

# WELLNESS AND THE LEGAL PROFESSION: IMPLICATIONS OF THE 2016 LANDMARK STUDY ON THE PREVALENCE OF SUBSTANCE USE AND MENTAL HEALTH CONCERNS AMONG U.S. ATTORNEYS

*by Linda Albert and Patrick R. Krill*

The U.S. legal profession is vital to our society, economy, and government—and the behavioral health of attorneys is therefore of great importance. It has long been suspected that attorneys experience considerable levels of substance use disorders and mental health concerns, yet empirical and statistical information has been lacking—information that is critical in order to provide attorneys with the resources and support they need so that they can effectively serve our society. Previously available data, which indicated significantly higher levels of alcohol abuse and depression among attorneys than in the general population, were over 25 years old and drawn from a much smaller sample in only one state.<sup>1</sup> The need for a study collecting current data on a national level in order to define the scope of the problem was imperative.

This article summarizes the results of such a study, conducted collaboratively in 2014–2015 by the Hazelden Betty Ford Foundation<sup>2</sup> and the American Bar Association’s Commission on Lawyer Assistance Programs (CoLAP).<sup>3</sup> The results confirm a substantial level of behavioral health problems among attorneys that are a cause for great concern—in particular, very high rates of alcohol abuse and of depression, anxiety, and stress. Most notably, the results indicate a reversal of previous data that had indicated a positive correlation between levels

of alcohol abuse and number of years in the profession—that is, the latest data show that younger lawyers newer to the profession are now the ones experiencing the highest rates of alcohol abuse. Additionally, the study sought to gain information about the help-seeking behaviors of attorneys and barriers to treatment. It is hoped that the data brought to light by this groundbreaking study will inform all members of the legal profession and inspire action to address what is clearly an unsustainable situation in the legal profession.

## HISTORY AND SCOPE OF THE PROJECT

In the late fall of 2013, Patrick R. Krill, the director of the Legal Professionals Program at the Hazelden Betty Ford Foundation, approached CoLAP about the potential for this innovative collaboration. The intent was to join resources and conduct the first-ever national study of attorney behavioral health. It wasn’t long before CoLAP approved a motion to pursue this collaboration, and Linda Albert, a CoLAP commissioner, volunteered to be the representative from CoLAP to work with Krill. The ABA soon followed CoLAP’s lead by officially approving the collaboration between the two entities.

In 2014 the collaborative team designed the study to include instruments to measure problematic substance use, mental health issues, and barriers to seeking help. Data collection began in 19 states.

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By February 2015, data collection had concluded and the results were being analyzed.<sup>4</sup> The results were then summarized and reported in an article that was published in the February 2016 edition of the *Journal of Addiction Medicine*.<sup>5</sup>

The collaborative nature of the effort is important, as it led to the completion of a study that neither entity could have easily, if at all, accomplished in such a comprehensive way on its own. Both the Hazelden Betty Ford Foundation and CoLAP play important roles in addressing the behavioral health needs of the legal profession and are situated as national thought leaders and resources in that regard. Through the pooling of complementary talents, resources, and relationships, the project had a broader scope and greater success than it would have had it been undertaken by either entity alone. This project demonstrates how stakeholder collaboration can be significant in tackling the behavioral health challenges of the legal profession. The hope of the project coordinators is that this model will inspire additional partnerships within the profession in order to effect much-needed change.

## PARTICIPANTS IN THE STUDY

Nineteen states<sup>6</sup> representing all regions of the country were solicited and participated in the study, resulting in a total of 14,895 individuals completing the survey. The inclusion criteria for the final analysis required respondents to be currently licensed

and employed in a legal position, a criterion met by 12,825 respondents, thereby resulting in a sample of 12,825 participants.

The gender breakdown of respondents was males 53.4%, females 46.5%, and transgender .1%. Diversity of race was Caucasian/White 91.3%, Latino/Hispanic 2.6%, Black/African American 2.5%, Multiracial 1.5%, Asian 1.2%, Other .7%, and Native American .3%.

Age was measured in six categories, beginning with 30 years or younger and increasing in 10-year increments to 71 years or older, with the most commonly reported age group being 31 to 40 years old (25.2%). Length of career in the legal profession was measured in five categories, beginning with 10 years or fewer, and increasing in 10-year increments to 41 or more years, with the most commonly reported career length being 10 years or fewer (34.8%). Other professional data collected were work environment, firm position, and hours worked per week.

## SUBSTANCE USE FINDINGS

### Alcohol Use

The Alcohol Use Disorders Identification Test (AUDIT) was used to gather data on alcohol use. This 10-item instrument was developed by the World Health Organization and is widely used by health workers and alcohol researchers throughout the world due to its well-established validity and reliability.<sup>7</sup> It screens for hazardous and harmful alcohol use as well as possible alcohol dependence.

The AUDIT results showed that of the 88% of respondents who completed all 10 questions on the AUDIT, 21% of respondents scored at a level consistent with problematic drinking (i.e., demonstrating drinking patterns that are hazardous, harmful, and possibly indicative of alcohol dependence). Males had higher levels of problematic drinking (25%)

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Younger, less experienced lawyers working in lower positions had higher levels of problematic drinking.

