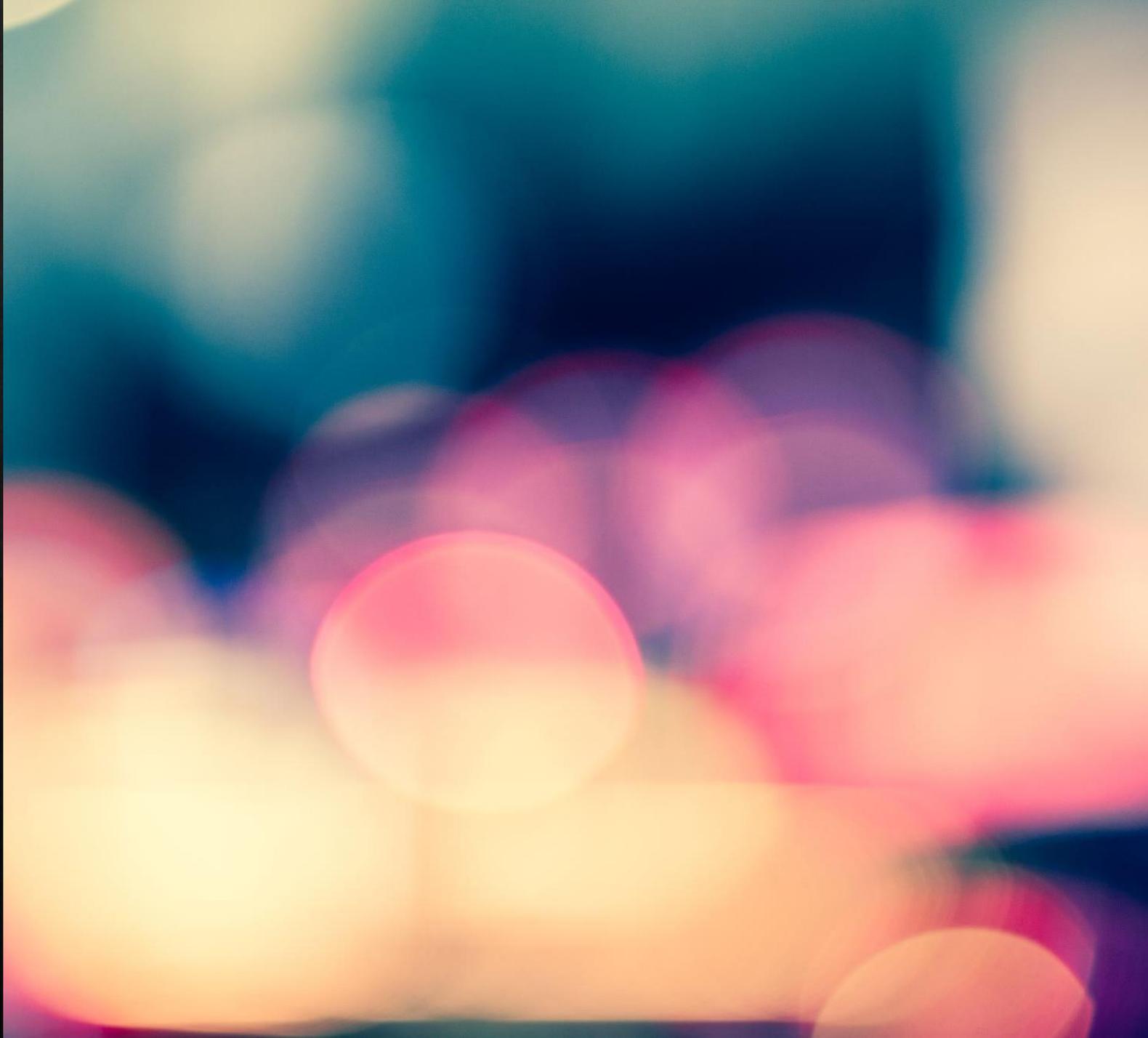


Path to Lawyer Well-Being: Practical Recommendations for Positive Change

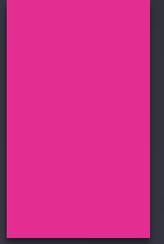
PRESENTER: JACLYN PALUMBO



What is the National Task Force on Lawyer Well-Being?

