

What's on Your Well-Being Menu?

Good Habits for Lawyers

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Background on the Well-Being in the Legal Profession

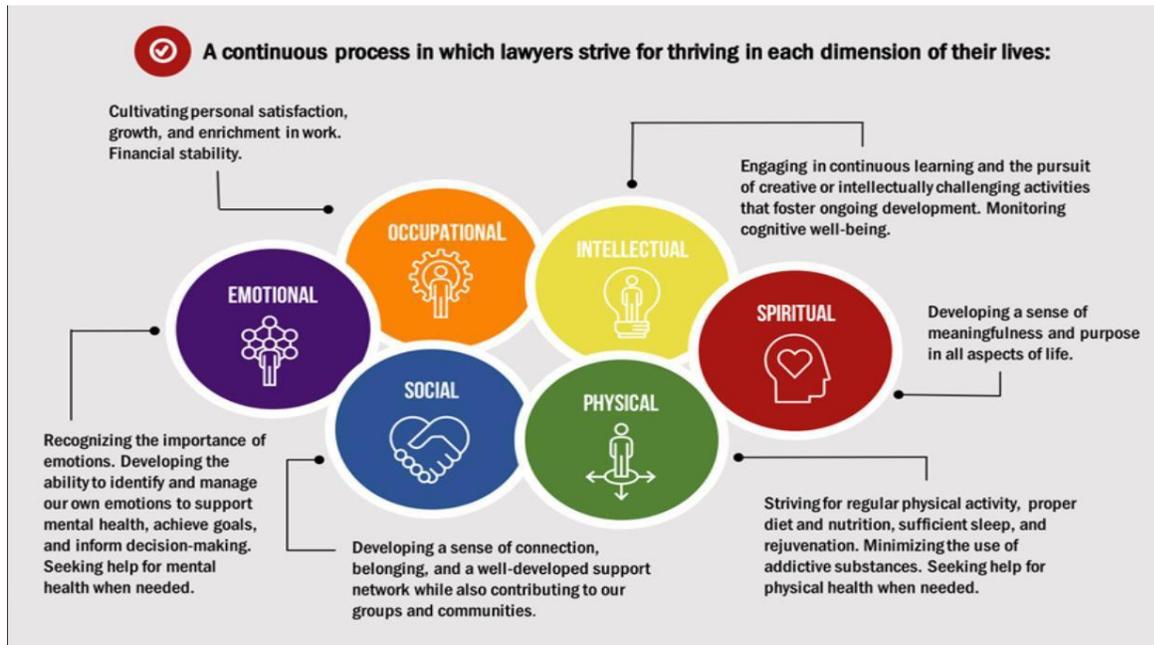
Reports:

- *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*, Report of the National Task Force on Lawyer Well-Being, published in 2017 and available at <https://lawyerwellbeing.net/>
- *A Profession at Risk*, Report of the Committee on Lawyer Well-Being of the Supreme Court of Virginia, published in 2018 and available at http://www.courts.state.va.us/programs/concluded/clw/2018_0921_final_report.pdf
- *The Occupational Risks of the Practice of Law*, Report of the Virginia State Bar President's Special Committee on Lawyer Well-Being, published in 2019 and available at https://www.vsb.org/docs/VSB_wellness_report.pdf
- *Well-Being Toolkit for Lawyers and Legal Employers*, American Bar Association, published in 2018 and available at https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/lscolap_well-being_toolkit_for_lawyers_legal_employers.pdf

Findings: National Studies

- “The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys” (2016) found that, among attorneys:
 - 21 – 36% qualified as problem drinkers.
 - 14% reported that problematic drinking began in law school.
 - 28% were experiencing some level of depression.
 - 11% had experienced suicidal thoughts.
- “Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns” (2016) found that, among law students:
 - 25% were at risk for alcoholism.
 - 17% were experiencing depression.
 - 14% were experience severe anxiety.
 - 6% had experienced suicidal thoughts within the past year.

Defining “Well-Being” for Lawyers:



Defining “Well-Being” in a Legal Workplace:

The ABA Committee for Lawyer Assistance Programs (“CoLAP”) used resources from the World Health Organization and the Tristan Jepson Memorial Foundation (an Australian charitable organization focused on healthy legal workplaces) to outline 13 factors that have been identified by extensive research as critical to psychological health.