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than females (16%). Younger participants had much higher levels of problematic drinking than older participants, as did those working in the field for a shorter duration, with 32% of those 30 or younger having levels of problematic drinking and 28% of those with 10 or fewer years in the field having levels of problematic drinking. Those working in a private firm or in bar administration and lawyer assistance programs had higher levels of problematic drinking, 23% and 24% respectively, than those in other work environments. Within firms, junior associates had higher levels of problematic drinking (31%) compared to senior associates (26%).

As the data show, a reverse relationship was found between age, years in the field, position within the firm, and problematic drinking. Younger, less experienced lawyers working in lower positions had higher levels of problematic drinking. This is an important finding that should be underscored, as previously available data demonstrated a positive association between the increased prevalence of problematic drinking and an increased amount of years spent in the profession.<sup>8</sup> The study found a direct reversal of that association.

Another interesting finding related to the comparison between the amount of problematic drinking among lawyers and among physicians. This comparison was made using the AUDIT-C, a subscale within the AUDIT that is often used as an abbreviated version of the instrument. The AUDIT-C is composed of the first three questions of the AUDIT and focuses exclusively on the quantity and frequency of alcohol consumption. Based on that measure, a staggering 36% of the sample

screened positive for problematic drinking, whereas 15% of physicians screened positive in a 2012 study.<sup>9</sup>

### **Drug Abuse**

Drug abuse was measured using the Drug Abuse Screening Test-10 (DAST-10), based on the use of various classes of substances in the past 12 months. The DAST-10 is a 10-item instrument used in both clinical and research settings to screen and quantify consequences of drug use, and its reliability and validity have been demonstrated.<sup>10</sup>

A smaller percentage of respondents, only 27%, completed the DAST-10, compared with the response rate for the other screens used. Lower response rates on this instrument are difficult to interpret. It isn't known whether fewer participants were willing to complete the DAST due to fear of repercussions from disclosure of the use of illegal substances or whether the large number of participants who did not complete the DAST didn't do so because they in fact did not use drugs. However, considering that this test measures the nonmedical use of illegal substances or prescription drugs, the fact that 25% of respondents fell into the severe (1%), substantial (3%), and intermediate (21%) range of drug abuse warrants attention. Illegal use of drugs, at any level, places an attorney or judge at risk for legal problems along with regulation problems and potentially serious health problems.

### **Additional Self-Report Data Regarding Alcohol Use and Drug Abuse**

Participants were asked to self-report their concerns about their alcohol or substance use in a section separate from the instruments utilized to measure their use. For example, the following question was asked: "Have you ever thought your use of alcohol or other substances was causing problems in your life?" 23% reported that their alcohol or substance use had been a problem for them sometime during their lives; of

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**28%, 19%, and 23%** of respondents reported experiencing mild or higher levels of depression, anxiety, and stress, respectively.

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those who so reported, 28% reported problematic use prior to law school, 14% reported problematic use started during law school, 44% reported problematic use started within the first 15 years following law school, and 15% reported problematic use started more than 15 years after law school. The self-report data was a close match to the results from instruments utilized, demonstrating higher levels of problematic use with the younger, less experienced practitioners. Similarly, a recent study on law student well-being showed that 22% reported binge drinking two or more times in the prior two weeks, with male students engaging more in binge drinking than female students.<sup>11</sup> Problematic drinking appears to continue from law school into the practice of law and then escalate within the first 15 years of practice.

## MENTAL HEALTH FINDINGS

Data pertaining to mental health were gathered by using the Depression Anxiety Stress Scales-21 (DASS-21). The DASS-21 is an instrument composed of three 7-item subscales that assess symptoms of depression, anxiety, and stress, and whose validity and reliability have been established by several studies.<sup>12</sup> Of the 90% of participants who completed all questions on the DASS-21, 28%, 19%, and 23% of respondents reported experiencing mild or higher levels of depression, anxiety, and stress, respectively. When asked to self-report those same issues separate from the instruments utilized to measure their presence, 61% reported that they had experienced anxiety at some time during their legal career, followed by 46% reporting concerns with depression;

11.5% reported suicidal thoughts during their career, with 2.9% reporting self-injurious behaviors and .7% reporting at least one suicide attempt.

The mental health scores followed a similar pattern and trajectory as the alcohol use scores: younger participants (those in the 31–40 age group) with fewer years of practice (10 years or fewer in the field) had higher scores, indicating higher levels of mental health concerns. There was also a positive association between higher scores on the DASS-21 mental health instrument and higher scores on the AUDIT alcohol use instrument. This showed that those who were struggling with problematic drinking were also struggling with depression, anxiety, and/or stress.

## HELP-SEEKING BEHAVIORS

Seeking help was thwarted by the following concerns, listed in descending order of prevalence: not wanting others to find out, confidentiality, concerns about impact on license, not knowing who to ask, and not having insurance or the money to pay for help. Although the rate of problematic drinking was 21%, only 7% of respondents had sought help of any type for alcohol or substance use, including multiple treatment formats, self-help groups, and the services of a lawyer assistance program. By contrast, 37% of respondents had sought help for mental health concerns.

