



**LAWYERS CONCERNED FOR LAWYERS**

Confidential Support for Legal Professionals

# Shielding the Carer: Understanding and Managing Secondary Trauma in Legal Professionals

## Table of Contents

How LCL Can Help	3
Minnesota Rules of Professional Conduct & Well-Being	5
CLE Handout	9
Well-being Resources	12



## 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

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

## *Shielding the Carer: Understand and Managing Secondary Trauma in Legal Professionals*

### **Introduction**

Legal professionals often spend significant time engaging with victims of trauma, whether through direct interactions or through secondary sources such as reports, photographs, and testimony. Over time, these repeated exposures can take a substantial emotional toll, leading to what is known as secondary trauma. This handout will explore secondary trauma, its manifestations, associated conditions, and strategies for building resilience both individually and within the workplace.

### **Understanding Secondary Trauma**

Secondary trauma, also known as vicarious trauma, occurs when individuals are indirectly exposed to the traumatic experiences of others. Legal professionals, particularly those working closely with clients who have experienced trauma, are at heightened risk. This condition can manifest both at work and in personal life, leading to a range of emotional and physical symptoms.

Common manifestations of secondary trauma include:

- Emotional numbness or detachment
- Intrusive thoughts or images related to the trauma
- Increased irritability or anxiety
- Difficulty sleeping or concentrating

Risk factors that may exacerbate the effects of secondary trauma include:

- Lack of support systems
- High caseloads or exposure to particularly graphic cases
- Personal history of trauma
- Work environments with insufficient resources



## Compassion Fatigue and Burnout

Compassion fatigue and burnout are related but distinct conditions that can arise from chronic exposure to the suffering of others. While compassion fatigue results from the emotional impact of caring for others in distress, burnout is typically linked to prolonged work-related stress.

Signs of compassion fatigue include:

- Overwhelming feelings of helplessness or hopelessness
- Diminished sense of personal accomplishment
- Avoidance of clients or work-related responsibilities

Signs of burnout include:

- Emotional exhaustion
- Depersonalization or a sense of detachment from work
- Reduced performance or productivity

## Mental Health Implications

Prolonged exposure to secondary trauma can lead to more severe mental health issues, including depression, anxiety, and substance use disorder. These conditions are often exacerbated by the high-stress environments in which legal professionals operate.

Depression may manifest as persistent sadness, loss of interest in activities, and fatigue, while anxiety can lead to excessive worry, irritability, and physical symptoms such as headaches or stomachaches.

Substance use disorder, including alcohol or drug misuse, may develop as a coping mechanism for dealing with the stress and emotional burden of secondary trauma.

## Resilience Strategies

Building resilience is essential for managing the effects of secondary trauma. Legal professionals can implement several strategies to strengthen their resilience:

Individual strategies:

- Practicing self-care, such as regular exercise, healthy eating, and sufficient sleep
- Seeking professional support, such as therapy or counseling
- Setting boundaries to prevent overwork and maintain work-life balance

Workplace strategies:

- Providing access to mental health resources, such as Employee Assistance Programs (EAPs)
- Fostering a supportive work environment with open communication
- Offering training on managing secondary trauma and promoting well-being

## Contact Information

For further support and resources, please contact,

Lawyers Concerned for Lawyers

651-646-5590

866-525-6466 (toll-free)

651-646-2364 (fax)

[www.mnlcl.org](http://www.mnlcl.org)

[Smacgillis@mnlcl.org](mailto:Smacgillis@mnlcl.org)

For further reading about secondary trauma:

Rabil, McQuiston & Wiseman, "Secondary Trauma in Lawyering: Stories, Studies, and Strategies." 56 Wake Forest Law Review 825

Rebecca Howlett and Cynthia Sharp, *The Legal Burnout Solution: How Secondary Trauma Impacts the Mental Health of Legal Professionals*

William C Silverman, *How to Identify and Address Secondary Trauma*, *National Law Review*, August 12, 2024

Jeongsuk Kim, Brittney Chesworth, Hannabeth Franchino-Olsen , and Rebecca J. Macy, *A Scoping Review of Vicarious Trauma Interventions for Service Providers Working With People Who Have Experienced Traumatic Events*, 2023 Trauma, Violence and Abuse, 1437-1460 (2022).

Andrew P. Levin, MD, Linda Albert, LCSW, Avi Besser, PhD, Deborah Smith, JD,|| Alex Zelenski, MBA, Stacey Rosenkranz, PhD, and Yuval Neria, PhD, *Secondary Traumatic Stress in Attorneys and Their Administrative Support Staff Working With Trauma-Exposed Clients*, The Journal of Nervous and Mental Disease & Volume 199, Number 12, December 2011



## LAWYERS CONCERNED FOR LAWYERS

Confidential Support for Legal Professionals

### Well-Being Research and Resources

- 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.
- Task Force on Lawyer Well-Being, [The Path to Lawyer Well-Being: Practical Recommendations for Positive Change](#), 2017
- [Well-Being Toolkit for Lawyers and Legal Employers](#), 2018
- Jaffe, David, Bender, Katherine, Organ, Jerome, ['It is Okay to Not Be Okay': The 2021 Survey of Law Student Well-Being](#), *University of Louisville Law Review*, June 2022
- Swenson, David, Bibelhausen, Joan, et al., [Stress and Resiliency in the U.S. Judiciary](#), *ABA Journal of the Professional Lawyer*, 2020,
- Swenson, David, Yetter, Katheryn, [Judicial Stress and Resiliency Survey COVID-19 Update](#), *Court Review*, Volume 57, 2021.
- Anker, Justin, Krill, Patrick, [Stress, drink, leave: An examination of gender-specific risk factors for mental health problems and attrition among licensed attorneys](#), *PLoS One*. 2021 May 12.
- Krill, Patrick, Degeneffe, Nicki, et al., [People, Professionals, and Profit Centers: The Connection between Lawyer Well-Being and Employer Values](#), *Behav. Sci.* 2022, 12, 177.
- Krill, Patrick, Thomas, Hannah, et. al., [Stressed, Lonely, and Overcommitted: Predictors of Lawyer Suicide Risk](#), *Healthcare*, 2023
- Maroney, Terry, Swenson, David, Bibelhausen, Joan, Mark, David, [The State of Judges' Well-Being: A Report on the 2019 National Judicial Stress and Resiliency Survey](#), *Judicature*, Vol. 107, 2023
- [ABA Commission on Lawyer Assistance Programs](#).
- [Institute for Well-Being in Law](#).

### Lawyer Assistance Programs (LAPs)

- LAPs exist in every US jurisdictions and most Canadian provinces. All support lawyers and judges. Some also support law students, other legal professionals and their immediate family members.
- LAP services are confidential. Many will provide CLE speakers, support groups, and access to counseling.
- The ABA [Commission on Lawyer Assistance Programs](#) (CoLAP) is a clearinghouse for information and maintains a [Directory](#) of programs.
- LAPs confidentially consult with legal organizations regarding potential impairment and well-being initiatives and resources.