

THE IMPACT OF LAWYER WELLNESS ON ETHICAL PRACTICE

WRITTEN MATERIALS

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LAWYER WELLNESS STATISTICS

ABA/Hazelden Betty Ford Study¹

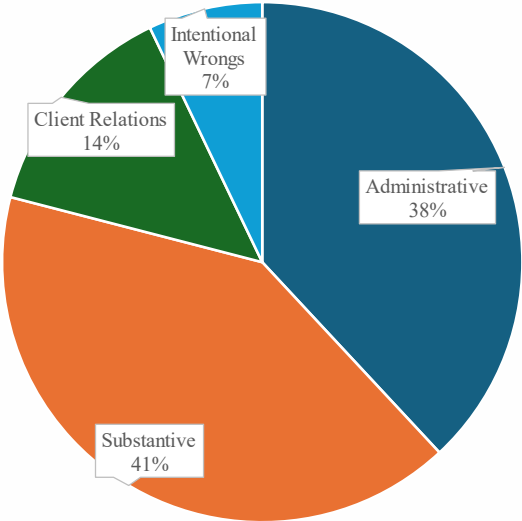
- 21% qualify as problem drinkers
 - Hazardous drinking and possible dependence
 - More males (25.1%) than females (15.5%)
 - 23% felt their use of alcohol or substance was a problem sometime during their lives
- 28% struggle with some level of depression
- 19% demonstrate symptoms of anxiety
- Men had significantly higher levels of depression
- Women had higher levels of anxiety and stress
- Attorneys in the first 10 years of their practice now experience the highest rates of problematic alcohol use
 - 27.6% reported problematic use prior to law school
 - 14.2% reported problematic use started during law school
 - 43.7% reported problematic use started within first 15 years following law school
 - 14.5% reported problematic use started more than 15 years after law school
- 9% of attorneys have been found to struggle with prescription drug abuse
- 72% of law students who reported serious substance abuse felt that admission the bar was more likely if they kept their issues hidden (failed to seek help)
- 69.6% of attorneys reported disrupted sleep caused by work-related issues (Bloomberg Law)
- 2019 ABA Survey on Lawyer Discipline Systems
 - In 2019, state disciplinary agencies received 69,716 complaints in 43 states and D.C. where 12% were the result of mental/emotional concerns
- 40% of Illinois discipline cases in 2019 involving a psychological issue led to claims of dishonesty

¹ <https://perma.cc/K4QP-LDXP>

CLAIM STATISTICS



Claims by Type of Alleged Error



How does it compare to the last study?
Administrative Errors 19.59%
Substantive Errors 51.93%
Client Relations 16.70
Intentional Wrongs 11.78%

