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NATIONAL TASK FORCE ON LAWYER WELL-BEING

Creating a Movement To Improve Well-Being in the Legal Profession

August 14, 2017

Enclosed is a copy of *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change* from the National Task Force on Lawyer Well-Being. The Task Force was conceptualized and initiated by the ABA Commission on Lawyer Assistance Programs (CoLAP), the National Organization of Bar Counsel (NOBC), and the Association of Professional Responsibility Lawyers (APRL). It is a collection of entities within and outside the ABA that was created in August 2016. Its participating entities currently include the following: ABA CoLAP; ABA Standing Committee on Professionalism; ABA Center for Professional Responsibility; ABA Young Lawyers Division; ABA Law Practice Division Attorney Wellbeing Committee; The National Organization of Bar Counsel; Association of Professional Responsibility Lawyers; National Conference of Chief Justices; and National Conference of Bar Examiners. Additionally, CoLAP was a co-sponsor of the 2016 ABA CoLAP and Hazelden Betty Ford Foundation's study of mental health and substance use disorders among lawyers and of the 2016 Survey of Law Student Well-Being.

To be a good lawyer, one has to be a healthy lawyer. Sadly, our profession is falling short when it comes to well-being. The two studies referenced above reveal that too many lawyers and law students experience chronic stress and high rates of depression and substance use. These findings are incompatible with a sustainable legal profession, and they raise troubling implications for many lawyers' basic competence. This research suggests that the current state of lawyers' health cannot support a profession dedicated to client service and dependent on the public trust.

The legal profession is already struggling. Our profession confronts a dwindling market share as the public turns to more accessible, affordable alternative legal service providers. We are at a crossroads. To maintain public confidence in the profession, to meet the need for innovation in how we deliver legal services, to increase access to justice, and to reduce the level of toxicity that has allowed mental health and substance use disorders to fester among our colleagues, we have to act now. Change will require a wide-eyed and candid assessment of our members' state of being, accompanied by courageous commitment to re-envisioning what it means to live the life of a lawyer.

This report's recommendations focus on five central themes: (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 help-seeking 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.

The members of this Task Force make the following recommendations after extended deliberation. We recognize this number of recommendations may seem overwhelming at first. Thus we also provide proposed state action plans with simple checklists. These help each stakeholder inventory their current system and explore the recommendations relevant to their group. We invite you to read this report, which sets forth the basis for why the legal profession is at a tipping point, and we present these recommendations and action plans for building a more positive future. We call on you to take action and hear our clarion call. The time is now to use your experience, status, and leadership to construct a profession built on greater well-being, increased competence, and greater public trust.

Sincerely,

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"Lawyers, judges and law students are faced with an increasingly competitive and stressful profession. Studies show that substance use, addiction and mental disorders, including depression and thoughts of suicide—often unrecognized—are at shockingly high rates. As a consequence the National Task Force on Lawyer Well-being, under the aegis of CoLAP (the ABA Commission on Lawyer Assistance programs) has been formed to promote nationwide awareness, recognition and treatment. This Task Force deserves the strong support of every lawyer and bar association."

*David R Brink**
Past President
American Bar Association

* David R. Brink (ABA President 1981-82) passed away in July 2017 at the age of 97. He tirelessly supported the work of lawyer assistance programs across the nation, and was a beacon of hope in the legal profession for those seeking recovery.

THE PATH TO LAWYER WELL-BEING:

Practical Recommendations For Positive Change

THE REPORT OF THE NATIONAL TASK FORCE ON LAWYER WELL-BEING

August 2017

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THE PATH TO LAWYER WELL-BEING:
Practical Recommendations For Positive Change

Although the legal profession has known for years that many of its students and practitioners are languishing, far too little has been done to address it. Recent studies show we can no longer continue to ignore the problems. 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.[1] The parade of difficulties also includes suicide, social alienation, work addiction, sleep deprivation, job dissatisfaction, a "diversity crisis," complaints of work-life conflict, incivility, a narrowing of values so that profit predominates, and negative public perception.[2] Notably, the Study found that younger lawyers in the first ten years of practice and those working in private firms experience the highest rates of problem drinking and depression. The budding impairment of many of the future generation of lawyers should be alarming to everyone. Too many face less productive, less satisfying, and more troubled career paths.

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.[3] 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.

The results from both surveys signal an elevated risk in the legal community for mental health and substance use disorders tightly intertwined with an alcohol-based social culture. The analysis of the problem cannot end there, however. The studies reflect that the majority of lawyers and law students do not have a mental health or substance use disorder. But that does not mean that they're thriving. Many lawyers experience a "profound ambivalence" about their work,[4] and different sectors of the profession vary in their levels of satisfaction and well-being.[5]

Given this data, lawyer well-being issues can no longer be ignored. Acting for the benefit of lawyers who are functioning below their ability and for those suffering due to substance use and mental health disorders, the National Task Force on Lawyer Well-Being urges our profession's leaders to act.

[1] 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).
[2] A. M. Brafford, Building the Positive Law Firm: The Legal Profession At Its Best (August 1, 2014) (Master's thesis, Univ. Pa., on file with U. Pa. Scholarly Commons Database), *available at* http://repository.upenn.edu/mapp_capstone/62/.
[3] 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).
[4] *See* D. L. Chambers, *Overstating the Satisfaction of Lawyers,* 39 LAW & SOC. INQUIRY 1 (2013).
[5] J. M. Organ, *What Do We Know About the Satisfaction/Dissatisfaction of Lawyers? A Meta-Analysis of Research on Lawyer Satisfaction and Well-Being*, 8 U. ST. THOMAS L. J. 225 (2011); L. S. Krieger & K. M. Sheldon, *What Makes Lawyers Happy? Transcending the Anecdotes with Data from 6200 Lawyers,* 83 GEO. WASH. L. REV. 554 (2015).

REASONS TO TAKE ACTION

We offer three reasons to take action: organizational effectiveness, ethical integrity, and humanitarian concerns.

First, lawyer well-being contributes to organizational success—in law firms, corporations, and government entities. If cognitive functioning is impaired as explained above, legal professionals will be unable to do their best work. For law firms and corporations, lawyer health is an important form of human capital that can provide a competitive advantage.[6]

For example, job satisfaction predicts retention and performance.[7] Gallup Corporation has done years of research showing that worker well-being in the form of engagement is linked to a host of organizational success factors, including lower turnover, high client satisfaction, and higher productivity and profitability. The Gallup research also shows that few organizations fully benefit from their human capital because most employees (68 percent) are not engaged.[8] Reducing turnover is especially important for law firms, where turnover rates can be high. For example, a 2016 survey by Law360 found that over 40 percent of lawyers reported that they were likely or very likely to leave their current law firms in the next year.[9] This high turnover rate for law firms is expensive—with estimated costs for larger firms of $25 million every year.[10] In short, enhancing lawyer health and well-being is good business and makes sound financial sense.

Reasons to Improve Attorney Well-Being

- ✔ Good for business
- ✔ Good for clients
- ✔ The right thing to do

Second, lawyer well-being influences ethics and professionalism. Rule 1.1 of the ABA's Model Rules of Professional Conduct requires lawyers to "provide competent representation." Rule 1.3 requires diligence in client representation, and Rules 4.1 through 4.4 regulate working with people other than clients. Minimum competence is critical to protecting clients and allows lawyers to avoid discipline. But it will not enable them to live up to the aspirational goal articulated in the Preamble to the ABA's Model Rules of Professional Conduct, which calls lawyers to "strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service."

Troubled lawyers can struggle with even minimum competence. At least one author suggests that 40 to 70 percent of disciplinary proceedings and malpractice claims against lawyers involve substance use or depression, and often both.[11] This can be explained, in part, by declining mental capacity due to these conditions. For example, major depression is associated

[6] C. Keyes & J. Grzywacz, *Health as a Complete State: The Added Value in Work Performance and Healthcare Costs*, 47 J. OCCUPATIONAL & ENVTL. MED. 523 (2005).
[7] T. A. Judge & R. Klinger, *Promote Job Satisfaction through Mental Challenge, in* HANDBOOK OF PRINCIPLES OF ORGANIZATIONAL BEHAV. (E. A. Locke ed., 2009).
[8] J. K. HARTER, F. L. SCHMIDT, E. A. KILLHAM, & J. W. ASPLUND, Q12 META-ANALYSIS, GALLUP CONSULTING (2006), https://strengths.gallup.com/private/resources/q12meta-analysis_flyer_gen_08%2008_bp.pdf; *see also* Brafford, *supra* note 2, for a summary of studies linking engagement and other positive employee states to business success factors.
[9] C. Violante, *Law360's 2016 Lawyer Satisfaction Survey: By the Numbers,* Law360, Sept. 4, 2016, https://www.law360.com/articles/833246/law360-s-2016-lawyer-satisfaction-survey-by-the-numbers.
[10] M. Levin & B. MacEwen, Assessing Lawyer Traits & Finding a Fit for Success Introducing the Sheffield Legal Assessment (2014) (unpublished), *available at* http://therightprofile.com/wp-content/uploads/Attorney-Trait-Assessment-Study-Whitepaper-from-The-Right-Profile.pdf (discussing associate turnover statistics and estimated cost of turnover in large law firms).
[11] D. B. Marlowe, *Alcoholism, Symptoms, Causes & Treatments, in* STRESS MANAGEMENT FOR LAWYERS 104-130 (Amiram Elwork ed., 2d ed., 1997) (cited in M. A. Silver, Substance Abuse, Stress, Mental Health and The Legal Profession, NEW YORK STATE LAW. ASSISTANT TRUST (2004), *available at* http://www.nylat.org/documents/courseinabox.pdf).

with impaired executive functioning, including diminished memory, attention, and problem-solving. Well-functioning executive capacities are needed to make good decisions and evaluate risks, plan for the future, prioritize and sequence actions, and cope with new situations. Further, some types of cognitive impairment persist in up to 60 percent of individuals with depression even after mood symptoms have diminished, making prevention strategies essential.[12] For alcohol abuse, the majority of abusers (up to 80 percent) experience mild to severe cognitive impairment.[13] Deficits are particularly severe in executive functions, especially in problem-solving, abstraction, planning, organizing, and working memory—core features of competent lawyering.

Third, from a humanitarian perspective, promoting well-being is the right thing to do. Untreated mental health and substance use disorders ruin lives and careers. They affect too many of our colleagues. Though our profession prioritizes individualism and self-sufficiency, we all contribute to, and are affected by, the collective legal culture. Whether that culture is toxic or sustaining is up to us. Our interdependence creates a joint responsibility for solutions.

DEFINING "LAWYER WELL-BEING"

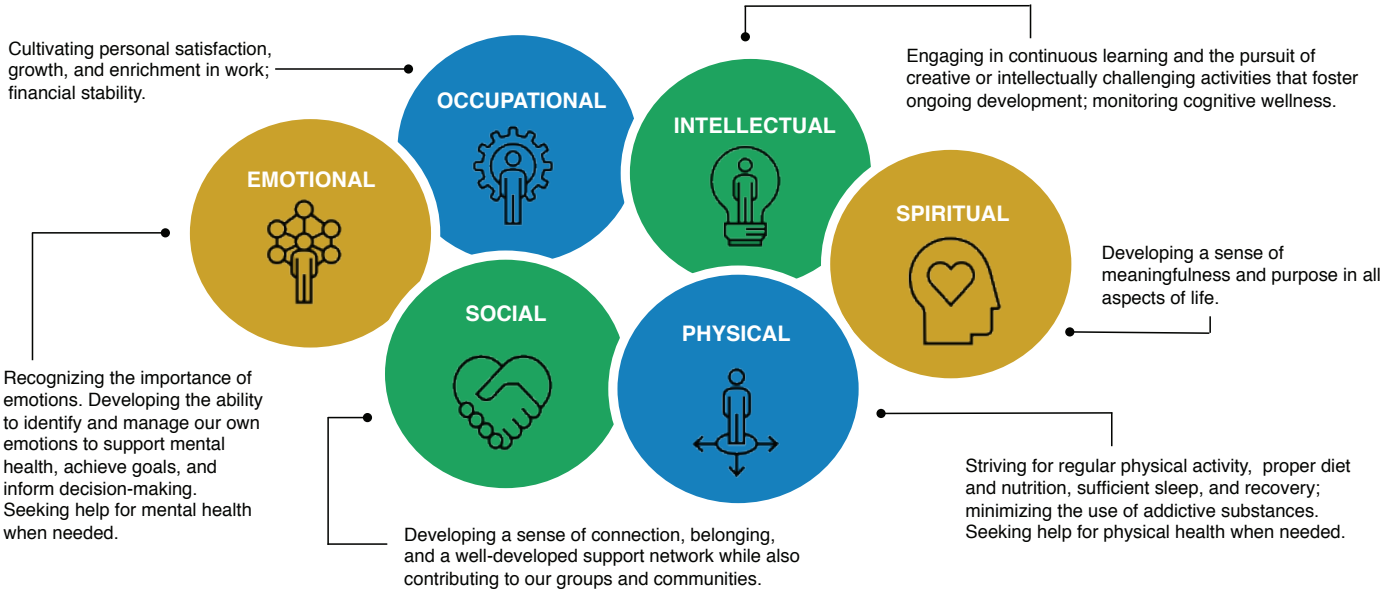
We define lawyer well-being as a continuous process whereby lawyers seek to thrive in each of the following areas: emotional health, occupational pursuits, creative or intellectual endeavors, sense of spirituality or greater purpose in life, physical health, and social connections with others. Lawyer well-being is part of a lawyer's

"Well-Being": A Continuous process toward thriving across all life dimensions.

ethical duty of competence. It includes lawyers' ability to make healthy, positive work/life choices to assure not only a quality of life within their families and communities, but also to help them make responsible decisions for their clients. It includes maintaining their own long term well-being. This definition highlights that complete health

Defining Lawyer Well-Being

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



[12]P. L. Rock, J. P. Roiser, W. J. Riedel, A. D. Blackwell, *A Cognitive Impairment in Depression: A Systematic Review and Meta-Analysis,* 44 PSYCHOL. MED. 2029 (2014); H. R. Snyder, *Major Depressive Disorder is Associated with Broad Impairments on Neuropsychological Measures of Executive Function: A Meta-Analysis and Review,* 139 PSYCHOL. BULL. 81 (2013).

[13]C. Smeraldi, S. M. Angelone, M. Movalli, M. Cavicchioli, G. Mazza, A. Notaristefano, & C. Maffei, *Testing Three Theories of Cognitive Dysfunction in Alcohol Abuse,* 21 J. PSYCHOPATHOLOGY 125 (2015).[14]The WHO's definition of "health" can be found at: http://www.who.int/about/mission/en. The definition of "mental health" can be found at: http://www.who.int/features/factfiles/mental_health/en/.

is not defined solely by the absence of illness; it includes a positive state of wellness.

To arrive at this definition, the Task Force consulted other prominent well-being definitions and social science research, which emphasize that well-being is not limited to: (1) an absence of illness, (2) feeling happy all the time, or (3) intra-individual processes—context matters. For example, the World Health Organization (WHO) defines "health" as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity." It defines "mental health" as "a state of well-being in which every individual realizes his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community."[14]

Social science research also emphasizes that "well-being" is not defined solely by an absence of dysfunction; but nor is it limited to feeling "happy" or filled with positive emotions. The concept of well-being in social science research is multi-dimensional and includes, for example, engagement in interesting activities, having close relationships and a sense of belonging, developing confidence through mastery, achieving goals that matter to us, meaning and purpose, a sense of autonomy and control, self-acceptance, and personal growth. This multi-dimensional approach underscores that a positive state of well-being is not synonymous with feeling happy or experiencing positive emotions. It is much broader.

Another common theme in social science research is that well-being is not just an intra-personal process: context powerfully influences it.[15] Consistent with this view, a study of world-wide survey data found that five factors constitute the key elements of well-being: career, social relationships, community, health, and finances.[16]

The Task Force chose the term "well-being" based on the view that the terms "health" or "wellness" connote only physical health or the absence of illness. Our definition of "lawyer well-being" embraces the multi-dimensional concept of mental health and the importance of context to complete health.

OUR CALL TO ACTION

The benefits of increased lawyer well-being are compelling and the cost of lawyer impairment are too great to ignore. There has never been a better or more important time for all sectors of the profession to get serious about the substance use and mental health of ourselves and those around us. The publication of this report, in and of itself, serves the vital role of bringing conversations about these conditions out in the open. In the following pages, we present recommendations for many stakeholders in the legal profession including the judiciary, regulators, legal employers, law schools, bar associations, lawyers' professional liability carriers, and lawyer assistance programs. The recommendations revolve around five core steps intended to build a more sustainable culture:

(1) Identifying stakeholders and the role that each of us can play in reducing the level of toxicity in our profession.

(2) Ending the stigma surrounding help-seeking behaviors. This report contains numerous recommendations to combat the stigma that seeking help will lead to negative professional consequences.

(3) Emphasizing that well-being is an indispensable part of a lawyer's duty of competence. Among the report's recommendations are steps stakeholders can take to highlight the tie-in between competence and well-being. These include giving this connection formal recognition through modifying the Rules of Professional Conduct or their comments to reference well-being.

(4) Expanding educational outreach and programming on well-being issues. We need to educate lawyers, judges, and law students on well-being issues. This includes instruction in recognizing mental health and

[14]The WHO's definition of "health" can be found at: http://www.who.int/about/mission/en. The definition of "mental health" can be found at: http://www.who.int/features/factfiles/mental_health/en/

[15]*E.g.*, I. Prilleltensky, S. Dietz, O. Prilleltensky, N. D. Myers, C. L. Rubenstein, Y. Jin, & A. McMahon, *Assessing Multidimensional Well-Being: Development and Validation of the I COPPE Scale,* 43 J. CMTY. PSYCHOL. 199 (2015).

[16]T. RATH & J. HARTER, WELL-BEING: THE FIVE ESSENTIAL ELEMENTS (2010).

substance use disorders as well as navigating the practice of law in a healthy manner. To implement this recommendation effectively, more resources need to be devoted to promoting well-being.

(5) Changing the tone of the profession one small step at a time. This report contains a number of small-scale recommendations, such as allowing lawyers to earn continuing legal education (CLE) credit for well-being workshops or de-emphasizing alcohol at bar association social events. These small steps can start the process necessary to place health, resilience, self-care, and helping others at the forefront of what it means to be a lawyer. Collectively, small steps can lead to transformative cultural change in a profession that has always been, and will remain, demanding.

Historically, law firms, law schools, bar associations, courts, and malpractice insurers have taken a largely hands-off approach to these issues. They have dealt with them only when forced to because of impairment that can no longer be ignored. The dedication and hard work of lawyer assistance programs aside, we have not done enough to help, encourage, or require lawyers to be, get, or stay well. However, the goal of achieving increased lawyer well-being is within our collective reach. The time to redouble our efforts is now.

RECOMMENDATIONS

Below, the Task Force provides detailed recommendations for minimizing lawyer dysfunction, boosting well-being, and reinforcing the importance of well-being to competence and excellence in practicing law. This section has two main parts. Part I provides general recommendations for all stakeholders in the legal community. Part II provides recommendations tailored to a specific stakeholder: (1) judges, (2) regulators, (3) legal employers, (4) law schools, (5) bar associations, (6) lawyers' professional liability carriers, and (7) lawyer assistance programs.

"None of us got where we are solely by pulling ourselves up by our bootstraps. We got there because somebody bent down and helped us pick up our boots." — Thurgood Marshall

First, we recommend strategies for all stakeholders in the legal profession to play a part in the transformational process aimed at developing a thriving legal profession.

1. ACKNOWLEDGE THE PROBLEMS AND TAKE RESPONSIBILITY.

Every sector of the legal profession must support lawyer well-being. Each of us can take a leadership role within our own spheres to change the profession's mindset from passive denial of problems to proactive support for change. We have the capacity to make a difference.

For too long, the legal profession has turned a blind eye to widespread health problems.

For too long, the legal profession has turned a blind eye to widespread health problems. Many in the legal profession have behaved, at best, as if their colleagues' well-being is none of their business. At worst, some appear to believe that supporting well-being will harm professional success. Many also appear to believe that lawyers' health problems are solely attributable to their own personal failings for which they are solely responsible.

As to the long-standing psychological distress and substance use problems, many appear to believe that the establishment of lawyer assistance programs—a necessary but not sufficient step toward a solution—has satisfied any responsibility that the profession might have. Lawyer assistance programs have made incredible strides; however, to meaningfully reduce lawyer distress, enhance well-being, and change legal culture, all corners of the legal profession need to prioritize lawyer health and well-being. It is not solely a job for lawyer assistance programs. Each of us shares responsibility for making it happen.

2. USE THIS REPORT AS A LAUNCH PAD FOR A PROFESSION-WIDE ACTION PLAN.

All stakeholders must lead their own efforts aimed at incorporating well-being as an essential component of practicing law, using this report as a launch pad. Changing the culture will not be easy. Critical to this complex endeavor will be the development of a National Action Plan and state-level action plans that continue the effort started in this report. An organized coalition will be necessary to plan, fund, instigate, motivate, and sustain long-term change. The coalition should include, for example, the Conference of Chief Justices, the National Organization of Bar Counsel, the Association of Professional Responsibility Lawyers, the ABA, state bar associations as a whole and specific divisions (young lawyers, lawyer well-being, senior lawyers, etc.), the Commission on Lawyer Assistance Programs, state lawyer assistance programs, other stakeholders that have contributed to this report, and many others.

3. LEADERS SHOULD DEMONSTRATE A PERSONAL COMMITMENT TO WELL-BEING.

Policy statements alone do not shift culture. Broad-scale change requires buy-in and role modeling from top

[17]E. SCHEIN, ORGANIZATIONAL CULTURE AND LEADERSHIP (2010); R. R. Sims & J. Brinkmann, *Leaders As Moral Role Models,* 35 J. BUS. ETHICS 327 (2002).

leadership.[17] Leaders in the courts, regulators' offices, legal employers, law schools, and bar associations will be closely watched for signals about what is expected. Leaders can create and support change through their own demonstrated commitment to core values and well-being in their own lives and by supporting others in doing the same.[18]

4. FACILITATE, DESTIGMATIZE, AND ENCOURAGE HELP-SEEKING BEHAVIORS.

All stakeholders must take steps to minimize the stigma of mental health and substance use disorders because the stigma prevents lawyers from seeking help.

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.[19]

The Study identified similar factors. 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.[21]

Research also suggests that professionals with hectic, stressful jobs (like many lawyers and law students) are more likely to perceive obstacles for accessing treatment, which can exacerbate depression. The result of these barriers is that, rather than seeking help early, many wait until their symptoms are so severe that they interfere with daily functioning. Similar dynamics likely apply for aging lawyers seeking assistance.

Removing these barriers requires education, skill-building, 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. Ideally, this person should be a practicing lawyer or law student (depending on the audience) in order to create a personal connection that lends credibility and combats stigma.[22] Viewing video-taped narratives also is useful, but not as effective as in-person contacts.

The military's "Real Warrior" mental health campaign can serve as one model for the legal profession. It is designed to improve soldiers' education about mental health disorders, reduce stigma, and encourage help-seeking. Because many soldiers (like many lawyers) perceive seeking help as a weakness, the campaign also has sought to re-frame help-seeking as a sign of strength that is important to resilience. It also highlights cultural values that align with seeking psychological help.[23]

5. BUILD RELATIONSHIPS WITH LAWYER WELL-BEING EXPERTS.

5.1. Partner With Lawyer Assistance Programs.

All stakeholders should partner with and ensure stable and sufficient funding for the ABA's Commission on Lawyer Assistance Programs (CoLAP) as well as

[18] L. M. Sama & V. Shoaf, *Ethical Leadership for the Professions: Fostering a Moral Community*, 78 J. BUS. ETHICS 39 (2008).

[19] T. W. Britt, T. M. Greene-Shortridge, S. Brink, Q. B. Nguyen, J. Rath, A. L. Cox, C. W. Hoge, C. A. Castro, *Perceived Stigma and Barriers to Care for Psychological Treatment: Implications for Reactions to Stressors in Different Contexts*, 27 J. SOC. & CLINICAL PSYCHOL. 317 (2008); S. Ey, K. R. Henning, & D. L. Shaw, *Attitudes and Factors Related to Seeking Mental Health Treatment among Medical and Dental Students*, 14 J. C. STUDENT PSYCHOTHERAPY 23 (2000); S. E. Hanisch, C. D. Twomey, A. H. Szeto, U. W. Birner, D. Nowak, & C. Sabariego, *The Effectiveness of Interventions Targeting the Stigma of Mental Illness at the Workplace: A Systematic Review*, 16 BMC PSYCHIATRY 1 (2016); K. S. Jennings, J. H. Cheung, T. W. Britt, K. N. Goguen, S. M. Jeffirs, A. L. Peasley, & A. C. Lee, *How Are Perceived Stigma, Self-Stigma, and Self-Reliance Related to Treatment-Seeking? A Three-Path Model*, 38 PSYCHIATRIC REHABILITATION J. 109 (2015); N. G. Wade, D. L. Vogel, P. Armistead-Jehle, S. S. Meit, P. J. Heath, H. A. Strass, *Modeling Stigma, Help-Seeking Attitudes, and Intentions to Seek Behavioral Healthcare in a Clinical Military Sample*, 38 PSYCHIATRIC REHABILITATION J. 135 (2015).

[20] Krill, Johnson, & Albert, *supra* note 1, at 50.

[21] Organ, Jaffe, & Bender, *supra* note 3, at 141.

[22] P. W. Corrigan, S. B. Morris, P. J. Michaels, J. D. Rafacz, & N. Rüsch, *Challenging the Public Stigma of Mental Illness: a Meta-Analysis of Outcome Studies,* 63 PSYCHIATRIC SERV. 963 (2012).

[23] Wade, Vogel, Armistead-Jehle, Meit, Heath, Strass, *supra* note 19. The Real Warrior website can be found at www.realwarriors.net.

for state-based lawyer assistance programs. ABA CoLAP and state-based lawyer assistance programs are indispensable partners in efforts to educate and empower the legal profession to identify, treat, and prevent conditions at the root of the current well-being crisis, and to create lawyer-specific programs and access to treatment.[24] Many lawyer assistance programs employ teams of experts that are well-qualified to help lawyers, judges, and law students who experience physical or mental health conditions. Lawyer assistance programs' services are confidential, and many include prevention, intervention, evaluation, counseling, referral to professional help, and on-going monitoring. Many cover a range of well-being-related topics including substance use and mental health disorders, as well as cognitive impairment, process addictions, burnout, and chronic stress. A number also provide services to lawyer discipline and admissions processes (e.g., monitoring and drug and alcohol screening).[25]

Notably, the Study found that, of lawyers who had reported past treatment for alcohol use, those who had used a treatment program specifically tailored to legal professionals reported, on average, significantly lower scores on the current assessment of alcohol use.[26] This at least suggests that lawyer assistance programs, which are specifically tailored to identify and refer lawyers to treatment providers and resources, are a better fit than general treatment programs.

Judges, regulators, legal employers, law schools, and bar associations should ally themselves with lawyer assistance programs to provide the above services. These stakeholders should also promote the services of state lawyer assistance programs. They also should emphasize the confidential nature of those services to reduce barriers to seeking help. Lawyers are reluctant to seek help for mental health and substance use disorders for fear that doing so might negatively affect their licenses and lead to stigma or judgment of peers.[27] All stakeholders can help combat these fears by clearly communicating about the confidentiality of lawyer assistance programs.

We also recommend coordinating regular meetings with lawyer assistance program directors to create solutions to the problems facing the profession. Lawyer assistance programs can help organizations establish confidential support groups, wellness days, trainings, summits, and/or fairs. Additionally, lawyer assistance programs can serve as a resource for speakers and trainers on lawyer well-being topics, contribute to publications, and provide guidance to those concerned about a lawyer's well-being.

5.2. Consult Lawyer Well-Being Committees and Other Types of Well-Being Experts.

We also recommend partnerships with lawyer well-being committees and other types of organizations and consultants that specialize in relevant topics. For example, the American Bar Association's Law Practice Division established an Attorney Well-Being Committee in 2015. A number of state bars also have well-being committees including Georgia, Indiana, Maryland, South Carolina, and Tennessee.[28] The Florida Bar Association's Young Lawyers Division has a Quality of Life Committee "for enhancing and promoting the quality of life for young lawyers."[29] Some city bar associations also have well-being initiatives, such as the Cincinnati Bar Association's Health and Well-Being Committee.[30] These committees can serve as a resource for education, identifying speakers and trainers, developing materials, and contributing to publications. Many high-quality consultants are also available on well-being subjects.

