

Legal Work in a Highly Stressful Environment

Joan Bibelhausen

Lawyers Concerned for Lawyers

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Today's Topics

- Overview – Elimination of Bias perspectives on chronic stress and mental and chemical health
- Mental and chemical health challenges in the legal profession
- Ethical Considerations
- What help is available?

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The Profession of Law

- We are in a stressful profession and we went through a lot to get here.
- Law school reality check
- First job, any job
- Finding your niche in the law
- Usually it's ok. If that's all, why not change or improve?

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## Are you where you want to be?

- Why did I become a lawyer – 3 reasons
- When I look at those reasons today, are they realistic?
- To what extent have I achieved this
- Can I still achieve this and what do I have to do?

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## What Makes the Law Stressful?

- Environmental
  - Billable hour pressure
  - Work overload
  - Competition
  - Difficult people
  - Legal role conflicts
  - Adversary system
  - Area of practice
  - Discrimination
- Individual
  - Boundaries
  - Values and materialism
  - Perfectionism
  - Worst case scenario
  - Emotional engagement

Amiram Elwork, *Stress Management for Lawyers*, The Vorkell Group, 2007

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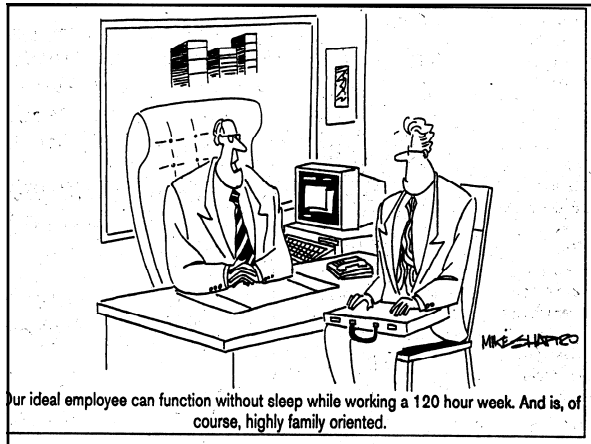
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## Who Are We?

- Rules/rights-based morality
  - Focus on economic bottom-line
  - Powerlessness
  - Professional boundaries become personal
  - Isolation

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## Who Are We?

- **Perfection**
  - Nothing is good enough – ethics/malpractice risk
  - Higher levels of stress hormones
  - Greater vulnerability to depression and anxiety; suicide
  - When we make the inevitable mistake, perfectionism magnifies the failure

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## Who Are We?

- **Pessimism**
  - Law school performance
  - Pessimism helps us excel because we anticipate the worst and prepare for it
  - Pessimism leads to stress and disillusionment, which make us vulnerable to depression
  - We solve problems by understanding them.

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## Who Are We?

- Vicarious trauma
  - Intensity of exposure
  - We don't get credit, we get jokes
  - A healing profession

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## What is Stress?

- Let's define it: a series of physiological responses and adaptations to a real or imagined threat or demand.
- Stress occurs when the pressures experienced by the individual are perceived by them as exceeding their capacity to deal with them, in a situation where coping is perceived as important.
- Can be good or bad, healthy or unhealthy

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## Healthy vs. Unhealthy Stress

- Healthy Stress
  - Increases attention or focus
  - Increases energy
  - Increases creativity
  - Increases motivation
  - Increases memory retention
  - Improves productivity
  - Creates conditions for personal satisfaction
  - Is time limited

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## Healthy vs. Unhealthy Stress

- Unhealthy Stress
  - Causes Fatigue
  - Causes Loss of Efficiency
  - Causes Loss of productivity
  - Results in Depression
  - Results in Anxiety
  - Results in Burnout
  - Results in Functional Breakdown
  - Often is not Time Limited: Chronic

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## Body-Mind Responses

- Repetitious Thoughts
- Increasing Stress
- Loss of Humanistic Values
- Self-destructive Coping Strategies
  - Alcohol/drugs
  - Internet
  - Sleep Deprivation
  - Denial
  - Excessive Working
  - Withdrawal to Superficial Peer Relationships

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## Body-Mind Responses (#2)

- Chronic Heightened Adrenaline Levels
- Cardiovascular Adaptations
- Depleted Serotonin & Nor-epinephrine
- Immune System Malfunction
- Burnout
- Anxiety/depression

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## Contributing Factors

- Ignoring Basic Personal Needs
  - Sleep
  - Nutrition
  - Exercise
  - Social Support
- Personal Beliefs
  - Happiness = Being in Best Job
  - Happiness = Most Cases
  - Happiness = Status
  - I.E. Happiness = Something Outside of Me

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## It's not just lawyers, it's everyone (including clients!)

- With increasing time spent on the job, job stress is becoming a painful reality for many workers.
  - 40% of workers reported that their job was very often extremely stressful.
  - 25% view their jobs as the number one stressor in their lives.
  - 75% of employees believe that they have more on-the-job stress than the generation before them.
  - 26% of workers said they were, "often or very often burned out or stressed by their work."
  - Many are un or underemployed, adding more stress.

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## The Public Service Difference

- Anti Government, Anti Public Union
- Limited Resources – or are they?
- Public Scrutiny
- Change in Leadership
- Stereotypes – us and our clients
- Fewer Resources? Do it Anyway

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## The Family Law Difference

- Sensitive Personal Issues
- Parties Angry, Depressed, Addicted
- Pro se Parties
- Legal Issues are the Tip of the Iceberg
- Client Crises and Boundaries
- Leaving it at the Office

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## Issues for Judicial Officers

- Being overloaded
- Isolation
- Decision burden
- Emotional trauma
- Limited discretion

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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

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### Scope of Chemical Abuse and Dependency Among Attorneys

- Alcohol abuse and dependency is twice as prevalent among attorneys as it is among non-attorneys.
- Women lawyers do not have as high rates as male attorneys for alcohol abuse and dependency, but when they do, the problem is likely to be more severe.
- Lawyers from underrepresented groups are often more severely addicted when they get help.

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### Risk Factors (Addiction)

- Family History (genetics, not environment)
- Age at First Use
- Culture
- Gender
- Ethnicity
- History of Abuse: Physical, Sexual, Emotional
- Chronic Stress
- Mental or Physical Illness
- Chronic, unresolved Emotions: Shame, Fear

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### Characteristics of Addiction

- Primary
- Progressive
- Chronic
- Fatal
- Genetic
- Psychosocial
- Environmental
- Increased Tolerance
- Loss of Control
- Preoccupation
- Denial

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## Stages of Dependency

- Early—use for stress, emotional relief, increasing frequency and amount of use, blackouts/memory loss, possible harmful consequences
- Middle—family problems, personality changes, behavior inconsistent with values, continued use despite harmful consequences, using to feel “normal”
- Late—physical deterioration, free-floating anxiety, using to eliminate the pain, premature death

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## Other Addictions

- Drugs
- Gambling
- Internet Addiction
- Sex Addiction
- Eating Disorders
- Shoplifting Addiction
- Compulsive Shopping

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## Does Treatment Work ?

- C.D. one year relapse rate – 40% to 60%

Proportion of patients who require medical care to re-establish symptom remission within one year of initial treatment:

- Type 2 diabetes (adults) - 30% to 50%
- Hypertension (adult onset) - 50% to 70%
- Asthma (adult onset) - 50% to 70%

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## Mental Health and Lawyers

- Lawyers are 3.6 times as likely to suffer from depression as the rest of the population.
- Women – Report depression twice as frequently as men. Symptoms more congruent.
- Men – Less likely to admit to depression and less likely to be diagnosed. Cover up symptoms with work, alcohol, and drugs. Symptoms tend toward anger/irritability.