- ▶ Conceptualized and initiated by the ABA Commission on Lawyer Assistance Programs; the National Organization of Bar Counsel; and the Association of Professional Responsibility Lawyers. Many divisions of the American Bar Association as well as entities outside of the Bar association collaborated.

What is the “Path to Lawyer Well-Being:
Practical Recommendations for
Positive Change”?



FIVE CENTRAL THEMES OF THE REPORT:

- (1) identifying stakeholders and the role each of us can play in reducing the level of toxicity in our profession
- (2) eliminating the stigma associated with helpseeking behaviors
- (3) emphasizing that well-being is an indispensable part of a lawyer's duty of competence
- (4) educating lawyers, judges, and law students on lawyer well-being issues, and
- (5) taking small, incremental steps to change how law is practiced and how lawyers are regulated to instill greater well-being in the profession

PART 1 – RECOMMENDATIONS FOR ALL STAKEHOLDERS

1. Acknowledge the Problems and Take Responsibility. 2. Use This Report as a Launch Pad for a Profession-Wide Action Plan. 3. Leaders Should Demonstrate a Personal Commitment to Well-Being. 4. Facilitate, Destigmatize, and Encourage Help-Seeking Behaviors. 5. Build Relationships with Lawyer Well-Being Experts. 5.1 Partner with Lawyer Assistance Programs. 5.2 Consult Lawyer Well-Being Committees and Other Types of Well-Being Experts. 6. Foster Collegiality and Respectful Engagement Throughout the Profession. 6.1 Promote Diversity & Inclusivity. 6.2 Create Meaningful Mentoring and Sponsorship Programs. 7. Enhance Lawyers' Sense of Control. 8. Provide High-Quality Educational Programs and Materials About Lawyer Well-Being. 9. Guide and Support The Transition of Older Lawyers. 10. De-emphasize Alcohol at Social Events. 11. Use Monitoring to Support Recovery from Substance Use Disorders. 12. Begin a Dialogue About Suicide Prevention. 13. Support A Lawyer Well-Being Index to Measure The Profession's Progress.

PART 2 – SPECIFIC STAKEHOLDER RECOMMENDATIONS

RECOMMENDATIONS FOR JUDGES / p. 22 14. Communicate that Well-Being Is a Priority. 15. Develop Policies for Impaired Judges. 16. Reduce Stigma of Mental Health and Substance Use Disorders. 17. Conduct Judicial Well-Being Surveys. 18. Provide Well-Being Programming for Judges and Staff. 19. Monitor for Impaired Lawyers and Partner with Lawyer Assistance Programs.

RECOMMENDATIONS FOR REGULATORS / p. 25 20. Take Actions to Meaningfully Communicate That Lawyer Well-Being is a Priority. 20.1 Adopt Regulatory Objectives That Prioritize Lawyer Well-Being. 20.2 Modify the Rules of Professional Responsibility to Endorse Well-Being as Part of a Lawyer's Duty of Competence. 20.3 Expand Continuing Education Requirements to Include Well-Being Topics. 20.4 Require Law Schools to Create Well-Being Education for Students as an Accreditation Requirement. 21. Adjust the Admissions Process to Support Law Student Well-Being. 21.1 Re-Evaluate Bar Application Inquiries About Mental Health History. 21.2 Adopt Essential Eligibility Admission Requirements. 21.3 Adopt a Rule for Conditional Admission to Practice Law with Specific Requirements and Conditions. 21.4 Publish Data Reflecting Low Rate of Denied Admissions Due to Mental Health Disorders and Substance Use. 22. Adjust Lawyer Regulations to Support Well-Being. 22.1 Implement Proactive Management-Based Programs (PMBP) That Include Lawyer Well-Being Components. 22.2 Adopt a Centralized Grievance Intake System to Promptly Identify Well-Being Concerns. 22.3 Modify Confidentiality Rules to Allow One-Way Sharing of Lawyer Well-Being Related Information from Regulators to Lawyer Assistance Programs. 22.4 Adopt Diversion Programs and Other Alternatives to Discipline That Are Proven. 23. Add Well-Being-Related Questions to the Multistate Professional Responsibility Exam (MPRE).

