.com
To make it easy to contact your local Lawyer Assistance Program (LAP), below is a list of Directors or other leaders of the state LAPs whom you can contact for support with your well-being initiatives.

**Alabama**  
Alabama Lawyer Assistance Program  
Robert B. Thornhill  
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Thanks very much to Sara Smith, Associate Counsel for the American Bar Association’s Center for Professional Responsibility, for compiling this list.
Preamble: In 2019, the Policy Committee of the ABA Commission on Lawyer Assistance Programs (CoLAP) and the ABA Working Group to Advance Well-Being in the Legal Profession developed this template to provide suggested guidelines to legal employers for responding to an employee who is experiencing impairment due to a substance use disorder, mental health disorder or cognitive impairment. Each employer should tailor this document to meet the specific needs of its workplace, taking into consideration size, resources and practice setting. In particular, the employer MUST consult with labor and employment counsel to ensure that language adopted conforms to the panoply of federal and state laws, regulations and orders that apply to the workplace, which include: privacy, disability and human rights laws; federal laws, such as HIPAA, FMLA, ADA; and other applicable restrictions, such as collective bargaining agreements.]

WELL-BEING TEMPLATE FOR LEGAL EMPLOYERS

[Legal employer] is committed to the well-being of its personnel, as well as to the prevention of impairments, and to assisting our staff in obtaining treatment when needed. Impairment of a personnel member, due to substance use or mental disorder, as well as cognitive impairment or dementia, adversely affects not only the individual’s well-being, but also our ability to serve our clients capably and responsibly.

Our goals are: (1) early identification of impairment and proper intervention to assist with preventing, mitigating, or treating the impairment; and (2) preventing our professional standards and the quality of our work from being compromised by any personnel member’s impairment. This document is intended to demonstrate compliance with those professional regulations which require firms to establish internal policies and procedures ensuring that all lawyers (including those impaired) conform to the Rules of Professional Conduct (“RPC”), as well as state or federal rules, regulations or statutes.

I. Implementation

The following terms apply to all legal professionals including, but not limited to, partners, managing attorneys, associates, paralegals, and legal assistants, whether full-time, part-time, contract or temporary. This [protocol or policy] will be publicized in the workplace and placed in the personnel handbook. A contact person, such as a managing partner, human resources director, or designated person will be responsible for its implementation. This person will not undertake counseling or treatment. The contact person should notify individuals of the availability of lawyer assistance programs which can refer impaired persons to agencies for counseling and treatment.

II. Definition of Impairment

For purposes of this document, [legal employer] considers “impairment” to be a condition that materially and adversely affects a person’s judgment, memory, intellectual functioning, or otherwise interferes with work performance and the rendering of legal services in a manner consistent with our standards and the RPC. The diagnosis of an illness does not automatically equate with impairment. Illness is the existence of a physical or mental disease,

1 See https://www.samhsa.gov/disorders for descriptions of mental and substance use disorders.
while impairment is a functional classification that implies inability (perhaps affected by physical or mental disorder) to render services with reasonable skill and safety. Impairment may be due to the use of alcohol or drugs (prescribed or non-prescribed), a mental health disorder, or a physical illness or condition that would adversely affect cognitive skills. Determinations about impairment will be made carefully, following a thorough investigation, based on objective information and should be made in consultation with a medical or behavioral health specialist with expertise in the alleged impairment.² (See also section V regarding confidentiality.)

III. Well-Being Initiatives

[Legal employer] is committed to assisting our lawyers and non-lawyer personnel to thrive professionally and personally. We support well-being initiatives in order to reduce lawyer and staff turnover, reduce illness, and improve competence and career satisfaction, as well as to ensure provision of the highest quality legal services to our clients. To support well-being in the work environment, we:

A) have a proactive written protocol and leave policy that covers the assessment and treatment of substance use and mental health problems, including a defined back-to-work policy following treatment;

B) encourage all personnel to use accrued leave time, consider flexible work schedules, and eliminate artificial deadlines while continuing to provide competent, diligent representation;

C) will assist lawyers and all personnel to establish self-care well-being goals; and

D) provide training to identify signs and symptoms of substance use and behavioral health issues and to prevent work addiction and social isolation.

