

Gender and Stress: The intersection of Well-Being and Professionalism
Presented by Nancy L. Holland, Attorney at Law, E-CYT

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Nancy began serious study of yoga and meditation while a law student, as a means of improving mental focus and reducing stress. A longtime member of the Akron Bar Association's Certified Grievance Committee and Lawyer's Assistance Committee, Nancy has a keen understanding of both the serious impact of stress on members of the profession, and the need for effective tools for its management. Now a Certified Yoga Teacher, registered with Yoga Alliance at the E-RYT level (denoting thousands of hours of classroom instruction time), Nancy teaches yoga and meditation to individuals and groups, including attorneys, physicians, business entities and professional organizations.

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Women in the Legal Profession

According to data published by the **American Bar Association's Market Research Department** in April 2016, women comprise only 36 percent of legal professionals in the country.

Leading scholar in the area of gender and the legal profession, Stanford Law School Professor Deborah L. Rhode reports:

"For most of recorded history, men have held nearly all of the most powerful leadership positions. Today, although women occupy an increasing percentage of leadership positions, in America they hold less than a fifth of positions in both the public and private sectors. The United States ranks 78th in the world for women's representation in political office. In politics, although women constitute a majority of the electorate, they account

for only 18 percent of Congress, 10 percent of governors, and 12 percent of mayors of the nation's 100 largest cities. In academia, women account for a majority of college graduates, but only about a quarter of full professors and university presidents. In law, women are almost half of law school graduates, but only 17 percent of the equity partners of major firms, and 22 percent of Fortune 500 general counsels. In business, women constitute a third of MBA graduates, but only 5 percent of Fortune 500 CEOs.” (Rhode, *Women and Leadership*).

Introduction: Gender and Stress

I. Overview: Impact of Stress on Physical and Mental Health

Stress is “normal;” *distress* is not

- A. Physical impact begins with sympathetic nervous system response: adrenal cascade and its hallmarks
- B. Cardiovascular, Immune Response, Gastrointestinal, Reproductive, Inflammation.
- C. Brain changes: irritability, memory loss, attention deficit, destruction of brain cells

See, American Psychological Association, Effects of Stress on the Body, <http://www.apa.org/helpcenter/stress-body.aspx> ;

Mayo Clinic, *Stress symptoms: Effects on your body and behavior*, <http://www.mayoclinic.org/healthy-lifestyle/stress-management/in-depth/art-20050987>

II. Stress on the Rise for Women: “Fred Astaire was great, but don’t forget that Ginger Rogers did everything he did, backwards ... and in high heels.”

Though they report similar average stress levels, women are more likely than men to report that their stress levels are on the rise. They are also much more likely than men to report physical and emotional symptoms of stress. When comparing women with each other, there also appears to be differences in the ways that married and single women experience stress:

Women are more likely than men (28 percent vs. 20 percent) to report having a great deal of stress (8, 9 or 10 on a 10-point scale).

- **Almost half of all women (49 percent) surveyed said their stress has increased over the past five years**, compared to four in 10 (39 percent) men.
- **Women are more likely to report that money (79 percent compared with 73 percent of men) and the economy (68 percent compared with 61 percent of men) are sources of stress** while men are far more likely to cite that work is a source of stress (76 percent compared with 65 percent of women).
- **Women are more likely to report physical and emotional symptoms of stress** than men, such as having had a headache (41 percent vs. 30 percent), having felt as though they could cry (44 percent vs. 15 percent), or having had an upset stomach or indigestion (32 percent vs. 21 percent) in the past month.
- **Married women report higher levels of stress than single women**, with one-third (33 percent) reporting that they have experienced a great deal of stress in the past month (8, 9 or 10 on a 10-point scale) compared with one in five (22 percent) of single women. Similarly, significantly more married women report that their stress has increased over the past five years (56 percent vs. 41 percent of single women). Single women are also more likely than married women to say they feel they are doing enough to manage their stress (63 percent vs. 51 percent).
- **Married women** are more likely than single women to report they have experienced the following due to stress in the past month: feeling as though they could cry (54 percent vs. 33 percent), feeling irritable or angry (52 percent vs. 38 percent), having headaches (48 percent vs. 33 percent) and experiencing fatigue (47 percent vs. 35 percent).
- **Men and women report wide gaps between determining what is important and how successful they are at achieving those behaviors.**
- **Women are much more likely than men to say that having a good relationship with their families is important to them** (84 percent vs. 74 percent). While fewer women say they are doing a good job at succeeding in this area, they outpace men (67 percent vs. 53 percent).
- **Women are also more likely than men to say that having a good relationship with their friends is important to them** (69 percent vs. 62 percent), even though friendship is cited less often than family for both men and women.
- Even though **nearly half of all women (49 percent) say they have lain awake at night in the past month because of stress**, three-quarters of women rate getting enough sleep as extremely or very important (75 percent compared with 58 percent of men).
- Across the board, men's and women's perceptions of their ability to succeed in areas that are important to their well-being are far out of line with the importance they

place on these behaviors. Even more so than women, men report less likelihood of success in these areas.