[24]The ABA Commission on Lawyer Assistance Programs' (CoLAP) website provides numerous resources, including help lines and a directory of state-based law assistant programs. See http://www.americanbar.org/groups/lawyer_assistance.html.
[25]COMM'N ON LAWYER ASSISTANCE PROGRAMS, AM. BAR ASS'N, 2014 COMPREHENSIVE SURVEY OF LAWYER ASSISTANCE PROGRAMS 34-37 (2014).
[26]Krill, Johnson, & Albert, *supra* note 1, at 50.
[27]*Id.* at 51.
[28]The State Bar of Georgia, "Lawyers Living Well," https://www.gabar.org/wellness/; The Indiana State Bar Association Wellness Committee, https://inbar.site-ym.com/members/group.aspx?id=134020; Maryland State Bar Association Wellness Committee, http://www.msba.org/Wellness/default.aspx; South Carolina Bar Lawyer Wellness Committee, http://discussions.scbar.org/public/wellness/index.html; Tennessee Bar Association Attorney Well Being Committee, http://www.tba.org/committee/attorney-well-being-committee.
[29]The Fla. Bar Ass'n, Young Lawyers Division, Committees, Quality of Life, https://flayld.org/board-of-governors/committees/ (last visited June 8, 2017).
[30]Cincinnati Bar Ass'n Health and Well-Being Committee, http://www.cincybar.org/groups/health-and-well-being.php (last visited June 28, 2017).

Care should be taken to ensure that they understand the particular types of stress that affect lawyers.

6. FOSTER COLLEGIALITY AND RESPECTFUL ENGAGEMENT THROUGHOUT THE PROFESSION.

We recommend that all stakeholders develop and enforce standards of collegiality and respectful engagement. Judges, regulators, practicing lawyers, law students, and professors continually interact with each other, clients, opposing parties, staff, and many others.[31] Those interactions can either foment a toxic culture that contributes to poor health or can foster a respectful culture that supports well-being. Chronic incivility is corrosive. It depletes energy and motivation, increases burnout, and inflicts emotional and physiological damage. It diminishes productivity, performance, creativity, and helping behaviors.[32]

Civility appears to be declining in the legal profession. For example, in a 1992 study, 42 percent of lawyers and 45 percent of judges believed that civility and professionalism among bar members were significant problems. In a 2007 survey of Illinois lawyers, 72 percent of respondents categorized incivility as a serious or moderately serious problem[33] in the profession. A recent study of over 6,000 lawyers found that lawyers did not generally have a positive view of lawyer or judge professionalism.[34] There is evidence showing that women lawyers are more frequent targets of incivility and harassment.[36] Legal-industry commentators offer a host of hypotheses to explain the decline in civility.[37] Rather than continuing to puzzle over the causes, we acknowledge the complexity of the problem and invite further thinking on how to address it.

Incivility appears to be on the rise.

As a start, we recommend that bar associations and courts adopt rules of professionalism and civility, such as those that exist in many jurisdictions.[38] Likewise, law firms should adopt their own professionalism standards.[39] Since rules alone will not change culture, all stakeholders should devise strategies to promote wide-scale, voluntary observance of those standards. This should include an expectation that all leaders in the profession be a role model for these standards of professionalism.

Exemplary standards of professionalism are inclusive. Research reflects that organizational diversity and inclusion initiatives are associated with employee well-being, including, for example, general mental and physical health, perceived stress level, job satisfaction, organizational commitment, trust, work engagement,

[31] *See* C. B. Preston & H. Lawrence, *Incentivizing Lawyers to Play Nice: A National Survey on Civility Standards and Options for Enforcement,* 48 U. MICH. J.L. REFORM 701 (2015); AM. BAR ASS'N RESOL. 108 (August 2011), http://www.americanbar.org/content/dam/aba/administrative/dispute_resolution/civility.authcheckdam.pdf; AM. BAR ASS'N RESOL. 105B (August 2014), http://www.americanbar.org/news/reporter_resources/aba-2014-annual-meeting/2014-annual-meeting-house-of-delegates-resolutions/105b.html.

[32] J. E. Dutton & E. D. Heaphy, *The Power of High-Quality Connections, in POSITIVE ORGANIZATIONAL SCHOLARSHIP: FOUNDATIONS OF A NEW DISCIPLINE* 263-278 (K. S. Cameron, J. E. Dutton, & R. E. Quinn eds., 2003); C. M. Pearson & C. L. Porath, *On the Nature, Consequences and Remedies of Workplace Incivility: No Time for "Nice"? Think Again*, 19 ACAD. OF MGMT. EXECUTIVE 7 (2005); B. M. Walsh, V. J. Magley, D. W. Reeves, K. A. Davies-Schrils, M. D. Marmet, & J. A. Gallus, *Assessing Workgroup Norms for Civility: The Development of the Civility Norms Questionnaire-Brief*, 27 J. BUS. PSYCHOL. 407 (2012).

[33] S. S. DAICOFF, LAWYER, KNOW THYSELF: A PSYCHOLOGICAL ANALYSIS OF PERSONALITY STRENGTHS AND WEAKNESSES (2004).

[34] D. E. Campbell, *Raise Your Right Hand and Swear to Be Civil: Defining Civility As An Obligation of Professional Responsibility,* 47 GONZ. L. REV. 99 (2012); *see also* IL. SUP. CT. COMM'N ON PROFESSIONALISM, *Survey on Professionalism, A Study of Illinois Lawyers 2007 & Survey on Professionalism, A Study of Illinois Lawyers 2014* (2007 & 2014); L. Brodoff & T. M. Jaasko-Fisher, *WSBA Civility Study,* NW LAWYER, Dec. 2016/Jan. 2017, at 22, *available at* http://nwlawyer.wsba.org/nwlawyer/dec_2016_jan_2017?pg=22#pg22.

[35] Krieger & Sheldon, *supra* note 5.

[36] L. M. Cortina, K. A. Lonsway, V. J. Magley, L. V. Freeman, L. L. Collinsworth, M. Hunter, & L. F. Fitzgerald, *What's Gender Got to Do with It? Incivility in the Federal Courts,* 27 LAW & SOC. INQUIRY 235 (2002); see also L. M. Cortina, D. Kabat-Farr, E. A. Leskinen, M. Huerta, & V. J. Magley, *Selective Incivility as Modern Discrimination in Organizations: Evidence and Impact,* 30 J. MGMT. 1579 (2013).

[37] *E.g.*, Campbell, *supra* note 34; A. T. Kronman, THE LOST LAWYER (1993); J. Smith, *Lawyers Behaving Badly Get a Dressing Down from Civility Cops,* WALL ST. J., Jan. 27, 2013, at A1; Walsh, Magley, Reeves, Davies-Schrils, Marmet, & Gallus, *supra* note 32.

[38] Examples of professionalism codes can be found on the ABA Center for Professional Responsibility's website: https://www.americanbar.org/groups/professional_responsibility/committees_commissions/standingcommitteeonprofessionalism2/professionalism_codes.html; *see also* AM. BAR ASS'N RESOL. 108 (2011), available at http://www.americanbar.org/content/dam/aba/directories/policy/2011_am_108.authcheckdam.pdf.

[39] *See* C. B. Preston & H. Lawrence, *Incentivizing Lawyers to Play Nice: A National Survey on Civility Standards and Options for Enforcement,* 48 U. MICH. J.L. REFORM 701 (2015).

perceptions of organizational fairness, and intentions to remain on the job.[40] A significant contributor to well-being is a sense of organizational belongingness, which has been defined as feeling personally accepted, respected, included, and supported by others. A weak sense of belonging is strongly associated with depressive symptoms.[41] Unfortunately, however, a lack of diversity and inclusion is an entrenched problem in the legal profession.[42] The issue is pronounced for women and minorities in larger law firms.[43]

6.1. Promote Diversity and Inclusivity.

Given the above, we recommend that all stakeholders urgently prioritize diversity and inclusion. Regulators and bar associations can play an especially influential role in advocating for initiatives in the profession as a whole and educating on why those initiatives are important to individual and institutional well-being. Examples of relevant initiatives include: scholarships, bar exam grants for qualified applicants, law school orientation programs that highlight the importance of diversity and inclusion, CLE programs focused on diversity in the legal profession, business development symposia for women- and minority-owned law firms, pipeline programming for low-income high school and college students, diversity clerkship programs for law students, studies and reports on the state of diversity within the state's bench and bar, and diversity initiatives in law firms.[44]

6.2. Create Meaningful Mentoring and Sponsorship Programs.

Another relevant initiative that fosters inclusiveness and respectful engagement is mentoring. Research has shown that mentorship and sponsorship can aid well-being and career progression for women and diverse professionals. They also reduce lawyer isolation.[46] Those who have participated in legal mentoring report a stronger sense of personal connection with others in the legal community, restored enthusiasm for the legal profession, and more resilience—all of which benefit both mentors and mentees.[47] At least 35 states and the District of Columbia sponsor formal mentoring programs.[48]

7. ENHANCE LAWYERS' SENSE OF CONTROL.

Practices that rob lawyers of a sense of autonomy and control over their schedules and lives are especially harmful to their well-being. Research studies show that high job demands paired with a lack of a sense of control breeds depression and other psychological disorders.[49] Research suggests that men in jobs with such characteristics have an elevated risk of alcohol abuse.[50] A recent review of strategies designed to prevent workplace depression found that those designed to improve the perception of control were among the

[40] *E.g.,* M. M. Barak & A. Levin, *Outside of the Corporate Mainstream and Excluded from the Work Community: A Study of Diversity, Job Satisfaction and Well-Being,* 5 COMM., WORK & FAM. 133 (2002); J. Hwang & K. M. Hopkins, *A Structural Equation Model of the Effects of Diversity Characteristics and Inclusion on Organizational Outcomes in the Child Welfare Workforce,* 50 CHILD. & YOUTH SERVS. REV. 44 (2015); *see generally* G. R. Ferris, S. R. Daniels, & J. C. Sexton, *Race, Stress, and Well-Being in Organizations: An Integrative Conceptualization, in* THE ROLE OF DEMOGRAPHICS IN OCCUPATIONAL STRESS AND WELL-BEING 1-39 (P. L. Perrewé, C. C. Rosen, J. B. Halbesleben, P. L. Perrewé eds., 2014).

[41] W. D. Cockshaw & I. M. Shochet, *The Link Between Belongingness and Depressive Symptoms: An Exploration in the Workplace Interpersonal Context,* 45 AUSTRL. PSYCHOL. 283 (2010); W. D. Cockshaw, I. M. Shochet & P. L. *Obst, Depression and Belongingness in General and Workplace Contexts: A Cross-Lagged Longitudinal Investigation,* 33 J. SOC. & CLINICAL PSYCHOL. 448 (2014).

[42] D. L. Rhode, *Law Is The Least Diverse Profession in The Nation. And Lawyers Aren't Doing Enough to Change That,* WASH. POST, *Post Everything*, May 27, 2015, *available at* https://www.washingtonpost.com/posteverything/wp/2015/05/27/law-is-the-least-diverse-profession-in-the-nation-and-lawyers-arent-doing-enough-to-change-that/?utm_term=.a79ad124eb5cl; *see also* Aviva Culyer, *Diversity in the Practice of Law: How Far Have We Come?*, G.P. SOLO, Sept./Oct. 2012, *available at* http://www.americanbar.org/publications/gp_solo/2012/september_october/diversity_practice_law_how_far_have_we_come.html.

[43] L. S. RIKLEEN, NAT'L ASSOC. WOMEN LAWYERS, REPORT OF THE NINTH ANNUAL NAWL NATIONAL SURVEY ON RETENTION AND PROMOTION OF WOMEN IN LAW FIRMS (2015), *available at* http://www.nawl.org/2015nawlsurvey; S. A. SCHARFL, R. LIEBENBERG, & C. AMALFE, NAT'L ASSOC. WOMEN LAWYERS, REPORT OF THE EIGHTH ANNUAL NAWL NATIONAL SURVEY ON RETENTION AND PROMOTION OF WOMEN IN LAW FIRMS (2014), *available at* http://www.nawl.org/p/bl/et/blogid=10&blogaid=56; see also FLA. BAR ASS'N YOUNG LAW. DIVISION COMM'N ON WOMEN, https://flayld.org/commission-on-women/.

[44] *See* C. U. Stacy, *Trends and Innovations Boosting Diversity in the Law and Beyond,* L. PRAC. TODAY, March 14, 2016, *available at* http://www.lawpracticetoday.org/article/trends-and-innovations-boosting-diversity-in-the-law-and-beyond; IL. SUP. CT. COMM'N ON PROFESSIONALISM, DIVERSITY & INCLUSION TOOLKIT, https://www.2civility.org/programs/cle/cle-resources/diversity-inclusion.

[45] Ferris, Daniels, & Sexton, *supra* note 40; A. Ramaswami, G. F. Dreher, R. Bretz, & C. Wiethoff, *The Interactive Effects of Gender and Mentoring on Career Attainment: Making the Case for Female Lawyers,* 37 J. CAREER DEV. 692 (2010).

[46] R. NERISON, LAWYERS, ANGER, AND ANXIETY: DEALING WITH THE STRESSES OF THE LEGAL PROFESSION (2010).

[47] D. A. Cotter, *The Positives of Mentoring,* YOUNG LAW. DIV., AM. BAR ASS'N (2017), *available at* http://www.americanbar.org/publications/tyl/topics/mentoring/the_positives_mentoring.html; M. M. Heekin, Implementing Psychological Resilience Training in Law Incubators, 1 J. EXPERIENTIAL LEARNING 286 (2016).

[48] Of the 35 programs, seven are mandatory (GA, NV, NM, OR, SC, UT, and WY) and some are approved for CLE credits. *See* the American Bar Association for more information: http://www.americanbar.org/groups/professional_responsibility/resources/professionalism/mentoring.html.

[49] J-M Woo & T. T. Postolache, *The Impact of Work Environment on Mood Disorders and Suicide: Evidence and Implications,* 7 INT'L J. DISABILITY & HUMAN DEV. 185 (2008); J. M. Griffin, R. Fuhrer, S. A. Stansfeld, & M. Marmot, *The Importance of Low Control at Work and Home on Depression and Anxiety: Do These Effects Vary by Gender and Social Class?,* 54 SOC. SCI. & MED. 783 (2002).

[50] A. J. Crum, P. Salovey, & S. Achor, *Rethinking Stress: The Role of Mindsets in Determining the Stress Response,* 10 J. PERSONALITY & SOC. PSYCHOL. 716 (2013).

most effective.[51] Research confirms that environments that facilitate control and autonomy contribute to optimal functioning and well-being.[52]

We recommend that all stakeholders consider how long-standing structures of the legal system, organizational norms, and embedded expectations might be modified to enhance lawyers' sense of control and support a healthier lifestyle. Courts, clients, colleagues, and opposing lawyers all contribute to this problem. Examples of the types of practices that should be reviewed include the following:

- Practices concerning deadlines such as tight deadlines for completing a large volume of work, limited bases for seeking extensions of time, and ease and promptness of procedures for requesting extensions of time;
- Refusal to permit trial lawyers to extend trial dates to accommodate vacation plans or scheduling trials shortly after the end of a vacation so that lawyers must work during that time;
- Tight deadlines set by clients that are not based on business needs;
- Senior lawyer decision-making in matters about key milestones and deadlines without consulting other members of the litigation team, including junior lawyers;
- Senior lawyers' poor time-management habits that result in repeated emergencies and weekend work for junior lawyers and staff;
- Expectations of 24/7 work schedules and of prompt response to electronic messages at all times; and
- Excessive law school workload, controlling teaching styles, and mandatory grading curves.

8. PROVIDE HIGH-QUALITY EDUCATIONAL PROGRAMS ABOUT LAWYER DISTRESS AND WELL-BEING.

All stakeholders should ensure that legal professionals receive training in identifying, addressing, and supporting fellow professionals with mental health and substance use disorders. At a minimum, training should cover the following:

- 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.

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. Some evidence reflects that social norms predict problem drinking even more so than stress.[53] Therefore, a team-based training program may be most effective because it focuses on the level at which the social norms are enforced.[54]

Given the influence of drinking norms throughout the profession, however, isolated training programs are not sufficient. A more comprehensive, systemic campaign is likely to be the most effective—though certainly the most challenging.[55] All stakeholders will be critical players in such an aspirational goal. Long-term strategies should consider scholars' recommendations to incorporate mental health and substance use disorder training into broader health-promotion programs to help skirt the stigma that may otherwise deter attendance.

[51] S. Joyce, M. Modini, H. Christensen, A. Mykletun, R. Bryant, P. B. Mitchell, & S. B. Harvey, *Workplace Interventions for Common Mental Disorders: A Systematic Meta-Review,* 46 PSYCHOL. MED. 683, 693 (2016).
[52] Y-L Su & J. Reeve, *A Meta-Analysis of the Effectiveness of Intervention Programs Designed to Support Autonomy*, 23 EDUC. PSYCHOL. REV. 159 (2011).
[53] D. C. Hodgins, R. Williams, & G. Munro, *Workplace Responsibility, Stress, Alcohol Availability and Norms as Predictors of Alcohol Consumption-Related Problems Among Employed Workers,* 44 SUBSTANCE USE & MISUSE 2062 (2009).
[54] C. Kolar & K. von Treuer, *Alcohol Misuse Interventions in the Workplace: A Systematic Review of Workplace and Sports Management Alcohol Interventions,* 13 INT'L J. MENTAL HEALTH ADDICTION 563 (2015); *e.g., J. B. Bennett,* W. E. K. Lehman, G. S. Reynolds, *Team Awareness for Workplace Substance Abuse Prevention: The Empirical and Conceptual Development of a Training Program,* 1 PREVENTION SCI. 157 (2000).
[55] Kolar & von Treuer, *supra* note 54.

Research also suggests that, where social drinking has become a ritual for relieving stress and for social bonding, individuals may resist efforts to deprive them of a valued activity that they enjoy. To alleviate resistance based on such concerns, prevention programs should consider making "it clear that they are not a temperance movement, only a force for moderation," and that they are not designed to eliminate bonding but to ensure that drinking does not reach damaging dimensions.[56]

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 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.

Well-being efforts must extend beyond detection and treatment and address root causes of poor health.

9. GUIDE AND SUPPORT THE TRANSITION OF OLDER LAWYERS.

Like the general population, the lawyer community is aging and lawyers are practicing longer.[57] In the Baby Boomer generation, the oldest turned 62 in 2008, and the youngest will turn 62 in 2026.[58] In law firms, one estimate indicates that nearly 65 percent of equity partners will retire over the next decade.[59] Senior lawyers can bring much to the table, including their wealth of experience, valuable public service, and mentoring of new lawyers. At the same time, however, aging lawyers have an increasing risk for declining physical and mental capacity. Yet few lawyers and legal organizations have sufficiently prepared to manage transitions away from the practice of law before a crisis occurs. The result is a rise in regulatory and other issues relating to the impairment of senior lawyers. We make the following recommendations to address these issues:

Planning Transition of Older Lawyers

1. **Provide education to detect cognitive decline.**
2. **Develop succession plans.**
3. **Create transition programs to respectfully aid retiring professionals plan for their next chapter.**

[56] R. F. Cook, A. S. Back, J. Trudeau, & T. McPherson, *Integrating Substance Abuse Prevention into Health Promotion Programs in the Workplace: A Social Cognitive Intervention Targeting the Mainstream User, in* PREVENTING WORKPLACE SUBSTANCE ABUSE: BEYOND DRUG TESTING TO WELLNESS 97 (W. K. Lehman, J. B. Bennett eds., 2003).

[57] A recent American Bar Association report reflected that, in 2005, 34 percent of practicing lawyers were age fifty-five or over, compared to 25 percent in 1980. See LAWYER DEMOGRAPHICS, A.B.A. SEC. OF LEGAL EDUC. & ADMISSIONS TO THE BAR (2016), *available at* http://www.americanbar.org/content/dam/aba/administrative/market_research/lawyer-demographics-tables-2016.authcheckdam.pdf.

[58] E. A. McNickle, A Grounded Theory Study of Intrinsic Work Motivation Factors Influencing Public Utility Employees Aged 55 and Older as Related to Retirement Decisions (2009) (doctoral dissertation, Capella University) (available from ProQuest Dissertations and Theses Database).

[59] M. P. Shannon, *A Short Course in Succession Planning,* 37 L. PRAC. MAG. (2011), *available at* http://www.americanbar.org/publications/law_practice_magazine/2011/may_june/a_short_course_in_succession_planning.html.

First, all stakeholders should create or support programming for detecting and addressing cognitive decline in oneself and colleagues.

Second, judges, legal employers, bar associations, and regulators should develop succession plans, or provide education on how to do so, to guide the transition of aging legal professionals. Programs should include help for aging members who show signs of diminished cognitive skills, to maintain their dignity while also assuring they are competent to practice.[60] A model program in this regard is the North Carolina Bar Association's Senior Lawyers Division.[61]

Third, we recommend that legal employers, law firms, courts, and law schools develop programs to aid the transition of retiring legal professionals. Retirement can enhance or harm well-being depending on the individual's adjustment process.[62] Many lawyers who are approaching retirement age have devoted most of their adult lives to the legal profession, and their identities often are wrapped up in their work. Lawyers whose self-esteem is contingent on their workplace success are likely to delay transitioning and have a hard time adjusting to retirement.[63] Forced retirement that deprives individuals of a sense of control over the exit timing or process is particularly harmful to well-being and long-term adjustment to retirement.[64]

To assist stakeholders in creating the programming to guide and support transitioning lawyers, the Task Force sets out a number of suggestions in **Appendix C**.

10. DE-EMPHASIZE ALCOHOL AT SOCIAL EVENTS.

Workplace cultures or social climates that support alcohol consumption are among the most consistent predictors of employee drinking. When employees drink together to unwind from stress and for social bonding, social norms can reinforce tendencies toward problem drinking and stigmatize seeking help. On the other hand, social norms can also lead colleagues to encourage those who abuse alcohol to seek help.[65]

In the legal profession, social events often center around alcohol consumption (e.g., "Happy Hours," "Bar Reviews," networking receptions, etc.). The expectation of drinking is embedded in the culture, which may contribute to over-consumption. Legal employers, law schools, bar associations, and other stakeholders that plan social events should provide a variety of alternative non-alcoholic beverages and consider other types of activities to promote socializing and networking. They should strive to develop social norms in which lawyers discourage heavy drinking and encourage others to seek help for problem use.

11. UTILIZE MONITORING TO SUPPORT RECOVERY FROM SUBSTANCE USE DISORDERS.

Extensive research has demonstrated that random drug and alcohol testing (or "monitoring") is an effective way of supporting recovery from substance use disorders and increasing abstinence rates. The medical profession has long relied on monitoring as a key component of its treatment paradigm for physicians, resulting in long-term recovery rates for that population that are between 70-96 percent, which is the highest in all of the treatment outcome literature.[66] One study found that 96 percent of medical professionals who were subject to random drug tests remained drug-free, compared to only 64 percent of those who were not subject to mandatory testing.[67] Further, a national survey of physician health programs found that among medical professionals who completed their prescribed treatment requirements (including monitoring), 95 percent were licensed and actively

[60] *See generally* W. SLEASE ET AL., NOBC-APRL-COLAP SECOND JOINT COMMITTEE ON AGING LAWYERS, FINAL REPORT (2014), *available at* http://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_nobc_aprl_colap_second_joint_committee_aging_lawyers.authcheckdam.pdf.

[61] Senior Lawyers Division, N. C. Bar Ass'n, https://www.ncbar.org/members/divisions/senior-lawyers/.

[62] N. Houlfort, C. Fernet, R. J. Vallerand, A. Laframboise, F. Guay, & R. Koestner, *The Role of Passion for Work and Need for Satisfaction in Psychological Adjustment to Retirement,* 88 J. VOCATIONAL BEHAVIORS 84 (2015).

[63] *Id.*

[64] E. Dingemans & K. Henkens, *How Do Retirement Dynamics Influence Mental Well-Being in Later Life? A 10-Year Panel Study,* 41 SCANDINAVIAN J. WORK, ENV'T & HEALTH 16 (2015); A. M. Muratore & J. K. Earl, *Improving Retirement Outcomes: The Role of Resources, Pre-Retirement Planning and Transition Characteristics,* 35 AGEING & SOC. 2100 (2015).

[65] J. B. Bennett, C. R. Patterson, G. S. Reynolds, W. L. Wiitala, & W. K. Lehman, *Team Awareness, Problem Drinking, and Drinking Climate: Workplace Social Health Promotion in a Policy Context,* 19 AM. J. HEALTH PROMOTION 103 (2004).

[66] R. L. DuPont, A. T. McLellan, W. L. White, L. Merlo & M. S. Gold, *Setting the Standard for Recovery: Physicians Health Programs Evaluation Review,* 36 J. SUBSTANCE ABUSE TREATMENT 159 (2009).

[67] J. Shore, *The Oregon Experience with Impaired Physicians on Probation: An Eight Year Follow-Up,* 257 J. AM. MED. ASS'N 2931 (1987).

working in the health care field at a five year follow-up after completing their primary treatment program.[68] In addition, one study has found that physicians undergoing monitoring through physician health programs experienced lower rates of malpractice claims.[69]

Such outcomes are not only exceptional and encouraging, they offer clear guidance for how the legal profession could better address its high rates of substance use disorders and increase the likelihood of positive outcomes. Although the benefits of monitoring have been recognized by various bar associations, lawyer assistance programs, and employers throughout the legal profession, a uniform or "best practices" approach to the treatment and recovery management of lawyers has been lacking. Through advances in monitoring technologies, random drug and alcohol testing can now be administered with greater accuracy and reliability—as well as less cost and inconvenience—than ever before. Law schools, legal employers, regulators, and lawyer assistance programs would all benefit from greater utilization of monitoring to support individuals recovering from substance use disorders.

12. BEGIN A DIALOGUE ABOUT SUICIDE PREVENTION.

It is well-documented that lawyers have high rates of suicide.[70] The reasons for this are complicated and varied, but some include the reluctance of attorneys to ask for help when they need it, high levels of depression amongst legal professionals, and the stressful nature of the job.[71] If we are to change these statistics, stakeholders need to provide education and take action. Suicide, like mental health or substance use disorders, is a highly stigmatized topic. While it is an issue that touches many of us, most people are uncomfortable discussing suicide. Therefore, stakeholders must make a concerted effort towards suicide prevention to demonstrate to the legal community that we are not afraid of addressing this issue. We need leaders to encourage dialogue about suicide prevention.

One model for this is through a "Call to Action," where members of the legal community and stakeholders from lawyer assistance programs, the judiciary, law firms, law schools, and bar associations are invited to attend a presentation and community discussion about the issue.

Call to Action

- ✔ **Organize "Call to Action" events to raise awareness.**
- ✔ **Share stories of those affected by suicide.**
- ✔ **Provide education about signs of depression and suicidal thinking.**
- ✔ **Learn non-verbal signs of distress.**
- ✔ **Collect and publicize available resources.**

When people who have been affected by the suicide of a friend or colleague share their stories, other members of the legal community begin to better understand the impact and need for prevention.[72] In addition, stakeholders can schedule educational presentations that incorporate information on the signs and symptoms of suicidal thinking along with other mental health/

[68] R. L. DuPont, A. T. McLellan, G, Carr, M. Gendel, & G. E. Skipper, *How Are Addicted Physicians Treated? A National Survey of Physician Health Programs,* 37 J. SUBSTANCE ABUSE TREATMENT 1 (2009).

[69] E. Brooks, M. H. Gendel, D. C. Gundersen, S. R. Early, R. Schirrmacher, A. Lembitz, & J. H. Shore, *Physician Health Programs and Malpractice Claims: Reducing Risk Through Monitoring,* 63 OCCUPATIONAL MED. 274 (2013).

[70] R. Flores & R. M. Arce, *Why Are Lawyers Killing Themselves?*, CNN, Jan. 20, 2014, http://www.cnn.com/2014/01/19/us/lawyer-suicides/. If you or someone you know is experiencing suicidal thinking, please seek help immediately. The National Suicide Prevention Lifeline can be reached at 1-800-273-8255, https://suicidepreventionlifeline.org.

[71] *Id.*

[72] The Colorado Lawyer Assistance Program sponsored one such Call to Action on January 21, 2016, in an effort to generate more exposure to this issue so the legal community better understands the need for dialogue and prevention.

substance use disorders. These can occur during CLE presentations, staff meetings, training seminars, at law school orientations, bar association functions, etc. Stakeholders can contact their state lawyer assistance programs, employee assistance program agencies, or health centers at law schools to find speakers, or referrals for counselors or therapists so that resources are available for family members of lawyers, judges, and law students who have taken their own life.

It's important for all stakeholders to understand that, while lawyers might not tell us that they are suffering, they will show us through various changes in behavior and communication styles. This is so because the majority of what we express is non-verbal.[73] Becoming better educated about signs of distress will enable us to take action by, for example, making health-related inquiries or directing them to potentially life-saving resources.

13. SUPPORT A LAWYER WELL-BEING INDEX TO MEASURE THE PROFESSION'S PROGRESS.

We recommend that the ABA coordinate with state bar associations to create a well-being index for the legal profession that will include metrics related to lawyers, staff, clients, the legal profession as a whole, and the broader community. The goal would be to optimize the well-being of all of the legal profession's stakeholders.[74] Creating such an index would correspond with a growing worldwide consensus that success should not be measured solely in economic terms. Measures of well-being also have an important role to play in defining success and informing policy.[75] The index would help track progress on the transformational effort proposed in this report. For law firms, it also may help counter-balance the "profits per partner metric" that has been published by *The American Lawyer* since the late 1980s, and which some argue has driven the profession away from its core values. As a foundation for building the well-being index, stakeholders could look to, for example, criteria used in *The American Lawyer's* Best Places to Work survey, or the Tristan Jepson Memorial Foundation's best practice guidelines for promoting psychological well-being in the legal profession.[76]

[73]ALBERT MEHRABIAN, SILENT MESSAGES: IMPLICIT COMMUNICATION OF EMOTIONS AND ATTITUDES (1972).