IV. Addressing Impairment Concerns

Lawyers shall not practice law or otherwise render legal services while impaired, and staff members shall not assist in providing legal services while impaired. Firm personnel shall not help a colleague conceal his or her impairment, including by knowingly assisting an impaired colleague in providing legal services.

A. Personnel who:

1. believe they are themselves impaired or at risk of becoming impaired, or
2. reasonably suspect that a lawyer or staff member may be impaired,
[choose one: shall/should] report their concerns to [name and title of designee³].

² Examples of relevant specialists include: neuropsychologist for cognitive impairment, a medical doctor certified by the American Society of Addiction Medicine (ASAM) to diagnose a substance use disorder, and a psychiatrist or other behavioral health specialist authorized to diagnose a mental health condition. Lawyer assistance programs can provide referrals to qualified experts in any of these areas.
³ This contact person could be a department head or practice group leader, member of the executive or leadership committee, general counsel, chief operating officer, or managing partner.
B. All personnel have the obligation to report any of the following incidents in which they have been arrested or charged with: driving while under the influence, public intoxication, and possession or sale of any illegal substance. Such information may be reported to the member listed in IV, subsection A, above.

C. Upon learning of a personnel member’s possible impairment, [legal employer] will investigate the circumstances and undertake reasonable measures to assist that person on a confidential basis.

D. Both individuals who may be impaired or at risk of becoming impaired and those concerned for another personnel member are encouraged to also contact their state or local lawyer assistance program or our employee assistance program for confidential assistance.4

______________________________  ___________________________
[State] Lawyer Assistance Program   Website/Phone

______________________________  ___________________________
[Legal Employer’s] Employee Assistance Program   Website/Phone

V.  Confidentiality

[Legal employer] will treat all communications as confidential to the extent consistent with our duties to protect clients, as well as to comply with the RPC, state or federal rules, regulations or statutes. All protected health information will be handled in accordance with state and federal laws. Communications include those by and between the potentially impaired individual, the personnel assigned with responsibilities to investigate and assist, as well as anyone who reports concerns regarding the potential impairment of another. Statutory exceptions to confidentiality will be followed, including but not limited to: a threat to harm oneself or others, future criminal conduct, and child or elder abuse.

VI.  Prohibition Against Retaliation

Any concern about retaliation must be reported immediately to the contact person listed in IV, subsection A, above. [Legal employer] will investigate any report of retaliation and take such action as may be appropriate, including disciplinary action against anyone found to have retaliated against a person for reporting a possible impairment or participating in the investigation of a report.

4 The Firm should include the name and phone number of the lawyer assistance program (LAP) in each state in which it operates. Most LAPs provide free consultations, assessments, brief counseling and education, peer support, intervention, monitoring and referrals. A directory of LAPs may be found at: https://www.americanbar.org/groups/lawyer_assistance/resources/lap_programs_by_state.html.
VII. Considerations Upon Determination of Impairment

[Legal employer] seeks early identification of impairment issues of its personnel in order to provide the impaired individual with qualified treatment services as soon as possible to facilitate that person's recovery. At the same time, we will take such steps as may be necessary to protect the interests of our clients and to comply with the RPC and any state or federal rules, regulations or statutes. Those steps may include one or more of the following:

A. Leave of Absence: [Legal employer] will permit the impaired individual to use accrued paid leave time for treatment and will provide accommodations upon a return to work as permitted under its leave policies and as required under state and federal law.

B. Referral and Treatment: [Legal employer] will make concerted efforts to assist the impaired individual in obtaining appropriate medical care and treatment. The state’s lawyer assistance program may be consulted for assistance with referrals, evaluations and/or monitoring of lawyers.