- **Only 33 percent of women report being successful in their efforts to get enough sleep** (compared with 75 percent who believe this is important); only 35 percent report success in their efforts to manage stress (compared with 69 percent who believe this is important); 36 percent report success in their efforts to eat healthy (compared with 64 percent who believe this is important); and only 29 percent are successful in their efforts to be physically active (compared with 54 percent who believe this is important).
- Only 25 percent of men report being successful in their efforts to get enough sleep (compared with 58 percent who believe this is important); only 30 percent report success in their efforts to manage stress (compared with 59 percent who believe this is important); only 25 percent report success in their efforts to eat healthy (compared with 52 percent who believe this is important); and only 26 percent are successful in their efforts to be physically active (compared with 54 percent who believe this is important).

See, <http://www.apa.org/news/press/releases/stress/2010/gender-stress.aspx> (American Psychological Association)

III. Primary Causes of Stress in the Legal Profession

- A. time pressures, workload, work-life imbalance
- B. competition
- C. economic downturns/ corporate streamlining/ legal reforms
- D. quality of work life/ workplace conditions: academia, government service, corporate counsel and private practice
- E. conflict and adversarial interactions
- F. client relations
- G. public perception
- H. perfectionism and isolation
- I. limited exposure to healthy coping tools

See, Elwork, *Stress Management for Lawyers* (Vorkell Group, 3d edition 2007)

See also, <https://lawyerist.com/lifestyle/mental-health/> (links to podcasts about mental health issues affecting the legal profession).

IV. Additional Stress Hurdles for Women in the Legal Profession

- A. inherent, institutional and one-on-one bias/ disparate treatment (includes inequality in networking opportunities, unequal pay, “mommy tracking,” and discrimination/ hostility and harassment)
- B. Fewer mentoring opportunities
- C. “Disappearance” of female attorneys, over time

“Women are graduating from law schools in droves and now make up almost 45 percent of law firm associates. Yet that growth has not been reflected in the higher levels of law firms.

A decade ago, women held 16 percent of big-law partnerships. Today, they are at 18 percent, according to the American Bar Association.

As a result, according to a 2014 survey by the National Association of Women Lawyers, female partners routinely earn only 80 percent of what their male counterparts earn. The roughly \$125,000 annual difference amounts to a pay loss of more than \$1 million for each female lawyer over a decade.”

Female Lawyer’s Gender-Bias Suit Challenges Law Firm Pay Practices, New York Times (August 31, 2016)

<https://www.nytimes.com/2016/09/01/business/dealbook/female-lawyers-gender-bias-suit-challenges-law-firm-pay-practices.html?action=click&auth=login-e>

V. Gender and the Impact of Stress arising from Work-Life Conflict or

Imbalance

Conflict between work and non-work roles and/or responsibilities is associated with a number of detrimental outcomes that have been well established in the research literature, including by studies conducted under the aegis of Stanford University’s School of Law, and the University of California- Hastings School of Law. *See, e.g.*, www.worklifelaw.org

A. Referred to generally as “work-life conflict”, employees who experience high levels of conflict between work and non-work roles and/or responsibilities tend to have **lower levels of job satisfaction** (Burke & Greenglass, 1999) and **job performance** (Anderson, Coffey, & Byerly, 2002; Frone, Russell, & Cooper, 1992; Greenhaus, Colins, Singh, & Parasuraman, 1997), **withdraw from work** (Hammer, Bauer, & Grandey, 2003; MacEwen & Barley, 1994), and experience **greater sickness absence** (Jansen, Kant, van Amelsvoort, Kristensen, Swaen, & Nijhuis, 2006) and **intentions to leave the organization** (O’Neill, Harrison, Cleveland, Almeida, Stawski, and Crouter, 2009) .

B. Work-Life Conflict: The Scarcity Perspective: “Something’s Gotta Give”

The idea of “scarcity perspective” assumes a finite amount of psychological and physiological resources available, to respond to their role obligations. Multiple roles increase the demand on resources and an individual risks depletion and/or exhaustion of resources. As such, individuals must make trade-offs to reduce role strain (Aryee, Srinivas, & Tan, 2005). Underlying the trading-off of finite resources, particularly in the work-life context, is the notion that work and family roles have distinct responsibilities and obligations in which the satisfaction of those associated with one role entails the sacrifice of another (Zedeck & Mosier, 1990). This leads to role conflict, due to incompatibility between roles

(Greenhaus & Beutell, 1986; Kahn, et al., 1964), and this is central to the focus of much of the work-life/work-family literature.

