



**Oregon Attorney Assistance Program
&
OSB Small Firms and Solo Section
Legal Lunchbox**

present

**Resilient Lawyer: Managing
Stress & Anxiety in the Practice of
Law**

**Wednesday, February 19, 2020
12:00 – 1:00 p.m.**

Presenter:

**Karen A. Neri, JD,
MA-MCFC Candidate**

Attorney Counselor

**Oregon Attorney
Assistance Program**

Oregon State Bar
16037 Upper
Boones Ferry Rd.
Tigard, Oregon

Application for 1
MHSU credit
pending

www.aaap.org

503.226.1057

Resilient Lawyer: Managing Stress & Anxiety in the Practice of Law

I. Introduction

- a. Oregon Attorney Assistance Program (OAAP)
 - i. Assistance to lawyers, judges and law students in personal and professional matters such as stress, anxiety, depression, relationships and substance use.
 - ii. Free, confidential and voluntary.

II. Well-Being Climate in the Legal Profession

- a. Statistical highlights of the 2016 ABA Commission on Lawyer Assistance Programs (CoLAP) and Hazelden Betty Ford Foundation survey research (on ~13,000 lawyers) reflect a high prevalence of problematic alcohol use and mental health concerns among attorneys
- b. Among the mental health concerns are anxiety, depression and stress (see attached InSight articles: “National Study on Lawyer Substance Use and Mental Health” and “National Task Force Report on Lawyer Well-Being”).

III. Understanding Stress

- a. Stress is a state that is experienced when there is a threat to self.
- b. Short-term vs. Long-term Stress:
 - i. Short-term stress results in physiological symptoms that optimizes the mind, brain and body for action.
 - ii. Chronic stress leads to higher levels of cortisol, reduction of brain size, and shrinks the hippocampus (affecting memory and learning).
 - Certain coping mechanisms to stressors can impact the lawyer’s sense of self, the practice of law, and the profession as a whole.
 - Unhealthy coping behaviors include poor sleep, overconsumption, being sedentary/inactive, social withdrawal, or avoidance.

IV. Connection Between Mind, Brain/Body and Relationships

- a. Mind & Brain/Body: Our mind interacts with our nervous system and influences the manner we respond to life experiences. Our intention and attention both directs and regulates our neural circuitry such that physical changes can be detected in scans that measure brain activity. Siegel (2012) defines the mind as “ a process that regulates the flow of energy and information”.
- b. Relationships: Connection to other people are important to our well-being because it activates our soothing, safety and contentment system. Relationships are what our attachment system allows us to do and through our interactions with people, we form our view of self and others.
- c. Siegel’s Triangle of Well-Being: Mind (insight, awareness and focus); Brain/Body (extended nervous system throughout our body); Relationship (our attachment system) are integrated.

V. Stress and Anxiety

- a. Defining Anxiety: Anxiety is a normal reaction to stress (American Psychiatric Association, 2019). It is experienced in anticipation of what might happen in the future and can manifest as worry, dread, fear and in physical symptoms such as muscle tension.
 - i. Anxiety alerts us to danger, helps us pay attention and prepare for the anticipated future event.
 - ii. Anxiety can become an issue when there is persistent and excessive worry, fear or panic that interferes with daily life.
- b. Anxiety in the Practice of Law
 - i. Demands of private practice activates distress. Lawyers are expected to find ways to control uncertainty, eliminate mistakes (perfection), focus on potential problems (pessimism) and avoid vulnerability. All of these combined generate high anxiety.
- c. Potential Sources of Anxiety
 - i. Cortex-Based Anxiety: Thoughts that are threatening to one’s sense of self, physical safety, belonging or acceptance (threat-based thoughts)

ii. Amygdala-Based Anxiety (past trauma):

- Being in a constant state of distress and being unable to manage in a healthy way increases the risk of negative physical health and mental health, leading to trauma.
- Trauma is the unique individual experience of an event or enduring conditions in which the individual's ability to integrate his/her emotional experience is overwhelmed and the individual experiences (either objectively or subjectively) a threat to his/her life, bodily integrity, or that of a caregiver or family (Saakvitne, K. et al, 2000).
- Trauma lives in the body: People experience it as hypervigilance, hyperarousal (constant fight or flight) or immobilization (complete shutdown state)
- Impact of Trauma on Attachment: All trauma (even impersonal ones) happens in the context of relationship. Trauma isolates and precludes risking connection.

