

Managing Ethics, Negativity & Stress

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Overview

- I. Sources of Negativity & Stress
- II. Negativity's Impact on us as Lawyers
- III. Negativity's Impact on our Professional Ethics
- IV. Effectively Managing Negativity

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Check in – Question 1

Who's here?

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Ethics, NEGATIVITY & Stress

Negativity & Stress

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Sources of Negativity

- Professional Pessimism
- Perfectionism
- Heavy Workloads
- Negative interactions
- Sleep Deprivation
- Work-life conflicts
- Trauma and Compassion Fatigue
- Burnout
- Job Dissatisfaction

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Sources of Negativity

- Pandemic & Emotional Exhaustion
- Polarizing Politics and Court Decisions
- Racial Injustices and Social Unrest
- Economy & Possible Recession
- Backlogged Court System
- New Traumas & Triggering Past Traumas

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Ongoing Pandemic Impacts

- Health Concerns for You & Your Loved Ones
- Working/Schooling from Home
- Disconnect from colleagues, support systems, career mentoring
- Technology/Economic changes
- Job Loss/Job transitions

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Internal/External Conflict

- Internal and External Conflict
 - Thinking and Overthinking "what should I/we be doing?"
 - Different Opinions with Family, Friends, Neighbors and Social Media(!!!)
 - Disinformation
 - Respecting Other's Opinions/Views
 - Trying to deal with clients and others that have increased generalized stress

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Check in – Question 2

What challenges have you faced recently?

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The Impact Stress Has on Lawyers

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ABA/Hazelden Study (2016)

- 21% of lawyers meet criteria for substance use disorder (6.4% of the general population)
 - 32% of lawyers under 30 &/or practicing 10 yrs of less
- 28% of lawyers suffer from depression
- 19% of lawyers suffer from severe anxiety
- 23% of lawyers suffer from elevated stress
- 11.5% of lawyers have suicidal thoughts during their career

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STRESS!

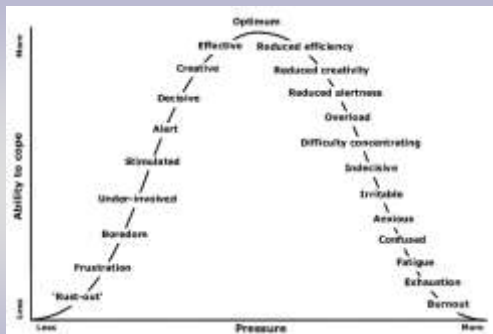
- Rules Based Morality
- Perfection
- Living Up to Expectations
- Vicarious Trauma
- Competitive Nature
- Pessimism - we must see everything that could go wrong
- Problem Solvers ("Suit of Armor")
- Little Value in Feelings, Only FACTS
- "Success" defined by others
- ...and PRESSURE (Good & Bad!)



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Consequences of Failing to Manage Stress

- Reduced personal and professional performance
- Health problems (mental and physical)
- Dangers of increase in alcohol use and other unhealthy coping mechanisms
- Mental health and substance use issues have been exacerbated during pandemic.

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Check in – Question 3

How are you?

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Impact on Lawyer Ethics

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

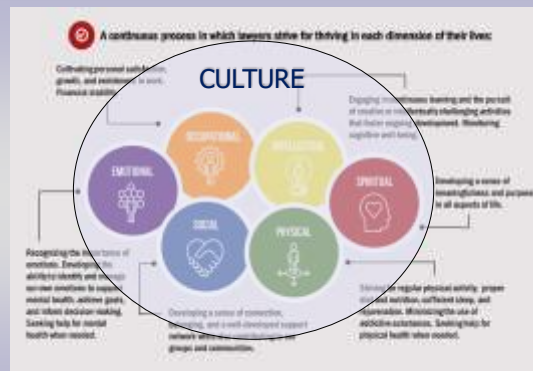
THE REPORT OF THE NATIONAL
TASK FORCE ON LAWYER WELL-
BEING



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A Crisis of Competence

"To be a good lawyer, one has to be a healthy lawyer. Sadly, our profession is falling short when it comes to well-being." ... "[T]he current state of lawyers' health cannot support a profession dedicated to client service and dependent on the public trust."

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Mistakes Arising from Core Duties to Clients

- Most ethics complaints filed against lawyers are filed by their clients.
- Of the complaints that result in discipline, approximately 2/3 result in private admonitions.
- Most misconduct involved in private admonitions and probations arise from the core duties in the client-lawyer relationship.

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Rule 1.1 - Competence

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 [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..."

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Rule 1.3 - Diligence

Rule 1.3: Diligence

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

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Rule 1.4 - Communication

Rule 1.4: Communication

"(a) A lawyer shall ... reasonably consult with the client about the means by which the client's objectives are to be accomplished...keep the client reasonably informed about the status of the matter ... promptly comply with reasonable requests for information ... and ...shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions ..."

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Rule 1.6 - Confidentiality

Rule 1.6 Confidentiality

(a) Except when permitted under paragraph (b), lawyer shall not knowingly reveal information relating to the representation of a client."

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Rule 1.6 – Defense Exception

Rule 1.6 “(b) A lawyer may reveal information relating to the representation of a client if:
(8) the lawyer reasonably believes the disclosure is necessary to establish a claim or defense on behalf of the lawyer in an actual or potential controversy between the lawyer and the client, to establish a defense in a civil, criminal, or disciplinary proceeding against the lawyer based upon conduct in which the client was involved, or to respond in any proceeding to allegations by the client concerning the lawyer’s representation of the client;”

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Minnesota Opinion 24

“When responding to comments, negative or otherwise, posted on the internet (or any other public forum) concerning the lawyer’s representation of a client, Rule 1.6(b)(8) MRPC, does not permit the lawyer to reveal information relating to the representation of a client.

