



Taking Care of Business AND Yourself

Why Well-Being is Important to the Practice of Law



Presenters

Kelly Micka, Director, Alvarez & Marsal, PSS

Pamela Moore, MA, LPCC, Director, NMJLAP, State Bar of New Mexico



Agenda



Rules of Professional Conduct



Why IV-D attorneys are vulnerable



Attorneys for Attorneys



Panel discussion



Resources



ABA Model Rules of Professional Conduct

- Rule 1.1 Competence. A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

- California's Rule of Professional Conduct 3-110, defines "competence" to include the "mental, emotional, and physical ability reasonably necessary" for the representation.

- Rule 1.3 Diligence. A lawyer shall act with reasonable diligence and promptness in representing a client.

Comment (5): To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action.



ABA Model Rules of Professional Conduct

Rule 5.1 – Responsibilities of a Partner or Supervisory Lawyer

- a) A ...lawyer who ... possesses... managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.
- (b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.
- (c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:
 - (1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or
 - (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.



ABA Model Rules of Professional Conduct

Rule 8.4 – Misconduct

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (d) engage in conduct that is prejudicial to the administration of justice;



What is Well-Being

Lawyer well-being is part of a lawyer's ethical duty of competence. It is the ability to make healthy, positive work/life choices to assure:

- Quality of life within families and communities
- Ability to make responsible decisions for their clients

Preamble to the ABA's Model Rules of Professional Conduct 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.

Lawyers coping in unhealthy ways can lead to ongoing, negative consequences.



“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.”

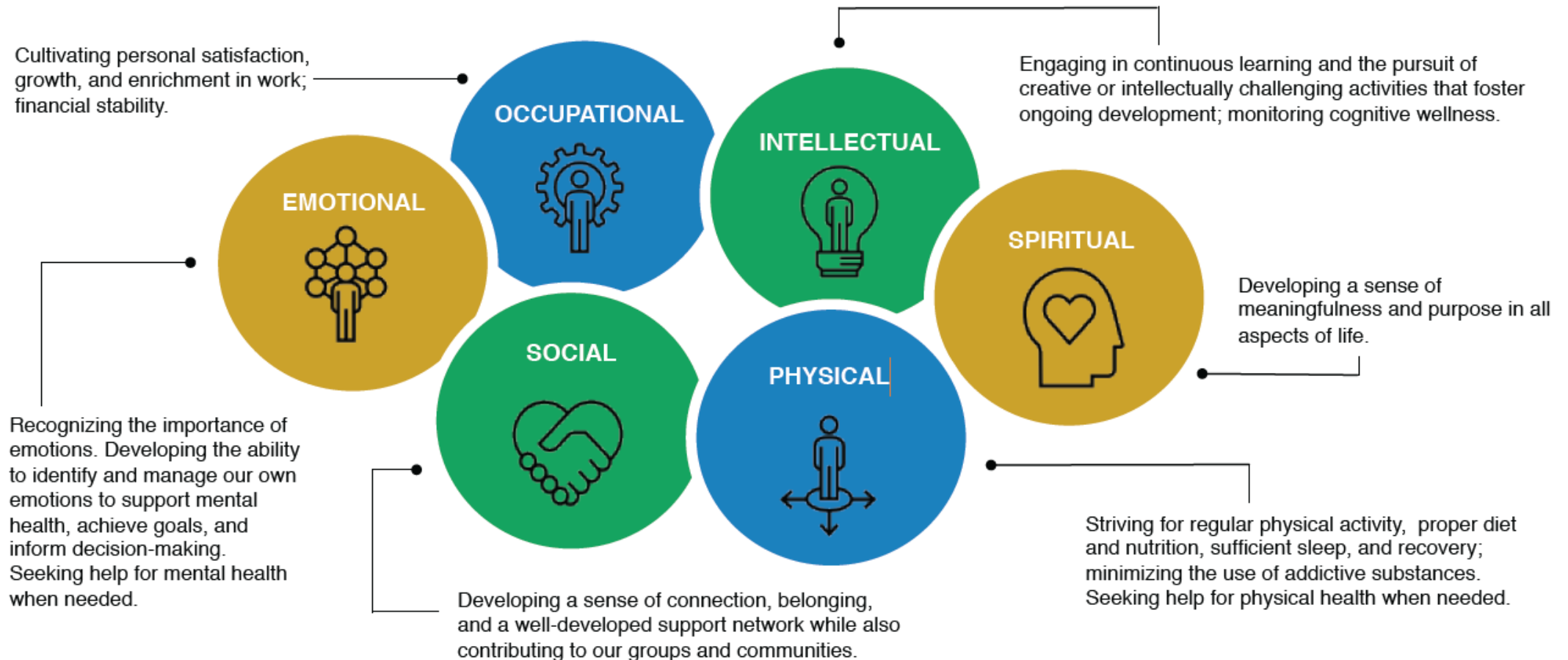
David R Brink
Past President
American Bar Association*