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## Risk Factors (Mental Illness)

- Genetics
- Trauma: serious injury, major loss, assault, witnessing traumatic event
- History of Physical, Sexual, Emotional Abuse
- Chronic stress
- Substance Abuse
- Major Physical Illness

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## Depression: Common Symptoms

- Feeling Sad or Empty
- Loss of Interest in Normally Pleasurable Activities
- Change in Appetite
- Sleep Disturbance
- Fatigued, Loss of Energy
- Difficulty Concentrating, Remembering, Deciding
- Physical Pain(s)
- Wishing You Weren't Alive
- Thinking of Dying, Suicide

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## Other Mental Illnesses

- Bipolar Disorder
- Anxiety Disorder
- Obsessive Compulsive Disorder
- ADHD
- Unresolved Grief
- Post Traumatic Stress Disorder
- Alzheimer's Disease

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## Depression: #1 Cause of Suicide

- Suicide rates among lawyers 6X National
  - More Women Attempt, More Men Succeed
- Symptoms Include:
- Depression symptoms
    - Statements of hopeless, helplessness, or worthlessness
    - Preoccupation with death
  - Sometimes unexpected sudden improvement in mood
  - Giving away possessions
  - Tying up "loose ends, setting one's affairs in order"
  - Giving "hints" of plans
- Intervention: Ask, Support, Connect with Help
- DOING NOTHING IS NOT AN OPTION!**

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## Addiction/Dependency and Mental Health

### Dual Diagnosis:

- Substance use disorder present in 40-60% of people with a mental disorder
- A mental disorder is present in 40-60% of people who have a substance use problem.

### Dual Diagnosis (substance misuse and depression)

- Substance misuse present in 27% of individuals with major depression.
- Substance misuse present in 56% of individuals with bipolar disorder.

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## Chemical Abuse, Discipline and Malpractice

### MINNESOTA EXPERIENCE

- Former OLPR Director estimates alcohol involved in 50% of investigated discipline cases – not all are disciplined.
- In 2008 12% and 2009 7.5% of current probations had a chemical dependency requirement (verified AA attendance or random urinalysis).

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## Mental Health Issues and Disciplinary Proceedings

### MINNESOTA EXPERIENCE

- Probations relating, at least in part, to psychological disorders:  
2001 – 18.9%; 2008 – 23%; 2009 – 18%
- Open OLPR cases include:  
50% neglect and non-communication  
23% non-cooperation

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We know it matters.  
Now what do we do  
about all that stress?

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### Stress Reduction

For stress to resolve itself, there has to be time to rest, the chance to express problems, and a secure environment.

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### How we balance

- On one side:
  - Family
  - Community
  - Spiritual needs
  - Diet and exercise
  - Recreation



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## How we balance

- On the other side
  - Working conditions
  - Level of meaning
  - Type of law
  - Security
  - Level of time and caseload pressure



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## How it can look



- Career dissatisfaction
- Lack of security
- Fatigue
- Isolation
- Depression
- Addiction

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## Handling Stress

- The 6 R's of Stress Prevention
  - Responsibility
  - Reflection
  - Relaxation
  - Relationships
  - Refuelling
  - Recreation

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### If it's not right, why don't we change it?

- It's much easier to do nothing
- Money
- Identity
- Changes that don't change anything
- Something bigger is in the way

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### Is there a positive side?

- Here's the good news—life doesn't have to be as stressful for you. Just as having a high level of stress leads to negative health and life consequences, managing and reducing stress brings some important health benefits.

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### Responses to Stress

- Reactive
  - Exercise
    - Why the popularity of extreme sports?
    - "Expensive hobbies"
  - Support System
    - Mentor
    - Support Group
    - Therapy
  - Relaxation Techniques
    - Movies
    - Reading
    - Social/Family Activities
    - Relaxation Resources

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## Responses to Stress

- Proactive
  - Transforming Values from External to Internal
    - Doing Your Best
    - Working Hard
    - Being Ethical
  - Accepting Human Imperfection – Isn't Excellence enough?
  - Accepting Human Inability to Control

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## Proactive Response (cont.)

- Enjoying the Process
  - Building Positive Relationships
  - Giving to Others
  - Develop Life Skills vs. Lawyer Skills
  - Meditation
- See *Transforming Practices: Finding Joy and Satisfaction in the Legal Life* by Steven Keeva, ABA Journal Books 1999 and 2002

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## Barriers to Managing Stress

1. "I just 'deal' with my stress, it's not a big issue."
2. "It's just stress, I don't need counseling"
3. "Stress is just a part of my job."
4. "I don't have time to deal with my stress."
5. "I thrive on stress."

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## Barriers to Managing Stress

6. "People who are stressed just can't cope with reality."
7. "If I just make it through these next few weeks I'll be OK."
8. "I'm so stressed, I don't even know where to start."
9. "Dealing with my stress would just be too expensive."
10. "I'm always stressed, it hasn't made a difference so far."

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## How is your stress level and what are you doing about it?

- Determining what stage you're in is an important first step in learning to manage stress. Once you know where you're at, you'll be better equipped to cope with whatever life throws at you.

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## Making Stress Management a Priority

- In order to make stress management a priority, it's important to understand the process of how people change. When changing behaviors, like those associated with reducing stress, most people go through a cycle known as the "**Stages of Change**."

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## The Five Stages of Change

**Stage 1:** Nope...Not interested in dealing with my stress right now.

**Stage 2:** Hmm...I'm seriously considering stress management.

**Stage 3:** Yep...I'm getting ready to start dealing with stress.

**Stage 4:** Let's go...I'm managing my stress.

**Stage 5:** Old news...I've been able to cope with my stress for a long time.

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## Not Interested in Changing Now

- People in this group have no intention of dealing with their stress, and frankly may not even see stress as something they should address.

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## Serious Consideration

- These people understand that finding ways to manage their stress would be good for them, but they aren't making concrete plans to manage their stress.

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## Getting Ready To Change...Soon

- These individuals understand the benefits of stress management, and are looking at employing stress management techniques in the very near future.

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## Let's Go...I'm Taking Action

- People in this stage have started to find ways to manage their stress. They're actually incorporating stress management strategies as part of their daily routines.

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## Old News...Been There, Done That

- These people are successfully managing the stress in their lives. The new strategies they're using to deal with and address stress have become a normal behavior for them.

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## Determining Your Stage: Self Quiz

To find out what stage you're in, pick the statement that most accurately describes you:

- I'm currently stressed, and I don't intend to find ways of coping within the next six months.
- I'm currently stressed, but I'm thinking about dealing with it in the next six months.
- I'm currently stressed, but have, on and off, tried to gain some control over it.
- I've managed to reduce my stress within the last six months.
- I've been successfully managing my stress for more than six months now.

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## Are you where you want to be?

- Why did I become a lawyer – 3 reasons
- When I look at those reasons today, are they realistic?
- To what extent have I achieved this
- Can I still achieve this and what do I have to do?

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## Reaching Out

- Expression of concern from one lawyer to another
  - Drop off a brochure, e-mail or call LCL
- Visits and calls
- Intervention
- Crisis Response

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### Lawyers Concerned for Lawyers Minnesota LAP

- History
- Current Services
  - Confidentiality
  - Lawyers, judges law students and their families
  - Education
    - » CLEs
    - » Website [www.mnlcl.org](http://www.mnlcl.org)
  - Consultation
    - » Advice and support to concerned persons
    - » Assistance to legal organizations with policies and procedures

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### Lawyers Concerned for Lawyers Minnesota LAP (continued)

- Current Services (continued)
  - Clinical Services
    - » 24 hour hotline
    - » Assessment
    - » Intervention Coaching
    - » Short term counseling
    - » Referral to Community Services
    - » Group Therapy
    - » Support Group
  - Mentoring
  - Social Support

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## Partnership with DOR

- Up to 4 free counseling sessions
- Resource website
  - [www.doreap.com](http://www.doreap.com)
  - Click on employees
  - Enter password LCL1
- Contact DOR directly at **612-332-4805** or toll-free: **1-800-367-3271**

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## TO CONTACT US

LAWYERS CONCERNED FOR LAWYERS  
2250 University Avenue West, # 313N  
St. Paul, MN 55114

**(651) 646-5590**  
**Toll Free: (866) 525-6466**

Website: [www.mnlcl.org](http://www.mnlcl.org) E-mail [help@mnlcl.org](mailto:help@mnlcl.org)