■ Administrative ■ Substantive ■ Client Relations ■ Intentional Wrongs





Top Five Malpractice Claims by Area of Law

Estate, Trust, Probate 13.58%

Real Estate 13.19%

Personal Injury 12.73%

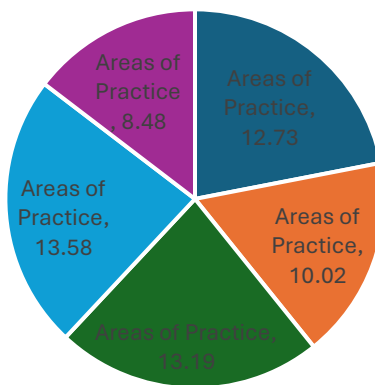
Family Law 10.02%

Collection and Bankruptcy approx.
8.48%

*How these compare with MLM's
top five malpractice claims:*

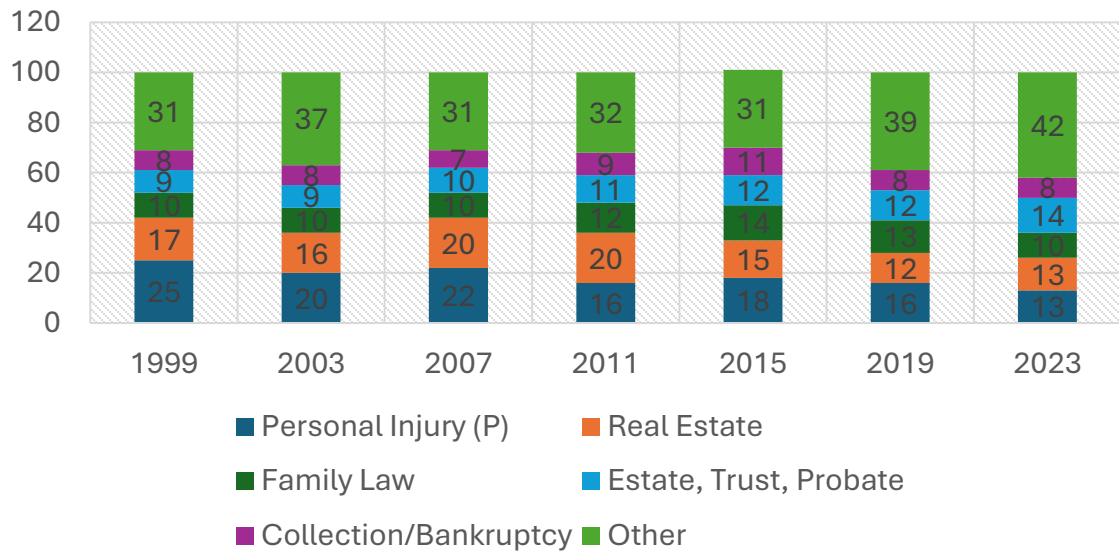
Real Estate 20.33%
Personal Injury – Plaintiff 15.59%
Family Law 12.14%
Estate, Trust and Probate 10.67%
Collection and Bankruptcy 9.20%

Areas of Practice



■ Personal Injury - Plaintiff ■ Family Law ■ Real Estate
■ Estate, Trust, Probate ■ Collection and Bankruptcy