From looking at this data, one could speculate that there may be less stigma or fewer barriers in seeking help for mental health concerns than for substance use problems. For whatever reason, over five times the number of participants had sought help for mental health concerns than for substance use problems. This limited help-seeking behavior was also found in law students, where only 4% of respondents answered affirmatively that they had sought help from a health professional for alcohol

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or drug problems, whereas approximately 20% had sought help from a health professional for a mental health concern.<sup>13</sup>

## WHAT HAVE WE LEARNED?

- Attorneys in the United States have significantly higher rates of problematic drinking and mental health problems than the general population. According to the Substance Abuse and Mental Health Services Administration, 6.6% of adult Americans experienced a major depressive episode in 2014 and 6.4% had an alcohol use disorder,<sup>14</sup> whereas 28% of attorneys reported mild or higher levels of depression and 21% scored at a level consistent with problematic drinking.
- Younger, less experienced lawyers working in small firms have higher levels of distress symptoms than their older, more experienced peers.
- Lawyers don't seek help for their behavioral health problems because they fear someone will find out and it will discredit them and possibly affect their license.
- Law student research seems to demonstrate similar themes, with law students experiencing higher levels of distress symptoms than the general population and limited help-seeking behaviors.<sup>15</sup>

This research is a call for action. The numbers we uncovered are incompatible with a sustainable professional culture. Too many individuals are struggling and suffering, and the impact on the public is too great for the profession to ignore.

## WHAT ARE THE IMPLICATIONS FOR THE LEGAL COMMUNITY?

The results are compelling. The implications for the legal community are multifaceted and far-reaching. This study, along with the study on law student well-being,<sup>16</sup> is a call for action—a call for *every* part of the legal community to contribute toward addressing this crisis. From law schools, to bar admission agencies, bar associations, legal regulators, lawyer assistance programs, and private firms and beyond, it is time for all stakeholders to get actively involved. It is the duty of each entity to evaluate what it can do within its respective role—to coordinate with others to promote early referral to behavioral health services, encourage help-seeking behavior, support and establish policies and procedures that demote the use of alcohol within work settings and at work events, and promote wellness and balance.

### A Focus on Wellness Is Needed

Many lawyers find themselves working long hours; getting minimal sleep; not eating well; and distancing themselves from family, friends, and colleagues as they attempt to keep up with the demands of the profession. These patterns are reinforced by organizations that impose heavy workloads on their employees without consideration for the impact upon those employees. Young lawyers are having difficulties finding jobs and paying off student loans and often struggle to maintain adequate social support, while also postponing life events such as marriage and starting a family. It is possible, if not probable, that these circumstances contribute to the

higher level of distress symptoms we see among lawyers during their first 15 years of practice.

Wellness concepts include teaching law students and legal professionals about stress management as well as building hardiness and resiliency skills; the importance of physical exercise, good sleep, and quality nutrition; minimizing alcohol use; and incorporating interpersonal connectedness into their lives. Wellness is connected to life satisfaction and happiness. A 2014 study on lawyers and happiness found that those who engage in work that is interesting, engaging, and personally meaningful are happier than those who seek good grades, prestige, and affluence.<sup>17</sup> The study's authors also state that "the tendency of law students and young lawyers to place prestige or financial concerns before their desires to 'make a difference' or serve the good of others will undermine their ongoing happiness in life"; accordingly, they state that "one powerful approach to raise the level of professional behavior among lawyers is to teach law students and lawyers to maximize their own happiness."<sup>18</sup> We have to ask what lawyers are being taught about maintaining wellness during law school and throughout their careers. What messages are they receiving about seeking help if needed; maintaining quality connections with family, friends, and colleagues; or finding work that is personally meaningful and interesting?

### Key Recommendations

It is possible that teaching law students and lawyers to maximize their own happiness while improving their health and well-being can be accomplished at multiple levels. Bar associations and lawyer assistance programs have developed many programs and resources toward that end. If not already in place, the following are recommended:

1. Law schools should require students to take classes on the importance of maintaining personal well-being, happiness, and life satisfaction

to ensure fitness to practice, similar to classes on other areas of professional responsibility.

2. Legal employers should offer comprehensive mentoring programs for new lawyers. It is imperative that these programs do not center on happy hours or other alcohol-related events to generate participation or facilitate networking.
3. Bar examiners should make automatic referrals to local lawyer assistance programs when they receive applications from at-risk individuals or have concerns about applicants.
4. All states should have conditional admission, which allows lawyers who are currently fit to practice (but otherwise have *conduct* in their past that might impair their ability to practice law if it should recur) to be admitted to practice while being monitored by a lawyer assistance program.<sup>19</sup>
5. All regulatory agencies should evaluate the rules in their jurisdiction to ensure that they have the means to refer to the lawyer assistance program when concerned about a lawyer prior to, during, or after discipline.
6. The continuing legal education requirements of each jurisdiction should mandate a certain number of hours each reporting period on prevention, detection, and treatment of substance abuse and mental illness.
7. State and local bar associations should form partnerships with local health organizations to learn about the best practices for increasing the health and well-being of their members.
8. Lawyer assistance programs must be funded at a level that allows them to increase their services to provide more outreach, screenings, counseling, peer assistance, monitoring, and preventive education.