VI. Rewiring Your Brain

- a. Neurogenesis & Neuroplasticity: Our brain has the capacity to generate new cells (neurogenesis) and form new neural connections (neuroplasticity).
- b. Ways to Manage Anxiety:
 - i. Relaxation Techniques
 - Breathing (ex. abdominal breathing)
 - Muscle-Focused (ex. progressive muscle relaxation)
 - Visualization/Imagery
 - ii. Improve Exercise & Sleep (lack of sleep makes amygdala prone to anxiety)

iii. Understand Your Triggers & Change Your Thinking Patterns for Cortex-Based Anxiety

1. Perfectionism/Shame/Fear cycle:

- Differentiate between feelings of shame and guilt.
- Perfectionism sets you up for shame. Shame leads to more self-criticism & disappointment (threat-based thoughts)
- Self-Compassion as an antidote to perfectionism: Self-compassion includes self-kindness (treating yourself in the same way a loving and compassionate friend would); remembering common humanity (our challenges is part of a larger human experience and we are not alone); and mindfulness (intentional attention and awareness).

2. Aim for Strength-Based Thinking:

- Exercising Gratitude: Gratitude elicits positive feelings and leads to emotional well-being. A study of a three-month trial of gratitude journaling showed a significant favorable impact on well-being, affect, and depression (O'Connell, O'Shea, & Gallagher, 2017).
- Setting up a diary of positive experiences provide the opportunity to experience these emotions again and again when re-reading the diary entries (Seligman et al. 2005).

3. ADAPT Framework (Teater & Ludgate, 2014):

- **A**ctivating event or trigger
- **D**etecting Feelings and Thoughts
- **A**nswering Thoughts (reappraising thoughts)
- **P**roceeding Adaptively (small action steps)
- **T**est the outcome (noticing what has changed)

See attached handout, Using the ADAPT format to deal with distress and associated negative thoughts.

iv. Work with Emotions Instead of Suppress or Avoid:

1. Harness the power of mindfulness, which is the practice of paying attention in a particular way to the present moment without judgment (Kabat-Zinn, 1994). It is helpful for regulating emotion in holding awareness while retaining a positive state of mind.

➤ **Breath-Focused Meditation:** Focusing on the breath when doing meditation. Meditation is a form of mindfulness practice that trains mind/brain/body awareness and allow for a new perspective.

v. Relational Connection:

1. Mirror neurons & Resonance behavior: Mirror neurons refer to the same neurons lighting up in our brain when we act and when we watch someone else performing a similar action. When we experience the emotions of others people, we imitate it internally or overtly and come to understand it (resonance) (Cozolino, 2014). People have the unique ability to experience empathy because we can think and feel (embody) the circumstances of others.
2. “Secure attachment is the antidote to trauma” (Allen, 1995).
3. Connect with and maintain a socially resilient environment. Find like-minded people, and connect with or create your community. Identity mentors, coaches, cheerleaders, and friends to become part of your extended support system with whom you can debrief, feel understood, accepted, receive guidance or be gently challenged (ex. supportive colleagues, support groups, or OAAP).

vi. Counseling or Therapy:

1. Consider connecting with the OAAP Attorney Counselor for short-term counseling, support groups, referrals or information.
2. Long-term counseling or therapy for generalized anxiety disorder, panic attacks, phobias, or social anxiety.

VII. Self-Care & Community Care Plan:

- a. Engaging in activities in which you take time to care for yourself (i.e taking breaks or moving your body throughout the day) and/or allowing yourself to be cared for by others (i.e. having someone screen your calls) in addition to caring for others. All of this builds resilience.
- b. Build a plan that increases all dimensions of your life, which can be a buffer against chronic stress. This is also a way to reinforce all aspects of your identity. The report of the National Task Force on Lawyer Well-Being lists six dimensions of well- being:
 - i. Occupational (finding satisfaction, meaning and financial stability through work);
 - ii. Emotional (finding ways to regulate our emotions);
 - iii. Physical (engaging in physical activity, healthy diet, and sufficient sleep);
 - iv. Intellectual (pursuing creative or intellectual outlets for continued personal or professional growth and development);
 - v. Spiritual (being attuned to those qualities that allows you to find meaning in daily experiences or transcend physical and emotional discomfort); and
 - vi. Social (supporting your need for belonging)

