November 13, 2020

The State Bar of California
180 Howard Street
San Francisco, CA 94105

Dear Board of Trustees,

There is a nationwide movement in the legal community towards recognizing wellbeing, stress management, stigma-reduction, and ameliorative efforts as indispensable components of competency. The ABA’s National Task Force on Lawyer Well-being calls on stakeholders—such as bar associations—to take the lead in this movement.\(^1\) In an effort to support this movement, the San Diego County Bar Association respectfully requests that the California State Bar consider: (1) increasing the number of required hours for competency MCLE credit, and (2) expanding the topics recognized for accreditation under the “competency” credit.

Currently, the California State Bar requires only one hour of the specialized competency credit per three-year reporting period, and limits the programming qualifying for competency credit to that related only to the detection of mental illness and/or substance abuse. Programs that incorporate wellbeing, stress management, treatment, or presentations focused on reducing the stigma attached to mental illness and substance abuse in the legal profession are not recognized for competency accreditation.\(^2\)

This limitation sends the wrong message to our legal community, and reinforces the barriers to wellness and recovery. We would not expect a patient with a broken leg to apply her own cast once the fracture is detected by an x-ray. Similarly, we cannot leave lawyers without the tools to prevent and ameliorate mental illness and substance abuse by (among other things) managing stress and maintaining well-being.

The ABA’s Task Force on Lawyer Well-Being unequivocally recommends expanding competency MCLE credit subjects beyond mere identification of mental illness or substance abuse:

**Well-being efforts must extend beyond detection** and treatment and address root causes of poor health. Additionally, **genuine efforts to enhance lawyer well-being must extend beyond disorder detection and treatment**. Efforts aimed at remodeling institutional and organizational features that breed stress are crucial, as are those designed to cultivate lawyers’ personal resources to boost resilience. **All stakeholders should participate in the development and delivery of educational materials and programming that go beyond detection to include causes and consequences of distress. These programs should be eligible for**

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\(^1\) National Task Force on Lawyer Well-Being, The Path to Lawyer Well-Being Report, available at: [https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf](https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf)

\(^2\) The rule is not necessarily applied uniformly among multi-activity providers, which are usually organizations that have applied for and been granted accreditation for at least four single-activity programs. In practice, once an organization is granted multi-activity provider status, the organization determines how strictly the rule is applied. This approach is not ideal as it fosters inconsistency.
CLE credit, as discussed in Recommendation 20.3. Appendix B to this report offers examples of well-being-related educational content, along with empirical evidence to support each example. (ABA Task Force’s “The Path to Lawyer Well-Being,” p. 18, emphasis added.)

Appendix B of the Report sets forth the following suggested topics, along with empirical support for each subject’s efficacy at promoting competence:

- Work engagement vs. burnout;
- Stress;
- Resilience and optimism;
- Mindfulness meditation;
- Rejuvenation periods to recover from stress;
- Physical activity;
- Control and autonomy;
- Conflict management;
- Work-life conflict;
- Meaning and purpose;
- Substance abuse and mental health disorders;
- Leader development and training.

The Task Force goes on to advise that: “At a minimum, training should cover the following… How, why, and where to seek help at the first signs of difficulty… 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… As noted above, to help reduce stigma, such programs should consider enlisting the help of recovering lawyers who are successful members of the legal community.” *(Id., at p. 17, emphasis added.)*

The Task Force recognizes Tennessee as “an example of a pioneering state that authorizes credit for a broad set of well-being topics. It…authorizes ethics and professionalism credit for programs that are designed, for example, to: enhance optimism, resilience, relationship skills, and energy and engagement in their practices; connect lawyers with their strengths and values; address stress; and to foster cultures that support outstanding professionalism. We recommend that regulators follow Tennessee’s lead by revising CLE rules to grant credit for similar topics. *(Id., at p. 27.)* “[B]ar associations [are] closely watched for signals about what is expected” and have the opportunity to “support change through their own demonstrated commitment to core values and well-being….Critical to this complex endeavor will be the development of…state level action plans that continue the efforts started in [the TASKS Force report]. *(Id. at pp, 12-13.)*

By expanding competency credit hours and subject matter, the California State Bar can be on the leading edge to make a real and necessary difference in the lives of California attorneys. We would welcome the opportunity to speak with you further on this topic in an effort to assist the California State Bar in any way to meet this important goal.

Sincerely,

Johanna Schiavoni
President, San Diego County Bar Association