VI. Impact of Stress on Professional Conduct, for Ohio Attorneys

- A. Lawyers are 3.6 times as likely to be depressed as people in other jobs, while the landmark 2016 American Bar Association and Hazelden Betty Ford Foundation [study](#) found that 28 percent of licensed, employed lawyers suffer with depression. The study also showed that 19 percent have symptoms of anxiety and 21 percent are problem drinkers.

- B. “The legal profession combines long hours, high stress, isolation, a trained need to never show vulnerability, and work that by its very definition is antagonistic and conflict-laden, and that makes for a toxic environment conducive to addiction and mental health issues. Legal work combines all the elements that contribute to substance abuse and other disorders into one toxic pot.”

—Kevin Chandler, an attorney and director of the legal professionals program at Hazelden Betty Ford Foundation, the nation’s largest addiction treatment provider

Lawyers Weigh in: Why is There a Depression Epidemic in the Profession? ABA Journal, ABA Journal (May 11, 2018).

http://www.abajournal.com/voice/article/lawyers_weigh_in_why_is_there_a_depression_epidemic_in_the_profession

- C. **“Stress” is frequently cited by Ohio disciplinary respondents as the “reason” for their professional misconduct, but is not necessarily treated as a “mitigating factor” in the issuance of sanctions in**

attorney disciplinary proceedings, particularly where the Attorney has not received diagnosis of a related mental health disorder and/or has not sought help from OLAP/ mental health provider.

- D. ***But note, a diagnosed disorder will not be treated as a mitigating factor if it is not “causally connected to the misconduct,” or if the conduct is egregious—involving theft, repeated dishonesty, and fraud.***

In *Disciplinary Counsel v. Rumizen*, 156 Ohio St.3d 575, 2019-Ohio-2519 (2019), Attorney Scott Rumizen of Beachwood, Ohio was found to have engaged in repeated and severe acts of financial dishonesty, involving cheating other lawyers in fee-sharing agreements, in violation of Prof.Cond.R. 8.4(c) (prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

Although the parties stipulated that Rumizen’s diagnosed mental health disorder qualified as a mitigating factor, the board found the causal connection between the disorder and his underlying misconduct “to be thin, at best.” Therefore, Rumizen’s mental-health disorder does not qualify as a mitigating factor under Gov.Bar R. V(13)(C)(7) (permitting the existence of a disorder to be considered a mitigating factor only if certain conditions are met, including “[a] determination that the disorder contributed to cause the misconduct”). The board nonetheless noted that Rumizen is currently working with the Ohio Lawyers Assistance Program (“OLAP”) and that his “demonstrated sincerity and commitment to continuing his mental health treatment is a positive factor in assessing [his] ability to ethically practice law going forward.”

- E. ***Stress, alone, may not be treated as a mitigating factor” (in the absence of a causally-linked diagnosed condition, or unique/severe circumstances) under Gov. Bar R. V(13).***

In *Disciplinary Counsel v. McCray*, 156 Ohio St.3d 492, 2019-Ohio-1857 (2019), Attorney Leah McCray, of Lima, Ohio was determined to have failed to professionally

serve clients in several pending matters, following the disappearance of her teenaged daughter. The parties argued that McCray deserved a” less severe sanction because her misconduct was the result of a “traumatic event” rather than “a more general depressive state” that existed for a longer period. But as explained in *Harvey*, we generally do not accord “evidence of stressful life events as much weight as evidence of a qualifying mental disability,” although such events are “relevant factors that may be considered in determining the appropriate sanction for an attorney’s misconduct.” *Id.*

F. If stress and/or undiagnosed mental health issues are affecting your law practice, get help.

In 1991 the OSBA/LAC incorporated Ohio Lawyers Assistance Program, Inc., as an Ohio nonprofit corporation...OLAP's mission is to educate the profession about substance abuse/chemical dependency and mental illness, provide advice about treatment alternatives, perform interventions, and provide support and monitor recovery.

<https://www.ohiolap.org/confidential>

- G. If you contact OLAP about yourself or about an attorney colleague, you can rest assured that your call and anything you discuss with OLAP will be protected by strong rules of confidentiality:

Prof. Cond. Rule 8.3 provides an exemption from the duty to report knowledge of ethical violations when that knowledge was obtained in the course of OLAP's work.

Code of Judicial Conduct Rule 2.14 provides that information obtained by a member or agent of a bar of judicial association shall be privileged.

R.C. § 2305.28 provides qualified immunity from civil liability for OLAP staff (B and C) and for anyone who provides information to OLAP (D).

