UT LAW CLE THE UNIVERSITY OF TEXAS SCHOOL OF LAW

PRESENTED AT

31st Annual Health Law Conference

March 28-29, 2019
Houston, Texas

Wellness and Well-Being: Ethics and Professionalism Implications

Andrew J. Demetriou

Author Contact Information:
Andrew J. Demetriou
Lamb & Kawakami, LLP
Berkeley Research Group, LLC
Los Angeles, California

ademetriou@lkfirm.com
(213) 630-5585
ademetriou@thinkbrg.com
(213) 261-7703

Wellness and Well Being: Ethics and Professionalism Implications

By
Andrew J. Demetriou
Lamb & Kawakami, LLP
Berkeley Research Group, LLC
Los Angeles, California[1]

I. Recognition of Mental Health Issues in the Profession.

In the past few years considerable public attention has been focused on the prevalence and aspects of mental health issues affecting lawyers. While recognition of substance abuse has been fairly widespread, and indeed a mandatory topic for mandatory continuing legal education for California lawyers for at least two decades, what has changed is a focus on a range of pathologies, including anxiety, depression, suicidal tendencies, "imposter syndrome" and isolation, all of which can contribute to impairment affecting the ability to practice law. California has recently renamed its required educational component as "competence" rather than recognition and awareness of substance abuse.[2]

A. Aspects of Mental Health Challenges for Lawyers.

The practice of law has long been recognized as a stressful occupation, characterized by long hours, repeated resolution of complex and sometimes emotionally charged problems for clients and tight time frames to complete assignments. These realities require a continual state of high alertness, unrelieved by breaks or downtime, which in turn cause stress related conditions, including frustration and burnout.[3] The successful practice of law involves anticipation of prospective problems in order to assure that clients' interests are protected, and this sort of pessimistic thinking is highly correlated with depression. The National Task Force on Lawyer Well-Being concluded that too many lawyers experience chronic stress and high levels of depression and substance abuse and that research indicates that the "current state of lawyers' health cannot support a profession dedicated to client service and dependent on public trust.[4]

An extensive study, involving 12,825 practicing lawyers, found rates of behavioral health problems significantly higher than those in populations of other highly educated participants in the workforce—including 28% reporting depression, 19% reporting

---

[1] The views expressed are my opinions and do not represent the positions, opinions or views of either Lamb & Kawakami, LLP or Berkeley Research Group, LLC.
[2] http://www.calbar.ca.gov/Attorneys/MCLE-CLE/Requirements.
[3] Leslie A. Gordon, *How Lawyers Can Avoid Burnout and Debilitating Anxiety*, ABA J. (July 2015), http;//www.abajournal.com/magazine/articlehow_lawyers_can_avoid_burnout_and_debilitating_anxiety.
[4] NATIONAL TASK FORCE ON LAWYER WELL-BEING: THE PATH TO LAWYER WELL BEING: PRACTICAL RECOMMENDATIONS FOR POSITIVE CHANGE 1 (2017) [hereafter "National Task Force Report"].

anxiety, 23% reporting stress and 20.6% reporting problematic drinking.[5] Perhaps more distressing is the fact that the surveyors were unable to draw conclusions about the prevalence of illicit drug use among practicing lawyers because 75% of the survey respondents declined to answer questions on this subject, perhaps fearing consequences for licensure.[6] A 2016 survey of 3,300 law students at 15 schools found similar results, including high rates of drunkenness, binge drinking (an incident involving a median of seven drinks for men and five for women) and illicit drug use, including abuse of prescription medications such as Adderall.[7] The survey also indicated that a low percentage of those individuals who recognized a need for assistance actually sought it out, with male students in particular more inclined to keep problems to themselves.[8]

The issue of lawyer suicide gained national attention from the gripping account by a widow of her husband's suicide on the eve of their 10th wedding anniversary, caused in her view by the life stresses imposed by "Big Law."[9] While the incidence of suicide is quite low in nominal terms—less than 1% of attorneys in the Krill Study reported suicide attempts—2.9% reported self-injurious behaviors and 11.5% reported having suicidal thoughts at some point in their careers.[10] Nonetheless accounts of suicide among apparently successful lawyers point to a dangerous trend and lawyers are encouraged to recognize warning signs in others that may suggest suicidal tendencies.[11]

Recent news accounts have also highlighted pathologies such as "imposter syndrome" or maladaptive perfectionism, in which a lawyer is hypercritical of his or her performance, leading to feelings of inadequacy and failure, in spite of apparent professional success.[12] A related issue is loneliness, which is related to depression and compounded by

---

[5] Patrick Krill, Ryan Johnson & Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICT. MED. 46 (2016) [hereafter "Krill Study"].

[6] *Id.* At 49; Eileen Zimmerman, *The Lawyer, The Addict: A high-powered Silicon Valley attorney dies. His ex-wife investigates, and finds a web of drug abuse in his profession,* NY TIMES (July 15, 2017), https;//nytimes.com/2017/07/15/business/lawyers-addiction-mental-health.html.

[7] Jerome M. Organ, David B. Jaffe & Katherine M. Bender, *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Abuse and Mental Health Concerns,* 66 J. LEGAL EDUC. 116 (2016).

[8] *Id.* at 140.

[9] Joanna Litt, '*Big Law Killed My Husband': An Open Letter from a Sidley Partner's Widow*, AM. LAWYER (November 12, 2018), https://www.law.com/2018/big-law-killed-my-husband-an-open-letter-from-a-sidley-partners-widow/

[10] Krill Study, at 50.

[11] Meghan Tribe, *As Attorney Suicides Mount, a Survivor Speaks Out*, AM. LAWYER (November 12,, 2018), https://law.com/2018/as-attorney-suicides-mount-a-survivor-speaks-out/. Jeena Cho, *Attorney Suicide: What Every Lawyer Needs to Know*, ABA J.. (January-February 2019).

[12] Neha Sampat, *A call to deal with imposter syndrome, a hidden source of attorney distress*, ABA J. (November 20, 2018)

UT LAW CLE THE UNIVERSITY OF TEXAS TEXASLAW

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the UT Law CLE eLibrary (utcle.org/elibrary)

Title search: Wellness and Well-Being: Ethical and Professionalism Implications

Also available as part of the eCourse
Wellness and Well-Being: Ethical and Professionalism Implications

First appeared as part of the conference materials for the
31st Annual Health Law Conference session
"Wellness and Well-Being: Ethical and Professionalism Implications"