1. **Organizational Culture:** A culture characterized by trust, honesty, and fairness.
2. **Psychological Support:** Supervisors and coworkers are supportive of organizational members’ psychological and mental health concerns, and respond appropriately.
3. **Clear Leadership & Expectations:** There is effective leadership and support that helps organizational members know what they need to do, how their work contributes to the organization, and whether there are impending changes.
4. **Civility & Respect:** Employees are respectful and considerate in their interactions with one another, as well as with clients and the public.
5. **Psychological Competencies & Requirements:** There is a good fit between employees’ interpersonal and emotional competencies and the requirements of the position they hold.
6. **Growth & Development:** Employees receive encouragement and support in the development of their interpersonal, emotional, and job skills.
7. **Recognition & Reward:** There is appropriate acknowledgment and appreciation of organizational members’ efforts in a fair and timely manner.
8. **Involvement & Influence:** Organizational members are included in discussions about how their work is done and how important decisions are made.
9. **Workload Management:** Tasks and responsibilities can be accomplished successfully within the time available.

10. **Engagement:** Organizational members feel connected to their work and are motivated to do their job well.
11. **Balance:** There is recognition of the need for balance between the demands of work, family, and personal life.
12. **Psychological Protection:** Organizational members' psychological safety is ensured.
13. **Protection of Physical Safety:** Management takes appropriate action to protect the physical safety of organizational members.

Understanding Risks to Lawyer Wellness

Physical Risks

Sedentary Nature of Work

Lawyers spend most working hours (and off-hours) in the seated position. Mounting evidence suggests that prolonged sitting can be as serious an issue as obesity and smoking, and can pose serious health risks, including an elevated risk of mortality. Computer slump can cause hunched shoulders and neck problems leading to long-term postural problems.

Managing Long and Unusual Hours

The competing demands of clients, employers, and the judiciary take a toll on a lawyer's time and energy. The result is a profession characterized by long and unusual working hours that can lead to stress, exhaustion and, ultimately, burnout.

Sleep Deprivation

The nature and stressors associated with a lawyer's work upset sleep, making legal professionals among the most sleep-deprived in the work force. Too little sleep poses dire health consequences, the effects of which can lead to increased risk of illness and physical injury. Sleep deprivation can also lead to a lapse in judgment, affecting a lawyer's representation of clients and increasing malpractice risk.

Working Indoors

A lawyer's indoor working environment disrupts the circadian rhythm, leads to vitamin deficiencies, and may contribute to Seasonal Affective Disorder (SAD).

Aging of Lawyers

As lawyers age, our mental and physical capacities decline, creating risks to ourselves, our firms, and our clients. At the same time, other lawyers and legal employers should recognize that aging affects each individual differently, and age is not a litmus test for legal capacity.

Mental and Emotional Risks

Adversarial Nature of Work

The adversarial nature of the legal profession promotes feelings of anger, guilt, and fear that can lead to depression and chronic stress.

Individual Work

The individual nature of a lawyer's profession can lead to feelings of isolation. In fact, legal work in general has been considered the loneliest kind of work. Lonely lawyers face a host of health-related

risks and impairments, perform poorly, change jobs frequently, and experience greater job dissatisfaction.

Professional Demands

The practice of law is a demanding one, and the pressure lawyers face from clients, employers, and the judiciary contribute to virtually every risk outlined in these materials, along with their incident effects and symptoms.

Vicarious Trauma and Managing Others' Problems

Prolonged exposure to our clients' legal problems and dilemmas can be mentally and physically stressful, exhausting and debilitating.

The Duty of Confidentiality

Ethical adherence to the duty of confidentiality can cause lawyers to feel isolated, delay necessary case-related tasks, and exacerbate the existing disincentives to seek help.

Educational Debt

Law school debt is debilitating. Most law students take out significant debt with the unrealistic and unlikely expectation that they will land a high-paying job. As a result, many will be saddled with crushing monthly payments for the foreseeable future, contributing significantly to overall feelings of stress, anxiety, and disenfranchisement with the profession.

Business Management of the Practice

Managing the business component of the practice of law is stressful. New lawyers largely enter practice without any formal financial education, contributing to financial stress.

The Need to Display Confidence and Conceal Vulnerability

Law practice and legal education are inherently competitive, discouraging help-seeking behavior as an admission of weakness and incentivizing lawyers to wear a confident façade despite suffering wellness issues.

Adaptation Risks

Changing Legal Paradigms

The nature of law practice has changed dramatically since the digital revolution, with wildly fluctuating market conditions, new business models, and evolving technologies making adaptation challenging, but necessary.

Technology Addiction

Ever-connected lawyers who feel obligated to be available at all hours experience reduced attention span and productivity, harm to personal relationships, and risk revealing confidential information through sloppy data use.

Lack of Diversity in the Profession

Diverse and inclusive working environments foster lawyer wellness. A lack of diversity, however, can lead to isolation, a sense of exclusion, and ultimately poor performance and a lack of autonomy.

External Pressures on Lawyer Independence

Economic pressures and changing market dynamics, such as the rise of alternative legal business structures, are incentivizing attorneys to compromise their independence, risking professional sanction and harm to the rule of law.