PART 2...Continued...

RECOMMENDATIONS FOR LEGAL EMPLOYERS / p. 31 24. Establish Organizational Infrastructure to Promote Well-Being. 24.1 Form a Lawyer Well-Being Committee. 24.2 Assess Lawyers' Well-Being. 25. Establish Policies and Practices to Support Lawyer Well-Being. 25.1 Monitor for Signs of Work Addiction and Poor Self-Care. 25.2 Actively Combat Social Isolation and Encourage Interconnectivity. 26. Provide Training and Education on Well-Being, Including During New Lawyer Orientation. 26.1 Emphasize a Service-Centered Mission. 26.2 Create Standards, Align Incentives, and Give Feedback.

RECOMMENDATIONS FOR LAW SCHOOLS / p. 35 27. Create Best Practices for Detecting and Assisting Students Experiencing Psychological Distress. 27.1 Provide Training to Faculty Members Relating to Student Mental Health and Substance Use Disorders. 27.2 Adopt a Uniform Attendance Policy to Detect Early Warning Signs of Students in Crisis. 27.3 Provide Mental Health and Substance Use Disorder Resources. 28. Assess Law School Practices and Offer Faculty Education on Promoting Well-Being in the Classroom. 29. Empower Students to Help Fellow Students in Need. 30. Include Well-Being Topics in Courses on Professional Responsibility. 31. Commit Resources for Onsite Professional Counselors. 32. Facilitate a Confidential Recovery Network. 33. Provide Education Opportunities on Well-Being Related Topics. 33.1 Provide Well-Being Programming During the 1L Year. 33.2 Create a Well-Being Course and Lecture Series for Students. 34. Discourage Alcohol-Centered Social Events. 35. Conduct Anonymous Surveys Relating to Student Well-Being.

RECOMMENDATIONS FOR BAR ASSOCIATIONS / p. 41 36. Encourage Education on Well-Being Topics in Association with Lawyer Assistance Programs. 36.1 Sponsor High-Quality CLE Programming on Well-Being-Related Topics. 36.2 Create Educational Materials to Support Individual Well-Being and "Best Practices" for Legal Organizations

PART 2 CONTINUED....AGAIN...

36.3 Train Staff to Be Aware of Lawyer Assistance Program Resources and Refer Members.
37. Sponsor Empirical Research on Lawyer Well-Being as Part of Annual Member Surveys.
38. Launch a Lawyer Well-Being Committee. 39. Serve as an Example of Best Practices
Relating to Lawyer Well-Being at Bar Association Events. RECOMMENDATIONS FOR
LAWYERS PROFESSIONAL LIABILITY CARRIERS / p. 43 40. Actively Support Lawyer Assistance
Programs. 41. Emphasize Well-Being in Loss Prevention Programs. 42. Incentivize Desired
Behavior in Underwriting Law Firm Risk. 43. Collect Data When Lawyer Impairment is a
Contributing Factor to Claims Activity. RECOMMENDATIONS FOR LAWYERS ASSISTANCE
PROGRAMS / p. 45 44. Lawyers Assistance Programs Should Be Appropriately Organized
and Funded. 44.1 Pursue Stable, Adequate Funding. 44.2 Emphasize Confidentiality. 44.3
Develop High-Quality Well-Being Programming. 44.4 Lawyer Assistance Programs'
Foundational Elements.

In 2016, the American Bar Association (ABA) Commission on Lawyer Assistance Programs and Hazelden Betty Ford Foundation published their study of nearly 13,000 currently practicing lawyers [the “Study”]. It found that between 21 and 36 percent qualify as problem drinkers, and that approximately 28 percent, 19 percent, and 23 percent are struggling with some level of depression, anxiety, and stress, respectively.