C. Restriction of Work Duties: [Legal employer] may restrict the impaired individual by removal from client or other work matters, supervision of work activities, or any other reasonable restriction of activities or client matters deemed necessary to protect client interests and comply with the RPC.

D. Review of Activity: After determining that a personnel member is, or has been, suffering from an impairment, we will determine if a review of all matters recently handled by that person is warranted in order to take remedial action on client matters. This review may include: review of client files, time and billing records, electronic communications, and telephone records.

E. Remedial Action: [Legal employer] shall immediately take any remedial action on client matters deemed necessary to mitigate any violation, or potential violation, of the RPC or other adverse consequences arising as a result of the impairment. [See state version of Rule 5.1(c) of the Model Rules of Professional Conduct.] Disclosure to the client may be required and will be done in compliance with the RPC.

F. Reporting to Disciplinary Authorities: A report will be made to the appropriate professional disciplinary authorities if required by the RPC, state or federal rules, regulations or statutes. [See state version of Rule 8.3 of the Model Rules of Professional Conduct, ABA Formal Opinion 03-431; and ABA Formal Opinion 03-429].

G. Conditional Employment: Continued employment (unless otherwise required by the FMLA, ADA or other state or federal law or court judgment) may be conditioned upon any of the following:
   1. Taking a leave of absence;
   2. Execution of a Return to Work Agreement;
   3. Evaluation by a healthcare professional (see footnote 2 supra);
4. Commitment to a treatment plan, if recommended by the healthcare professional;
5. Periodic alcohol or drug testing resulting in consistent negative results;
6. Ongoing participation in peer support recovery programs;
7. Continuing in individual or group psychotherapy;
8. Compliance with a medication treatment plan;
9. Monitoring by a lawyer assistance program or other professionals monitoring program; and/or
10. Disclosure of evaluation results and treatment recommendations, as well as verification of participation in appropriate treatment and support programs.

VIII. Consequences of Violations

Any personnel member who acts contrary to provisions contained herein, or violates any standards hereby established, [choose one: will/may] be subject to disciplinary action up to and including termination. [Legal employer] may, however, in its discretion, offer personnel the opportunity to participate in a counseling, treatment or rehabilitation program in lieu of such discipline.

IX. Other Laws

This document is in no way intended to interfere with [legal employer’s] obligations to provide reasonable accommodations to those who are disabled under the Americans with Disabilities Act. Please see the Firm’s EEO and Reasonable Accommodation policies for further information.

Note: This template was prepared by the Policy Committee of the ABA Commission on Lawyer Assistance Programs and the ABA Working Group to Advance Well-Being in the Legal Profession in 2019. Questions or comments may be directed to CoLAP Staff Counsel at Theresa.gronkiewicz@americanbar.org or 312-988-5299.
Articles:

Key to Your Future as a Lawyer: Focus on Your Well-Being; Jaffe, David and Stearns, Janet, ABA Student Lawyer, April, 2018.


Wellness at the Law School: Miles to Go and Promises to Keep Before We Sleep, Chan, Amanda H.; Lee, Amanda M. and Savitt, Adam P., Harvard Crimson (March 29, 2018).


Stress Hardiness and Lawyers; Pierson, Pamela; Hamilton, Ashley; Pepper, Michael and Root, Megan (Journal of the Legal Profession, Volume 42,1)

Where are We on the Path to Law Student Well-Being?: Report on the ABA CoLAP Law Student Assistance Committee Law School Wellness Survey, Jordana Confino, Journal of Legal Education (forthcoming)

**Books:**

Mindfulness for Law Students: Using the Power of Mindful Awareness to Achieve Balance and Success in Law School; Rogers, Scott

