



LAWYERS CONCERNED FOR LAWYERS

Confidential Support for Legal Professionals

Managing Ethics, Negativity & Stress

Table of Contents

| | |
|---|----|
| How LCL Can Help | 3 |
| Minnesota Rules of Professional Conduct & Well-Being | 5 |
| LCL Well-being Handout | 9 |
| Therapy – Being a Zealous Advocate for Yourself | 16 |
| Managing Negativity Ethics Handout | 19 |
| Selected Resources on Mental Health, Substance Misuse and Compulsive Behaviors | 22 |



LAWYERS CONCERNED FOR LAWYERS

Confidential Support for Legal Professionals

Lawyers Concerned for Lawyers – How Can LCL Help?

- LCL provides free, confidential peer and professional assistance to Minnesota lawyers, judges, law students, other legal professionals, and their immediate family members on any issue that causes stress or distress. This includes up to four free counseling sessions, a 24/7 hotline, support groups, and referrals to resources.
- LCL is a statewide program and is absolutely confidential.
- LCL partners with bar associations, Minnesota CLE, legal employers, law schools, and other organizations to offer programs on well-being, impairment, stress management and other topics, often for Elimination of Bias or Ethics credit.
- LCL provides coaching on how to reach out or support a friend or colleague who may be struggling. We can help address general concerns, make supervisory referrals, suggest community resources, discuss interventions, and much more.
- LCL can provide critical incident response if a tragedy or crisis impacts a firm, organization, or family.
- LCL can help with access to treatment and related services. We have a need-based fund to help lawyers and law students pay for substance use and mental health treatment and related services.
- LCL, founded in 1976, helps approximately 400 new clients every year and is funded through lawyer license fees and donations. We truly appreciate your support!
- LCL volunteers are the lifeblood of our service to the profession. Contact us to learn more or join LCL.
- LCL is committed to well-being in our profession and supports our colleagues and their families in their recovery from any issue. Call us, we can help!

Lawyers Concerned for Lawyers Myths & Facts

MYTH: LCL will report me to the Minnesota Board of Law Examiners or the Office of Lawyers Professional Responsibility.

FACT: LCL does not and will not report to any licensing board, employer, or agency, even if information is requested by those sources or our clients request that we do so.

MYTH: You can do it yourself.

FACT: Isolation is the enemy of recovery. The likelihood of being successful in recovery from any issue greatly increases with appropriate professional and peer support in place.

MYTH: LCL only helps with alcohol issues.

FACT: While LCL does provide services and support regarding drug and alcohol issues, we offer so much more. We also assist with stress and mental health matters such as anxiety, depression, eating disorders, and problem gambling, along with aging and retirement, couples and family , career, financial, and practice concerns, and any other issues that may cause stress or distress.

MYTH: LCL is a Twin Cities program.

FACT: LCL is a statewide program that serves lawyers, judges, law students, other legal professionals, and their families throughout Minnesota.

MYTH: I can use my employer's Employee Assistance Program with the same result.

FACT: Your employer's EAP can be a great resource. LCL counselors understand the stress of the legal profession and LCL offers ongoing connections, peer support and other services and resources.



LAWYERS CONCERNED FOR LAWYERS

Confidential Support for Legal Professionals

MRPC and Well-Being

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.

Comment: Maintaining Competence[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

RULE 1.3: DILIGENCE

A lawyer shall act with reasonable diligence and promptness in representing a client.

[2] A lawyer's work load must be controlled so that each matter can be handled competently.

RULE 1.4: COMMUNICATION

(a) A lawyer shall

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(f), is required by these rules;

(3) keep the client reasonably informed about the status of the matter;

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

RULE 1.16: DECLINING OR TERMINATING REPRESENTATION

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client;
- (b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:
 - (1) withdrawal can be accomplished without material adverse effect on the interests of the client;

RULE 2.1: ADVISOR

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to the law but to other considerations such as moral, economic, social, and political factors that may be relevant to the client's situation.

RULE 5.1: RESPONSIBILITIES OF A PARTNER OR SUPERVISORY LAWYER

- (a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable 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's conduct 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.

RULE 8.3: REPORTING PROFESSIONAL MISCONDUCT

(a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

(c) This rule does not require disclosure of information that Rule 1.6 requires or allows a lawyer to keep confidential or information gained by a lawyer or judge while participating in a lawyers assistance program or other program providing assistance, support, or counseling to lawyers who are chemically dependent or have mental disorders.

RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

(d) engage in conduct that is prejudicial to the administration of justice;

(g) harass a person on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, status with regard to public assistance, ethnicity, or marital status in connection with a lawyer's professional activities;

(h) commit a discriminatory act prohibited by federal, state, or local statute or ordinance that reflects adversely on the lawyer's fitness as a lawyer. Whether a discriminatory act reflects adversely on a lawyer's fitness as a lawyer shall be determined after consideration of all the circumstances, including:

- (1) the seriousness of the act,
- (2) whether the lawyer knew that the act was prohibited by statute or ordinance,
- (3) whether the act was part of a pattern of prohibited conduct, and
- (4) whether the act was committed in connection with the lawyer's professional activities[.]

Comment:

[4] Paragraph (g) specifies a particularly egregious type of discriminatory act -harassment on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status. What constitutes harassment in this context may be

determined with reference to antidiscrimination legislation and case law thereunder. This harassment ordinarily involves the active burdening of another, rather than mere passive failure to act properly.

[5] Harassment on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status may violate either paragraph (g) or paragraph (h). The harassment violates paragraph (g) if the lawyer committed it in connection with the lawyer's professional activities. Harassment, even if not committed in connection with the lawyer's professional activities, violates paragraph (h) if the harassment (1) is prohibited by antidiscrimination legislation and (2) reflects adversely on the lawyer's fitness as a lawyer, determined as specified in paragraph (h).

[6] Paragraph (h) reflects the premise that the concept of human equality lies at the very heart of our legal system. A lawyer whose behavior demonstrates hostility toward or indifference to the policy of equal justice under the law may thereby manifest a lack of character required of members of the legal profession. Therefore, a lawyer's discriminatory act prohibited by statute or ordinance may reflect adversely on his or her fitness as a lawyer even if the unlawful discriminatory act was not committed in connection with the lawyer's professional activities.