2017 ABA Report, The Path to Lawyer Well-Being: Practical Recommendations for Positive Change

Defining Lawyer Well-Being

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





2017 ABA Report, The Path to Lawyer Well-Being: Practical Recommendations for Positive Change

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).

The report contains a series of recommendations based on five themes:

- 1 – ID stakeholders and the role played to reduce 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 – education lawyers, judges and law students on lawyer well-being issues
- 5 – taking small, incremental steps to change how law is practiced and regulated to instill greater well-being



Implications for IV-D Attorneys

Fixers

Want to help

High volume

No real connection
with families –
limited time in
court

See them at their
worst

Dealing with
emotions, money
and *children*

What A Healthy Lawyer Looks Like

Pamela Moore, Director
Professional Programs

Learning Objectives

- Know the hazards of my profession
- Identify warning signs in myself or a colleague
- Understand and practice self care
- Know available resources and services

Calm and Center



Why are we talking about well-being?

'There comes a point where we need to stop just pulling people out of the river. We need to go upstream and find out why they're falling in. ''

Bishop Desmond Tutu

Are you aware of
the potential
hazards of your
profession?



Lawyers Path to Well-Being Study

- **Alcohol - 36%**
 - 21-36% qualify as problem drinkers. Higher for men; under 30; private practice and solo practitioners.
- **Depression - 28%**
 - 28% report mild or higher depression symptoms. Highest for men and solo practitioners.
- **Stress - 23%**
 - 23% report mild or higher stress symptoms. Highest for women and solo practitioners.
- **Anxiety - 19%**
 - 19% report mild or higher anxiety symptoms. Highest for women and solo practitioners.
- **Suicide - Top Ten**
 - Ranked #8 in a study of suicide by occupation. Rate is 1.33 times the national norm.

Compassion Fatigue Defined

- The cumulative physical, emotional and psychological effects of continual exposure to traumatic or distressing stories or events
- When working in a helping capacity
- Where demands outweigh resources
- Compassion fatigue seems directly related to the amount of emotion shared.

Robynn Moraites, North Carolina Lawyers' Assistance Program
Becoming Compassionately Numb, NY Times Sunday Review, 2011

Common Signs of Compassion Fatigue

- Intrusive thoughts
- Anger/anxiety/fear
- Sleep disturbance
- Fatigue
- Loss of appetite
- Loss of empathy
- Loss of faith in humanity
- Sense of isolation from others
- Physical complaints

Source: Vrkelvski et al (2008),
Levin et al. (2003),
Jaffe et al (2006)

Some Common Signs of Burnout

- Exhaustion
- Fatigue
- Detachment
- Boredom
- Irritability
- Paranoia
- Depersonalization
- Annoyance
- Reduced sense of accomplishment
- Drained
- Loss of hope



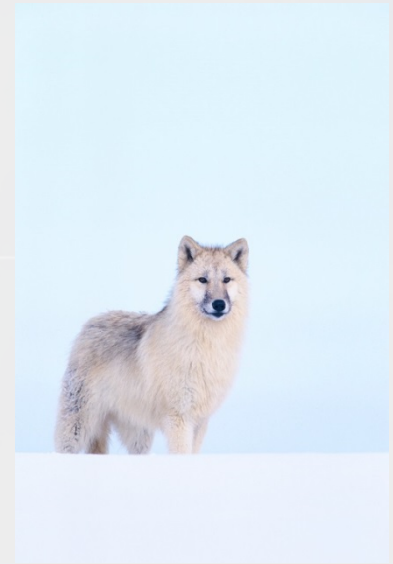
How Attorneys are at Risk

- Stress from the weight of cases
- Contingencies
- Steady thread of highly emotional cases
- Difficult material being reviewed
- Carry heavy secrets
- Intensity
- Safety concerns



Impact

- Powerlessness
- Indecisive/anxious
- Alienate from others
- Shaken assumptions about basic beliefs in our world for safety, security, trust, justice
- The world is not a good place, there is no meaning: pessimism, depression, irritability, sickness
- Heightened awareness of vulnerability and the fragility of life-increased anxiety/anger/....