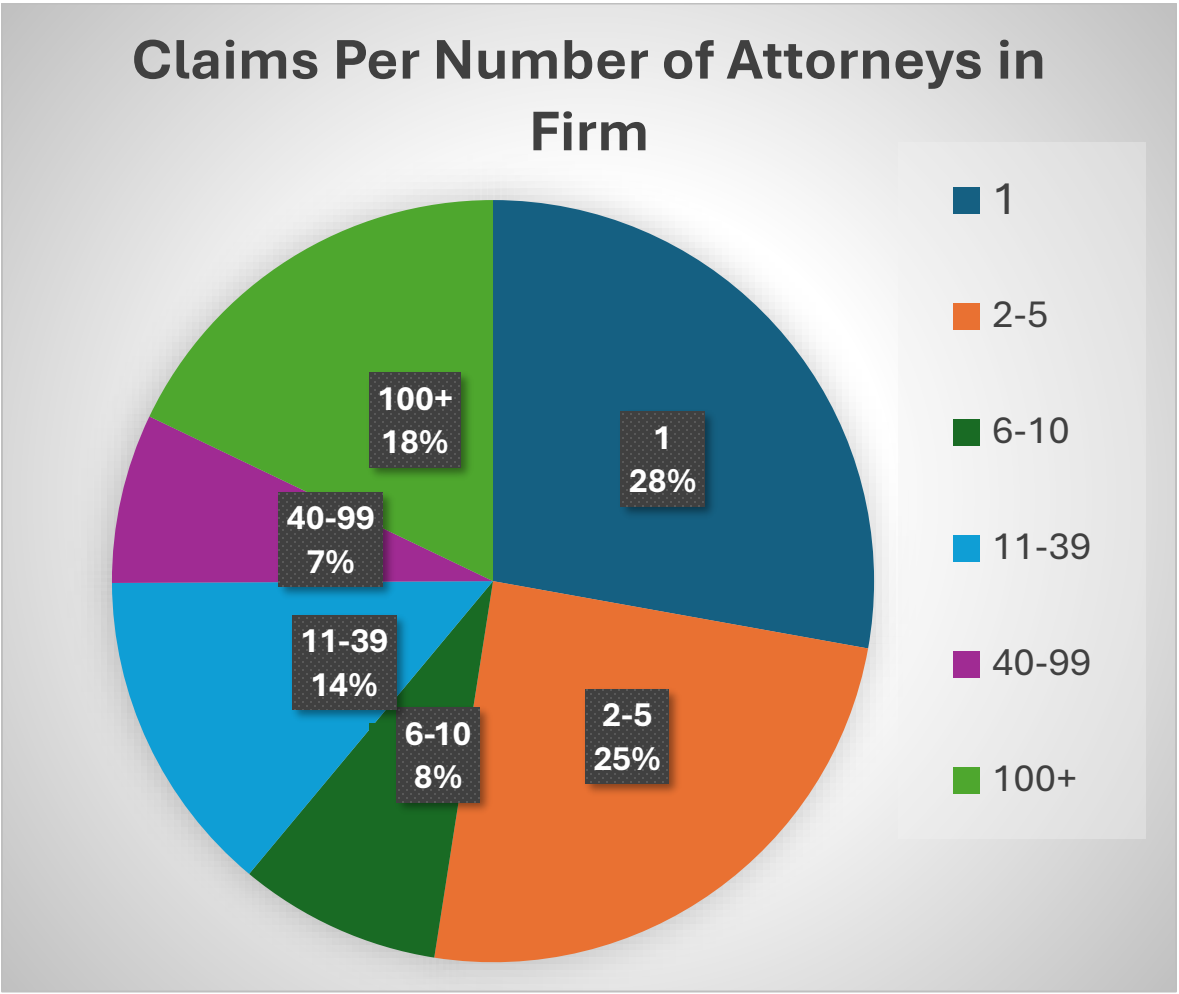
ABA Study Results Over the Last Decade



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² <https://www.americanbar.org/products/inv/book/405555870/>

Claim Frequency by Size of Firm



SAMPLE LAW FIRM WELLNESS POLICY

Effective Date: [Insert Date]

Reviewed/Revised: [Insert Date]

I. Purpose

This policy is designed to cultivate a culture of wellness, balance, and mental health awareness within [Law Firm Name]. We recognize that promoting the well-being of our attorneys and staff enhances professional performance, reduces malpractice risk, and strengthens client service.

II. Scope

This policy applies to all attorneys, paralegals, administrative staff, and management at [Law Firm Name].

III. Core Principles

- **A. Prioritizing Mental and Physical Health**
Recognize that well-being is essential to professional competence and ethical practice.
- **B. Reducing Stigma Around Mental Health**
Foster an open, supportive environment where employees feel comfortable discussing mental health challenges.
- **C. Promoting Work-Life Balance**
Encourage healthy boundaries between work and personal life to prevent burnout.

IV. Firm Commitments to Wellness

A. Flexible Work Arrangements

- **Remote/Hybrid Work Options:** Provide flexible work arrangements when possible to balance personal and professional demands.
- **Flexible Scheduling:** Permit alternative work schedules to allow employees to attend to health and family obligations.

B. Reasonable Work Hours and Caseload Management

- **Target Billable Hour Limits:** Establish reasonable billable hour targets to prevent overwork.
- **Caseload Oversight:** Supervisors will monitor caseloads to ensure workloads are manageable.

C. Mental Health and Wellness Resources

- **Lawyer Assistance Programs (LAPs):** Provide confidential access to lawyer assistance programs and counseling services.
- **Wellness Stipends/Programs:** Offer reimbursements or stipends for wellness-related expenses (e.g., fitness memberships, meditation apps).

D. Mandatory Wellness Training and CLEs

- **Annual Wellness CLEs:** Require annual participation in continuing legal education (CLE) programs focused on mental health, stress management, and wellness.
- **Supervisory Training:** Educate firm leadership on identifying warning signs of burnout, depression, and substance abuse.

V. Individual Responsibilities

A. Attorneys and Staff

- Commit to maintaining personal wellness and seeking help when needed.
- Report excessive workload concerns or mental health challenges to supervisors or designated wellness liaisons.

B. Supervisors and Partners

- Monitor workloads and promote work-life balance among their teams.
- Encourage open communication and address concerns proactively.

VI. Mental Health Leave and Support

A. Mental Health Days

- Employees may take up to [X] paid mental health days per year without requiring a detailed explanation.
- Mental health days may be used for rest, therapy, or stress management.

B. Medical and Counseling Support

- The firm will provide access to Employee Assistance Programs (EAPs) and mental health professionals.
- Confidential counseling services will be available to all employees at no cost or subsidized rates.

VII. Encouraging Open Communication

- **Non-Retaliation Policy:** Employees may discuss wellness concerns without fear of retaliation.
- **Anonymous Feedback Channels:** Provide avenues for anonymous feedback regarding workload, mental health, and firm culture.

VIII. Wellness Programs and Initiatives

A. Firm-Sponsored Wellness Events

- Quarterly firm-wide wellness challenges (e.g., step challenges, mindfulness workshops).
- Monthly meditation, yoga, or wellness sessions offered during office hours.