[74]*See* R. E. FREEMAN, J. S. HARRISON, & A. WICKS, MANAGING FOR STAKEHOLDERS: SURVIVAL, REPUTATION, AND SUCCESS (2007); J. MACKEY & R. SISODIA, CONSCIOUS CAPITALISM: LIBERATING THE HEROIC SPIRIT OF BUSINESS (2014).

[75]L. Fasolo, M. Galetto, & E. Turina, *A Pragmatic Approach to Evaluate Alternative Indicators to GDP,* 47 QUALITY & QUANTITY 633 (2013); WORLD HAPPINESS REPORT (J. Helliwell, R. Layard, & J. Sachs eds., 2013), *available at* http://unsdsn.org/wp-content/uploads/2014/02/WorldHappinessReport2013_online.pdf; G. O'Donnell, *Using Well-Being as a Guide to Public Policy, in* WORLD HAPPINESS REPORT.

[76]The Tristan Jepson Memorial Foundation's Guidelines are *available at* http://tjmf.client.fatbeehive.com.au/wp/wp-content/uploads/TJMFMentalHealthGuidelines_A4_140427.pdf.

"A tree with strong roots laughs at storms." — Malay Proverb

Judges occupy an esteemed position in the legal profession and society at large. For most, serving on the bench is the capstone of their legal career. The position, however, can take a toll on judges' health and well-being. Judges regularly confront contentious, personal, and vitriolic proceedings. Judges presiding over domestic relations dockets make life-changing decisions for children and families daily.[77] Some report lying awake at night worrying about making the right decision or the consequences of that decision.[78] Other judges face the stress of presiding over criminal cases with horrific underlying facts.[79]

Also stressful is the increasing rate of violence against judges inside and outside the courthouse.[80] Further, many judges contend with isolation in their professional lives and sometimes in their personal lives.[81] When a judge is appointed to the bench, former colleagues who were once a source of professional and personal support can become more guarded and distant.[82] Often, judges do not have feedback on their performance. A number take the bench with little preparation, compounding the sense of going it alone.[83] Judges also cannot "take off the robe" in every day interactions outside the courthouse because of their elevated status in society, which can contribute to social isolation.[84] Additional stressors include re-election in certain jurisdictions.[85] Limited judicial resources coupled with time-intensive, congested dockets are a pronounced problem.[86] More recently, judges have reported a sense of diminishment in their estimation among the public at large.[87] Even the most astute, conscientious, and collected judicial officer can struggle to keep these issues in perspective.

We further recognize that many judges have the same reticence in seeking help out of the same fear of embarrassment and occupational repercussions that lawyers have. The public nature of the bench often heightens the sense of peril in coming forward.[88] Many judges, like lawyers, have a strong sense of perfectionism and believe they must display this perfectionism at all times.[89] Judges' staff can act as protectors or enablers of problematic behavior. These are all impediments to seeking help. In addition, lawyers, and even a judge's colleagues, can be hesitant to report or refer a judge whose behavior is problematic for fear of retribution.

In light of these barriers and the stressors inherent in the unique role judges occupy in the legal system, we make the following recommendations to enhance well-being among members of the judiciary.

14. COMMUNICATE THAT WELL-BEING IS A PRIORITY.

The highest court in each state should set the tone for the importance of the well-being of judges. Judges are not immune from suffering from the same stressors as lawyers, and additional stressors are unique to work as a jurist.

[77] A. Resnick, K. Myatt, & P. Marotta, *Surviving Bench Stress,* 49 FAM. CT. REV. 610, 610-11 (2011).
[78] *Id.* at 611-12.
[79] M. K. Miller, D. M. Flores, & A. N. Dolezilek, *Addressing the Problem of Courtroom Stress,* 91 JUDICATURE 60, 61, 64 (2007); J. Chamberlain & M. Miller, *Evidence of Secondary Traumatic Stress, Safety Concerns, and Burnout Among a Homogeneous Group of Judges in a Single Jurisdiction,* 37 J. AM. ACAD. PSYCHIATRY L. 214, 215 (2009).
[80] Miller, Flores, & Dolezilek, *supra* note 79, at 60-61; *see also* T. FAUTSKO, S. BERSON, & S. SWENSEN, NAT'L CTR. FOR STATE CTS., STATUS OF COURT SECURITY IN STATE COURTS – A NATIONAL PERSPECTIVE (2013), *available at* http://ncsc.contentdm.oclc.org/cdm/ref/collection/facilities/id/184#img_view_container.
[81] I. Zimmerman, Helping Judges in Distress, 90 JUDICATURE 10, 13 (2006).
[82] *Id.*
[83] C. Bremer, *Reducing Judicial Stress Through Mentoring,* 87 JUDICATURE 244-45 (2004).
[84] Resnick, Myatt, & Marotta, *supra* note 77, at 610.
[85] *Id.* at 610-11; Zimmerman, *supra* note 81, at 11-12.
[86] Resnick, Myatt, Marotta, *supra* note 77, at 610.
[87] *Judges Are Feeling Less Respected*, NAT'L JUDICIAL C. (2017), *available at* http://www.judges.org/judges-feeling-less-respected/.
[88] S. KRAUSS, N. STEK, W. DRESSEL, AM. BAR ASS'N COMM'N ON LAW. ASSISTANCE PROGRAMS, HELPING JUDGES, MODULE 1 – OVERVIEW OF A JUDICIAL ASSISTANCE PROGRAM (2010); Zimmerman, *supra* note 81, at 13.
[89] R. L. Childers, *Got Stress? Using CoLAP and Its New Judicial Assistance Project,* JUDGES JOURNAL (2006); Chamberlain & Miller, *supra* note 79, at 220.

15. DEVELOP POLICIES FOR IMPAIRED JUDGES.

It is essential that the highest court and its commission on judicial conduct implement policies and procedures for intervening with impaired members of the judiciary. For example, the highest court should consider adoption of policies such as a Diversion Rule for Judges in appropriate cases. Administrative and chief judges also should implement policies and procedures for intervening with members of the judiciary who are impaired in compliance with Model Rule of Judicial Conduct 2.14. They should feel comfortable referring members to judicial or lawyer assistance programs. Educating judicial leaders about the confidential nature of these programs will go a long way in this regard. Judicial associations and educators also should promote CoLAP's judicial peer support network, as well as the National Helpline for Judges Helping Judges.[90]

16. REDUCE THE STIGMA OF MENTAL HEALTH AND SUBSTANCE USE DISORDERS.

As reflected in Recommendation 4, the stigma surrounding mental health and substance use disorders poses an obstacle to treatment. Judges are undisputed leaders in the legal profession. We recommend they work to reduce this stigma by creating opportunities for open dialogue. Simply talking about these issues helps combat the unease and discomfort that causes the issues to remain unresolved. In a similar vein, we encourage judges to participate in the activities of lawyer assistance programs, such as volunteering as speakers and serving as board members. This is a powerful way to convey to lawyers, law students, and other judges the importance of lawyer assistance programs and to encourage them to access the programs' resources.

17. CONDUCT JUDICIAL WELL-BEING SURVEYS.

This report was triggered in part by the Study and the Survey of Law Student Well-Being. No comparable research has been conducted of the judiciary. We recommend that CoLAP and other concerned entities conduct a broad-based survey of the judiciary to determine the state of well-being and the prevalence of issues directly related to judicial fitness such as burnout, compassion fatigue, mental health, substance use disorders and help-seeking behaviors.

18. PROVIDE WELL-BEING PROGRAMMING FOR JUDGES AND STAFF.

Judicial associations should invite lawyer assistance program directors and other well-being experts to judicial conferences who can provide programming on topics related to self-care as well as resources available to members of the judiciary experiencing mental health or substance use disorders. Topics could include burnout, secondary traumatic stress, compassion fatigue, strategies to maintain well-being, as well as identification of and intervention for mental health and substance use disorders.

✔ **Design well-being education specifically for judges.**

✔ **Connect judges for support and mentoring.**

✔ **Publish well-being resources tailored to judges.**

Judicial educators also should make use of programming that allows judges to engage in mutual support and sharing of self-care strategies. One such example is roundtable discussions held as part of judicial conferences or establishing a facilitated mentoring

[90]The ABA-sponsored National Helpline for Judges Helping Judges is 1-800-219-6474.

program or mentoring circle for judicial members. We have identified isolation as a significant challenge for many members of the judiciary. Roundtable discussions and mentoring programs combat the detrimental effects of this isolation.[91]

Judicial associations and educators also should develop publications and resources related to well-being, such as guidebooks. For example, a judicial association could create wellness guides such as "A Wellness Guide for Judges of the California State Courts." This sends the signal that thought leaders in the judiciary value well-being.

19. MONITOR FOR IMPAIRED LAWYERS AND PARTNER WITH LAWYER ASSISTANCE PROGRAMS

Judges often are among the first to detect lawyers suffering from an impairment. Judges know when a lawyer is late to court regularly, fails to appear, or appears in court under the influence of alcohol or drugs. They witness incomprehensible pleadings or cascading requests for extensions of time. We believe judges have a keen pulse on when a lawyer needs help. With the appropriate training, judges' actions can reduce client harm and save a law practice or a life. We make the following recommendations tailored to helping judges help the lawyers appearing before them.

Consistent with Recommendation 5.1, judges should become familiar with lawyer assistance programs in their state. They should learn how best to make referrals to the program. They should understand the confidentiality protections surrounding these referrals. Judges also should invite lawyer assistance programs to conduct educational programming for lawyers in their jurisdiction using their courtroom or other courthouse space.

Judges, for example, can devote a bench-bar luncheon at the courthouse to well-being and invite representatives of the lawyers assistance program to the luncheon.

Judicial educators should include a section in bench book-style publications dedicated to lawyer assistance programs and their resources, as well as discussing how to identify and handle lawyers who appear to have mental health or substance use disorders. Further, judges and their staff should learn the signs of mental health and substance use disorders, as well as strategies for intervention, to assist lawyers in their courtrooms who may be struggling with these issues. Judges can also advance the well-being of lawyers who appear before them by maintaining courtroom decorum and de-escalating the hostilities that litigation often breeds.

[90] The ABA-sponsored National Helpline for Judges Helping Judges is 1-800-219-6474.

[91] For more information on judicial roundtables, *see* AM. BAR ASS'N COMM'N ON LAW. ASSISTANCE PROGRAMS, JUDICIAL ROUNDTABLES, *available at* https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_Judicial_Roundtable_Protocols.authcheckdam.pdf.

"You can do what I cannot do. I can do what you cannot do. Together we can do great things." — Mother Teresa

Regulators play a vital role in fostering individual lawyer well-being and a professional culture that makes it possible. We broadly define "regulators" to encompass all stakeholders who assist the highest court in each state in regulating the practice of law.[92] This definition includes lawyers and staff in regulatory offices; volunteer lawyer and non-lawyer committee, board, and commission members; and professional liability lawyers who advise law firms and represent lawyers in the regulatory process.

Courts and their regulators frequently witness the conditions that generate toxic professional environments, the impairments that may result, and the negative professional consequences for those who do not seek help. Regulators are well-positioned to improve and adjust the regulatory process to address the conditions that produce these effects. As a result, we propose that the highest court in each state set an agenda for action and send a clear message to all participants in the legal system that lawyer well-being is a high priority.

Transform the profession's perception of regulators from police to partner.

To carry out the agenda, regulators should develop their reputation as partners with practitioners. The legal profession often has a negative perception of regulators, who typically appear only when something has gone awry. Regulators can transform this perception by building their identity as partners with the rest of the legal community rather than being viewed only as its "police."

Most regulators are already familiar with the 1992 Report of the Commission on Evaluation of Disciplinary Enforcement—better known as the "McKay Commission Report."[93] It recognized and encouraged precisely what we seek to do through this report: to make continual improvements to the lawyer regulation process to protect the public and assist lawyers in their professional roles. Accordingly, we offer the following recommendations to ensure that the regulatory process proactively fosters a healthy legal community and provides resources to rehabilitate impaired lawyers.

20. TAKE ACTIONS TO MEANINGFULLY COMMUNICATE THAT LAWYER WELL-BEING IS A PRIORITY.

20.1. Adopt Regulatory Objectives That Prioritize Lawyer Well-Being.

In 2016, the Conference of Chief Justices adopted a resolution recommending that each state's highest court consider the ABA's proposed Model Regulatory Objectives.[94] Among other things, those objectives sought to encourage "appropriate preventive or wellness programs." By including a wellness provision, the ABA recognized the importance of the human element in the practice of law: To accomplish all other listed objectives, the profession must have healthy, competent lawyers. The Supreme Court of Colorado already has adopted

[92] *See* AM. BAR ASS'N RESOL. 105 (February 2016).
[93] AM BAR ASS'N COMM'N ON EVALUATION OF DISCIPLINARY ENFORCEMENT, LAWYER REGULATION FOR A NEW CENTURY: REPORT OF THE COMMISSION ON EVALUATION OF DISCIPLINARY ENFORCEMENT (1992), *available at* http://www.americanbar.org/groups/professional_responsibility/resources/report_archive/mckay_report.html.
[94] RESOL. 105, *supra* note 92.

a version of the ABA's Regulatory Objectives. In doing so, it recommended proactive programs offered by the Colorado Lawyer Assistance Program and other organizations to assist lawyers throughout all stages of their careers to practice successfully and serve their clients.[95] The Supreme Court of Washington also recently enacted regulatory objectives.[96]

We recommend that the highest court in each U.S. jurisdiction follow this lead. Each should review the ABA and Colorado regulatory objectives and create its own objectives that specifically promote effective lawyer assistance and other proactive programs relating to well-being. Such objectives will send a clear message that the court prioritizes lawyer well-being, which influences competent legal services. This, in turn, can boost public confidence in the administration of justice.

20.2. Modify the Rules of Professional Conduct to Endorse Well-Being As Part of a Lawyer's Duty of Competence.

ABA Model Rule of Professional Conduct 1.1 (Competence) states that lawyers owe a duty of competence to their clients. "Competent" representation is defined to require "the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."[97] We recommend revising this Rule and/or its Comments to more clearly include lawyers' well-being in the definition of "competence."

One alternative is to include language similar to California's Rule of Professional Conduct 3-110, which defines "competence" to include the "mental, emotional, and physical ability reasonably necessary" for the representation.[98] A second option is to amend the Comments to Rule 1.1 to clarify that professional competence requires an ability to comply with all of the Court's essential eligibility requirements (see Recommendation 21.2 below).

Notably, we do <u>not</u> recommend discipline solely for a lawyer's failure to satisfy the well-being requirement or the essential eligibility requirements. Enforcement should proceed only in the case of actionable misconduct in the client representation or in connection with disability proceedings under Rule 23 of the ABA Model Rules for Disciplinary Enforcement. The goal of the proposed amendment is not to threaten lawyers with discipline for poor health but to underscore the importance of well-being in client representations. It is intended to remind lawyers that their mental and physical health impacts clients and the administration of justice, to reduce stigma associated with mental health disorders, and to encourage preventive strategies and self-care.

20.3. Expand Continuing Education Requirements to Include Well-Being Topics.

We recommend expanding continuing education requirements for lawyers and judges to mandate credit for mental health and substance use disorder programming and allow credit for other well-being-related topics that affect lawyers' professional capabilities.

In 2017, the ABA proposed a new Model Continuing Legal Education (MCLE) Rule that recommends mandatory mental health programming. The Model Rule requires lawyers to earn at least one credit hour every three years of CLE programming that addresses the prevention, detection, and/or treatment of "mental health and substance use disorders." We recommend that all states adopt this provision of the Model Rule. Alternatively, states could consider authorizing ethics credit (or other specialized credits) for CLE programs that address these topics. California and Illinois are examples of state bars that already have such requirements.[99]

The ABA's new Model Rule also provisionally recommends that states grant CLE credit for "Lawyer Well-Being Programming." The provision encompasses a broader scope of topics than might fall under a narrow definition of mental health and substance use

[96] Washington Courts, Suggested Amendments to General Rules (2017), http://www.courts.wa.gov/court_rules/?fa=court_rules.proposedRuleDisplay&ruleId=549.
[97] MODEL RULES PROF. CONDUCT R. 1.1 (2017), *available at* https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_1_competence.html.
[98] CAL. RULES PROF'L CONDUCT R. 3-110, *available at* http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Rules/Rules-of-Professional-Conduct/Current-Rules/Rule-3-110.
[99] *See* RULES OF THE STATE BAR OF CAL., Title 2, Div. 4, R. 2.72 (2017); ILL. SUP. CT. R. 794(d)(1) (2017).

disorders. Tennessee is one example of a pioneering state that authorizes credit for a broad set of well-being topics. Its CLE Regulation 5H 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.[100] We recommend that regulators follow Tennessee's lead by revising CLE rules to grant credit for similar topics.

20.4. Require Law Schools to Create Well-Being Education for Students as An Accreditation Requirement.

In this recommendation, the Task Force recognizes the ABA's unique role as accreditor for law schools through the Council of the Section of Legal Education and Admissions to the Bar of the ABA.[101] The Task Force recommends that the Council revise the Standards and Rules of Procedure for Approval of Law Schools to require law schools to create well-being education as a criterion for ABA accreditation. The ABA should require law schools to publish their well-being-related resources on their websites. These disclosures can serve as resources for other law schools as they develop and improve their own programs. Examples of well-being education include a mandatory one credit-hour course on well-being topics or incorporating well-being topics in to the professional responsibility curriculum.

A requirement similar to this already has been implemented in the medical profession for hospitals that operate residency programs. Hospitals that operate Graduate Medical Education programs to train residents must comply with the Accreditation Council for Graduate Medical Education (ACGME) Program Requirements. The ACGME requires hospitals to "be committed to and responsible for . . . resident well-being in a supportive educational environment."[102] This provision requires that teaching hospitals have a documented strategy for promoting resident well-being and, typically, hospitals develop a wellness curriculum for residents.

21. ADJUST THE ADMISSIONS PROCESS TO SUPPORT LAW STUDENT WELL-BEING.

To promote law student well-being, regulations governing the admission to the practice of law should facilitate the treatment and rehabilitation of law students with impairments.

21.1. Re-Evaluate Bar Application Inquiries About Mental Health History.

Most bar admission agencies include inquiries about applicants' mental health as part of fitness evaluations for licensure. Some critics have contended that the deterrent effect of those inquiries discourages persons in need of help from seeking it. Not everyone agrees with that premise, and some argue that licensing of professionals necessarily requires evaluation of all risks that an applicant may pose to the public. Over the past several decades, questions have evolved to be more tightly focused and to elicit only information that is current and germane. There is continuing controversy over the appropriateness of asking questions about mental health at all. The U.S. Department of Justice has actively encouraged states to eliminate questions relating to mental health, and some states have modified or eliminated such questions.[103] In 2015, the ABA adopted a resolution that the focus should be directed "on conduct or behavior that impairs an applicant's ability to practice law in a competent, ethical, and professional manner."[104] We recommend that each state follow the ABA and more closely focus on such conduct or behavior rather than any diagnosis or treatment history.

[100] TENN. COMM'N ON CONTINUING LEGAL EDUC., REG. 5H (2008), *available at* http://www.cletn.com/images/Documents/Regulations2013.04.16.pdf.
[101] *See* AM. BAR ASS'N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2016-2017, *available at* https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2016_2017_aba_standards_and_rules_of_procedure.authcheckdam.pdf.
[102] ACCREDITATION COUNSEL FOR GRADUATE MEDICAL EDUCATION, CGME COMMON PROGRAM REQUIREMENTS, § VI.A.2, *available at* https://www.acgme.org/Portals/0/PFAssets/ProgramRequirements/CPRs_07012016.pdf
[103] D. Hudson, *Honesty Is the Best Policy for Character and Fitness Screenings,* A.B.A. J., June 1, 2016, *available at* http://www.abajournal.com/magazine/article/honesty_is_the_best_policy_for_character_and_fitness_screenings.
[104] AM. BAR ASS'N RESOL. 102 (August 2015).

21.2. Adopt Essential Eligibility Admission Requirements.

Promoting lawyer well-being includes providing clear eligibility guidelines for lawyers with mental or physical impairments. Regulators in each state should adopt essential eligibility requirements that affirmatively state the abilities needed to become a licensed lawyer. Their purpose is to provide the framework for determining whether or not an individual has the required abilities, with or without reasonable accommodations.

At least fourteen states have essential eligibility requirements for admission to practice law.[105] These requirements help the applicant, the admissions authority, and the medical expert understand what is needed to demonstrate fitness to practice law. Essential eligibility requirements also aid participants in lawyer disability and reinstatement proceedings, when determinations must be made of lawyers' capacity to practice law.

21.3. Adopt a Rule for Conditional Admission to Practice Law With Specific Requirements and Conditions.

Overly-rigid admission requirements can deter lawyers and law students from seeking help for substance use and mental health disorders. To alleviate this problem, states should adopt conditional admission requirements, which govern applicants for admission to the practice of law who have successfully undergone rehabilitation for substance use or another mental disorder, but whose period of treatment and recovery may not yet be sufficient to ensure continuing success.[106] Conditional admission programs help dismantle the stigma of mental health and substance use disorders as "scarlet letters." Especially for law students, they send a meaningful message that even in the worst circumstances, there is hope: seeking help will not block entry into their chosen profession.

Rigid admission requirements can deter help-seeking.

21.4. Publish Data Reflecting Low Rate of Denied Admissions Due to Mental Health Disorders and Substance Use.

At present, no state publishes data showing the number of applications for admission to practice law that are actually denied or delayed due to conduct related to substance use and other mental health disorders. From informal discussions with regulators, we know that a low percentage of applications are denied. Publication of this data might help alleviate law students' and other applicants' fears that seeking help for such disorders will inevitably block them from practicing law. Accordingly, we recommend that boards of bar examiners collect and publish such data as another means of encouraging potential applicants to seek help immediately and not delay until after their admission.

22. ADJUST LAWYER REGULATIONS TO SUPPORT WELL-BEING.

22.1. Implement Proactive Management-Based Programs (PMBP) That Include Lawyer Well-Being Components.

PMBP programs encourage best business practices and provide a resource-based framework to improve lawyers' ability to manage their practice. Such programs

[105] *See*, e.g., SUP. CT. OF OHIO, OFF. OF BAR ADMISSIONS, OHIO ESSENTIAL ELIGIBILITY REQUIREMENTS; *available at* http://www.supremecourt.ohio.gov/AttySvcs/admissions/pdf/ESSENTIAL_ELIGIBILITY_REQUIREMENTS.pdf; MINN. RULES FOR ADMISSION TO THE BAR, RULE 5, *available at* https://www.revisor.leg.state.mn.us/court_rules/rule.php?type=pr&subtype=admi&id=5; COLO. R. CIV. PROC. 208.1(5), *available at* http://www.coloradosupremecourt.com/Future%20Lawyers/FAQ_CharacterFitness.asp; WASH. ADMISSION AND PRACTICE RULES, RULE 20(e), *available at* http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=APR&ruleid=gaapr); IDAHO BAR COMM'N RULE 201. Other states to adopt essential eligibility requirements include Florida, Illinois, Kentucky, Massachusetts, Minnesota, Nebraska, North Dakota, South Dakota, and Wyoming.

[106] About a quarter of all jurisdictions already have conditional admission rules for conduct resulting from substance use or other mental disorders. *See* 2016 NAT'L CONF. OF BAR EXAMINERS, COMPREHENSIVE GUIDE TO BAR ADMISSIONS REQUIREMENTS, Chart 2: Character and Fitness Determinations (2016). Those states include Arizona, Connecticut, Florida, Idaho, Illinois, Indiana, Kentucky, Louisiana, Minnesota, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Oregon, Puerto Rico, Rhode Island, South Dakota, Tennessee, Texas, West Virginia, Wisconsin and Wyoming. Additionally, Guam allows conditional admission for conduct related to substance abuse.

are designed to alleviate practice stress, improve lawyer-client relationships, and enhance career satisfaction.[107] Further, PMBP programs allow regulators to engage with the profession in a service-oriented, positive manner, reducing the anxiety, fear, and distrust that often accompanies lawyers' interactions with regulators.[108] Transforming the perception of regulators so that they are viewed as partners and not only as police will help combat the culture of stress and fear that has allowed mental health and substance use disorders to proliferate.

22.2. Adopt A Centralized Grievance Intake System to Promptly Identify Well-Being Concerns.

We recommend that regulators adopt centralized intake systems. These allow expedited methods for receipt and resolution of grievances and help reduce the stress associated with pending disciplinary matters. With specialized training for intake personnel, such systems also can result in faster identification of and possible intervention for lawyers struggling with substance use or mental health disorders.[109]

22.3. Modify Confidentiality Rules to Allow One-Way Sharing of Lawyer Well-Being Related Information From Regulators to Lawyer Assistance Programs.

Regulators' information-sharing practices can contribute to the speed of help to lawyers in need. For example, admissions offices sometimes learn that applicants are suffering from a substance use or other mental health disorder. Other regulators may receive similar information during investigations or prosecutions of lawyer regulation matters that they consider to be confidential information. To facilitate help for lawyers suffering from such disorders, each state should simplify its confidentiality rules to allow admissions offices and other regulators to share such information immediately with local lawyer assistance programs.

Allowing this one-way flow of information can accelerate help to lawyers who need it. To be clear, the recommended information sharing would be one-way. As always, the lawyer assistance programs would be precluded from sharing any information with any regulators or others.

22.4. Adopt Diversion Programs and Other Alternatives to Discipline That Are Proven Successful in Promoting Well-Being.

Discipline does not make an ill lawyer well. We recommend that regulators adopt alternatives to formal disciplinary proceedings that rehabilitate lawyers with impairments. Diversion programs are one such alternative, and they have a direct and positive impact on lawyer well-being. Diversion programs address minor lawyer misconduct that often features an underlying mental health or substance use disorder.[110] When lawyers enter a diversion program, they agree to follow

Discipline does not make an ill lawyer well.

[107] S. Fortney & T. Gordon, *Adopting Law Firm Management Systems to Survive and Thrive: A Study of the Australian Approach to Management-Based Regulation*, 10 U. ST. THOMAS L. J. 152 (2012).

[108] L. Terry, *The Power of Lawyer Regulators to Increase Client & Public Protection Through Adoption of a Proactive Regulation System,* 20 LEWIS & CLARK L. REV. 717 (2016).

[109] The American Bar Association's Model Rules for Lawyer Disciplinary Enforcement, Rule 1, defines a Central Intake Office as the office that "receive[s] information and complaints regarding the conduct of lawyers over whom the court has jurisdiction" and determines whether to dismiss the complaint or forward it to the appropriate disciplinary agency. The Model Rules for Lawyer Disciplinary Enforcement are *available at* http://www.americanbar.org/groups/professional_responsibility/resources/lawyer_ethics_regulation/model_rules_for_lawyer_disciplinary_enforcement.html.

[110] Title 6 of Washington's Rules for Enforcement of Lawyer Conduct provides an excellent overview of when diversion is appropriate and procedures for diversion. It is available through the Washington State Courts website at http://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=ga&set=ELC. Some of the many jurisdictions to adopt such programs are Arizona, Colorado, the District of Columbia, Florida, Illinois, Iowa, Kansas, Louisiana, New Hampshire, New Jersey, Oklahoma, Oregon, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming.

certain conditions to continue practicing law. Those conditions can include training, drug or alcohol testing, peer assistance, and treatment. Monitoring plays a central role in ensuring compliance with the diversion agreement and helps lawyers successfully transition back to an unconditional practice of law and do so healthy and sober. By conditioning continued practice on treatment for an underlying mental health disorder or substance use disorder, diversion agreements can change a lawyer's life.

In addition, probation programs also promote wellness. Lawyer misconduct that warrants a suspension of a lawyer's license may, under certain circumstances, qualify for probation. In most jurisdictions, the probation period stays the license suspension and lawyers may continue practicing under supervision and specified conditions that include training, testing, monitoring, and treatment. Once again, this places a lawyer facing a mental health or substance use crisis on the path to better client service and a lifetime of greater well-being and sobriety.

23. ADD WELL-BEING-RELATED QUESTIONS TO THE MULTISTATE PROFESSIONAL RESPONSIBILITY EXAM (MPRE).

A 2009 survey reflected that 22.9 percent of professional responsibility/legal ethics professors did not cover substance use and addiction at all in their course, and 69.8 percent addressed the topic in fewer than two hours.[111] Notwithstanding the pressure to address myriad topics in this course, increased attention must be given to reduce these issues among our law students. The National Conference of Bar Examiners should consider adding several relevant questions to the MPRE, such as on the confidentiality of using lawyer assistance programs, the frequency of mental health and substance use disorders, and the tie-in to competence and other professional responsibility issues.[112] Taking this step underscores both the importance of the topic and the likelihood of students paying closer attention to that subject matter in their course. In addition, professional responsibility casebook authors are encouraged to include a section devoted to the topic, which will in turn compel instructors to teach in this area.

[111] A. M. PERLMAN, M. RAYMOND & L. S. TERRY, A SURVEY OF PROFESSIONAL RESPONSIBILITY COURSES AT AMERICAN LAW SCHOOLS IN 2009, http://www.legalethicsforum.com/files/pr-survey-results-final.pdf.

