

MCLE FORM 1: Recordkeeping Form (Do Not Return This Form to the Bar)

Instructions:

Pursuant to MCLE Rule 7.2, every active member shall maintain records of participation in **accredited** CLE activities. You may wish to use this form to record your CLE activities, attaching it to a copy of the program brochure or other information regarding the CLE activity.

Do not return this form to the Oregon State Bar. This is to be retained in your own MCLE file.

Name:		Bar Number:	
Sponsor of CLE Activity: Oregon New Lawyers Division			
Title of CLE Activity: Jump Start Your Well-Being		Program Number: 1602*489	
Date: 6/22/2019		Location: OSB Center, Tigard, Oregon	
<input checked="" type="checkbox"/> <i>Activity has been accredited by the Oregon State Bar for the following credit:</i> <input type="checkbox"/> General <input type="checkbox"/> Prof Resp-Ethics <input type="checkbox"/> Access to Justice <input type="checkbox"/> Abuse Reporting <input type="checkbox"/> Practical Skills <input type="checkbox"/> Pers. Mgmt/Bus. Dev.* <input checked="" type="checkbox"/> Mental Health and Substance Use Education	<input type="checkbox"/> Full Credit. <i>I attended the entire program and the total of authorized credits are:</i> <input type="checkbox"/> General <input type="checkbox"/> Prof Resp-Ethics <input type="checkbox"/> Access to Justice <input type="checkbox"/> Abuse Reporting <input type="checkbox"/> Practical Skills <input type="checkbox"/> Pers. Mgmt/Bus. Dev.*	<input type="checkbox"/> Partial Credit. <i>I attended _____ hours of the program and am entitled to the following credits*:</i> <input type="checkbox"/> General <input type="checkbox"/> Prof Resp-Ethics <input type="checkbox"/> Access to Justice <input type="checkbox"/> Abuse Reporting <input type="checkbox"/> Practical Skills <input type="checkbox"/> Pers. Mgmt/Bus. Dev.*	

***Credit Calculation:**

One (1) MCLE credit may be claimed for each sixty (60) minutes of actual participation. Do not include registration, introductions, business meetings and programs less than 30 minutes. MCLE credits may not be claimed for any activity that has not been accredited by the MCLE Administrator. If the program has not been accredited by the MCLE Administrator, you must submit a Group CLE Activity Accreditation application (See MCLE Form 2.)

Caveat:

If the actual program length is less than the credit hours approved, Bar members are responsible for making the appropriate adjustments in their compliance reports. Adjustments must also be made for late arrival, early departure or other periods of absence or non-participation.

*Personal Management Assistance/Business Development. See MCLE Rule 5.12 and Regulation 5.300 for additional information regarding Category III activities. Maximum credit that may be claimed for Category III activities is 6.0 in a three-year reporting period and 3.0 in a short reporting period.



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RULE 1.1 COMPETENCE

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Do lawyers have an ethical obligation to engage in self-care?

Do lawyers have an ethical obligation to engage in self-care?

Statement of Professionalism

*Adopted by the Oregon State Bar House of Delegates and
Approved by the Supreme Court of Oregon effective December 12, 2011*

As lawyers, we belong to a profession that serves our clients and the public good. As officers of the court, we aspire to a professional standard of conduct that goes beyond merely complying with the ethical rules. Professionalism is the courage to care about and act for the benefit of our clients, our peers, our careers, and the public good. Because we are committed to professionalism, we will conduct ourselves in a way consistent with the following principles in dealing with our clients, opposing parties, opposing counsel, the courts, and the public.

- I will promote the integrity of the profession and the legal system.
- I will work to ensure access to justice for all segments of society.
- I will avoid all forms of unlawful or unethical discrimination.
- I will protect and improve the image of the legal profession in the eyes of the public.
- I will support a diverse bench and bar.
- I will promote respect for the courts.
- I will support the education of the public about the legal system.