The Addicted Lawyer; Cuban, Brian

The Introverted Lawyer, Brown, Heidi

The Hidden Stresses of Law School and Law Practice, Krieger, Lawrence

The Center Cannot Hold: My Journey Through Madness, Saks, Elyn

Transforming Practices, Keeva, Steven

**Online Resources:**

[Lawyer Well-being: Practical Recommendations for Positive Change](https://www.abanet.org/colap/resources/well-being.html)

ABA Commission on Lawyer Assistance Programs website, including the Voices of Recovery Podcast Series

[The Elephant in the Room: The Legal Profession, Mental Health, and Substance Abuse](https://www.abanet.org/colap/events/the-elephant-in-the-room.html)

To Hell and Back: One Lawyer’s Path to Recovery

University of Miami Law School Student Wellness Website:
[https://www.law.miami.edu/students/wellness-resources](https://www.law.miami.edu/students/wellness-resources)

Washington College of Law/ American University Wellness Resources:

Mental Health First Aid
[Mentalhealthfirstaid.org](https://www.mentalhealthfirstaid.org)

The Anxious Lawyer, Jeena Cho,
A prior version of this Bibliography was compiled by Jill Backer from the Pace University School of Law, Janet Stearns from the University of Miami School of Law, and Katelyn MacBride Barbosa from University of Notre Dame School of Law for an April, 2018 presentation to the National Association of Law Placement (NALP).
Firms sign ABA pledge to tackle lawyer mental health and substance-use issues

BY DEBRA CASSENS WEISS

POSTED SEPTEMBER 10, 2018, 4:05 PM CDT

Several large law firms have signed a seven-point pledge developed by an ABA working group to target substance-use disorders and mental-health issues among lawyers.

The ABA Working Group to Advance Well-Being in the Legal Profession developed the pledge, which asks legal employers to take specific steps to achieve the goals of raising awareness and improving lawyer well-being.
The working group was formed in September 2017, a year after release of a survey that found the levels of problem drinking and mental health issues in the legal profession appeared to be higher than indicated by previous studies.

Nearly 21 percent of licensed and employed lawyers and judges who responded to the survey reported problematic alcohol use. Twenty-eight percent said they experienced depression, 19 percent experienced anxiety and 23 percent experienced stress. The survey was conducted by the ABA Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation.

Based on the survey results and a list of recommendations by the National Task Force on Lawyer Well-Being, the working group recently released the Well-Being Toolkit for Lawyers and Legal Employers. The toolkit is available free of charge and best viewed with Google Chrome or Internet Explorer. The group also hopes to introduce a resolution at the ABA Midyear Meeting in January that would propose a model policy for legal employers to adopt if they suspect one of their employees is impaired by substance use or a mental-health issue.

ABA President Bob Carlson said in a statement that he supports the working group’s effort to improve the health of lawyers. “Many lawyers have struggled with alcohol, other substance-use or mental health disorders, and many more of us have watched friends wrestle with them,” he said. “This pledge campaign will give these issues the attention they deserve by raising awareness throughout the profession and making help available to lawyers in need. I hope all law firms consider taking the pledge.”

Law firms that have signed the pledge include: Akin Gump Strauss Hauer & Feld; Corette Black Carlson & Mickelson; Duane Morris; Honigman Miller Schwartz and Cohn; Latham & Watkins; Morgan, Lewis & Bockius; Nixon Peabody; Perkins Coie; Reed Smith; Schiff Hardin; Seyfarth Shaw; Snell & Wilmer; and Wiley Rein.

Reed Smith’s global managing partner, Sandy Thomas, said in a statement that his firm was proud to be one of the first to sign on. “We hope our commitment encourages other firms to participate in this campaign to raise awareness, work
to reduce the incidence of substance use and mental health distress, and improve lawyer well-being,” Thomas said. “This effort provides the legal profession with a strong framework for changing the conversation about these important issues and finding real solutions.”

The pledge asks legal employers to describe how they have:

1) Provided “enhanced and robust educational opportunities” to lawyers and staff on topics related to well-being, substance-use disorders, and mental-health distress.