Risk and Protective Factors

- Risk:
 - High concentration traumatic cases
 - High caseload
 - Working alone
- Protective:
 - Diversity of cases
 - Working on a team
 - Supervision/support

Compassion Satisfaction

- When you feel good about what you do
- Are able to give or extend care and kindness
- Are able to give or extend compassion
- Are patient
- Sense of meaning, achievement, purpose



Prevention Strategies

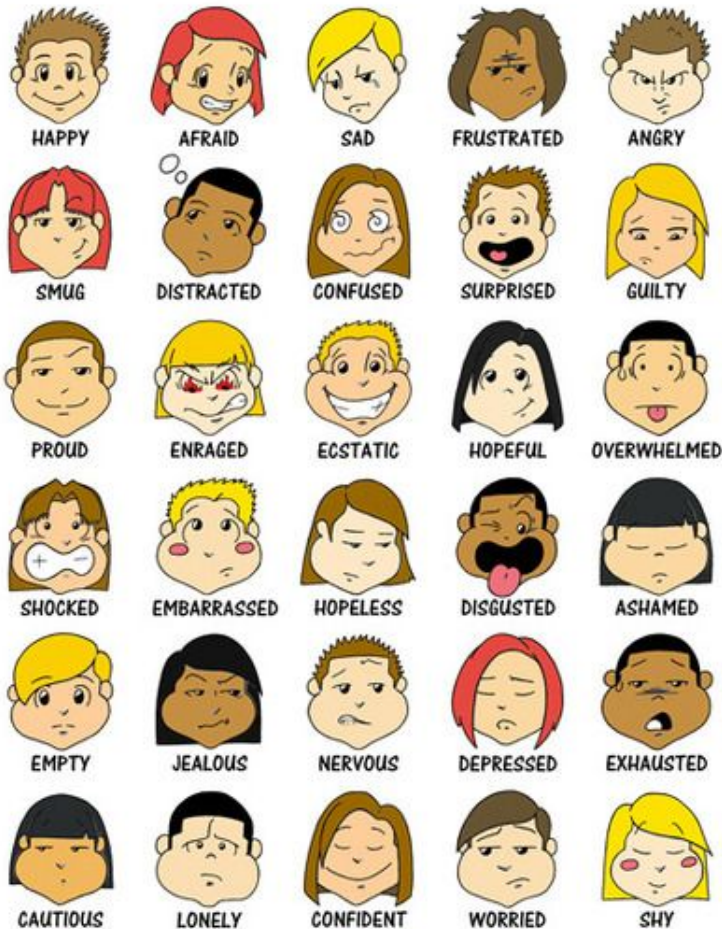
- Do not dwell on decisions once made-move on to the next case
- Enjoy the job you do
- Do your best at work
- Maintain balance
- Outside friendships
- Make sure to have a “date night” with a spouse/partner
- Laugh often, find joy
- Develop collegial relationships in the work setting
- Get involved in “happy groups” – not totally court related

Research Based Suggestions for improving mood, increasing life satisfaction and mitigating stress

- Work on self awareness/care daily
- Recognize the risks/triggers for yourself
- Take an inventory of how balanced your life is
- **Be intentional** about balance
- **Be intentional** about protecting yourself
- Evaluate your tension reducing behaviors
- Find a way to debrief distressing material

Start with the Basics

How Are You Feeling Today?



1. What is my emotion right now?
2. How am I feeling in my body?
3. Where is it coming from?
4. When did it start?
5. What do I need to do (to take care of myself)?

Intentional Social Connection

Connect

"One of the most beautiful qualities of true friendship is to understand and to be understood."

Lucius Annaeus Seneca



Who is that one person that you can be completely honest with?

Intentional Positive Actions

Sleep

How many hours do you get a night?



Exercise

How many days/wk do you exercise and how many minutes/session?