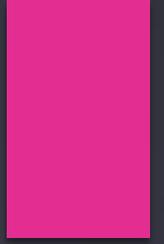
Additionally, 15 law schools and over 3,300 law students participated in the Survey of Law Student Well-Being, the results of which were released in 2016. It found that 17 percent experienced some level of depression, 14 percent experienced severe anxiety, 23 percent had mild or moderate anxiety, and six percent reported serious suicidal thoughts in the past year. As to alcohol use, 43 percent reported binge drinking at least once in the prior two weeks and nearly one-quarter (22 percent) reported binge-drinking two or more times during that period. One-quarter fell into the category of being at risk for alcoholism for which further screening was recommended.

Three reasons to take action: organizational effectiveness, ethical integrity, and humanitarian concerns.



Research has identified multiple factors that can hinder seeking help for mental health conditions: (1) failure to recognize symptoms; (2) not knowing how to identify or access appropriate treatment or believing it to be a hassle to do so; (3) a culture's negative attitude about such conditions; (4) fear of adverse reactions by others whose opinions are important; (5) feeling ashamed; (6) viewing help-seeking as a sign of weakness, having a strong preference for self-reliance, and/or having a tendency toward perfectionism; (7) fear of career repercussions; (8) concerns about confidentiality; (9) uncertainty about the quality of organizationally-provided therapists or otherwise doubting that treatment will be effective; and (10) lack of time in busy schedules.

And sometimes Hollywood does NOT destigmatize...



SO HOW DO WE DE-STIGMATIZE?

EDUCATION.

The two most common barriers to seeking treatment for a substance use disorder that lawyers reported were not wanting others to find out they needed help and concerns regarding privacy or confidentiality. Top concerns of law students in the Survey of Law Student Well Being were fear of jeopardizing their academic standing or admission to the practice of law, social stigma, and privacy concerns. Removing these barriers requires education, skillbuilding, and stigma-reduction strategies. Research shows that the most effective way to reduce stigma is through direct contact with someone who has personally experienced a relevant disorder.

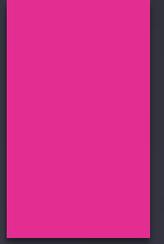


All stakeholders should ensure that legal professionals receive training in identifying, addressing, and supporting fellow professionals with mental health and substance use disorders. The warning signs of substance use or mental health disorders, including suicidal thinking;

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

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LEGAL EMPLOYERS





Establish Organizational infrastructure to promote well-being:

Form a lawyer well-being committee

The advocate or committee should be responsible for evaluating the work environment, identifying and addressing policies and procedures that create the greatest mental distress among employees, identifying how best to promote a positive state of well-being, and tracking progress of well-being strategies.

They should prepare key milestones, communicate them, and create accountability strategies.¹¹⁴ They also should develop strategic partnerships with lawyer assistance programs and other well-being experts and stay abreast of developments in the profession and relevant literature

Provide training and education on well-being, including during new lawyer orientation

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

LAW SCHOOLS

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

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

The top factors that students reported as discouraging them from seeking help were concerns that it would threaten their bar admission, job, or academic status; social stigma; privacy concerns; financial reasons; belief that they could handle problems on their own; **and not having enough time.**

To help remove uncertainty and encourage students to ask for help, law schools should consider working with lawyer assistance programs on training faculty on how to detect students in trouble, how to have productive conversations with such students, what and when faculty need to report information relating to such students, as well as confidentiality surrounding these services. Students should be educated about faculty's reporting requirements to add clarity and reduce student anxiety when interacting with faculty.



Develop student resources – create and publicize well-being resources; include mental health resources in every course syllabus; organize wellness events; establish peer mentoring. Commit resources for onsite professional counselors.



PLANNING TRANSITION OF OLDER LAWYERS

Provide education to detect cognitive decline; develop succession plans; create transition programs to respectfully aid retiring professionals.

NAMI – National Alliance on Mental Illness

JOIN MY NAMI TEAM!