2) “Disrupted the status quo of drinking-based events” by de-emphasizing alcohol.

3) Partnered with outside entities committed to reducing substance-use disorders and mental-health distress in the profession.

4) Provided confidential access to addiction and mental health experts and resources to all employees, including free, in-house self-assessment tools.

5) Enacted a leave policy for substance-use and mental-health problems that includes a defined back-to-work policy.

6) Promoted and encouraged help-seeking and self care.

7) Highlighted adoption of the well-being pledge.

The ABA hopes all legal employers will take the pledge by Jan. 1, according to the press release. The announcement was made Monday, which was also World Suicide Prevention Day.

*Recasts headline on Sept. 13.*
Baker McKenzie global chairman Paul Rawlinson died April 12, six months after he decided to take a temporary leave to deal with health issues caused by exhaustion.


Rawlinson’s decision to take a leave of absence spurred discussion on the mental and physical stress of law practice, according to the American Lawyer.
Rawlinson became global chairman of Baker McKenzie in 2016. The firm has 78 offices and nearly 5,000 lawyers. In October, “highly placed figures” estimated that he had visited more than half of Baker McKenzie’s offices, according to the American Lawyer’s coverage.

At the time of the leave announcement, attorney and mental health advocate Patrick Krill told the American Lawyer that he applauded Rawlinson for taking time off and for acknowledging the reason. “It’s not surprising, given the demands of a role like that, that somebody’s well-being could be compromised,” he said.

Bruce MacEwen, president of Adam Smith Esq., told the American Lawyer he once asked a managing partner of another BigLaw firm where he considered his headquarters. The partner’s answer was American Airlines.

Rawlinson had pushed for technology innovations at a time when the firm was seeing growing revenue. In August, Baker McKenzie announced an 8% increase in gross revenue for 2017-2018 and a 14% increase in profits per equity partner, according to this American Lawyer story.

See also:

ABA Journal: “It’s time to promote our health: ABA mobilizes on multiple fronts to address well-being in the legal profession”

ABA Journal: “Working toward well-being: Tools help lawyers and legal employers deal with substance-abuse disorders”

ABAJournal.com: “Firms sign ABA pledge to tackle lawyer mental health and substance-use issues”

ABAJournal.com: “4 strategies for building the habit of lasting resilience in the legal profession”
This lawyer was so burned out she gave up practice and studied well-being; what's her stress advice?

By Debra Cassens Weiss

Posted April 2, 2019, 7:00 AM CDT

Paula Davis-Laack had a fast-paced commercial real estate practice before the recession hit.

Davis-Laack was so busy that she would down a few peanuts for lunch and live off an adrenaline high, the Washington Post
Paula Davis-Laack. Photo from pauladavislaack.com.

(https://www.washingtonpost.com/national/health-science/from-moms-to-medical-doctors-burnout-is-everywhere-these-days/2019/03/29/1cea7d92-401d-11e9-922c-64d6b7840b82_story.html) reports. She had frequent headaches, stomachaches and colds, but doctors found nothing wrong with her.

Davis-Laack was chronically exhausted, she told the National Association of Bar Executives last year, according to a summary by the ABA Division for Bar Services. She became cynical and disengaged. Her self-confidence was waning. She began “catastrophic thinking,” in which every curveball became a major crisis.

One day she felt like she couldn’t breathe, so she rushed to a health clinic. Stomach pains caused by anxiety twice sent her to the emergency room. She researched her symptoms on the internet and discovered the cause: stress and burnout.
Davis-Laack quit her job and returned to graduate school to study well-being. In 2013, she founded a stress and resilience institute and began teaching workshops on burnout.

Davis-Laack said lawyers experience burnout because of demands for 24/7 availability and fewer opportunities for interpersonal interactions.