B. Peer Support and Mentoring

- Establish peer support groups or mentoring programs where attorneys and staff can share challenges and solutions.

IX. Evaluation and Policy Review

- **Annual Policy Review:** The firm will assess and update this policy annually based on employee feedback and wellness program outcomes.
- **Employee Surveys:** Conduct periodic surveys to assess the effectiveness of the firm's wellness initiatives.

X. Resources and Contact Information

- Lawyer Assistance Programs (LAPs)
- Employee Assistance Program (EAP) Contact Info
- Mental Health Hotlines and Local Resources

Acknowledgment

I acknowledge that I have read and understand the Lawyer Wellness Policy at [Law Firm Name] and agree to uphold its principles and commitments.

Employee Signature: _____

Date: _____

GOVERNING AUTHORITY

Rule 1.7 *Conflict of Interest*

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- (1) the representation of one client will be directly adverse to another client; or
- (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent, confirmed in writing.

Rule 1.1 *Competence*

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Rule 1.16 *Declining or Terminating Representation*

(a) A lawyer shall inquire into and assess the facts and circumstances of each representation to determine whether the lawyer may accept or continue the representation. Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

- (1) the representation will result in violation of the Rules of Professional Conduct or other law;
- (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client;
- (3) the lawyer is discharged; or
- (4) the client or prospective client seeks to use or persists in using the lawyer's services to commit or further a crime or fraud, despite the lawyer's discussion pursuant to Rules 1.2(d) and 1.4(a)(5) regarding the limitations on the lawyer assisting with the proposed conduct.

Rule 5.1 *Responsibilities of Partners, Managers, and Supervisory Lawyers*

(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

(c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

MENTAL HEALTH CHECKLIST AND STRESS MANAGEMENT EVALUATION FOR ATTORNEYS

A. Daily Check-In: How Am I Feeling Today?

- ☐ Do I feel rested and alert, or am I mentally and physically drained?
- ☐ Am I experiencing persistent anxiety, irritability, or frustration?
- ☐ Do I feel overwhelmed by my caseload or unable to focus on tasks?
- ☐ Am I experiencing physical symptoms (e.g., headaches, muscle tension, or fatigue)?
- ☐ Have I taken any breaks today to recharge and reset?

B. Workload and Time Management

- ☐ Do I have a manageable caseload, or am I consistently overcommitted?
- ☐ Am I meeting deadlines without sacrificing quality or my well-being?
- ☐ Have I prioritized tasks effectively, delegating when appropriate?
- ☐ Do I feel comfortable asking for help or redistributing work when needed?
- ☐ Have I set realistic boundaries between work and personal life?

C. Stress Management and Self-Care

- ☐ Have I engaged in at least one stress-relieving activity today (e.g., deep breathing, meditation, or a short walk)?
- ☐ Am I maintaining a regular sleep schedule and getting enough rest?
- ☐ Have I stayed hydrated and nourished my body with healthy food?
- ☐ Do I incorporate physical activity into my routine to manage stress?
- ☐ Have I taken breaks to disconnect from work and reset my mind?

D. Emotional and Social Well-Being

- ☐ Do I feel connected to my colleagues, friends, and support network?
- ☐ Have I had meaningful conversations or interactions with others today?
- ☐ Am I isolating myself or withdrawing due to work-related stress?
- ☐ Do I feel supported by my firm or peers when I express concerns?
- ☐ Have I reached out for help when feeling overwhelmed or emotionally exhausted?

E. Red Flags: When to Seek Help

- ☐ Have I experienced prolonged sadness, anxiety, or feelings of hopelessness?
- ☐ Am I relying on unhealthy coping mechanisms (e.g., alcohol, avoidance)?
- ☐ Do I have difficulty focusing or making decisions due to stress?
- ☐ Have I had thoughts of self-harm or felt completely disengaged?
- ☐ Am I experiencing burnout, compassion fatigue, or emotional exhaustion?

F. Action Plan: Next Steps for Better Mental Health

- ☐ Schedule a check-in with a mental health professional or therapist.
- ☐ Communicate workload concerns to a supervisor or mentor.
- ☐ Explore firm resources such as Employee Assistance Programs (EAPs) or lawyer assistance programs (LAPs).
- ☐ Set small, achievable goals to improve work-life balance.
- ☐ Develop a daily self-care plan to manage stress more effectively.