Self-Actualization Risks

Losing Control of Professional Destiny

Becoming trapped in a particular area of law or type of legal employment the lawyer does not enjoy is at best unfulfilling and at worst actively detrimental to a lawyer's health and well-being.

Values Conflict with Client or Practice Setting

Lawyers carrying out instructions or practicing in a subject area contrary to their personal beliefs experience cognitive dissonance that can harm not only their practices, but also their sense of personal integrity.

The Expectation-Reality Gap in Law Practice

Many people enter law school with certain expectations about life as an attorney, only to have those expectations disappointed by practical realities, resulting in career regret and a sense of feeling trapped.

Why a Well-Being Menu Helps

For busy professionals, intellectual fatigue can make decision-making difficult in times of stress.

Having a pre-written list of a variety of well-being boosting activities can alleviate decision exhaustion by making our options obvious. These activities should run the gamut in terms of time commitment, energy expenditure, setting, and which area of well-being they target. We're aiming for activities with a positive impact on our lives, and laying them out in a manner that feels indulgent rather than punitive. Over time, these practices will become more habitual, eliminating the need for our higher brains to use any cognitive functioning to undertake them. As we turn to our Well-Being Menu with more frequency, we'll notice what activities we revisit, and can adjust with intention as our stressors change.

Use proven time management techniques to make space in your day to use your Well-Being Menu.

- Know how you spend your time: keep a log of daily activities.
- Set priorities: know the difference between important and urgent.
- Use a planning tool: write down tasks and review them daily.
- Get organized: reduce clutter.
- Schedule time appropriately: block out time for important tasks and avoid interruptions.
- Delegate: request help from others.
- Stop procrastinating: break up overwhelming tasks into manageable parts.
- Manage external time consumers: phone, email, unexpected visitors, meetings, and family.
- Avoid multi-tasking: switching from one task to another costs time and reduces productivity.
- Stay healthy: schedule time to relax and recharge physically and mentally

Prioritize positive habits.

See the attached worksheet from the ABA CoLAP's *Lawyer Well-Being Toolkit*, "How to be Happier? Make it a Priority."

Select your Well-Being Menu Activities

The list below is a starting point to help you generate ideas for menu items that you find personally fulfilling. Not into meditation? No problem. Picking activities that you will actually do is the most important part. See the attached example from Cornell University.

Activity	Areas Targeted	Other Notes
Reading for Pleasure	Intellectual, Emotional, Spiritual	See attached article by Law Librarian Gail Warren
Jogging	Physical, Emotional	See attached article by Judge Higgins
Trail Walking	Physical, Emotional, Spiritual	See attached article by Judge Sharrett
Mindfulness	Emotional, Intellectual, Spiritual	See attached article by Claire E. Parsons
Cooking a Healthy Meal	Physical	See attached article by Ellie Krieger
Listening to a Podcast	Intellectual, Occupational	The Institute for Well-Being in Law podcast, "The Path to Well-Being" is available here: https://lawyerwellbeing.net/podcast/
Laughing	Emotional, Intellectual, Occupational	Sign up for the VLWI newsletter, the Weekly WellNote, to get a couple jokes (as well as well-being resources and events) delivered to your email most Monday mornings: https://mailchi.mp/2e71c35eab41/national-sign-up

Traits of a Healthy Workplace¹

- *Organizational Culture*: A culture characterized by trust, honesty, and fairness
- *Psychological Support*: Supervisors and coworkers are supportive or organizational members' psychological and mental health concerns, and respond appropriately.
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¹ Source: https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_well-being_toolkit_for_lawyers_legal_employers.pdf

- *Civility and Respect*: Employees are respectful and considerate in their interactions with one another, as well as with clients and the public.
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Wellness as Competence

A. Competence Elements: The first rule for lawyers

1. Legal knowledge (keep abreast of changes in the law and its practice; continuing study and education);
2. Skill (including benefits and risk associated with relevant technology);
3. Thoroughness;
4. Preparation reasonably necessary; and
5. Mental, emotional, and physical ability reasonably necessary for the representation.

B. VA RPC Rule 1.1 Comment [7]: A lawyer's mental, emotional, and physical well-being impacts the lawyer's ability to represent clients and to make responsible choices in the practice of law. Maintaining the mental, emotional, and physical ability necessary for the representation of a client is an important aspect of maintaining competence to practice law."

A. ABA: Top 10 Necessary Skills

1. Keeping confidentiality.
2. Arriving on time.
3. Honoring commitments.
4. Integrity and trustworthiness.
5. Treating others with courtesy and respect.
6. Listening attentively and respectfully.
7. Responding promptly.
8. Diligence.
9. Having a strong work ethic.
10. Paying attention to detail.