9. Profession-wide health and wellness summits should be organized to develop and implement comprehensive strategies and plans for improving the health and well-being of the legal profession. These summits should include key stakeholders from all sectors of the profession.

## CONCLUSIONS

The U.S. legal profession—a distinguished, bedrock component of our society, economy, and government—is under direct threat from unacceptably high rates of problematic substance use and mental health concerns. As this study demonstrates, the problems are pervasive, and no sector or pocket of the profession is immune to their grip. These problems often have their beginnings in law school and then continue to grow and worsen with admission to the bar and the inculcation of cultural norms within the profession.

For a systemic problem, a systemic response is indicated. All members of the profession have a part to play in redressing the prevailing attitudes and behaviors that simultaneously encourage unhealthy lifestyles while discouraging help-seeking. Greater investment of resources and attention by law firms, law schools, and in-house legal departments—the “private sector” of the profession—will be necessary to effect a long-overdue sea change in regard to behavioral health in the legal profession. With the publication of this new research, the authors and their sponsoring entities hope to reinvigorate the discussion about finding—and aggressively pursuing—new solutions to a lingering and debilitating problem. 

## NOTES

1. G.A. Benjamin, E. Darling & B. Sales, *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse among United States Lawyers*, 13 INT’L J.L. & PSYCHIATRY 233–246 (1990).

2. The Hazelden Betty Ford Foundation is the nation’s largest nonprofit substance abuse treatment provider and includes the Betty Ford Center, founded in 1982. Its mission is to assist individuals, families, and communities affected by addiction to alcohol and other drugs by offering prevention, treatment, and recovery solutions for youth and adults.
3. The mandate of the ABA Commission on Lawyer Assistance Programs is “to educate the legal profession concerning alcoholism, chemical dependencies, stress, depression and other emotional health issues, and assist and support all bar associations and lawyer assistance programs in developing and maintaining methods of providing effective solutions for recovery.” It provides on its website a list of lawyer assistance programs by jurisdiction. See [http://www.americanbar.org/groups/lawyer\\_assistance.html](http://www.americanbar.org/groups/lawyer_assistance.html) (last visited Feb. 5, 2016).
4. The results were analyzed by the Butler Center for Research, a clinical and institutional research center housed within the Hazelden Betty Ford Foundation.
5. P.R. Krill, R. Johnson & L. Albert, *The Prevalence of Substance Use and Other Mental Health Concerns among American Attorneys*, J. ADDICTION MED. (Jan./Feb. 2016).
6. Participating states included Alabama, California, Colorado, Connecticut, Georgia, Idaho, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, New Hampshire, New Mexico, New York, Oregon, South Carolina, Washington, West Virginia, and Wisconsin.
7. C. Meneses-Gaya, A.W. Zuardi, S.R. Loureiro & A. Crippa, *Alcohol Use Disorders Identification Test (AUDIT): An Updated Systematic Review of Psychometric Properties*, 2 PSYCHOL. NEUROSCIENCE 83–97 (2009).
8. See Benjamin, et al., *supra* note 1.
9. M.R. Oreskovich, K.L. Kaups, C.M. Balch, et al., *Prevalence of Alcohol Use Disorders among American Surgeons*, 147(2) ARCH. SURG. 168–174 (2012).
10. E. Yudko, O. Lozhkina & A. Fouts, *A Comprehensive Review of the Psychometric Properties of the Drug Abuse Screening Test*, 32 J. SUBST. ABUSE TREAT. 189–198 (2007).
11. The study on law student well-being cites the definition of binge drinking as five or more drinks in a row for men and four or more drinks in a row for women. J.M. Organ, D.B. Jaffe & K.M. Bender, *Helping Law Students Get the Help They Need: An Analysis of Data Regarding Law Students’ Reluctance to Seek Help and Policy Recommendations for a Variety of Stakeholders*, 84(4) BAR EXAMINER 8–17 (Dec. 2015).
12. M. Anthony, P. Bieling, B. Cox, M. Enns & R. Swinson, *Psychometric Properties of the 42-Item and 21-Item Versions of the Depression Anxiety Stress Scales in Clinical Groups and a Community Sample*, 2 PSYCHOL. ASSESS. 176–181 (1998).
13. See Organ et al., *supra* note 11.
14. See Substance Abuse and Mental Health Services Administration, <http://www.samhsa.gov/atod/alcohol> (last visited Feb. 4, 2016).
15. See Organ et al., *supra* note 11.

16. *See id.*
17. L.S. Krieger & K.M. Sheldon, *What Makes Lawyers Happy? A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV. 554 (2015).
18. *See id.*
19. Twenty-six jurisdictions currently have a conditional admission rule. *See* NATIONAL CONFERENCE OF BAR EXAMINERS AND AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, COMPREHENSIVE GUIDE TO BAR ADMISSION REQUIREMENTS 2016 (National Conference of Bar Examiners and American Bar Association 2016), Chart 2, available at <http://www.ncbex.org/pubs/bar-admissions-guide/2016/index.html#p=16> (accessed Feb. 5, 2016).