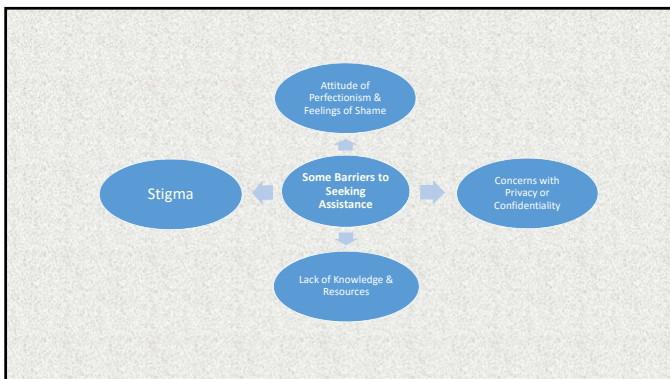
National Research: The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys

The Study

In collaboration with the Hazelden Betty Ford Foundation, the ABA Commission on Lawyer Assistance Programs completed a national research on lawyer impairment. This is a landmark study since this is the first time national data has been gathered addressing both substance use and behavioral health concerns at the same time.

Access the full report in the Journal of Addiction Medicine at:
https://journals.lww.com/journalofaddictionmedicine/fulltext/2019/09000/the_prevalence_of_substance_use_and_other_mental_health_concerns.aspx

Access the report containing the recommendations of the National Task Force on Lawyer Well-Being:
<https://www.americanbar.org/content/dam/aba/mma/publications/16path10lawyerwellbeingreportrev1/16n1.pdf>



Managing Stress & the Role of Resilience

- Short-term stress results in physiological symptoms that optimizes the mind, brain and body for action.
- Chronic stress leads to higher levels of cortisol, reduction of brain size, and shrinks the hippocampus (affecting memory and learning).
- Being in a constant state stress and not being able to manage it in a healthy way increases the vulnerability to negative physical health and mental health such as anxiety and depression, and/or lead to problem drinking or other substance use.



Jump Start Your Well-Being through Cultivating Resilience

- The American Psychological Association (APA) has defined resilience as the process of adapting well in the face of trauma or tragedy, threats or other significant sources of stress (Southwick et al., 2014).
- Resilient lawyers are able to cope in an adaptive way to the stressful demands of law practice.
- Resilience is both a process and an outcome: Recovery, Sustainability & Growth



Consider the following as building blocks (ABC's of Resilience)

Acknowledge and adhere to those matters that contribute to your positive experiences

Build a plan that increases the other dimensions of your life, which can be a buffer against chronic stress.

Connect with and maintain a socially resilient environment. Find like-minded people, and connect with or create your community.



- Occupational/Intellectual
- Emotional
- Physical
- Social
- Spiritual & Cultural (support your need to honor your heritage or traditions, and expand your cultural knowledge)

Asking for Help for Oneself or a Colleague in Need

- Pay attention to signals of stress, anxiety, depression or substance use (signs & symptoms)
- Practice Self-Compassion & Avoid Isolation (lead to positive affect, outlook and mood)
- Power in Vulnerability



Brene Brown ("shame researcher") on embracing vulnerability

Helping a Colleague in Need

- In most cases, if you have concerns about a potentially impaired colleague, there are likely others who have similar concerns.
- People who are struggling may be unwilling to seek assistance. They could be embarrassed, do not want to impose on others, or are in denial.
- See if you might be able to approach them about your concern. Doing something is generally better than doing nothing.
 - Personal contact (phone or in-person) is generally better than emails & texts.
 - Emails & texts are generally better than no contact.



Having a Conversation with a Colleague in Need

- When the potentially impaired person is someone you do not feel comfortable dealing with directly, look for alternatives (e.g., OAAP).
- Avoid "ganging-up." Especially for an initial conversation, having a private conversation with one or two people present who can express concern, and can discuss behaviors they have observed, is usually more helpful.
- Focus on *behaviors that you have observed*. Avoid second-hand reports if possible.
- Compassion & candor can go together: be direct ("I'm really concerned about you. You seem to be really struggling with _____. Can I help you?").
- Be prepared to encounter *ambivalence, denial, rationalization, justification and blame*.
 - Listening to a person deny what to you is an obvious problem can be very frustrating. Continuing to focus the conversation on specific observed problems (e.g. missed appointments, unanswered phone calls) rather than arguing can be helpful.
 - If your person's issue is substance use, they may want to make a change, but are also likely getting some benefit from the behavior ("checking-out", anxiety relief, etc.). They may rationalize or justify their behavior while at the same time acknowledging a problem on some level. Try to talk to the part of them that wants to change or recognizes the problem.

Having a Conversation with a Colleague in Need

→ Have a plan in case your person is ready to get help – a phone number to call or a person to talk to.