B. Impact When Wellness Impacts Competence

1. Mental impairment does not lessen a lawyer's obligation to provide clients with competent representation
2. Lawyers who suffer from substance abuse, mental illness, physical illness, and personal problems may have impairment in their ability to provide competent services (they may be

undertaking work they do not have the competency to do despite possessing the requisite learning and skill).

3. Depressed, anxious, substance abusing lawyers may struggle with follow through, attention, integrity, trustworthiness, responding promptly, diligence.
4. Sometimes these problems mask their ability to understand their limitations and sometimes sheer economic necessity compels them to undertake matters beyond their competency.
5. There is an interface between these struggles and ethical violations.

The Virginia Judges and Lawyers Assistance Program

Communications with VJLAP: Rule 8.3 (d) and Comment [5] recognize the importance of confidentiality in encouraging help-seeking behavior, and grant lawyer-client privilege to these communications.

VJLAP Overview: Since 1985, the Virginia Judges and Lawyers Assistance Program (VJLAP; formerly Lawyers Helping Lawyers) has provided confidential, non-disciplinary support to Virginia's legal professionals who are experiencing impairment as a result of substance abuse or mental health conditions. Assistance is designed to promote recovery, protect the client, prevent disciplinary problems for the lawyer, support their families and professional associates, and strengthen the profession.

VJLAP also provides education and outreach services to promote awareness of the (i) occupational risks in the practice of law, (ii) availability of VJLAP services, and (iii) ways to detect, prevent, intervene early, and address mental health and substance use concerns. VJLAP's outreach efforts focus on promoting the fact that connection is a foundational building block for recovering from substance use and coping with mental health disorders. VJLAP enhanced outreach efforts have the goal for every legal professional throughout the Commonwealth to be aware that VJLAP is available and to know how to contact VJLAP if and when needed.

VJLAP assistance is designed to:

- Prevent disciplinary problems for professionals,
- Promote recovery,
- Protect the working professional,
- Protect the clients;
- Protect the public,
- Strengthen the profession, and
- Support families and professional associates.

Clients: VJLAP provides assistance to all members of Virginia's legal community and their families, including:

- Judges,
- Lawyers,
- Law students,
- Bar applicants,
- Other legal professionals,
- Client referral sources, and
- Families of legal professionals.

Focus Areas: VJLAP assists legal professionals with all levels and types of substance use and mental health problems. These include, but are not limited to:

- Substance use disorders,
- Compulsive gambling,
- Other addictive disorders,
- Depression,
- Anxiety,
- Compassion fatigue,
- Grief and loss,
- Dementia, and
- Stress and burnout.

Emerging Threats to Our Well-Being

- **Screen Fatigue:** More than ever before, our work and social lives increasingly take place virtually. Sitting and looking at a screen for long periods can be extremely detrimental to our health.
- **Isolation:** Our traditional social outlets have been disrupted. Alternative work arrangements interfere with our ability to connect meaningfully with our colleagues.
- **Collective Trauma:** Illness, loss, grief, uncertainty, and civic unrest experienced in the past year impact us all in different ways.

Self assessment

MENTAL AND EMOTIONAL RISKS			
Risk Description	Potential Effects	Practice Pointers for Individuals	Practice Pointers for Organizations
Vicarious Trauma and Managing Others' Problems	Prolonged exposure to our clients' legal problems and dilemmas can be mentally and physically stressful, exhausting and debilitating.	<ul style="list-style-type: none"> • Recognize the risk of vicarious trauma that is inherent in the representation and championing of others' struggles. • Seek counseling if needed, and consider contacting Lawyers Helping Lawyers on its 24-Hour Help Line at 1-877-545-4682. • Intentionally set time aside to separate from the client and case in order to recharge. This can be done through conversation with trusted colleagues or the pursuit of activities and hobbies outside of law. • Create and maintain an end-of-day routine to help leave work at work and to transition from the office to home. 	<ul style="list-style-type: none"> • Discuss the issue of vicarious trauma openly to encourage those suffering to seek assistance. • Implement an employee assistance program to provide a confidential outlet for attorneys suffering from vicarious trauma to discuss their struggles and provide access to mental health professionals where needed. • Be proactive in seeking out suffering attorneys who may not recognize the risk in themselves and be willing to offer aid. • Provide reasonable vacation and encourage its use so as to promote time away from the office.

Add to Your Wellness Menu

Why: Promoting wellness and maintaining physical and mental healthy improves performance and reduces the risk of practice issues and impairment related to stress, burnout, substance use, and other mental health concerns.

Open discussion will review ways participants incorporate wellness into their routines.

6 attachments review successful wellness practices of various members of the legal profession.