[7] Whether an unlawful discriminatory act reflects adversely on fitness as a lawyer is determined after consideration of all relevant circumstances, including the four factors listed in paragraph (h). It is not required that the listed factors be considered equally, nor is the list intended to be exclusive. For example, it would also be relevant that the lawyer reasonably believed that his or her conduct was protected under the state or federal constitution or that the lawyer was acting in a capacity for which the law provides an exemption from civil liability. See, e.g., Minn. Stat. Section 317A.257 (unpaid director or officer of nonprofit organization acting in good faith and not willfully or recklessly).



LAWYERS CONCERNED FOR LAWYERS

Confidential Support for Legal Professionals

The Path to Lawyer Well-Being: Practical Strategies for Positive Change

National Task Force on Lawyer Well-Being, August 2017. Adopted, ABA House of Delegates, February 2018.

General Recommendations:

- Acknowledge the Problems and Take Responsibility.
- Use This Report as a Launch Pad for a Profession-Wide Action Plan.
- Leaders Should Demonstrate a Personal Commitment to Well-Being.
- Facilitate, Destigmatize, and Encourage Help-Seeking Behaviors.
- Build Relationships with Lawyer Well-Being Experts, including Lawyer Assistance Programs.
- Foster Collegiality and Respectful Engagement throughout the Profession.
 - Promote Diversity & Inclusion.
 - Create Meaningful Mentoring and Sponsorship Programs.
- Enhance Lawyers' Sense of Control.
- Provide High-Quality Educational Programs and Materials About Lawyer Well-Being.
- Guide and Support the Transition of Older Lawyers.
- De-emphasize Alcohol at Social Events.
- Support Recovery from Mental Health and Substance Use Disorders.
- Begin a Dialogue About Suicide Prevention.

Resources

Lawyers Concerned for Lawyers offers CLE and other educational programs, coaching, consulting, and direct assistance regarding any issue that causes stress or distress: www.mnlcl.org

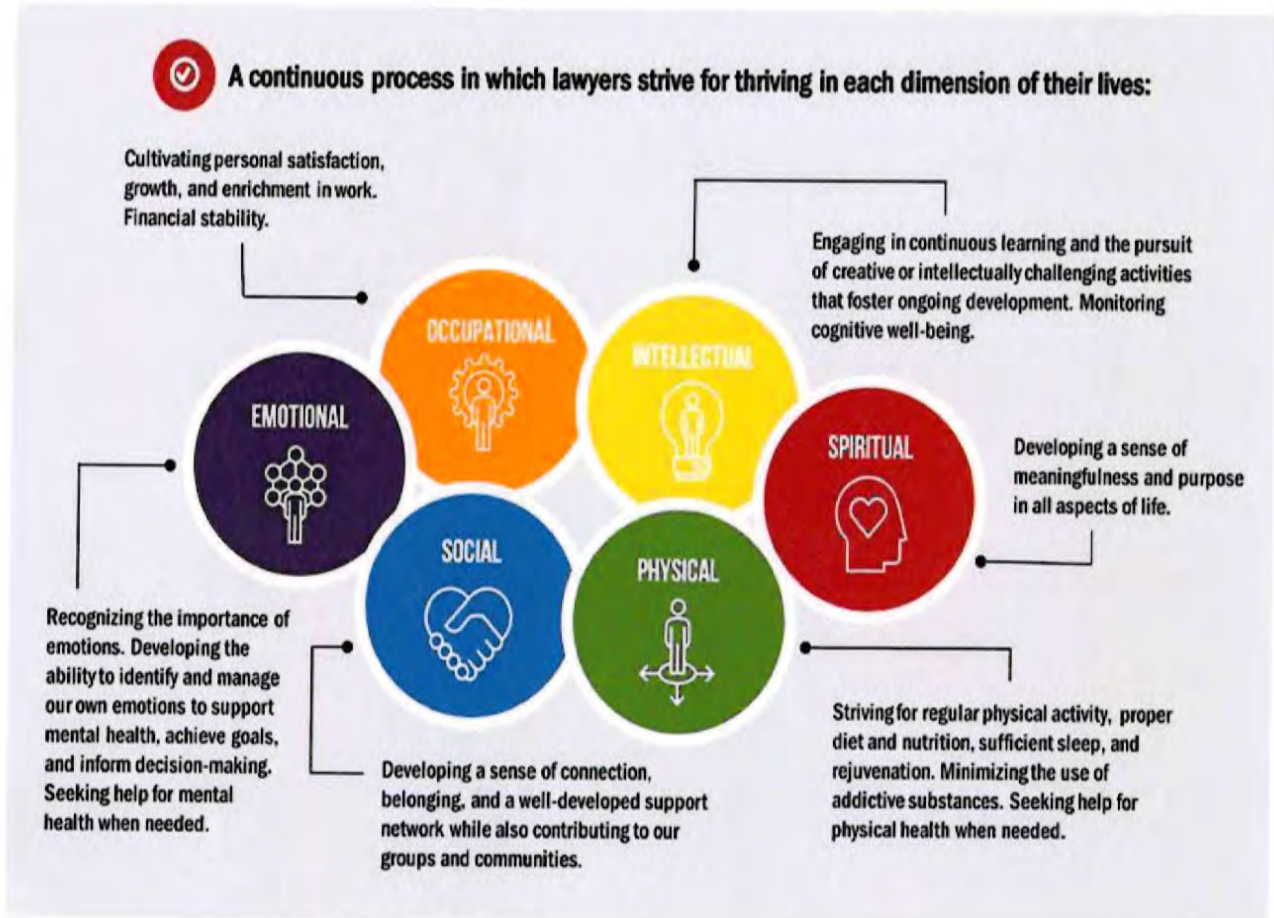
The Path to Lawyer Well-Being: Practical Recommendations for Positive Change:
<http://ambar.org/lawyerwellbeingreport>

Well-Being Toolkit: <http://ambar.org/wellbeingtoolkit>

ABA Presidential Well-Being Working Group including the Well-Being Employer Pledge:
<https://ambar.org/lawyerwellbeing>

Minnesota Supreme Court Well-Being site: <http://www.mncourts.gov/lawyer-well-being.aspx>

WHAT IS “WELL-BEING”?





LAWYERS CONCERNED FOR LAWYERS

Confidential Support for Legal Professionals

Landmark study in the Journal of Addiction Medicine, February 2016

"The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys."

A joint project of the ABA Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation, this is the first time that a study of this type has been conducted on a national basis. While the substance use numbers are just slightly higher than those reported in previous localized studies, the mental health statistics are considerably greater.