Intentional Positive Actions

Diet



Intentional Positive Actions

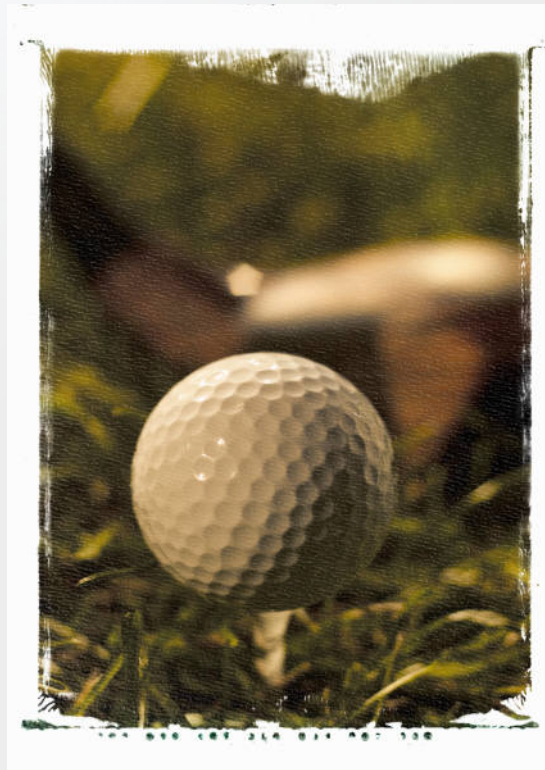
Vacation



When is the next time you are taking time away from work?

Intentional Positive Actions

Hobbies



What creative hobby do you engage in regularly that is not work related?

Strike A Balance



When will you stop 'lawyering' for the day?

- Lock the office door?
- Turn into the driveway?
- Take off the tie/heels?
- Turn off the cell phone?
- Hug your loved ones?

- Not at all?

Find perspective

Recognize

- What you can control

- What you can't control

- A job well done

Use of humor goes a long way. LAUGH OFTEN!

Notice, Observe, Pay Attention

- Moodiness, agitation, angry, defensive
- Missing deadlines
- Isolating or withdrawing
- Forgetting court appearances, appointments
- Missing work, coming in late
- Drinking in excess, taking other drugs
- Recently gone through a life altering event
- “Borrowing” from trust funds
- Not their normal self

Community Effort

We Need To Do Better!

NOT THIS!!



We Need To Be Better!

Appreciate those who
don't give up on you.



Resources – Check them out!

- Greater Good Science Center
 - <http://greatergood.berkeley.edu/>
- Happify
 - <http://www.happify.com/> (app as well)
- UCLA Mindfulness Awareness Research Center
 - <https://marc.ucla.edu>
 - Downloadable from Itunes
- Buddhify (app only)
- Headspace
 - <https://www.headspace.com> (app as well)
- Insight Timer App – meditations, sleep music, talks, workshops, online live yoga classes, etc.

Do you know what's available to you?

- NMJLAP - New Mexico Judges and Lawyers Assistance Program (state), www.sbnm.org/jlap
- EAP - Employee Assistance Program (state), www.solutionsbiz.com
- CoLAP - ABA Commission on LAP (national)
- IWIL – Institute for Well-Being In Law (national), www.lawyerwellbeing.net
- Well-Being Committee (state), www.sbnm.org
- Judicial Wellness Program (state), www.sbnm.org/nmjwp

Resources

- NMJLAP
 - www.sbnm.org/jlap
 - (505) 228-1948, mobile
 - (505) 797-6003, office
 - pmoore@sbnm.org, teakins@sbnm.org
 - **CONFIDENTIAL** and **anonymous**
- EAP – The Solutions Group
 - (505) 254-3555, www.solutionsbiz.com
 - 4 FREE counseling sessions/person/issue/year
 - Identify with NMJLAP
 - **CONFIDENTIAL**

About NMJLAP...

- **CONFIDENTIAL**
- Anonymous calls are welcome
- Do not get people in trouble
- Does not go on your “record”
- We help, support, provide resources.



Ask For Help

***Getting help won't
sabotage your
career, but not
getting help can!***



More Resources

- Lawyer Assistance Reports and Resources:
https://www.americanbar.org/groups/lawyer_assistance/
- Lawyers Path To Well-Being Report:
<https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf>
- Lawyer Well-Being Template for Legal Employers:
https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/well-being-template-for-legal-employers-final-3-19.pdf
- Profession Wide Anti-Stigma Campaign:
https://www.americanbar.org/groups/lawyer_assistance/profession_wide_anti_stigma_campaign/
- Well-Being Pledge for Legal Employers:
https://www.americanbar.org/groups/lawyer_assistance/working-group_to_advance_well-being_in_legal_profession/
- Well-Being Toolkit for Lawyers and Legal Employers:
https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_well-being_toolkit_for_lawyers_legal_employers.pdf

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