[112] *See* Krill, Johnson, & Albert, *supra* note 1, for the ABA Commission on Lawyer Assistance Programs and Hazelden Betty Ford Foundation Study; Organ, Jaffe, Bender, *supra* note 3, for *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.*

"Self-care is not selfish. You cannot serve from an empty vessel." — Eleanor Brown

Legal employers, meaning all entities that employ multiple practicing lawyers, can play a large role in contributing to lawyer well-being. While this is a broad and sizable group with considerable diversity, our recommendations apply fairly universally. A specific recommendation may need to be tailored to address the realities particular to each context, but the crux of each recommendation applies to all.

24. ESTABLISH ORGANIZATIONAL INFRASTRUCTURE TO PROMOTE WELL-BEING.

24.1. Form A Lawyer Well-Being Committee.

Without dedicated personnel, real progress on well-being strategies will be difficult to implement and sustain.[113] Accordingly, legal employers should launch a well-being initiative by forming a Lawyer Well-Being Committee or appointing a Well-Being Advocate. 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.

24.2. Assess Lawyers' Well-Being.

Legal employers should consider continually assessing the state of well-being among lawyers and staff and whether workplace cultures support well-being. An assessment strategy might include an anonymous survey conducted to measure lawyer and staff attitudes and beliefs about well-being, stressors in the firm that significantly affect well-being, and organizational support for improving well-being in the workplace. Attitudes are formed not only by an organization's explicit messages but also implicitly by how leaders and lawyers actually behave. Specifically related to the organizational climate for support for mental health or substance use disorders, legal employers should collect information to ascertain, for example, whether lawyers:

- Perceive that you, their employer, values and supports well-being.
- Perceive leaders as role modeling healthy behaviors and empathetic to lawyers who may be struggling.
- Can suggest improvements to better support well-being.
- Would feel comfortable seeking needed help, taking time off, or otherwise taking steps to improve their situation.
- Are aware of resources available to assist their well-being.
- Feel expected to drink alcohol at organizational events.
- Feel that substance use and mental health problems are stigmatized.
- Understand that the organization will reasonably accommodate health conditions, including recovery from mental health disorders and addiction.

[113] Companies with dedicated wellness personnel achieve, on average, a 10 percent higher rate of employee participation. *See* OPTUM HEALTHCARE, WELLNESS IN THE WORKPLACE 2012: AN OPTUM RESEARCH UPDATE (Resource Center for Health & Wellbeing White Paper 2012), *available at* https://broker.uhc.com/assets/wellness-in-the-worklplace-2012-WP.pdf.

[114] For guidance on developing their own strategic plan, Well-Being Committees could look to the Tristan Jepson Memorial Foundation's best practice guidelines for promoting psychological well-being in the legal profession, *see supra* note 76. They might also consider creating an information hub to post all well-being related resources. Resources could include information about the growing number of mental health apps. See, e.g., R. E. Silverman, *Tackling Workers' Mental Health, One Text at a Time*, WALL ST. J., July 19, 2016, *available at* https://www.wsj.com/articles/tackling-workers-mental-health-one-text-at-a-time-1468953055; B. A. Clough & L. M. Casey, *The Smart Therapist: A Look to the Future of Smartphones and eHealth Technologies in Psychotherapy,* 46 PROF. PSYCHOL. RES. & PRAC. 147 (2015).

As part of the same survey or conducted separately, legal employers should consider assessing the overall state of lawyers' well-being. Surveys are available to measure concepts like depression, substance use, burnout, work engagement, and psychological well-being. The Maslach Burnout Inventory (MBI) is the most widely used burnout assessment. It has been used to measure burnout among lawyers and law students.[115] Programs in the medical profession have recommended a bi-annual distribution of the MBI.[116]

Legal employers should carefully consider whether internal staff will be able to accurately conduct this type of assessment or whether hiring an outside consultant would be advisable. Internal staff may be more vulnerable to influence by bias, denial, and misinterpretation.

25. ESTABLISH POLICIES AND PRACTICES TO SUPPORT LAWYER WELL-BEING.

Legal employers should conduct an in-depth and honest evaluation of their current policies and practices that relate to well-being and make necessary adjustments. This evaluation should seek input from all lawyers and staff in a safe and confidential manner, which creates transparency that builds trust. **Appendix D** sets out example topics for an assessment.

Legal employers also should establish a confidential reporting procedure for lawyers and staff to convey concerns about their colleagues' mental health or substance use internally, and communicate how lawyers and staff can report concerns to the appropriate disciplinary authority and/or to the local lawyer assistance program. Legal employers additionally should establish a procedure for lawyers to seek confidential help for themselves without being penalized or stigmatized. CoLAP and state lawyer assistance programs can refer legal employers to existing help lines and offer guidance for establishing an effective procedure that is staffed by properly-trained people.[117] We note that the ABA and New York State Bar Association have proposed model law firm policies for handling lawyer impairment that can be used for guidance.[118] The ABA has provided formal guidance on managing lawyer impairment.[119]

25.1. Monitor For Signs of Work Addiction and Poor Self-Care.

Research reflects that about a quarter of lawyers are workaholics, which is more than double that of the 10 percent rate estimated for U.S. adults generally.[120] Numerous health and relationship problems, including depression, anger, anxiety, sleep problems, weight gain, high blood pressure, low self-esteem, low life satisfaction, work burnout, and family conflict can develop from work addiction. Therefore, we recommend that legal employers monitor for work addiction and avoid rewarding extreme behaviors that can ultimately harm their health. Legal employers should expressly encourage lawyers to make time to care for themselves and attend to other personal obligations. They may also want to consider promoting physical activity to aid health and cognitive functioning.

25.2. Actively Combat Social Isolation and Encourage Interconnectivity.

As job demands have increased and budgets have tightened, many legal employers have cut back on social activities. This could be a mistake. Social support from colleagues is an important factor for coping with stress and preventing negative consequences like burnout.[121] Socializing helps individuals recover from work demands

[115] *See, e.g.,* S. E. Jackson, J. A. Turner, & A. P. Brief, *Correlates of Burnout Among Public Service Lawyers,* 8 J. ORG. BEHAV. 339 (1987); *see also* R. Durr, *Creating 'Whole Lawyers': Wellness, Balance, and Performance Excellence At Northwestern University School of Law,* NW. SCH. OF L. (2015), *available at* http://www.americanbar.org/content/dam/aba/events/professional_responsibility/2015/May/Conference/Materials/8_wellbeing_program_catalog_2014_2015%204%203%2015%20version.authcheckdam.pdf.

[116] J. Eckleberry-Hunt, A. Van Dyke, D. Lick, & J. Tucciarone, *Changing the Conversation from Burnout to Wellness: Physician Well-being in Residency Training Programs,* 1 J. GRADUATE MED. EDUC. 225 (2009). The MBI is *available at* http://www.mindgarden.com/117-maslach-burnout-inventory.

[117] CoLAP's website provides help-line information and a directory of state-based lawyer assistance programs: http://www.americanbar.org/groups/lawyer_assistance.html.

[118] AM. BAR ASS'N RESOL. 118, MODEL LAW FIRM/LEGAL DEPARTMENT IMPAIRMENT POLICY & GUIDELINES (Aug. 1990), *available at* https://www.texasbar.com/AM/Template.cfm?Section=Employers1&Template=/CM/ContentDisplay.cfm&ContentID=15131; NEW YORK STATE BAR ASSOCIATION LAWYER ASSISTANCE COMMITTEE MODEL POLICY, N. Y. STATE BAR ASS'N (2010), *available at* https://www.nassaubar.org/UserFiles/Model_Policy.pdf.

[119] AM. BAR ASS'N FORMAL OPINION 03-429 (2003), available at http://www.americanbar.org/content/dam/aba/migrated/cpr/clientpro/03_429.authcheckdam.pdf.

[120] Brafford, *supra* note 2.

[121] C. Maslach, W. B. Schaufeli, & M. P. Leiter, *Job Burnout,* 52 ANN. REV. OF PSYCHOL. 397, 415 (2001); T. Reuter & R. Schwarzer, *Manage Stress at Work Through Preventive and Proactive Coping, in* Locke, *supra* note 7.

and can help stave off emotional exhaustion.[122] It inhibits lawyers feeling isolated and disconnected, which helps with firm branding, messaging, and may help reduce turnover. We recommend deemphasizing alcohol at such events.

26. PROVIDE TRAINING AND EDUCATION ON WELL-BEING, INCLUDING DURING NEW LAWYER ORIENTATION.

We recommend that legal employers provide education and training on well-being-related topics and recruit experts to help them do so. A number of law firms already offer well-being related programs, like meditation, yoga sessions, and resilience workshops.[123] We also recommend orientation programs for new lawyers that incorporate lawyer well-being education and training.[124] Introducing this topic during orientation will signal its importance to the organization and will start the process of developing skills that may help prevent well-being problems. Such programs could:

- Introduce new lawyers to the psychological challenges of the job.[125]
- Reduce stigma surrounding mental health problems.
- Take a baseline measure of well-being to track changes over time.
- Provide resilience-related training.
- Incorporate activities focused on individual lawyers' interests and strengths, and not only on organizational expectations.[126]

Further, law firms should ensure that all members and staff know about resources, including lawyer assistance programs, that can assist lawyers who may experience mental health and substance use disorders. This includes making sure that members and staff understand confidentiality issues pertaining to those resources.

26.1. Emphasize a Service-Centered Mission.

At its core, law is a helping profession. This can get lost in the rush of practice and in the business aspects of law. Much research reflects that organizational cultures that focus chiefly on materialistic, external rewards can damage well-being and promote a self-only focus. In fact, research shows that intrinsic values like relationship-development and kindness are stifled in organizations that emphasize extrinsic values like competition, power, and monetary rewards.[127] Work cultures that constantly emphasize competitive, self-serving goals will continually trigger competitive, selfish behaviors from lawyers that harm organizations and individual well-being. This can be psychologically draining. Research of Australian lawyers found that 70 percent reported that the practice of law is bottom-line driven.[128] Lawyers who reported that the practice of law was primarily about generating profits were more likely to be depressed.[129] This affects the

Work cultures that constantly emphasize competitive, self-serving goals can harm lawyer well-being.

[122] M. J. Tews, J. W. Michel, & K. Stafford, *Does Fun Pay? The Impact of Workplace Fun on Employee Turnover and Performance,* 54 CORNELL HOSPITALITY QUARTERLY, 370 (2013).
[123] *E.g.,* C. Bushey, *Kirkland & Ellis to Offer Wellness Training to All U.S. Lawyers,* CRAIN'S CHICAGO BUS., May 2, 2016, *available at* http://www.chicagobusiness.com/article/20160502/NEWS04/160509972/kirkland-ellis-to-offer-wellness-training-to-all-u-s-lawyers; N. Rodriguez, *What the Army Can Teach BigLaw about Bouncing Back,* LAW360, Feb. 17, 2017, https://www.law360.com/in-depth/articles/891995?nl_pk=972d8116-f9f0-4582-a4c6-0ab3cf4a034c&utm_source=newsletter&utm_medium=email&utm_campaign=in-depth (identifying Goodwin Procter LLP, O'Melveny & Myers LLP, Morgan Lewis & Bockius LLP, Fish & Richardson PC, Drinker Biddle & Reath LLP, Quarles & Brady LLP, and Neal Gerber & Eisenberg LLP as having hosted resilience workshops).
[124] *See* A. M. Saks, & J. A. Gruman, *Organizational Socialization and Positive Organizational Behaviour: Implications for Theory, Research, and Practice,* 28 CANADIAN J. ADMIN. SCI. 14 (2011).
[125] *See* generally J. P. Wanous & A. E. Reichers, *New Employee Orientation Programs,* 10 HUMAN RESOURCE MGMT. REV. 435 (2000), *available at* http://homepages.se.edu/cvonbergen/files/2013/01/New-Employee-Orientation-Programs.pdf.
[126] *See* D. M. Cable, F. Gino, & B. R. Staats, *Reinventing Employee Onboarding,* M.I.T. SLOAN MGMT. REV. (2013), *available at* http://sloanreview.mit.edu/article/reinventing-employee-onboarding.
[127] T. Kasser, *Materialistic Values and Goals*, 67 ANN. REV. OF PSYCHOL. 489 (2015); T. Kasser, *Teaching about Values and Goals: Applications of the Circumplex Model to Motivation, Well-Being, and Prosocial Behavior,* 41 TEACHING PSYCHOL. 365 (2014).
[128] A. J. Bergin & N. L. Jimmieson, *Australian Lawyer Well-Being: Workplace Demands, Resources and the Impact of Time-Billing Targets,* 21 PSYCHIATRY, PSYCHOL. & L. 427 (2014).
[129] A. D. Joudrey & J. E. Wallace, *Leisure as a Coping Resource: A Test of the Job Demand-Control-Support Model,* 62 HUMAN RELATIONS 195 (2009).
[130] A. Hansen, Z. Byrne, & C. Kiersch, *How Interpersonal Leadership Relates to Employee Engagement,* 29 J. MANAGERIAL PSYCHOL. 953 (2014).

bottom line since poor mental health can cause disability and lost productivity.

Consequently, we recommend that legal employers evaluate what they prioritize and value, and how those values are communicated. When organizational values evoke a sense of belonging and pride, work is experienced as more meaningful.[130] Experiencing work as meaningful is the biggest contributor to work engagement—a form of work-related well-being.[131]

26.2. Create Standards, Align Incentives, and Give Feedback.

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.[132]

Currently, few legal employers have such structural supports for lawyer well-being. For example, many legal employers have limited or no formal leader development programs, no standards set for leadership skills and competencies, and no standards for evaluating leaders' overall performance or commitment to lawyer well-being. Additionally, incentive systems rarely encourage leaders to develop their own leadership skills or try to enhance the well-being of lawyers with whom they work. In law firms especially, most incentives are aligned almost entirely toward revenue growth, and any feedback is similarly narrow. To genuinely adopt lawyer well-being as a priority, these structural and cultural issues will need to be addressed.

[130] A. Hansen, Z. Byrne, & C. Kiersch, *How Interpersonal Leadership Relates to Employee Engagement,* 29 J. MANAGERIAL PSYCHOL. 953 (2014).
[131] A. M. BRAFFORD, POSITIVE PROFESSIONALS: CREATING HIGH-PERFORMING, PROFITABLE FIRMS THROUGH THE SCIENCE OF ENGAGEMENT. (American Bar Association, forthcoming November 2017.); D. R. May, R. L. Gilson, & L. M. Harter, *The Psychological Conditions of Meaningfulness, Safety and Availability and the Engagement of the Human Spirit at Work,* 77 J. OCCUPATIONAL & ORGANIZATIONAL PSYCHOL. 11 (2004).
[132] R. A. NOE, EMPLOYEE TRAINING AND DEVELOPMENT (McGraw-Hill 2013).

"Well-being is a combination of feeling good as well as actually having meaning, good relationships, and accomplishment." — Martin Seligman

Law students start law school with high life satisfaction and strong mental health measures. But within the first year of law school, they experience a significant increase in anxiety and depression.[133] Research suggests that law students are among the most dissatisfied, demoralized, and depressed of any graduate student population.[134]

The 2016 Survey of Law Student Well-Being found troublesome rates of alcohol use, anxiety, depression, and illegal drug use at law schools across the country.

42% of students needed help for poor mental health but only about half sought it out.

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.[135] 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.[136] Only four percent said they had ever received counseling for alcohol or drug issues—even though a quarter were at risk for problem drinking.[137]

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. Students' general reluctance to seek help may be one factor explaining why law student wellness has not changed significantly since the last student survey in the 1990s.[138] It appears that recommendations stemming from the 1993 survey either were not implemented or were not successful.[139]
The Survey of Law Student Well-Being did not seek to identify the individual or contextual factors that might be contributing to students' health problems. It is important to root out such causes to enable real change. For example, law school graduates cite heavy workload, competition, and grades as major law school stressors.[140] Others in the legal community have offered additional insights about common law school practices, which are discussed below. Law school well-being initiatives should not be limited to detecting disorders and enhancing student resilience. They also should include identifying organizational practices that may be contributing to the problems and assessing what changes can be made to support student well-being. If legal educators ignore the impact of law school stressors, learning is likely to be suppressed and illness may be intensified.[141]

The above reflects a need for both prevention strategies to address dysfunctional drinking and misuse of substances as well as promotion strategies that identify aspects of legal education that can be revised to support

[133] L. S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence,* 52 J. LEGAL EDUC. 112, 113-15 (2002).
[134] A. A. Patthoff, *This is Your Brain on Law School: The Impact of Fear-Based Narratives on Law Students,* 2015 UTAH L. REV. 391, 424 (2015).
[135] Organ, Jaffe, & Bender, *supra* note 3, at 143.
[136] *Id.* at 140.
[137] *Id.*
[138] ASS'N AM. L. SCH. SPECIAL COMM. ON PROBLEMS OF SUBSTANCE ABUSE IN THE L. SCHS. (1993).
[139] *Id.* at vi-vii.
[140] R. A. Lasso, *Is Our Students Learning? Using Assessments to Measure and Improve Law School Learning and Performance,* 15 BARRY L. REV. 73, 79 (2010).
[141] Patthoff, *supra* note 134, at 424.

well-being. The recommendations below offer some ideas for both.

27. CREATE BEST PRACTICES FOR DETECTING AND ASSISTING STUDENTS EXPERIENCING PSYCHOLOGICAL DISTRESS.

Ignoring law school stressors can suppress learning and intensify illness.

Law schools should develop best practices for creating a culture in which all associated with the school take responsibility for student well-being. Faculty and administrators play an important role in forming a school's culture and should be encouraged to share responsibility for student well-being.

27.1. Provide Training to Faculty Members Relating to Student Mental Health and Substance Use Disorders.

Faculty have significant sway over students but generally students are reluctant to approach them with personal problems, especially relating to their mental health. Students' aversion to doing so may be exacerbated by a perception that faculty members must disclose information relating to students' competence to practice to the state bar. 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.[142] Students should be educated about faculty's reporting requirements to add clarity and reduce student anxiety when interacting with faculty.

Additionally, faculty members should be encouraged to occasionally step out of their formal teaching role to convey their respect and concern for students, to acknowledge the stressors of law school, and to decrease stigma about seeking help for any health issues that arise. Faculty should consider sharing experiences in which students confronted similar issues and went on to become healthy and productive lawyers.

To support this recommendation, deans of law schools must be engaged. The well-being of future lawyers is too important to relegate to student affairs departments. For faculty to take these issues seriously, it must be clear to them that deans value the time that faculty spend learning about and addressing the needs of students outside the classroom. With the full backing of their deans, deans of students should provide training and/or information to all faculty that includes talking points that correspond to students' likely needs—e.g., exam scores, obtaining jobs, passing the bar, accumulating financial debt, etc. Talking points should be offered only as a guideline. Faculty should be encouraged to tailor conversations to their own style, voice, and relationship with the student.

Law schools should consider inviting law student and lawyer well-being experts to speak at faculty lunches, colloquia, and workshops to enhance their knowledge of this scholarship.[143] Such programming should include not just faculty but teaching assistants, legal writers, peer mentors, and others with leadership roles in whom law students may seek to confide. Many of these experts are members of the Association of American Law Schools section on Balance in Legal Education.[144] Their scholarship is organized in an online bibliography divided into two topics: Humanizing the Law School Experience and Humanizing the Practice of Law.[145]

[142] *See* Organ, Jaffe, & Bender, *supra* note 3, at 153. At American University Washington College of Law, as but one example likely among many, the dean of students invites faculty no less than every other year to meet with the University Counseling director and D.C. Bar Lawyer Assistance Program manager to discuss trends, highlight notable behaviors, discuss how to respond to or refer a student, and the importance of tracking attendance.

[143] *See* J. Bibelhausen, K. M. Bender, R. Barrett, *Reducing the Stigma: The Deadly Effect of Untreated Mental Illness and New Strategies for Changing Outcomes in Law Students,* 41 WM. MITCHELL L. REV. 918 (2015).

[144] Balance in Legal Educ. Sec., Ass'n Am. L. Sch., https://memberaccess.aals.org/eweb/dynamicpage.aspx?webcode=ChpDetail&chp_cst_key=9fb324e8-e515-4fd3-b6db-a1723feeb799.

[145] *Id.* at Bibliography.

27.2. Adopt a Uniform Attendance Policy to Detect Early Warning Signs of Students in Crisis.

While law students may occasionally miss class due to personal conflicts, their repeated absence often results from deteriorating mental health.[146] Creating a system to monitor for chronic absences can help identify students for proactive outreach. Consequently, law schools should adhere to a consistent attendance policy that includes a timely reporting requirement to the relevant law school official. Absent such a requirement, deans of students may be left with only a delayed, reactive approach.

If faculty members are reluctant to report student absences, a system can be created to ensure that a report cannot be traced to the faculty member. Several law schools have adopted "care" networks or random check-ins whereby someone can report a student as potentially needing assistance.[147] In these programs, the identity of the person who provided the report is kept confidential.

Certain models on this issue include the American University Washington College of Law, which implements random "check-in" outreach, emailing students to visit the Student Affairs office for brief conversations. This method allows for a student about whom a concern has been raised to be folded quietly into the outreach.[148] Georgetown Law School allows anyone concerned about a student to send an email containing only the student's name, prompting relevant law school officials to check first with one another and then investigate to determine if a student meeting is warranted.[149] The University of Miami School of Law uses an online protocol for a student to self-report absences in advance, thus enabling the dean of students to follow up as appropriate if personal problems are indicated.[150]

27.3. Provide Mental Health and Substance Use Disorder Resources.

Law schools should identify and publicize resources so that students understand that there are resources available to help them confront stress and well-being crises. They should highlight the benefits of these resources and that students should not feel stigmatized for seeking help. One way to go about this is to have

Develop Student Resources

- ✔ **Create and publicize well-being resources designed for students.**
- ✔ **Counter issues of stigma.**
- ✔ **Include mental health resources in every course syllabus.**
- ✔ **Organize wellness events.**
- ✔ **Develop a well-being curriculum.**
- ✔ **Establish peer mentoring.**

every course syllabus identify the law school's mental health resources. The syllabus language should reflect an understanding that stressors exist.[151] Law schools also can hold special events, forums, and conversations that coincide with national awareness days, such as mental health day and suicide prevention day.

[146] *See* Organ, Jaffe, & Bender, *supra* note 3, at 152.
[147] *Id.*
[148] *Id.*
[149] *Id.*
[150] *Id.*
[151] One example of such a provision is: "Mental Health Resources: Law school is a context where mental health struggles can be exacerbated. If you ever find yourself struggling, please do not hesitate to ask for help. If you wish to seek out campus resources, here is some basic information: [Website]. [Law School Name] is committed to promoting psychological wellness for all students. Our mental health resources offer support for a range of psychological issues in a confidential and safe environment. [Phone; email; address; hotline number]."

Developing a well-being curriculum is an additional way to convey that resources are available and that the law school considers well-being a top priority. Northwestern University's Pritzker School of Law has accomplished the latter with well-being workshops, mindfulness and resilience courses, and meditation sessions as part of a larger well-being curriculum.[152]

Another noteworthy way to provide resources is to establish a program where law students can reach out to other law students who have been trained to intervene and help refer students in crisis. Touro Law School established a "Students Helping Students" program in 2010 where students volunteer to undergo training to recognize mental health problems and refer students confronting a mental health crisis.[153]

28. ASSESS LAW SCHOOL PRACTICES AND OFFER FACULTY EDUCATION ON PROMOTING WELL-BEING IN THE CLASSROOM.

Law school faculty are essential partners in student well-being efforts. They often exercise powerful personal influence over students, and their classroom practices contribute enormously to the overall law school experience. Whether faculty members exercise their influence to promote student well-being depends, in part, on support of the law school culture and priorities. To support their involvement, faculty members should be invited into strategic planning to develop workable ideas. Framing strategies as helping students develop into healthy lawyers who possess grit and resilience may help foster faculty buy-in. Students' mental resilience can be viewed as a competitive advantage during their job searches and as support along their journeys as practicing lawyers toward sustainable professional and personal identities.

Educating law school faculty on how classroom practices can affect student well-being is one place to start the process of gaining faculty buy-in. For example, law professor Larry Krieger and social scientist Kennon Sheldon identified potential culprits that undercut student well-being, including hierarchical markers of worth such as comparative grading, mandatory curves, status-seeking placement practices, lack of clear and timely feedback, and teaching practices that are isolating and intimidating.[154]

Evaluate classroom practices for their impact on student well-being.

Because organizational practices so significantly influence student well-being, we recommend against focusing well-being efforts solely on detecting dysfunction and strengthening students' mental toughness. We recommend that law schools assess their classroom and organizational practices, make modifications where possible, and offer faculty programming on supporting student well-being while continuing to uphold high standards of excellence. Harmful practices should not be defended solely on the ground that law school has always been this way. Teaching practices should be evaluated to assess whether they are necessary to the educational experience and whether evidence supports their effectiveness.

29. EMPOWER STUDENTS TO HELP FELLOW STUDENTS IN NEED.

As noted above, students often are reluctant to seek mental health assistance from faculty members. Empowering students to assist each other can be a helpful alternative. One suggestion is to create a peer mentoring program that trains student mentors to provide support to fellow students in need. The ideal mentors would be students who are themselves in

[152]Northwestern Law's well-being curriculum can be found at http://www.law.northwestern.edu/law-school-life/studentservices/wellness/curriculum/.
[153]TOURO L. SCH. STUDENTS HELPING STUDENTS (2017), *available at* https://www.tourolaw.edu/uploads/Students%20Helping%20Students%20Spring17.pdf.
[154]*See* K. M. Sheldon & L. S. Krieger, *Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory,* 33 PERSONALITY & SOC. PSYCH. BULL. 883 (2007); K. M. Sheldon & L. S. Krieger, *Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being,* 22 BEHAV. SCI. & THE LAW 261 (2004).

recovery. They should be certified by the local lawyer assistance program or another relevant organization and should be covered by the lawyer assistance program's confidentiality provisions. Peer mentors should not have a direct reporting obligation to their law school dean of students. This would help ensure confidentiality in the peer mentoring relationship and would foster trust in the law school community.[155]

30. INCLUDE WELL-BEING TOPICS IN COURSES ON PROFESSIONAL RESPONSIBILITY.

Mental health and substance use should play a more prominent role in courses on professional responsibility, legal ethics, or professionalism. A minimum of one class session should be dedicated to the topic of substance use and mental health issues, during which bar examiners and professional responsibility professors or their designee (such as a lawyer assistance program representative) appear side-by-side to address the issues. Until students learn from those assessing them that seeking assistance will not hurt their bar admission prospects, they will not get the help they need.

31. COMMIT RESOURCES FOR ONSITE PROFESSIONAL COUNSELORS.

Law schools should have, at a minimum, a part-time, onsite professional counselor. An onsite counselor provides easier access to students in need and sends a symbolic message to the law school community that seeking help is supported and should not be stigmatized. Although the value of such a resource to students should justify the necessary budget, law schools also could explore inexpensive or no-cost assistance from lawyer assistance programs. Other possible resources may be available from the university or private sector.

32. FACILITATE A CONFIDENTIAL RECOVERY NETWORK.

Law schools should consider facilitating a confidential network of practicing lawyers in recovery from substance use to connect with law students in recovery. Law students are entering a new community and may assume that there are few practicing lawyers in recovery. Facilitating a confidential network will provide an additional support network to help students manage the challenges of law school and maintain health. Lawyers Concerned for Lawyers is an example of a legal peer assistance group that exists in many regions that may be a confidential network source.

33. PROVIDE EDUCATION OPPORTUNITIES ON WELL-BEING-RELATED TOPICS.

33.1. Provide Well-Being Programming During the 1L Year.

We agree with the Survey of Law Student Well-Being report's recommendation that law schools should incorporate well-being topics into student orientation.[156] We recommend that during 1L orientation, law schools should include information about student well-being and options for dealing with stress. Communications should convey that seeking help is the best way to optimize their studies and to ensure they graduate and move successfully into law practice. Other vulnerable times during which well-being-related programming would be particularly appropriate include the period before fall final exams, the period when students receive their first set of law school grades (usually at the start of spring semester), and the period before spring final exams. The Task Force commends Southwestern Law School's IL "Peak Performance Program" and its goal of helping new law students de-stress, focus, and perform well in law school.[157] This voluntary program is the type of programming that can have a transformative effect on law student well-being.

33.2. Create A Well-Being Course and Lecture Series for Students.

To promote a culture of well-being, law schools should create a lecture series open to all students and a course designed to cover well-being topics in depth. Well-being

[155]The University of Washington School of Law offers a "Peer Support Program" that includes peer counseling, that offers stress management resources, and support for multicultural engagement. More information on the program can be found at https://www.law.uw.edu/wellness/resources/.
[156]Organ, Jaffe, & Bender, *supra* note 3, at 148.
[157]Southwestern Law School, Mindfulness, Peak Performance, and Wellness Programs, http://www.swlaw.edu/student-life/support-network/mindfulness-peak-performance-and-wellness-programs.

has been linked to improved academic performance, and, conversely, research reflects that well-being deficits connect to impaired cognitive performance. Recent research also has found that teaching well-being skills enhances student performance on standardized tests, and improves study habits, homework submission,

Effects of Student Well-Being

- ✔ Better academic performance and cognitive functioning
- ✔ Enhanced test performance
- ✔ Improved study habits and homework quality
- ✔ Long-term academic success

grades, and long-term academic success, as well as adult education attainment, health, and wealth.[158] A well-being course can, for example, leverage research findings from positive psychology and neuroscience to explore the intersection of improved well-being, enhanced performance, and enriched professional identity development for law students and lawyers. Further knowledge of how to maintain well-being can enhance competence, diligence, and work relationships—all of which are required by the ABA's Model Rules of Professional Conduct. The content of a well-being course could be guided by education reform recommendations. **Appendix E** provides content suggestions for such a course.