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## LAWYERS CONCERNED FOR LAWYERS

There is Help



&



There is Hope

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# **COPING WITH STRESS**

## **20 Self-Help Suggestions**

- **Take Responsibility**
  - Realize what you can control and what you cannot. Only focus on the things you can change
  - Realize you have many choices available; even choices about how you view the problem
- **Learn to Learn**
  - Concentrate efforts on learning new, positive skills to reduce stress
- **Hear What Your Body Is Telling You**
  - Physical symptoms such as headaches, backaches and irritation can be signs of over-stress
- **Learn How to Use Relaxation**
  - Meditation, imagery and muscle relaxation can help
  - Choose a technique that fits you and use it
- **Respect Your Feelings**
  - Feelings can help guide and motivate us to make changes
  - Feelings deserve attention
- **Benefit From Your Thoughts**
  - Thinking guides your behavior
  - The perspective we have of a given problem strongly guides how we handle it and the degree to which it 'stresses us out'
- **Practice Assertion**
  - Just be yourself
  - Express yourself in an open and straightforward manner which will increase the likelihood that others will understand you and that problems can be resolved
- **Confide In a Friend**
  - Let yourself be open with a trusted friend-share what is going on in your life and how you are handling it
  - This support is important and can generate new ideas or strategies
- **Come Face to Face With Your Problem**
  - As hard as it is, confronting the problem rather than avoiding it can provide opportunities for change and awareness
  - Try to view problems as challenges which will ultimately improve your life
- **Attempt to Solve the Problem**
  - Answers to life problems require consideration finding alternative solutions
  - There is seldom one simple, correct answer
  - Observe how others you trust solve their problems and learn from them
- **Act on Your Solution**
  - Decide what action you will take even if you are unsure of the results
  - Allow yourself to take risks and realize that taking risks is a normal part of life

- **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
- **Develop and Use a Self-Help List**
  - Develop a list of things to do that will help you feel less disturbed or helpless
  - Consider things which have been helpful in similar situations such as exercising, talking with a friend, watching a movie etc.
  - Keep this list with you in case you need to refer to it
  - Upgrade the list when you discover new things that help
- **Concentrate on Yourself**
  - Know what your needs are and respect them
  - Allow yourself to be creative. Try new things that can be exciting
  - Make a point to indulge yourself on occasion. Even little things can make you feel better
- **Respect Others**
  - Recognize and pay attention to the needs of others
  - Kindness breeds kindness
  - Caring sometimes involves taking risks
- **Plan Goals for Your Future**
  - Know where you are going
  - Develop a list of objectives and create a general timeline for achievement
  - Imagine what your life will be like after the achievement
- **Recognize the Importance of Time Management**
  - Prioritize daily activities so the most important activities to improve your future are done first
  - Understand that people don't FIND time, they MAKE it!
  - Take time to make time
- **Have Fun**
  - Set aside time for open, spontaneous and imaginative fun
  - Engage in activities that are pleasurable and gratifying
- **Seek Help When Needed**
  - Getting help is a healthy choice if things go bad
  - Realize that we can't always do it alone – we all get help from others
- **Give Change a Chance**
  - Learn to express your real feelings
  - Allow yourself to experience some anxiety and fear – it's not necessarily a bad thing



## Lawyers Concerned for Lawyers

# Balance Assessment

Important Areas of Your Life	Suggested Weekly Range	Actual Hours Spent	Plus or Minus Differential
<i>Health</i> Sleep Exercise Personal	45 – 56 1 – 10 7 - 14		
Families and friends	20 - 25		
Work	40 - 55		
Community Service	1-10		

- Based on actual time spent, list your “real” priorities. Be honest – this is not the time to be in denial about how you spend your time.
- How do your “real” priorities match up with your stated priorities?
- Where do you need to cut or add?

# Lawyers Concerned for Lawyers

## SELECTED RESOURCES ON MENTAL HEALTH AND SUBSTANCE MISUSE AND COMPULSIVE BEHAVIORS

### *American Bar Association*

[http://www.americanbar.org/groups/lawyer\\_assistance.html](http://www.americanbar.org/groups/lawyer_assistance.html) for lawyer assistance resources and information across the country. National resources are listed at <http://apps.americanbar.org/legalservices/colap/laplinks.html> Numerous articles are linked at <http://apps.americanbar.org/legalservices/colap/resourcelib.html>

Past issues of GP Solo, a publication of the ABA General Practice, Small Firm and Solo Division, include four theme issues “Bumps in the Road.” Many topics related to addiction, mental illness, stress and others are available. Back issues may be viewed at [http://www.americanbar.org/content/newsletter/publications/gp\\_solo\\_magazine\\_home/gp\\_solo\\_magazine\\_index.html](http://www.americanbar.org/content/newsletter/publications/gp_solo_magazine_home/gp_solo_magazine_index.html)

### *Lawyers Assistance Programs*

Lawyer Assistance Programs 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 [http://www.americanbar.org/groups/lawyer\\_assistance/resources/lap\\_programs\\_by\\_state.html](http://www.americanbar.org/groups/lawyer_assistance/resources/lap_programs_by_state.html)

### *Lawyers Concerned for Lawyers (Minnesota)*

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

[www.mnlcl.org](http://www.mnlcl.org); [help@mnlcl.org](mailto:help@mnlcl.org)

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

### [www.lawyerswithdepression.com](http://www.lawyerswithdepression.com)

This comprehensive website, founded by a lawyer, offers support and resources. See [http://www.lawyerswithdepression.com/depression\\_as\\_disability.asp](http://www.lawyerswithdepression.com/depression_as_disability.asp) for a discussion about work issues.

### *American Psychological Association*

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

Numerous resources on many mental health and wellness topics. For specific information about depression visit, <http://www.apa.org/pi/aging/depression.html>

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

<http://www.samhsa.gov>

This organization has a great deal of information for individuals seeking help, professionals in the helping professions and researchers.

## ***Mayo Clinic***

Stress management articles at <http://www.mayoclinic.com/health/stress-management/MY00435>

## ***National Alliance on Mental Illness***

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

NAMI has information on a wide variety of mental illnesses including ADHD, Bipolar Disorder, Personality Disorders, Depression, Eating Disorders, OCD, PTSD and others. There are also national and local support resources. The Minnesota website is [www.namihelps.org](http://www.namihelps.org).

## ***National Institute of Mental Health***

<http://www.nimh.nih.gov/health/topics/index.shtml>

Information regarding various mental health issues, including anxiety disorders and depression.

## ***Recovery Month***

<http://www.recoverymonth.gov/>

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

## ***National Institute on Drug Abuse***

<http://drugabuse.gov/nidahome.html>

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 as a PDF, in English or Spanish.

***12 Step Support Meetings*** – the following sites will direct you to 12 step meetings.

<http://www overeaters.org/>; [www.eatingdisordersanonymous.org](http://www.eatingdisordersanonymous.org)

<http://www.caofmn.com/>

<http://www.sexaa.org/mlist18.htm>

<http://www.gamblersanonymous.org/>

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

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

<http://www.naminnnesota.org>

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

# MENTAL HEALTH AND ADDICTION IN THE LEGAL PROFESSION

Lawyers Concerned for Lawyers

*There is Help and There is Hope*

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## I. Introduction and Overview: Stress and the Legal Profession

What is STRESS? It's a series of physiological responses and adaptations to a real or imagined threat or demand. Stress occurs when the pressures experienced by the individual are perceived by them as exceeding their capacity to deal with them, in a situation where coping is perceived as important. It can be good or bad, healthy or unhealthy.

Eustress is beneficial to us. It charges us up and allows us to meet challenges head on and gives us the necessary energy to do so. Distress is the chronic feeling of being overwhelmed, oppressed and behind in tasks. There is a sense that life is controlling us and we see little hope for relief, all of which can have unhealthy results. Regardless of how beneficial our stress may be, our bodies react. Our heart beats faster, our pupils dilate, our digestive and immune systems shut down and the hormones adrenaline and cortisol are released. In the short term, this helps us, but over time, the chronic presence of these changes will hurt us with results like higher blood pressure, more frequent illnesses, and coping mechanisms that are reactions not solutions.