(*Here is a number for someone who can help...can we make the call right now?*)

- Suggest assessment by specialist
- Suggest private counseling or treatment (inpatient or outpatient)
- Suggest the OAAP
- Suggest support groups (AA, NA, Women for Sobriety, Smart Recovery, Alcoholics Victorious, etc.) for substance use.

Having a Conversation with a Colleague in Need

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- Suggest the OAAP
- Suggest support groups (AA, NA, Women for Sobriety, Smart Recovery, Alcoholics Victorious, etc.) for substance use.

RESOURCES

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Additional Resources

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Oregon State Bar

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- I will support a diverse bench and bar.
- I will promote respect for the courts.
- I will support the education of the public about the legal system.
- I will work to achieve my client's goals, while at the same time maintain my professional ability to give independent legal advice to my client.
- I will always advise my clients of the costs and potential benefits or risks of any considered legal position or course of action.
- I will communicate fully and openly with my client, and use written fee agreements with my clients.
- I will not employ tactics that are intended to delay, harass, or drain the financial resources of any party.
- I will always be prepared for any proceeding in which I am representing my client.
- I will be courteous and respectful to my clients, to adverse litigants and adverse counsel, and to the court.
- I will only pursue positions and litigation that have merit.
- I will explore all legitimate methods and opportunities to resolve disputes at every stage in my representation of my client.
- I will support pro bono activities.



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

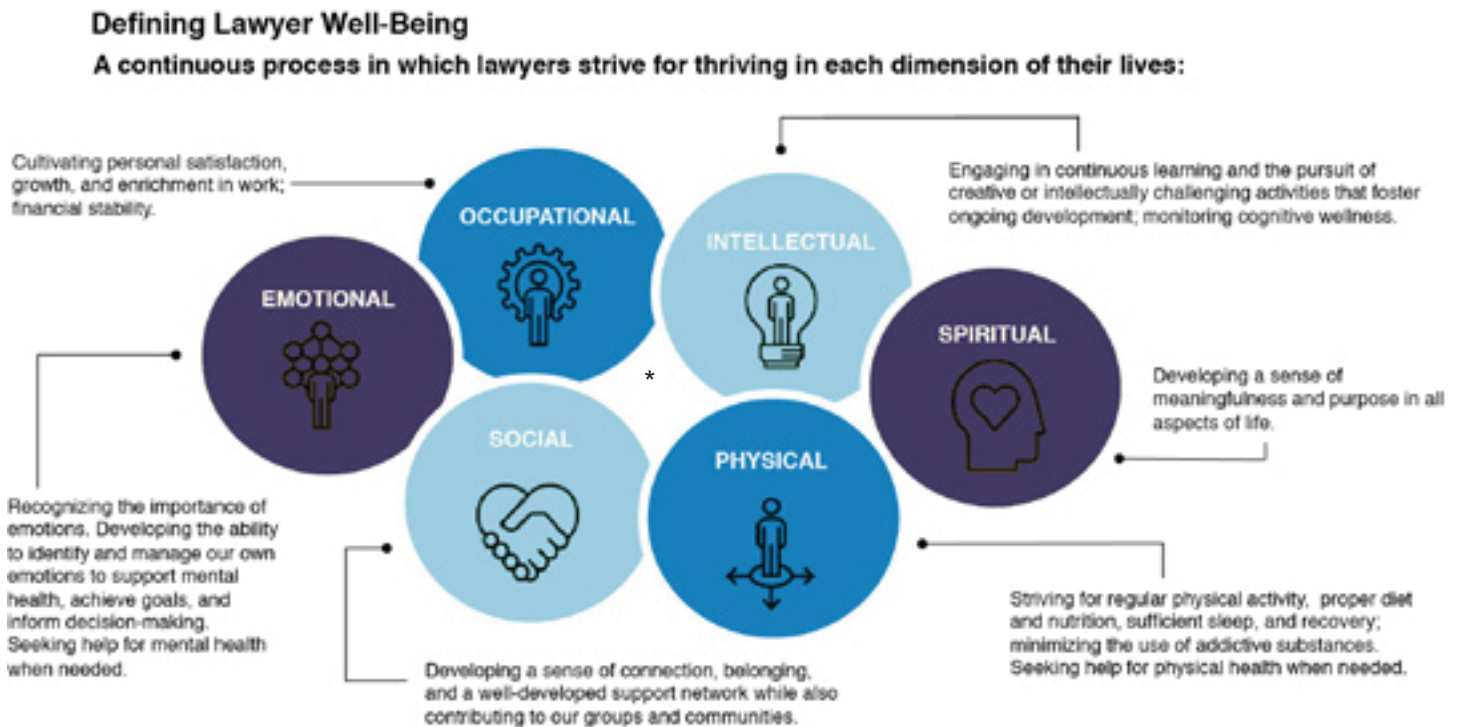
Engaging in continuous learning and the pursuit of creative or intellectually challenging activities that foster ongoing development; monitoring cognitive wellness.