(Lawyer well-being tool kit, 2018)

- vii. OAAP adds a Cultural Dimension, which refer to supporting your need to honor your heritage or traditions, and expanding your cultural knowledge

VIII. Helping A Colleague In Need

- a. In most cases, if you have concerns about a potentially impaired colleague, there are likely others who have similar concerns.
- b. 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.
- c. See if you might be able to approach them about your concern. Doing something is generally better than doing nothing.

- i. Personal contact (phone or in-person) is generally better than emails & texts.
 - ii. Emails & texts are generally better than no contact.
 - d. Having a conversation with a colleague in need
 - i. When the potentially impaired person is someone you do not feel comfortable dealing with directly, look for alternatives (e.g., OAAP).
 - ii. 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.
 - iii. Focus on *behaviors that you have observed*. Avoid second-hand reports if possible.
 - iv. Compassion & candor can go together; be direct (“I’m really concerned about you. You seem to be really struggling with _____ Can I help you?”).
 - v. Consider using Dr. Marshall Rosenberg’s Nonviolent Communication (NVC) model (Observations, Feelings, Needs, and Requests)
https://www.nonviolentcommunication.com/pdf_files/4part_nvc_process.pdf
 - vi. Be prepared to encounter *ambivalence, denial, rationalization, justification* and *blame*.
 - e. 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.
 - f. 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.
 - g. Have a plan in case your person is ready to get help – a phone number to call or a

person with whom to talk (“Here is a number for someone who can help...can we make the call right now?”):

- i. Suggest an assessment by a specialist
- ii. Suggest private counseling or treatment (inpatient or outpatient)
- iii. Suggest the OAAP
- iv. Suggest support groups (AA, NA, Women for Sobriety, Smart Recovery)

Resources

- Anxiety and Depression Association of America. <https://adaa.org/>
- Harris, R. (2011). *The confidence gap: A guide to overcoming fear and self-doubt*. Boston, MA: Trumpeter Books
- Kabat-Zinn, J. (1994). *Wherever you go, there you are: Mindfulness meditation for everyday life*. New York, NY: Hachette Books.
- Levine, S. (Ed.). (2018). *The Best Lawyer You Can Be: A Guide to Physical, Mental, Emotional, and Spiritual Wellness*. Chicago, IL: American Bar Association.
- McGonigal, K (Presenter). (2013, June). *How to make stress your friend*. [Podcast]. Retrieved from https://www.ted.com/talks/kelly_mcgonigal_how_to_make_stress_your_friend
- Rosenberg, M. & Chopra, D. (2015). *Nonviolent communication: A language of life: Life-changing tools for healthy relationships*. Encinitas, CA: PuddleDancer Press.
- Substance Abuse and Mental Health Services Administration. <https://www.samhsa.gov/find-help/national-helpline>
- Seppala, E. (2011, September-October). Self-compassion. *Spirituality & Health Magazine*, 59-65. <https://www.yumpu.com/en/document/read/11397957/self-compassion-spirituality-and-health-magazine-pdf>
- TED-Ed. (January 2018). *Constantly Curious: How Does Stress Affect Your Brain?* [Video file]. Retrieved from <https://www.facebook.com/TEDEducation/videos/143576522975065/>
- Well-Being Toolkit for Lawyers & Legal Employers, ABA (2018). American Bar Association. https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_well-being_toolkit_for_lawyers_legal_employers.pdf