### A. Sources of Stress for Lawyers

The legal profession presents many opportunities to take on someone else's problems, and it presents unique sources of stress. There are realities in the everyday practice of a lawyer, regardless of their area of practice and regardless of whether they litigate, are engaged in transactional work or perhaps even work in a non-traditional career.

1. Rules Based Morality. The way we help people; the way we make a difference for our clients, is to make their set of circumstances fit a set of rules. We apply the law to the facts. From that can come a tendency to see everything in terms of how we believe it should fit into the world as we see it. And we will use our finely tuned persuasive and argumentative skills to insist upon it.
2. Perfectionism. We are told from the beginning in law school that mistakes will cost us. From the humiliation of the Socratic method when we are not prepared (or even if we are) to cases where professional discipline occurs because of missing deadlines and important details, we learn that we must not fail. When we learn perfectionism it is not limited to our work life. Any possible failure becomes an opportunity for intense self scrutiny and every move we make can become defined by winning or losing.
3. Pessimism. We may be the only profession that succeeds because we can anticipate the worst that might happen. Yet, how else do we solve problems? The pessimist not only sees what can go wrong but is more likely to view bad things as permanent and unchangeable. Optimists see opportunity.
4. Vicarious Trauma. This may be our greatest risk. We are not the immediate first responders to the worst things that happen in our world, but we may spend more time with the details and people who experience the direct trauma than anyone else. Yet our need to be perfect (don't let them see you sweat) and pessimistic can make us even more vulnerable to the effects of this trauma. We don't show our weakness, we don't process and we hold it inside until we burnout. Yet studies have shown that simply talking about what one experienced, even and especially secondarily, can reduce the effects of the trauma.

## B. How do you know that you are over-stressed?

### 1. Physical Signs

- Throbbing in Chest
- Indigestion
- Breathlessness
- Tiredness and Fatigue
- Aches and Pains
- Frequent Infections
- Headaches
- High blood pressure

### 2. Emotional Signs

- Mood Swings
- Lack of Enthusiasm
- Guilt
- Lack of Concentration
- Anxiety
- Lack of Confidence
- Loss of Self Esteem

### 3. Behavioral Signs

- Accident Proneness
- Increased smoking/drinking/drugging
- Appetite Changes
- Irritability
- Change in Sleeping Patterns
- Change in Working Patterns
- Chronic Lateness/Procrastination
- Poor Hygiene
- Clumsiness

## C. Our Response to Stress

Many try to cope with stress by turning to tobacco, alcohol, caffeine, herbal remedies, legal or illegal drugs as well as diversions like gambling, internet shopping, games and porn or compulsive eating. These substances and processes may mask some of the symptoms of stress and provide temporary relief but they don't help in the development of effective stress-management techniques. They may harm your physical health, weakening resistance to stress even further and cause additional stressful complications in life.

## **II. Impact of Addiction and Dependency and the Practice of Law**

### A. Estimates of alcoholism and dependency among lawyers – Generally

1. The ABA estimates that 15 to 20 percent of U.S. lawyers suffer from alcoholism or chemical dependency. “Surveys reveal that as high as 18 percent of all lawyers—nearly one in five—will personally develop problems related to substance misuse. That figure does not include the number of partners, associates, family members, and colleagues who will be forced to deal with the effects of addiction as a result of an impaired attorney they know or work with.” John W. Clark, Jr., *We’re From the Bar and We’re here to Help You*,” G.P. Solo Magazine (A.B.A. Pub.; v.21, no. 7: October/November 2004).
2. “[M]ore than 20 percent of the male Washington lawyers are scoring above the cutoff for probable alcohol related problems for the current year.... This percentage is over twice the approximately 9% alcohol abuse and/or dependency prevalence rates estimated for adults in the United States.” “Approximately 70% of the lawyers in the sample are likely to develop alcohol problems in their lifetime.” Connie J.A. Beck, et al., *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 *Jour. of Law & Health* 1, 50-51 (1995-96).
3. A study in Arizona revealed that 26% of the practicing attorneys were concerned about their alcohol use. G. Andrew H. Benjamin, et al.; *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers*; 13 *Intern’l. Jour. of Law and Psychiatry* 233, 240 (1990).
4. Gender Differences – Women are less likely to have substance use problems in general and as attorneys. Most often, women don’t seek help until the disease is more advanced than for men, partly because of stigma attached to public intoxication for women.

#### B. Impact of alcoholism on discipline and malpractice claims

1. Alcohol misuse has been estimated to be a factor in at least 27 percent of the attorney discipline cases in the United States. G. Andrew, H. Benjamin, et al.; *supra* at 243.
2. “A study conducted in 1986, by the Oregon State Bar Professional Liability Fund (OSBPLF) showed the relationship of alcohol and drug problems with malpractice claims. OSBPLF reviewed the records of 100 consecutive lawyers who entered its lawyer’s assistance program. Sixty percent of the lawyers had malpractice suits filed against them while suffering from substance abuse.” G. Andrew H. Benjamin, et al.; *supra* at 244.
3. Minnesota’s experience
  - a. The number of probationary cases where chemical dependency was a component of the agreement was 7.5% as of December 31, 2009. *Annual Report of the Lawyers Professional Responsibility Board and the Office of Lawyers Professional Responsibility* (July 2010). In recent years the numbers have varied between 16.4% (2007), 8.4% (2008) and 12.2% (2009).
  - b. The actual impact of chemical misuse is much higher. Mike Hoover, former Director of the Office of Lawyers Professional Responsibility (OLPR), stated that his staff expected to find chemical dependency in at least half the discipline cases they investigated. Amy Lindgren, *Counting the Costs: Substance Abuse in the Legal Profession*, Bench and Bar



of Minnesota, Vo. 47, no 3, p. 22 (March 1990). Anecdotally, OLPR staff estimates the present rate at about one-third.

- c. The difference between these figures is partly caused by attorneys denying how their chemical use affects their practice. Many misconduct allegations involve behaviors closely related to the symptoms of chemical misuse and dependency. Marcia E. Femrite, “Addicted Attorneys in Disciplinary Proceedings”, *Michigan Bar Journal*, February 1991, p. 152. For example, over half of all OLPR open probationary files involved competence, diligence or non-communication. *Annual Report*, supra at 10.

### **III. Addiction and Dependency.**

#### **A. Addiction**

1. Why do people take drugs?
2. What it is.
3. How it develops.
4. Risk factors. These include genetics, age at first use, chronic stress, physical or mental health, culture, history of abuse and unresolved emotions.

#### **B. Definitions:**

1. The American Medical Association (AMA) defines “alcoholism” as a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. It is characterized by continuous or periodic impaired control over drinking, preoccupation with the drug alcohol, use of alcohol despite adverse consequences, and distortions in thinking, most notably denial. Robert M. Morse and Daniel K. Flavin, “The Definition of Alcoholism.” *Journal of the American Medical Association*, August 26, 1992, Vol. 268, No. 8, pp. 1012 – 1014.
  - a. Primary
  - b. Genetic
  - c. Psychosocial
  - d. Environmental
  - e. Often Progressive and Fatal
  - f. Impaired Control
  - g. Preoccupation
  - h. Denial
2. The American Society of Addiction Medicine (ASAM) defines “addiction” as a disease process characterized by the continued use of a specific psychoactive substance despite physical, psychological or social harm. *Principles of Addiction Medicine*, 2d ed., 1968.