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.





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*National Study on
Lawyer Substance Use
and Mental Health*

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*Finding My Balance:
Perspectives from a
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IMPROVING THE QUALITY OF YOUR PERSONAL AND PROFESSIONAL LIFE

NATIONAL STUDY ON LAWYER SUBSTANCE USE AND MENTAL HEALTH

For the first time ever, a national research study has been undertaken to empirically quantify the prevalence of substance use and other behavioral health conditions within the lawyer population of the United States. Results of the study, jointly undertaken by the American Bar Association (ABA) and the Hazelden Betty Ford Foundation (ABA-Hazelden Study), have been published in the February 2016 edition of the *Journal of Addiction Medicine*. The study, “The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys,” presents a revealing picture of our profession that is old news to some and disturbing news to many others.¹

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

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

GENDER*	
Men	53.4%
Women	46.5%

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

AGE	
30 or younger	11.9%
31-40	25.2%
41-50	21.0%
51-60	23.2%
61-70	16.1%
71 or older	2.7%

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

Alcohol	84.1%
Tobacco	16.9%
Sedatives	15.7%
Marijuana	10.2%
Opioids	5.6%
Stimulants	4.8%
Cocaine	0.8%

The study also elicited detailed information about the participants’ professional characteristics, asking respondents to identify their age (≤30, 31-40, 41-50, etc.), their years in the field (≤10, 11-20, 21-30, etc.), work environments (solo practitioner, private firm, government, non-profit, corporation in-house, etc.), firm position (junior associate, senior associate, junior partner, etc.), hours worked per week (≤10, 11-20, 21-30, etc.), and whether or not they did litigation. All personal and professional data obtained were statistically analyzed, revealing the following regarding the rates of substance use⁴ among practicing attorneys in the United States:

- Over 20% of the lawyers who responded scored at a level consistent with problematic drinking⁵; that is, using AUDIT criteria, they screened positive for hazardous and/or harmful use, having the potential for alcohol dependence. This rate is over twice that of the general adult population in this country.⁶

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

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

Years in Legal Field	Problematic %
0-10	28.1%
11-20	19.2%
21-30	15.6%
31-40	15.0%
41 or more	13.2%

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

Age Category	Problematic %
30 or younger	31.9%
31-40	25.1%
41-50	19.1%
51-60	16.2%
61-70	14.4%
71 or older	12.1%

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

Work Environment	Problematic %
Private firms	23.4%
In-house gov't, public, or non-profit	19.2%
Solo practitioner	19.0%
In-house corp. or for-profit institution	17.8%

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

Firm Position	Problematic %
Junior associate	31.1%
Senior associate	26.1%
Junior partner	23.6%
Managing partner	21.0%
Senior partner	18.5%

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

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

- Female respondents' anxiety and stress scores were higher than corresponding male scores.

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

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

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

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

- Finally, participating lawyers were asked about past mental health concerns over their legal career. The most common mental health conditions reported were anxiety (61.1%), depression (45.7%), social anxiety (16.1%), attention deficit hyperactivity disorder (12.5%), panic disorder (8.0%), and bipolar disorder (2.4%).

While this study is subject to certain inherent limitations (e.g., participants were not randomly selected, but rather self-selected by voluntarily responding to emails, news postings, and websites; given the nature of the survey, the participants may have overstated or understated their individual symptoms, etc.), it does produce an abundance of data that seem to reinforce in an empirical way what many intuitively suspect represents a fairly accurate description of the behavioral health of our profession. At a minimum, the study does suggest that the prevalence of problematic drinking, depression, anxiety, and stress within the American lawyer population should be cause for significant concern.