34. DISCOURAGE ALCOHOL-CENTERED SOCIAL EVENTS.

Although the overwhelming majority of law students are of legal drinking age, a law school sends a strong message when alcohol-related events are held or publicized with regularity. Students in recovery and those thinking about it may feel that the law school does not take the matter seriously and may be less likely to seek assistance or resources. A law school can minimize the alcohol provided; it can establish a policy whereby student organizations cannot use student funds for the purchase of alcohol.[159] Events at which alcohol is not the primary focus should be encouraged and supported. Further, law school faculty should refrain from drinking alcohol at law school social events.

35. CONDUCT ANONYMOUS SURVEYS RELATING TO STUDENT WELL-BEING.

Recommendation 24 for legal employers suggests regular assessment of lawyer well-being. That same Recommendation applies in the law school context.

[158] A. Adler & M. E. P. Seligman, *Using Wellbeing for Public Policy: Theory, Measurement, and Recommendations,* 6 INT'L J. WELLBEING, 1, 17 (2016); M. A. White & A. S. Murray, *Building a Positive Institution, in* EVIDENCE-BASED APPROACHES IN POSITIVE EDUC. IN SCHS.: IMPLEMENTING A STRATEGIC FRAMEWORK FOR WELL-BEING IN SCHS. 1, 8 (M. A. White & A. S. Murray eds., 2015).

[159] At a minimum, permission should be sought from the dean of students to serve alcohol at school-sponsored, school-located events, so administration is aware. Off-campus events should be only on a cash basis by the establishment. Professional networking events, and on campus events should be focused on the program or speaker, and not on drink specials or offers of free alcohol. Publicity of these events should avoid mention of discounted drink specials that could detract from the professional networking environment. In all instances, providing alcohol should be limited to beer and wine. Open bars not regulated by drink tickets or some other manner of controlling consumption should not be permitted.

"When we look at what has the strongest statistical relationship to overall [life satisfaction], the first one is your career well-being, or the mission, purpose and meaning of what you're doing when you wake up each day." — Tom Rath

Bar associations are organized in a variety of ways, but all share common goals of promoting members' professional growth, quality of life, and quality of the profession by encouraging continuing education, professionalism (which encompasses lawyer competence, ethical conduct, eliminating bias, and enhancing diversity), pro bono and public service. Bar members who are exhausted, impaired, disengaged, or overly self-interested will not live up to their full potential as lawyers or positive contributors to society. Below are recommendations for bar associations to foster positive change in the well-being of the legal community which, in turn, should benefit lawyers, bar associations, and the general public.

36. ENCOURAGE EDUCATION ON WELL-BEING TOPICS IN COORDINATION AND IN ASSOCIATION WITH LAWYER ASSISTANCE PROGRAMS.

36.1. Sponsor High-Quality CLE Programming on Well-Being-Related Topics.

In line with Recommendation 8, bar associations should develop and regularly offer educational programming on well-being-related topics. Bar leadership should recommend that all sections adopt a goal of providing at least one well-being related educational opportunity at all bar-sponsored events, including conferences, section retreats, and day-long continuing legal education events.

36.2. Create Educational Materials to Support Individual Well-Being and "Best Practices" for Legal Organizations.

We recommend that bar associations develop "best practice" model policies on well-being-related topics, for example practices for responding to lawyers in distress, succession planning, diversity and inclusion, mentoring practices, work-life balance policies, etc.

36.3 Train Staff to Be Aware of Lawyer Assistance Program Resources and Refer Members.

Educating bar association staff regarding lawyer assistance programs' services, resources, and the confidentiality of referrals is another way to foster change in the legal community. Bar association staff can further promote these resources to their membership. A bar association staff member may be the person who coordinates a needed intervention for a lawyer facing a mental health or substance use crisis.

37. SPONSOR EMPIRICAL RESEARCH ON LAWYER WELL-BEING AS PART OF ANNUAL MEMBER SURVEYS.

Many bar associations conduct annual member surveys. These surveys offer an opportunity for additional research on lawyer well-being and awareness of resources. For example, questions in these surveys can gauge awareness of support networks either in law firms or through lawyer assistance programs. They can survey lawyers on well-being topics they would like to see addressed in bar journal articles, at bar association events, or potentially through continuing legal education courses. The data gathered can inform bar associations' outreach and educational efforts.

38. LAUNCH A LAWYER WELL-BEING COMMITTEE.

We recommend that bar associations consider forming Lawyer Well-Being Committees. As noted in Recommendation 5.2, the ABA and a number of state bar associations already have done so. Their work supplements lawyer assistance programs with a more expansive approach to well-being. These committees typically focus not only on addressing disorders and ensuring competence to practice law but also on optimal functioning and full engagement in the profession. Such committees can provide a valuable service to members by, for example, dedicating attention to compiling resources, high-quality speakers, developing and compiling educational materials and programs, serving as a clearinghouse for lawyer well-being information, and partnering with the lawyer assistance program, and other state and national organizations to advocate for lawyer well-being initiatives.

The South Carolina Bar's Lawyer Wellness Committee, launched in 2014 and featuring a "Living Above the Bar" website, is a good model for well-being committees. In 2016, the ABA awarded this Committee the E. Smythe Gambrell Professionalism Award, which honors excellence and innovation in professionalism programs.[160]

39. SERVE AS AN EXAMPLE OF BEST PRACTICES RELATING TO LAWYER WELL-BEING AT BAR ASSOCIATION EVENTS.

Bar associations should support members' well-being and role model best practices in connection with their own activities and meetings. This might include, for example, organizing functions to be family-friendly, scheduling programming during times that do not interfere with personal and family time, offering well-being-related activities at events (e.g., yoga, fun runs, meditation, providing coffee or juice bars, organizing Friends of Bill/support group meetings), providing well-being-related education and training to bar association leaders, and including related programming at conferences and other events. For instance, several bar associations around the country sponsor family-friendly fun runs, such as the Maricopa County Bar Association annual 5k Race Judicata.

[160]The South Carolina Bar's lawyer well-being website is *available at* http://discussions.scbar.org/public/wellness/index.html.

"If any organism fails to fulfill its potentialities, it becomes sick." — William James

Lawyers' professional liability (LPL) carriers have a vested interest from a loss prevention perspective to encourage lawyer well-being. Happier, healthier lawyers generally equate to better risks. Better risks create stronger risk pools. Stronger risk pools enjoy lower frequency and often less severe claims. Fewer claims increases profitability. For lawyers, the stronger the performance of the risk pool, the greater the likelihood of premium reduction. Stakeholders interested in lawyer well-being would be well-served to explore partnerships with lawyers' professional liability carriers, many of whom enjoy bar-related origins with their respective state bar and as members of the National Association of Bar-Related Insurance Carriers (or NABRICOs). Even commercial carriers active in the lawyers' malpractice market enjoy important economic incentives to support wellness initiatives, and actively assess risks which reflect on the likelihood of future claims.[161] Below are several recommendations for LPL carriers to consider in their pursuit of improving lawyer well-being.

Happier, healthier lawyers equate to better risk, fewer claims, and greater profitability.

40. ACTIVELY SUPPORT LAWYER ASSISTANCE PROGRAMS.

In certain jurisdictions, lawyers' professional liability carriers are amongst the most important funders of lawyer assistance programs, appreciating that an ounce of prevention is worth a pound of cure. An impaired or troubled attorney who is aided before further downward spiral harms the lawyer's ability to engage in high-quality professional services can directly prevent claims. Thus, LPL carriers are well-served to understand lawyer assistance program needs, their impact, and how financial and marketing support of such programs can be a worthy investment. At the same time, where appropriate, lawyer assistance programs could prepare a case for support to LPL carriers on how their activities affect attorneys, much like a private foundation examines the impact effectiveness of grantees. If the case for support is effectively made, support may follow.

41. EMPHASIZE WELL-BEING IN LOSS PREVENTION PROGRAMS.

Most LPL carriers, as a means of delivering value beyond just the promise of attorney protection in the event of an error or omission, are active in developing risk management programs via CLE, law practice resources, checklists, and sample forms designed to reduce the susceptibility of an attorney to a claim. These resources often center on topics arising from recent claims trends, be it law practice management tips, technology traps, professionalism changes, or ethical infrastructure challenges. LPL carriers should consider paying additional attention to higher level attorney wellness issues, focusing on how such programs promote the emotional and physical foundations from which lawyers can thrive in legal service delivery. Bar associations are increasingly exploring well-being programs as a member benefit, and LPL carriers could be helpful in providing financial support or thought leadership in the development of such programs.

[161] Examples of LPL carriers serving the market from the commercial side include CNA, AON, Liberty Mutual, Hartford, among others.

42. INCENTIVIZE DESIRED BEHAVIOR IN UNDERWRITING LAW FIRM RISK.

The process of selecting, structuring, and pricing LPL risk is part art, part science. Underwriters, in addition to seeking core LPL information such as area of practice, claim frequency, claim severity, firm size, firm longevity and firm location, are also working to appreciate and understand the firm's complete risk profile. The more effectively a firm can illustrate its profile in a positive manner, the more desirable a firm will be to a carrier's risk pool. Most states permit carriers flexibility in applying schedule rating credits or debits to reflect the individual risk characteristics of the law firm. LPL carriers should more actively explore the application of lawyer well-being premium credits, much like they currently do for internal risk management systems, documented attorney back-up systems, and firm continuity.

43. COLLECT DATA WHEN LAWYER IMPAIRMENT IS A CONTRIBUTING FACTOR TO CLAIMS ACTIVITY.

LPL carriers traditionally track claims based on area of practice or the nature of the error. LPL carriers do not ordinarily track when substance abuse, stress, depression, or mental health are suspected to be contributing factors to the underlying claim. This is primarily due to the fact that most LPL claims adjusters, usually attorneys by trade, lack sufficient (or usually any) clinical training to make such a determination. That being said, anecdotal evidence suggests the impact is substantial. Thus, LPL carriers should consider whether a "common sense" assessment of instances where attorney impairment is suspected to be a contributing factor to the underlying claim. Such information would be helpful to lawyer assistance programs and as an important data point for what bar counsel or disciplinary units similarly see when investigating bar grievances. LPL carriers are in a prime position to collect data, share such data when appropriate, and assess the manner in which lawyer impairment has a direct correlation to claims activity.

"It is under the greatest adversity that there exists the greatest potential for doing good, both for oneself and others." — Dalai Lama

Because lawyer assistance programs are so well-positioned to play a pivotal role in lawyer well-being, they should be adequately funded and organized to ensure that they can fulfill their potential.

Lawyer assistance programs should be supported to fulfill their full potential.

This is not consistently the case. While a lawyer assistance program exists in every state, according to the 2014 Comprehensive Survey of Lawyer Assistance Programs their structures, services, and funding vary widely. Lawyer assistance programs are organized either as agencies within bar associations, as independent agencies, or as programs within the state's court system.[162] Many operate with annual budgets of less than $500,000.[163] About one quarter operate without any funding and depend solely on volunteers.[164] The recommendations below are designed to equip lawyer assistance programs to best serve their important role in lawyer well-being.

44. LAWYERS ASSISTANCE PROGRAMS SHOULD BE APPROPRIATELY ORGANIZED AND FUNDED.

44.1 Pursue Stable, Adequate Funding.

Lawyer assistance programs should advocate for stable, adequate funding to provide outreach, screening, counseling, peer assistance, monitoring, and preventative education. Other stakeholders should ally themselves with lawyer assistance programs in pursuit of this funding.

44.2 Emphasize Confidentiality.

Lawyer assistance programs should highlight the confidentiality of the assistance they provide. The greatest concern voiced by lawyer assistance programs in the most recent CoLAP survey was under-utilization of their services stemming from the shame and fear of disclosure that are bound up with mental health and substance use disorders.[165] Additionally, lawyer assistance programs should advocate for a supreme court rule protecting the confidentiality of participants in the program, as well as immunity for those making good faith reports, volunteers, and staff.

44.3 Develop High-Quality Well-Being Programming.

Lawyer assistance programs should collaborate with other organizations to develop and deliver programs on the topics of lawyer well-being, identifying and treating substance use and mental health disorders, suicide prevention, cognitive impairment, and the like.[166] They should ensure that all training and other education efforts emphasize the availability of resources and the

[162] 2014 COMPREHENSIVE SURVEY OF LAWYER ASSISTANCE PROGRAMS, *supra* note 25, at 3.
[163] *Id.* at 5.
[164] *Id.* at 27.
[165] *Id.* at 49-50.
[166] Accommodating adult learning should inform program development. The Illinois Supreme Court Commission on Professionalism offers a number of resources through its "Strategies for Teaching CLE" web page, https://www.2civility.org/programs/cle/cle-resources/strategies-for-teaching-cle/. *See also* K. TAYLOR & C. MARIENAU, FACILITATING LEARNING WITH THE ADULT BRAIN IN MIND: A CONCEPTUAL AND PRACTICAL GUIDE (2016); M. Silverthorn, *Adult Learning: How Do We Learn?*, ILL. SUP. CT. COMM'N ON PROFESSIONALISM, Dec. 4, 2014, https://www.2civility.org/adult-learning/.

confidentiality of the process.

Lawyer assistance programs should evaluate whether they have an interest in and funding to expand their programming beyond the traditional focus on treatment of alcohol use and mental health disorders. Some lawyer assistance programs already have done so. The 2014 Comprehensive Survey of Lawyer Assistance Programs reflects that some well-resourced lawyer assistance programs include services that, for example, address transition and succession planning, career counseling, anger management, grief, and family counseling.[167] Increasingly, lawyer assistance programs are expanding their services to affirmatively promote well-being (rather than seeking only to address dysfunction) as a means of preventing prevalent impairments.

This expansion is consistent with some scholars' recommendations for Employee Assistance Programs that encourage engagement in a broader set of prevention and health-promotion strategies. Doing so could expand the lawyer assistance programs' net to people who are in need but have not progressed to the level of a disorder. It also could reach people who may participate in a health-promotion program but would avoid a prevention program due to social stigma.[168] Health-promotion approaches could be incorporated into traditional treatment protocols. For example, "Positive Recovery" strategies strive not only for sobriety but also for human flourishing.[169] Resilience-boosting strategies have also been proposed for addiction treatment.[170]

44.4 Lawyer Assistance Programs' Foundational Elements.

All lawyer assistance programs should include the following foundational elements to provide effective leadership and services to lawyers, judges, and law students:

- A program director with an understanding of the legal profession and experience addressing mental health conditions, substance use disorders, and wellness issues for professionals;
- A well-defined program mission and operating policies and procedures;
- Regular educational activities to increase awareness and understanding of mental health and substance use disorders;
- Volunteers trained in crisis intervention and assistance;
- Services to assist impaired members of the legal profession to begin and continue recovery;
- Participation in the creation and delivery of interventions;
- Consultation, aftercare services, voluntary and diversion monitoring services, referrals to other professionals, and treatment facilities; and
- A helpline for individuals with concern about themselves or others.[171]

[167] 2014 COMPREHENSIVE SURVEY OF LAWYER ASSISTANCE PROGRAMS, *supra* note 25, at 13.

[168] R. F. Cook, A. S. Back, J. Trudeau, & T. McPherson, *Integrating Substance Abuse Prevention into Health Promotion Programs in the Workplace: A Social Cognitive Intervention Targeting the Mainstream User, in* PREVENTING WORKPLACE SUBSTANCE ABUSE: BEYOND DRUG TESTING TO WELLNESS 97-133 (J. B. Bennett, W. K. Lehman eds., 2003).

[169] J. Z. POWERS, POSITIVE RECOVERY DAILY GUIDE: THRIVE IN RECOVERY (2015).

[170] T. Alim, W. Lawson, A. Neumeister, et al., *Resilience to Meet the Challenge of Addiction: Psychobiology and Clinical Considerations,* 34 ALCOHOL RESEARCH: CURRENT REVIEWS 506 (2012).

[171] *See* AM. BAR ASS'N, MODEL LAWYER ASSISTANCE PROGRAM (Revised 2004), *available at* http://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_model_lawyer_assistance_program.authcheckdam.pdf; AM. BAR ASS'N, GUIDING PRINCIPLES FOR A LAWYER ASSISTANCE PROGRAM (1991), *available at* http://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_guiding_principles_for_assistance.authcheckdam.pdf.

CONCLUSION

"It always seems impossible until it's done." — Nelson Mandela

This Report makes a compelling case that the legal profession is at a crossroads. Our current course, one involving widespread disregard for lawyer well-being and its effects, is not sustainable. Studies cited above show that our members suffer at alarming rates from conditions that impair our ability to function at levels compatible with high ethical standards and public expectations. Depression, anxiety, chronic stress, burnout, and substance use disorders exceed those of many other professions. We have ignored this state of affairs long enough. To preserve the public's trust and maintain our status as a self-regulating profession, we must truly become "our brothers' and sisters' keepers," through a strong commitment to caring for the well-being of one another, as well as ourselves.

The members of the National Task Force for Lawyer Well-Being urge all stakeholders identified in this report to take action. To start, please review the State Action Plan and Checklist that follows in **Appendix A.** If you are a leader in one of these sectors, please use your authority to call upon your cohorts to come together and develop a plan of action. Regardless of your position in the legal profession, please consider ways in which you can make a difference in the essential task of bringing about a culture change in how we, as lawyers, regard our own well-being and that of one another.

We have the capacity to create a better future for our lawyers.

As a profession, we have the capacity to face these challenges and create a better future for our lawyers that is sustainable. We can do so—not in spite of—but in pursuit of the highest professional standards, business practices, and ethical ideals.

[1]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).
[2]A. M. Brafford, Building the Positive Law Firm: The Legal Profession At Its Best (August 1, 2014) (Master's thesis, Univ. Pa., on file with U. Pa. Scholarly Commons Database), *available at* http://repository.upenn.edu/mapp_capstone/62/.
[3]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).
[4]*See* D. L. Chambers, *Overstating the Satisfaction of Lawyers,* 39 LAW & SOC. INQUIRY 1 (2013).
[5]J. M. Organ, *What Do We Know About the Satisfaction/Dissatisfaction of Lawyers? A Meta-Analysis of Research on Lawyer Satisfaction and Well-Being*, 8 U. ST. THOMAS L. J. 225 (2011); L. S. Krieger & K. M. Sheldon, *What Makes Lawyers Happy? Transcending the Anecdotes with Data from 6200 Lawyers,* 83 GEO. WASH. L. REV. 554 (2015).

National Task Force on Lawyer Well-Being
State Action Plan & Checklist

Chief Justice (or Designee) "To Do List"

____ **Gather all stakeholders**

(Identify leaders in the jurisdiction with an interest in and commitment to well-being issues. Bring these leaders together in a Commission on Lawyer Well-Being. The attached list of potential stakeholder representatives offers guidance.)

____ **Review the Task Force Report**

Have Commission members familiarize themselves with the Task Force Report. It provides concrete recommendations for how to address lawyer well-being issues.

____ **Do an inventory of recommendations**

(Next, assess which recommendations can be implemented in the jurisdiction. This includes an assessment of the leadership and resources required to implement these recommendations.)

____ **Create priorities**

(Each jurisdiction will have its own priorities based on the inventory of recommendations. Which ones are the most urgent? Which ones will create the most change? Which ones are feasible?)

____ **Develop an action plan**

(Having inventoried the recommendations and prioritized them, now is the time to act. What does that path forward look like? Who needs to be involved? How will progress be measured?)

National Task Force on Lawyer Well-Being
State Action Plan & Checklist

Checklist for Gathering the Stakeholders

Item 1 of the Plan above recommends the gathering of stakeholders as a first step. The National Task Force suggests the Chief Justice of each state create a Commission on Lawyer Well-Being in that state and appoint representatives from each stakeholder group to the Commission. Below is a checklist of potential stakeholder representatives the Chief Justice may consider in making appointments.

JUDICIAL

__ Supreme Court Chief Justice or designated representative
__ Other judge representatives

LAWYER ASSISTANCE PROGRAM (LAP)

__ LAP Director
__ Clinical director
__ Lawyer representative to the LAP

LAW SCHOOLS

__ Dean representative
__ Faculty representative
__ Law student representative

REGULATORS

__ Admissions (or Board of Law Examiners) representative
__ Mandatory CLE program representative
__ CLE provider representative
__ Regulation/Bar/Disciplinary Counsel representative

BAR ASSOCIATIONS

__ Bar president
__ Bar president-elect
__ Executive director
__ Young lawyer division representative
__ Specialty bar representative

LAW FIRMS

__ Sole practitioner
__ Small firm representative (2-5 lawyers)
__ Medium firm representative (6-15 lawyers)
__ Large firm representative (16+ lawyers)
__ In-house counsel representative
__ Non-traditional lawyer representative

ALLIES

__ ASAM representative (addiction psychiatrist)
__ Organizational/behavioral psychologist
__ Members of the public

Appendix to Recommendation 8: Example Educational Topics About Lawyer Distress and Well-Being

Recommendation 8 advises stakeholders to provide high-quality education programs and materials on causes and consequences of lawyer distress and well-being. Below is a list of example educational topics for such programming with empirical support.

8.1 Work Engagement vs. Burnout

The work engagement-burnout model can serve as a general organizing framework for stakeholders' efforts to boost lawyer well-being and curb dysfunction. Work engagement is a kind of work-related well-being. It includes high levels of energy and mental resilience, dedication (which includes a sense of meaningfulness, significance, and challenge), and frequently feeling positively absorbed in work.[172] Work engagement contributes to, for example, mental health, less stress and burnout, job satisfaction, helping behaviors, reduced turnover, performance, and profitability.[173]

Burnout is essentially the opposite of engagement. It is a stress response syndrome that is highly correlated with depression and can have serious psychological and physiological effects. Workers experiencing burnout feel emotionally and physically exhausted, cynical about the value of their activities, and uncertain about their capacity to perform well.[174]

The work engagement-burnout model proposes the idea of a balance between resources and demands: Engagement arises when a person's resources (i.e., positive individual, job, and organizational factors, like autonomy, good leadership, supportive colleagues, feedback, interesting work, optimism, resilience) outweigh demands (i.e., draining aspects of the job, like work overload and conflicting demands). But when excessive demands or a lack of recovery from demands tip the scale, workers are in danger of burnout. Disengagement, alienation, and turnover become likely. Resources contribute to engagement; demands feed burnout. Using this framework as a guide, stakeholders should develop lawyer well-being strategies that focus on increasing individual and organizational resources and decreasing demands when possible.[175]

The incidence of burnout vs. work engagement in the legal profession is unknown but has been well-studied in the medical profession. Research has found that 30-40 percent of licensed physicians, 49 percent of medical students, and 60 percent of new residents meet the definition of burnout, which is associated with an increased risk of depression, substance use, and suicidal thinking.[176] Burnout also undermines professionalism and quality of patient care by eroding honesty, integrity, altruism, and self-regulation.[177]

The medical profession's work on these issues can serve as a guide for the legal profession. It has conducted

[172]W. B. Schaufeli, *What is Engagement?, in* EMPLOYEE ENGAGEMENT IN THEORY AND PRACTICE (C. Truss, K. Alfes, R. Delbridge, A. Shantz, & E. Soane eds., 2013).
[173]C. Bailey, A. Madden, K. Alfes, & L. Fletcher, *The Meaning, Antecedents and Outcomes of Employee Engagement: A Narrative Synthesis,* 19 INT'L J. MGMT. REV. 19 (2017); BRAFFORD, *supra* note 131; GALLUP, INC., ENGAGEMENT AT WORK: ITS EFFECT ON PERFORMANCE CONTINUES IN TOUGH ECONOMIC TIMES (2013), *available at* http://www.gallup.com/services/176657/engagement-work-effect-performance-continues-tough-economic-times.aspx.
[174]Maslach, Schaufeli, & Leiter, *supra* note 121.
[175]A. B. Bakker & E. Demerouti, *Job Demands–Resources Theory: Taking Stock and Looking Forward,* J. OCCUPATIONAL HEALTH PSYCHOL. (2016), *advance online publication available at* http://dx.doi.org/10.1037/ocp0000056; A. B. Bakker, *Top-Down and Bottom-Up Interventions to Increase Work Engagement,* in AM. PSYCHOL. ASS'N HAND-BOOK OF CAREER INTERVENTION: VOL. 2. APPLICATIONS 427-38 (P. J. Hartung, M. L. Savickas, & W. B. Walsh eds., 2015); BRAFFORD, *supra* note 131.
[176]L. Dyrbye, T. Shanafelt, *Physician Burnout: A Potential Threat to Successful Health Care Reform,* 305 J. AM. MED. ASS'N 2009 (2009); L. Dyrbye & T. Shanafelt, *A Narrative Review of Burnout Experienced by Medical Students and Residents,* 50 MED. EDUC. 132 (2016); J. J. Hakanen & W. B. Schaufeli, *Do Burnout and Work Engagement Predict Depressive Symptoms and Life Satisfaction? A Three-Wave Seven-Year Prospective Study,* 141 J. AFFECTIVE DISORDERS 415 (2012).
[177]Dyrbye & Shanafelt, *supra* note 176; T. L. Schwenk, *Resident Depression: The Tip of a Graduate Medical Education Iceberg,* 314 J. AM. MED. ASS'N 2357 (2015).

hundreds of studies, has identified many individual and organizational contributors to burnout, and has proposed wellness strategies and resilience programs.[178] Bi-annually, the American Medical Association (AMA) co-sponsors an International Conference on Physician Health. The September 2016 conference was held in Boston with the theme, "Increasing Joy in Medicine." The conference included 70 presentations, workshops, and plenary speaker sessions on a wide variety of well-being topics over a three-day period (See AMA website).

8.2 Stress

Stress is inevitable in lawyers' lives and is not necessarily unhealthy.[179] Mild to moderate levels of stress that are within our capability can present positive challenges that result in a sense of mastery and accomplishment.[180] Much of our daily stress is governed by our beliefs about our coping abilities.[181] When stress is perceived as a positive, manageable challenge, the stress response actually can enable peak performance.[182] For example, in a study of a New Zealand law firm, researchers found that lawyers who frequently experience positive challenge reported the highest levels of work engagement. The researchers also found that, where lawyers felt overburdened by work, they were more likely to experience burnout.[183]

This finding highlights the importance of positive challenge but also its paradoxical effect: Challenge contributes to work-related well-being, but it also can lead to negative consequences like burnout when it becomes overwhelming. Stressors that pose the greatest risk of harm are those that are uncontrollable, ambiguous, unpredictable, and chronic that we perceive as exceeding our ability to cope.[184] Such stressors increase the rise of (or exacerbate) depression, anxiety, burnout, alcohol abuse, and physical conditions such as cardiovascular, inflammatory, and other illnesses that can affect lawyers' health and capacity to practice.[185] For example, in a 2004 study of North Carolina lawyers, more than half had elevated levels of perceived stress, and this was the highest predictor of depression of all factors in the study.[186]

Stress also is associated with cognitive decline, including impaired attention, concentration, memory, and problem-solving.[187] Stress also can harm one's ability to establish strong relationships with clients and is associated with relational conflict, which can further undermine lawyers' ability to competently represent and interact with clients. Both personal and environmental factors in the workplace contribute to stress and whether it positively fuels performance or impairs mental health and functioning.[188] Research reflects that organizational factors more significantly contribute to dysfunctional stress responses than individual ones, and that the most effective prevention strategies target both.[189]

8.3 Resilience & Optimism

The American Psychological Association defines resilience

[178] *E.g.*, J. Brennan & A. McGrady, *Designing and Implementing a Resiliency Program for Family Medicine Residents,* 50 INT'L J. PSYCHIATRY MED. 104 (2015); J. Eckleberry-Hunt, A. Van Dyke, D. Lick, & J. Tucciarone, *Changing the Conversation from Burnout to Wellness: Physician Well-Being in Residency Training Programs,* 1 J. GRADUATE MED. EDUC. 225 (2009); R. M. Epstein & M. S. Krasner, Physician Resilience: What It Means, Why It Matters, and How to Promote It, 88 ACAD. MED. 301 (2013); A. Nedrow, N. A. Steckler, & J. Hardman, *Physician Resilience and Burnout: Can You Make the Switch?* 20 FAMILY PRAC. MGMT. 25 (2013).

[179] A. ELWORK, STRESS MANAGEMENT FOR LAWYERS (2007).

[180] K. M. Keyes, M. L. Hatzenbuehler, B. F. Grant, & D. S. Hasin, *Stress and Alcohol: Epidemiologic Evidence,* 34 ALCOHOL RES.: CURRENT REV. 391 (2012).

[181] J. B. Avey, F. Luthans, & S. M. Jensen, *Psychological Capital: A Positive Resource for Combating Employee Stress and Turnover,* 48 HUMAN RES. MGMT. 677 (2009).