3. The American Psychiatric Association's *Diagnostic and Statistical Manual (DSM IV)* defines "substance dependence" as a pattern of substance use leading to clinically important distress or impairment during a single 12-month period, shown by three (3) or more of the following:
  - Tolerance, shown by either: (1) a markedly increased intake or the substance is needed to achieve the same effect; or (2) with continued use, the same amount of the substance has markedly less effect.
  - Withdrawal, shown by either (1) the substance's characteristic withdrawal syndrome; or (2) the substance (or one closely related) is used to avoid or relieve withdrawal symptoms.
  - The amount or duration of use is often greater than intended.
  - Repeated attempts without success to control, reduce or stop using the substance.
  - An increasing or inordinate amount of time is spent using the substance, recovering from its effects, or trying to obtain it.
  - The reduction or abandonment of important social, occupational, or recreational activities because of substance use.
  - Continuing to use the substance despite the knowledge that it has probably caused physical or psychological problems.
  
4. The American Psychiatric Association's *Diagnostic and Statistical Manual (DSM IV)* defines "substance abuse" as a substance use causing clinically important distress or impairment in a single 12-month period as shown by one or more of the following:
  - Failure to carry out major obligations at work or at home due to the repeated use of a substance.
  - The use of substances even when it is physically dangerous.
  - Repeated legal problems from substance use.
  - Continued use of the substance, despite knowing that it has caused or worsened social or interpersonal problems.
  - The patient has not previously been diagnosed as dependent on this class of substance.

#### C. Stages of Dependency

1. Early Stage: includes relief use, loss of control over use, increasing frequency of use and amount, and blackouts or memory loss.
2. Middle Stage: includes employment, school or family problems; personality changes; behaviors not consistent with the person's value system; and work and financial difficulties.
3. Late Stage: includes increased tolerance of the substance, physical deterioration, free-floating fears and anxiety, institutionalization because of a decline in mental health, and death.

#### D. How Chemicals Affect the Brain

- Necessary neurotransmitters are blocked or released in abnormal ways
- The brain tries to return to normal but what if chemical use is perceived as normal?
- Then chemicals become necessary to return to normal and addiction has set in.
- Any mood-altering drug will now have this effect.

E. A basic checklist for signs of impairment in a legal professional.

### **Personal behavior**

- Gradual deterioration of personal appearance [hygiene/health].
- Loses control at social gatherings, even where professional decorum is expected.
- Distorts the truth; is dishonest.
- Manages finances poorly; fails to make tax filings and payments on a timely basis.

### **Attendance**

- Routinely arrives late and/or leaves early.
- Regularly returns late or fails to return from lunch.
- Fails to keep scheduled appointments.
- Has frequent sick days or unexplained absences.

### **Job performance**

- Procrastinates; has a pattern of missed deadlines.
- Neglects prompt processing of mail or timely return of calls.
- Shows decline in productivity/number of hours worked each month.
- Overreacts to criticism; shifts blame to others.
- Is unable to get along with or withdraws from fellow lawyers and other staff.
- Performance declines throughout the day.
- Clients complain about performance/communication.
- Co-mingles or borrows clients' trust funds.
- Appears under the influence and/or smells of alcohol in the office or during court appearances. Waldhauser, Carol; "Identifying Addictions"; G.P. Solo Magazine (A.B.A. Pub.; v.18, no. 5: July/Aug 2001).

BUT, the lawyer must continue to work to support the addiction so she or he may function very well in a work setting. By the time work performance begins to suffer, significant destruction may have occurred in other aspects of his or her life.

The employer can do a number of things to encourage those who may be more quickly aware of problems to bring them to the attention of management, another employee or to call LCL for help:

- Educate support staff
- Provide non-threatening reporting options
- Give family members a contact
- Distribute LCL or other information with benefits materials

### **The Jellenik Curve**

Dr. E. M. Jellinek . . . was originally trained in the application of the statistical method to biological research, and had an impressive ability to sort through complex data, and spot trends and sequences, and then mathematically prove their statistical validity. One legacy of his work was his development of the Jellinek curve, as it is called, which he drew up by making statistical studies of personal life histories given to him by alcoholics involved in recovery in the Alcoholics Anonymous program. Dr. Jellinek demonstrated that there were clearly defined progressive changes in behavioral patterns as alcoholics continued to drink over months and years, which could be laid out in an easy-to-understand chart. The

alcoholic's problems not only grew worse and worse, they did so in fairly predictable ways, in a sort of stepwise fashion. This Jellinek curve is still used worldwide in classrooms, treatment programs, and in public educational programs. William E. Swegan, *VICTORY OVER ALCOHOL Psychological Healing and the Twelve Steps*.

F. Reaching Out to Others. There are various places where a concerned person can reach out.

- Expression of concern from one lawyer to another
  - Drop off a brochure, e-mail our website, call LCL
- Visits and calls
- Intervention
- Crisis Response (immediate assistance needed)

G. Intervention

1. Definition
2. Essential Elements
3. Outcomes

H. Recovery

1. Types and Settings of Treatment
  - a. Types
    - i. Social and Behavioral
      - Cognitive – Behavioral
      - 12 Step Model (Minnesota Model)
      - Contingency Management
      - Motivational Interviewing
    - ii. Pharmacological
  - b. Settings
    - i. Inpatient (detox/stabilization, short term C.D. units)
    - ii. Residential (Therapeutic Communities)
    - iii. Outpatient
    - iv. Methadone Treatment
2. Does treatment work?

Generally, statistics reflect that C.D. treatment is at least as successful as treatment for other chronic diseases.

Studies of outcomes for selected chronic diseases have shown:

- 40% to 60% of clients from C.D. treatment programs are continuously abstinent and an additional 15% to 30% have cut down on their use.

Of the other chronic diseases, the proportion of patients fully adhering to their medication schedule is:

- Type 2 diabetes (adults) – less than 60%
- Hypertension – Less than 40%
- Asthma – less than 40%

In addition to treatment adherence, relapse rates are very similar among all four of these chronic disorders:

- Chemical dependency relapse: 40% to 60%.

Of the other chronic diseases, the proportion of adult patients who require medical care to reestablish symptom remission in one year:

- Type 2 diabetes – 30% to 50%.
- Hypertension – 50% to 70%.
- Asthma – 50% to 70%.

McLellan, A.T.; Lewis D.C.; O'Brien, C.P. and Kieber, H.D. Drug Dependence, a Chronic Medical Illness: Implications for Treatment, Insurance, and Outcomes Evaluation, Journal of the American Medical Association, v.284, No. 13, p. 1689 (2000).

#### IV. Other Addictions and Compulsive Behaviors

##### Gambling

- A. Definition:** Problem gambling is gambling behavior which causes disruptions in any major area of life: psychological, physical, social or vocational. The term "Problem Gambling" includes, but is not limited to, the condition known as "Pathological", or "Compulsive" Gambling, a progressive addiction characterized by increasing preoccupation with gambling, a need to bet more money more frequently, restlessness or irritability when attempting to stop, "chasing" losses, and loss of control manifested by continuation of the gambling behavior in spite of mounting, serious, negative consequences. (National Council on Problem Gambling, [www.ncpgambling.org](http://www.ncpgambling.org))
- B. Scope**  
Nationwide, over 75% of adults have gambled at least once in the past year. 2 million (1%) of U.S. adults are estimated to meet criteria for pathological gambling in a given year. Another 4-8 million (2-3%) would be considered problem gamblers; that is, they do not meet the full diagnostic criteria for pathological gambling, but meet one or more of the criteria and are experiencing problems due to their gambling behavior. The estimated social cost of problem gambling from bankruptcy, divorce, job loss & criminal justice costs was \$6.7 billion last year. Research also indicates that most adults who choose to gamble are able to do responsibly. (National Council on Problem Gambling, [www.ncpgambling.org](http://www.ncpgambling.org))
- C. Stages**
- a. In the *winning* stage, the gambler still has money and feels in control. Gambling enhances self-esteem and ego, and winning seems exciting and social. The gambler may shower family and friends with gifts or take expensive vacations.
  - b. Eventually, the winning stage turns into the *losing* stage. As losses pile up, the gambler becomes preoccupied with gambling and makes larger and more frequent bets, "chasing" losses in the hopes of breaking even. At this point, the gambler will "max out" credit cards, cash in insurance policies, pawn or sell personal property, and dip into retirement or investment accounts. Lawyers with access to client funds frequently are tempted to shift these funds "temporarily," a decision that ends up costing them their license to

practice law. Lies, loan fraud, absenteeism, family disputes, and job changes are frequent danger signs.