Among the findings:

- 20.6% of respondents met criteria for alcohol use disorder.
- Men reported higher rates of depression and women reported higher rates of anxiety and stress.
- Overall, the rate of depression was 28% and anxiety was 19%.
- 11.5% reported suicidal thoughts at some time during their careers.
- The rates of mental health and substance issues were significantly higher in respondents 30 years old and younger or who had worked in the profession for 10 or fewer years. This is contrary to earlier studies where the levels increased with longevity in the profession and age.
- Distress occurs in every type of job. Newer attorneys in law firms reported the highest overall rate.
- Barriers to seeking for help included "not wanting others to find out they needed help" and "concerns regarding privacy or confidentiality".

LCL services are absolutely confidential. Contact LCL for more information on the study, for a presentation at your organization or for any other assistance.

Charities
Review
Council®

MEETS
STANDARD
OF EXCELLENCE



Published in the 2017 March/April issue of the *Hennepin Lawyer*, a membership publication of the Hennepin County Bar Association. Used with permission. 612-752-6000 tlh@hcba.org

Are We Walking Past Colleagues Who Are in Trouble?

By Joan Bibelhausen

I arrived at the airport early, found an empty gate, and settled in on a chair facing the concourse—a quiet place to reply to some emails. I noticed a seemingly abandoned small, soft, briefcase-type bag across the aisle. I became curious about the luggage. I watched passengers, airline staff, and airport workers stroll and scurry past the bag without giving it any notice. A gate agent walked past the bag and up to the desk. After a few minutes, I approached the agent and pointed out the bag. Very shortly after, she picked up the phone, and I got to watch what happened next. It was surreptitious, swift, and serious. I thought about the poor person who probably forgot their bag. They would likely have some difficulty recovering its contents.

There is a comparison with the legal profession. How often do we walk past a troubled colleague until we have to notice? Even then, we may leave them alone and hope things change. The suffering lawyer we left alone until someone had to do something may face major career and life consequences. Can we act sooner so the consequences might be less severe?

We know we have issues. According to a 2016 study, 20.6 percent of attorneys use alcohol in unhealthy ways, 28 percent have experienced depression, 23 percent report overwhelming stress, and 18 percent diagnosable anxiety during our careers. Over 10 percent of us have thought about suicide! This same study showed that stigma keeps lawyers from asking for help. We don't want others to know and we fear that our concerns, once expressed, will not be kept confidential. These same factors prevent us from offering help. We often don't know what to say and believe it's none of our business.

It is our business. What do you look for? First, take note of any changes in behaviors. This can take many forms and may not seem like much from day to day or week to week. However, if you think about a colleague who has changed, think back further. How different are they compared to six months ago, or a year ago? Are they drinking more? Are they angrier, withdrawing, or avoiding? Are support staff acting differently or complaining? Are deadlines just barely being met? Do support staff appear frustrated or are they actively expressing concerns? If they have concerns, would they feel safe telling someone? Are excuses being made

for lateness, absences or behavior? None of these incidents presents a diagnosis—and that's not our job—but they are all red flags.

What can you do? You can ask, "Are you ok?" (See makeitok.org for a Minnesota campaign to reduce the stigma of mental illness.) Our tendency is to reassure someone expressing concern so if that happens, ask again with an example of why you are concerned. If they are forthcoming, the next step is to listen, just listen. Do so calmly. Give your full attention and be prepared for the time it takes to learn more. Be ready to suggest Lawyers Concerned for Lawyers or another resource. Pick up the phone yourself.

You can call LCL and we will guide you through how to approach your colleague. If appropriate, we'll help you make a plan ranging from suggested non-judgmental language to assisting with an intervention. If this is a colleague outside your firm or organization, we can help them, too. If you're reading this and wishing someone would reach out to you, that's what this article is about. Call LCL. We will help you. There is someone to talk to 24 hours a day and counseling is offered throughout Minnesota. You can help us reduce the stigma. To learn more or get involved, go to mncl.org, call 651-646-5590, or email help@mncl.org.

¹ Patrick R. Krill, Ryan Johnson & Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 JOURNAL OF ADDICTION MEDICINE 46-52, 46-52 (2016). See the March 2016 issue of *Bench and Bar* for a more thorough report on the study.



Joan Bibelhausen

jbibelhausen@mncl.org

Joan Bibelhausen is executive director of Lawyers Concerned for Lawyers (LCL). LCL provides free and confidential peer and professional support to lawyers, judges, law students, and their immediate family members on any issue that causes stress or distress.



LAWYERS CONCERNED FOR LAWYERS

Confidential Support for Legal Professionals

Suicide Prevention: Every Lawyer's Opportunity

By Joan Bibelhausen, Executive Director, Lawyers Concerned for Lawyers

Lawyer suicide is in the news. One heartfelt story, *Big Law Killed my Husband*, was written by Joanna Litt (also an attorney) the widow of LA attorney Gabriel MacConaill who died by suicide. Not long ago, the New York Times published *A Suicide Therapist's Secret Past*. In it, Stacey Freedenthal, a therapist focusing on suicide prevention, described her own attempt many years earlier. Even though well known in the field of suicide prevention, stigma had kept her from revealing this part of her history. These stories so clearly illustrated the stigma in our profession that can keep us from reaching out in our most desperate hours.

Not only are lawyers at risk, but our clients are as well. Clients in many areas of law are facing crises, loss and other circumstances that can lead to a sense of desperation or hopelessness. This is amplified by the pandemic, trauma due to racism and other factors, and economic challenges. Very similar cases may involve clients who respond to their situations very differently. If a client gives cues that they may be suicidal, attorneys have the opportunity to act.

For lawyers, we all know this is a stressful profession. Press coverage of lawyer suicides has magnified the potential impact of that stress. As a profession, we experience depression and alcohol use problems at a significantly higher rate than the general population. We also experience greater rates of anxiety, chronic stress, and divorce, and we have a higher rate of suicide and suicidal ideation. You may have heard LCL talk about this in CLEs for years. All of us we need to keep talking.

The chronic stress we experience may trigger depression or other illnesses, and may lead to a sense of helplessness, increasing anxiety, and the inability to complete even mundane tasks. We are paid to solve the problems of others and feel we should be able to solve our own problems ourselves. We may feel shame because lawyers are not supposed to feel helpless. That helplessness can become hopelessness and the risk for suicide grows exponentially.

What are the signs? Symptoms of depression include:

- loss of interest in normally pleasurable activities
- difficulty concentrating, remembering, or deciding
- changes in sleep, appetite, and weight

- fatigue
- having thoughts of suicide.