References

- Allen, J. (1995). *Coping with trauma*. Washington, DC: American Psychiatric Press.
- American Psychiatric Association & Parekh, R. (2017). What are anxiety disorders? Retrieved from <https://www.psychiatry.org/patients-families/anxiety-disorders/what-are-anxiety-disorders>
- Cozolino, L. (2014). *The neuroscience of human relationships : Attachment and the developing social brain* (Second ed., Norton series on interpersonal neurobiology). New York: W.W. Norton & Company.
- Figely, C. (1995). *Compassion fatigue: Coping with secondary traumatic stress disorder in those who treat the traumatized*. (Ed.) New York: Brunner/Mazel.
- Krill, P.R., Johnson, R., & Albert, L. (2016). The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys. *Journal of Addiction Medicine, 10*(1): 46-52. doi: 10.1097/ADM.0000000000000182
- Manitoba Trauma Information & Education Centre. (2013). Triangle of Well-Being. Retrieved from <https://trauma-recovery.ca/resiliency/triangle-of-well-being/>
- O'Connell, B. H., O'Shea D., & Gallagher, S. (2017). Feeling Thanks and Saying Thanks: A Randomized Controlled Trial Examining If and How Socially Oriented Gratitude Journals Work. *Journal of Clinical Psychology, 73*(10): 1280-1300. doi: 10.1002/jclp.22469
- Proctor, C., Maltby, J., & Linley, P. A. (2011) Strengths use as a predictor of well-being and health-related quality of life. *Journal of Happiness Studies, 12*, 153-169. doi: 10.1007/s10902-009-9181
- Siegel, D. J. (2012). *The developing mind: How relationships and the brain interact to shape who we are*. New York: Guilford Press.
- Seligman, M. P., Steen, T. A., Park, N., & Peterson, C. (2005). Positive psychology progress: Empirical validation of interventions. *American Psychologist, 60*(5), 410-421. doi:10.1037/0003-066X.60.5.410
- Southwick, S. M., Bonanno, G. A., Masten, A. S., Panter-Brick, C., & Yehuda, R. (2014). Resilience definitions, theory, and challenges: interdisciplinary perspectives. *European journal of psychotraumatology, 5*, 10.3402/ejpt.v5.25338. doi:10.3402/ejpt.v5.25338
- Saakvitne, K. W., Gamble, S., Pearlman, L. A., & Lev, B. T. (2000). *Risking connection: A training curriculum for working with survivors of childhood abuse*. Baltimore, MD, US: The Sidran Press.
- Teater, M. & Ludgate, J. (2014). *Overcoming compassion fatigue: A practical Resilience workbook*. Eau Claire, WI: PESI Publishing & Media

EXERCISE

IDENTIFYING YOUR SOURCES OF STRESS

What are some stressors or triggers for distress for you in the work situation?

Client-Related Stressors/Triggers

Specify: _____

Administrative or Organizational Stressors/Triggers

Specify: _____

Other Stressors or Triggers

Specify: _____

EXERCISE

IDENTIFYING YOUR EXTERNAL AND INTERNAL STRESSORS

The following checklist may be helpful in identifying both external and internal stressors.

External stressors

Do you experience the following?

- Low peer support
- Low supervisor support
- Insufficient salary or other rewards
- Many demanding clients
- Long hours
- No or poor on-job training
- High organizational conflict
- Little focus on personal development or self-care in agency

Internal stressors

Do you have problems with any of these?

- Poor professional boundaries
- Poor self-care
- Overly idealistic or unrealistic expectations of clients or agency
- Imbalanced lifestyle (lack of recreation)
- Intolerance of things not going well or of being unsuccessful
- Poor understanding of, or attending to, one's own needs
- Lack of a sustaining personal or spiritual life
- Perfectionism
- Inability to say "no"
- Lack of a sense of humor or being overly serious
- Perception of lack of success with clients
- Unfavorable comparisons (made by self) with colleagues
- Negative self-evaluation
- Failure to ask supervisors or peers for help

While it is obvious that the second group of stressors revolves around personal characteristics or beliefs, it is important to see that one's own perception may also influence the impact of the first group of stressors. For example, the experience of low supervisor support may be the reality, or alternately it may possibly be a misperception of the supervisor, or due to your not asking for help or support and presenting an image of "having everything together."