- c. Gambling counselors note that compulsive gamblers frequently lose all having real value. It becomes like play money. One counselor reports, “They’ll talk about bets, and simply say, ‘I was down 500,’ but have to be forced to say the word, ‘dollars.’ They don’t view it as money anymore.” Compulsive gamblers may approach family or friends to ask for money, but loans or gifts do not solve the problem. They only provide the gambling addict with fuel for another gambling episode.
  - d. Some problem gamblers will seek professional help at this stage, but many proceed to the next stage before getting help. At the *desperation* stage, the gamblers experience health problems such as panic or insomnia as debts pile up and relationships deteriorate. Having exhausted their financial resources, some gamblers turn to crime, and action gamblers begin gambling like escape gamblers to avoid their misery and feelings of hopelessness. Others simply run away from their family and debts, or attempt suicide. Melody Crawford Chadwick, “Bumps in the Road: Gambling.” G.P. Solo Magazine (A.B.A. Pub.; v.21, no. 7: October/November 2004).
- D. Signs and Symptoms - 10 Questions to Ask About Gambling Behavior**
1. You have often gambled longer than you had planned.
  2. You have often gambled until your last dollar was gone.
  3. Thoughts of gambling have caused you to lose sleep.
  4. You have used your income or savings to gamble while letting bills go unpaid.
  5. You have made repeated, unsuccessful attempts to stop gambling.
  6. You have broken the law or considered breaking the law to finance your gambling.
  7. You have borrowed money to finance your gambling.
  8. You have felt depressed or suicidal because of your gambling losses.
  9. You have been remorseful after gambling.
  10. You have gambled to get money to meet your financial obligations.
- E. Help for Problem Gamblers**
- a. Northstar Problem Gambling Alliance – 1-800-333-hope, [www.northstarproblemgambling.org](http://www.northstarproblemgambling.org)
  - b. [www.miph.org/gambling](http://www.miph.org/gambling)
  - c. Gamblers Anonymous – [www.gamblersanonymous.org](http://www.gamblersanonymous.org)
  - d. Debtors Anonymous – [www.debtorsanonymous.org](http://www.debtorsanonymous.org)

## Sexual Compulsivity

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- A. One definition: Recurrent and intense normophilic sexually arousing fantasies, sexual urges, or behaviors which cause clinically significant subjective distress in social, occupational, or other important areas of functioning. (Coleman, et al 2000)
- B. There is disagreement regarding whether compulsive sexual behavior is a psychosexual disorder, an addiction, a mood disorder, an impulse control disorder or an obsessive compulsive disorder.
- C. Assessment Questions include:
  1. Do you, or others who know you, find that you are overly preoccupied or obsessed with sexual activity?

2. Do you find yourself compelled to engage in sexual activity in response to stress, anxiety, or depression?
3. Have serious problems developed as a result of your sexual behavior (e.g., loss of a job or relationship, sexually transmitted diseases, injuries or illnesses, or sexual offenses)?

D. Resources:

- A. U of M Center for Sexual Health, 612-625-1500, [www.phs.umn.edu](http://www.phs.umn.edu)
- B. Sex Addicts Anonymous [www.sexaa.org](http://www.sexaa.org)
- C. COSA [www.cosa-recovery.org](http://www.cosa-recovery.org)
- D. Society for the Advancement of Sexual Health [www.sash.net](http://www.sash.net)

**Eating Disorders**

- A. Eating disorders are serious health conditions that can be both physically and emotionally destructive. Professional help is always recommended. If not identified or treated in their early stages, eating disorders can become chronic, debilitating, and even life-threatening.
- B. Resources:
  - a. [www.nationaleatingdisorders.org](http://www.nationaleatingdisorders.org)
  - b. [www.eatingdisordersanonymous.org](http://www.eatingdisordersanonymous.org)

**V. Discipline & Malpractice: Impact of Chemical Dependency on Lawyers**

Specifically, treatment has been shown to have a tremendous impact on attorneys' malpractice liability and discipline. A recent study in Oregon analyzed a group of 55 recovering lawyers.

PERIOD	DISCIPLINARY COMPLAINTS	MALPRACTICE COMPLAINTS
five years before beginning sobriety	76	83
five years after beginning sobriety	20	21

GROUP	DISCIPLINARY RATE	MALPRACTICE RATE
five years after beginning sobriety	7%	8%
all lawyers in the state	9%	13.5%

Zarov, Ira and Fishleder, Barbara S.; New Study Shows Recovery Saves Dollars, Highlights of the A.B.A. Commission on Lawyer Assistance Programs (v5, #2: Spring 2002)

**VI. Mental Health Issues and the Practice of Law**

Psychological Distress and Law School. "Although not present prior to law school, a variety of forms of psychological distress become evident at clinically significant levels within the first few months of law school attendance. These symptoms increased as the law students progressed through the three years of the program and did not significantly decrease during the first two years of practice." Connie J.A. Beck, et al., *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 Jour. of Law & Health 1, 44 (1995-96) citing G.A.H. Benjamin, et al, *The role of legal education in producing psychological distress among law students and lawyers*, American Bar Foundation Research Journal 225-252, (1986).

A. Surveys of mental health issues among lawyers.

1. “This sample of lawyers gives substantial indication of a profession operating at extremely high levels of psychological distress.” The study asked attorneys to self report on psychological distress symptoms. The results, with comparisons from other studies of the general population, were:

	Generalized Anxiety Disorder	Obsessive-Compulsiveness	Depression
Gen'l Pop. – Male	4%	2.1%	8.5%
Gen'l Pop – Female	4%	1.4%	14.1%
Male Lawyers	30%	20%	Almost 21%
Female Lawyers	Nearly 20%	15%	16%

Connie J.A. Beck, et al., *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 *Jour. of Law & Health* 1, 49-50 (1995-96).

2. “Compared with the 3 to 9 percent of individuals in Western industrialized countries who suffer from depression, 19% of the Washington [state] lawyers suffered from statistically significant elevated levels of depression. Of these individuals, most were experiencing suicidal ideation. In addition, they typically isolated themselves, which greatly exacerbates their risk of their acting upon suicidal ideations.” G. Andrew H. Benjamin, et al.; *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers*; 13 *Intern'l. Jour. of Law and Psychiatry* 233, 240 – 41 (1990).
3. A 1990 study by Johns Hopkins University found that of 28 professions, attorneys are the most likely to suffer from depression, at a rate 3.6 times the average for the adult population. W.W. Eaton, et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 *Jour. of Occupational Medicine* 1079 (1990).
4. Gender differences – The statistics show that female attorneys are far more likely to report mental health concerns than women in the general population, but at a lesser rate than male attorneys.

B. Impact of mental health issues on discipline and malpractice claims.

1. “[N]eglect cases tend to arise among lawyers who are procrastinating because they are clinically depressed. Finally, lawyers who go untreated tend to become defendants in malpractice claims.” Benjamin, *supra* at 244.

2. Minnesota’s experience

- a. The number of disability related probationary cases due to mental health issues has been increasing substantially.

	12/31/99	12/31/08	12/31/09
Proportion of Probation Cases With Mental Health Disorder as a Factor To all Disciplinary Probation Cases	9/9%	23.3%	18.2%



- b. During the MSBA Depression Task Force discussion in 1999, OLPR Director Ed Cleary reported that the rate at which mental health is being reported as a factor in disciplinary cases is increasing, while the rate at which alcohol and drugs are being reported as a factor is decreasing.
- c. Many misconduct allegations involve behaviors closely related to the symptoms of mental health issues, primarily depression. For example, 50% of all OLPR open probationary files involved charges of neglect and non-communication; 23% involved non-cooperation with OLPR; and 36% involved conduct prejudicial to the administration of justice (primarily missed court appearances). *Annual Report, (June 2002)*.