At the same time there may be a rising sense of anxiety, as if every unfinished project is a ticking time-bomb. Suicide enters one's thoughts as a reasonable solution to a seemingly insurmountable problem. The suicidal person may express a wish to die or make statements that appear to be saying goodbye. He may give away prized possessions, quickly wrap up files, or put his affairs in order. She may make a plan and acquire the means to carry it out, and that plan may simply be enough alcohol to be deadly. People who talk about their suicide, can die by suicide. We all need to talk about it.

Our profession is addressing these concerns through initiatives such as "The Path to Lawyer Well-Being: Practical Recommendations for Positive Change." This 2017 report demands that we begin a dialogue about suicide prevention. Lawyer Assistance Programs have worked to increase awareness for decades and are grateful to have additional allies in this critical effort. The Report's Call to Action recommends events to raise awareness, sharing stories of those affected by suicide, providing education about signs and suicidal thinking, learning signs of distress, and making resources available. These are all good things that can make a difference.

The signs are not always verbal. Some warning signs of suicide include:

- hopelessness
- withdrawal
- desperation
- increased use of alcohol and other controlled substances
- impulsiveness or high-risk behavior
- loss of engagement or sense of humor
- deterioration in functioning.

Lawyers sometimes think we need to be perfect, or we are a failure. Any possible failure becomes an opportunity for intense self-scrutiny and every move we make can become defined by winning or losing. A compromise or settlement may be seen as a failure because we did not get everything we asked for when we reached for the sky. In the case of Mr. MacConaill, his widow wrote "[S]imply put, he would rather die than live with the consequences of people thinking he was a failure." It does not have to be that way, but colleagues must be observant and meaningfully give encouragement and permission for self-care.

What can you do? Learn more about it. Read Atlanta lawyer Lynn Garson's excellent article, [Everything I Know About Suicide](#). Watch the powerful Texas Lawyer Assistance Program video, [Just Ask: How We Must Stop Minding Our Own Business in the Legal World](#) and access other resources on the LCL website. [Suicide prevention classes and resources](#) are available through the National Alliance on Mental Illness (NAMI).

What can you do? Have the courage to ask and to act and be sure you have the time to listen if you personally choose to reach out. If you observe these disturbing behaviors, ask directly, but ask in a way that is true to you. "Have you thought of harming yourself? Are you in a lot of pain? Do you feel unsafe? Are you thinking of

suicide?” *Never* ask in a way that suggests you need a “no” answer, such as “you’re not thinking about suicide, are you?” Asking directly allows the person to speak freely. If he says “no” and you are still concerned, rephrase it, and ask again. Give a reason why you asked – the person who said no may be ready to change her answer if you ask again and show you care. The person who is so depressed that he is paralyzed may not be able to affirmatively ask for help but may be able to answer a direct question honestly. LCL can guide you.

What happens next? The next step is to listen, just listen. Do so calmly because this is not your situation or your crisis or your thing to fix. Give your full attention and be prepared for the time it takes to learn why the pain is so great that dying by suicide seems to be a reasonable option. If you believe suicide may be imminent, get them to professional help and be supportive as they get there. If they have a therapist, call that number. If not, consider taking them to an emergency room. Text or call 988, call 1-800-SUICIDE or 1-800-273-TALK – all are national suicide prevention hotlines. Counselors are also available 24/7 through LCL at 651-646-5590 or 1-866-525-6466.

Once the immediate crisis is past, support is critical to ongoing recovery. Therapy can help someone through the immediate mental illness and provide tools to develop resilience in the future. Medications are often appropriate, especially in the early stages. It is hard for a lawyer to admit he is struggling financially, but many are and LCL can provide connections to resources to support the cost of ongoing treatment. Personal support and acceptance are critical. We need to know we are not alone.

If these words generate thoughts of someone you are concerned about or if you recognize some of these symptoms in yourself, please act. Dr. Freedenthal reported that as she began to feel the effects of her suicide attempt, her brain and body fought back, and she lived. Knowing that one can come out on the other side of debilitating pain can provide incredible hope. Call for coaching if you need help on how to reach out to someone. Call for yourself if you find yourself realizing “I’ve thought about suicide.” Hundreds of your Minnesota colleagues called for help last year on many different issues that cause stress or distress in their lives. You’re not alone, and LCL is here to help.

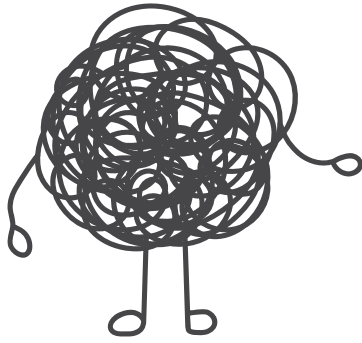
Lawyers Concerned for Lawyers provides free and confidential peer and professional support to lawyers, judges, law students, legal organization staff members, and their immediate family members on any issue that causes stress or distress. Through LCL, up to four free counseling sessions are available statewide. Services are free, confidential, and available 24 hours a day. You can help us reduce the stigma. To learn more, to get involved, or to request LCL’s Suicide Prevention CLE program, go to www.mnlcl.org, call 651-646-5590, or email (replied to during business hours) help@mnlcl.org.

THERAPY:



BEING A ZEALOUS ADVOCATE FOR YOURSELF

By Chase Andersen



Things aren't that bad...

I'm sure it'll eventually get better...

I'm too busy to ask for help...

I don't want to appear weak...

I just need to power through it...

Would you say those things to yourself about physical ailments or diseases such as a broken ankle or diabetes? Now, would you say those things to yourself about mental health issues such as stress, anxiety, or depression? How about a substance use issue involving alcohol or other drugs? Were your answers different? If so, why?

Overview

In March 2020, our world changed, and we were faced with new stressors that weren't previously on our radar. Rates of anxiety and depression almost quadrupled from 2019 and preexisting mental health and substance use issues were only exacerbated through the pandemic. While nearly 30 percent of Americans saw a therapist during the pandemic, there are still millions of Americans—including lawyers—who are resistant to seek help from a mental health professional. This article will discuss why some attorneys are reluctant to seek counseling. We will dispel those reluctancies and identify the numerous benefits of being proactive with one's mental health. Most importantly, we will hopefully convince those of you that may be on-the-fence that not only is it okay to seek therapy but also that it will help you in all areas of your life.

The Benefits of Therapy

The National Task Force on Lawyer Well-Being starts off its 2017 report, *The Path to Lawyer Well-Being*, with this statement: "[t]o be a good lawyer, one has to be a healthy lawyer." And we all want to be good lawyers, right? Accordingly, we should all strive to be healthy. But just as physical health requires time and effort, so does mental health. And counseling is one of the best ways to better your mental health.