Lawyers are cautioned that, when responding to comments posted on the internet or other public forum which are critical of the lawyer’s work, professionalism, or other conduct, any response should be restrained and should not, under Rule 1.6(b)(8) reveal information subject to Rule 1.6(a), MRPC.”

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IV-Effectively & Ethically Managing Negativity

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Ethics, Negativity & Stress

Deliver Excellent Client Service

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Excellent Client Service

Excellent client service generates positivity

- Choose clients well (Rules 1.1, 1.3, 1.4)
- Create reasonable expectations with clients and meet them (Rules 1.2, 1.4)
- Clearly communicate fees (Rule 1.5, 1.15)
- Serve clients! (Rule 1.1, 1.2, 1.3, 1.4, 1.15, 1.16)

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Effectively Manage Stress

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Coping with stress



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Check in – Question 4

What do YOU
do for self care?

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Deconstructing Stress

- Identify the Best vs. Worst Case Scenario
 - What can YOU control and what can you NOT? Only focus on the things you can change.
 - You have many choices available; even choices about how you view the problem.

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Managing Stress

- Respect Your Feelings
 - Feelings Deserve Attention
 - Mental Health vs. Physical Health
 - Recognize that feelings can help guide and motivate us to make changes

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Managing Stress

- Make Mistakes
 - *Allow yourself to make mistakes*
 - *Allow yourself to make mistakes*
 - *Allow yourself to make mistakes*
 - Attempt to learn from your mistakes
 - Realize that mistakes reflect BEHAVIORS, not who you are as a person; just because you make mistakes does not mean YOU are a failure

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Managing Stress

- Hear What Your Body Is Telling You
 - Physical symptoms such as headaches and backaches can be signs of over-stress
 - How is your appetite?
 - How is your sleep?

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Managing Stress

* Come Face-to-Face With Your Problem

- Confronting problems can provide opportunities for change and awareness
- Try to view problems as challenges which will ultimately improve your life
- Don't "Sweep Problems Under The Rug"
- Oftentimes these problems are hard to see

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Managing Stress

* Seek Help When Needed

- Getting help is a healthy choice if things go bad
- Seek help even when things *aren't* going bad
- Realize that we can't always do it alone – we all get help from others

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Take care of yourself first



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Develop Resilience

Resilience = the capacity to recover quickly from difficulties.



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Resilience

- 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)

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Building Resilience

- In a study of public defenders, debriefing with colleagues was critical in mitigating the impact of trauma and developing resilience.
- Resilience allows you to adapt in a healthy way – helping others and caring for yourself are equally important.
- Go for the rebound – you will have adversity, how do you come back?
- Give yourself permission to learn from your stress.

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Strive for well-being



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Components of well-being

- **Occupational** – cultivating personal satisfaction, growth, and enrichment in work; financial stability
- **Intellectual** – engaging in continuous learning and the pursuit of creative or intellectually challenging activities that foster ongoing development; monitoring cognitive wellness
- **Spiritual** – developing a sense of meaningfulness and purpose in all aspects of life.
- **Physical** – striving for regular physical activity, proper diet and nutrition, sufficient sleep, and recovery; minimizing the use of addictive substances; seeking help for physical health when needed
- **Social** – developing a sense of connection, belonging, and a well-developed support network while also contributing to groups and communities
- **Emotional** – recognizing the importance of emotions; developing the ability to identify and manage our own emotions to support mental health, achieve goals, and inform decision-making; seeking help for mental health when needed

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Ways to Promote Well-being

- **Provide Pro bono services** to meet a community need or engage in a new or different practice area
- **Engage in hobbies or pastimes you enjoy** but don't seem to find the time to do
- **Get involved in religious, spiritual, or neighborhood** activities
- **Commit to fitness**, join a health club, find a walking buddy
- **Sleep** seven or more hours per night
- **Practice mindfulness** through meditation, mindfulness based stress reduction, or integrative restoration meditation (iRest) – or simply take time to breathe
- **Transform your practice** in a meaningful way
- **Debrief** with other lawyers who understand what you are going through
- **Get professional help** for yourself or others
- **Join** the MSBA Wellness Committee

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Ways to Promote Well-being

- Practice Gratitude
- Support Others
- Spend time with friends, families, pets
- Be a "Joy Multiplier"
- Take care of your needs
- Say No
- Avoid Social Media

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Support Wellness in the Profession

Lawyers should aspire to improve the profession:

"[7] Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession, and to exemplify the legal profession's ideals of public service."

MRPC Preamble [7]

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Supporting Wellness in the Profession

- Demonstrate a personal commitment to well-being
- Facilitate, de-stigmatize, and encourage help-seeking behavior in colleagues
- Partner with your lawyer assistance program – Minnesota LCL mncl.org
- Reduce stigma of mental and substance use disorders
- Work to implement the recommendations of the National Task Force on Lawyer Well-Being

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Lawyers Concerned for Lawyers - Minnesota's Lawyers Assistance Program

- **Who We Are:**
 - Minnesota's Lawyer Assistance Program (LAP)
- **Who We Support:**
 - Lawyers, Judges, Law Students, staff in legal organizations, and their families
 - Free Service and 100% Confidential
 - On average, we help approximately 400 new individuals per year.

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How LCL Can Help...

- Available Services:
 - 4 Free Counseling Sessions per issue
 - Peer Volunteers (Maybe You?)
 - Treatment Center Visits
 - 24-hour hotline
 - Coaching
 - Referral to Community Services
 - CLEs, Outreach, Tabling & Education
 - Group Therapy & Support Group
 - Crisis Intervention
 - Someone to listen

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