[182] BRAFFORD, *supra* note 131; Crum, Salovey, Achor, *supra* note 50; K. McGonigal, THE UPSIDE OF STRESS: WHY STRESS IS GOOD FOR YOU, AND HOW TO GET GOOD AT IT (2015).

[183] V. Hopkins & D. Gardner, *The Mediating Role of Work Engagement and Burnout in the Relationships Between Job Characteristics and Psychological Distress Among Lawyers,* 41 N. Z. J. PSYCHOL. 59 (2012).

[184] R. M. Anthenelli, Overview: *Stress and Alcohol Use Disorders Revisited,* 34 ALCOHOL RES.: CURRENT REV. 386 (2012).

[185] *E.g.*, S. M. Southwick, G. A. Bonanno, A. S. Masten, C. Panter-Brick, & R. Yehuda, *Resilience Definitions, Theory, and Challenges: Interdisciplinary Perspectives,* 5 EUR. J. PSYCHOTRAUMATOLOGY 1 (2014); M. R. Frone, *Work Stress and Alcohol Use,* 23 ALCOHOL RES. & HEALTH 284 (1999); C. Hammen, *Stress and Depression,* 1 ANN. REV. CLINICAL PSYCHOL. 293 (2005); Keyes, Hatzenbuehler, Grant, & Hasin, *supra* note 180; J. Wang, *Work Stress as a Risk Factor for Major Depressive Episode(s),* 35 PSYCHOL. MED. 865 (2005); J-M Woo & T. T. Postolache, *The Impact of Work Environment on Mood Disorders and Suicide: Evidence and Implications,* 7 INT'L J. DISABILITY & HUMAN DEV. 185 (2008).

[186] M. H. Howerton, *The Relationship Between Attributional Style, Work Addiction, Perceived Stress, and Alcohol Abuse on Depression in Lawyers in North Carolina* (2004) (doctoral dissertation, Univ. of N.C. at Charlotte) (available from ProQuest Dissertations and Theses database).

[187] B. S. McEwen, & R. M. Sapolsky, *Stress and Cognitive Function,* 5 CURRENT OPINION IN NEUROBIOLOGY 205–216 (1995); L. Schwabe & O. T. Wolf, *Learning Under Stress Impairs Memory Formation,* 93 NEUROBIOLOGY OF LEARNING & MEMORY 183 (2010); S. Shapiro, J. Astin, S. Bishop, & M. Cordova, *Mindfulness-Based Stress Reduction and Health Care Professionals: Results from a Randomized Controlled Trial,* 12 INT'L J. STRESS MGMT. 164 (2005).

[188] J. C. QUICK, T. A. WRIGHT, J. A. ADKINS, D. L. NELSON, & J. D. QUICK, PREVENTIVE STRESS MANAGEMENT IN ORGANIZATIONS (2013).

[189] Maslach, Schaufeli, & Leiter, *supra* note 121.

as a process that enables us to bounce back from adversity in a healthy way. It also has been defined as a "process to harness resources to sustain well-being"[190]—a definition that connects resilience to the resource-balancing framework of the work engagement-burnout model discussed above. Our capacity for resilience derives from a host of factors, including genetics and childhood experiences that influence the neurobiology of our stress response—specifically, whether the stress response is both activated and terminated efficiently.[191]

But resilience also derives from a collection of psychological, social, and contextual factors—many of which we can change and develop. These include, for example, optimism, confidence in our abilities and strengths (self-efficacy), effective problem-solving, a sense of meaning and purpose, flexible thinking, impulse control, empathy, close relationships and social support, and faith/spirituality.[192] A model for developing many of these psychological and social competencies is provided by the U.S. Army's Master Resilience Training program.[193] As noted above, the medical profession also has designed resilience programs for physicians and residents that can serve as guides, and researchers have offered additional strategies.[194]

Among the most important of the personal competencies is optimistic explanatory style, which is a habit of thought that allows people to put adverse events in a rational context and not be overwhelmed by catastrophic thinking. The principal strategy for building optimistic explanatory style is by teaching cognitive reframing based on cognitive-behavioral therapy research.[195] The core of the technique is to teach people to monitor and dispute their automatic negative self-talk. Neurobiology scholars recently have argued that this capacity is so important to our regulation of stress that it constitutes the cornerstone of resilience.[196]

This skill can benefit not only practicing lawyers but also law students.[197] Stanford Law, for example, has offered a 3-hour course teaching cognitive framing that has been popular and successful.[198] Lawyer assistance programs also could benefit from learning this and other resilience strategies, which have been used in addiction treatment.[199]

Aside from individual-level skills and strengths, developing "structural resilience" also is important, if not more important. This requires leaders to develop organizations and institutions that are resource-enhancing to help give people the wherewithal to realize their full potential.[200] Individual resilience is highly dependent on the context in which people are embedded. This means that initiatives to foster lawyer well-being should take a systemic perspective.

8.4 Mindfulness Meditation

Mindfulness meditation is a practice that can enhance cognitive reframing (and thus resilience) by aiding our ability to monitor our thoughts and avoid becoming emotionally overwhelmed. A rapidly growing body of research on meditation has shown its potential for help in addressing a variety of psychological and psychosomatic disorders, especially those in which stress plays a causal role.[201] One type of meditative practice is mindfulness—a technique that cultivates the skill of being present by focusing attention on your breath and detaching from your thoughts or feelings. Research has found that mindfulness can reduce rumination, stress, depression, and anxiety.[202] It

[190] Southwick, Bonanno, Masten, Panter-Brick, & Yehuda, *supra* note 185.
[191] Alim, Lawson, & Neumeister, et al., *supra* note 170.
[192] K. J. Reivich, M. E. P. Seligman, & S. McBride, *Master Resilience Training in the U.S. Army,* 66 AM. PSYCHOLOGIST 25 (2011); C. D. Schetter & C. Dolbier, *Resilience in the Context of Chronic Stress and Health in Adults,* 5 SOC. PERSONAL PSYCHOL. COMPASS 634 (2011).
[193] *Id.*; R. R. SINCLAIR, & T. A. BRITT, BUILDING PSYCHOLOGICAL RESILIENCE IN MILITARY PERSONNEL: THEORY AND PRACTICE (2013).
[194] C. COOPER, J. FLINT-TAYLOR, & M. PEARN, BUILDING RESILIENCE FOR SUCCESS: A RESOURCE GUIDE FOR MANAGERS AND ORGANIZATIONS (2013); I. T. Robertson, C. L. Cooper, M. Sarkar, & T. Curran, *Resilience Training in the Workplace from 2003 to 2014: A Systematic Review,* 88 J. OCCUPATIONAL & ORG. PSYCHOL. 533 (2015).
[195] *Id.*
[196] R. Kalisch, M. B. Muler, & O. Tuscher, *A Conceptual Framework for the Neurobiological Study of Resilience,* 27 BEHAV. & BRAIN SCI. 1 (2014).
[197] C. Rosen, *Creating the Optimistic Classroom: What Law Schools Learn from Attribution Style Effects,* 42 MCGEORGE L. REV. 319 (2011).
[198] Stanford Law Professor Joe Bankman's use of cognitive behavioral therapy concepts are described on the school's website: http://news.stanford.edu/2015/04/07/bankman-law-anxiety-040715. He has posted relevant materials to educate other law schools how to teach this skill: http://www.colorado.edu/law/sites/default/files/Bankman%20-%20Materials%20for%20Anxiety%20Psychoeducation%20Course.pdf.
[199] Alim, Lawson, & Neumeister, *supra* note 170.
[200] BRAFFORD, *supra* note 131; Southwick, Bonanno, Masten, Panter-Brick, & Yehuda, *supra* note 185.
[201] R. Walsh & S. L. Shapiro (2006), *The Meeting of Meditative Disciplines and Western Psychology,* 61 AM. PSYCHOL. 227 (2006).
[202] *E.g.,* S. G. Hoffman, A. T. Sawyer, A. A. Witt, & D. *Oh, The Effect of Mindfulness-Based Therapy on Anxiety and Depression: A Meta-Analytic Review,* 78 J. CONSULTING & CLINICAL PSYCHOL. 169 (2010); R. Teper, Z. V. Segal, & M. Inzlicht, *Inside the Mindful Mind: How Mindfulness Enhances Emotion Regulation Through Improvements in Executive Control,* 22 CURRENT DIRECTIONS IN PSYCHOL. SCI. 449

also can enhance a host of competencies related to lawyer effectiveness, including increased focus and concentration, working memory, critical cognitive skills, reduced burnout, and ethical and rational decision-making.[203] Multiple articles have advocated for mindfulness as an important practice for lawyers and law students.[204] Evidence also suggests that mindfulness can enhance the sense of work-life balance by reducing workers' preoccupation with work.[205]

8.5 Rejuvenation Periods to Recover From Stress

Lawyers must have downtime to recover from work-related stress. People who do not fully recover are at an increased risk over time for depressive symptoms, exhaustion, and burnout. By contrast, people who feel recovered report greater work engagement, job performance, willingness to help others at work, and ability to handle job demands.[206] Recovery can occur during breaks during the workday, evenings, weekends, vacations, and even mircobreaks when transitioning between projects.[207] And the quality of employees' recovery influences their mood, motivation, and job performance.

Researchers have identified four strategies that are most effective for recovering from work demands: (1) psychological detachment (mentally switching off from work), (2) mastery experiences (challenges and learning experiences), (3) control (spending time off as we choose), and (4) relaxation.[208] Falling into the second category is physical activity (exercise and sports), which may be an especially effective form of recovery for people performing mentally demanding work—like lawyers. This is so because low-effort activities (e.g., watching TV) may actually increase subjective feelings of fatigue.[209]

Quality sleep is critically important in the recovery process.[210] Sleep deprivation has been linked to a multitude of health problems that decay the mind and body, including depression, cognitive impairment, decreased concentration, and burnout. Cognitive impairment associated with sleep-deprivation can be profound. For example, a study of over 5,000 people showed that too little sleep was associated with a decline over a five year-period in cognitive functioning, including reasoning, vocabulary, and global cognitive status. Research on short-term effects of sleep deprivation shows that people who average four hours of sleep per night for four or five days develop the same cognitive impairment as if they had been awake for 24 hours—which is the equivalent of being legally drunk.[211] Given lawyers' high risk for depression, it is worth noting evidence that sleep problems have the highest predictive value for who will develop clinical depression.[212]

8.6 Physical Activity

Many lawyers' failure to prioritize physical activity is harmful to their mental health and cognitive functioning. Physical exercise is associated with reduced symptoms of anxiety and low energy. Aerobic exercise has been found to be as effective at improving symptoms of depression

[203] A. P. Jha, E. A. Stanley, W. L. Kiyonaga, & L. Gelfand, *Examining the Protective Effects of Mindfulness Training on Working Memory Capacity and Affective Experience,* 10 EMOTION 56 (2010); D. Levy, J. Wobbrock, A. W. Kaszniak, & M. Ostergren, *The Effects of Mindfulness Meditation Training on Multitasking in a High-Stress Environment, Proceedings of Graphics Interface Conference* (2012), *available at* http://faculty.washington.edu/wobbrock/pubs/gi-12.02.pdf; M. D. Mrazek, M. S. Franklin, D. T. Phillips, B. Baird, & J. W. Schooler, *Mindfulness Training Improves Working Memory Capacity and GRE Performance While Reducing Mind Wandering,* 24 PSYCHOL. SCI. 776 (2013); N. E. Ruedy & M. E. Schweizer, *In the Moment: The Effect of Mindfulness on Ethical Decision Making,* 95 J. BUS. ETHICS 73 (2010); F. Zeidan, S. K. Johnson, B. J. Diamond, Z. David, & P. Goolkasian, *Mindfulness Meditation Improves Cognition: Evidence of Brief Mental Training,* 19 CONSCIOUSNESS & COGNITION 597 (2010).

[204] *E.g.,* W. S. Blatt, *What's Special About Meditation? Contemplative Practice for American Lawyers,* 7 HARV. NEGOT. L. REV. 125 (2002); Peter H. Huang, *How Improving Decision-Making and Mindfulness Can Improve Legal Ethics and Professionalism,* 21 J. L. BUS. & ETHICS 35 (2014).

[205] A. Michel, C. Bosch, & M. Rexroth, *Mindfulness as a Cognitive-Emotional Segmentation Strategy: An Intervention Promoting Work-Life Balance,* 87 J. OCCUPATIONAL & ORGANIZATIONAL PSYCHOL. 733 (2014).

[206] *See, e.g.,* C. Fritz, A. M. Ellis, C. A. Demsky, B. C. Lin, & F. Guros, *Embracing Work Breaks: Recovery from Work Stress,* 42 ORG. DYNAMICS 274 (2013); N. P. Rothbard & S. V. Patil, *Being There: Work Engagement and Positive Organizational Scholarship, in* THE OXFORD HANDBOOK OF POSITIVE ORGANIZATIONAL SCHOLARSHIP 56-68 (K. S. Cameron & G. M. Spreitzer eds., Oxford University Press 2012).

[207] S. Sonnentag, C. Niessen, & A. Neff, *Recovery: Nonwork Experiences that Promote Positive States, in* Cameron & Spreitzer, *supra* note 206.

[208] BRAFFORD, *supra* note 131; V. C. Hahn, C. Binnewies, S. Sonnentag, & E. J. Mojza, *Learning How to Recover from Job Stress: Effects of a Recovery Training Program on Recovery, Recovery-Related Self-Efficacy, and Well-Being,* 16 J. OCCUPATIONAL HEALTH PSYCHOL. 202 (2011).

[209] J. W. Rook & F. R. H. Zijlstra, *The Contribution of Various Types of Activities to Recovery,* 15 EUROPEAN J. WORK & ORGANIZATIONAL PSYCHOL. 218 (2006).

[210] M. Soderstrom, J. Jeding, M. Ekstedt, A. Perski, & T. Akerstedt, *Insufficient Sleep Predicts Clinical Burnout,* 17 J. OCCUPATIONAL HEALTH PSYCHOL. 175 (2012).

[211] J. E. Ferrie, M. J. Shipley, T. N. Akbaraly, M. G. Marmot, M. Kivmaki, & A. Singh-Manoux, *Change in Sleep Duration and Cognitive Function: Findings from the Whitehall II Study,* 34 SLEEP 565-73 (2011); B. Fryer, *Sleep Deficit: The Performance Killer,* HARV. BUS. REV., Oct. 2006, *available at* http://hbr.org/2006/10/sleep-deficit-the-performance-killer; S. Maxon, *How Sleep Deprivation Decays the Mind and Body,* THE ATLANTIC, December 2013, *available at* http://www.theatlantic.com/health/archive/2013/12/how-sleep-deprivation-decays-the-mind-and-body/282395.

[212] P. L. Franzen, & D. J. Buysse, *Sleep Disturbances and Depression: Risk Relationships for Subsequent Depression and Therapeutic Implications,* 10 DIALOGUES IN CLINICAL NEUROSCIENCE 473 (2008).

as antidepressant medication and psychotherapy.[213] In a review of strategies for preventing workplace depression, researchers found that interventions to increase physical activity were among the most effective.[214]

Research also shows that physical exercise improves brain functioning and cognition. Physical activity, which stimulates new cell growth in the brain, can offset the negative effects of stress, which causes brain atrophy. Greater amounts of physical activity (particularly aerobic) have been associated with improvements in memory, attention, verbal learning, and speed of cognitive processing.[215] A growing body of evidence reflects that regular aerobic activity in middle age significantly reduces the risk of developing dementia and, in older age, can slow the progression of cognitive decline of those who already are diagnosed with Alzheimer's disease.[216]

8.7 Leader Development and Training

Leader development and training is critically important for supporting lawyer well-being and optimal performance. Low-quality leadership is a major contributor to stress, depression, burnout, and other mental and physical health disorders.[217] Even seemingly low-level incivility by leaders can have a big impact on workers' health and motivation. Research found harmful effects from leaders, for example, playing favorites; criticizing unfairly; and failing to provide information, listen to problems, explain goals, praise good work, assist with professional development, and show that they cared. On the other hand, positive leadership styles contribute to subordinates' mental health, work engagement, performance, and job satisfaction.[218] Many studies confirm that positive leader behaviors can be trained and developed.[219] Training is important for all levels of lawyers who supervise others. This is so because leaders with the most direct contact with subordinates have the most significant impact on their work experience.[220] Subordinates' immediate leader drives almost 70 percent of their perceptions of the workplace.[221]

8.8 Control and Autonomy

As noted in Recommendation 7, feeling a lack of control over work is a well-established contributor to poor mental health, including depression and burnout. A sense of autonomy is considered to be a basic psychological need that is foundational to well-being and optimal functioning.[222] Research confirms that leaders can be trained to be more autonomy-supportive.[223] Other organizational practices that can enhance a sense of autonomy include, for example, structuring work to allow for more discretion and autonomy and encouraging lawyers to craft aspects of their jobs to the extent possible to best suit their strengths and interests.[224]

The benefits of autonomy-support are not limited to manager-subordinate relationships for legal employers. Research reflects that law students with autonomy-supportive professors and school cultures have higher well-being and performance.[225] Lawyer-client relationships also

[213] I-H Chu, J. Buckworth, T. E. Kirby, & C. F. Emery, *Effect of Exercise Intensity on Depressive Symptoms in Women,* 2 MENTAL HEALTH AND PHYSICAL ACTIVITY 37 (2009); M. P. Herring, M. L. Jacob, C. Suveg, & P. J. O'Connor, *Effects of Short-Term Exercise Training on Signs and Symptoms of Generalized Anxiety Disorder,* 4 MENTAL HEALTH & PHYSICAL ACTIVITY 71 (2011).

[214] S. Joyce, M. Modini, H. Christensen, A. Mykletun, R. Bryant, P. B. Mitchell, & S. B. Harvey, *Workplace Interventions for Common Mental Disorders: A Systematic Meta-Review,* 46 PSYCHOL. MED. 683 (2016).

[215] A. Kandola, J. Hendrikse, P. J. Lucassen, & M. Yücel, *Aerobic Exercise as A Tool to Improve Hippocampal Plasticity and Function in Humans: Practical Implications for Mental Health Treatment,* 10 FRONTIERS IN HUMAN NEUROSCIENCE 373 (2016)

[216] *Id.*; J. E. Ahlskog, Y. E. Geda, N. R. Graff-Radford, & R. C. Petersen, *Physical Exercise as a Preventive or Disease-Modifying Treatment of Dementia and Brain Aging,* 86 MAYO CLINIC PROC. 876 (2011).

[217] BRAFFORD, *supra* note 131; R. J. BURKE AND K. M. PAGE, RESEARCH HANDBOOK ON WORK AND WELL-BEING (2017); W. Lin, L. Wang, & S. Chen, *Abusive Supervision and Employee Well-Being: The Moderating Effect of Power Distance Orientation,* 62 APPLIED PSYCHOL.: AN INT'L REV 308 (2013); E. K. Kelloway, N. Turner, J. Barling, & C. Loughlin, *Transformational Leadership and Employee Psychological Well-Being: The Mediating Role of Employee Trust in Leadership,* 26 WORK & STRESS 39 (2012).

[218] *E.g.,* A. Amankwaa & O. Anku-Tsede, *Linking Transformational Leadership to Employee Turnover: The Moderating Role of Alternative Job Opportunity,* 6 INT'L J. BUS. ADMIN. 19 (2015); J. Perko, U. Kinnunen, & T. Feldt, *Transformational Leadership and Depressive Symptoms Among Employees: Mediating Factors,* 35 LEADERSHIP & ORG. DEV. J. 286 (2014); M. Y. Ghadi, M. Fernando, & P. Caputi, *Transformational Leadership and Work Engagement,* 34 LEADERSHIP & ORG. DEV. J. 532 (2013).

[219] *E.g.,* B. J. Avolio & B. M. Bass, *You Can Drag a Horse to Water, But You Can't Make It Drink Except When It's Thirsty,* 5 J. LEADERSHIP STUDIES 1 (1998); K. E. Kelloway, J. Barling, & J. Helleur, *Enhancing Transformational Leadership: The Roles of Training and Feedback,* 21 LEADERSHIP & ORG. DEV. J. 145 (2000).

[220] D. J. Therkelsen & C. L. Fiebich, *The Supervisor: The Linchpin of Employee Relations,* 8 J. COMM. MGMT. 120 (2003).

[221] R. Beck & J. Harter, *Managers Account for 70% of Variance in Employee Engagement,* GALLUP BUS. J., April 21, 2015, *available at* http://www.gallup.com/businessjournal/182792/managers-account-variance-employee-engagement.aspx.

[222] BRAFFORD, *supra* note 131; Y-L. Su & J. Reeve, *A Meta-Analysis of the Effectiveness of Intervention Programs Designed to Support Autonomy,* 23 EDUC. PSYCHOL. REV. 159 (2011).

[223] *Id.*

[224] *See* G. R. Slemp & D. A. Vella-Brodrick, *Optimising Employee Mental Health: The Relationship Between Intrinsic Need Satisfaction, Job Crafting, and Employee Well-Being,* 15 J. HAPPINESS STUDIES 957 (2014); D. T. Ong & V. T. Ho, A Self-Determination Perspective of Strengths Use at Work: Examining Its Determinant and Performance Implications, 11 J. POSITIVE PSYCHOL. 15 (2016).

[225] *E.g.*, Sheldon & Krieger, *supra* note 5; *see also* G. F. Hess, *Collaborative Course Design: Not My Course, Not Their Course, But Our Course,* 47 WASHBURN L.J. 367 (2008).

can be enhanced by autonomy-supportive behaviors by both parties. Lawyers respect client autonomy by, for example, taking full account of their perspectives, not interrupting, affording choice, offering information respectfully, providing a rationale for recommendations, sharing power in decision-making (when appropriate), and accepting clients' decisions.[226] In the medical profession, this model of client-centered care has been found to result in better outcomes, patient satisfaction, and diminished risk of malpractice lawsuits.[227]

8.9 Conflict Management

Our legal system is adversarial—it's rooted in conflict. Even so, lawyers generally are not trained on how to constructively handle conflict and to adapt tactics based on context—from necessary work-related conflicts to inter-personal conflicts with clients, opposing counsel, colleagues, or loved ones.[228] Conflict is inevitable and can be both positive and negative.[229] But chronic, unmanaged conflict creates physical, psychological, and behavioral stress. Research suggests that conflict management training can reduce the negative stressful effects of conflict and possibly produce better, more productive lawyers.[230]

8.10 Work-Life Conflict

The stress of chronic work-life conflict can damage well-being and performance.[231] A study of a New Zealand law firm found that work-life conflict was the strongest predictor of lawyer burnout.[232] Similarly, a study of Australian lawyers found that preoccupation with work was the strongest predictor of depression.[233] Research in the medical profession repeatedly has found that work-life conflict contributes to burnout.[234] A large scale study across a variety of occupations found that reports of work-life conflict increased the odds of poor physical health by 90 percent.[235] On the other hand, work-life balance (WLB) benefits workers and organizations.[236]

WLB is a complex topic, but research provides guidance on how to develop a WLB-supportive climate. Adopting a formal policy that endorses flexibility is a threshold requirement. Such policies foster the perception of organizational support for flexibility, which is even more important to workers' experience of WLB than actual benefit use. Policies should not be restricted to work-family concerns and any training should emphasize support for the full range of work-life juggling issues. Narrow family-focused policies can create feelings of resentment by workers who have valued non-family commitment.

WLB initiatives cannot end with formal policies or people will doubt their authenticity and fear using them. For example, nearly all large firms report having a flexible schedule policy.[237] But a recent survey of law firm lawyers found that use of flexibility benefits was highly stigmatizing.[238] To benefit from WLB initiatives, organizations must develop a WLB-supportive climate. Research has identified multiple factors for doing so: (1) job autonomy, (2) lack of negative consequences for using WLB benefits, (3) level of perceived expectation that work should be prioritized over family, and (5) supervisor support for WLB. By far, the most important factor is the last. Supervisors communicate their support for WLB by, for example, creatively accommodating non-work-related needs, being empathetic with juggling efforts, and role modeling WLB behaviors.[239]

[226] G. C. Williams, R. M. Frankel, T. L. Campbell, & E. L. Deci, *Research on Relationship-Centered Care and Healthcare Outcomes from the Rochester* Biopsych*osocial Program: A Self-Determination Theory Integration,* 18 FAMILIES, SYS. & HEALTH 79 (2000).
[227] *Id.; see also* C. White, *The Impact of Motivation on Customer Satisfaction Formation: A Self-Determination Perspective,* 49 EUROPEAN J. MARKETING 1923 (2015).
[228] M. T. Colatrella, *A Lawyer for All Seasons: The Lawyer as Conflict Manager,* 49 SAN DIEGO L. REV. 93 (2012).
[229] A. Elwork & G. A. H. Bemjamin, Lawyers in Distress, 23 J. PSYCHIATRY & L. 205 (1995).
[230] D. L. Haraway & W. M. Haraway, *Analysis of the Effect of Conflict-Management and Resolution Training on Employee Stress at a Healthcare Organization,* 83 HOSPITAL TOPICS 11 (2005); *see also* Colatrella, *supra* note 228.
[231] BRAFFORD, *supra* note 131; D. A. MAJOR & R. BURKE, HANDBOOK OF WORK-LIFE INTEGRATION AMONG PROFESSIONALS: CHALLENGES AND OPPORTUNITIES (2013).
[232] Hopkins & Gardner, *supra* note 183.
[233] A. D. Joudrey & J. E. Wallace, *Leisure As A Coping Resource: A Test of the Job Demand-Control-Support Model,* 62 HUMAN RELATIONS 195 (2009).
[234] *E.g.,* E. Amoafo, N. Hanabali, A. Patel, & P. Singh, *What Are the Significant Factors Associated with Burnout in Doctors?*, 65 OCCUPATIONAL MED. 117 (2015).
[235] J. Goh, J. Pfefer, & S. A. Zenios, *Workplace Stressors & Health Outcomes: Health Policy for the Workplace,* 1 BEHAV. SCI. & POL'Y. 43 (2015).
[236] Major & Burke, *supra* note 231; S. L. Munn, *Unveiling the Work-Life System: The Influence of Work-Life Balance on Meaningful Work*
[237] Press Release, *National Association for Law Placement, NALP Press Release on Part-Time Schedules* (Feb. 21, 2013), http://www.nalp.org/part-time_feb2013.
[238] K. M. Managan, E. Giglia, & L. Rowen, *Why Lawyers Leave Law Firms and What Firms Can Do About It,* L. PRAC. TODAY, April 14, 2016, http://www.lawpracticetoday.org/article/why-lawyers-leave-law-firms-and-what-firms-can-do-about-it.
[239] L. B. Hammer, E. E. Kossek, N. L. Yragui, T. E. Bodner, & G. C. Hanson, *Development and Validation of Multidimensional Measure of Family Supportive Supervisor Behaviors* (FSSB), 35 J. MGMT. 837 (2009); L. B. Hammer, S. E. Van Dyck, & A. M. Ellis, *Organizational Policies Supportive of Work-Life Integration, in* Major & Burke, *supra* note 231; E. E. Kossek, S. Pichler, T. Bodner, & L. B. Hammer, *Workplace Social Support and Work-Family Conflict: A Meta-Analysis Clarifying the Influence of General and Work-Family-Specific Supervisor and Organizational Support,* 64 PERSONNEL PSYCHOL. 289 (2011)

To support WLB, bar associations and regulators should work with legal employers to develop best practices and relevant training. Regulators and judges should consider whether any of their practices and policies can be modified to better support lawyer WLB.

8.11 Meaning and Purpose

Research has found that feeling that our lives are meaningful is important for physical and psychological wellness. It provides a buffer against stress.[240] For example, meaning in life is associated with a reduced risk of anxiety, depression, substance use, suicidal ideation, heart attack, and stroke; slower cognitive decline in Alzheimer's patients; and lower overall mortality for older adults.[241]

For many lawyers, an important part of building a meaningful life is through meaningful work. Experiencing our work as meaningful means that we believe that our work matters and is valuable. A large body of research shows that meaningfulness plays an important role in workplace well-being and performance.[242] Evidence suggests that the perception of meaningfulness is the strongest predictor of work engagement.[243]

Meaningfulness develops when people feel that their work corresponds to their values. Organizations can enhance the experience of fit and meaningfulness by, for example, fostering a sense of belonging; designing and framing work to highlight its meaningful aspects; and articulating compelling goals, values, and beliefs.[244]

These same principles apply in law school. Studies in the college context have found that the majority of students want their educational experiences to be meaningful and to contribute to a life purpose.[245] One study measured "psychological sense of community," which was proposed as a foundation for students to find greater meaning in their educational experience. It was the strongest predictor of academic thriving in the study.[246] Deterioration of law students' sense of meaning may contribute to their elevated rate of psychological distress. Research reflects that, over the course of law school, many students disconnect from their values and become emotionally numb.[247]

8.12. Substance Use and Mental Health Disorders

Recommended content for training on substance use and mental disorders is outlined above in Recommendation 8 in the body of this report.

8.13. Additional Topics

Many topics are possible for programming aimed at boosting work engagement and overall well-being (through resource-development) and curbing stress and burnout (by limiting demands) or otherwise promoting lawyer well-being. Additional topics to consider include: psychological

[240]BRAFFORD, *supra* note 131; P. Halama, *Meaning in Life and Coping. Sense of Meaning as a Buffer Against Stress, in* MEANING IN POSITIVE AND EXISTENTIAL PSYCHOLOGY 239-50 (A. Batthyany and P. Russo-Netzer eds., 2014).