Generally speaking, "therapy" or "counseling" refers to the process of meeting (in-person or virtually) with a trained mental health or substance use professional to discuss and resolve problematic feelings, issues, or behaviors. While there are different kinds of therapy modalities geared toward helping specific issues, this article will focus on the most common form: one-on-one talk therapy.

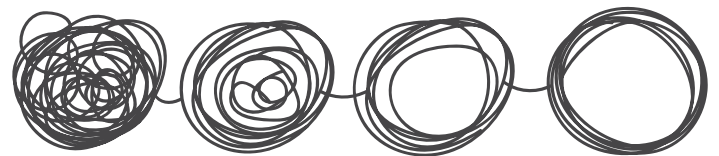
To begin, there are several ways to set up counseling, including calling Minnesota's Lawyers Concerned for Lawyers (see more information at the end of this article), contacting your employer's employee assistance program, or going directly through your insurance provider.

Not only does counseling help you process the personal and professional stressors we all face, it can also provide you with skills to help you deal with stressful situations that might arise in the future. Comparing physical health to mental health: if you have a healthy diet and exercise regularly, your body will be better prepared if-and-when you are faced with injuries or illnesses. Likewise, the more effort you put into having a healthy mental health baseline, the better-suited you will be to handle future curve balls thrown your way.

In addition, the more one can deal with stressors in a healthy manner, the less likely one will resort to coping with their issues in unhealthy ways such as problematic drinking and using other substances. As you may know, these issues are prevalent among lawyers. The 2016 ABA/Hazelden Betty Ford study entitled "The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys" found that the rate of substance use issues among practicing attorneys was approximately double that of the general population.

Furthermore, therapy can assist you to address and move on from previous negative events and traumas, help you become more in-tune with your own feelings, and enable you to pass along these learned lessons to others in your life, whether it be family members, friends, or co-workers.

Most importantly, at least from my personal experiences with my therapist, it is a great resource for just venting. Sure, I talk regularly with my spouse, family, friends, and co-workers, but it is so helpful to have a neutral, unbiased, and trained professional whose primary purpose during our time together is to help me and provide feedback and advice with handling life's ups-and-downs.



Barrister Barriers

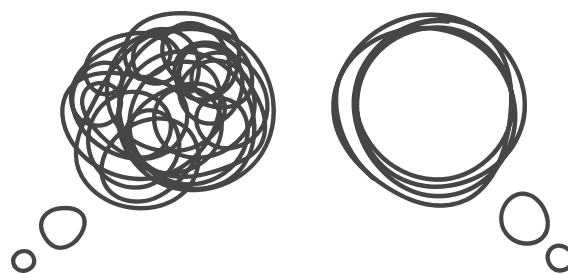
Ofentimes, attorneys will feel as though they can handle their stressors on their own. Most of our professional life is spent in our own heads and we tend to feel as though we should be able to figure out our own issues or just "power through it." But handling our own mental health challenges is much different from handling a challenging client or case. One cannot just "power through" severe mental health issues until they are gone, unlike being able to just "power through" that challenging case until it settles. Accordingly, those issues rarely resolve themselves.

Like I always say, if you keep sweeping those issues underneath that proverbial rug, eventually that rug will be pushing up against the ceiling and it will be dang hard to breathe. Therapy can be a great way to help you sweep those issues out of that room (and your life) and teach you to keep that broom nearby for future messes.

Another common excuse that lawyers cite regarding therapy is "I'm too busy." Yes, attorneys live busy lives, juggling caseloads and family life, but there should always be time to make one's own well-being a priority. And I have found that the benefits from a therapy session make up for those

“Put your oxygen mask on yourself
first before helping others.”

How can you be expected to
properly help your clients, you
family, and your community if you
aren’t taking care of yourself first?



missed billable hours tenfold in terms of stress reduction. Plus, in today’s world of virtual appointments and telehealth therapy, seeing a counselor is easier than ever.

I often compare prioritizing self-care to being on an airplane when the flight attendant advises, “Put your oxygen mask on yourself first before helping others.” How can you be expected to properly help your clients, you family, and your community if you aren’t taking care of yourself first? It’s that simple!

Overcoming Stigma

Over the last decade, at least from my experience, there seems to be a decrease in the stigma surrounding seeking therapy and asking for professional support when needed. However, it is still an obstacle facing many attorneys, judges, and law students.

It is important to recognize that there is often an internal stigma regarding mental health and substance use issues so that an individual may try to ignore or disregard signs of these issues. These stigmas can originate from a number of places, including an individual’s upbringing and their family’s attitudes toward mental health and addiction or even a general misunderstanding about these issues. A particular challenge lawyers face is that we often view ourselves as society’s problem-solvers and, accordingly, any self-recognition of these issues could affect our own self-esteem or image.

Even after one starts to internally come to grips with the fact that an issue exists—maybe it’s admitting to yourself that your anxiety is overwhelming, that you’re not as happy as you’d like to be, or that you’ve been drinking too much—there are still external stigmas that lawyers face that may impede seeking help. In fact, the ABA/Hazelden Betty Ford study states that the two most common barriers attorneys cited in the way of asking for help were (1) not wanting others to find out they needed help and (2) concerns regarding privacy or confidentiality. As a result, some attorneys may go years without asking for help for those very concerns.

However, with mental health and substance use issues now on the forefront of today’s legal discussions, the general view about asking for help or support isn’t what it used to be. Now, well-being and taking care of oneself is an important priority and topic for education and discussion in our profession. Nowadays, there is profession-wide support for lawyers to be healthy. And taking actions to get yourself healthy should never be viewed as a negative.

A Counselor’s Perspective

In a discussion with Jill Carlson, MA, LPCC, and case manager at Lawyers Concerned for Lawyers, she explained what someone new to counseling should expect. Counseling sessions are usually held in a private setting. Right now, most counseling sessions are still virtual; however, face-to-face sessions are slowly returning. Most therapy sessions are 45 to 50 minutes in length, but some therapists prefer longer first sessions of up to 90 minutes. Sessions can start off as weekly, biweekly, or monthly, depending on a number of factors.

The whole client/therapist intake process is very similar to when a new client retains an attorney, with information gathering done first via questionnaires and initial meetings. Next, goals are established and a road map to meeting those goals is set.

Jill explained that, throughout the process, attention is given to the client’s history (mental health and/or substance use, family, social, professional, etc.), how the existing issues are affecting the individual’s life (symptoms, behaviors, consequences, etc.), and how the client and the therapist—together as a team—can meet the client’s goals.