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

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References

¹ http://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_Use_and_Other_Mental.8.aspx

² <http://pubs.niaaa.nih.gov/publications/Audit.pdf>

³ https://www.cesphn.org.au/images/mental_health/Frequently_Used/Outcome_Tools/Dass21.pdf

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

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

⁶ <https://www.niaaa.nih.gov/alcohol-health/overview-alcohol-consumption/alcohol-use-disorders>

⁷ <http://www.mayoclinic.org/diseases-conditions/depression/in-depth/depression/art-20047725?p=1>.



March 2018

Issue No. 107

OREGON ATTORNEY ASSISTANCE PROGRAM

IN SIGHT for Oregon Lawyers and Judges

IMPROVING THE QUALITY OF YOUR PERSONAL AND PROFESSIONAL LIFE

NATIONAL TASK FORCE REPORT ON LAWYER WELL-BEING

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

Well-Being in the Legal Profession

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

The Report made clear that, although a disturbing portion of our legal profession has substance use and behavioral health challenges, the majority of lawyers and law students do not. It noted, however, “. . . that does not mean that they’re thriving. Many lawyers experience a ‘profound ambivalence’ about their work, and different sectors of the profession vary in their

levels of satisfaction and well-being.” Well-being is thus more than “the absence of illness; it includes a positive state of wellness.” To be a good lawyer, the Report noted, one has to be a healthy lawyer, and the research suggests that “the current state of lawyers’ health cannot support a profession dedicated to client service and dependent on the public trust.” The Task Force thus undertook to address not only mental health and problematic substance use concerns, but also the overarching issue of lawyer well-being within the profession. How can lawyers experience well-being and actually thrive in their personal and professional lives?

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

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

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

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

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

Social connections – developing a sense of belonging and support with others important in one’s life; and

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Physical health – striving for regular physical activity, proper diet, nutrition, sufficient sleep, and recovery from the use of unhealthy substances.

Stakeholders

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

Task Force Recommendations

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

Some of the general recommendations to all stakeholder groups include:

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

- De-emphasize alcohol at social events, and provide a variety of alternative non-alcoholic beverages at such events.

- Utilize monitoring to support recovery from substance use disorders in environments where it can be supportive.

Some of the recommendations to specific stakeholder groups include:

- Conduct judicial well-being surveys.
- Provide well-being programming for judges and staff.
- Encourage judicial participation in the activities of lawyer assistance programs, such as volunteering as speakers, particularly when the judge is in recovery him/herself.
- Educate and inform the judiciary regarding signs and symptoms associated with substance use and behavior health conditions so they are better able to identify when a lawyer may be in need of assistance.
- Adopt regulatory objectives that prioritize lawyer well-being, such as expanding continuing education requirements to include well-being topics; require law schools to create well-being education as a criterion for ABA accreditation; more closely focus on conduct and behavior rather than diagnosis and treatment as character and fitness bar admission criteria so as to avoid stigmatizing mental and behavioral health conditions and treatment; educate and accurately inform law students about bar admission criteria to reduce their fear that getting needed professional treatment will hinder their chances of bar admission.
- Adopt diversion programs and other alternatives to discipline for minor lawyer misconduct to encourage treatment for underlying substance use and mental health disorders.
- Add well-being-related questions to the multi-state professional responsibility exam.
- In legal work environments, form active lawyer well-being committees; monitor for signs of work addiction and poor self-care in legal work; and actively combat social isolation and encourage interconnectivity.
- In law schools, create best practices for assisting law students experiencing psychological distress; provide training to law school faculty regarding student mental

What the Research Tells Us

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

Among law students surveyed:

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

Among lawyers surveyed:

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

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

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

- Empower law students to help fellow students in need; facilitate a confidential recovery network for students; provide educational opportunities on well-being-related topics in law schools; and discourage alcohol-centered law-school-related events.

- Encourage local and state bar associations to sponsor quality CLE programming on well-being topics, and utilize the resources of state lawyer assistance programs when appropriate.

- Emphasize well-being in loss prevention programs, including being aware of the role of lawyer impairment in claims activity.

- Among lawyer assistance programs, encourage emphasis on confidentiality; high-quality well-being programming; and appropriate and stable funding for outreach, screening, counseling, professional staffing, and preventative education.

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

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