A significant number of attorney discipline cases involve impaired attorneys. Since the Supreme Court addressed the impact of alcoholism on discipline in *In re Johnson* in 1982, more than 100 suspension or disbarment cases have involved alcoholism or alcohol dependency. Since *In re Weyhrich*, when the court applied the mitigation test to mental illness, more than 50 public discipline decisions have included the requirement that the attorney prove psychological fitness before being reinstated to practice.

The very best way to prevent discipline of yourself or your colleagues is to get the attorney the help he or she needs by contacting LCL.

## **VII. Mood Disorders**

### **A. Common types of depression**

1. Major depression – manifested by a combination of symptoms (see below) that interferes with the ability to work, study, sleep, eat, and enjoy once pleasurable activities. An episode may occur only once, but more commonly returns several times in a lifetime.
2. Dysthymia – involves long-term, chronic symptoms that do not disable, but keep one from functioning well or feeling good. An individual with dysthymia may also experience major depressive episodes.
3. Bipolar disorder – also called manic depression. Not nearly as frequent, is characterized by cycling mood changes from extreme elation (mania) to depression. Most often the mood change is gradual. Depressive condition is similar to major depression. A manic period is characterized by being over-talkative and overactive, and having excess energy. It affects thinking, judgment, and social behavior and may lead to grand romantic or business schemes that create serious problems and embarrassment. Untreated mania can lead to a psychotic state.

### **B. Characteristics of depression**

1. It is defined as a mood disorder that also affects our body and thoughts.
2. Symptoms of major depression include:
  - a. Persistent sad, anxious or “empty” (absence of feelings) mood.
  - b. Feelings of hopelessness and pessimism.

- c. Loss of interest or pleasure in activities we once enjoyed, e.g. sex.
  - d. Feelings of guilt, worthlessness, helplessness.
  - e. Decreased energy, fatigue, being “slowed down.”
  - f. Difficulty concentrating, remembering, making decisions.
  - g. Insomnia, early-morning awakening, or oversleeping.
  - h. Appetite and/or weight loss or overeating and weight gain.
  - i. Thoughts of death or suicide, suicide attempts.
  - j. Restlessness, irritability.
  - k. Persistent physical symptoms that do not respond to treatment, such as headaches, digestive disorders, and chronic pain.
3. These symptoms must persist over a period of time. Depression is not a blue mood that passes after a few hours or days.
  4. Often, the symptoms occur in stages. For instance, feelings of sadness will precede the empty feeling which reflects an absence of feelings. This is followed by a feeling of helplessness or hopelessness, which is often followed by thoughts of death or suicide.
5. Depression from the Outside  
 Gloomy · Tearful · Pessimistic · Negative · Moody · Irritable · Complaining  
 Brooding · Anxious · Critical
6. Gender Differences
    - a. Women report depression twice as frequently as men.
    - b. Men are less likely to admit depression and doctors are less likely to suspect it. Men tend to cover up symptoms with alcohol, drugs, and work. Depression in men is more likely to show up as anger and irritability, rather than hope/helplessness.

(NIH Pub No. 00-3561, 2000; avail. At [www.nimh.nih.gov/publicat/depression.cfm](http://www.nimh.nih.gov/publicat/depression.cfm))

### C. Anxiety

1. Generalized Anxiety Disorder (GAD), is an anxiety disorder characterized by chronic anxiety, exaggerated worry and tension, even when there is little or nothing to provoke it.  
[www.nimh.nih.gov/healthinformation/gadmenu.cfm](http://www.nimh.nih.gov/healthinformation/gadmenu.cfm)
2. Obsessive Compulsive Disorder – people with OCD have persistent, upsetting thoughts (obsessions) and use rituals (compulsions) to control the anxiety these thoughts produce. Most of the time, the rituals end up controlling them.  
[www.nimh.nih.gov/publicat/anxiety.cfm#anx3](http://www.nimh.nih.gov/publicat/anxiety.cfm#anx3)
2. Post-traumatic stress disorder (PTSD) develops after a terrifying ordeal that involved physical harm or the threat of physical harm. The person who develops PTSD may have been the one who was harmed, the harm may have happened to a loved one, or the person may have witnessed a harmful event that happened to loved ones or strangers.  
[www.nimh.nih.gov/publicat/anxiety.cfm#anx4](http://www.nimh.nih.gov/publicat/anxiety.cfm#anx4)

### D. ADHD

1. ADHD is a neurobiological condition that affects individuals across the lifespan.
2. Signs and symptoms include

- a. Distractibility
- b. Disorganization
- c. Low self esteem
- d. Fidgeting
- e. Incomplete projects
- f. Emergencies
- g. Procrastination
- h. Chronic lateness
- i. Boredom
- j. Interrupting others
- k. Losing things
- l. Perfectionism
- m. Hyperfocus
- n. Impulsivity

3. One of the biggest challenges is a shame based distortion that everyone else has it all together.

4. Resources:

- a. [www.ldaminnnesota.org](http://www.ldaminnnesota.org) – click on Attention Deficit Support Services
- b. [www.add.org](http://www.add.org)
- c. [www.help4adhd.org/](http://www.help4adhd.org/)
- d. [www.chadd.org/](http://www.chadd.org/)

#### E. Unresolved Grief

- 1. Grief characterized by the extended duration of the symptoms, by interference of the grief symptoms with the normal functioning of the mourner, and/or by the intensity of the symptoms (for example, intense suicidal thoughts or acts)
- 2. Resources include hospital based and community survivor support as well as web links

#### F. Age Related Dementia (Alzheimer's Disease)

- 1. Alzheimer's Disease is the most common form of dementia. It destroys brain cells and causes problems with memory, thinking and behavior severe enough to affect work, lifelong hobbies or social life. It is progressive and fatal
- 2. There are ten warning signs ([www.alz.org](http://www.alz.org))
  - a. Memory loss
  - b. Difficulty performing familiar tasks
  - c. Problems with language
  - d. Disorientation to time and place
  - e. Poor or decreased judgment
  - f. Problems with abstract thinking
  - g. Misplacing things
  - h. Changes in mood or behavior
  - i. Changes in personality
  - j. Loss of initiative

3. Comparisons between Alzheimer's Disease and normal age related changes

<b>Someone with Alzheimer's disease symptoms</b>	<b>Someone with normal age-related memory changes</b>
Forgets entire experiences	Forgets part of an experience
Rarely remembers later	Often remembers later
Is gradually unable to follow written/spoken directions	Is usually able to follow written/spoken directions
Is gradually unable to use notes as reminders	Is usually able to use notes as reminders
Is gradually unable to care for self	Is usually able to care for self

4. Lawyers experiencing signs of dementia may deny the problem and yet can make mistakes or neglect matter resulting in harm to clients. Sensitive and respectful intervention is needed to help the lawyer retire with dignity. LCL can be a resource.

### **VIII. Suicide**

Depression, untreated, is the #1 cause of suicide. Lawyers commit suicide at six times the rate of the general population. You may even know of some lawyers who have taken their own lives.

By offering help you can often (not always) prevent a suicide

Warning Signs of Suicide:

- Talking about ending one's life
- Statements about hopelessness, helplessness or worthlessness
- Preoccupation with death
- Suddenly happier, calmer
- Visiting or calling people one cares about, especially those one hasn't contacted recently
- Making arrangements, setting one's affairs in order
- Giving things away
- Significant symptoms of depression

QPR (Question Persuade Refer) is an approach to preventing suicide that has been proven to work. Over 250,000 people have been trained in QPR and suicide rates in setting where these people work have declined significantly. QPR teaches you how to ask someone if they are thinking about killing themselves, how to determine the seriousness of their situation, how to persuade them to accept help and how to connect them with appropriate resources. To become a QPR gatekeeper takes 2 hours or less. MN LCL offers this training free of charge. Your bar association or other legal group can schedule a training session for up to 25 people by calling LCL.