Next, Jill and I discussed the importance of confidentiality. The trust and confidentiality shared between a therapist and client is a principal part of the counseling experience, as clients must be able to trust that the information shared with their counselor will not be shared with anyone else. With that being said, most counselors are mandatory reporters and must report immediate threats regarding a client’s health and safety, so please make sure that is discussed with your counselor.

Finally, we discussed the biggest benefit to counseling: achieving one’s goals. Whether your goal is to overcome your anxiety, not to drink anymore, to be a better family member, or to just be the best lawyer you can be, counseling can definitely be one of the biggest tools in your well-being toolbox!

If you have further questions about counseling or would like to schedule free therapy sessions, please call Lawyers Concerned for Lawyers (LCL) at 651-646-5590. We provide up to four free counseling sessions per issue for lawyers, law students, judges, and their immediate family members. As always, Lawyers Concerned for Lawyers is confidential and no information is shared with licensing boards, employers, or anyone else.



Chase Andersen

candersen@mnlcl.org

Chase Andersen is a case manager at Lawyers Concerned for Lawyers of Minnesota. He works with lawyers, law students, and judges on issues surrounding well-being, mental health, and substance use. www.mnlcl.org



LAWYERS CONCERNED FOR LAWYERS

Confidential Support for Legal Professionals

Managing Ethics, Negativity & Stress CLE Ethically Managing Negativity

The Antidote to Negativity = Positivity Generated by Excellent Client Service

Excellent client service generates positivity and wards off unhappy clients and thus ethics complaints.

Choose Clients Well

MRPC 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.”

MRPC 1.3 – Diligence

“A lawyer shall act with reasonable diligence and promptness in representing a client.”

Create Reasonable Expectations in Your Clients for Communication and Meet Them

MRPC 1.4 – Communication

“(a) A lawyer shall

- (1) promptly inform the client of any decision or circumstance with respect to which of the client’s informed consent, as defined in Rule 1.0(f), is required by these rules;
- (2) reasonably consult with the client about the means by which the client’s objectives are to be accomplished;

- (3) keep the client reasonably informed about the status of the matter;
- (4) promptly comply with reasonable requests for information;

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.”

MRPC 1.2 – Scope of Representation

“(a) [A] lawyer shall abide by a client’s decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued...”

Ensure a Clear Understanding about Your Fees MRPC Rule 1.5

“(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.”

Serve Your Clients! Be diligent, zealous, communicative. When things don’t go well, be gracious and act like a fiduciary.

“(c) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client’s interests, such as giving reasonably notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled, and refunding any advance payment of fees or expenses that has not been earned or incurred.”

See In re XY, 529 N.W.2d 588 (Minn. 1995)(the file belongs to the client)

Managing Negativity – Resilience

Resilience is the capacity to recover quickly from difficulties; toughness

Lawyers tend not to be resilient

- On a percentile scale, most members of the public are at 50th percentile

- Among lawyers, the average is 30th percentile
- By nature and training, we focus on what can go wrong
- The 5 most common adjectives to describe a lawyer: cynical, skeptical, critical, pessimistic, negative

(Source: Dr. Larry Richard, “What Makes Lawyers Tick” Lawyer Brain Blog (9/19/12))

Resilience can be Cultivated

- Form and maintain good relationships
- Find meaning and purpose in what you do
- Pursue authenticity & create your own professional identity
- Cultivate flexible (optimistic) thinking
- Find positive outlets for stress

(Source: Lori Keating and Jane Reardon, Mentoring for Resilience and Success in the Future Practice of Law (NLMC Conference 2016))

Lawyers Concerned for Lawyers

2550 University Avenue West, #313N · St. Paul, MN 55114
651-646-5590; 866-525-6466 · www.mnlcl.org · help@mnlcl.org

SELECTED RESOURCES ON MENTAL HEALTH, SUBSTANCE MISUSE AND COMPULSIVE BEHAVIORS

Lawyers Concerned for Lawyers (Minnesota)

651-646-5590; 877-525-6466 (toll-free)

<https://www.mnlcl.org>; help@mnlcl.org; <https://www.facebook.com/mnlcl>.

Lawyers Concerned for Lawyers is the provider of Minnesota's Lawyers Assistance Program for lawyers, judges, law students, other legal professionals, and their immediate family members. LCL offers free, confidential help with addictions, mental health disorders, chronic stress, and personal and career-related issues. LCL services include 24-hour crisis response; professional clinical assessments and referrals; interventions; short-term counseling; support groups facilitated by licensed counselors; peer mentoring and support; and education.

Sandcreek EAP

651-430-3383; 888-243-5744 (toll-free)

<https://allonehealth.com/allone-health-locations/sandcreekcap/>

LCL's Employee Assistance Program partner provides up to 4 free counseling sessions to legal professionals and their families and hosts a website with articles and resources in many areas. Go to <https://allonehealth.com/allone-health-locations/sandcreekcap/> and click on "Log in to Member Portal." to use or create your account. Use the Company Code "lawyers" when creating your account.

U.S. Surgeon General

"Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health"

The full report is available at the link below. You may also access an Executive Summary, a Vision for the Future, and find related resources.

<https://addiction.surgeongeneral.gov/>.

National Alliance on Mental Illness

www.nami.org The Minnesota chapter website is <https://namimn.org>.

NAMI has information on various mental illnesses, including ADHD, Bipolar Disorder, Personality Disorders, Depression, Eating Disorders, OCD, PTSD, and others. There are also national and local support resources. A comprehensive Adult Mental Health Resource Guide is at <https://2a392k31wksy2wkejfly03dp-wpengine.netdna-ssl.com/wp-content/uploads/sites/188/2019/12/NAMIHopeForRecoveryBookletRevised11-19FINAL.pdf>

American Psychological Association

<https://www.apa.org>

This site offers numerous resources on many mental health and wellness topics.

Make it OK

<https://makeitok.org/>

"Make It OK" is a campaign to reduce the stigma of mental illness. It is committed to changing hearts and minds about the misperceptions of mental illnesses by encouraging open conversations and education on the topic.

Help Guide

<https://www.helpguide.org/>

This website is operated by a nonprofit dedicated to bringing evidence-based information about mental health to the general public.