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# LAWYER ASSISTANCE PROGRAMS: ADVOCATING FOR A SYSTEMS APPROACH TO HEALTH AND WELLNESS FOR LAW STUDENTS AND LEGAL PROFESSIONALS

*by Linda Albert*

**D**on't get help, because someone will find out and it will have a negative impact." This message is one that Lawyer Assistance Programs (LAPs), law schools, bar admission agencies and bar examiners, lawyer regulation agencies, courts, and all parts of the legal profession need to join forces to alter. Early identification of mental health challenges or substance abuse problems, early response, and timely treatment universally produce better outcomes. Until recently there has been limited and dated research on the rates of substance abuse and mental health problems within the legal profession. Previous research cites substance abuse prevalence at twice that of the general population and prevalence of depression at two to three times that of the general population.<sup>1</sup> Current research reveals even higher percentages of substance abuse and mental health concerns.<sup>2</sup> Encouraging individuals at all stages of their legal education and professional lives to keep a focus on health and wellness is imperative; equally important is communicating that experiencing a problem is indicative of being human and therefore worthy of addressing in a proactive manner. An LAP is an excellent resource for learning how to maintain health and wellness and how to address and remediate a problem.

## THE ORIGINS OF LAWYER ASSISTANCE PROGRAMS

The first LAPs were established in the mid-1980s. These early programs focused on helping lawyers who were struggling with substance abuse and dependence, primarily alcoholism. Groups of lawyers, many of whom were in recovery themselves, volunteered to assist their colleagues in establishing recovery and stabilization. The dedication of these volunteers was an invaluable resource for lawyers and their families. Since the 1980s LAPs have grown in sophistication and size, and in their use of technology to offer services. They differ in size, organizational type, clients served, and services offered. Organizationally, LAPs are often housed within bar associations or are court-related agencies, but some are independent not-for-profit organizations. What they all share is a dedication to helping lawyers and the profession.

Initially, LAPs focused on practicing lawyers suffering from addiction. Later, many LAPs expanded to provide confidential assistance to all lawyers, judges, law students, and their families. LAPs now provide assistance not only with substance abuse problems but also with process addictions like gambling and sex addiction, mental health

challenges, physical illnesses such as cancer and diabetes, and other stressors that negatively impact the quality of life and the practice of law. LAPs are designed to help their clients build on their strengths, to provide support, and to direct legal professionals to services that promote physical, mental, and emotional health.

In 1988 the American Bar Association created the Commission on Impaired Attorneys, later renamed as the Commission on Lawyer Assistance Programs (CoLAP), whose charge is “to educate the legal profession concerning alcoholism, chemical dependencies, stress, depression and other emotional health issues, and assist and support all bar associations and lawyer assistance programs in developing and maintaining methods of providing effective solutions for recovery.”<sup>3</sup> Its goal is to ensure that every judge, lawyer, and law student has access to support and assistance so that they are able to recover, families are preserved, and clients and members of the public are protected.

## HOW DO LAWYER ASSISTANCE PROGRAMS HELP?

### **Screening, Evaluation, Counseling, and Referral**

LAPs get self-referrals, as well as referrals from law school faculty, mental health agencies, and families. In addition to helping those seeking support for themselves, an LAP offers a first stop for any person concerned about the health or well-being of a law student or legal professional. Many programs provide a place where a legal professional or the professional’s family can call or visit for a free, confidential consultation. Many LAPs provide 24-hour phone access to staff or credentialed hotline personnel. Programs are typically staffed by licensed professionals such as lawyers and clinicians who specialize in helping legal professionals determine the best steps to take to meet the challenges they

face. Following a screening or evaluation, a staff member will work with the client to assist him or her in connecting with appropriate resources. Some LAPs provide short-term counseling and ongoing support and guidance.

### **Peer Support**

LAPs often have trained volunteers who serve as peer assistants, monitors, or mentors. Volunteers are typically lawyers or judges who have experience or special training in mental health or substance abuse challenges. Peer support is often the core of an LAP and reflects the “lawyers helping lawyers” philosophy that started the programs. Many programs have expanded to include a judicial component with judges helping judges. LAP volunteers are in a unique position to offer support to their colleagues and law students because they know the challenges of negotiating law school, lawyering, and judging. Volunteers who are successfully managing their own recovery from substance abuse, mental illness, or physical illness offer particularly powerful support.

### **Working with Bar Admission Agencies and Providing Monitoring**

By making presentations at law schools, LAPs encourage law students to come to them with concerns regarding their admission documentation or character and fitness issues, or to find treatment resources or engage in monitoring. It is common for an LAP to work with its state’s bar admissions office on pre-admission evaluations, consultation, and post-admission monitoring. LAP staff members can work with bar admissions staff to provide professional assessment and interpretation of documentation that may flag an applicant for further evaluation, monitoring, or conditional admission (where available).