EXERCISE

IDENTIFYING YOUR PERSONAL INDICATORS OF DISTRESS

Specify changes you notice during periods of stress in the following areas:

1. Changes in my behavior (irritability, withdrawal from others, lack of productivity)

Specify:

2. Changes in my body (sleep problems, eating disturbances, headaches, tiredness)

Specify:

3. Changes in my thinking (poor concentration, indecisiveness, pessimism, self-blame)

Specify:

4. Changes that other people who know me have commented on or brought to my attention
(friends or family say that I am snappy or that I have become distant or withdrawn)

Specify:

SELF-HELP FORM

USING THE ADAPT FORMAT TO DEAL WITH DISTRESS AND ASSOCIATED NEGATIVE THOUGHTS

Activating event or trigger

What are the stressful situations I am encountering (work-related, non work-related)? _____

Detecting feelings and thoughts

What are my emotions? _____

What are my physical feelings? _____

What are my key thoughts and beliefs relating to these situations? _____

What is the effect of my thinking on my emotions and behavior? _____

What are some core beliefs about my role as a ~~provider~~ ^{lawyer} or in general which are influencing my thinking in these situations? _____

Answering thoughts

What is the evidence for and against my thoughts? _____

What are other ways I could look at this? _____

What is the worst that could happen and how likely is this? _____

What would I do if the worst did happen? _____

Proceeding adaptively

What can I do or how can I think which will help me deal more effectively with this current situation? _____

What can I do in general to reduce my current level of distress? _____

Who might I reach out to? _____

Test the outcome

What has changed in how I feel or how I am acting differently since I came up with or proceeded with the plan noted above? _____

Is it working? _____

If not, what else might I do? _____

WORKING WITH DIFFICULT THOUGHTS & EMOTIONS

When experiencing a difficulty emotion (ex. sadness, fear), **NAME** your feelings:

Notice (thoughts, feelings, and/or sensations in your body)

Acknowledge (identify your thoughts, feelings & bodily sensations)

Make room (allow yourself to bring your attention to the thoughts, feelings or bodily sensations; to be present with it all while staying open and curious; allow the thoughts/feelings/sensations to stay, come or go freely)

Expand awareness (as you are noticing, acknowledging and making room for your thought(s), feeling(s) or sensation(s), bring your attention to your external world, and notice both at the same time)

Use a visualization technique to create distance from your thoughts and feelings:

“Leaves on a Stream” Exercise (positive or negative thoughts)

- 1) Sit in a comfortable position and either close your eyes or rest them gently on a fixed spot in the room.
- 2) Visualize yourself sitting beside a gently flowing stream with leaves floating along the surface of the water. Pause 10 seconds.
- 3) For the next few minutes, take each thought that enters your mind and place it on a leaf... let it float by. Do this with each thought – pleasurable, painful, or neutral. Even if you have joyous or enthusiastic thoughts, place them on a leaf and let them float by.
- 4) If your thoughts momentarily stop, continue to watch the stream. Sooner or later, your thoughts will start up again. Pause 20 seconds.
- 5) Allow the stream to flow at its own pace. Don't try to speed it up and rush your thoughts along. You're not trying to rush the leaves along or “get rid” of your thoughts. You are allowing them to come and go at their own pace.
- 6) If your mind says “This is dumb,” “I'm bored,” or “I'm not doing this right” place those thoughts on leaves, too, and let them pass. Pause 20 seconds.
- 7) If a leaf gets stuck, allow it to hang around until it's ready to float by. If the thought comes up again, watch it float by another time. Pause 20 seconds.
- 8) If a difficult or painful feeling arises, simply acknowledge it. Say to yourself, “I notice myself having a feeling of boredom/impatience/frustration.” Place those thoughts on leaves and allow them float along.
- 9) From time to time, your thoughts may hook you and distract you from being fully present in this exercise. This is normal. As soon as you realize that you have become sidetracked, gently bring your attention back to the visualization exercise.



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.