Minnesota Recovery Connection

<https://minnesotarecovery.org/>

MRC provides peer support and advocacy to support recovery. The site includes a comprehensive list of

Lawyers Concerned for Lawyers

2550 University Avenue West, #313N · St. Paul, MN 55114
651-646-5590; 866-525-6466 · www.mnlcl.org · help@mnlcl.org

resources. https://minnesotarecovery.org/resources_search/

American Bar Association

The American Bar Association Commission on Lawyer Assistance Programs (CoLAP) supports lawyer assistance efforts nationwide. This includes conducting and supporting research.

A recent ABA CoLAP and Hazelden Betty Ford joint study provides updated information on substance use, mental health, and help-seeking behaviors. Krill, Patrick, Johnson, Ryan, Albert, Linda, “The Prevalence Of Substance Use and Other Mental Health Concerns Among American Attorneys,” *Journal of Addiction Medicine*: Jan./Feb. 2016.

https://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_Use_and_Other_Mental.8.aspx.

“The Path to Lawyer Well-Being: Practical Recommendations for Positive Change” is a follow-up report that offers strategies and guidance for multiple stakeholders to change the legal profession’s culture.

<https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf>.

A well-being toolkit released in August 2018 provides general guidance and a workbook with a wide variety of exercises. https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_well-being_toolkit_for_lawyers_legal_employers.authcheckdam.pdf

This ABA Template provides guidance to legal employers.

https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/well-being-template-for-legal-employers-final-3-19.pdf.

Numerous articles are linked at https://www.americanbar.org/groups/lawyer_assistance/ for lawyer assistance resources and information across the country.

Other Lawyers Assistance Programs

Lawyer Assistance Programs (LAPs) are available nationwide. Some are independent, some are under the auspices of the court, and some are part of the bar association. They are listed at

https://www.americanbar.org/groups/lawyer_assistance/resources/lap_programs_by_state/

Minnesota Courts

The Minnesota Supreme Court hosted a Well-Being Call to Action conference in February 2019. Materials, including keynote videos, are at: <https://www.mncourts.gov/lawyer-well-being.aspx>.

U. S. Department of Health and Human Services and Substance Abuse and Mental Health Services Administration (SAMHSA) [clearinghouse for alcohol and drug information]

<https://www.samhsa.gov/>

This federal agency has information for individuals seeking help, professionals, and researchers.

Recovery Month

<https://www.samhsa.gov:443/recovery-month>

SAMHSA sponsors this annual event held every September. It features events and resources for those with substance use issues and those who care about them.

American Society of Addiction Medicine (ASAM)

Public Policy Statement: Definition of Addiction - <https://www.asam.org/resources/definition-of-addiction>. This includes short and extended statements as well as frequently asked questions.

Lawyers Concerned for Lawyers

2550 University Avenue West, #313N · St. Paul, MN 55114
651-646-5590; 866-525-6466 · www.mnlcl.org · help@mnlcl.org

National Institute on Alcohol Abuse and Alcoholism (NIAAA)

<https://www.niaaa.nih.gov/>

NIAAA supports and researches the impact of alcohol use on human health and well-being.

National Institute on Drug Abuse

<https://nida.nih.gov/>

This division of the National Institutes of Health provides information on the science of drug and alcohol addiction. There are links to a wide variety of substances. An excellent pamphlet, “The Science of Addiction,” is available by mail or PDF download in English or Spanish.

National Institute of Mental Health

<https://www.nimh.nih.gov/>

National Institute of Mental Health (NIMH) is the lead federal agency for research on mental disorders. Resources, fact sheets, and other downloadable information on all facets of mental health are available. The NIMH is one of the National Institutes of Health.

International Center for Responsible Gaming (ICRG)

<https://www.icrg.org/>

ICRG is a nonprofit group funding scientific research on gambling addiction. The mission of this organization is to help people with gambling addictions.

Rob Weiss resources on sexual compulsivity

<https://www.robertweissmsw.com/>

This site has a blog and many other resources related to intimacy, sex and love addiction, and gender differences.

Mayo Clinic Stress Management Resources

<https://www.mayoclinic.org/healthy-lifestyle/stress-management/basics/stress-basics/hlv-20049495>

Authentic Happiness

<https://www.authentichappiness.sas.upenn.edu/home>

This site provides numerous resources and self-assessments related to Positive Psychology. Positive Psychology is the scientific study of the strengths that enable individuals and communities to thrive.

“The Practice of Being: Mastering Stress & Finding Meaning as a Lawyer”

This article by attorney and coach Dyan Williams discusses mindfulness, acceptance and authenticity. Originally published in Bench & Bar; LCL archives this resource at <https://www.mnlcl.org/wp-content/uploads/2021/05/67BenchBMinn26.pdf>

Online Resources Focused on Lawyers

Lawyers with Depression

<https://www.lawyerswithdepression.com/>

Daniel Lukasik, a lawyer who has experienced depression, created this comprehensive resource devoted to providing support and information for lawyers facing depression.

Lawyers Depression Project

<https://www.lawyersdepressionproject.org>

Lawyers Concerned for Lawyers

2550 University Avenue West, #313N · St. Paul, MN 55114
651-646-5590; 866-525-6466 · www.mnlcl.org · help@mnlcl.org

The Lawyers Depression Project is a group of legal professionals (attorneys, paralegals, law students, and admin) who have suffered from depression, anxiety, bipolar, OCD, eating disorders, trauma, sexual abuse, addiction, and other mental health conditions, or who just don't feel quite right.

The Anxious Lawyer

<https://jeenacho.com>

Jeena Cho, one of the authors of *The Anxious Lawyer*, actively blogs offering tips for reducing anxiety through mindfulness.

Lawyer Mental Health and Ethical Issues

The Chemically Impaired Lawyer: A Malpractice Insurance Company's Perspective, Molly Eiden and Todd C. Scott, Minnesota Lawyers Mutual (2018).

<https://www.mlmins.com/Library/The%20Chemically%20Impaired%20Lawyer.pdf>

"Ethics and Lawyer Well-Being," Joseph Balkenbush, Oklahoma Bar Counsel.

<https://www.okbar.org/barjournal/dec2017/obj8833balkenbush/>

"[Lawyer] Anxiety, Self-Protective Behavior, Ethical Sinkholes, and Professional Responsibility" Dan DeFoe, originally published on psycholawlogy.com, currently archived at <https://www.mnlcl.org/wp-content/uploads/2021/05/ethical-sinkhole.pdf> This article discusses the connection between anxiety and ethical choices.

"Lawyer Seeks Treatment. Boss Seeks Assurance," Todd C. Scott, Minnesota Lawyers Mutual website, <https://www.mlmins.com/Pages/Articles/Lawyer-Seeks-Treatment.-Boss-Seeks-Assurance.aspx>, last visited 7/9/2021.