When applicants present a history of behavior that without consideration of mitigating factors may warrant denial, monitoring can be especially helpful. For example, if an applicant has a record of psychiatric hospitalizations along with associated obstruction of justice or disorderly conduct convictions, and had an undiagnosed and untreated mental illness but is now successfully being treated, monitoring can be beneficial to establish evidence of stability and removal of the impairment. Conditional admission with monitoring provides bar admission agencies with another alternative to the admission decision.

LAPs that have a monitoring component specialize in providing individualized programs that check for adherence to admission conditions according to the standards within the industry. Monitoring protects the public by enforcing accountability for conditionally admitted lawyers. Monitoring programs offer excellent support and guidance to newly admitted lawyers, who benefit from the mentoring aspects of these programs. Success stories highlight young lawyers who benefitted from being held accountable to their treatment programs, support programs, and conditions of admission, resulting in lawyers with an overall increased level of health and well-being. This increased level of health allows these lawyers to be more diligent and competent in their representation of their clients. A 2001 Oregon study demonstrated that malpractice and discipline complaint rates for impaired lawyers, before treatment, are nearly four times as high as those after treatment.<sup>4</sup> Nearly 75% of lawyers who sought help through the State Bar of California's LAP in 2008 were involved in disciplinary proceedings.<sup>5</sup> A healthy lawyer is a more competent lawyer.

LAPs offer education to bar admissions staff and their boards of bar examiners to help them further understand impairment due to mental illness or

substance abuse, treatment outcomes, and appropriate conditions and lengths of monitoring contracts. Not all jurisdictions offer conditional admission; currently just under half of jurisdictions have a conditional admission rule.<sup>6</sup> For those that do, some rules offer confidentiality of this status, while others render it public knowledge. In the quest to get law students to seek the help they may need, confidentiality of conditional admission is considered pertinent. Many factors play into the "don't get help" conviction that many law students adhere to; lack of confidentiality with conditional admission is cited as one factor. Proponents of making the status of conditional admission public, however, cite protection of the public and transparency of the system as important reasons.

Whether a jurisdiction offers conditional admission or not, the LAP and the bar admissions staff can work together. It is recommended that bar admission agencies provide an LAP brochure to all applicants simply for the purpose of outreach. LAPs are free, confidential programs that specialize in understanding the needs of legal professionals, especially recent graduates who are in a time of transition where support and guidance may be instrumental in smoothing out that next chapter of beginning to practice law. Additionally, LAPs have expanded beyond responding to impairment from substance abuse; many offer free continuing legal education and networking opportunities, which help young lawyers who struggle financially or are seeking a job. The sooner the connection to the LAP is made, the better.

### **Lawyer Regulation**

In some states, LAPs do not work closely with the lawyer regulation system, perhaps because of a fear that such an affiliation could produce a chilling effect on program utilization. However, LAPs in several states have an ongoing working relationship

with lawyer regulation. These programs may offer consultation to lawyer regulation staff regarding independent medical examinations, monitoring conditions, diversions, or informal referral. In some cases, staff from regulation and admission agencies serve on the LAP advisory committees and work on drafting rules pertaining to monitoring or conditional admission. When they work together, LAPs, bar admission agencies, and lawyer regulation agencies can effectively combine resources to increase the health and wellness of the lawyer population and protect the public.

### **Educational and Prevention Services**

LAPs are at the forefront in educating the legal community on the signs and symptoms of impairment from substance abuse, mental illness, stress, and other problems affecting the health and wellness of legal professionals. LAP training promotes early identification and remediation of problems impairing lawyer performance. LAP professionals provide presentations for local and state bar associations, law schools, and the courts. Training for bar admissions staff and those in the lawyer regulation system is conducted by some LAP programs. These training sessions highlight information about the interface between problematic conduct and mitigating factors such as untreated substance abuse or mental illness, treatment efficacy, structure and components of monitoring, how and when to make a referral, and systems approaches to increasing the health and wellness of applicants and legal professionals. LAP personnel also present at local, state, and national conferences.

Prevention efforts are an important part of the work of LAPs. Staff members and volunteers work with law schools to incorporate practices that promote character and fitness into their curricula, work to decrease the stigma of seeking assistance

for substance abuse or mental health problems, and teach stress reduction techniques such as mindfulness. CoLAP works to coordinate and share resources across the United States, Canada, and the United Kingdom, and equips LAPs with current research and educational materials to further their missions. CoLAP often draws from LAP personnel when presenting live webinars on topics pertinent to the health and wellness of legal professionals.

### **Confidentiality and Immunity**

Undoubtedly one of the most important issues for legal professionals working with an LAP, whether as a client or as a volunteer, is confidentiality. Volunteer lawyers are able to maintain confidentiality because they are exempt from reporting requirements to the lawyer regulation system. Across the country, states provide for confidentiality of LAP information and records by state statute or court order. Surveys have demonstrated that concerns about confidentiality are a primary barrier to legal professionals and law students seeking help. They are concerned that revealing their struggles to an LAP will have a negative impact on their reputation, election, application for admission, or general professional status. LAPs continue to work to educate the legal community that their services are confidential and can be trusted. Some states have also provided immunity from lawsuits to LAP personnel and volunteers when working within the guidelines of the program.