VII. Mind-Body Tools for Stress Management

Yoga and Meditation are not a substitute for medical or professional mental health care, but can reduce the physical and mental effects of stress, with a regular practice. Both practices are accessible for all bodies, without regard to physical or other limitations, when instruction is provided by a qualified, experienced instructor. A regular Yoga and/or Meditation practice can:

- A. Reduce stress and anxiety;
- B. Improve back and neck pain;
- C. Regulate/reduce the impact of stress hormones;
- D. Improve sleep, high blood pressure, chronic pain, immune response, asthma and many other conditions
- E. Improve concentration;
- F. Allow the practitioner to become more responsive instead of having knee-jerk reactions;
- G. Improve stress-related symptoms and health conditions, in tandem with appropriate professional care and clearance;
- H. Increase productivity;
- I. Relieve symptoms of depression and PTSD;
- J. Support smoking cessation;
- K. Assist in disconnecting from noise and distraction;
- L. Promote peacefulness, in mood and interactions with others;

Sources: <https://www.health.harvard.edu/staying-healthy/yoga-benefits-beyond-the-mat> (Harvard Medical School)

<https://nccih.nih.gov/health/yoga/introduction.htm> (National Institute of Health, US Department of Health and Human Services)

IV. Yoga Breathing

V. Making Mindfulness a Daily Habit

A. Ten Steps

1. **Set an Intention. Write it down and place it in a prominent place in your home and your office.** Sharing your intention with your significant other, a friend or family member will increase your likelihood of following through.

2. **Start with Just Two Minutes. Research shows that just two minutes of meditation per day, for just 21 days, will actually change the structure and function of your brain.**

3. **Get a timer, choose a place to sit, and have a sweater or a blanket handy.** No other “equipment” is necessary. Electronic devices/ other potential disruptions are switched off. There are numerous apps for supporting meditation, too (*see, eg,* <https://www.mindbodygreen.com/0-29367/the-5-best-meditation-apps-to-help-you-find-your-calm.html>).

4. **“Schedule” your meditation.** Do it every morning, so it doesn’t get pushed off. Do it while the coffee is brewing, and before the rest of the household is up and moving.

5. **Look at your meditation the way you look at other daily activities.** Just as you brush your teeth every morning, you now meditate every morning.

6. **Keep it Simple.**

Find a comfortable seated position

Close your eyes

Bring your attention to your breath — feel the inhale and the exhale

When your mind wanders, bring it back to the breath

No judgment: when you have a thought, let it go.

7. **Keep an open mind, and drop any ideas of “how it should be.”** Every meditation is different, and some feel easier than others.

8. **Let it unfold.** The benefits of meditation do not happen overnight. While you may continue to experience habitual thinking or behavior, you may find that you begin to see them as such, and can manage your feelings and thoughts more easily.

9. **Know that there are common issues affecting meditation, and just do your best to work through them.** If you fall asleep during meditation, try getting more sleep and meditating in the morning. You can also meditate with eyes open. If you feel that you are unable to calm your mind during meditation, just relax. Thoughts happen. Let it go. If you experience physical discomfort during meditation, make any necessary adjustment, and begin again. It may take some time to get accustomed to sitting.
10. **Stay curious and open and willing.** Meditation is about practice. When we stay with it, when we meditate every day, we are *practicing*. And we will receive the benefits.

Quick and Easy Self Care Steps

1. **Start a gratitude journal.** Document just 3 things (in the “notes” section of your phone) that you’re thankful for, each day.
2. **Let all routine office phone calls go to voice mail, and *schedule* “review and return” sessions, 2-3 times per day.**
3. **Change up the way you do just one thing:** take a different route to work, or gently shuffle your morning routine (meditate while the coffee brews!).
4. **Pay complete attention to something you usually do without thought:** brushing your teeth, choosing a radio station, breathing, even folding laundry.
7. **9. Fix something that’s been bothering you:** replace a lightbulb, tighten a screw, replace a button, finish an item that’s been “lurking” on your desk or your “to do” list.
10. **Unplug:** set aside time, every day, to turn off the phone, the tshut down the browser, and just be.
11. **Moderate and edit social media use.**

12. Check in with your body, every day. A 5 minute “body scan” allows for an accurate sense of how you feel, and can keep you healthy.

13. Declutter: your desk, your office, your car, your closet. Start small- get rid of something, every week.

14. Be of service, including by mentoring other women in the law.

15. Cultivate healthy relationships with other women in the law. Studies consistently show that women know the value of their friendships with other women, and women’s health and well-being is dramatically benefitted from having positive professional relationships with other women.

16. Note that there are relatively few “actual emergencies.” Allow adequate time and space for good decision making, and good self-care.