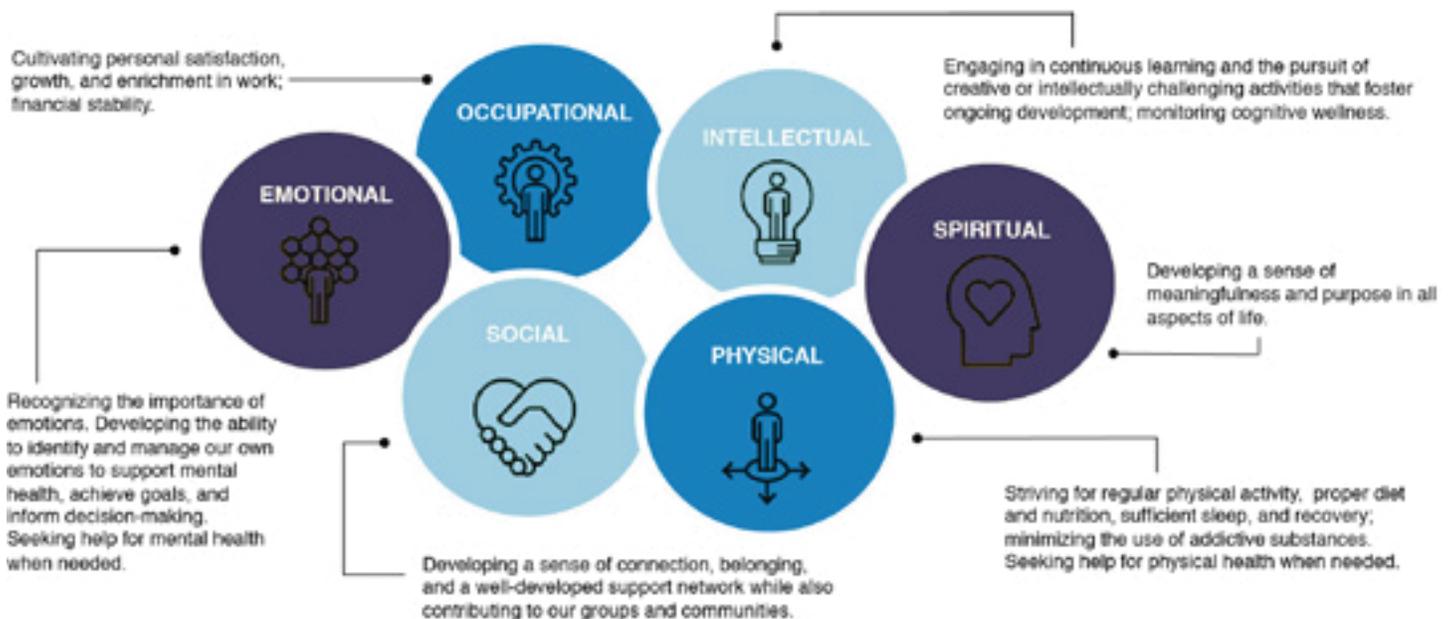
Developing a sense of meaningfulness and purpose in all aspects of life.

6. Social.

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

Defining Lawyer Well-Being

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



* OAAP adds Cultural Well-Being as a 7th dimension asking you if you are fulfilled in practicing your traditional celebrations/rituals/foods/language/learning practices.



June 2016
Issue No. 100

*National Study on
Lawyer Substance Use
and Mental Health*

Page 1

*Finding My Balance:
Perspectives from a
Lawyer Parent*

Page 4

*Positive Emotions and
Taking in the Good*

Page 6

*Lawyers in Transition
Presentation Calendar*

Page 8

**OREGON
ATTORNEY
ASSISTANCE
PROGRAM**

503-226-1057
1-800-321-OAAP
www.oaap.org

Helping
lawyers and judges
since 1982

- Alcohol & Chemical Dependency
- Career Change & Transition
- Gambling Addiction
- Mental Health
- Procrastination & Time Management

A free, nonprofit,
confidential program
for you.

IN SIGHT for Oregon Lawyers and Judges

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.

DOUGLAS QUERIN, JD, LPC, CADC I
OAAP ATTORNEY COUNSELOR

References

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

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

OREGON ATTORNEY ASSISTANCE PROGRAM

503-226-1057

1-800-321-OAAP

www.aaap.org

Helping
lawyers and judges
since 1982

- Alcohol & Chemical Dependency
- Career Change & Transition
- Gambling Addiction
- Mental Health
- Procrastination & Time Management

A free, nonprofit,
confidential program
for you.

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!

**DOUGLAS S. QUERIN, JD, LPC, CADC I
OAAP ATTORNEY COUNSELOR**

References appear on page 4

References:

- B. Buchanan, J. Coyle, A. Brafford, et al. (2017). *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*.
<https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportFINAL.pdf>
- P. R. Krill, R. Johnson, & L. Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46 (2016).
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4736291>
- J. M. Organ, D. Jaffe, & K. Bender, *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*, 66 J. LEGAL EDUC. 116 (2016).
<https://jle.aals.org/home/vol66/iss1/13>