"The Lawyer, the Addict," Eilene Zimmerman, *New York Times*, July 15, 2017.

<https://www.nytimes.com/2017/07/15/business/lawyers-addiction-mental-health.html>

"Lawyer well-being and lawyer regulation," Susan M. Humiston, *Bench & Bar*, December 2017.

<http://lprb.mncourts.gov/articles/Articles/Lawyer%20well-being%20and%20lawyer%20regulation.pdf>

"Lawyer Well-Being: It's an Ethics Issue, Too," Joshua A. Klarfeld, *Professionalism Perspectives*, vol. 19, no. 2.

<https://attorneyethicscounsel.com/2017/12/05/the-legal-ethics-of-lawyer-wellness/>

"Lawyers weigh in: How to prevent stress, substance misuse and depression in the profession," Dina Roth Port, *ABA Journal*, June 5, 2018.

https://www.abajournal.com/voice/article/lawyers_weigh_in_how_to_prevent_stress_substance_abuse_and_depression

"The Legal Ethics of Lawyer Wellness," Daniel O'Rielly, <https://attorneyethicscounsel.com/2017/12/05/the-legal-ethics-of-lawyer-wellness/>

"The most terrifying part of my drug addiction? That my law firm would find out." Lisa F. Smith, *The Washington Post*, March 24, 2016. https://www.washingtonpost.com/posteverything/wp/2016/03/24/the-most-terrifying-part-of-my-drug-addiction-that-my-law-firm-would-find-out/?noredirect=on&utm_term=.790fa49d08ed

"Why Are Lawyers So Unhappy? How do we stop accepting that misery and unhappiness must be part of our job

Lawyers Concerned for Lawyers

2550 University Avenue West, #313N · St. Paul, MN 55114
651-646-5590; 866-525-6466 · www.mnlcl.org · help@mnlcl.org

description?” Jeena Cho, <https://abovethelaw.com/2016/08/why-are-lawyers-so-unhappy/>

Workplace Safety for Legal Professionals

“Are You Being Bullied?” Merrilyn Astin Tarlton, *Attorney at Work* website, originally posted August 30, 2012, updated September 22, 2020. <https://www.attorneyatwork.com/are-you-being-bullied/>

“Violence Against Attorneys and Judges: Protecting Yourself Before and After a Threat”
<http://www.forensic-psych.com/articles/artAskexp06.php>

“Fortress or Foyer? On Law Firm Security,” Todd C. Scott, MLM, *Bench and Bar*, August 2016;
<https://www.mnlcl.org/wp-content/uploads/2021/05/73BenchBMinn24.pdf>

“Keeping Oneself and Firm Members Safe from Violence,” Rick Hendrickson, *Attorney At Law Magazine*, June 15, 2020. <https://attorneyatlawmagazine.com/keeping-oneself-and-firm-members-safe-from-violence>

“Lawyering Can be a Dangerous Job,” Diane Curtis, *California Bar Journal*, March 2004.
<http://archive.calbar.ca.gov/Archive.aspx?articleId=55060&categoryId=55077&month=3&year=2004>

“You’re Being Bullied: Now What?” Merrilyn Astin Tarlton, *Attorney at Work* website, originally posted September 18, 2012, updated May 5, 2018. <https://www.attorneyatwork.com/youre-being-bullied-now-what/>

Online Resources – the following sites will direct you to other resources.

<https://namimn.org/support/> Frequently updated list of Minnesota support groups

<https://aaminneapolis.org/> – includes links to St. Paul and greater Minnesota sites

<https://www.al-anon-alateen-msp.org/>

<https://womenforsobriety.org/> – includes online chat

<http://aaonline.org/> is one example of online A.A. meetings

<https://www.smartrecovery.org/> SMART Recovery

<https://www.gamblersanonymous.org/ga>

<http://www overeaters.org/>; <https://eatingdisordersanonymous.org/>

<http://www.minnesotarecovery.info/OtherMN12StepGroups.htm>

<https://saa-recovery.org/meetings/united-states/?state=MN> Sex Addicts Anonymous

<https://www.allinahealth.org/health-conditions-and-treatments/grief-resources> Dealing with grief

<https://www.ncadd.org/> National Council on Alcoholism and Drug Dependence

<https://www.usnodrugs.com/> U.S. No Drugs features a searchable directory of treatment centers and a glossary of common terms used in addiction research, reports, and treatment.

<https://addictionblog.org/> General information on addiction sponsored by the American Addiction Centers

Lawyers Concerned for Lawyers

2550 University Avenue West, #313N · St. Paul, MN 55114
651-646-5590; 866-525-6466 · www.mnlcl.org · help@mnlcl.org

Publications and Literature

The Anxious Lawyer: An 8-Week Guide to a Joyful and Satisfying Law Practice, Jeena Cho and Karen Gifford. The Anxious Lawyer provides a straightforward 8-week introductory program on meditation and mindfulness, created by lawyers for lawyers. The program draws on examples from Cho and Gifford's professional and personal lives to create an accessible and enjoyable entry into practices that can reduce anxiety, improve focus and clarity, and enrich the quality of life.

King Baby, Tom Cunningham. Discusses the "King Baby" personality (the childish ego traits seen in people who have reached adulthood without acquiring emotional maturity), frequently associated with people with substance use disorders.

"Law Students and Lawyers with Mental Health and Substance Abuse Problems: Protecting the Public and the Individual," Laura Rothstein, *University of Pittsburgh Law Review*, vol. 69:531 (2008).
<http://lawreview.law.pitt.edu/ojs/lawreview/article/download/106/106/0>

"Mental Illness Is Far More Normal Than We Think," Seth J. Gillihan Ph. D., *Psychology Today* blog (May 17, 2021), <https://www.psychologytoday.com/us/blog/think-act-be/202105/mental-illness-is-far-more-normal-we-think>

"Reducing the Stigma: The Deadly Effect of Untreated Mental Illness and New Strategies for Changing Outcomes in Law Students," Joan Bibelhausen, Katherine Bender, and Rachel Barrett, *William Mitchell Law Review*, vol. 41, no. 3 (2015). <https://www.mnlcl.org/wp-content/uploads/2020/05/Reducing-the-Stigma-The-Deadly-Effect-of-Untreated-Mental-Illnes.pdf>

Trauma and the Twelve Steps, Revised and Expanded: An Inclusive Guide to Enhancing Recovery, Jaime Marich