### **RESEARCH PROJECT UNDER WAY**

In an effort to update the research on the prevalence of substance abuse and mental illness among attorneys and in order to better inform the work of lawyer discipline and admissions agencies, as well as those providing treatment to the legal population, CoLAP and the Hazelden Betty Ford Foundation<sup>7</sup>

engaged in a landmark collaborative research project. The project was aimed at identifying the current rates of substance abuse, anxiety, and depression among legal professionals, barriers to treatment and assistance resources, and awareness and utilization of LAPs.<sup>8</sup> The widespread benefits expected from this research include the following:

- the establishment of a new baseline understanding of where the legal profession stands in relation to the substantial challenges presented by substance abuse and mental illness adversely affecting the ability to practice law
- an increased spotlight on these issues, which will present both the impetus and the opportunity to revisit and update profession-wide practices
- the potential for innovative reconsideration of cultural norms related to drinking, drug use, and psychological well-being
- knowledge to initiate, inform, and guide decision making and policy development in the following key areas: funding of LAPs, continuing legal education requirements, bar examination and admission requirements, discipline guidelines and procedures, malpractice, prevention, diversion, monitoring, early intervention, referral to treatment, strategies to reduce stigma, and increased career satisfaction and longevity among members of the bar
- the tools to commence a rehabilitation of the legal profession's image and public trust through an increase in attorney wellness, competence, and ethical behavior

Publication of the results is slated for the January/February 2016 issue of the *Journal of Addiction Medicine*.<sup>9</sup> Significant findings will include the relationship between age and years in practice and levels of problematic drinking, depression,

anxiety, and stress—along with levels of help-seeking behavior.<sup>10</sup> These findings will be compared to other professional groups, and implications for the legal profession will be discussed.

Having a mental health or substance abuse diagnosis does not in and of itself indicate impairment or fitness issues; however, the struggle and pain sometimes resulting from an undiagnosed or untreated behavioral health problem can negatively impact a law student, lawyer, or judge. In a recent study on law student well-being, law students demonstrated higher rates of behavioral health problems than the general population, coupled with significant concerns about seeking help or treatment.<sup>11</sup> This pattern runs the risk of undiagnosed and untreated behavioral health problems, which may progress and contribute to problematic behaviors, at-risk status for admission, or complaints to lawyer regulation agencies. When asked if their law school offered any courses on mental health or alcohol and drug topics, only 14% of lawyers answered affirmatively.<sup>12</sup> Working together through a unified approach endorsing health and well-being at the same level of importance as professional responsibility seems prudent. Law schools, bar admission and lawyer regulation agencies, and LAPs can join together with the goals of decreasing the prevalence of behavioral health problems among law students, lawyers, and judges and changing the culture from “don't get help” to “getting help is the smart and responsible thing to do.” 

## NOTES

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2. P.R. Krill, R. Johnson, and L. Albert, *The Prevalence of Substance Use and Other Mental Health Concerns among American Attorneys*, J. ADDICTION MED. (forthcoming).
3. American Bar Association, Commission on Lawyer Assistance Programs, available at [http://www.americanbar.org/groups/lawyer\\_assistance.html](http://www.americanbar.org/groups/lawyer_assistance.html), which provides information about CoLAP and its educational programs and a list of LAPs by jurisdiction (last visited Oct. 15, 2015).
4. Oregon Attorney Assistance Program, *Lawyers in Recovery Have Low Claim Rates!*, 46 IN SIGHT (April 2002), available at <http://www.oaap.org/data/documents/insight/Lawyers.pdf>.
5. Wendy Patrick, *Dealing with Substance Abuse*, CAL. LAW. (July 2010); see 2008 Annual Report of the Lawyer Assistance Program of the State Bar of California (March 1, 2009), at 6–7, available at <http://www.calbar.ca.gov/LinkClick.aspx?fileticket=pI3cxrt6rFQ%3D&tabid=1183>.
6. See NATIONAL CONFERENCE OF BAR EXAMINERS AND AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, COMPREHENSIVE GUIDE TO BAR ADMISSION REQUIREMENTS 2015 (National Conference of Bar Examiners and American Bar Association 2015), Chart 2, available at <http://www.ncbex.org/pubs/bar-admissions-guide/2015/index.html#p=16> (accessed Nov. 4, 2015).
7. The Hazelden Betty Ford Foundation is the nation's largest nonprofit substance abuse treatment provider and includes the Betty Ford Center, founded in 1982. Its mission is to assist individuals, families, and communities affected by addiction to alcohol and other drugs by offering prevention, treatment, and recovery solutions for youth and adults.
8. For more information about the collaborative research project, see <https://www.hazelden.org/web/public/american-bar-association.page> (last visited Oct. 15, 2015).
9. See *supra* note 2.