If you have not had the training, you can still make a difference by doing the following:

- Be aware of the signs of depression and the warning signs of suicide
- Be willing to get involved
- Ask the person you are concerned about if they are considering harming themselves
- Tell them you care about them and can assist them in getting help
- Help them access help by calling LCL, by going to a mental health clinic, by going to a hospital, etc.

- Do talk with their family or others if they are reluctant to accept help
- If the person is clearly planning on taking their life and refuses any offers of assistance, call local law enforcement. They are authorized to place the person on a 72-hour hold and take them to a hospital or other treatment facility. The person may be angry with you, but better mad than dead.

## **IX. The Interrelationship between Addiction and Mental Health.**

### A. Frequency of occurrence (using depression as an example).

Addiction and dependency disorders (both alcohol and other substances) frequently coexist with depression. Substance use disorders are present in 32 percent of individuals with depression disorders. They co-occur in 27 percent of those with major depression and 56 percent of those with bipolar disorder. National Institute of Mental Health, Fact Sheet, “Co-Occurrence of Depression with Medical, Psychiatric, and Substance Abuse Disorders.”

<http://www.nimh.nih.gov/publicat/abuse.cfm>

### B. Diagnosis issues

Substance use must be discontinued in order to clarify the diagnoses and maximize the effectiveness of psychiatric interventions. Treatment for depression as a separate condition is necessary if the depression remains after the substance use problem is ended. *Id.*

## **X. Lawyers Concerned for Lawyers (LCL): Minnesota’s Lawyers Assistance Program (LAP)**

### A. History of LCL: LCL was founded over 30 years ago by lawyers to provide confidential assistance to other lawyers who were abusing alcohol. Primary importance was placed on two (2) factors.

1. Lawyers providing voluntary assistance to other lawyers.
2. Confidentiality.
  - a.) For the attorney being helped
    - i.) The stigma of being chemically dependent, mentally ill, or otherwise needing help from others.
    - ii.) The potential for problems with the Office of Lawyers Professional Responsibility.
  - b.) For the concerned person (coworker, colleague, family members, friend): fear that the attorney needing help will retaliate.
  - c.) For an attorney providing help: duty to report misconduct under Rule 8.3, Minn. Rules of Professional Conduct.
    - i.) Historically, the Court had an informal arrangement with LCL. The Court agreed it would not uphold discipline imposed upon an LCL volunteer attorney for not reporting an attorney’s misconduct learned while assisting that attorney with an alcohol use problem.
    - ii.) In April 2000, the Court amended Rule 8.3 and its Comment:

### **“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 authority.

(b) A lawyer who knows that a judge has committed a violation of the applicable Code of Judicial Conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate 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 lawyer's assistance program or other program providing assistance, support, or counseling to lawyers who are chemically dependent or have mental disorders."

**Addition to the comment for this rule.**

"Information about a lawyer's or judge's misconduct or fitness may be received by a lawyer in the course of that lawyer's participation in a bona fide lawyers assistance program or other program that provides assistance, support, or counseling to lawyers, including lawyers and judges who may be impaired due to chemical abuse or dependency, behavioral addictions, depression, or other mental disorders. In that circumstance, providing for the confidentiality of information obtained by a lawyer-participant encourages lawyers and judges to participate and seek treatment through such programs. Conversely, without such confidentiality, lawyers and judges may hesitate to seek assistance, which may then result in additional harm to themselves, their clients, and the public. The rule, therefore, exempts lawyers participating in such programs from the reporting obligations of paragraphs (a) and (b) with respect to information they acquire while participating. A lawyer exempted from mandatory reporting under part (c) of the rule may nevertheless report misconduct in the lawyer's discretion, particularly if the impaired lawyer or judge indicates an intent to engage in future illegal activity, for example, the conversion of client funds. See Rule 1.6."

B. Services historically provided have included:

1. Intervention – formal and informal.
2. Information, informal evaluation, and referral for substance misuse and assistance to concerned persons.
3. Support
  - a. Individual – mentoring, sponsorship
  - b. Group – AA meetings, membership meetings
4. Education and Outreach

C. As a "full service" Lawyer Assistance Program (LAP), LCL also addresses mental health issues such as depression, bipolar, anxiety disorder, PTSD, and obsessive compulsive disorder. We also address compulsive behavior related to issues such as gambling, sex, and food. In addition, lawyers and their immediate family members may receive support around stress, financial, career, relationship and other issues. Our expanded services now also include:

1. Subcontracting with an EAP provider. DOR and Associates (DOR) provides confidential 24-hour crisis line, evaluation, referral, and up to four (4) counseling sessions per year for each

- issue(s) presented. Its staff includes master's level counselors and licensed alcohol and drug counselors with many years of experience in the field.
2. Additional support opportunities individually and in group settings.
  3. Increased Education, Outreach, and Public Awareness efforts, including presenting CLEs and improving our website by adding information and links to other sites.
- D. In 2008-09 LCL helped over 275 lawyers, judges, law students or their family members. Approximately 40% of those presented with a mental health problem. Over 175 referrals were made for professional assistance.

1/3 were seen for addiction, primarily alcohol but also involving other legal and illegal drugs, gambling, and other compulsive behaviors. A significant percentage of those seen for addiction are "dual diagnosis". Some depression cases involve suicidal ideation.

Of those cases involving stress and depression, several clients cited "billable hours" as the primary cause of stress. Somewhat surprisingly, there were more "severe" psychiatric cases coming in – more than expected - involving long term psychiatric care.

## **XI. CONCLUSION**

There is hope and there is help for impaired lawyers, judges, and law students, and it may start with you. Chemical dependency and many mental health disorders share a common symptom – the impaired person will begin to isolate him/herself from colleagues, friends, and family. The intervention process can be as simple as not mirroring that behavior. When you see a colleague begin to withdraw, reach out and try to keep communication lines open: talk about LCL's expanded services and attorney support groups. Remember that you, too, may call LCL if you'd like help and support in your efforts. We're here as a confidential and free resource for both the impaired person and the concerned person who wants to help.

## **When the Caregiver is a Lawyer, *Lawyers Concerned for Lawyers Can Help***

The mission of LCL is to offer free, confidential help to lawyers, judges, law students and their immediate family members affected by

- ✓ alcohol and/or other drug misuse
- ✓ other addictions
- ✓ depression and other mental illnesses
- ✓ stress and other life-related problems
- ✓ or any condition that negatively affects the quality of one's life at work or at home.

Often when we receive a call for help, especially when stress is identified as a factor, it turns out that the lawyer has additional care-giving responsibilities at home. These can exacerbate already difficult circumstances. LCL provides up to 4 free, confidential counseling sessions for lawyers, judges, law students and their immediate family members on any issue that is causing stress or distress.

Through LCL and our counseling partner, DOR and Associates, you also have access to a variety of articles and links on a wide range of issues. To access this information go to [www.doreap.com](http://www.doreap.com). Then click on employees and enter the password LCL1. Some examples of over 100 articles are:

- Balancing Work, Family and Care-giving
- Caregiver Stress
- Employment and Care-giving: Is There a Balance?
- Tips for Preventing Caregiver Burnout
- Sandwich Generation: Caregivers in the Middle
- Families with Special Needs
- The Long Distance Caregiver

*For assistance, contact Lawyers Concerned for Lawyers at 651-646-5590, 866-525-6466 or [help@mnlcl.org](mailto:help@mnlcl.org). Our website is [www.mnlcl.org](http://www.mnlcl.org)*



## ***Stress and the Stages of Change***

To find out what stage you are in, pick the statement that most accurately describes you:

- I'm currently stressed, and I don't intend to find ways of coping within the next six months.
- I'm currently stressed, but I'm thinking about dealing with it in the next six months.
- I'm currently stressed, but have, on and off, tried to gain some control over it.
- I've managed to reduce my stress within the last six months.
- I have been successfully managing my stress for more than six months now.

*For assistance, contact **Lawyers Concerned for Lawyers at 651-646-5590, 866-525-6466 or [help@mncl.org](mailto:help@mncl.org).***