[241]E. S. Kim, J. K. Sun, N. Park, C. Peterson, *Purpose in Life and Reduced Incidence of Stroke in Older Adults: The Health and Retirement Study,* 74 J. PSYCHOSOMATIC RES. 427 (2013); M. F. Steger, A. R. Fitch-Martin, J. Donnelly, & K. M. Rickard, *Meaning in Life and Health: Proactive Health Orientation Links Meaning in Life to Health Variables Among American Undergraduates,* 16 J. HAPPINESS STUDIES 583 (2015); M. F. Steger, P. Frazier, S. Oishi, M. Kaler, *The Meaning in Life Questionnaire: Assessing the Presence of and Search for Meaning in Life,* 53 J. COUNSELING PSYCHOL. 80 (2006).

[242]*E.g.,* S. Albrecht, *Meaningful Work: Some Key Questions for Research and Practice, in* FLOURISHING IN LIFE, WORK AND CAREERS: INDIVIDUAL WELLBEING AND CAREER EXPERIENCES (R. J. Burke, K. M. Page, & C. Cooper eds., 2015); B. D. Rosso, K. H. Dekas, & A. Wrzesniewski, *On the Meaning of Work: A Theoretical Integration and Review,* 30 RES. IN ORGANIZATIONAL BEHAV. 91 (2010).

[243]D. R. May, R. L. Gilson, & L. M. Harter, *The Psychological Conditions of Meaningfulness, Safety and Availability and the Engagement of the Human Spirit at Work,* 77 J. OCCUPATIONAL & ORGANIZATIONAL PSYCHOL. 11 (2004); P. Fairlie, *Meaningful Work, Employee Engagement, and Other Key Employee Outcomes: Implications for Human Resource Development,* 13 ADVANCED IN DEVELOPING HUMAN RESOURCES 508 (2011).

[244]BRAFFORD, *supra* note 131; M. G. Pratt & B. E. Ashforth, *Fostering Meaningfulness, in* Cameron, Dutton, & Quinn, *supra* note 32; D. J. Cleavenger & T. P. Munyon, *It's How You Frame It: Transformational Leadership and the Meaning of Work,* 56 BUS. HORIZONS 351 (2013); W. Kahn & S. Fellows, *Employee Engagement and Meaningful Work, in* PURPOSE AND MEANING IN THE WORKPLACE 105-26 (B. J. Dik, Z. S. Byrne, & M. F. Steger eds., 2013).

[245]S. J. DeWitz, M. L. Woolsey, W. B. Walsh, *College Student Retention: An Exploration of the Relationship Between Self-Efficacy Beliefs, and Purpose in Life among College Students,* 50 J. C. STUDENT DEV. 19 (2009); HIGHER EDUC. RES. INST., THE SPIRITUAL LIFE OF COLLEGE STUDENTS (2005), *available at* http://spirituality.ucla.edu/docs/reports/Spiritual_Life_College_Students_Full_Report.pdf; see also J. K. Coffey, L. Wray-Lake, D. Mashek, & B. Branand, *A Longitudinal Examination of a Multidimensional Well-Being Model in College and Community Samples,* 17 J. HAPPINESS STUDIES 187 (2016).

[246]Eric James McIntosh, *Thriving in College: The Role of Spirituality and Psychological Sense of Community in Students of Color* (2012) (unpublished Ph.D. dissertation, Azusa Pacific University).

[247]Sheldon & Krieger, *supra* note 154.

capital (composed of optimism, self-efficacy, hope, and resilience),[248] psychological hardiness (composed of commitment, control, and challenge),[249] stress mindset,[250] growth mindset,[251] grit,[252] effort-reward balance,[253] transformational leadership,[254] self-determination theory,[255] strengths-based management,[256] emotional intelligence and regulation,[257] organizational fairness,[258] nutrition,[259] interpersonal skills,[260] and political skills.[261]

[248]*E.g.,* Avey, Luthans, & Jensen, *supra* note 181.
[249]S. R. Maddi, S. Kahn, & K. L. Maddi, *The Effectiveness of Hardiness Training,* 50 CONSULTING PSYCHOL. J.: PRAC. & RES. 78 (1998)
[250]Crum, Salovey, Achor, *supra* note 50; McGonigal, *supra* note 182.
[251]C. S. DWECK, MINDSET: THE NEW PSYCHOLOGY OF SUCCESS (2008).
[252]A. DUCKWORTH, GRIT: THE POWER OF PASSION AND *Perseverance* (2016).
[253]A. Allisey, J. Rodwell, & A. Noblet, *Personality and the Effort-Reward Imbalance Model of Stress: Individual Differences in Reward Wensitivity,* 26 WORK & STRESS 230 (2012)
[254]M. Y. Ghadi, M. Fernando, & P. Caputi, *Transformational Leadership and Work Engagement,* 34 LEADERSHIP & ORG. DEV. J. 532 (2013).
[255]Krieger & Sheldon, *supra* note 5.
[256]D. O. Clifton & J. K. Harter, *Investing in Strengths, in* Cameron, Dutton, & Quinn, *supra* note 32.
[257]C. Miao, R. H., Humphrey, & S. Qian, *Leader Emotional Intelligence and Subordinate Job Satisfaction: A Meta-Analysis of Main, Mediator, and Moderator Effects,* 102 PERSONALITY AND INDIVIDUAL DIFFERENCES 13 (2016); K. Thory, *Teaching Managers to Regulate Their Emotions Better: Insights from Emotional Intelligence Training and Work-Based Application,* 16 HUMAN RESOURCE DEV. INT'L 4 (2013); R. E. Riggio, *Emotional Intelligence and Interpersonal Competencies, in* SELF-MANAGEMENT AND LEADERSHIP DEVELOPMENT 160-82 (M. G. Rothstein, R. J. Burke eds., 2010).
[258]J. Greenberg, *Positive Organizational Justice: From Fair to Fairer—and Beyond, in* EXPLORING POSITIVE RELATIONSHIPS AT WORK: BUILDING A THEORETICAL AND RESEARCH FOUNDATION 159-78 (J. E. Dutton & B. R. Ragins eds., 2007).
[259]T. RATH, EAT, MOVE, SLEEP (2013).
[260]J. Mencl, A. J. Wefald, & K. W. van Ittersum, *Transformational Leader Attributes: Interpersonal Skills, Engagement, and Well-Being,* 37 LEADERSHIP & ORG. DEV. J. 635 (2016).
[270]*Id.;* C. C. Rosen & D. C. Ganster, *Workplace Politics and Well-Being: An Allostatic Load Perspective, in* IMPROVING EMPLOYEE HEALTH AND WELL-BEING 3-23 (A. M. Rossi, J. A. Meurs, P. L. Perrewa eds., 2014); Ferris, Daniels, & Sexton, *supra* note 40.

Appendix to Recommendation 9: Guide and Support The Transition of Older Lawyers.

Recommendation 9 advised stakeholders to create programs for detecting and addressing cognitive decline in lawyers, develop succession plans for aging lawyers, and develop reorientation programs to support lawyers facing retirement. Such initiatives and programs may include the following:

- Gathering demographic information about the lawyer population, including years in practice, the nature of the practice, the size of the firm in which the lawyer's practice is conducted, and whether the lawyer has engaged in any formal transition or succession planning for the lawyer's practice;
- Working with medical professionals to develop educational programs, checklists, and other tools to identify lawyers who may be experiencing incapacity issues;
- Developing and implementing educational programs to inform lawyers and their staff members about incapacity issues, steps to take when concerns about a lawyer's incapacity are evident, and the importance of planning for unexpected practice interruptions or the cessation of practice;
- Developing succession or transition planning manuals and checklists, or planning ahead guidelines for lawyers to use to prepare for an unexpected interruption or cessation of practice;[262]
- Enacting rules requiring lawyers to engage in succession planning;
- Providing a place on each lawyer's annual license renewal statement for the lawyer to identify whether the lawyer has engaged in succession and transition planning and, if so, identifying the person, persons or firm designated to serve as a successor;
- Enacting rules that allow senior lawyers to continue to practice in a reduced or limited license or emeritus capacity, including in pro bono and other public service representation;
- Enacting disability inactive status and permanent retirement rules for lawyers whose incapacity does not warrant discipline, but who, nevertheless, should not be allow to practice law;
- Developing a formal, working plan to partner with Judges and Lawyer Assistance Programs to identify, intervene, and assist lawyers demonstrating age-related or other incapacity or impairment.[263]
- Developing "re-orientation" programs to proactively engage lawyers in transition planning with topics to include:
    - financial planning;
    - pursuing "bridge" or second careers;
    - identity transformation;
    - developing purpose in life;
    - cognitive flexibility;
    - goal-setting;
    - interpersonal connection;
    - physical health;
    - self-efficacy;
    - perceived control, mastery, and optimism.[264]

[262] *See, e.g.,* N. M. SUP. CT. LAW. SUCCESSION & TRANSITION COMM. SUCCESSION PLANNING HANDBOOK FOR N. M. LAW. (2014), *available at* http://www.nmbar.org/NmbarDocs/forMembers/Succession/SuccessionHandbook.pdf; W. VA. STATE BAR, SUCCESSION PLANS, *available at* http://wvbar.org/wp-content/uploads/2012/04/succession.pdf; WASH. STATE BAR ASS'N, SUCCESSION PLANNING, *available at* http://www.wsba.org/Resources-and-Services/Ethics/Succession-Planning.

[263] *See* generally W. Slease, et al., *supra* note 60.

[264] *See, e.g.,* S. D. Asebedo & M. C. Seay, *Positive Psychological Attributes and Retirement Satisfaction,* 25 J. FIN. COUNSELING & PLANNING 161 (2014); Dingemans & Henkens, supra note 64; Houlfort, Fernet, Vallerand, Laframboise, Guay, & Koestner, *supra* note 62; Muratore & Earl, *supra* note 64.

Appendix to Recommendation 25: Topics for Legal Employers' Audit of Well-Being Related Policies and Practices

Legal employers should consider topics like the following as part of their audits of current policies and practices to evaluate whether the organization adequately supports lawyer well-being.

MENTAL HEALTH & SUBSTANCE USE DISORDERS

- Is there a policy regarding substance use, mental health, and impairment? If so, does it need updating?
- Does the policy explain lawyers' ethical obligations relating to their own or colleagues' impairment?
- Is there a leave policy that would realistically support time off for treatment?
- Are there meaningful communications about the importance of well-being?
- Do health plans offered to employees include coverage for mental health and substance use disorder treatment?

LAW PRACTICE MANAGEMENT PRACTICES AFFECTING LAWYER WELL-BEING

- **Assessment of Well-Being:** Is there a regular practice established to assess work engagement, burnout, job satisfaction, turnover intentions, psychological well-being, or other indicators of well-being and to take action on the results?
- **Orientation Practices:** Are orientation practices established to set new lawyers up for success, engagement, and well-being?
- **Work-Life Balance-Related Policies & Practices:** Is there a policy that allows flexibility and an organizational climate that supports it? Is it a practice to recognize lawyers and staff who demonstrate a high standard of well-being?
- **Diversity/Inclusion-Related Policies & Practices:** Diversity and inclusion practices impact lawyer well-being. Are policies and practices in place with a specific mission that is adequately funded?[265]
- **24/7 Availability Expectations:** Do practices allow lawyers time for sufficient rejuvenation? Are response-time expectations clearly articulated and reasonable? Is there an effort to protect time for lawyers to recover from work demands by regulating work-related calls and emails during evenings, weekends, and vacations?[266]

[265]For example, a 2015 report found that most larger firms have some type of diversity training (80 percent) and all participating firms reported having a women's affinity group. But the report also found that affinity groups were "woefully underfunded" and lacking clear goals and missions. *See* L. S. RIKLEEN, REPORT OF THE NINTH ANNUAL NAWL NATIONAL SURVEY ON RETENTION AND PROMOTION OF WOMEN IN LAW FIRMS, NAT'L ASSOC. OF WOMEN LAWYERS FOUND. (2015), *available at* http://www.nawl.org/2015nawlsurvey.

[266]For example, McDonald's and Volkswagen—along with one in four U.S. companies—have agreed to stop sending emails to employees after hours. *See* Fritz, Ellis, Demsky, Lin, & Guros, *supra* note 206. In in the highly-demanding world of law, firms should consider the possibility of establishing new norms for lawyers that limit after-hours emails and calls to actual emergencies—especially to associates who have less work-related autonomy and, thus, are at a higher risk for fatigue and burnout.

- **Billing Policies & Practices:** Do billing practices encourage excessive work and unethical behavior?[267]

- **Compensation Practices:** Are compensation practices fair? And are they perceived as fair? Do they follow standards of distributive (fair outcome), procedural (fair process), interpersonal (treating people with dignity and respect), and informational (transparency) fairness? Perceived unfairness in important practices can devastate well-being and motivation. For example, a large-scale study found that people were 50 percent more likely to have a diagnosed health condition if they perceived unfairness at work.[268] Further, high levels of interpersonal and informational fairness should not be ignored—they can reduce the negative effect of less fair procedures and outcomes.[269]

- **Performance Appraisal Practices:** Are performance appraisal practices fair and perceived as fair? Are observations about performance regularly noted to use in the review? Do multiple raters contribute? Are they trained on the process and to reduce common biases?[270] Is feedback given in a two-way communication? Is specific, timely feedback given regularly, not just annually? Is feedback empathetic and focused on behavior not the person's worth? Is good performance and progress toward goals regularly recognized? Is goal-setting incorporated?[271] Is performance feedback balanced and injected with positive regard and respect to improve likelihood of acceptance?[272] Are lawyers asked to describe when they feel at their best and the circumstances that contribute to that experience?[273] Carefully managing this process is essential given evidence that bungled performance feedback harms well-being and performance.

- **Vacation Policies & Practices:** Is there a clear vacation policy? Does the organizational culture encourage usage and support detachment from work? In their study of 6,000 practicing lawyers, law professor Larry Krieger and psychology professor Kennon Sheldon found that the number of vacation days taken was the strongest predictor of well-being among all activities measured in the study. It was a stronger predictor of well-being even than income level.[274] This suggests that legal employers should encourage taking of vacation—or at least not discourage or unreasonably interfere with it.

[267]ABA COMM'N ON BILLABLE HOURS, AM. BAR ASS'N, THE CORROSIVE IMPACT OF EMPHASIS ON BILLABLE HOURS (2001-2002), *available at* http://ilta.personifycloud.com/webfiles/productfiles/914311/FMPG4_ABABillableHours2002.pdf.

[268]J. Goh, J. Pfefer, & S. A. Zenios, *Workplace Stressors & Health Outcomes: Health Policy for the Workplace,* 1 BEHAV. SCI. & POL'Y. 43 (2015); *see also* R. M. Herr, A. Loerbroks, J. A. Bosch, M. Seegel, M. Schneider, & B. Schmidt, *Associations of Organizational Justice with Tinnitus and the Mediating Role of Depressive Symptoms and Burnout—Findings from a Cross-Sectional Study,* 23 INT'L J. BEHAV. MED. 190 (2016).

[269]J. Greenberg, *Promote Procedural and Interactional Justice to Enhance Individual and Organizational Outcomes,* in Locke, *supra* note 7, 255-71; T. R. Tyler & E. A. Lind, A *Relational Model of Authority in Groups, in Advances in Experimental Social Psychology* 115-91 (M. P. Zanna ed., 1st ed., 1992).

[270]F. Luthans & A. Stajkovic, *Provide Recognition for Performance Improvement, in Locke, supra* note 7, 239-53.

[271]A. N. Kluger, & N. DeNisi, *The Effects of Feedback Interventions on Performance: A Historical Review, a Meta-Analysis, and a Preliminary Feedback Intervention Theory,* 119 PSYCHOL. BULL. 254 (1996).

[272]O. Bouskila-Yam & A. N. Kluger, *Strengths-Based Performance Appraisal and Goal Setting,* 21 HUMAN RES. MGMT. REV. 137 (2011).

[273]A. N. Kluger & D. Nir, *The Feedforward Interview,* 20 HUMAN RESOURCES MGMT. REV. 235 (2010).

[274]Krieger & Sheldon, *supra* note 5.

Appendix to Recommendation 33.2: Creating a Well-Being Course and Lecture Series for Law Students

Recommendation 33.2 suggests that law schools design a lecture series dedicated to well-being topics. In 2007, the Carnegie Foundation for the Advancement of Teaching issued a report titled *Educating Lawyers: Preparation for the Profession of Law* (referred to as the "Carnegie Report"). The Carnegie Report describes three "apprenticeships" in legal education: (1) the intellectual apprenticeship, where students acquire a knowledge base; (2) the practice apprenticeship, where students learn practical legal skills; and (3) the professional identity apprenticeship, where students cultivate the attitudes and values of the legal profession.[275] The 2016 *Foundations for Practice Report* by the Institute for the Advancement of the American Legal System recommends that law schools teach character attributes including courtesy, humility, respect, tact, diplomacy, sensitivity, tolerance, and compassion; and self-care and self-regulation skills such as positivity and managing stress; exhibiting flexibility, adaptability, and resilience during challenging circumstances; and decision-making under pressure. A well-being course can address the *Foundations for Practice Report* recommendations while helping law students develop a professional identity that encompasses a commitment to physical and mental well-being.

Appendix B includes topics that could be incorporated into a well-being course for law students. The list below includes additional topics and provides suggested student readings in the footnotes:

- Basic Wellbeing and Stress Reduction;[277]
- Cognitive Well-being and Good Nutrition;[278]
- Restorative Practices, such as Mindfulness, Meditation, Yoga, and Gratitude;[279]
- The Impact of Substances such as Caffeine, Alcohol, Nicotine, Marijuana, Adderall, Ritalin, Cocaine, and Opiates on Cognitive Function;[280]
- "Active bystander" training that educates students about how to detect when their fellow students may be in trouble with respect to mental health disorders, suicidal thinking, or substance use and what action to take;
- Cultivating a Growth Mindset;[281]
- Improving Pathway (strategies for identifying goals and plans for reaching them) and Agency (sustaining motivation to achieve objectives) Thinking;[282]

[275]SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW, CARNEGIE FOUND. FOR THE ADVANCEMENT OF TEACHING (2007).

[276]A. Gerkman & L. Cornett, *Foundations for Practice: The Whole Lawyer and the Character Quotient,* INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. 30, 33 (2016), *available at* http://iaals.du.edu/foundations/reports/whole-lawyer-and-character-quotient.

[277]*See* L. S. KRIEGER, THE HIDDEN SOURCES OF LAW SCHOOL STRESS: AVOIDING THE MISTAKES THAT CREATE UNHAPPY AND UNPROFESSIONAL LAWYERS (2014); D. S. Austin, *Killing Them Softly: Neuroscience Reveals How Brain Cells Die from Law School Stress and How Neural Self-Hacking Can Optimize Cognitive Performance,* 59 LOY. L. REV. 791, 828-37 (2013); M. Silver, *Work & Well-Being, in* LEARNING FROM PRACTICE: A TEXT FOR EXPERIENTIAL LEGAL EDUCATION (L. Wortham, A. Scheer, N. Maurer, & S. L. Brooks eds., 2016).

[278]D. S. Austin, *Food for Thought: The Neuroscience of Nutrition to Fuel Cognitive Performance,* OR. L. REV. (forthcoming 2017), *available at:* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2808100.

[279]Austin, *supra* note 277, at 837-847; see S. L. Rogers, *Mindfulness and the Importance of Practice,* 90 FLA. B. J. (April 2016); *see* S. L. Rogers, *Mindfulness in Law, in* THE WILEY-BLACKWELL HANDBOOK OF MINDFULNESS (A. Ie, C. Ngnoumen & E. Langer eds., 2014); see T. K. Brostoff, *Meditation for Law Students: Mindfulness Practice as Experiential Learning,* 41 L. & PSYCHOL. REV. (forthcoming 2017), online at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2836923; *see* J. CHO & K. GIFFORD, THE ANXIOUS LAWYER: AN 8-WEEK GUIDE TO A JOYFUL AND SATISFYING LAW PRACTICE THROUGH MINDFULNESS AND MEDITATION (2016); *see* G. MUMFORD, THE MINDFUL ATHLETE: SECRETS TO PURE PERFORMANCE (2015); M. Silver, *supra* note 277.

[280]*See* D. S. Austin, *Drink Like a Lawyer: The Neuroscience of Substance Use and its Impact on Cognitive Wellness,* 15 NEV. L.J. 826 (2015).

[281]D. S. Austin, *Positive Legal Education: Flourishing Law Students and Thriving Law Schools,* 77 MD. L. REV. at 22-25 (forthcoming 2018), *abstract available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2928329; see C. S. DWECK, MINDSET: THE NEW PSYCHOLOGY OF SUCCESS (2008).

[282]Austin, *supra* note 280, at 826-27.

- Enhancing Emotion Regulation;[283]
- Fostering Optimism and Resilience;[284]
- Preparing for a Satisfying Legal Career;[285]
- Developing Strong Lawyering Values, such as Courage, Willpower, and Integrity;[286]
- Work Life Balance in the Law;[287] and
- Lawyers as Leaders.[288]

Many resources for teaching well-being skills are available to legal educators in the online AALS Balance in Legal Education Bibliography.[289] Expert guest speakers can be found in the AALS Balance in Legal Education section,[290] and at local lawyer assistance programs and lawyer well-being committees.

[283]*See* S. Daicoff, *Lawyer Personality Traits and their Relationship to Various Approaches to Lawyering, in* THE AFFECTIVE ASSISTANCE OF COUNSEL: PRACTICING LAW AS A HEALING PROFESSION 79 (M. A. Silver ed., 2007); *see* D. S. Austin & R. Durr, E*motion Regulation for Lawyers: A Mind is a Challenging Thing to Tame,* 16 WYO. L. REV. 826 (2015); M. A. Silver, *Supporting Attorneys' Personal Skills,* 78 REV. JUR. U.P.R. 147 (2009).

[284]*See* S. KEEVA, TRANSFORMING PRACTICES: FINDING JOY AND SATISFACTION IN THE LEGAL LIFE (10th ed., 2011); *see* S. ACHOR, THE HAPPINESS ADVANTAGE: THE SEVEN PRINCIPLES OF POSITIVE PSYCHOLOGY THAT FUEL SUCCESS AND PERFORMANCE AT WORK (2010); *see* S. ACHOR, BEFORE HAPPINESS: THE 5 HIDDEN KEYS TO ACHIEVING SUCCESS, SPREADING HAPPINESS, AND SUSTAINING POSITIVE CHANGE (2013); see A. DUCKWORTH, GRIT: THE POWER OF PASSION AND PERSEVERANCE (2016).

[285]*See* L. S. KRIEGER, A DEEPER UNDERSTANDING OF YOUR CAREER CHOICES: SCIENTIFIC GUIDANCE FOR A FULFILLING LIFE AND CAREER (2007); *see* N. LEVIT & D. O. LINDER, THE HAPPY LAWYER: MAKING A GOOD LIFE IN THE LAW (2010); *see* P. H. Huang & R. Swedloff, *Authentic Happiness and Meaning at Law Firms,* 58 SYRACUSE L. REV. 335 (2008); M. Silver, *supra* note 260.

[286]*See* D. O. LINDER & N. LEVIT, THE GOOD LAWYER: SEEKING QUALITY IN THE PRACTICE OF LAW (2014); *see* G. Duhaime, *Practicing on Purpose: Promoting Personal Wellness and Professional Values in Legal Education,* 28 TOURO L. REV. 1207 (2012).

[287]L. L. Cooney, *Walking the Legal Tightrope: Solutions for Achieving a Balanced Life in Law,* 47 SAN DIEGO L. REV. 421 (2010).

[288]*See* P. H. Huang, *Can Practicing Mindfulness Improve Lawyer Decision-Making, Ethics, and Leadership?,* 55 HOUSTON L. REV. (forthcoming 2017), *abstract available at:* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2907513; Austin, *supra* note 281, at 44-49.

[289]*See* AALS, *supra* note 145.

[290]*See* AALS, *supra* note 144.

BIOGRAPHIES OF TASK FORCE MEMBERS AND TASK FORCE REPORT AUTHORS AND EDITORS

The Report of the National Task Force on Lawyer Well-Being was primarily authored and edited by the Task Force members, whose biographies are below. The Task Force members were assisted in the creation of the Report by a team that included liaisons, contributing authors, peer reviewers, and individuals who contributed in a variety of other important capacities. Their biographies also are provided below.

BREE BUCHANAN (CO-CHAIR, EDITOR, AUTHOR)

Bree Buchanan, J.D., is Director of the Texas Lawyers Assistance Program of the State Bar of Texas. She serves as co-chair of the National Task Force on Lawyer Wellbeing and is an advisory member of the ABA Commission on Lawyers Assistance Programs (CoLAP). Ms. Buchanan is also the appointed chair of CoLAP for 2017-2018.

Ms. Buchanan, upon graduation from the University of Texas School of Law, practiced in the public and private sector with a focus on representing both adult and child victims of family violence. She worked on public policy initiatives and systems change at both the state and federal level as the Public Policy Director for the Texas Council on Family Violence and the National Domestic Violence Hotline. After this position, Ms. Buchanan was appointed Clinical Professor and Co-Director of the Children's Rights Clinic at the University of Texas School of Law.

Ms. Buchanan is a frequent speaker at CLE programs for national organizations, as well as for state and local bar entities. She is a graduate student at the Seminary of the Southwest where she is pursuing a Masters in Spiritual Direction, and is the proud parent of a senior at New York University. Ms. Buchanan tends to her own well-being by engaging in a regular meditation practice, rowing, staying connected to 12-Step recovery, and being willing to ask for help when she needs it.

JAMES C. COYLE (CO-CHAIR, EDITOR, AUTHOR)

Jim Coyle is Attorney Regulation Counsel for the Colorado Supreme Court. Mr. Coyle oversees attorney admissions, attorney registration, mandatory continuing legal and judicial education, attorney discipline and diversion, regulation of the unauthorized practice of law, and inventory counsel matters. Mr. Coyle has been a trial attorney with the Office of Disciplinary Counsel or successor Office of Attorney Regulation Counsel since 1990. Prior to that, he was in private practice. He served on the National Organization of Bar Counsel (NOBC) board of directors from 2014 – 2016. Mr. Coyle was on the Advisory Committee to the ABA Commission on Lawyer Assistance Programs and is now a member of the Commission for the 2017 – 2018 term.

Mr. Coyle is active in promoting proactive regulatory programs that focus on helping lawyers throughout the stages of their careers successfully navigate the practice of law and thus better serve their clients. This includes working on and co-hosting the first ABA Center for Professional Responsibility (CPR)/NOBC/Canadian Regulators Workshops on proactive, risk-based regulatory programs, in Denver in May 2015, in Philadelphia in June 2016, and St. Louis in June 2017; participating in the NOBC Program Committee and International Committee, including as Chair of the Entity Regulation Subcommittee, now known as the Proactive Management-Based Programs Committee; and prior service on the NOBC Aging Lawyers and Permanent Retirement subcommittees. Mr. Coyle tends to his own well-being through gardening, exercise, and dreaming about retirement.

ANNE BRAFFORD (EDITOR-IN-CHIEF, AUTHOR)

Anne Brafford served as the Editor-in-Chief for the Task Force Report on Lawyer Well-Being. Anne is the Chairperson of the American Bar Association Law Practice Division's Attorney Well-Being Committee. She is a founding member of Aspire, an educational and consulting firm for the legal profession (www.aspire.legal). In 2014, Anne left her job as an equity partner at Morgan, Lewis & Bockius LLP after 18 years of practice to focus on thriving in the legal profession. Anne has earned a Master's degree in Applied Positive Psychology (MAPP) from the University of Pennsylvania and now is a PhD student in positive organizational psychology at Claremont Graduate University (CGU). Anne's research focuses on lawyer thriving and includes topics like positive leadership, resilience, work engagement, meaningful work, motivation, and retention of women lawyers. She also is an Assistant Instructor in the MAPP program for Dr. Martin Seligman and, for two years, was a Teaching Assistant at CGU for Dr. Mihaly Csikszentmihalyi, the co-founders of positive psychology. Look for her upcoming book to be published this fall by the American Bar Association's Law Practice Division called *Positive Professionals: Creating High-Performing, Profitable Firms Through The Science of Engagement.* It provides practical, science-backed advice on boosting work engagement for lawyers. Anne can be reached at abrafford@aspire.legal, www.aspire.legal.

JOSH CAMSON (EDITOR, AUTHOR)

Josh Camson is a criminal defense attorney with Camson Law, LLC in Collegeville, Pennsylvania. He is a member of the Pennsylvania Bar Association Ethics Committee and the ABA Standing Committee on Professionalism. He is a former long-time staff writer for Lawyerist.com, a law practice management blog and the former editor of BitterLawyer.com, a comedy site for lawyers and law students.

CHARLES GRUBER (AUTHOR)

Charles A. Gruber is a solo practitioner in Sandy, Utah. He is a graduate of the University of Texas Law School. He is licensed to practice law in Utah and California. His areas of practice are personal injury, medical malpractice, and legal malpractice.