10. *Id.*
11. J. Organ, D. Jaffe, and K. Bender, *2014 Survey of Law Student Well-Being* (submitted for publication). [Editor's Note: See page 8 of this issue for an article summarizing the results of this survey.]
12. See *supra* note 2.



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## Coaching to Alleviate Burnout in Lawyers

Today's legal environment demands that lawyers perform at much higher levels than in the past. As a result, they must stretch themselves as well as others to achieve challenging goals in often compressed periods of time. Excessive workloads, time pressures, billing, client demands, working with difficult people, perfectionism, and practicing in one of the most competitive business/legal environments in history are but a few of the stressors placed on law firms and lawyers.

### Burnout Study

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

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.

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.

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 urge our profession's leaders to act.*

Other studies have found that burnout can lead to troubling symptoms such as:

- Errors, incompetence and a lack of clarity
- Loss of control and self-doubt
- Ethical and value shortcuts
- Physical and/or emotional exhaustion
- Depersonalization and social withdrawal
- A lack of sense of accomplishment
- Drug abuse
- Inability to focus

"Furthermore, lawyers tend to lack adequate resources (social support, helpful advice, feedback from friends or colleagues) that could otherwise help lessen the burden of their jobs and allow them to rekindle the flame, as it were. As a result, the passion, dedication, and enjoyment that a lawyer once felt for his work and life, slowly begins to suffocate, until there is nothing left to keep him going." (Lack)

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## Burnout Red Flags

### Physical

Headaches/backaches  
Fast or skipping heartbeat  
Indigestion, diarrhea, gastric complaints  
Sleep problems—getting to sleep or staying asleep  
Appetite changes (decrease or increase)  
Sexual dysfunction or lost interest  
Tiredness

### Mental

Short fuse/impatience  
Feeling of being overwhelmed  
Emotional roller coaster  
Forgetfulness  
Inability to concentrate  
Increased procrastination  
Feeling of anxiety or dread

## What the Medical Profession Has Found to Address Burnout Works for Lawyers

In a study in [JAMA Internal Medicine](#), Mayo Clinic researchers suggest a new approach to fighting burnout: **external professional coaching**.

## Professional Coaching

Self-knowledge and reflection is critical to a lawyer's success to prevent or eliminate burnout. This is where working with an external professional coach can provide immense value.

Behavior change that is sustainable and dependable requires consistent encouragement, practice and feedback. High-level behavior changes also need time to develop, time to be tested in action and time to be refined. This cannot happen in a vacuum. Development occurs out loud, in relationship with others and within context, be it personal or organizational.

Coaching helps lawyers develop skills of self-observation, self-awareness, self-responsibility and self-mastery. These skills allow lawyers to continue to grow long after the coaching relationship ends. Good coaches provide thought-provoking questions, personal exercises, advice and assignments to help lawyers maximize their unique gifts and talents. Coaching addresses burnout head-on and develops extraordinary lawyers. Extraordinary lawyers produce extraordinary results.

At Wolf Management Consultants, LLC, we provide *confidential* professional coaching services that help build job-critical competencies to reduce and eliminate lawyer burnout and promote positive behavior changes that lead to better job performance and personal satisfaction.

## Coaching ROI

- A global survey by PriceWaterhouseCoopers and the Association Resource Center found **that the mean Return on Investment in coaching was 7 times the initial investment, and over a quarter of coaching clients reported a**

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**stunning ROI of 10 to 49 times the cost.** No other investment in professional development provides an average client-reported ROI of somewhere between 340-700%.

- A landmark study commissioned by Right Management Consultants, based in Philadelphia, found a **return-on-investment of dollars spent on coaching of nearly 600%**. Participants engaged in coaching reported increases in productivity, improvement in relationships with direct reports and colleagues, and greater job satisfaction.
- The majority of studies including a major one by Joy McGovern and her colleagues at the research firm, Manchester, indicated that the participants who received coaching **valued the service between \$100,000 to \$1 million ROI.**
- Studies on coaching report an **ROI of 5 to 7 times the initial investment. One reason this may be so high is that coaching can be customized to address individual needs, with week-to-week support and opportunities to integrate learning into real life work experiences. This is in contrast to training programs where the learning is forgotten in three months if it is not supported.**
- What the [media](#) says about coaching.

### **Coaching Benefits**

- **Results from an International Coach Federation survey in 2016**, reported, that of those surveyed:
  - 72% saw an increase/development in their relationships
  - 73% noticed an increase in communication
  - 80% noted an improvement in confidence
  - 99% who hired a coach were satisfied
  - 98% said they would repeat the process
- **Korn Ferry Report on Coaching**
  - 96% report to have seen individual performance improve since coaching was introduced. Nearly as many (92%) also have seen improvements in effectiveness.
  - The top two indications of successful coaching were (a) sustained behavioral change (63%), (b) increased self-awareness and understanding (48%). On a 1-

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- 10 scale, over half of those coached participants reported a sustainability level between 6 and 8; over a third were at the 9-10 level.
- 77% of the respondents indicated that coaching had a significant or very significant impact on at least one of nine business measures. Productivity (60% favorable) and employee satisfaction (53%) were cited as the most significantly impacted by the coaching.