“We have literally become addicted to doing stuff all the time and think that downtime is laziness or somehow a missed opportunity to get ahead,” Davis-Laack told the New York Times (https://nyti.ms/2CFcOGp). “Organizations reward this, so it’s reinforced.”

To reduce stress, enforce boundaries, Davis-Laack says. She suggests looking at the balance between energy-draining job demands (such as meetings and business generation) and motivational job resources (such as good relationships with colleagues and autonomy). If job demands outweigh job resources, ask your boss to make small changes, she advises.

Experts also offer these suggestions: Get more exercise and sleep, engage in social interactions, find a creative outlet, and engage in something larger than yourself.

Others also recommend that workplaces do their part, according to the Washington Post (https://www.washingtonpost.com/national/health-science/how-you-can-battle-burnout/2019/03/29/a83bed70-4f47-11e9-8d28-f5149e5a2fda_story.html?utm_term=.f545bcb1147e). Permitting flexible work, encouraging vacations and allowing workers to unplug from their smartphones can be helpful.

“Working to the extreme is often seen as a badge of honor at work and is highly rewarded,” Davis-Laack told the New York Times. “Organizations bear a lot of the burden to examine values, process and cultural issues generally that support the inability to disconnect, recharge and recover.”
Would millennial lawyers trade pay for better work-life balance? A significant percentage say yes

BY DEBRA CASSENS WEISS

POSTED APRIL 4, 2019, 3:01 PM CDT

In a new survey of millennial lawyers, 47.1% say workloads have increased since compensation increases for associates rippled across BigLaw. And a significant portion of millennials would be willing to take a pay cut for more time out of the office.
The survey asked younger lawyers working in U.S. law firms whether they would give up part of their compensation in exchange for various options, including three that could provide better work-life balance. They were asked to check all that apply.

The results concluded that 26.2% would take less money for a flexible work schedule, 25.8% for more time off, and 23.1% for a cut in billable hours.

Major, Lindsey & Africa conducted the survey of more than 1,200 lawyers in law firms in conjunction with Above the Law. The survey targeted Above the Law’s millennial readership. It can be downloaded here; a press release is here.

Despite the desire for better work-life balance, partnership is still viewed as a long-term career goal.
Asked what they saw themselves doing in the next 10 years, the largest group of respondents—27.7%—saw themselves as a partner at their current firm. Another 12.3% saw themselves as a partner at another firm.

Yet another 17.5% saw themselves working in-house, while 12.3% saw themselves running their own practice, and another 12.3% saw themselves not practicing law.

The findings on partnership goals contrast with the percentage who agree that law firm partnership is less desirable than it was a generation ago. Sixty-six percent agreed with that statement.

Millennials also expressed dissatisfaction with a few other aspects of law firm life, according to the report.

A majority of the respondents agreed that law firms are inherently sexist, and that there is a gender pay gap at law firms. But there are big differences among male and female lawyers. The findings concluded:

• Among women, 45.3% strongly agreed there is inherent sexism. Among men, 14.2% strongly agreed.
• Among women, 56.1% strongly agreed there is a gender pay gap. Among men, 17.9% strongly agreed.
• 62.3% of women and 64.2% of men strongly agreed that law firms should strive for maximum transparency with regard to compensation.

Other survey findings included:

• 44.4% agree that the current generation of law firm leadership has outstayed its effectiveness.
• 61.6% agree that the millennial generation of lawyers is transforming law firm policies and culture for the better.
• While nearly 70% of millennials described themselves as loyal to their firms, more than 75% either were open to new job opportunities or actively seeking them.

“It’s clear that men and women have different priorities, which suggests that there may be internal friction and growing pains as firms continue to evolve,” said Michelle Fivel, a partner in the associate practice group at Major, Lindsey &
Africa, in the press release. “Balancing their unique interests and concerns will need to be top of mind for law firm management as the field continues to grow more diverse.”

Seventh paragraph revised at 8:45 p.m. to include the percentage who see themselves working in-house in the future. First paragraph rewritten on April 5.