A former attorney with the Utah State Bar Office of Professional Conduct, Mr. Gruber represents and advises attorneys on ethics issues. A former member of the NOBC, he currently is a member of APRL. He serves on the Board of Utah Lawyers Helping Lawyers. Utah Lawyers Helping Lawyers is committed to rendering confidential assistance to any member of the Utah State Bar whose professional performance is or may be impaired because of mental illness, emotional distress, substance abuse or any other disabling condition or circumstance.

Mr. Gruber tends to his own well being by trying to remember and follow the suggestions of the 11th step of the 12 Steps.

> As we go through the day we pause, when agitated or doubtful, and ask for the right thought or action. We constantly remind ourselves we are no longer running the show, humbly saying to ourselves many times each day "They will be done". We are then in much less danger of excitement, fear, anger, worry, self-pity, or foolish decisions. We become much more efficient. We do not tire so easily, for we are not burning up energy foolishly as we did when we were trying to arrange life to suit ourselves. Big Book pg. 87-88.

TERRY HARRELL (AUTHOR)

Terry Harrell completed her undergraduate degree in psychology at DePauw University in 1986 and completed her law degree at Maurer School of Law in 1989. Following law school she practiced law with Ice Miller and then clerked for Judge William I. Garrard on the Indiana Court of Appeals.

In 1993 she completed her Master of Social Work Degree (MSW) at Indiana University. Terry is a Licensed Clinical Social Worker (LCSW), a Licensed Clinical Addictions Counselor (LCAC) in Indiana, and has a Master Addictions Counselor certification from NAADAC. In 1992 Terry began working for Midtown Community Mental Health Center. While there she worked in a variety of areas including inpatient treatment, crisis services, adult outpatient treatment, wrap around services for severely emotionally disturbed adolescents, and management. In 2000 Terry began working as the Clinical Director for JLAP and in 2002 became the Executive Director.

From 2007 through 2010 Terry served on the Advisory Committee to the American Bar Association's Commission on Lawyer Assistance Programs (CoLAP).

She served from 2010 through 2013 as a commissioner on CoLAP. She is past Chair of the Senior Lawyer Assistance Subcommittee for CoLAP and an active member of the CoLAP National Conference Planning Committee. In August 2014 Terry became the first ever LAP Director to be appointed Chair of the ABA Commission on Lawyer Assistance Programs. Locally, Terry is a member of the Indiana State Bar Association and is active with the Professional Legal Education Admission and Development Section, the Planning Committee for the Solo Small Firm Conference, and the Wellness Committee.

DAVID B. JAFFE (AUTHOR)

David Jaffe is Associate Dean for Student Affairs at American University Washington College of Law. In his work on wellness issues among law students over the last decade, he has served on the D.C. Bar Lawyer Assistance Program including as its chair, and continues to serve on the ABA Commission on Lawyer Assistance Programs (CoLAP) as co-chair of the Law School Assistance Committee. Jaffe co-authored "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", reporting the results of a survey he co-piloted in 2014. He also produced the "Getting Health, Staying Healthy" video that is used as a resource in many Professional Responsibility classes around the country, and is responsible for modernizing the "Substance Abuse & Mental Health Toolkit for Law Students and Those Who Care About Them".

Jaffe has presented frequently on law student wellness, including to the National Conference of Bar Examiners, the ABA Academic Deans, the ABA Young Lawyers Division, CoLAP, AALS, the D.C. Bar, and NALSAP. He received the 2015 CoLAP Meritorious Service Award in recognition of his commitment to improving the lives of law students, and the 2009 Peter N. Kutulakis Award from the AALS Student Services Section for outstanding contributions to the professional development of law students. Jaffe states that he seeks self-care each day by being in the moment with each of his two daughters.

TRACY L. KEPLER (AUTHOR)

Tracy L. Kepler is the Director of the American Bar Association's Center for Professional Responsibility (CPR), providing national leadership in developing and interpreting standards and scholarly resources in legal and judicial ethics, professional regulation, professionalism and client protection. In that role, she manages and coordinates the efforts of 18 staff members and 13 entities including five ABA Standing Committees (Ethics, Professionalism, Professional Regulation, Client Protection, and Specialization), the ABA/BNA Lawyers' Manual on Professional Conduct, the Center's Coordinating Council and other Center working committees.

From 2014-2016, Ms. Kepler served as an Associate Solicitor in the Office of General Counsel for the U.S. Patent & Trademark Office (USPTO), where she concentrated her practice in the investigation, prosecution and appeal of patent/trademark practitioner disciplinary matters before the Agency, U.S. District Courts and Federal Circuit, provided policy advice on ethics and discipline related matters to senior management, and drafted and revised Agency regulations. From 2000-2014, she served as Senior Litigation Counsel for the Illinois Attorney Registration and Disciplinary Commission (ARDC), where she investigated and prosecuted cases of attorney misconduct.

From 2009-2016, Ms. Kepler served in various capacities, including as President, on the Board of the National Organization of Bar Counsel (NOBC), a non-profit organization of legal professionals whose members enforce ethics rules that regulate the professional conduct of lawyers who practice law in the United States and abroad. Ms. Kepler also taught legal ethics as an Adjunct Professor at American University's Washington College of Law. Committed to the promotion and encouragement of professional responsibility throughout her career, Ms. Kepler has served as the Chair of the CPR's CLE Committee and its National Conference Planning Committee, and is a frequent presenter of ethics related topics to various national, state and local organizations. She has also served as the NOBC Liaison to the ABA CPR Standing Committees, and to the ABA Commission on Lawyer Assistance Programs (CoLAP), where she was a Commission member, a member of its Advisory Committee, the Chair of its Education and Senior Lawyer Committees, and also a member of its National Conference Planning Committee. Ms. Kepler also participates as a

faculty member for the National Institute of Trial Advocacy (NITA) trial and deposition skills programs, and served as the Administrator of the NOBC-NITA Advanced Advocates Training Program from 2011-2015. She is a graduate of Northwestern University in Evanston, Illinois, and received her law degree from New England School of Law in Boston, Massachusetts.

PATRICK KRILL (AUTHOR)

A leading authority on the addiction and mental health problems of lawyers, Patrick is the founder of Krill Strategies, a behavioral health consulting firm exclusively for the legal profession. Patrick is an attorney, licensed and board certified alcohol and drug counselor, author, and advocate. His groundbreaking work in the field of attorney behavioral health includes initiating and serving as lead author of the first and only national study on the prevalence of attorney substance use and mental health problems, a joint undertaking of the American Bar Association Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation that was published in The Journal of Addiction Medicine.

Patrick is the former director of the Hazelden Betty Ford Foundation's Legal Professionals Program, where he counseled many hundreds of legal professionals from around the country who sought to better understand and overcome the unique challenges faced on a lawyer's road to recovery. He has authored more than fifty articles related to addiction and mental health, and has been quoted in dozens of national and regional news outlets, including the New York Times, Wall Street Journal, Washington Post, Chicago Tribune, and countless legal industry trade publications and blogs. As a frequent speaker about addiction and its intersection with the law, Patrick has taught multiple graduate-level courses in addiction counseling, and has spoken, lectured, or conducted seminars for over one hundred organizations throughout the United States, including professional and bar associations, law firms, law schools, and corporations.

Patrick maintains his own wellbeing by prioritizing his personal relationships and exercising daily. Whether it be hiking, yoga, or weight lifting, his secret to managing stress is a dedication to physical activity. Patrick can be reached at patrick@prkrill.com, www.prkrill.com.

CHIEF JUSTICE DONALD W. LEMONS, SUPREME COURT OF VIRGINIA (AUTHOR)

Chief Justice Donald W. Lemons received his B.A. from the University of Virginia in 1970. Before entering law school, he served as a Probation Officer in Juvenile and Domestic Relations Court. In 1976, he earned his J.D. from the University of Virginia School of Law. From 1976 until 1978, he served as Assistant Dean and Assistant Professor of Law at the University of Virginia School of Law. Thereafter, he entered the private practice of the law in Richmond, Virginia. Chief Justice Lemons has served at every level of the court system in Virginia. He served as a substitute judge in General District Court and in Juvenile and Domestic Relations Court. In 1995, he was elected by the General Assembly to be a Judge in the Circuit Court of the City of Richmond. While serving in that capacity, Chief Justice Lemons started one of the first Drug Court dockets in Virginia. He was then elected by the General Assembly to serve as a Judge on the Court of Appeals of Virginia. In 2000, he was elected by the General Assembly as a Justice of the Supreme Court of Virginia. In 2014, the Justices of the Supreme Court of Virginia elected Justice Lemons to serve as the next Chief Justice, following the retirement of Chief Justice Cynthia D. Kinser on December 31, 2014. Chief Justice Lemons is also the Distinguished Professor of Judicial Studies at the Washington and Lee University School of Law, serves on the Board of Directors for the Conference of Chief Justices, is the former President of the American Inns of Court (2010 – 2014), and an Honorary Bencher of Middle Temple in London. He is married to Carol Lemons, and they have three children and six grandchildren. He and Carol reside in beautiful Nelson County, Virginia, in the foothills of the Blue Ridge Mountains.

SARAH MYERS (AUTHOR)

Sarah Myers is the Clinical Director of the Colorado Lawyer Assistance Program. She received her B.A. from the University of Richmond in Virginia, her M.A. from Naropa University in Boulder, Colorado, and her J.D. at the University of Denver in Colorado. She is a Colorado licensed attorney, licensed marriage and family therapist, and licensed addiction counselor. Ms. Myers is also a licensed post-graduate level secondary teacher, certified trauma and abuse psychotherapist, and certified LGTBQ

therapist. She has over 18 years of experience as a professor and teacher, psychotherapist, clinical supervisor, and program director.

Ms. Myers specializes in stress management, psychoneuroimmunology, and psychoeducation, topics that she presents to thousands of judges, lawyers, and law students each year. In addition, she has authored hundreds of articles on wellness concepts such as compassion fatigue, professional burnout, mental health support, and life-enhancing techniques for the legal community. Ms. Myers strives to "practice what she preaches" for self-care, which includes: simple meditation throughout the day to relax her nervous system, using humor and laughter to cope with difficult situations or personalities, cultivating positive relationships with friends and family, and engaging in hobbies such as gardening, caring for numerous pets (including a koi pond), yoga, learning new things, and reading science fiction and fantasy novels.

CHRIS L. NEWBOLD (AUTHOR)

Chris Newbold is Executive Vice President of ALPS Corporation and ALPS Property & Casualty Company. In his role as Executive Vice President, Mr. Newbold oversees bar association relations, strategic and operational planning, risk management activities amongst policyholders, human resources, and non-risk related subsidiary units. Internally at ALPS, Mr. Newbold has developed leading conceptual models for strategic planning which have driven proven results, ensured board and staff accountability, focused organizational energies, embraced change, integrated budgeting and human resource functions into the process and enabled a common vision for principal stakeholders. Externally, Mr. Newbold is a nationally-recognized strategic planning facilitator in the bar association and bar foundations worlds, conducts risk management seminars on best practices in law practice management and is well-versed in captive insurance associations and other insurance-related operations.

Mr. Newbold received his law degree from the University of Montana School of Law in 2001, and holds a bachelor's degree from the University of Wisconsin-Madison. Following his graduation from law school, he served one year as a law clerk for the Honorable Terry N. Trieweiler of the Montana Supreme Court. He began his career at ALPS as President and Principal Consultant of ALPS Foundation Services, a non-profit fundraising and philanthropic management consulting firm. Mr. Newbold is currently a member of the State Bar of Montana, the American Bar Association, and is involved in a variety of charitable activities. Mr. Newbold resides in Missoula, Montana, with his wife, Jennifer, and their three children, Cameron (11), Mallory (9) and Lauren (5).

JAYNE REARDON (EDITOR, AUTHOR)

Jayne Reardon is the Executive Director of the Illinois Supreme Court Commission on Professionalism. A tireless advocate for professionalism, Jayne oversees programs and initiatives to increase the civility and professionalism of attorneys and judges, create inclusiveness in the profession, and promote increased service to the public. Jayne developed the Commission's successful statewide Lawyer-to-Lawyer Mentoring Program which focuses on activities designed to explore ethics, professionalism, civility, diversity, and wellness in practice settings. She spearheaded development of an interactive digital and social media platform that connects constituencies through blogs, social networking sites and discussion groups.
A frequent writer and speaker on topics involving the changing practice of law, Jayne asserts that embracing inclusiveness and innovation will ensure that the profession remains relevant and impactful in the future.
Jayne's prior experience includes many successful years of practice as a trial lawyer, committee work on diversity and recruiting issues, and handling attorney discipline cases as counsel to the Illinois Attorney Registration and Disciplinary Commission Review Board.

Jayne graduated from the University of Notre Dame and the University of Michigan Law School. She is active in numerous bar and civic organizations. She serves as Chair of the American Bar Association's Standing Committee on Professionalism and is a Steering Committee member of the National Lawyer Mentoring Consortium. Jayne also is active in the ABA Consortium of Professionalism Initiatives, Phi Alpha Delta Legal Fraternity, Illinois State Bar Association, Women's Bar Association of Illinois, and the Chicago Bar Association. Jayne lives in Park Ridge, Illinois, with her husband and those of her four children who are not otherwise living in college towns and beyond.

HON. DAVID SHAHEED (AUTHOR)

David Shaheed became the judge in Civil Court 1, Marion County, Indiana, in August, 2007. Prior to this assignment, Judge Shaheed presided over Criminal Court 14, the Drug Treatment Diversion Court and Reentry Court. The Indiana Correctional Association chose Shaheed as 2007 Judge of the Year for his work with ex-offenders and defendants trying to recover from substance abuse.

Judge Shaheed has worked as a judicial officer in the Marion County Superior Court since 1994 starting as a master commissioner and being appointed judge by Governor Frank O'Bannon in September 1999. As a lawyer, Judge Shaheed was Chief Administrative Law Judge for the Indiana Unemployment Appeals Division; Legal Counsel to the Indiana Department of Workforce Development and served as Counsel to the Democratic Caucus of the Indiana House of Representatives in 1995. He was also co-counsel for the Estate of Michael Taylor, and won a 3.5 million dollar verdict for the mother of a sixteen year-old youth who was found shot in the head in the back seat of a police car.

Judge Shaheed is an associate professor for the School of Public and Environmental Affairs (SPEA) at Indiana University in Indianapolis. He is also a member of the ABA Commission on Lawyers Assistance Programs (CoLAP). Judge Shaheed was on the board of directors for Seeds of Hope, (a shelter for women in recovery), and former officer for the Indiana Juvenile Justice Task Force and the Interfaith Alliance of Indianapolis.

LYNDA C. SHELY (EDITOR, AUTHOR)

Lynda C. Shely, of The Shely Firm, PC, Scottsdale, Arizona, provides ethics advice to over 1400 law firms in Arizona and the District of Columbia on a variety of topics including conflicts of interest, fees and billing, trust account procedures, lawyer transitions, multi-jurisdictional practice, ancillary businesses, and ethics requirements for law firm advertising/marketing. She also assists lawyers in responding to initial Bar charges, performs law office risk management reviews, and trains law firm staff in ethics requirements. Lynda serves as an expert witness and frequently presents continuing legal education programs around the country. Prior to opening her own firm, she was the Director of Lawyer Ethics for the State Bar of Arizona. Prior to moving to Arizona, Lynda was an intellectual property associate with Morgan, Lewis & Bockius in Washington, DC.

Lynda received her BA from Franklin & Marshall College in Lancaster, PA and her JD from Catholic University in Washington, DC. Lynda was the 2015-2016 President of the Association of Professional Responsibility Lawyers. She serves on several State Bar of Arizona Committees, and as a liaison to the ABA Standing Committee on Ethics and Professional Responsibility. She is an Arizona Delegate in the ABA House of Delegates. Lynda has received several awards for her contributions to the legal profession, including the 2007 State Bar of Arizona Member of the Year award, the Scottsdale Bar Association's 2010 Award of Excellence, and the 2015 AWLA, Maricopa Chapter, Ruth V. McGregor award. She is a prior chair of the ABA Standing Committee on Client Protection and a past member of the ABA's Professionalism Committee and Center for Professional Responsibility Conference Planning Committee. Lynda was the 2008-2009 President of the Scottsdale Bar Association. She has been an adjunct professor at all three Arizona law schools, teaching professional responsibility.

WILLIAM D. SLEASE (AUTHOR)

William D. Slease is Chief Disciplinary Counsel for the New Mexico Supreme Court Disciplinary Board. In addition to his duties as Chief Disciplinary Counsel, he serves as an adjunct professor at the University of New Mexico School of Law where he has taught employment law, ethics and trial practice skills. He currently chairs the Supreme Court of the State of New Mexico's Lawyer's Succession and Transition Committee which has developed a comprehensive set of materials for lawyers to use in identifying and responding to incapacities that affect lawyers' abilities to practice law. He is a member and the 2016-17 President of the National Organization of Bar Counsel and previously served as the Chair of the NOBC-APRL-CoLAP Second Joint Committee on Aging Lawyers charged with studying and making recommendations for addressing the so-called "senior tsunami" of age-impaired lawyers. Bill takes care of his own wellness by spending time with his family, and by fishing for trout in the beautiful lakes and streams of New Mexico.

TASK FORCE LIAISONS

LINDA ALBERT

Linda Albert is a Licensed Clinical Social Worker and a Certified Alcohol and Drug Counselor. She received her Master's Degree from UW-Madison in Science and Social Work. Linda has worked over the past 34 years as an administrator, consultant, trainer, program developer and psychotherapist in a variety of settings including providing services to impaired professionals.

Linda served on the ABA Commission on Lawyer Assistance Programs heading up the Research section. She co-facilitated a research project on compassion fatigue and legal professionals resulting in two peer reviewed publications and multiple articles. She is co-author of the ABA, Hazelden Betty Ford collaborative national research study on the current rates of substance use, depression and anxiety within the legal community. Linda has done multiple presentations for conferences at the local, state and national level. She loves her work and is driven by the opportunity to make a positive contribution to the lives of the individuals and the fields of practice she serves. Currently Linda is employed by The Psychology Center in Madison, Wisconsin, where she works as a professional trainer, consultant, and psychotherapist.

DONALD CAMPBELL

Donald D. Campbell is a shareholder at Collins Einhorn Farrell in suburban Detroit, Michigan. Don's practice focuses on attorney grievance defense, judicial grievance matters, and legal malpractice defense. He has extensive experience in counseling and advising lawyers and judges regarding professional ethics. He is an adjunct professor of law at the University of Detroit School of Law, where he has taught professional responsibility and a seminar in business law and ethics. Prior to joining the Collins Einhorn firm, Don served as associate counsel with the Michigan Attorney Grievance Commission, the Michigan Supreme Court's arm for the investigation and prosecution of lawyer misconduct. He also previously served as an assistant prosecuting attorney in Oakland County, Michigan. He currently serves as the President of the Association of Professional Responsibility Lawyers (see APRL.net). Don tends to his well-being by cheering for the Detroit Lions (and he has been about as successful).

ERICA MOESER

Erica Moeser has been the president of the National Conference of Bar Examiners since 1994. She is a former chairperson of the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association, and has served as a law school site evaluator, as a member of the Section's Accreditation and Standards Review Committees, and as the co-chairperson of the Section's Bar Admissions Committee. She served as the director of the Board of Bar Examiners of the Supreme Court of Wisconsin from 1978 until joining the Conference. Ms. Moeser holds the following degrees: B.A., Tulane University, 1967; M.S., the University of Wisconsin, 1970; and J.D., the University of Wisconsin, 1974. She was admitted to practice law in Wisconsin in January 1975. Ms. Moeser holds honorary degrees from three law schools. Ms. Moeser has taught Professional Responsibility as an adjunct at the University of Wisconsin Law School. She was elected to membership in the American Law Institute in 1992.

In 2013 Ms. Moeser received the Kutak Award, honoring "an individual who has made significant contributions to the collaboration of the academy, the bench, and the bar," from the ABA Section of Legal Education and Admissions to the Bar.

ACKNOWLEDGEMENTS

PAUL BURGOYNE, TERRY HARRELL, AND LYNDA SHELY

The Task Force gratefully acknowledges the contributions of Paul Burgoyne, immediate past president of the National Organization of Bar Counsel and Deputy Chief Disciplinary Counsel, The Disciplinary Board of the Supreme Court of Pennsylvania, as well as Terry Harrell, President of the ABA Commission on Lawyer Assistance Programs (ABA CoLAP), and Lynda Shely, past president of the Association of Professional Responsibility Lawyers (APRL), for their formal endorsement of the Task Force's formation in the spring of 2016 on behalf of their respective organizations.

JONATHAN WHITE (AUTHOR, EDITOR)

Jonathan White is the Task Force Staff Attorney and also served as a contributing author and editor to the Report. Mr. White is a staff attorney at the Colorado Supreme Court

Office of Attorney Regulation Counsel. He is the day-to-day project manager for the Colorado Supreme Court Advisory Committee's Proactive Management-Based Program (PMBP) Subcommittee. The subcommittee is developing a program to help Colorado lawyers better serve their clients through proactive practice self-assessments. The self-assessments also promote compliance with the Colorado Rules of Professional Conduct. Mr. White rejoined the Office of Attorney Regulation Counsel in November 2016 after previously working for the office as a law clerk in 2009 and 2010.

Mr. White practiced civil defense litigation for several years before rejoining the Office of Attorney Regulation Counsel. Mr. White also served as a judicial law clerk to the Honorable Christopher Cross and the Honorable Vincent White of the Douglas County District Court in Castle Rock, Colorado. He is a 2010 graduate of the University of Colorado Law School. While in law school, he was an articles editor for the Colorado Journal of International Environmental Law & Policy. The Journal published his note, "Drilling in Ecologically and Environmentally Troubled Waters: Law and Policy Concerns Surrounding Development of Oil Resources in the Florida Straits," in 2010. In 2009, fellow law students selected him to receive the annual Family Law Clinic Award in recognition of his work in the law school's clinical program.

Mr. White received his B.A. from Middlebury College in 2003. He recently volunteered as a reading tutor to elementary school students in the Denver Public Schools during the 2015-2016 academic year.

ED BRAFFORD, GRAPHIC DESIGNER

Edward Brafford donated his skills and talents to design the layout for the Task Force Report. Mr. Brafford designs for The Firefly Creative LLC (www.thefireflycreative.com) and can be reached at Ed@tffcreative.com.

CONTRIBUTING AUTHORS

DEBRA AUSTIN, PH.D.

Dr. Austin is a law professor and lawyer wellbeing advocate. She writes and speaks about how neuroscience and positive psychology research can help law students, lawyers, and judges improve their wellbeing and performance. Her seminal work, Killing Them Softly, shines a bright light on lawyer depression, substance abuse, and suicide, and its application of neuroscience to the chronic stresses of law school and law practice depicts how law students and lawyers suffer cognitive damage that impairs them from doing precisely what their studies and practices require. Drink Like a Lawyer uses neuroscience research to demonstrate how self-medication with substances like alcohol, marijuana, and study drugs impairs law student and lawyer thinking. Food for Thought examines neuroscience research that explores the relationship between diet and increased risk of cognitive damage, such as dementia and Alzheimer's disease, and describes optimal nutrition habits that build and maintain a healthy lawyer brain. Positive Legal Education proposes a new field of inquiry and a new method of training lawyer leaders that will enhance lawyer effectiveness and wellbeing. Dr. Austin's presentations connect lawyer wellbeing to performance and ethical obligations, and they are accredited for general and ethics CLE in multiple states.

Dr. Austin teaches at the University of Denver Sturm College of Law. She received her Bachelor of Music Education from University of Colorado; her J.D. from University of San Francisco; and her Ph.D. in Education from University of Denver. She received the William T. Driscoll Master Educator Award in 2001. To maintain her wellbeing, Dr. Austin meditates, practices yoga, and cycles on the beautiful trails around Colorado.

HON. ROBERT L. CHILDERS

Judge Childers was the presiding judge of Division 9 of the Circuit Court of Tennessee for the 30th Judicial District from 1984 to 2017. He is a past president of the Tennessee Judicial Conference and the Tennessee Trial Judges Association. He has also served as a Special Judge of the Tennessee Supreme Court Workers' Compensation Panel and the Tennessee Court of Appeals. He served on the ABA Commission on Lawyer Assistance Programs (CoLAP) from 1999 to 2011, including serving as Chair of the Commission from 2007-2011. He is a founding member, past president and Master of the Bench of the Leo Bearman Sr. Inn of Court. The Memphis Bar Association recognized Judge Childers in 1986, 1999, and 2006 as Outstanding Judge of the Year, and he was recognized by the MBA Family Law Section in 2006. He was recognized as Outstanding

Judge of the Year by the Shelby County (TN) Deputy Sheriffs Association in 1990. He received the Judge Wheatcraft Award from the Tennessee Coalition Against Domestic and Sexual Violence for outstanding service in combating domestic violence in 2001. He has received the Distinguished Alumnus Award from the University of Memphis (2002), the Justice Frank F. Drowota III Outstanding Judicial Service Award from the Tennessee Bar Association (2012), and the Excellence in Legal Community Leadership Award from the Hazelden Foundation (2012). In 2017 he received the William M. Leech Jr. Public Service Award from the Fellows of the Tennessee Bar Association Young Lawyers Division.

Judge Childers is currently serving as president of the University of Memphis Alumni Association. He has been a faculty member at the National Judicial College at the University of Nevada-Reno, the Tennessee Judicial Conference Judicial Academy, and a lecturer at the Cecil C. Humphreys School of Law at the University of Memphis. He has also been a frequent lecturer and speaker at CLE seminars and before numerous schools, civic, church and business groups in Tennessee and throughout the nation.

COURTNEY WYLIE

Courtney recently joined the professional development team at Drinker Biddle & Reath LLP. In this position, she designs and implements programs for the firm's attorneys on leadership, professionalism, and lawyer well-being topics. Prior to joining DBR, Courtney Wylie worked at the University of Chicago Law School as the Associate Director of Student Affairs & Programs. In this position, she was primarily responsible for the Keystone Leadership and Professional Program and the Kapnick Leadership Development Initiative. Before that Courtney worked in both the private and public sector as an attorney.

Courtney is the current appointed ABA Young Lawyer's Division Liaison to the Commission on Lawyer Assistance Programs (COLAP) and an appointed Advisory Committee Member of (COLAP). Though an initial skeptic regarding meditation and exercise, she now makes an effort to make it part of her daily practice to remain healthy, positive, focused, and centered. She similarly regularly lectures on the importance of self-care for attorneys and law students.

PEER REVIEWERS

Carol M. Adinamis, Adinamis & Saunders, Past President Indiana State Bar Association, Indianapolis, IN

Harry Ballan, Dean and Professor of Law, Touro Law Center, Central Islip, NY

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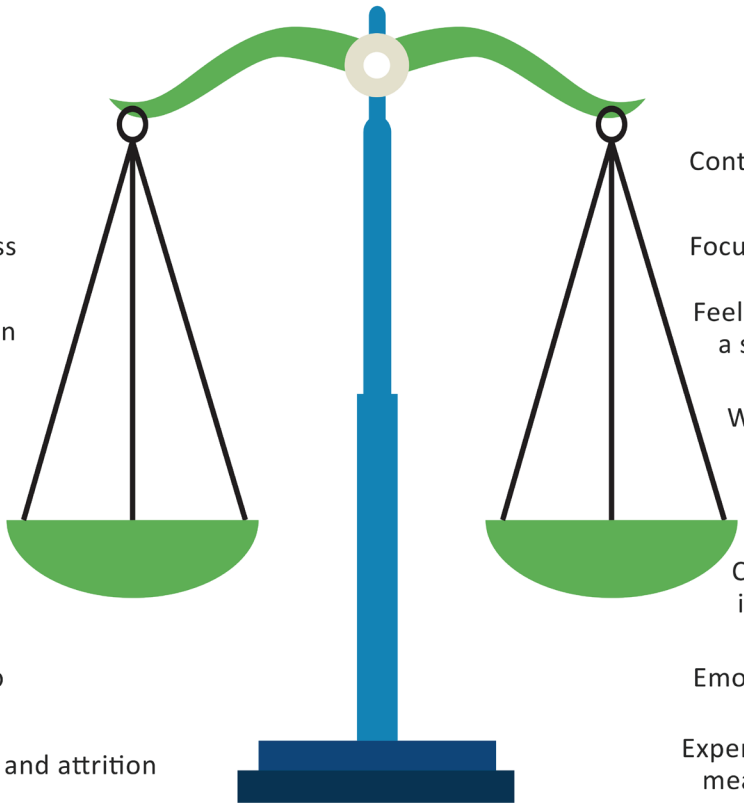
Elizabeth Winiarski, Associate, Jones Day, Chicago, IL

OUR CHALLENGES

- 21-36% problem drinkers
- 28% depression
- 19% anxiety
- 23% elevated stress
- 25% work addiction
- High suicide rate
- Sleep deprivation
- Work-life conflict
- Avoid seeking help
- Job dissatisfaction and attrition



OUR POTENTIAL

- Physically healthy
- Mentally thriving
- Contributing to society
- Focusing on client care
- Feeling connected and a sense of belonging
- Willing to seek help
- Engaged at work
- Continually seeking intellectual growth
- Emotionally intelligent
- Experiencing a sense of meaning and purpose

THE PATH TO LAWYER WELL-BEING:

Practical Recommendations For Positive Change